

A RESOLUTION ADOPTING A  
STATEMENT EXPLAINING THE BOARD OF ALDERMEN'S REASONS FOR  
ADOPTING AN AMENDMENT TO THE MAP OF THE CARRBORO LAND USE  
ORDINANCE

WHEREAS, an amendment to the map of the Carrboro Land Use Ordinance has been proposed, which amendment is described or identified as follows: AN ORDINANCE AMENDING THE CARRBORO ZONING MAP TO REZONE APPROXIMATELY .96 ACRES OF LAND KNOWN AS THE DOWNTOWN URBAN VENTURES LLC PROPERTY FROM B-1-(G) (GENERAL BUSINESS) TO B-1(C) CU (TOWN CENTER BUSINESS CONDITIONAL USE)

NOW THEREFORE, the Board of Aldermen of the Town of Carrboro Resolves:

Section 1. The Board concludes that the above described amendment is consistent with Carrboro Vision2020

Section 2. The Board concludes that its adoption of the above described amendment is reasonable and in the public interest because the Town seeks to encourage a variety of appropriate mixed use developments in the downtown that maximize the use of land by building up, not out, that provide additional residential opportunities, both affordable and market rate, and that result in the development of underutilized properties..

Section 3. This resolution becomes effective upon adoption.

This the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Ayes:

Noes:

Abstentions:

A RESOLUTION ADOPTING A  
STATEMENT EXPLAINING THE BOARD OF ALDERMEN'S REASONS FOR  
REJECTING AN AMENDMENT TO THE MAP OF THE CARRBORO LAND USE  
ORDINANCE

WHEREAS, an amendment to the map of the Carrboro Land Use Ordinance has been proposed, which amendment is described or identified as follows: AN ORDINANCE AMENDING THE CARRBORO ZONING MAP TO REZONE APPROXIMATELY .96 ACRES OF LAND KNOWN AS THE DOWNTOWN URBAN VENTURES LLC PROPERTY FROM B-1-(G) (GENERAL BUSINESS) TO B-1(C) CU (TOWN CENTER BUSINESS CONDITIONAL USE)

NOW THEREFORE, the Board of Aldermen of the Town of Carrboro Resolves:

Section 1. The Board concludes that the above described amendment is not consistent with Carrboro Vision2020.

Section 2. The Board concludes that its rejection of the above described amendment is reasonable and in the public interest because other uses of the property are more beneficial to the community.

Section 3. This resolution becomes effective upon adoption.

This the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Ayes:  
Noes:  
Abstentions:

The following ordinance was introduced by Aldermen \_\_\_\_\_ and  
duly seconded by Aldermen \_\_\_\_\_.

AN ORDINANCE AMENDING THE CARRBORO ZONING MAP TO REZONE  
APPROXIMATELY .96 ACRES OF LAND KNOWN AS THE DOWNTOWN  
URBAN VENTURES LLC PROPERTY FROM B-1-(G) ( GENERAL BUSINESS) TO  
B-1(C) CU (TOWN CENTER BUSINESS CONDITIONAL USE)

THE BOARD OF ALDERMEN OF THE TOWN OF CARRBORO ORDAINS:

SECTION 1. The Official Zoning Map of the Town of Carrboro is hereby amended as follows:

That property being described on Orange County Tax Maps as:

Block A, Lot 22 of Tax Map 92, in the Chapel Hill Township, and being the area that is called out on the accompanying map as “120 Brewer Lane 7.92.A.22” is hereby rezoned from B-1(g) (General Business) to B-1(C) CU (Town Center Conditional Use).

SECTION 2. All provisions of any Town ordinance in conflict with this ordinance are hereby repealed.

SECTION 3. This ordinance shall become effective upon adoption.

The foregoing ordinance having been submitted to a vote, received the following vote and was duly adopted, this the \_\_\_\_\_ day of \_\_\_\_\_ 2008.

AYES:

NOES:

ABSENT OR EXCUSED:



## TOWN OF CARRBORO

NORTH CAROLINA

### STAFF REPORT

**TO:** Steve Stewart, Town Manager  
Mayor and Board of Aldermen

**FROM:** Patricia J. McGuire, Planning Administrator

**DATE:** June 20, 2008

**SUBJECT:** B-1(c) Conditional Use District Rezoning Request – 120 Brewer Lane

#### **REQUEST**

Downtown Urban Ventures, LLC has submitted a petition to have the zoning of .96 acres of land changed from B-1(g) to B-1(c) conditional use district. The property has been addressed as 105 Padgett Lane for many years. It should be noted that Padgett Lane, a private access easement between this property and adjoining 300 E. Main Street that currently provides access to 120 Brewer Lane from E. Main Street, will be relocated/incorporated into the 300 E. Main Street properties redevelopment. Consequently, the subject property for this application has been addressed as 120 Brewer Lane.

A conditional use rezoning request involves the simultaneous review of a conditional use permit application for the site specific development of the property at 120 Brewer Lane. Access to the site will occur through the adjoining Brewer Lane Tae Kwan Do/condominiums. Therefore, a modification to the conditional use permit for 110 Brewer Lane is also involved. See map and site plan attached to the Zoning Division staff report for details.

#### **PETITIONERS**

Downtown Urban Ventures LLC

#### **OWNERS**

Same

Planning Department • Planning Division  
301 West Main Street, Carrboro, NC 27510 • (919) 918-7327 • FAX (919) 918-4454 • TDD 1-800-826-7653  
AN EQUAL OPPORTUNITY EMPLOYER

**DESCRIPTION OF THE AREA**

The property is located south of the Arts Center complex and west of the Brewer Lane Tae Kwan Do/Condominium along the northern edge of the railroad right of way/Libba Cotton bikeway. The .96 acres are identified as tax map 7.92.A.22. The property is located in the lower reaches of the Morgan Creek drainage basin. The property has been the site of Butler’s Garage and has been used for automobile repair/used auto storage for many years.

**ADJACENT LAND USES AND ZONING**

The existing land uses and zoning adjacent to the subject property are shown in conditional use permit staff report and permit plans.

**ZONING HISTORY OF 120 BREWER LANE**

B-1(g)	1986 to present
B-1	Prior to 1986

**COMPARISON OF ZONES**

B-1(g) District (Existing)

Section 15-136 (2) of the Land Use Ordinance provides the following description:

This district is designed to accommodate a broad range of business uses. This district, because of its close proximity to established residential single family neighborhoods, is limited in the types of night uses permitted. Uses may be restricted in the hours of operation where the permit-issuing authority finds that such restrictions are necessary to prevent unreasonable disruptions to the peace and quiet of a nearby residential area.

The B-1(g) is primarily a commercial zoning district, though residential uses are also allowed at a minimum density of 3,000 square feet per dwelling unit.

B-1(c) Conditional Use (B-1(g) CU) Zoning District (Proposed)

The B-1(c) conditional use district and twenty other conditional use districts were included in a new section, Section 15-141.3, of the Land Use Ordinance in 2004 to provide more opportunities for rezoning requests throughout the town’s jurisdiction in association with site-specific development proposals. Development standards and permitted uses are based on the standard zones on which these districts are mirrored. The bulk of the review of such a request involves the particulars of the site plan/conditional

use permit application. Section 15-136(1) provides the following description for the general zoning district upon which this conditional use district is based:

This district is designed to encourage and accommodate a unified, compact, contiguous shopping and entertainment area focused around restaurants, specialty shops, arts and crafts. This area is intended for development around a theme or themes consistent with the Carr Mill, The Station, and historic or old Carrboro. The area is intended to accommodate the pedestrian user.

As with the B-1(g), this district is primarily commercial in nature, though implicit in this description appears to be the expectation that varied types of development would be needed to foster a unified area of commerce and entertainment. The conditional use permit application staff report and permit plans provide details of the compliance of the particular project with the requirements of the B-1(c) zoning district.

The applicant has included information on the circumstances related to the property and the community that demonstrates the appropriateness of the zoning change in the Petition for Change of Zoning (*Attachment B*). Compliance with the particulars of Section 15-141.3 that can be evaluated is noted below.

Provision	Status
1. The conditional use zoning districts established in this section may be applied to property only in response to a petition signed by all the owners of the property to be included within such district	✓
2. The uses permissible within a conditional use zoning district established herein, and the regulations applicable to property within such a district, shall be those uses that are permissible within and those regulations that are applicable to the general use zoning district to which the conditional use district corresponds, except as otherwise provided in this section	✓
3. Subject to subsection (f), all uses that are permissible in the conditional use zoning district shall require the issuance of a conditional use permit.	✓
4. The applicant shall simultaneously submit a conditional use permit application showing how the applicant proposes to develop the entirety of the property covered in the rezoning petition.	✓
5. The rezoning and conditional use permit applications shall be processed and reviewed concurrently	✓
6. The Board of Aldermen shall simultaneously conduct a public hearing on the rezoning and conditional use permit applications, in accordance with the procedures applicable to other conditional use permit applications	Scheduled for June 24th
7. If the Board concludes in the exercise of its legislative discretion that the proposed rezoning would not be consistent with the public health, safety, or welfare, it may deny the application in accordance with the same procedures applicable to any ordinance amendment request	To be determined following public hearing on June 24th

8. If the Board approves the rezoning request, it shall then vote on whether to issue the conditional use permit. Such permit may be issued subject to reasonable conditions and requirements as set forth in Section 15-59.	“ “
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**ANALYSIS**

Policy

Carrboro Vision2020 presents the policies that are expected to guide the Town’s growth and development through the year 2020. Selected references of specific relevance to this rezoning request are noted below. The applicant has noted consistency of the proposed project with Vision2020 policies in an addendum to the rezoning petition.

2.52	<b>Balanced and Controlled Growth.</b> The town should continue to require the construction of a diverse housing stock. <i>The development adds downtown, upper story market rate housing units.</i>
3.21	The town should develop a plan to govern the continuing development of downtown. Toward this end, the town should adopt the following goals: <ul style="list-style-type: none"><li>▪ To double commercial square footage in the downtown from that existing in the year 2000. <i>This development will add 20,000 square feet of commercial office space to the downtown.</i></li><li>▪ To accommodate additional square footage by building up, not out. <i>The building is five stories in height and includes underground parking.</i></li><li>▪ To increase the density of commercial property in the downtown area. <i>The property is currently in commercial use. Development as proposed will increase commercial office space in the downtown and residential units are expected to support other commercial ventures.</i></li><li>▪ To improve the downtown infrastructure (e.g. parking facilities, sidewalks, lighting, shading) to meet the needs of the community.</li><li>▪ To develop transit and traffic initiatives which enhance the viability of downtown. <i>Pedestrian, bike, auto and transit options will be available to residents, employees and customers/clients of this development.</i></li></ul>
3.28	Carrboro encourages a variety of appropriate residential developments – single-family, multi-family, SROs, et cetera – in the downtown especially as part of mixed-use developments. <i>Affordable and market rate residential condominiums make up a significant portion of this mixed-use development plan.</i>
3.63	The town should encourage the development of underutilized property in the downtown area. <i>Building area on the site will increase from approximately 3,400 square feet of auto repair/garage space to approximately 165,000 square feet of office, parking deck, terrace/courtyard, and residences.</i>

Ordinance Provisions Regarding Rezoning Decisions

Section 15-325 of the Land Use Ordinance specifies that the principle issue before the Board of Aldermen in making a rezoning decision is “whether the proposed amendment advances the public health, safety, or welfare.” The Board of Aldermen is obligated to disregard advantages or disadvantages to the individual requesting the change and must

consider the impact of the proposed change on the public at large. The conditional use zoning approach allows the Board of Aldermen to use its broad, discretionary, legislative powers to make this determination after considering the full details of an application and any information that is provided during the public hearing on such application.

#### Findings

1. Adopted policies support the establishment of conditional use districts.
2. The amount of developed square footage and the intensity of land use of this property are increased by the proposed development.
3. The conditional use district process (combined legislative and quasi-judicial review and action) is expected to mitigate the associated impacts of the additional residential density that may otherwise be considered incompatible with the lower-intensity development adjacent to and near the proposed project.
4. Property is suited for rezoning to B-1(c) CU due to close proximity to adjacent property zoned B-1(c) and status of development on those sites as well as properties to the east. Train/bus/pedestrian route and town-owned property along the southern boundary provide a buffer between this site and other less-intensively zoned properties further to the south.
5. The principal impacts of this change involve an increase in density of residential development and intensity of use.

Attachment



# TOWN OF CARRBORO

## REVISED PETITION FOR CHANGE OF ZONING



PETITIONER

DATE:

Downtown Urban Ventures, LLC

8/3/05(revised 4/7/08)

The Petitioner named above respectfully requests the Board of Aldermen of the Town of Carrboro to rezone the below-described property from B-1(g) to B-1(c)-CU zoning classification. The Petitioner furthermore submits the following information in support of this petition.

1. PETITIONER'S NAME: Downtown Urban Ventures, LLC, Michael A. Neal, Agent, and Charles H. Thibaut, Attorney.

ADDRESS: 3716 National Dr., Suite 200, Raleigh, NC 27612

TELEPHONE #: (919) 787-4262

2. INTEREST IN PROPERTY(IES): owner.

3. BROAD DESCRIPTION OF PROPERTY AREAS SOUGHT TO BE REZONED BY REFERENCE TO ADJOINING STREETS: the property is NW of Brewer Lane, adjacent to the paved bike/pedestrian path and is known as "Butler's Garage".

4. DESCRIPTION OF INDIVIDUAL LOTS SOUGHT TO BE REZONED:

a. OWNER: Downtown Urban Ventures, LLC

TAX MAP: 92 BLOCK: A LOT: 22 ACREAGE: 0.51 PARCEL: 9778-95-7817

SUBDIVISION NAME: \_\_\_\_\_ FRONTAGE: -0- DEPTH: 122'

EXISTING STRUCTURES AND USES: A block building being used for auto repair (10.100)

b. OWNER: (all info is the same as contained in 4.a)

TAX MAP: \_\_\_\_\_ BLOCK: \_\_\_\_\_ LOT: \_\_\_\_\_ ACREAGE: \_\_\_\_\_ PARCEL: \_\_\_\_\_

SUBDIVISION NAME: \_\_\_\_\_ FRONTAGE: \_\_\_\_\_ DEPTH: \_\_\_\_\_

**7. PLEASE SET OUT AND EXPLAIN THOSE CIRCUMSTANCES PERTINENT TO THE PROPERTY AND THE MANNER IT RELATES TO THE TOWN THAT DEMONSTRATE THAT THE PROPOSED ZONING**

DISTRICT CLASSIFICATION IS CONSISTENT WITH THE TOWN'S COMPREHENSIVE PLAN.  
MORE SPECIFICALLY:

(a) How do the potential uses in the new district classification relate to the existing character of the area?

The proposed use of the property will contain commercial use for the first floor. The property located to the North is zoned B1 C and is being developed for commercial use. Furthermore, the project will be in harmony in size, scale and design with the proposed development to the North.

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(b) In what way is the property proposed for rezoning peculiarly/particularly suited for the potential uses of the new district?

This site is particularly suited for the new district in that it is located immediately adjacent to the Town's bike and pedestrian path and has easy access to public transportation. It will provide a significant commercial business base for the area as well as needed downtown home ownership. Furthermore, the site is within easy walking distance of the Century Center and the commercial and cultural districts of the Town. This will increase the sense of community in the area and will create an additional area where people can meet and mingle. These are all consistent with the policies expressed in Carrboro's Vision 2020 document.

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(c) How will the proposed rezoning affect the value of nearby buildings?

It should increase the value of nearby buildings. The structure currently located on the property is in disrepair and the lot contains many junked vehicles. It will be replaced with an attractive building having a common terrace for customers and residents, underground parking and numerous tree plantings. This will be in harmony with the proposed project located to the North. There are no trees to be clear cut on the property and the project will result in the removal of materials which are not beneficial to the natural environment. All of this is consistent with the Carrboro Vision 2020.

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In addition, the project will bring a needed commercial tax base to the downtown area.

(d) In what way does the rezoning encourage the most appropriate use of the land in the planning jurisdiction?

As set out more fully in the attached addendum, the proposed project taken together with the recent approval of nearby projects including 300 E. Main Street, Phase A, the Alberta and Roberson Square would be consistent with the objectives set out in the Vision2020 Policy and the Downtown Design Guidelines by contributing to the transition of the town center and East Main Street area to a more urban skyline of taller structures containing a mix of residential and commercial uses. The result should be an area of increased property values with access to a wide variety of amenities which should draw people to the town center as a place to live, shop and work.

WHEREFORE, THE PETITIONER REQUESTS THAT THE OFFICIAL ZONING MAP BE AMENDED AS SET OUT ABOVE. THIS IS THE 2<sup>ND</sup> DAY OF AUGUST, 2005, AND AS REVISED APRIL 7, 2008.

Downtown Urban Ventures, LLC

PETITIONER'S SIGNATURE:

Richard W. Gaylord, Jr., Member/Manager

### PLEASE NOTE.

For all the persons identified under "5", please attach addressed envelopes with the correct postage. Oversight of this requirement could delay processing your rezoning request.

ADDENDUM TO CONDITIONAL USE REZONING APPLICATION OF DOWNTOWN  
URBAN VENTURES, LLC  
(TM 92.A.22, PIN 9778-95-7810)

The Project, a medium rise building combining residential and commercial uses located adjacent to a bikeway and within easy walking distance of downtown, is consistent with the policies set out in the Vision2020 policy for downtown Carrboro adopted December 5, 2000 and Carrboro's Downtown Design Guidelines.

§2.41 of the Vision2020 policy and the design guidelines for the East Main Street call for a downtown district with medium rise buildings with adequate public access providing shopping opportunities for everyday needs with a view toward maintaining downtown as a center where people can work, gather, shop, socialize and recreate. Both the policy and the guidelines call for taller structures and a mix of commercial uses on the lower floors and residential uses on the upper floors as proposed in the Project.

§2.52 of the Vision2020 policy calls for a diverse housing stock downtown which the Project meets by adding multi-story, multi-family housing to the primarily single family, detached housing in the downtown area and nearby neighborhoods.

The Project would meet §3.0 of the Vision2020 policy by reducing the tax burden on single family owners by increasing the amount of commercial space in town.

The project meets §3.21 of the Vision2020 policy which encourages the continuing development of downtown by expanding vertically rather than horizontally.

The Project meets §3.25 of the Vision2020 policy which encourages walk ability by placing multi-story residential uses within easy walking distance of downtown.

The project encourages a variety of residential developments by adding to the stock of multi-family housing as part of a mixed-use development as suggested in §3.28 of the Vision2020 policy.



## TOWN OF CARRBORO

NORTH CAROLINA

June 9, 2008

RE: Rezoning of approximately .96 acres identified as 120 Brewer Lane and Orange County TMBL 7.99.A.22

I, Patricia J. McGuire, do certify that I did cause to have mailed on June 9, 2008, by first class mail, letters informing the owners and non-owner occupants of properties within 1,000 feet of the proposed rezoning parcel of the schedule and proposal to rezone from B-1(g), General Business, to B-1(c)-CU, Town Center Business, conditional use in support of a conditional use permit application for a five-story, mixed use building.

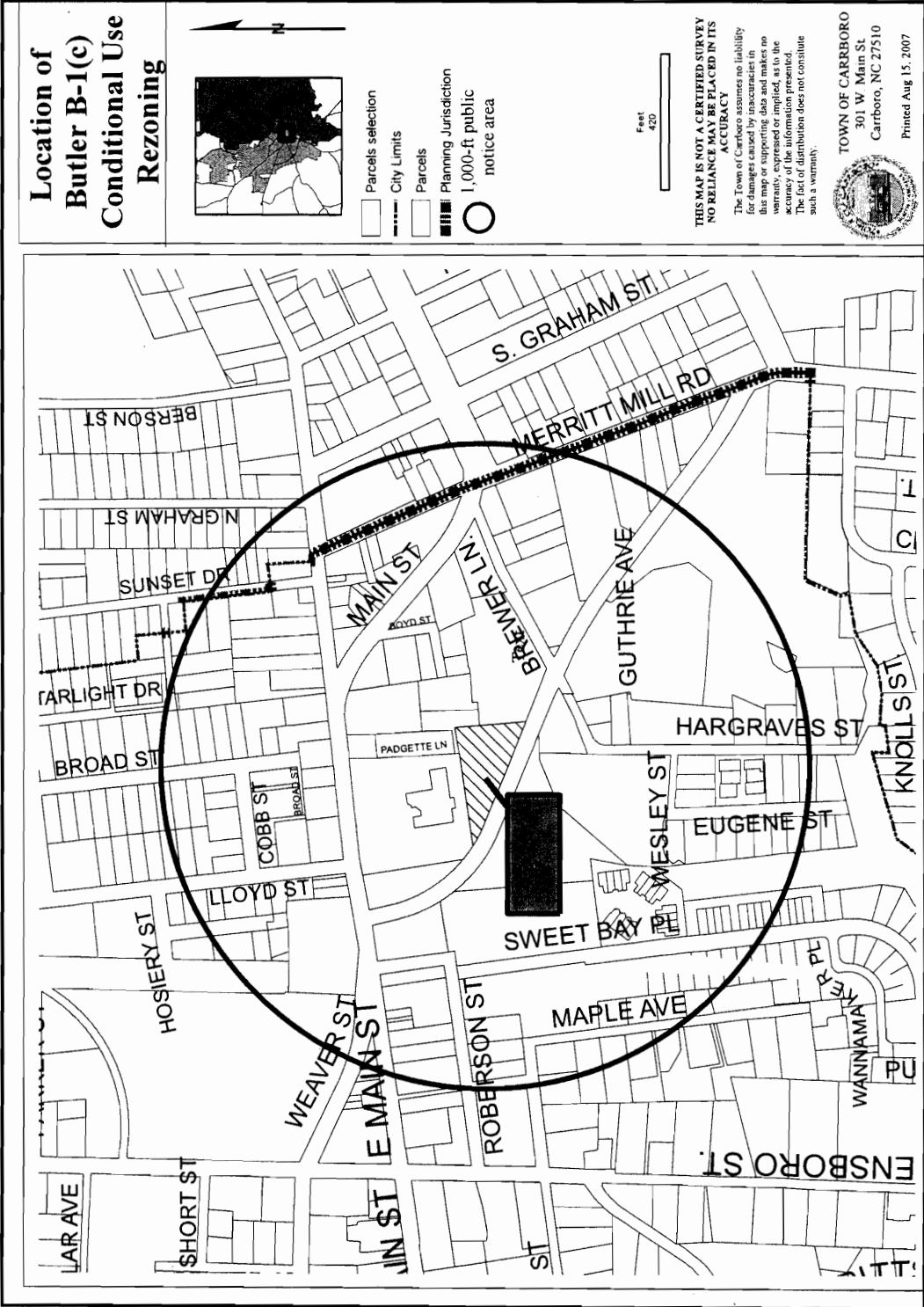
A copy of the mailing labels or mailing list used for this purpose indicating the person, where applicable, or addresses to whom the notices were sent are attached.

*Patricia J. McGuire*

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Patricia J. McGuire  
Planning Administrator

06/09/08



## PART II



STAFF REPORT

**TO:** Board of Aldermen

**DATE:** June 24, 2008

**PROJECT:** Conditional Use Permit (with associated B-1(C) Conditional use Rezoning request) to allow a Mixed Use Building at the site that currently contains “Butler’s Garage” (to be called “The Butler” condominiums) and Minor Modification to the adjacent 110 Brewer Lane CUP (so as to allow vehicular access to primary project)

**APPLICANTS & OWNERS:** Downtown Urban Ventures, LLC & EdwinAndrews Properties, Inc.

**PURPOSE:** 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 (the property owned by EdwinAndrews, Inc. (see vicinity map, Attachment A).

**EXISTING ZONING:** B-1(g), Business-1(general)

**PROPOSED ZONING:** B-1(c) CU (Conditional Use Zoning District)

**TAX MAP NUMBER:** 7.92.A.22. & 7.92.A.21

**LOCATION:** The adjacent parcel south of 300 E. Main

**TRACT SIZE:** .97 acres total (42,241 square feet)

**EXISTING LAND USE:** Auto garage

**PROPOSED LAND USE:** Building Site – 27.000, Combination Use including: Uses 1.310, 3.110, 3.120, 3.130, 3.150, 3.210, 3.220, 3.250

**SURROUNDING LAND USES:** North: B-1(C), Arts Center and shopping center  
South: R-7.5, *Libba Cotten* Bike path/Southern Railway R/W/Town Cemetery.  
East: B-1(G), 110 Brewer Lane Mixed Use & Main Street Properties rental apartment  
West: None (triangular lot)

**ZONING HISTORY:** B-1(G) since 1986; B-1, Prior to 1986

**RELEVANT**

**ORDINANCE SECTIONS:** 15-55.1, Findings and Burden of Proof for Conditional Use  
Permits for Taller Buildings in Commercial Districts  
15-309, Screening – Flexibility in Administration  
15-292, Parking – Flexibility in Administration

**ANALYSIS**

**Background**

Bill Jackson, on behalf of Downtown Urban Ventures, LLC, and Donald Whittier, on behalf of EdwinAndrews Properties, Inc., have submitted applications (Attachment C) for permission to construct *The Butler*, a five-story mixed use building on the property that currently supports Butlers Garage, located directly behind the Arts Center Building (Attachment A).

Because of the scale and density of the proposed project, the applicant is seeking *both* a Conditional Use Permit (CUP ) *and* a Conditional Use District Rezoning of the property, from B-1(G), to B-1(C).

Also, because the subject property does not have direct access to a public R/W, a Minor Modification to the Conditional Use Permit of 110 Brewer Lane, the adjacent property to the east, as owned by EdwinAndrews Properties, is necessary. This property, permitted by CUP as *110 Brewer Lane* in 1994, is a mixed used development comprised of sixteen (16) multifamily apartments and a Tae Kwon Do facility (Attachment D).

[Note that the *mailing address* of 110 Brewer Lane is 102 and 104 Brewer Lane, however, throughout this report, I will refer to it as *110 Brewer Lane*.]

**Density, Size-Limited Units, & Affordable Housing**

**Density:**

The project’s residential component is designed in accordance with the density section of the LUO, which *does not restrict* density in the B-1(C) zoning district. Because of this, the applicant must strive to find a balanced use of the property within the constraints of available building height (five stories) and the amount of parking that can be provided on-site or encumbered off-site. The applicant proposes 57 units (9 affordable) and 22,170 sf of office space with two decks of parking (*Basement 1 & 2*).

**Size-limited units:**

The applicant proposes eighteen (18) units (31%) at less than 1,100 sf and twenty one (21) units (36%) less than 1,350 sf. The project thus exceeds the size limited requirements (Section 15-188) of the LUO, which require minimum percentage rates for these unit sizes of 15% and 10% respectively. Again, the project clearly complies with

the subject provisions of the LUO. Because of the size limited units the following condition is recommended.

- CUP Condition: That no size-limited unit may be enlarged for one-year after issuance of a certificate of occupancy.

#### Affordable Housing:

The applicant has agreed to work with Orange Community & Housing Land Trust. The applicant is aware of the newly-adopted provisions related to affordable housing and understands that working with OCHLT generally will ensure that they adhere. To achieve fifteen percent affordable units, the applicant must provide 9 units (15.8%). To this end, they are providing 9 (nine) designated affordable housing units in the building. With this in mind, staff recommends the following CUP condition:

- CUP Condition: 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.

### **Downtown Livability Area and Urban Amenities / Recreation Facilities**

#### Downtown Livability Area and Urban Amenities

The applicant submitted information relating to the recently-adopted *Downtown Livability Area (DLA) and Urban Amenities* provisions of Section 204 of the LUO (Attachment E). This shows the components (and their costs) of an interior courtyard that is both publicly accessible and landscaped, as well as a “green roof” (the green roof, in this instance is the garden within the interior courtyard that covers the parking decks below). The combined area for these DLA amenities must be a minimum of 12% of the lot area which in this instance is 5,069 sf; the project exceeds this minimum by providing 18.7% (7,894sf) DLA.

The minimum dollar value required of the DLA amenities is 7% of the property’s tax value (\$38,675 minimum for this parcel); the proposed courtyard and it’s amenities combine to an estimated total of \$73,560, thus exceeding the requirement.

Note that open space requirements no longer apply to developments in the B-1(g) and B-1(c) zoning districts (Section 15-198(c)).

#### Recreation Facilities

As for recreation facilities, the applicant counts the pergola/trellis in the courtyard as a “gazebo” and gains 440.64 recreation points out of the required, 485.57 points. Because a gazebo is more inclined to provide seating for its users, the applicant has provided a proposed furniture layout for the pergola (Attachment E-2). Because of this staff recommends that the trellis be modified per the following condition:

- CUP Condition: 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).

The applicant requests that they be allowed to make a *payment-in-lieu* for the remaining 44.93 recreation points. The town accounts that receives these funds is divided into service areas and the money will be reserved accordingly. If the Board supports a payment-in-lieu rather than provision of additional on-site facilities, the following condition is recommended:

- CUP Condition: 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 1<sup>st</sup>, 2008), be paid to the Town prior to construction plan approval.

LUO Section 15-196(f) states that projects *should* include children's facilities (for kids under age 12) equivalent to 5% of the recreation points total (in this case, 24.3 points). The courtyard facility isn't specifically geared toward children, though it can be generally used to serve various purposes.

Ultimately, no clear *requirement* is in place requiring certain, specific facilities to serve children. Consistent with the Board's treatment of two recently-approved projects, staff supports the children's facilities being satisfied as described (i.e.: via the courtyard as a play area).

#### **Access, Traffic and Transportation Issues, Parking, Pedestrians, Driveway Permits**

##### Access

Currently, the site does not have direct access to a right-of-way and therefore must provide a driveway across the parking lot of the existing, 110 Brewer Lane Development (Attachment A). The entry leads to a *modified* 110 Brewer Lane parking area and into the garage entrance of the parking decks for the proposed building. All proposed drive aisles support two-way traffic.

The owners of the existing development have given their consent to the arrangement by evidence of their signing the application and paying the fees to the minor modification to their property's CUP. An access easement will need to be recorded on their property prior to release of any plat associated with the project. Because of this the following condition is recommended.

- CUP Condition: 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.

##### Traffic and Transportation Issues

The applicant submitted a traffic study prepared by Ramey Kemp and Associates. Please see the attached four page overview of their findings (Attachment F) In short, the number of vehicle trips per day during a weekday is estimated to be 816, with 89 trips during the AM peak hours (55 entering, 34 exiting) and 142 trips during the PM peak hour (43 entering and 99 exiting). The level of service for the adjacent intersections is acceptable by transportation planning standards. Note that the traffic study includes projected activity of projects that have not yet been built, including the 300 E. Main Street (the existing Arts Center site) project.

Traffic will travel along Brewer Lane, notwithstanding adjacent land use changes that might allow an alternate entrance. Early on in the project the applicant discussed various access alternatives with the adjacent developers of 300 East Main Street; to date, nothing has been agreed upon.

The project directly abuts the Libba Cotten bikeway and has provided bike racks and sidewalk access to better serve the transportation needs of the residents.

#### Parking

Section 15-291 Of the LUO requires 149 (94 residential, 55 office) spaces for the proposed mix of office and residential uses for the project (applicant chose to use gross square footage for parking calculations). By providing bike racks, this is reduced by one for a total presumptive requirement of 148 spaces. Note that Section 15-297(c) of the LUO provides a parking reduction for projects in the B-1(c) zoning districts for projects that have two or more uses on the same site which have distinct usage periods. As the project appears to fall into this category because of its office use component, the *presumptively required* parking total of 149 spaces can be reduced by a ratio of 1.4, yielding a reduced requirement of 107 *required parking* spaces.

In this case, the applicant justifies the parking in excess of the amount that the joint use reduction allows as they expect some of the residents will also work in the offices in the building, leaving their car unmoved during the work day (Attachment G).

- CUP Condition: 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).

The adjacent 110 Brewer Lane property, which has sixteen residences and an exercise studio (use 6.102), has 65 existing parking spaces (10 of which are compact); after the *minor modification* to the permit, will have 82 spaces (an increase in 17 standard spaces). The owner of this property provides written justification for this increase in the *110 Brewer Lane CUP Minor Modification* included as a separate agenda item.

#### Pedestrians

The project has ready access to the Town's sidewalk system. No offsite sidewalk improvements are recommended. However, a sidewalk segment is shown that ties into the bikeway on the south side of the property.

Originally, this segment connected to a sidewalk and set of proposed stairs on the east side of the building that in theory could have provided pedestrian access to the ArtsCenter property. These stairs were removed from the plans as they are offsite and would require a construction easement. The topic of pedestrian circulation between the 300 E. Main St. site and this project (as well as the bikeway) may warrant further discussion.

#### Driveway Permits:

Typically, driveway permits for projects of this nature are not issued until and unless a land use permit is issued. Therefore, staff recommends the following condition:

- CUP Condition: That the applicant must receive a Town of Carrboro driveway permit for Brewer Lane, prior to construction plan approval, if found to be necessary.

#### **Conclusion:**

The project complies with all LUO provisions relating to access, traffic and transportation, and parking, subject to the CUP conditions described above.

### **Tree Protection, Screening, Shading and Landscaping**

#### Tree Protection

Section 15-316 of the LUO specifies that all trees greater than 18" in diameter and all rare tree species must be preserved, to the extent practicable. On the two parcels, nine (9) trees meet these criteria, all of which will need to be removed to accommodate the proposed plan. For more information, please see the attached Tree Removal Justification letters (Attachment H)

#### Screening

Because the requested B-1(C) rezoning allows the building to be built without setback requirements, the building is placed very close-to, if not *on* the property lines. This makes screening as defined in the LUO, functionally impossible to realize. It appears that neither the project nor the adjacent properties will substantially benefit from screening. Instead, where possible, landscape plantings and building details help soften the visual impact of the structure at ground level. This is consistent with how other recent downtown projects in the B-1(C) and B-1(G) have been approved. The applicant has provided a letter of justification regarding the lack of screening proposed for the project (Attachment I).

Section 15-309 allows flexibility in the administration of the Screening requirements with the approval of the Board of Aldermen and for this reason the following condition is recommended, unless evidence to the contrary is presented during the public meetings.

- CUP Condition: 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).

Section 15-250 of the LUO requires screening of dumpsters and the applicant has provided said screening (picket fence) for the proposed dumpster and recycling facilities. They do not show a screening gate to the dumpster however, leaving somewhat visible from the bikeway and quite visible from the parking lot. Because of this staff recommends the following condition.

- CUP Condition: 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.

#### Shading

Section 15-317 of the LUO requires that 20% of all vehicle accommodation areas be shaded with trees complying with the recommendations of Appendix E-10. In this case, the applicant has satisfied this standard through a combination of existing and proposed trees (Attachment A, Sheet LP 1.10).

#### Landscaping

The revised 110 Brewer Lane parking lot will be planted along the perimeter and in planting islands with a variety of trees and shrubs. Over 1/3 of the plantings will be evergreen.

The 120 Brewer Lane will include trees and shrubs planted along the building's perimeter and courtyard. Over 1/3 of the plantings proposed are evergreen.

None of the plants specified for the two properties are shown in the Town's List of Invasive Plants (Appendix E-17 of the LUO).

#### **Conclusion:**

The proposed project complies with the requirements of the LUO pertaining to tree protection, screening, shading and landscaping subject to the CUP conditions described above.

### **Drainage, Grading, Erosion Control**

#### Drainage

Section 15-263 of the LUO establishes stormwater management criteria that must be met for any project requiring a CUP. In particular the applicant must meet stormwater runoff standards with respect to water quality and quantity and must demonstrate that the project will not cause upstream or downstream damages to other properties. To address these requirements, the applicant has conducted a drainage study.

As part of study, the town requires the applicant submit a written "Truth in Drainage" statement which clearly describes the potential drainage impacts the project could have on the surrounding properties (Attachment J).

Because the construction of the proposed office building will result in an increase in the amount of impervious surface on the combined sites (71,141 sf – pre construction and 96,425sf – post construction), the total amount of stormwater runoff is expected to increase and thus the stormwater management facilities are required to satisfy the provisions of Section 15-263 of the LUO.

That in mind, the applicant has designed the site such that stormwater from the proposed rooftop will tie in to the stormwater system which include a battery of subsurface detention vaults a associated catch basins, inlets and distribution piping. Water quality will be managed by sand filters on the 110 Brewer lane property. All the stormwater will ultimately tie into the Town's system. Because the building will require an offsite stormwater facility, the following condition is recommended:

- CUP Condition: 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.

In addition, relative to the Town satisfying state requirements pertaining to the National Pollutant Discharge Elimination System (NPDES) Phase II permit, the following conditions are required on the permit:

- CUP Condition: 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.
- CUP Condition: 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.



Grading

Grading for the proposed project is minimal. A small amount of excavation and grading will be required site the building and the modified parking lot of 110 Brewer Lane. Town staff and the Town Engineer have reviewed the proposed grading plan and find that it meets the requirements of the LUO.

Erosion Control

Ren Ivins, of Orange County Erosion Control (OCEC), has indicated to the Zoning Division that the project has received preliminary Erosion Control approval. OCEC also will further examine the project at the construction plan stage.

**Conclusion:**

All of the Land Use Ordinance requirements pertaining to drainage, grading, and erosion control have been met by the applicant, subject to the CUP conditions and stipulations described above.

**Utilities**OWASA:

The proposed building will receive water and sewer service from OWASA by connecting to existing OWASA water and sewer lines. Water service would be provided via two simple connections to the 12" line the runs along the Libba Cotten bikeway. Sanitary Sewer service will be provided by a simple connection to a line that currently runs along Brewer Lane. This line will need to be within an easement as it crosses the 110 Brewer Lane property.

All necessary OWASA easements have been included on the plans, and OWASA has supplied the Zoning Division with a letter stating that they are satisfied with the plans notwithstanding construction plan level details.

The applicant has been in conversation with the UNC property office requesting permission to gain access to the Libba Cotten Bikeway to perform the utility hook-ups and any other associated work needed to fulfill the plan. UNC has demonstrated a willingness to allow such access provided that the work be done without unduly disrupting the area (Attachment K). During construction plan review, the applicant will provide additional materials to satisfy UNC's request for information so as to gain said access. Because of this the following condition is recommended:

- CUP Condition: 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.

Because, the bikeway needs to remain accessible and functional throughout the construction process, the following condition is also recommended:

- CUP Condition: 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.

#### Electric Service:

Duke Power Company will provide electrical service to the proposed building via power poles that run along the bikeway. The service to the building will be run underground.

#### Fire Department

The proposed building is sprinkled and the surrounding area includes two new fire hydrants. Furthermore, the building is equipped with two *Fire Department Connections* (FDCs) which can be charged by a Fire department tanker truck to supply the building's sprinkler system, should water be unavailable during a fire.

Emergency access to the property will be primarily from Brewer Lane, though the Libba Cotten Bikeway can serve as an alternate entrance. Both access routes are served by accessible hydrants and FDCs. The hydrants are connected to the existing 12" OWASA water line via eight-inch (8") ductile iron pipe.

Because existing bollards prevents vehicular access to the Libba Cotten Bikeway, it is necessary to ensure that these can be collapsed or removed by the Fire Department during an emergency. Because of this the following condition is recommended:

- CUP Condition: 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.

#### Solid Waste

Also, a dumpster pad, dumpster, and recycling facilities will be added to the property immediately east of the proposed building at the north end of the new 110 Brewer Lane parking expansion. The Public Works Department both has indicated that they are satisfied with the plans. However, Orange County Solid Waste has requested that the landscape island next to the new building be shortened by four (4) feet in order to facilitate movement of service trucks. Because of this, the following condition is recommended:

- CUP Condition: 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.

Because the solid waste facilities serving The Butler will be located on the adjacent property, another CUP condition is necessary, as follows:

- CUP Condition: 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.

Regarding screening of the solid waste facilities please refer to the previous screening section of this report.

#### Exterior Lighting:

Section 15-242 and Section 15-243 of the LUO govern exterior lighting requirements. Pole height is limited to 15' and illumination is limited to .2 footcandles at ground level at the property line except that Section 15-243(d) allows 2 fc along properties zoned B-1(C) and B-1(G) (but are not being currently used residentially) but still require .2fc along residentially zoned property (which in this case, includes the railroad corridor and the northeastern quadrant of the 110 Brewer Lane property).

On 110 Brewer Lane, the applicant is proposing five new lighting poles (with shielded fixtures) in the open parking areas, and three new wall mount fixtures on the building. The plan notes state the fixtures will satisfy these ordinance sections while the photometrics show that slight adjustment will be needed to bring the fixtures into compliance. Because of this staff recommends that the Board of Aldermen withhold a decision until a compliant plan is submitted.

#### **Conclusion:**

The project complies with the requirements of the LUO pertaining to utilities subject to the CUP conditions and stipulations described above.

### **Architecture – Exterior Design**

#### Height, Square Footage, and Placement:

The proposed building would contain 98,963 sf of heated square feet in five (5) stories of usable space. As mentioned earlier, the first floor consists of 22,170 sf of office space with all the upper floors dedicated to residential use.

#### Building Height

Section 15-185 of the LUO regulates building heights. In the B-1(c) zoning district, buildings are allowed to build to five stories but are subject to stepbacks in the final story depending on the building's relationship to the nearest public street R/W. This project is not required to step-back its fifth story because of its location. Since the site is sloped, the south side of the building includes the parking garage as the first story, allowing four stories of heated space above (about 62 feet in total height, five stories total), meanwhile, the north side of the building begins at a higher grade, above the parking garage, and thus allows five stories of heated space from this ground level (about 67 feet in total height) (Attachment A, Page A2.1). Please refer to the applicant's statement of compliance with this section of the ordinance (Attachment L).

#### Downtown Architectural Standards:

Section 15-178 of the LUO specifies design standards for projects constructed in Carrboro's downtown. This ordinance includes six design standards that the building needs to address: articulation *and* location of the building entrance, amount of fenestration on elevations, shading of adjacent areas, shielding of utility areas, façade articulation and external building materials. The building appears to have addressed these things. See the attached response to the specific ordinance provisions as prepared by the applicant (Attachment M).

Staff concludes that they satisfy the applicable standards from this ordinance section.

**Building Materials & Design:**

The proposed building cladding is red brick, with brick bandings, headers, and cornices. White aluminum clad windows and doors will provide contrast to the elevation while dark bronze painted metal mesh and louvers will detail the garage elevations along the Libba Cotten bikeway. Units will be provided with outdoor balconies. Some covered, others, open. Building details are subject to change and the Board may wish to discuss the matter with the applicant. Section 15-178 specifically prohibits the use of metal siding with exposed fasteners, vinyl siding, and processed panel products (e.g. hardboard). In absence of a specific CUP condition about the matter, staff will process any request for changes in accordance with Section 15-64 (insignificant deviations, minor or major modifications).

Certification of the design from the Appearance Commission is not required as this project complies with the standards of Section 15-178.

**Conclusion:**

The project complies with the requirements of the LUO pertaining to architecture subject to subject any condition that may arise from the point of discussion described above.

**Miscellaneous Issues**

**Neighborhood Information Meeting:**

A 'neighborhood informational meeting' for all property owners and renters within 1,000 feet of the proposed project site was held on February 15, 2007. Attendees asked about several site design, architectural issues, etc but the project generally was well received.

**Burden of Proof – LUO Section 15-55.1:**

Since this project is taller than two stories and is proposing a B-1(c) Conditional Use District Rezoning, the 'burden of proof' related to impacts resulting from the development is shifted to the applicant. That is to say the applicant bears the burden of showing the permit-issuing authority that the project will not negatively impact surrounding properties. To this end, the applicant has provided a photomontage of the building shown on the site from a variety of viewpoints and a letter from a certified appraiser addressing surrounding property values (Attachment N-1-3). The preparer of

the photomontages has provided a written statement addressing the scale accuracy of these images.

Environmental Issues:

Because Butler's garage is involved in auto repair and because there have been stored on site various vehicles over the years, because of all this the applicant conducted a study of the property and found some minor issues related to contaminated soils. As a result, they are in the process of registering with the North Carolina Brownfield program. Some soils will need to be removed prior to construction. Because of this, the following CUP condition is recommended:

- CUP Condition: 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.

Town Adopted Plans & Policies for Downtown:

Staff discussed with the applicant Town of Carrboro adopted plans and policies, including the Town of Carrboro Downtown Design Guidelines, Vision 2020, and Downtown Carrboro: New Vision. In response to a request from staff, the applicant submitted comments outlining the ways in which the proposed project conforms to or supports adopted Town plans and policies (See Part I, Attachment B).

Easements

Because construction often involves encroachments on other properties, it is important for the developer to secure necessary permissions prior to commencing work. Because of this the following condition is recommended.

- CUP Condition: That the applicant must obtain all necessary temporary and permanent easements prior to construction plan approval.

Condominium Owner's Association:

The applicant has submitted COA documents which have been forwarded to the Town Attorney for review and approval. These will be finalized prior to release of any required plat. Therefore, staff recommends the following condition:

- CUP Condition: That condominium owner's association documents are approved by the Town Attorney prior to release of any plat submitted for the project.

Schools Adequate Public Facilities Ordinance:

The project is subject to SAPFO and as such must receive approval from Chapel Hill—Carrboro City Schools prior to construction plan approval. Therefore, staff recommends the following condition:

- CUP Condition: 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.

Proposed RR sidings in the vicinity of the project

It has come to the attention of staff and applicant that UNC has been considering installation of railroad sidings in the general vicinity of the Libba Cotten bikeway. Staff recently contacted the UNC property office and finds that there are still no definite plans in place. According to their staff, UNC has recently purchased the property east of the concrete plant; this is considered a more likely location of any future sidings. They don't anticipate any realignment of the bike path.

Proactive Strategies for Minimizing Disruption Downtown During Construction:

Staff requested that the applicant proactively address certain aspects of the construction sequencing and potential impacts to the downtown area related to building the project. The applicant's response is included (Attachment O).

Joint Review

The project was reviewed by the Town's combined Advisory Boards on June 5<sup>th</sup>, 2008. The summary recommendation sheet is attached (Attachment P).

**RECOMMENDATION**

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 1<sup>st</sup>, 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.



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

Downtown Urban Ventures, LLC has submitted applications for a B-1(c) conditional use rezoning and, a Conditional Use Permit 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. Prior to reaching a decision on a request for a CUP, the Board must hold a public hearing to receive input. The applicants are requested that the Aldermen review, deliberate and offer comment on the proposed plans.

Mayor Chilton asked to be recused from consideration of this matter because one of his client's owns a driveway that crosses the property in question.

MOTION WAS MADE BY JACQUELYN GIST AND SECONDED BY DAN COLEMAN TO RECUSE THE MAYOR. AFFIRMATIVE ALL

Trish McGuire, the town's Planning Administrator, was sworn in and made the presentation on the conditional use district rezoning.

Jeff Kleaveland, one of the town's Planners, was sworn in and made the presentation on the Conditional Use Permit.

Alderman Coleman asked for a staff response to the advisory board recommendations that staff is not recommending.

Alderman Gist asked that the Board consider the letter from Orange Community Housing and Land Trust regarding the affordable housing component of this project.

Alderman Coleman asked that the applicant discuss the affordable housing component with the OCHLT prior to August 26, 2008.

Alderman Broun suggested the Board consider a transfer fee in lieu of affordable housing and asked for information on the town's affordable housing payment-in-lieu fee.

Richard Gaylord and Bill Jackson, partners of Downtown Urban Ventures, and Michael Neal, the project engineer, were sworn in.

Mr. Gaylord presented an overview of the proposed project.

Alderman Gist expressed her desire for the developer to pursue solar hot water heaters and other green building techniques.

Alderman Haven-O'Donnell asked that the developer consider looking to the LEED's silver certification standards without necessarily going for the certification.

Alderman Broun asked that the Summary Sheet of Staff and Advisory Board Recommendations include a column indicating whether the applicant agrees or disagrees with each recommendation.

Doug Granade was sworn in. He explained the building façade.

Michael Neal, the project engineer, stated that when the sewer line is installed on Brewer Lane, one lane will be closed at a time with both lanes open in the evenings.

Alderman Broun asked the developer for a written plan on how dust will be mitigated during construction.

Mr. Neal stated that they will be using reclaimed water to keep the dust down.

Gary Kramling was sworn in. He asked why the step back requirements for five story buildings do not apply to bikepaths.

Marty Roupe, the town's Zoning Administrator, was sworn in and explained the land use ordinance requirements.

Mr. Neal stated that the building has been stepped back from the bikepath.

MOTION WAS MADE BY DAN COLEMAN AND SECONDED BY RANDEE HAVEN-O'DONNELL TO CONTINUE THIS PUBLIC HEARING TO AUGUST 26, 2008. VOTE: AFFIRMATIVE SIX, EXCUSED ONE (CHILTON)

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**CONSIDERATION OF A MODIFICATION OF THE CONDITIONAL USE PERMIT FOR 110 BREWER LANE**

Edwin Andrews, Inc. has submitted an application for a Minor Modification of the existing 110 Brewer Lane Conditional Use Permit. The applicants requested that the Board of Aldermen review, deliberate and offer comment on the proposed plans.

This matter was deferred until August 26, 2008.

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MOTION WAS MADE BY DAN COLEMAN AND SECONDED BY JOAL HALL BROUN TO ADJOURN THE MEETING AT 11:05 P.M. VOTE: AFFIRMATIVE SIX, EXCUSED ONE (CHILTON)

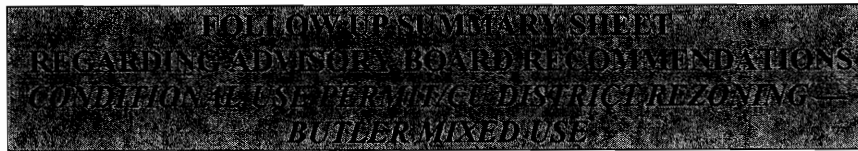
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Mayor

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Town Clerk



#### ENVIRONMENTAL ADVISORY BOARD

1. That the applicant Agree to apply for/pursue, and document compliance with one of following:
  - a. "Designed to Earn the Energy Star" rating as described at [http://www.energystar.gov/index.cfm?c=new\\_bldg\\_design.new\\_bldg\\_design\\_benefits](http://www.energystar.gov/index.cfm?c=new_bldg_design.new_bldg_design_benefits)
  - b. Architecture 2030 goal of a 50 percent fossil fuel and greenhouse gas emission reduction standard, measured from the regional (or country) average for that building type.
  - c. AIA goals of integrated, energy performance design, including resource conservation resulting in a minimum 50 percent or greater reduction in the consumption of fossil fuels used to construct and operate buildings.
  - d. LEED certification to achieve 50% CO2 emission reduction, or LEED silver certification.
  - e. US Conference of Mayors: fossil fuel reduction standard for all new buildings to carbon neutral by 2030.
  - f. To achieve 40% better than required in the Model Energy Code, which for NC, Commercial is ASHRAE 90.1-2004-2006 IECC equivalent or better, and Residential is IECC 2006, equivalent or better@  
[http://www.energycodes.gov/implement/state\\_codes/index.stm](http://www.energycodes.gov/implement/state_codes/index.stm)  
<http://www.energycodes.gov/implement/pdfs/modelcode.pdf>

Applicant Response: The National Association Home Builders (NAHB) is currently developing a "Green Program". This program is in its final draft and is anticipated to be codified within the near future. The new NAHB standard is tailored to multifamily housing in addition to single family, As opposed to LEED and Energy Star which are geared principally to commercial and single family residence. Our intent is to design a building shell, which meets the new NAHB "Green Program", standards, or the LEED, Core and Shell or the "Energy Star" standards, whichever is the most applicable to our project. We will meet at least one of these standards.

The majority of the individual units will be custom up fitted as preferred by the buyers of that specific unit, these buyers may prefer appliances that are not "Energy Star" rated or they may not want recycled building materials and other building elements which are not to any "Green Standard". Other buyers may want appliances that exceed the minimum "Energy Star" ratings, and want only recycled materials, and to have energy devices which allow them to be as energy independent as possible, therefore we ask for the flexibility that the entire project not be conditioned on any "Certifications", we agree to pursue and document that we, have to our ability, constructed a building shell which is to the NAHB and Energy Star standards.

Staff Response: The LUO has not adopted any of the sustainability standards referenced here (and throughout) and accordingly, staff is silent on the matter. Were the Board to adopt a standard, the UNC Office of Sustainability has adopted a modified LEEDS checklist that might serve as a good example for the Town as it comprehensively "scores" a project's sustainability. The value of this model is its comprehensive approach that includes points for building location, materials toxicity, resource use, construction waste management, and so forth. For the purpose of future public hearings, a project's score with regards to such a checklist would be a useful metric. An added advantage of this approach is flexibility, affording the developer distinct and proven options for increasing sustainability points.

2. In addition, the applicant should:

- a. agree that a minimum of 5% of the base electrical load is generated by onsite solar electric.

Applicant Response: We agree to explore the technologies available for onsite solar electric generation for the shell of the building, but due to the potential economic impacts this technology may have to the project we do not want to make it a condition of our approval. We do think it is a good idea to provide conduits within the building skeleton for use in the future should this technology be retrofitted in the future.

- b. Demonstrate a commitment to onsite plug in hybrid vehicle charging

Applicant Response: We propose to offer this as an up fit to the buyers of the units. We will provide the conduits during the construction of the building. If an individual unit wants a "plug in station" it can be wired into their circuit where it will be metered and paid for by them.

- c. Agree to present projected energy cost per square foot at public hearing.

Applicant Response: We will not be able to compute this until the final building plans are developed, final interior plans will not happen until the project is approved by the Board of Aldermen.

- d. Monitor the energy performance of the building during the first year of occupancy, and be required to prepare a written report on the performance of the building in relation to one of the above 6 energy efficiency/conservation requirements, and to present their report to the BOA at a regularly scheduled business meeting.

Applicant Response: Since we are not committing to any official certifications for any of the 6 mentioned above, we propose that we monitor the energy performance of the building shell, (common areas) for the first year past CO and provide this information to the Town staff for their use and/or reporting purposes.

- e. Energy saving features, including but not limited to the following, shall be considered. Design documents shall include an explanation of how the features listed below are incorporated into the design or, for those features not incorporated, an explanation of the financial or operational reasons why the feature was omitted from the design.

- i. Use of daylighting;

Applicant Response: We agree within the shell of the building.

- ii. Use of high performance glass for minimizing heating and cooling loads;

Applicant Response: We agree within the shell of the building

- iii. Use of awnings for minimizing summer solar gain

Applicant Response: We agree within the shell of the building.

- iv. Insulation beyond minimum standards;

Applicant Response: We agree within the shell of the building to do at least the minimum building code standards, more if economically possible.

- v. Use of energy efficient motors;

Applicant Response: We agree within the shell of the building.

- vi. Use of energy efficient lighting;

Applicant Response: We agree within the shell of the building.

- vii. Use of energy efficient appliances.

Applicant Response: We agree within the shell of the building.

- viii. The applicant should agree to work with OWASA and the Town to pursue voluntary certification as a "WaterWise" building.

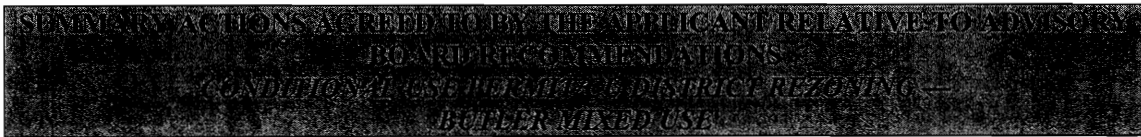
Applicant Response: We agree within the shell of the building.

ATTACHMENT D-3

<p>3. Water saving features, including but not limited to the following, shall be considered. Design documents shall include an explanation of how the features listed below are incorporated into the design or, for those features not incorporated, an explanation of the financial or operational reasons why the feature was omitted from the design.</p> <p>a. Dual flush toilets <u>Applicant Response:</u> <i>We will offer these as options to the buyers for their consideration.</i></p> <p>b. Waterless urinals <u>Applicant Response:</u> <i>We will offer these as options to the buyers for their consideration.</i></p> <p>c. Rainwater harvesting/reuse <u>Applicant Response:</u> <i>We are exploring this use for irrigation of the landscaping.</i></p>
<p>4. The applicant should agree to include an explanation of how the features listed below are incorporated into the design or, for those features not incorporated, an explanation of the financial or operational reasons why the feature was omitted from the design.</p> <p>a. Green roofs <u>Applicant Response:</u> <i>We are proposing one over the garage.</i></p> <p>b. Green certified lumber <u>Applicant Response:</u> <i>We will use this within the shell if affordable and available, we offer this as an option to the buyers of the units.</i></p> <p>c. Bike lockers <u>Applicant Response:</u> <i>We will offer this as an option to the individual unit's buyers. They will be installed at the end of their assigned parking space or other private area as desired.</i></p> <p>d. Car sharing <u>Applicant Response:</u> <i>We are exploring the "ZIP Car" car sharing program.</i></p> <p>e. Locally produced materials (e.g., brick) <u>Applicant Response:</u> <i>We will, if available and affordable we will use these on the building shell and offer them as an option to the unit buyers.</i></p> <p>f. Solar hot water <u>Applicant Response:</u> <i>We are doing further research on solar hot water, we agree to provide solar hot water to common area bathrooms, and will explore other applications.</i></p>
<p>5. Finally, the EAB requests staff to include conditions that protects the stock of small units in downtown beyond the one year time frame offered by the applicant to protect units from being reconfigured to larger units for the duration of the building's life. <u>Applicant Response:</u> <i>We commit to meeting the existing requirements of the Town Ordinances as they currently relate to this issue. We think the restriction of unit expansion should be up to the unit owners and the HOA that is in place at the time that issue may be raised before that future board.</i></p>
<p><b>TRANSPORTATION ADVISORY BOARD</b></p>
<p>1. That bike lockers be provided for each condominium with a two-bike capacity for each. <u>Applicant Response:</u> <i>Not every unit will be Bike riders, as mentioned above; we propose to offer this as an option to the unit buyers. We are proposing to locate bike racks within the parking deck, which will be out of the elements and they can be locked.</i></p>
<p>2. Developer provide a paved stub out on the north side of the property to connect to the future Main Street property, as shown on the developers plan (<b>Section 15-214(a)</b>). <u>Applicant Response:</u> <i>We agree to do this and have shown it on the plans.</i></p>
<p>3. Verify that the height of the garage entrance is sufficient to accommodate an EZ Rider vehicle. <u>Applicant Response:</u> <i>We agree to meet this.</i></p>
<p>4. Provide a minimum of three bicycle racks, accommodating a minimum of 30 bicycles with at least half of the bicycle parking covered. <u>Applicant Response:</u> <i>We agree, we are locating some on the plaza and others within the deck, for security and protection from the elements. We are proposing to provide an additional 12 space for visitors.</i></p>

ATTACHMENT D-4

<p>5. Encourage the developer to look at the TAB bike rack recommendations.</p> <p><u>Applicant Response:</u> <i>We have received the web links to these racks and agree to use them.</i></p>
<p><b>PLANNING BOARD</b></p>
<p>1. Provide walking and biking access at the west end of the property from the Libba Cotten bikeway, perhaps, if necessary, a sidewalk along the property line with 300 E. Main Street site, the cost of which is shared by both. <b>(Section 15-221(c))</b></p> <p><u>Applicant Response:</u> <i>We are proposing to extend an access point to the north which will connect with the western access proposed by the 300 Main project, to connect to the Libba Cotten Bike path. We are not opposed to a shared walk along the property line, cross easements and shared costs would have to be worked out.</i></p>
<p>2. Extend a portion of the trellis-covered plaza to the south to form a landing and code-minimum width stairs down to the Libba Cotten Bikeway; landscape as needed to improve the aesthetics along the bikeway.</p> <p><u>Applicant Response:</u> <i>We are not in favor of this recommendation, to accomplish this we would have to redesign the structural components of the parking deck, and lose parking spaces. There are two proposed access points to the bike path and the projects within a reasonable distance, one just to the east and the one just to the west.</i></p>
<p>3. Comply with the attached Green and Sustainable Buildings Checklist (ATTACHMENT P-9), except where Carrboro regulations are more stringent.</p> <p><u>Applicant Response:</u> <i>We agree to meet the existing requirements of Carrboro only. Please see our response to No 1 of the Environmental Advisory Board recommendations.</i></p>
<p>4. Provide seating, including chess tables, et cetera, in the trellised area and throughout the courtyard/plaza.</p> <p><u>Applicant Response:</u> <i>We agree and have shown these on the plans.</i></p>
<p>5. Coordinate with the 300 E. Main Street development to provide grade level access, both vertically and horizontally aligned, from the 300 E. Main Street property through to the Libba Cotten Bikeway.</p> <p><u>Applicant Response:</u> <i>We agree and have shown what we believe based on information shared by the 300 Main developers with us a connection which meets this recommendation.</i></p>
<p>6. Provide 69 bicycle parking spaces (1 space per residential unit and 12 for visitors), with at least 12 at the plaza level.</p> <p><u>Applicant Response:</u> <i>Not every unit will be bike users, we are proposing 30 spaces, as recommended by the Bike Advisory Board (TAB), within racks, plus 12 for visitors and additional spaces in lockers which are chosen as unit options by the buyers.</i></p>
<p>7. Comply with exterior materials, including aluminum clad windows, as shown on Sheet A2.1, dated 11/5/07 in the plan set labeled "Conditional use rezoning permit application."</p> <p><u>Applicant Response:</u> <i>We agree and are proposing these items.</i></p>
<p>8. Comply with all staff recommendations.</p> <p><u>Applicant Response:</u> <i>We always agree with the staff and their recommendations.</i></p>



1. Our intent is to design a building shell, which meets the new NAHB "Green Program", standards, or the LEED, Core and Shell or the "Energy Star" standards, whichever is the most applicable to our project. We will meet at least one of these standards. We ask for the flexibility that the entire project not be conditioned on any "Certifications",
2. We agree to pursue and document that we, have to our ability, constructed a building shell which is to the NAHB and Energy Star standards.
3. We agree to explore the technologies available for onsite solar electric generation for the shell of the building, but due to the potential economic impacts this technology may have to the project we do not want to make it a condition of our approval. We do think it is a good idea to provide conduits within the building skeleton for use in the future should this technology be retrofitted in the future.
4. We will provide the conduits (for plug-in hybrid vehicle charging) during the construction of the building. If an individual unit wants a "plug in station" it can be wired into their circuit where it will be metered and paid for by them.
5. We propose that we monitor the energy performance of the building shell, (common areas) for the first year past CO and provide this information to the Town staff for their use and/or reporting purposes.
6. To the shell of the building we agree to use the following green building practices:
  - a. Daylighting;
  - b. High performance glass for minimizing heating and cooling loads;
  - c. Awnings for minimizing summer solar gain
  - d. Insulation beyond minimum standards if economically possible;
  - e. Energy efficient motors;
  - f. Energy efficient lighting;
  - g. Energy efficient appliances;
  - h. Voluntary certification of Building with OWASA as "WaterWise".
7. We will offer Dual flush toilets as options to the buyers for their consideration.
8. We will offer Waterless urinals as options to the buyers for their consideration.
9. We are exploring this use of rainwater harvesting/water reuse for irrigation of the landscaping.
10. We will offer Bike Lockers as an option to the individual unit's buyers.
11. We are exploring the "ZIP Car" car sharing program.
12. We will, if available and affordable we will use locally produced materials on the building shell and offer them as an option to the unit buyers.
13. We agree to provide solar hot water to common area bathrooms, and will explore other applications.
14. We agree to verify that the garage entrance is sufficient to accommodate an EZ Rider vehicle.
15. We agree to locate bike racks on the plaza and within the parking deck (covered); we are proposing an additional 12 bike rack spaces for visitors.
16. We agree to follow TAB bike rack recommendations.
17. We are proposing to extend an access point to the north which will connect with the western access proposed by the 300 Main project, to connect to the Libba Cotten Bike path. We are not opposed to a shared walk along the property line, cross easements and shared costs would have to be worked out.
18. Comply with exterior materials, including aluminum clad windows, as shown on Sheet A2.1, dated 11/5/07 in the plan set labeled "Conditional use rezoning permit application."
19. Applicant Response: We agree and are proposing these items.



**Board of Directors**

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*Orange County*  
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*Town of Hillsborough*

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**Carrboro, NC 27510**

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[www.ochlt.org](http://www.ochlt.org)

June 24, 2008

Mayor Mark Chilton and the Board of Aldermen  
Town of Carrboro

Re: Affordable Housing at The Butler

Dear Mayor Chilton and Aldermen:

I learned yesterday that the Board of Aldermen would be holding a public hearing this evening on a mixed-use development named The Butler. I will not be able to attend the public hearing because my brother is visiting from out of town. But I wanted to provide the Mayor and Aldermen with my thoughts about the affordable housing component of the application – as best I understand it.

I met with the developers in June of 2007 to discuss this project, but we haven't spoken since then, so my information may be out of date. At that time the developers were considering nine affordable units: four 1BR condominiums and five studio condominiums. The studios were expected to be about 500 square feet.

We did not have an in-depth discussion about unit pricing, unit location within the building, condo fees, or the developer's willingness to make use of the transfer fee for market-rate units. The transfer fee provides a source of funds that will allow the affordable units to remain affordable over time. We at the Land Trust have not analyzed how such a fee would work at The Butler.

Given the number of condominiums already coming into the Land Trust, and given the lack of financial resources to assist with the long-term success of both current and future Land Trust properties, I would ask that the Board of Aldermen consider the merits of accepting a payment-in-lieu of some of these nine condominiums. Perhaps asking the developer for just five one-bedroom units, with a payment-in-lieu for the balance would be a preferable alternative. The Town still secures affordable units that are integrated into this new community, but the Town also receives funds that will help ensure the long-term success of the many affordable units that will be coming to the Land Trust in Carrboro in the next few years.

My apologies for not being available this evening. As you know, I'm happy to meet with the developer and the staff to accomplish the Board's objectives.

Sincerely,

Robert Dowling  
Executive Director

cc: Steve Stewart, Town Manager



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August 20, 2008

Mayor Mark Chilton and the Board of Aldermen  
Town of Carrboro

Re: Affordable Housing at The Butler

Dear Mayor Chilton and Members of the Board of Aldermen:

The developers of The Butler are willing to provide nine condominiums in their development that will be affordable to persons earning less than 80% of the area median income. This represents 15.8% of the 57 proposed residential units. The developer has proposed the following breakdown for these nine units: four, 1BR condos, each about 760 square feet and 5 studios, each about 430 square feet.

The developers have also agreed to make use of the transfer fee mechanism, whereby the market-rate owners pay a 1 percent fee upon the sale of their units. The transfer fee fund will be used by the Land Trust to ensure that the affordable units remain affordable and well maintained in perpetuity.

*I would like to recommend that the Aldermen ask the developers to provide just five, 1BR condominiums and a payment-in-lieu for each of the four studio units. I believe this alternative is preferable to the developer's proposal because it eliminates the tiny studio units that will be difficult to sell and will most likely re-sell frequently. Frequent turnover of difficult-to-sell units requires high levels of staff resources for marketing, sales and oversight of repairs. Furthermore, as the Board is aware, the Land Trust is already expected to sell more than 100 condominiums in the next several years. Although most of these condos are in Chapel Hill, we remain concerned about the depth of the market for 1BR condos in our narrow market segment.*

By accepting a payment-in-lieu for four units, the Town will be the recipient of affordable housing funds that can be used at the discretion of the Board of Aldermen. Hopefully, some of those funds will be available to support Land Trust homes that are built or will be developed in Carrboro in coming years (such as at Ballentine or The Alberta, which will both require subsidies).

Thanks you for your consideration of this perspective.

Sincerely,

*Robert Dowling*  
Robert Dowling  
Executive Director

cc: Steve Stewart, Town Manager



MICHAEL A. NEAL & ASSOCIATES, PLLC  
ENGINEERS, SURVEYORS, AND PLANNERS  
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(919) 644-1277 mneal-mana@intrex.net

June 18, 2008

Town of Carrboro  
Mr. Jeff Kleaveland  
301 West Main Street  
Carrboro, North Carolina 27510

RE; Protection During Construction:

Dear Kleaveland:

During Construction of "The Butler Condominiums" certain elements of our construction activity will need to provide protection to minimize the impact it may have on neighbors and the downtown community. Below is a list of identified potential issues and how we propose to mitigate their impacts on the community.

**Construction Scheduling-** Construction activity will be limited from 7:00 am until sunset Monday through Saturday; Sunday 12:00 noon until sunset, in accordance with the Sound Ordinance (5-12), and any other reasonable restrictions that may be imposed by the Town, such as for Holidays, and/or religious observations.

**Staging and Storage of Construction-** Below is a brief summary of this information:

- Demolition of the existing site will occur first, the existing structure will be removed, trees will be taken down and both will be removed from the site and properly disposed of, recycled and land filled as may be required.
- Work along bike path- The bike path will be keep open at all times. Construction will take place up next to the bike path for safety it will be necessary to close off ½ of the bike path, one lane at a time, this will be done with concrete barriers like those used to separate vehicle traffic lanes during construction. This approach has been discussed with the Public Works Departments and they have indicated that this will be acceptable. As part of Final Construction Plan approval a plan will be submitted showing precisely how the bike lanes will be reduced, signs to be used to direct pedestrians and bikes, and when covered walkways are to be used.
- The area within the existing Brewer Lane projects stormwater management facility will be converted first, this will provide a staging and storage area during excavation of the Butler Site. The two levels of the parking deck will be roughed

in and poured and/or erected. Construction storage and staging will then be moved to the two levels of deck parking.

- The stormwater management facility will be expanded and substantially completed on the brewer Lane site.
- The “Butler” project will then be constructed over the deck and utility work will take place in Brewer Lane.
- Access to the site will be via Brewer lane.

***Plan for Keeping site construction contained-*** The following will be used to contain construction activities to the site during construction.

- Dumpsters will be located on site for disposal of waste, and for recycling of material. These will be located initially on the brewer Lane part of the site where the first phase staging and storage will happen, then be moved onto the deck with when staging and storage is moved there. Private haulers will be used to empty waste and deliver recyclables.
- Standard accepted methods of sedimentation and erosion control would be used to prevent erosion and mitigate the impacts of sedimentation.
- A tall chain link or similar fence will surround the project to provide protection. The fence will have an opaque covering to shield the adjacent properties and public from construction activity.
- The construction superintendent shall cause the site to keep neat and orderly during the length of the project.
- Dust will be controlled with reclaimed water only.

***Blasting Plan-*** Currently we have no indication that blasting will be necessary, but should it be found to be necessary the required permits would be applied for from the Town, all blasting would be in accordance with the latest revision of the National Fire Prevention Code, conducted by authorized individuals, and scheduled to be least disruptive to citizens and in accordance with State and Town laws. Once all applicable permits have been issued, and prior to the actual blasting, residence and business within 300 ft. would be notified personally of the blasting.

***Infrastructure Repair-*** During construction every effort will be given to keep all streets and other public facilities open and operational, and to protect them. Should during construction it is necessary that any part of the public infrastructure is removed or damaged it will be repaired to the satisfaction of the Town. One instance where the public street pavement will be removed, is the new sewer line in Brewer Lane, the applicant has agreed to mill and overlay the entire street within the limits of the sewer line with new asphalt.

If you have any questions or if you need additional information please feel free to call me at (919) 644-1277

Sincerely

Michael A. Neal, PE, PLS

SUMMARY SHEET OF STAFF AND ADVISORY BOARD  
RECOMMENDATIONS  
CONVERTING THE 110 BREWER LANE INDUSTRIAL ZONING TO  
A BUILT-UP MIXED-USE

STAFF RECOMMENDATIONS	
Staff Recommendations (see Exhibits B and C) Staff Recommendation Appendix	Highly recommend staff recommendations primarily related to 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. Staff also recommends support the staff recommendation of a fee in lieu of recreation points equivalent to 44.93 points @ \$186.98/point, or \$8401.00 (subject to fee change on July 1 <sup>st</sup> , 2008), be paid to the Town prior to construction plan approval.
Recommended by	Recommendations
Staff, TAB, AC, PB, EAB	1. That no size-limited unit may be enlarged for one-year after issuance of a certificate of occupancy.
Staff, TAB, AC, PB, EAB	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.
Staff, TAB, AC, PB, EAB	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 1 <sup>st</sup> , 2008), be paid to the Town prior to construction plan approval.
Staff, TAB, AC, PB, EAB	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).
Staff, TAB, AC, PB, EAB	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.
Staff, TAB, AC, PB, EAB	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).
Staff, TAB, AC, PB, EAB	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.

## ATTACHMENT I-2

Staff, TAB, AC, PB, EAB	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).
Staff, TAB, AC, PB, EAB	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.
Staff, TAB, AC, PB, EAB	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.
Staff, TAB, AC, PB, EAB	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.
Staff, TAB, AC, PB, EAB	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.
Staff, TAB, AC, PB, EAB	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.
Staff, TAB, AC, PB, EAB	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.

Staff, TAB, AC, PB, EAB	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.
Staff, TAB, AC, PB, EAB	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.
Staff, TAB, AC, PB, EAB	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.
Staff, TAB, AC, PB, EAB	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.
Staff, TAB, AC; PB, EAB	19. That the applicant must obtain all necessary temporary and permanent easements prior to construction plan approval.
Staff, TAB, AC, PB, EAB	20. That condominium owner's association documents are approved by the Town Attorney prior to release of any plat submitted for the project.
Staff, TAB, AC, PB, EAB	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.

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:

TOWN OF CHAPEL HILL BOARD OF ALDERMEN'S MINOR MODIFICATION	
RECOMMENDATION	RECOMMENDATION

ATTACHMENT I-4

AC	No further recommendations
EAB	<div>1. That the applicant Agree to apply for/pursue, and document compliance with one of following:</div> <div><div>a. “Designed to Earn the Energy Star” rating as described at <a href="http://www.energystar.gov/index.cfm?c=new_bldg_design.new_bldg_design_benefits">http://www.energystar.gov/index.cfm?c=new_bldg_design.new_bldg_design_benefits</a></div><div>b. Architecture 2030 goal of a 50 percent fossil fuel and greenhouse gas emission reduction standard, measured from the regional (or country) average for that building type.</div><div>c. AIA goals of integrated, energy performance design, including resource conservation resulting in a minimum 50 percent or greater reduction in the consumption of fossil fuels used to construct and operate buildings.</div><div>d. LEED certification to achieve 50% CO2 emission reduction, or LEED silver certification.</div><div>e. US Conference of Mayors: fossil fuel reduction standard for all new buildings to carbon neutral by 2030.</div><div>f. To achieve 40% better than required in the Model Energy Code, which for NC, Commercial is ASHRAE 90.1-2004-2006 IECC equivalent or better, and Residential is IECC 2006, equivalent or better@ <a href="http://www.energycodes.gov/implement/state_codes/index.stm">http://www.energycodes.gov/implement/state_codes/index.stm</a> <a href="http://www.energycodes.gov/implement/pdfs/modelcode.pdf">http://www.energycodes.gov/implement/pdfs/modelcode.pdf</a></div></div>

# ATTACHMENT I-5

	<p>2. In addition, the applicant should:</p> <ul style="list-style-type: none"> <li>a. agree that a minimum of 5% of the base electrical load is generated by onsite solar electric</li> <li>b. Demonstrate a commitment to onsite plug in hybrid vehicle charging</li> <li>c. Agree to present projected energy cost per square foot at public hearing</li> <li>d. monitor the energy performance of the building during the first year of occupancy, and be required to prepare a written report on the performance of the building in relation to one of the above 6 energy efficiency/conservation requirements, and to present their report to the BOA at a regularly scheduled business meeting.</li> <li>e. Energy saving features, including but not limited to the following, shall be considered. Design documents shall include an explanation of how the features listed below are incorporated into the design or, for those features not incorporated, an explanation of the financial or operational reasons why the feature was omitted from the design. <ul style="list-style-type: none"> <li>i. Use of daylighting;</li> <li>ii. Use of high performance glass for minimizing heating and cooling loads;</li> <li>iii. Use of awnings for minimizing summer solar gain</li> <li>iv. Insulation beyond minimum standards;</li> <li>v. Use of energy efficient motors;</li> <li>vi. Use of energy efficient lighting;</li> <li>vii. Use of energy efficient appliances</li> </ul> </li> </ul>
	<p>3. The applicant should agree to work with OWASA and the Town to pursue voluntary certification as a "WaterWise" building.</p>
	<p>4. Water saving features, including but not limited to the following, shall be considered. Design documents shall include an explanation of how the features listed below are incorporated into the design or, for those features not incorporated, an explanation of the financial or operational reasons why the feature was omitted from the design.</p> <ul style="list-style-type: none"> <li>a. Dual flush toilets</li> <li>b. Waterless urinals</li> <li>c. Rainwater harvesting/reuse</li> </ul>
	<p>5. The applicant should agree to include an explanation of how the features listed below are incorporated into the design or, for those features not incorporated, an explanation of the financial or operational reasons why the feature was omitted from the design.</p> <ul style="list-style-type: none"> <li>a. Green roofs</li> <li>b. Green certified lumber</li> <li>c. Bike lockers</li> <li>d. Car sharing</li> <li>e. Locally produced materials (e.g., brick)</li> <li>f. Solar hot water</li> </ul>



ATTACHMENT I-6

	6. Finally, the EAB requests staff to include conditions that protects the stock of small units in downtown beyond the one year time frame offered by the applicant to protect units from being reconfigured to larger units for the duration of the building's life.
TAB	1. That bike lockers be provided for each condominium with a two-bike capacity for each.
	2. Developer provide a paved stub out on the north side of the property to connect to the future Main Street property, as shown on the developers plan <i>(Section 15-214(a))</i> .
	3. Verify that the height of the garage entrance is sufficient to accommodate an EZ Rider vehicle.
	4. Provide a minimum of three bicycle racks, accommodating a minimum of 30 bicycles with at least half of the bicycle parking covered.
	5. Encourage the developer to look at the TAB bike rack recommendations.
PB (DRAFT)	1. Provide walking and biking access at the west end of the property from the Libba Cotton bikeway, perhaps, if necessary, a sidewalk along the property line with 300 E. Main Street site, the cost of which is shared by both. <i>(Section 15-221(c))</i>
	2. Extend a portion of the trellis-covered plaza to the south to form a landing and code-minimum width stairs down to the Libba Cotton Bikeway; landscape as needed to improve the aesthetics along the bikeway.
	3. Comply with the attached Green and Sustainable Buildings Checklist (ATTACHMENT P-9), except where Carrboro regulations are more stringent.
	4. Provide seating, including chess tables, et cetera, in the trellised area and throughout the courtyard/plaza.
	5. Coordinate with the 300 E. Main Street development to provide grade level access, both vertically and horizontally aligned, from the 300 E. Main Street property through to the Libba Cotton Bikeway.
	6. Provide 69 bicycle parking spaces (1 space per residential unit and 12 for visitors), with at least 12 at the plaza level.
	7. Comply with exterior materials, including aluminum clad windows, as shown on Sheet A2.1, dated 11/5/07 in the plan set labeled "Conditional use rezoning permit application."
	8. Comply with all staff recommendations.

# TOWN OF CARRBORO ATTACHMENT B



## CONDITIONAL USE PERMIT WORKSHEET FOR TALLER BUILDINGS IN COMMERCIAL DISTRICTS

### I. COMPLETENESS OF APPLICATION

- ☐ The application is complete  
☐ The application is incomplete

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### II. COMPLIANCE WITH SPECIFIC ORDINANCE REQUIREMENTS

- ☐ The application complies with all applicable specific requirements of the Land Use Ordinance  
☐ The application is not in compliance with the following specific requirements of the Land Use ordinance for the reasons stated below:

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### III. CONSIDERATION OF GENERAL REQUIREMENTS WITH RESPECT TO WHICH THE APPLICANT HAS THE BURDEN OF PROOF

- A. ☐ The Board finds that the proposed use will not substantially injure the value of adjoining or abutting property.  
☐ The Board cannot find that the proposed use will not substantially injure the value of adjoining or abutting property, or finds that the proposed use will substantially injure the value of adjoining or abutting property, for the following reasons:

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- B. ☐ The Board finds that the proposed use will be in harmony with the area in which it is to be located.

☐ The Board finds that the proposed use will not be in harmony with the area in which it is to be located, for the following reasons:

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- C. ☐ The Board finds that the proposed use will be in general conformity with the Land Use Plan, Thoroughfare Plan, and other plans officially adopted by the Board.
- ☐ The Board finds that the proposed use will not be in general conformity with the Land Use Plan, Thoroughfare Plan, and other plans officially adopted by the Board, for the following reasons:

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**IV. CONSIDERATION OF PROPOSED CONDITIONS**

*(\*Note: Please clarify for staff, where applicable, whether any discussion points are to be included as Permit Conditions. Informal agreements or understandings are not necessarily binding. \*)*

If the application is granted, the permit shall be issued subject to 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.

**V. GRANTING THE APPLICATION**

- ☐ The application is granted, subject to the conditions agreed upon under Section IV of this worksheet.

**VI. DENYING THE APPLICATION**

- ☐ The application is denied because it is incomplete for the reasons set forth above in Section 1.
- ☐ The application is denied because it fails to comply with the specific Ordinance requirements set forth above in Section II.
- ☐ The application is denied because the Board has not made a finding favorable to the applicant on one or more of the general requirements set forth above in Section III.
- ☐ The application is denied because, if completed as proposed, the development more probably than not will materially endanger the public health or safety for the following reasons:

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