

BOARD OF ALDERMEN

ITEM NO. B(2)

AGENDA ITEM ABSTRACT

MEETING DATE: AUGUST 26, 2008

TITLE: PUBLIC HEARING CONTINUATION OF “THE BUTLER” MIXED USE BUILDING CUP/CONDITIONAL USE DISTRICT REZONING

DEPARTMENT: PLANNING DEPARTMENT	PUBLIC HEARING: YES <u>X</u> No
ATTACHMENTS: Part I. A. Resolutions and Ordinance B. Staff Memo C. Rezoning Petition D. Mailing Certification Letter Part II. A. PROJECT PLANS; B. STAFF REPORT FROM THE 6.24.08 BOARD MEETING (WITHOUT ATTACHMENTS); C. DRAFT MINUTES FROM 6.24.08 BOARD MEETING D. REVISED ADVISORY BOARD’S SUMMARY RECOMMENDATIONS (WITH APPLICANT RESPONSES); E. SUMMARY OF ACTIONS AGREED TO BY THE APPLICANT RELATIVE TO ADVISORY BOARD RECOMMENDATIONS; F. OCHLT 6.24.08 LETTER REGARDING AFFORDABLE UNITS; G. OCHLT 8.20.08 LETTER RECOMMENDATIONS REGARDING PAYMENT IN LIEU OF AFFORDABLE HOUSING; H. CONSTRUCTION MANAGEMENT LETTER; I. ORIGINAL SUMMARY SHEET OF JOINT REVIEW AND STAFF RECOMMENDATIONS; J. CONDITIONAL USE PERMIT WORKSHEET	FOR INFORMATION CONTACT: PATRICIA MCGUIRE, 918-7327 JEFF KLEAVELAND, 918-7332

PURPOSE STATEMENT

To continue the public hearing opened on June 24, 2008 regarding “The Butler” CUP/Conditional Use District Rezoning. Downtown Urban Ventures, LLC has submitted applications 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). The CUP/Conditional Use District Rezoning, if approved, would rezone the property to B-1(C) which would allow the proposed building to contain: 57 dwelling units (9 affordable), 22,170 sf of office space, two decks of parking, and associated infrastructure.

INFORMATION

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.

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. This 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 The 110 Brewer Lane Minor Modification does not include a rezoning request and will be withdrawn if this project is denied.

Again, Proposed on the undeveloped property are 57 units (9 affordable) and 22,170 sf of office space with two decks of parking and associated infrastructure. Note that the complete staff report (with attachments) is included in the Board's June 24th agenda packet. This item is available online at www.townofcarrboro.org.

Additional Information

For a summary of the June 24th meeting please see the attached *draft* minutes (Attachment D). The information below addresses the salient issues discussed at this meeting.

Applicant Response to Advisory Board recommendations

Per the request of the Board, the applicant has provided responses to each of the Advisory Board recommendations from Joint Review (Attachment D). Staff has summarized the actions that they've agreed to undertake relative to these recommendations (Attachment E).

Staff Response to Advisory Board recommendations pertaining to sustainability

The LUO does not include any of the sustainability standards referenced by the advisory boards; accordingly staff is silent on the matter. The applicant proposes using the forthcoming standards developed by the National Association Home Builders (NAHB) for multifamily housing which can be viewed at the following link: http://www.nahbrc.org/technical/standards/NGBS_Working_Draft_2007-03-22.pdf

Affordable Housing

The project proposes 57 units, nine (9) or, 15.8% of which meet the affordability provisions of the Land Use Ordinance. The applicant has further discussed this proposal with Orange Community Housing and Land Trust (OCHLT) in response to direction from the Board and the OCHLT letter of 6.24.08 (Attachment F). During the summer OCHLT met with the applicant and is recommending that the Board receive a payment-in-lieu of four (4) of the nine (9) affordable units proposed (Attachment G). OCHLT's recommendation requires that the five affordable dwellings be reconfigured as one-bedroom units, while the payment in lieu will cover four (4) studio units. The applicant is generally amenable to OCHLT's recommendation but their existing layout, after the payment, leaves them with a different proposal: four, one bedroom and one, studio.

If the Board finds the general payment in lieu arrangement acceptable, they can discuss with the applicant the feasibility of OCHLT's recommendation for the remaining affordable units. Depending upon the outcome of this discussion one of the following recommendations is recommended. Note that at the time of this report the payment fee has not been calculated though it is estimated to be in the \$90-100,000/unit range.

1. That, the applicant make a payment in lieu of affordable housing for four (4) of the nine proposed affordable units in the amount not to exceed \$100,000 per unit to be paid to the Towns Affordable Housing Special Revenue Fund, and, that the remaining five affordable dwellings provided be, at minimum, one bedroom units or;
2. That, the applicant make a payment in lieu of affordable housing for four (4) of the nine proposed affordable units in the amount to exceed \$100,000 per unit to be paid to the Towns Affordable Housing Special Revenue Fund, and, that the remaining five affordable dwellings provided consist of four (4) one-bedroom units and one (1) studio unit.

Recreation Points

The parking lot modification will force the removal of a basketball “court” on 110 Brewer Lane. Staff has visited the facility and found it in disrepair and evidently little used. For this reason, staff recommends that the board accept a payment-in-lieu of recreation points for the removal of the basketball court originally credited 10 recreation points on the original 110 Brewer Lane CUP. The Town’s Recreation and Parks Director concurs with this recommendation as there is very nearby the Town’s Brewer Land Basketball Court. If the Board finds this acceptable the following condition is recommended:

- That the applicant make a payment in lieu of ten (10) recreation points in the amount of \$186.98 per point, totaling \$1869.80 to be paid to the Town’s appropriate recreational facilities fund. Said payment is to cover the basketball court of 110 Brewer lane removed as a result of this project.

Lighting Plan

The lighting plan has been modified and now demonstrates compliance with the LUO.

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.

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. *This condition will be replaced if a payment in lieu is approved by the Board:* 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. *Reworded Condition:* That, prior to construction plan approval, 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. *Reworded Condition:* That the applicant shall provide to the Zoning Division, prior to issuance of the Certificate of Occupancy for the project or before the release of a bond if some features are not yet in place at the time said Certificate is requested, 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. *Reworded Condition:* That, prior to issuance of the Certificate of Occupancy, if it is deemed necessary by the Town Fire Department, the applicant replace the existing bollards on the Libba

Cotten bikeway (the ones that directly affect emergency access to the new building) with improved, removable or collapsible bollards.

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. *Reworded Condition:* That prior to construction plan approval, a shared-use and maintenance easement between the owners of 110 and 120 Brewer Lane be approved by the Town Attorney and recorded regarding the proposed solid waste facility arrangement for the two properties.
18. *Reworded Condition:* That, prior to issuance of the Certificate of Occupancy, the applicant provide evidence that they have fulfilled the relevant terms, provisions and requirements of their recorded Brownfield Agreement with NCDENR.
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 issuance of the Certificate of Occupancy.
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.

New conditions

1. That, the applicant make a payment in lieu of affordable housing for four (4) of the nine proposed affordable units in the amount not to exceed \$100,000 per unit to be paid to the Towns Affordable Housing Special Revenue Fund, and, that the remaining five affordable dwellings provided be, at minimum, one bedroom units or;
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