

BOARD OF ALDERMEN

ITEM NO.: **D(4)**

AGENDA ITEM ABSTRACT

MEETING DATE: JUNE 7, 2005

TITLE: A REQUEST FOR A MINOR MODIFICATION TO THE CONDITIONAL USE PERMIT FOR THE WINMORE VILLAGE MIXED USE PROJECT AT 1400 HOMESTEAD ROAD

DEPARTMENT: PLANNING DEPARTMENT	PUBLIC HEARING: YES <input type="checkbox"/> No <input checked="" type="checkbox"/>
ATTACHMENTS: A. RESOLUTION APPROVING MINOR MODIFICATION REQUEST B. COPY OF CONDITIONAL USE PERMIT GRANTED ON JUNE 10, 2003 C. PROJECT SITE PLAN D. LETTER FROM MR. ERIC CHUPP	FOR INFORMATION CONTACT: MARTY ROUPE, 918-7333

PURPOSE

The Board is asked to review a request for a Minor Modification to the Conditional Use Permit for the Winmore Village Mixed Use project at 1400 Homestead Road. The request involves replacing CUP condition #37 with new language that offers further assurance to the Town of Carrboro that the affordable units within the development will be built. Town Staff requests that the Board of Aldermen review, deliberate, and make a decision on the CUP Minor Modification request.

INFORMATION

Background

The Board of Aldermen approved a Conditional Use Permit (CUP) on June 10, 2003 for construction of a Village Mixed Use project (VMU) at 1400 Homestead Road (**Attachment B**). The CUP allows construction of 98 Single-Family Lots, 66 Multi-Family Townhome Lots, 68 Multi-Family Apartments, and 20 Commercial Lots. Forty-eight (48) of the units will meet the Town's affordable housing criteria, which are set forth in Section 15-182.4 of the Town's Land Use Ordinance (LUO).

Specifically regarding the 48 affordable dwelling units, 24 of the units will be built in a three-story apartment complex, while the remaining units will be built in a co-op housing community on the project site (**Attachment C**). Recently, ownership of the project changed. The new owners, Capkov Ventures, Inc. (Capkov), have identified difficulties with fulfilling CUP condition #37, which requires that certain information related to the 48 affordable housing units be submitted to the Town prior to approval of the construction plans.

Current Proposal

Capkov submitted a letter (**Attachment D**) that explains in detail the difficulties encountered to date related to condition #37. In summary, Capkov has been unable to solidify third-party agreements for construction of the housing, in part because construction on the project has not yet begun. Without such

agreements in hand, Capkov has been unable to begin preparing a CUP application for the co-op housing lot. According to the letter, several parties are interested in constructing the housing and Capkov does not anticipate difficulties fulfilling their obligation to provide 48 affordable housing units within the development.

To show their commitment to ensuring that the affordable units are built, the proposal put forth by Capkov offers the Town additional assurance that the affordable houses will be built (as compared to the language in original CUP condition #37). In explanation, condition #37 only required the submittal of third-party agreements with an anticipated construction schedule, along with the submittal of a CUP application for the co-op lot. The newly-proposed language, intended to replace original condition #37, binds the issuance of building permits (BPs) to actual construction of the affordable units. In further explanation, the new language, if approved, essentially freezes the developer's ability to receive BPs, unless the Town can verify that construction is underway on the affordable units at certain benchmark points during the development's progression. Specifically, no building permits (BPs) would be issued authorizing construction of more than 92 residential units (or 50% of the market rate units) until at least ten percent (10%) of the first 24-unit affordable housing complex was constructed, and no BPs would be issued authorizing construction of more than 137 residential BPs (or 75% of the market rate units) until at least 10% of the second 24-unit affordable housing complex was constructed. A note also will be added to the final plat for the project to ensure that prospective purchasers of lots are notified of this stipulation.

Below is original condition #37, excerpted from the CUP, followed by newly-proposed language that is intended to replace condition #37:

CUP Condition #37:

- That prior to construction plan approval, the applicant shall submit to the Town staff copies of contractual agreements with third-party builders for the construction of the 24-unit affordable housing apartment building and the construction of the 24-unit cooperative housing area identified on the plans as Lot 99. The contractual agreements shall include language referencing an anticipated review and construction schedule, and shall state that upon receiving the land, the third-party builders agree to construct the affordable housing within a specified timeframe. The contractual agreements shall be reviewed and approved by the Town Attorney.

Language Proposed to Replace Condition #37 (Staff-recommended condition varies slightly from language proposed in Applicant's letter):

- Prior to the issuance of a building permit authorizing construction of the 93rd residential unit within the Winmore VMU Project, approved under Conditional Use Permit dated June 10th, 2003, the Town of Carrboro must be able to verify the initiation of construction on the first 24-units of affordable housing. Verification shall be evidence by way of an approved building permit and at least 10% of the construction completed. In addition, prior to the issuance of a building permit authorizing construction of the 138th residential unit within the Winmore VMU Project, approved under Conditional Use Permit dated June 10, 2003, the Town of Carrboro must be able to verify the initiation of construction on the second 24-units of affordable housing. Verification shall be evidence by way of an approved building permit and at least 10% of the construction completed. A clearly visible note will be added to the final plat notifying potential lot purchasers of the building permit restrictions contained in this stipulation.

Public Hearing

It is within the purview of the Board of Aldermen to call a public hearing before rendering a decision on the requested changes. Specifically, with regard to Minor Modification requests, Section 15-64(b) of the LUO states the following: “Unless it is requested by the permit-issuing authority, no public hearing shall be required for such minor modification.”

FISCAL IMPACT

N/A

RECOMMENDATION

The Town Staff recommends that the Board of Aldermen adopt the attached resolution (**Attachment A**) approving the Minor Modification request. The resolution includes new, binding language regarding the construction schedule for the 48 affordable units in the development. The new language will replace condition #37 on the original Conditional Use Permit.