

BOARD OF ALDERMEN

ITEM NO. C(2)

AGENDA ITEM ABSTRACT

MEETING DATE: AUGUST 28, 2007

**SUBJECT: CONTINUATION OF THE PUBLIC HEARING ON THE BALLENTINE
ARCHITECTURALLY INTEGRATED SUBDIVISION CONDITIONAL USE
PERMIT LOCATED AT 8110 OLD NC 86**

DEPARTMENT: PLANNING DEPARTMENT	PUBLIC HEARING: YES <input checked="" type="checkbox"/> NO
ATTACHMENTS: A. VICINITY MAP B. SITE PLAN (SINGLE SHEET FOR REFERENCE) C. STAFF REPORT (WITHOUT ATTACHMENTS) D. DRAFT MINUTES FROM 6.26.07 BOARD MEETING E. OCHLT/BALLENTINE AFFORDABLE HOUSING F. SUMMARY RECOMMENDATIONS FROM ADVISORY BOARDS G. RESPONSES FROM APPLICANT TO VARIOUS ADVISORY BOARD RECOMMENDATIONS H. CONDITIONAL USE PERMIT WORKSHEET	FOR INFORMATION CONTACT: JEFF KLEAVELAND, 918-7332

PURPOSE

The purpose of this item is to continue the public hearing opened on June 26, 2007 regarding the Ballentine AIS CUP proposal. M/I Homes as represented by The John R. McAdams Company, has submitted this application for the construction of a 96 dwelling unit subdivision located at 8110 Old NC 86 (Attachment A & B). 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.

INFORMATION

The subject property is zoned Residential-20 (R-20), and Rural Residential (RR). It contains 51.06 acres (2,224,173.6 sf) and is listed on the Orange County Tax Map as number 7.23.C.31. Note that the complete site plans and staff report (with attachments) is included in the Board's June 26th agenda packet. This item is available online at www.townofcarrboro.org.

Additional Information

For a summary of the June 26th meeting please see the attached *draft* minutes (Attachment D). The information below addresses the salient issues discussed at this meeting.

Affordable Housing

Because the applicant is not maximizing density but is providing 85% of the number of affordable housing units possible (17 out of 20 possible), there remains the necessity to withhold issuing certificates of occupancy on regular market rate units until such time that a corresponding

affordable unit is constructed. Because of this condition one, which originally withheld only two market rate CO's, has been revised to withhold seventeen market rate COs and is revised as follows:

- Certificates of Occupancy (CO) 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.

Also, the applicant and Orange County Community Land Trust have agreed to work together as specified in the attached letter (Attachment E). It is expected they will satisfy the requirements of the recently amended affordable housing provisions of the Land Use Ordinance. Under this arrangement OCHLT assumes responsibility for pre-qualifying buyers and marketing. In the unlikely event that OCHLT is unable to sell the units in one year, they wish to return the units to the applicant for marketing. In this event, the applicant would prefer marketing the units under the affordable housing provisions in existence prior to their amendment on June 26th, 2007 (the same night of Ballentine's first public hearing). These provisions allow the affordable units to be sold for approximately \$142,000, which is more than the new ordinance allows. Under the provisions of Section 15-128.1 of the LUO, the applicant is allowed to make a case that substantial expenditures under the existing ordinance entitles them to rely upon it. Because of these considerations the following condition is recommended to *replace* the existing condition #2:

- 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 their amendment on June 26, 2007. Per the requirements of Section 15-128 of the Land Use Ordinance, the Board authorizes use of the referenced, pre-June 26, 2007 affordable housing 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.

Homeowner's Association

The project's two housing types, townhomes and single family homes, have somewhat different needs with regards to a Homeowner's Association. Townhomes have additional common concerns that necessitate collection of additional fees. Typically, exterior features of the townhomes (roofs, siding, etc.) are considered "commons" and fees are collected for their maintenance. Because of this, the subdivision should have a structure such that all units belong

to a “master” HOA while townhome owners have their own separate HOA. Because of this, the following is recommended:

- ✓ That the Board discuss with the applicant the structure of the homeowners association with regards to the townhomes and the affordable units.

Another matter of importance is regarding the proposed hydrodynamic separators (Stormceptor is a common trade name for such a device) which are designed to treat stormwater prior to releasing it into the environment. It has been recently discovered that the device proposed does not meet the Town’s requirement for removal of Total Suspended Solids (TSS). Though it can be fitted with a filter to achieve the requirement, the applicant would like to explore some other possibilities during construction plan review. For this reason the following *new* condition is proposed.

- That prior to construction plan approval, the applicant either enhance or, find an alternate-to, the proposed hydrodynamic separators, such that they satisfy the Town’s stormwater requirements with regards to water quality.

Advisory Board Recommendations

Please see the attached summary recommendation sheet (Attachment F). See also the applicant’s written response to many of the recommendations (Attachment G)

STAFF RECOMMENDATION

Town staff recommends that the Board of Aldermen continue the Ballentine AIS Conditional Use Permit public hearing. The Board is asked to first complete the attached conditional use permit worksheet (Attachment H). Upon completing the worksheet, staff recommends that the Board consider issuing the permit subject to the conditions below:

- ~~1. Certificates of Occupancy for each of the two (2) bonus ‘market-rate’ units may not be issued until such time as a corresponding affordable unit (units 1, 2, 3, 4, 5, 6, 7, 25, 26, 27, 28, 29, 30, 31, 32, 33, & 34) is constructed and 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.~~
1. (*Revised Condition*) Certificates of Occupancy (CO) 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.
2. ~~(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.~~

2. (*Revised Condition*): 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.
3. 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 Town Engineer and shall be retained until the road segment and 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.
4. 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.
5. 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.
6. 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;
7. 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.
8. 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.
9. That an offer of dedication of the open space areas on east side of Lake Hogan Farm road extension be made to the Town.

10. 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;
11. 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.
12. 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.
13. That the proposed street tree planting layout be revised to meet the spacing requirements of Section 15-315 of the LUO.
14. 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.
15. That the Buckhorn Branch CLOMR be received prior to Phase 2 (East Side of Buckhorn Branch) final plat approval.
16. 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.
17. 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.
18. 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.
19. 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;
20. 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.

21. 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.
22. 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.
23. 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).
24. 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.
25. (*New condition*): That prior to construction plan approval, the applicant either enhance or, find an alternate-to, the proposed hydrodynamic separators, such that they satisfy the Town's stormwater requirements with regards to water quality.