

A public hearing of the Carrboro Board of Aldermen was held on Tuesday, August 28, 2007 at 7:30 p.m. in the Town Hall Board Room.

Present and presiding:

Mayor	Mark Chilton
Aldermen	Joal Hall Broun
	Dan Coleman
	Jacquelyn Gist
	John Herrera
	Randee Haven-O'Donnell
	Alex Zaffron
Town Manager	Steven E. Stewart
Town Attorney	Michael B. Brough
Town Clerk	Sarah C. Williamson

APPROVAL OF MINUTES OF PREVIOUS MEETING

MOTION WAS MADE BY JOAL HALL BROUN AND SECONDED BY ALEX ZAFFRON TO APPROVE THE JUNE 26, 2007 MINUTES. VOTE: AFFIRMATIVE ALL

PUBLIC HEARING ON THE TEMPORARY STREET CLOSING REQUEST FROM ST. JOSEPH CME CHURCH FOR THE FRANGELISM IN THE PARK EVENT

The purpose of this item was to receive public input on a Street Closing Permit Application submitted by St. Joseph CME Church to temporarily close Broad Street between Fowler Street and Hill Street on Saturday, September 8th from 7:30 AM to 5:00 PM for the "Frangelism in the Park" event.

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

A RESOLUTION AUTHORIZING THE TEMPORARY CLOSING AND USAGE OF
BROAD STREET BETWEEN FOWLER AND HILL STREETS
TO ACCOMMODATE THE "FRANGELISM IN THE PARK" EVENT
Resolution No. 05/2006-07

Section 1. The following streets shall be temporarily closed and used Saturday, September, 8th 2007 from 7:30 am to 5:00 pm to accommodate the Frangelism in the Park Event: Broad Street between Fowler and Hill Street

Section 2. This event is to be held in accordance with the permit issued by the Board of Aldermen pursuant to Article III of Chapter 7 of the Town.

Section 3. The Town shall supply the appropriate traffic control devices to give notice of the temporary traffic controls.

Section 4. No person may operate any vehicle contrary to the traffic control devices installed in accordance with Section 3 of this resolution.

Section 5. The Event Coordinator will be responsible for notifying Central Communications when the street is closed and when it is reopened to vehicular traffic.

Section 6. Applicant shall distribute flyers of notification of the contents of any resolution passed to persons occupying property abutting the streets where the event is to take place.

Section 7. Applicant will be responsible for all costs incurred by the Public Works Department to facilitate this event. Applicant will be sent an itemized bill for the final costs incurred by Public Works.

Section 8. 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 28th day of August 2007:

Ayes: Joal Hall Broun, Mark Chilton, Dan Coleman, Jacquelyn Gist, John Herrera, Randee Haven-O'Donnell, Alex Zaffron

Noes: None

Absent or Excused: None

CONTINUATION OF THE PUBLIC HEARING ON THE BALLENTINE ARCHITECTURALLY INTEGRATED SUBDIVISION CONDITIONAL USE PERMIT REQUEST LOCATED AT 8110 OLD N.C. 86

The Board of Aldermen continued a public hearing opened on June 26, 2007 on a conditional use permit request submitted by M/I Homes as represented by The John R. McAdams Company for the construction of a 96-dwelling unit subdivision located at 8110 Old NC 86. The conditional use permit, if approved, would allow the creation of 62 single-family-detached and 34 townhome lots with associated infrastructure, including publicly dedicated streets.

James Carnahan, Chair of the Planning Board, stated that the Planning Board had made an additional recommendation on August 2nd asking that the developer increase the number of units to achieve the full build-out allowable under the current Land Use Ordinance.

Jay Bryan, Chair of the NTAAC, addressed the NTAAC's recommendation about moving the entrance to this development and their request that the speed limit on Old 86 from Eubanks to Hogan Hills Roads be lowered. He asked that a town delegation meet with NCDOT about reducing the speed limit.

Robert Dowling, Executive Director of OCHLT, addressed the affordable housing component of the development. He stated that the OCHLT will need to subsidize each of the 17 affordable housing units by \$30,000.

Kevin Hamak addressed the Planning Board's request for increased density within the development. He gave a breakdown of the housing types and number of units. He stated that the entrance road will be shared with Orange County's Twin Creeks Park, the school and this development. He also explained the improvements proposed for this intersection and stated that they have agreed to work with officials to have the speed limit lowered.

Ed Kristensen of M/I Homes was sworn in. He stated that their development meets the town's requirements and felt the Planning Board's request for additional density is unfair at this stage of the development process. He stated that he felt the development will be a diverse and family-oriented community. He stated that they would consider draught tolerant ground cover.

Henry Wells, the town's engineer, was sworn in. He explained the purpose of a level spreader and stated that the grass spreader would be best for this development. He also responded to the EAB's condition #6 and explained staff condition #25.

Mr. Christiansen spoke about Energy Star for New Homes and about the Home Builders Association of Durham, Orange and Chatham Counties' Green Building Initiative. They have agreed to the central neighborhood composting facility recommendation.

MOTION WAS MADE BY ALEX ZAFFRON AND SECONDED BY DAN COLEMAN TO CLOSE THE PUBLIC HEARING. VOTE: AFFIRMATIVE ALL

MOTION WAS MADE BY ALEX ZAFFRON AND SECONDED BY JOAL HALL BROUN THAT THE APPLICATION IS COMPLETE. VOTE: AFFIRMATIVE ALL

MOTION WAS MADE BY ALEX ZAFFRON AND SECONDED BY JOAL HALL BROUN THAT THE APPLICATION COMPLIES WITH ALL APPLICABLE REQUIREMENTS OF THE LAND USE ORDINANCE. VOTE: AFFIRMATIVE ALL

MOTION WAS MADE BY ALEX ZAFFRON AND SECONDED BY JOHN HERRERA THAT THE APPLICATION, IF GRANTED, SHALL BE ISSUED 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 Development Review 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 is permit shall be void and of no effect.
3. Certificates of Occupancy for seventeen (17) "market-rate" units will be withheld until such time as the corresponding affordable units (units 1, 2, 3, 4, 5, 6, 7, 25, 26, 27, 28, 29, 30, 31, 32, 33, & 34) are granted COs and are offered for sale or rent for an amount consistent with the language found in Section 15-182.4 of the Town of Carrboro Land Use Ordinance. Each affordable unit that meets this qualification may reduce the number of withheld market rate COs by one.
4. If the Land Trust is unable to sell any affordable unit within one year of the date it receives a certificate of occupancy, M/I Homes will be released from its obligation to sell that unit to the Land Trust and may sell the unit in accordance with the affordable housing provisions of the Carrboro Land Use Ordinance in existence prior to June 26, 2007 (the date of their amendment). Per the requirements of Section 15-128 of the Land Use Ordinance, the Board authorizes use of the referenced, pre-June 26, 2007 provisions based the findings of "substantial expenditures". Should this scenario transpire, in accordance with Section 15-182.4, the developer shall include in the restrictive covenants applicable to the subdivision, and in the deeds for the affordable units, covenants and restrictions that are sufficient to ensure that the affordable units will remain affordable as described in that section. Those covenants and restrictions shall include provisions that will allow the Town of Carrboro to enforce the commitment that the housing units remain affordable. These documents shall be subject to the approval of the Town Attorney.
5. That, prior to final plat approval, the applicant provides to the Town, in accordance with applicable LUO provisions, a financial security sufficient to construct their portion of the remaining, uncompleted road and stream crossing, from the eastern terminus of Street A, as shown on plans, to the property line directly to the east. The value of said security shall be determined by the Consulting Engineer with approval by the Town Engineer and shall be retained until the road segment and stream crossing is constructed or until an alternate

stream crossing is constructed. Furthermore, the estimate shall be renewed annually and adjusted for inflation via the Consumer Price Index. The security shall be returned to the applicant if (1), the Town determines that the road and crossing will not be constructed, or (2), a period of ten years has passed from the date of initial posting of the financial security with the Town.

6. That prior to construction plan approval the applicant provide to the Town evidence of a shared-access easement (or equivalent) agreed upon by Orange County so as to allow for the construction of Street A, as shown on the approved CUP plans.

7. That prior to construction plan approval the applicant provide to the Town evidence that the portion of property owned by the Lake Hogan Farms Homeowner's Association necessary to allow Street B2 to connect to the Hogan Hills Road R/W has been substantially secured.

8. That prior to construction plan approval, the applicant receive a driveway permit from NCDOT in accordance with any conditions imposed by such agency including but not limited to encroachment/maintenance agreements for lighting and sidewalks.

9. That the applicant provide on the property, a 10' paved trail (meeting the Town of Carrboro's greenway standard) within a public access easement along the entirety of the Old NC 86 road frontage. The alignment may meander to avoid trees and other obstacles as needed.

10. That written authorization is provided from the Town of Carrboro Public Works Director prior to allowing the use of asphalt for the proposed mixed-use trail that fronts Old NC 86.

11. That an offer of dedication of the open space areas on east side of Lake Hogan Farm road extension be made to the Town.

12. That the 10' greenway trails demonstrate compliance on the construction plans with the greenway facilities specifications identified in the AASHTO Guide for the Development of Bicycle Facilities.

13. That the single family home lots, when developed have sufficient room to conveniently park two cars, off of the street, without blocking the sidewalk. Garages may not be counted toward this requirement. This parking will be shown on individual plot plans during the building permit stage.

14. That, for the townhome parking lots, the Board hereby allows a deviation from the parking requirements of 15-291(g), finding that 57 spaces are sufficient to serve the 34 townhomes. Per 15-292(a), the board makes this finding based on evidence submitted by the applicant as referenced in Attachment E of the staff report.

15. That the proposed street tree planting layout be revised to meet the spacing requirements of Section 15-315 of the LUO.

16. That an "alternate" stormwater management facility be constructed as part of Phase 1 (West Side of Buckhorn Branch) of the development if, 10 months after Phase 1 final plat approval, either a) the Buckhorn Branch CLOMR is not received or, b) an approval for a bond extension to cover the construction of the stormwater management facility to treat Street 'A', is not obtained.

17. That the Buckhorn Branch CLOMR be received prior to Phase 2 (East Side of Buckhorn Branch) final plat approval.

18. That a LOMR be received prior to granting building permits for the final 50% of Phase 2 lots (9 Lots) unless a bond is posted covering a LOMR approval and any potential infrastructure modifications deemed necessary as a result of the LOMR approval process for Buckhorn Branch.
19. That the applicant shall provide to the Zoning Division, prior to the recordation of the final plat for the project or before the release of a bond if some features are not yet in place at the time of the recording of the final plat, Mylar and digital as-builts for the stormwater features of the project. Digital as-builts shall be in DXF format and shall include a base map of the whole project and all separate plan sheets. As-built DXF files shall include all layers or tables containing storm drainage features. Storm drainage features will be clearly delineated in a data table. The data will be tied to horizontal controls.
20. That the developer shall include a detailed stormwater system maintenance plan, specifying responsible entity and schedule. The plan shall include scheduled maintenance activities for each unit in the development, (including cisterns, bioretention areas, swales, check dams, and irrigation pond), performance evaluation protocol, and frequency of self-reporting requirements (including a proposed self-reporting form) on maintenance and performance. The plan and supporting documentation shall be submitted to Town engineer and Environmental Planner for approval prior to construction plan approval. Upon approval, the plans shall be included in the homeowners' association documentation.
21. That the developer provide a written statement from the electrical utility stating that electric service can be provided to all locations shown on the construction plans prior to the approval of the construction plans.
22. That fire flow calculations and building-sprinkler design (as required) must be submitted and approved by the Town Engineer and Town Fire Department prior to construction plan approval.
23. That the plans be revised such that the dumpsters and recycling facilities located between units 11 and 12 allow a clear 35' turning radius for efficient collection-vehicle access.
24. That the Board authorizes the receipt of funds-in-lieu of 142.06 recreation points valued at \$26,022.55 to be used on proposed greenway improvements for Jones Creek. These funds are to be paid prior to final plat approval.
25. That the subdivision must comply with the requirements of Section 15-177(d)-3a which specifies that developments of greater than 14 units provide a minimum of nine (9) significantly different house plans (i.e. elevations sets).
26. That the applicant receive(s) CAPs from the Chapel Hill Carrboro City Schools District pursuant to Article IV, Part 4 of the Land Use Ordinance, prior to construction plan approval.
27. That prior to construction plan approval, the applicant either meet the requirements through proof of compliance of, enhance or, find an alternate-to, the proposed hydrodynamic separators, such that they satisfy the Town's stormwater requirements with regards to water quality.
28. That prior to Construction Drawing approval Town staff and the Consulting Engineer meets with NCDOT District Engineer to pursue the reduction in speed along Old NC 86. If NCDOT reduces the speed limit, the intersection could be moved to the original access easement location (subject to NCDOT approval). If not, the intersection would remain as shown on the CUP plans.

MOTION WAS ALEX ZAFFRON AND SECONDED BY DAN COLEMAN THAT THE HOMEOWNER'S ASSOCIATION DOCUMENTS SHOULD CONTAIN LANGUAGE ENCOURAGING LANDSCAPING DESIGN AND FLORA REQUIRING NO IRRIGATION OR WATER USAGE, AND THAT THE HOMEOWNERS ASSOCIATION DOCUMENTS CONTAIN NO LANGUAGE REQUIRING OR

ENCOURAGING LAWN AND LANDSCAPING TECHNIQUES OR SPECIES WHICH ENCOURAGE REGULAR WATER USAGE. VOTE: AFFIRMATIVE ALL

It was the consensus of the Board to schedule a discussion on the use of underground sprinkler systems and other areas of environmental concern, e.g. clothes lines, for a future meeting.

MOTION WAS MADE BY ALEX ZAFFRON AND SECONDED BY JOAL HALL BROWN THAT THE APPLICATION IS GRANTED, SUBJECT TO THE CONDITIONS AGREED UPON ABOVE. VOTE: AFFIRMATIVE ALL

PUBLIC HEARING ON A REQUEST TO PERMANENTLY CLOSE A SECTION OF CENTER STREET RIGHT-OF-WAY

The purpose of this agenda item was to hold public hearing on a request to permanently close a section of Center Street right-of-way adjacent to 203 Center Street.

MOTION WAS MADE BY ALEX ZAFFRON AND SECONDED BY JACQUELYN GIST TO CLOSE THE PUBLIC HEARING AS NO ONE WISHED TO SPEAK. VOTE: AFFIRMATIVE ALL

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

A RESOLUTION ORDERING THE CLOSING OF A 30-FOOT WIDE BY 62-FOOT FOOT LONG
SECTION OF CENTER STREET RIGHT-OF-WAY ADJACENT TO
203 CENTER STREET AND 500 POPLAR AVENUE
Resolution No. 01/2007-08

THE BOARD OF ALDERMEN OF THE TOWN OF CARRBORO RESOLVES:

WHEREAS, the Board of Aldermen at its June 19, 2007 meeting adopted a resolution declaring its intention to close a 30-foot wide by 62-foot long section of Center Street right-of-way adjacent to the following properties: PIN: 9778-87-0991 (203 Center Street) and PIN: 9778-87-2082 (500 Poplar Avenue), further described as: Beginning at a point where the south property line of 203 Center Street intersects the Center Street right-of-way, then northerly along the Center Street right-of-way a distance of 62 feet, then easterly along the Center Street right-of-way for a distance of 30 feet, then southerly along the Center Street right-of-way for a distance of 62 feet, and then westerly a distance of 30 feet to the point of beginning; and

WHEREAS, in this same resolution the Board of Aldermen declared its intent to reserve its right, title, and interest in any utility improvements or easement with the 30-foot wide portion of right-of-way proposed for closing; this reservation shall also extend to utility improvements or easements owned by private utilities which at the time of the proposed street closing have a utility agreement or franchise with the Town.

WHEREAS, in this same resolution the Board of Aldermen set a public hearing on this question for August 28 at 7:30 pm in the Town Hall; and

WHEREAS, a copy of this resolution was published in the Chapel Hill Herald newspaper on July 29 and August 5, 12, 19 of 2007 and was sent by certified mail to the owners of property adjoining the street and a notice of the public hearing was posted in two places along said street, all in accordance with G.S. 160A-299; and

WHEREAS, the Board of Aldermen duly held a public hearing to consider this street closing in question at its regularly scheduled meeting on August 28, 2007;

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

Section 1. Having heard all of the testimony presented at the public hearing on the proposed closing, the Board concludes that this street closing is not contrary to the public interest and that no individual owning property in the vicinity of the street would thereby be deprived of reasonable means of ingress or egress to their property.

Section 2. Therefore, the Board orders that the 30-foot wide by 62-foot long section of Center Street right-of-way adjacent to the following properties: PIN: 9778-87-0991 (203 Center Street) and PIN: 9778-87-2082 (500 Poplar Avenue), is hereby closed.

Section 3. The Board of Aldermen hereby declares that the Town reserves its right, title, and interest in any utility improvements or easements within the 30-foot right-of-way declared closed in Section 2 of this same Resolution. This right, title and interest shall extend to utility improvements or easements owned by private utilities which at the time of this street closing have a utility agreement or franchise with the Town. Such utilities shall include but are not limited to water, sewer, electrical, gas, telephone and cable television.

Section 4. A certified copy of this order shall be filed in the Office of the Orange County Register of Deeds.

Section 5. All right, title and interest, excluding utility improvements and easements in the 30-foot wide right-of-way closed pursuant to this order shall be conclusively presumed to be vested in those persons owning the parcels abutting the street right-of-way identified by Parcel Identification Numbers 9778-87-0991 and 9778-87-2082 according to county tax records.

Section 6. Any person aggrieved by this street right-of-way closing may appeal this order to the General Court of Justice within thirty (30) days after its adoption.

The foregoing resolution having been submitted to a vote received the following vote and was duly adopted this 28th day of August 2007:

Ayes: Joal Hall Broun, Mark Chilton, Dan Coleman, Jacquelyn Gist, John Herrera, Randee Haven-O'Donnell, Alex Zaffron

Noes: None

Absent or Excused: None

PUBLIC HEARING: THE ALBERTA MIXED USE BUILDING CONDITIONAL USE B-1(G) REZONING/CONDITIONAL USE PERMIT APPLICATION

Carr Mill Investment Limited Partnership and N. R. Milian Associates, on behalf of the partnership, have submitted applications for B-1(g) conditional use rezoning and a conditional use permit to allow for the construction of a four-story mixed-use building at 100 Sweet Bay Place/300 Roberson Street, on the site where the Farmers' Market was once held. It is necessary for the Board to receive public comment before taking action on this item.

Trish McGuire, the town's Planning Administrator, was sworn in and made the presentation on the rezoning.

Marty Roupe, the town's Zoning Administrator, was sworn in and made the presentation on the conditional use permit application.

Jack Haggerty and Nathan Milian were sworn in.

Mr. Haggerty asked that the sidewalks about Weaver Street and Greensboro Street remain as they currently are asked that the parked lot not be restriped, and asked that the entire property be rezoned B-1(g). He stated that the developer is proposing a payment in lieu for 3.45 affordable housing units.

James Carnahan, Chair of the Planning Board, was sworn in and explained the Planning Board's recommendation to increase the density of the project.

Robert Dowling, Executive Director of OCHLT, was sworn in. He advised the Board to take the payment in lieu of the 3.45 affordable housing units because of the fact that the units are condominiums. He stated that there is a lot of turnover with condominiums units and expressed concern about keeping those units affordable.

Mitch Virchick, a resident of Maple Avenue, was sworn in. He asked about the location of the HVAC units and dumpsters and stated concern about the private road within the development. He stated that residents of Maple Avenue cut through this parking lot to go east.

Gary Kramling was sworn in. He expressed his enthusiasm about this project, but expressed concern about the parking lot not being resurfaced. He stated that the parking lot is an eyesore and also needs a reasonable buffer along Sweet Bay Place, including low plantings. He asked that the private road remaining available for use by bicyclists.

Ellen Virchick, a resident of Maple Avenue, was sworn in. She expressed concern about the lack of green space provided for walking dogs and asked that the Board consider the impact this development will have on Carr Street and other surrounding streets.

Robert Kirschner was sworn in. He expressed concern about the private road, suggested a gate be installed at the entrance to the private parking lot, and suggested that only one vehicle per dwelling unit be allowed. He also encouraged traffic control at the Sweet Bay/Roberson Street intersection.

Martha Arnold, a resident of Maple Avenue, was sworn in. She asked that the screening be maintained, and that the mixed use be increased. She also expressed concern about traffic movements in the area of Carr and Greensboro Streets.

Ellen Perry was sworn in. She said that the town needs more affordable housing (in the downtown area) and encouraged the Board to require the affordable housing.

Alderman Gist read into record two emails, one from Blan Holman and one from Elese Veeh. Mr. Holman's email addressed construction traffic on Maple and Carr Streets, concern about maintaining the buffer on Maple Avenue, location of the dumpster, and opposition to lighting poles over 15 feet in height. Ms. Veeh expressed concern about parking, access and traffic. Specifically, she asked that adequate parking be provided for the new development, that overflow not go down Carr and Greensboro Streets, that Carr Street dead end before the development, and that this development not contribute to the traffic gridlock in the downtown.

MOTION WAS MADE BY ALEX ZAFFRON AND SECONDED BY JOAL HALL BROUN TO CONTINUE THIS PUBLIC HEARING ON SEPTEMBER 4, 2007. VOTE: AFFIRMATIVE ALL

REQUEST FOR A CLOSED SESSION TO DISCUSS THE TOWN OF CARRBORO V. KILLE CASE

MOTION WAS MADE BY ALEX ZAFFRON AND SECONDED BY JOAL HALL BROUN TO AJOURN
TO CLOSED SESSION TO DISCUSS THE TOWN OF CARRBORO V. KILLE CASE AT 10:48 P.M.
VOTE: AFFIRMATIVE ALL

Mayor

Town Clerk