

BOARD OF ALDERMEN

ITEM NO. B(4)

AGENDA ITEM ABSTRACT

MEETING DATE: JUNE 24, 2008

TITLE: PUBLIC HEARING ON “THE BUTLER” MIXED USE BUILDING CONDITIONAL USE DISTRICT
REZONING /CONDITIONAL USE PERMIT

DEPARTMENT: PLANNING DEPARTMENT	PUBLIC HEARING: YES <u>X</u> No
ATTACHMENTS: Part I. A. Staff Memo B. Rezoning Petition C. Resolutions regarding consistency D. Draft Ordinance Rezoning 7.92.A.22 to B-1(c) – CU E. Mailing Certification Letter Part II. A. Project Plans B. Staff Report C. Land Use Permit Application D. 110 Brewer Lane CUP document E. Urban Livability Summary Pergola/furniture layout F. Traffic Impact Summary Statement G. Parking Justification Letter H. Tree Removal Justification Letter I. Screening Justification Letter J. Truth in Drainage statement K. UNC email regarding access L. Building Height Justification M. Compliance with Downtown Architectural Standards Letter N. “Burden of Proof” attachments O. Construction Management Letter P. Staff recommendations, advisory board recommendations, and summary sheet of Joint Review Recommendations Q. Conditional Use Permit Worksheet	FOR INFORMATION CONTACT: PATRICIA MCGUIRE, 918-7327 JEFF KLEAVELAND, 918-7332

PURPOSE STATEMENT

Downtown Urban Ventures, LLC has submitted applications for a B-1(C) conditional use rezoning and, a conditional use permit (CUP), to allow for the construction of a five-story mixed use building on the property adjacent to the existing 110 Brewer Lane mixed use project (see vicinity map, Attachment A). Prior to reaching a decision on a request for a CUP, the Board must hold a public hearing to receive input. The applicants are requesting that the Aldermen review, deliberate and offer comment on the proposed plans.

INFORMATION

Part I. A staff memo on the rezoning request is attached (Part I, Attachments A and B). The property is currently zoned B-1(G) and is identified by Orange County tax map number 7.92.A.22. Resolutions regarding the consistency of the rezoning with adopted plans are provided for the Board's use (Attachment C). A draft ordinance that would rezone the property from B-1(g) to B-1(c)-CU is also attached (Attachment D). Certification of the mailed notice for the public hearing on this request is provided (Attachment E).

The Butler marks the second, non-village mixed use conditional use rezoning that has advanced to a public hearing, following the Alberta B-1(g)-CU that was approved in September 2007. It should be noted that Subsection 160A-382(b) of the North Carolina Statutes provides the following information on conditions that may be associated with combined conditional use rezoning request/development approval:

Specific conditions applicable to these districts may be proposed by the petitioner or the city or its agencies, but only those conditions mutually approved by the city and the petitioner may be incorporated into the zoning regulations or permit requirements. Conditions and site-specific standards imposed in a conditional district shall be limited to those that address the conformance of the development and use of the site to city ordinances and an officially adopted comprehensive or other plan and those that address the impacts reasonably expected to be generated by the development or use of the site. A statement analyzing the reasonableness of the proposed rezoning shall be prepared for each petition for a rezoning to a special or conditional use district, or a conditional district or other small-scale rezoning.

Part II. The condominium property will be addressed as 120 Brewer Lane and the condo/office building will be named *The Butler*. Note that an associated *Minor Modification to the CUP* of the adjacent property, *110 Brewer Lane*, is necessary for this project and will be presented to the Board concurrently. The Minor Modification will enable access to 120 Brewer Lane and will include expanded parking and stormwater facilities. Edwin Andrews, Inc. has submitted the application for these changes. The 110 Brewer Lane Minor Modification does not include a rezoning request and will be withdrawn if this project is denied.

Proposed on the undeveloped property are 57 units (9 affordable) and 22,170 square feet of office space with two decks of parking and associated infrastructure.

See attached staff report and supporting materials for additional detail – Part II, Attachments B through P. A copy of the Conditional Use Permit worksheet is provided for the Board's use (Attachment Q).

RECOMMENDATION

Part I. B-1(C) conditional use rezoning. Town staff has determined that the rezoning request is consistent with the advancement of the public health, safety and welfare of the Town. Approval of the rezoning request is recommended, subject to the conditions specified in association with the conditional use permit application for development of "The Butler."

Part II. "The Butler" Mixed Use Conditional Use Permit Application: If the rezoning is found to be appropriate, then after submittal of a compliant lighting plan, Town staff expects to recommend that the

Board of Aldermen approve the Conditional Use Permit to allow the construction of a five-story mixed use building (Use 27.000, consisting of Uses 1.310, 3.110, 3.120, 3.130, 3.150, 3.210, 3.220, 3.250) at 120 Brewer Lane (and the associated Minor Modification to the 110 Brewer Land CUP, subject to the following conditions:

1. That no size-limited unit may be enlarged for one-year after issuance of a certificate of occupancy.
2. The continued affordability of the nine dwelling units designated as “affordable” must be ensured through working directly with Orange Community Housing & Land Trust, in accordance with LUO Section 15-182.4.
3. That, a fee in lieu of recreation points equivalent to 44.93 points @ \$186.98/point, or \$8401.00 (subject to fee change on July 1st, 2008), be paid to the Town prior to construction plan approval.
4. That the trellis facility in the courtyard is equipped with outdoor furniture (tables, chairs, benches, etc.) sufficient to adequately serve the residents of the building, per the submitted rendering (Attachment E-2).
5. That prior to construction plan approval the applicant provide to the Town evidence of a shared-access easement (or equivalent) agreed upon by the owners of the 110 Brewer Lane mixed use project so as to secure access to the proposed project at 120 Brewer Lane and that said easement will be shown and referenced on any plat associated with the project.
6. That the applicant be allowed to deviate from the presumptive parking standard requiring 149 spaces by providing 136 spaces based upon their written justification that anticipates shared use of spaces between business and residential uses (Attachment G).
7. That the applicant must receive a Town of Carrboro driveway permit for Brewer Lane, prior to construction plan approval, if found to be necessary.
8. That, per the provisions of Section 15-309, the screening requirements of section 15-308 are waived as they do not create a substantial benefit to the adjacent properties and because the project is to be rezoned to B-1(c) which has no setback requirements, based upon the applicant’s screening justification letter (Attachment I).
9. That screening gates be provided for the proposed dumpster (on 110 Brewer Lane) to prevent views of the dumpster from the south, while still allowing access as needed.
10. That, prior to approval of any plat submitted for the project, a maintenance agreement for stormwater facilities used jointly by the owners of the 110 and 120 Brewer Lane be approved by the Town Attorney and addressed in the Condominium Owners Association documents.
11. 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.
12. 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.

13. That prior to construction plan approval, the applicant gain written permission from the UNC property office to access their site via the Libba Cotten Bikeway so as to perform work necessary to implement the approved plan.
14. That prior to construction plan approval, a construction traffic management plan be approved by the Town addressing the project's impact during construction on both the Libba Cotten Bikeway and the surrounding streets.
15. That prior to construction plan approval, the applicant must coordinate replacement of the existing bollards (if found to be necessary), with collapsible or removable bollards to provide emergency vehicular access per the specifications of the Town Fire Department.
16. That prior to construction plan approval the design for the landscape island on the east side of the building be shortened as necessary to facilitate movement of solid waste and recycling trucks, as recommended by Orange County Solid Waste.
17. That prior to construction plan approval, a shared-use and maintenance easement be approved by the Town Attorney and recorded regarding the solid waste facility arrangement for the two properties.
18. That prior to construction plan approval, the applicant must complete registration with the NC Brownfield program and redevelopment must occur in accordance with state regulations.
19. That the applicant must obtain all necessary temporary and permanent easements prior to construction plan approval.
20. That condominium owner's association documents are approved by the Town Attorney prior to release of any plat submitted for the project.
21. 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.