

BOARD OF ALDERMEN

ITEM NO. D(2)

AGENDA ITEM ABSTRACT

MEETING DATE JUNE 15, 2010

**SUBJECT: MINOR MODIFICATION OF THE BALLENTINE ARCHITECTURALLY INTEGRATED SUBDIVISION CONDITIONAL USE PERMIT, 8110 OLD NC 86, PHASING PLAN.**

<b>DEPARTMENT: PLANNING DEPARTMENT</b>	<b>PUBLIC HEARING: YES _ No <u>X</u></b>
<b>ATTACHMENTS:</b> A. RESOLUTION ADOPTING THE MODIFICATION B. EXISTING PHASING PLAN C. PROPOSED PHASING PLAN D. APPROVED CONDITIONAL USE PERMIT DOCUMENT E. MEETING MINUTES FROM THE ORIGINAL HEARING	<b>FOR INFORMATION CONTACT:</b> JEFF KLEAVELAND, 918-7332

**PURPOSE**

M/I Homes, developer of the 96 unit dwelling unit subdivision located at 8110 Old NC 86, has submitted an application for a *Minor Modification* to the Conditional Use Permit issued for the AIS on August 28, 2007 (Attachment D); meeting minutes (Attachment E). Town staff requests that the Board review, deliberate and make a decision on the application.

**INFORMATION**

This permit modification is only for the project's phasing plan. The applicant wishes to Revise the *two* phases originally shown in the approved CUP (Attachment B) to *four* phases total (Attachment C) which allows construction of a portion of the project while allowing the pursuit of rezoning for the remainder of the project areas (proposed Phases 3 & 4). Note that the Board of Alderman requested that the applicant explore commercial uses as well as increased residential density for a portion of the project. A rezoning application addressing the Board's request is expected in the near future.

The revision has been reviewed by staff and each phase has been found to be independently compliant with the LUO indicating that recreation and open space amenities are satisfied in each phase independent of the others. For this phasing plan to work it is essential that secondary emergency access to Phase 2 is secured since construction of the public street along the northern property line is to be delayed until the new Phase 3.

This emergency access will be provided by way of the existing east-west gravel drive shared with the Orange County property along the northern property line as well as construction of most of the north-south sub-collector shown in Phases 1 & 2 of the revised phasing plan. The paving for this road will terminate prior to connecting with the existing gravel drive while the remaining segment will be sufficiently constructed to support a fire apparatus. Completion of the road paving for this segment will take place when Street A is constructed in Phase 3.

Please note that Orange County has given agreement to the use of the gravel drive for secondary emergency access (a formal letter confirming this agreement is expected prior to the meeting) and the secondary access situation will require approval by the Town prior to its use being authorized. Because of this the following condition for the new phasing plan is recommended:

- That prior to authorizing commencement of framing for buildings in Phases One or Two that the emergency access infrastructure (including secondary emergency access) is constructed for these phases in conformity with the state fire code subject to the approval by the Town Fire Department.

As a result of the proposed re-phasing the following, original, Conditional Use Permit (Attachment D) conditions will need to be revised and replaced (or removed, as in the case of #16). The following conditions reflect then new phasing plan while addressing the uncertainty of future changes made necessary by the forthcoming rezoning request (again, Phase 3 and 4 will be subject to this request), the remaining conditions of the original permit do not require modification:

Existing conditions to be replaced with the following:

5. That, prior to final plat approval for Phase 3, the applicant provides to the Town, in accordance with applicable LUO provisions, a financial security sufficient to construct their portion of the remaining, uncompleted road and stream crossing, from the eastern terminus of Street A, as shown on plans, to the property line directly to the east. The value of said security shall be determined by the Consulting Engineer with approval by the Town Engineer and shall be retained until the road segment and stream crossing is constructed or until an alternate stream crossing is constructed. Furthermore, the estimate shall be renewed annually and adjusted for inflation via the Consumer Price Index. The security shall be returned to the applicant if (1), the Town determines that the road and crossing will not be constructed, or (2), a period of ten years has passed from the date of initial posting of the financial security with the Town.
6. That prior to construction plan approval for Phase 3 the applicant provide to the Town evidence of a shared-access easement (or equivalent) agreed upon by Orange County so as to allow for the construction of Street A, as shown on the approved CUP plans.
7. That prior to construction plan approval for Phase 1 the applicant provide to the Town evidence that the portion of property owned by the Lake Hogan Farms Homeowner's Association necessary to allow Street B2 to connect to the Hogan Hills Road R/W has been substantially secured.
8. That prior to construction plan approval, the applicant receive a driveway permit from NCDOT in accordance with any conditions imposed by such agency including but not limited to encroachment/maintenance agreements for lighting and sidewalks.
- ~~16. That an "alternate" stormwater management facility be constructed as part of Phase 1 (West Side of Buckhorn Branch) of the development if, 10 months after Phase 1 final plat approval, either a) the Buckhorn Branch CLOMR is not received or, b) an approval for a bond extension to cover the construction of the stormwater management facility to treat Street 'A', is not obtained. (This condition is to be removed since the new phasing plan doesn't require the construction of Street A. The stormwater facility referenced is not required unless Street A is built).~~
17. That the Buckhorn Branch CLOMR be received prior to Phase 3 final plat approval.

18. That a LOMR be received prior to granting building permits for the final 50% of Phase 3 lots unless a bond is posted covering a LOMR approval and any potential infrastructure modifications deemed necessary as a result of the LOMR approval process for Buckhorn Branch.
- ~~24. That the Board authorizes the receipt of funds in lieu of 142.06 recreation points valued at \$26,022.55 to be used on proposed greenway improvements for Jones Creek. These funds are to be paid prior to final plat approval. (This project was presented to the Board with a deficit of recreation points thus prompting the applicant to request a payment-in-lieu option. Since the recreational components of the later phases of the project are unknown at this time, it is reasonable to forgo this condition until further information is received).~~
24. That prior to construction plan approval for Phase 3, the applicant provide evidence to the Town that the project meets the recreation facility requirements in accordance with Section 15-196 of the Town of Carrboro Land Use Ordinance. Payment in lieu of recreation points for Phase 3 may require approval by the Board of Aldermen. *(This condition is to replace existing condition #24. It is written broadly to state mainly that any proposals made for Phases 3 and 4 will be subject to the requirements of 15-196. Since the new Phases 1 and 2 stand alone with respect to their recreational points, there will be no points deficit created with the construction of these two Phases).*

The above modifications to the existing CUP conditions will make it consistent with the new phasing plan. Note that construction plans nearing approval are being reviewed by the Town Engineer. These plans reflect the proposed changes to the phasing plans presented in this modification. Should the Aldermen approve this minor modification shortly hereafter these plans are expected to be approved thereby authorizing construction in Phases 1 and 2.

#### **STAFF RECOMMENDATION**

Town Staff recommends that the Board of Aldermen review, deliberate and make a decision regarding the applicant's request. If the request is approved it is recommended that the attached resolution approving the Minor Modification to the Conditional Use Permit (Attachment A), be adopted.