

A regular meeting of the Carrboro Board of Aldermen was held on Tuesday, September 4, 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
	Alex Zaffron
Town Manager	Steven E. Stewart
Town Attorney	Michael B. Brough
Town Clerk	Sarah C. Williamson

Absent:

Alderman	Randee Haven-O'Donnell
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CHARGE ISSUED

The Town Clerk issued a charge to Jennifer Everett, a recent appointee to the Environmental Advisory Board.

WATER CONSERVATION

Mayor Chilton urged citizens to conserve water in light of the current drought.

ST. JOSEPH CME CHURCH'S FRANGELISM IN THE PARK EVENT

Alderman Broun invited citizens to attend the Frangelism in the Park event scheduled for Saturday, September 8th. She also invited citizens to St. Paul AME Church's yard sale on the same day.

REQUEST FROM CITIZEN

Marilyn Kille, owner of Peppermint Spring Farm located at 219 Old Fayetteville Road, addressed the Board about a barn she had constructed in 1996. She asked that the town rescind its judgment against her in the amount of \$10,000, to withdraw its legal proceedings and to grant her the right to continue to utilize the auxiliary apartment. Otherwise she said she would charge Carrboro town officials with gross negligence, dereliction of duty, willful discrimination, and with knowingly fostering prejudicial treatment of residents who own single-family homes or willingly or unwittingly created auxiliary apartments. She stated that she had a list of illegal auxiliary apartments throughout town.

Mayor Chilton stated that the Town Attorney had advised board members not to comment on this matter since it is pending litigation. He invited Ms. Kille to file a complaint about any illegal apartment that she is aware of and the town's Inspections Department would investigate it.

APPROVAL OF MINUTES OF PREVIOUS MEETINGS

MOTION WAS MADE BY ALEX ZAFFRON AND SECONDED BY JOAL HALL BROUN TO APPROVE THE AUGUST 28, 2007 MINUTES. VOTE: AFFIRMATIVE SIX, ABSENT ONE (HAVEN-O'DONNELL)

TOWN CODE AMENDMENT TO ALLOW PARKING ON FIDELITY STREET ON WEDNESDAYS FOR THE FARMERS' MARKET

The Farmers' Market is requesting that parking be allowed on Fidelity Street from 3:00 pm to 7:00 pm on Wednesdays. A Town Code amendment allowing for this parking is provided for the Board's consideration.

MOTION WAS MADE BY ALEX ZAFFRON AND SECONDED BY JOAL HALL BROUN TO ADOPT THE ORDINANCE ENTITLED, "AN ORDINANCE AMENDING CHAPTER 6 OF THE CARRBORO TOWN CODE RELATED TO PARKING ON FIDELITY STREET." VOTE: AFFIRMATIVE SIX, ABSENT ONE (HAVEN-O'DONNELL)

REQUEST TO SET A PUBLIC HEARING ON A CONDITIONAL USE PERMIT REQUEST FOR A COMMERCIAL DEVELOPMENT LOCATED AT 405 JONES FERRY ROAD

Northwest Property Group is requesting a conditional use permit for commercial development consisting of three (3) buildings. One building (proposed grocery store) will be 52,250 square feet in size and the second building (labeled as building A), consisting of eleven (11) individual shops, will be 17,550 square feet in size. The third building (labeled as building B), consisting of five (5) individual shops, will be 7,900 square feet in size. The town staff recommended that the Board adopt a resolution setting a public hearing for September 18, 2007 for consideration of the conditional use permit request.

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

A RESOLUTION CALLING A PUBLIC HEARING ON THE
CONDITIONAL USE PERMIT REQUEST FOR
COMMERCIAL DEVELOPMENT LOCATED AT 405 JONES FERRY ROAD
Resolution No. 09/2007-08

WHEREAS, the Carrboro Board of Aldermen seeks to provide ample opportunities for the public to comment on proposed conditional use permit projects; and

WHEREAS, an application has been received for a conditional use permit for commercial development located at 405 Jones Ferry Road.

NOW THEREFORE BE IT RESOLVED by the Carrboro Board of Aldermen that the Aldermen call a public hearing on September 18, 2007 to consider the conditional use permit request for the commercial development project.

The foregoing resolution having been submitted to a vote received the following vote and was duly adopted this 4th day of September 2007:

Ayes: Joal Hall Broun, Mark Chilton, Dan Coleman, Jacquelyn Gist, John Herrera, Alex Zaffron

Noes: None

Absent or Excused: Randee Haven-O'Donnell

REQUEST TO SET A PUBLIC HEARING ON A CONDITIONAL USE PERMIT REQUEST FOR A COMMERCIAL DEVELOPMENT LOCATED AT 609 HIGHWAY 54 WEST

Bud Matthews is requesting a conditional use permit for two commercial buildings at 609 Highway 54 West. The first building is an existing one-story masonry building that is 3,278 square feet in size. The second building will be a 3,000-square foot prefab metal-type building. The town staff recommended that the Board adopt a resolution setting a public hearing for September 25, 2007 for consideration of the conditional use permit request.

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

A RESOLUTION CALLING A PUBLIC HEARING ON THE
CONDITIONAL USE PERMIT REQUEST FOR COMMERCIAL DEVELOPMENT
LOCATED AT 609 HIGHWAY 54 WEST
Resolution No. 08/2007-08

WHEREAS, the Carrboro Board of Aldermen seeks to provide ample opportunities for the public to comment on proposed conditional use permit projects; and

WHEREAS, an application has been received for a conditional use permit for commercial development located at 609 Highway 54 West.

NOW THEREFORE BE IT RESOLVED by the Carrboro Board of Aldermen that the Aldermen call a public hearing on September 25, 2007 to consider the conditional use permit request for the commercial development project.

The foregoing resolution having been submitted to a vote received the following vote and was duly adopted this 4th day of September 2007:

Ayes: Joal Hall Broun, Mark Chilton, Dan Coleman, Jacquelyn Gist, John Herrera, Alex Zaffron

Noes: None

Absent or Excused: Randee Haven-O'Donnell

APPOINTMENTS TO THE ARTS COMMITTEE

The Mayor and Board of Aldermen were requested to consider making appointments to the Arts Committee.

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

A RESOLUTION MAKING APPOINTMENTS TO THE
ARTS COMMITTEE
Resolution No. 10/2007-08

WHEREAS, there are currently four (4) vacant seats on the Arts Committee; and

WHEREAS, Sharmin Mirman and Zach Ward have applied for membership on the Arts Committee; and

WHEREAS, the Chair of the Arts Committee is recommending that these individuals be appointed.

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

Section 1. The Board of Aldermen hereby makes the following appointments to the Arts Committee:

Appointee	Term Expiration
Sharmin Mirman	1/31/2009
Zach Ward	1/31/2009

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 4th day of September 2007:

Ayes: Joal Hall Broun, Mark Chilton, Dan Coleman, Jacquelyn Gist, John Herrera, Alex Zaffron

Noes: None

Absent or Excused: Randee Haven-O'Donnell

CONTINUATION OF THE PUBLIC HEARING FOR THE ALBERTA MIXED USE BUILDING B-1(G) CONDITIONAL USE 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 (CUP) 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. The Board of Aldermen opened a public hearing on August 28, 2007 and continued the hearing to September 4, 2007.

Jack Haggerty stated that the two-thirds of the building are for offices. He noted a letter from Paul Greenberg and Robert Dowling concerning addressing affordable housing. He stated that the parking will be posted, that the driveway behind the building will stay open, that they have no intentions to close off pedestrian traffic through this driveway or parking lot, that the owner understands the need for the request for dedication along Roberson Street as long as it is not along front of the building, and that they would prefer not to have provide a dedication of right-of-way along Sweet Bay.

Robert Dowling made a correction to his letter dated August 31, 2007 addressed to the Mayor and Board of Aldermen concerning the analysis of the affordable condo units in the Alberta development. He stated that that analysis indicated that each one-bedroom condo at the Alberta would require \$10,000 of initial subsidy to make the units affordable to households earning 70% of the area median income. In addition, they project each unit will require an additional \$21,000 (not \$52,000 as originally stated in the 8/31/07 letter) over the next 25 years to remain affordable.

Paul Greenberg, the owner, was sworn in. He stated that they have no intentions to stop pedestrians from crossing the property, that they need to keep the driveway private, that they have concerns about parking, that gates have not been considered as an option, that they would prefer to not have public right-of-way, that the speed table would be a good idea, that they would be open to changing the pavement markings to signify a difference, that they do not object to public access to sidewalk along Roberson St. as long as other property owners are required to allow that access, but that they do have an issue with the Sweet Bay sidewalk access, and stated that access issues can be addressed in homeowners documents.

Mayor Chilton asked the developer to voluntarily look into getting shrouds around the lights to reduce the impact on Maple Avenue.

MOTION WAS MADE BY ALEX ZAFFRON AND SECONDED BY JOAL HALL BROUN TO CLOSE THE PUBLIC HEARING. VOTE: AFFIRMATIVE SIX, ABSENT ONE (HAVEN-O'DONNELL)

The Board proposed 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 this permit shall be void and of no effect.
3. That no size-limited unit may be enlarged for one-year after issuance of a certificate of occupancy.
4. That the continued affordability of three dwelling units must be ensured through working directly with Orange Community Housing & Land Trust, in accordance with LUO Section 15-182.4, subject to the provisions of condition #18.
5. That certificates of occupancy for the last three market-rate dwelling units not be issued until all three affordable dwelling units are offered for sale or rent.
6. That before construction plan approval, the applicant shall record a shared-parking easement agreement or similar legal instrument providing that the new building at 100 Sweet Bay Place / 300 Roberson Street and the existing Carr Mill Mall complex at 200 North Greensboro Street may utilize each others parking spaces.
7. That prior to construction plan approval, the plans must clearly indicate that the sidewalks along both Roberson Street and Sweet Bay Place will be in accordance with the brick-edged sidewalk detail shown in the plans. If right-of-way is dedicated along either or both streets but does not reach to the back-edge of the sidewalks, then the brick-edge will end at the terminus of public right-of-way to clearly differentiate the public right-of-way from private property.
8. That the applicant install the southern-half cross-section of the street per the Roberson Street plan (i.e.: with a planting strip).
9. That the applicant must receive a Town of Carrboro driveway permit prior to construction plan approval.

10. That prior to construction plan approval, the applicant must either: a) revise the stormwater plan to clearly indicate that existing drainage patterns are maintained, or b) modify the proposed stormwater plan to satisfy the applicable provisions of Appendix I and Article XVI of the Land Use Ordinance. If changes to site design are necessary, then such changes are subject to LUO Section 15-64, including the possibility of an additional public hearing.

11. That the applicant must obtain all necessary temporary and permanent easements prior to construction plan approval.

12. That the solid waste facility be designed to the typical 24-foot width and shown accordingly on the construction plans. Also, the construction plans must clearly indicate that the gate for the facility will be opaque rather than simply chain-link.

13. That the solid waste facility be designed to the typical 24-foot width and shown accordingly on the construction plans. Also, the construction plans must clearly indicate that the gate for the facility will be opaque rather than simply chain-link.

14. That the Appearance Commission must certify the alternative design, with a quorum present, prior to construction plan approval.

15. That the applicant must submit condominium owner's association documents for review and approval by the Town Attorney prior to construction plan approval.

16. 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.

17. That construction traffic shall be limited to access via Sweet Bay Place and a temporary fence be erected prohibiting construction access from Carr St.

18. That an easement providing public bike and pedestrian access along the driveway extending from East Carr Street to Sweet Bay Place of no less than 5-feet shall be provided, and that a speed table or other appropriate traffic calming device be erected within the driveway.

19. That no gates or other physical barriers to prevent access may be erected at either entrance to the driveway extending from East Carr Street to Sweet Bay Place.

20. That a public right-of-way of no less than 5' shall be required along the Sweet Bay Place frontage extending from Roberson Street to the driveway immediately south of the building, and that the applicant will work w/ staff to ensure acceptable access to residents and occupants of the structure.

21. That three units of affordable housing shall be provided in accordance with the formula promulgated in Carrboro Land Use Ordinance Section 15-182.4, and .45 units payment-in-lieu be paid to the Affordable Housing Trust Fund. In the event Orange Community Housing & Land Trust is unable to sell the units by 90 days following the issuance of a Certificate of Occupancy, then the developer shall make other arrangements to ensure that such units remain affordable in accordance with the provisions of Section 15-182.4 of the LUO.

22. That no less than 10-feet of public right-of-way shall be dedicated along Roberson Street frontage in accordance with the adopted Roberson Street plan.

23. That the Board of Aldermen finds that existing vegetation plus a landscaping/planting area alongside the back third of the western side of the building satisfies the screening requirements for the southern

and western property lines respectively, to help retain a pedestrian corridor along the western side of the building.

Mr. Greenberg asked for an opportunity to review the conditions prior to the Board taking action on the conditional use rezoning.

MOTION WAS MADE BY ALEX ZAFFRON AND DULY SECONDED BY DAN COLEMAN TO CONTINUE DISCUSSION OF THIS MATTER AT THE SEPTEMBER 11TH BOARD MEETING. VOTE: AFFIRMATIVE SIX, ABSENT ONE (HAVEN-O'DONNELL)

A REQUEST FOR A MINOR MODIFICATION TO THE CONDITIONAL USE PERMIT FOR CARR MILL MALL LOCATED AT 200 NORTH GREENSBORO STREET

The Board was asked to review a request for a Minor Modification to the Conditional Use Permit for the existing Carr Mill Mall shopping center at 200 North Greensboro Street. The request involves splitting the 200 North Greensboro Street parcel from the 100 Sweet Bay Place / 300 Roberson Street parcel. Town Staff recommended that the Board of Aldermen deliberate and make a decision regarding the CUP Minor Modification request.

[Discussion of this item was tabled until September 11th.]

DESIGN AND USE OF TOWN FLAG

The purpose of this item was to bring before the Board the question of whether they are comfortable with the further propagation of a Carrboro flag and, if so, what the design of that flag shall be.

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

**A RESOLUTION APPROVING THE CREATION AND USE OF "TOWN OF CARRBORO"
FLAGS BY ENTITIES OTHER THAN THE TOWN OF CARRBORO
Resolution No. 07/2007-08**

WHEREAS, the Board of Aldermen are proud of Carrboro and its history; and

WHEREAS, an officially approved Town of Carrboro flag, wherever flown, would likely serve as a general reminder of that civic pride and history.

NOW THEREFORE BE IT RESOLVED that the Carrboro Board of Aldermen do hereby resolve that whosoever may desire to display a Town of Carrboro flag be heartily encouraged to do so.

BE IT FURTHER RESOLVED that, should community members choose to make (or have made) such flags, that the Board of Aldermen recommend that they be white, in a rectangular shape whereby the length shall be roughly 1.66 times the height, and feature, in the center of the rectangle, a color insignia (the red-and-blue version) the diameter of which shall be roughly 2/3 the height of the flag.

The foregoing resolution having been submitted to a vote received the following vote and was duly adopted this 4th day of September 2007:

Ayes: Joal Hall Broun, Mark Chilton, Dan Coleman, Jacquelyn Gist, John Herrera, Alex Zaffron

Noes: None

Absent or Excused: Randee Haven-O'Donnell

PUBLIC HEARING GUIDELINES AND BOARD GUIDELINES

Alderman Coleman asked that the public hearing guidelines and Board discussion guidelines be repositioned in the Board Room so that they are more visible to the Board and audience.

REVIEW OF ORDINANCES TO ENCOURAGE LOW WATER USAGE LANDSCAPING

Alderman Gist asked that the Board schedule a discussion of ordinances to encourage low water usage landscaping in new developments.

Alderman Broun asked for an update from OWASA on usage and the number of people who have extended the limit.

Mayor Chilton stated that he thought that the OWASA Board had put forth a list of water conservation measures that the towns could adopt and suggested that list be reviewed.

Mayor Chilton asked that a Board worksession be scheduled for this fall to discuss this matter.

MOTION WAS MADE BY JACQUELYN GIST AND SECONDED BY JOAL HALL BROUN TO ADJOURN THE MEETING AT 9:44 P.M. VOTE: AFFIRMATIVE SIX, ABSENT ONE (HAVEN-O'DONNELL)

Mayor

Town Clerk