

A RESOLUTION APPROVING A MINOR MODIFICATION TO THE PHASING  
PLAN OF THE BALLENTINE ARCHITECTURALLY INTEGRATED SUBDIVISION  
CONDITIONAL USE PERMIT, ALLOWING FOR THE REVISION OF THE  
PHASING PLAN FROM TWO PHASES INTO FOUR PHASES AND MODIFYING  
THE CONDITIONS IN THE APPROVED CUP ACCORDINGLY

Resolution No. 169/2009-10

WHEREAS, the Carrboro Board of Aldermen approved a Conditional Use Permit for the Ballentine Architecturally Integrated Subdivision on August 28, 2007 and

WHEREAS, the Town of Carrboro Land Use Ordinance requires that any modification of an existing Conditional Use Permit that does not substantially impact neighboring properties, the general public, or the intended occupants of the project, constitutes a minor modification to the original Conditional Use Permit; and

WHEREAS, the Board of Aldermen finds that the applicant has satisfied the requirements related to minor modifications contained in the Land Use Ordinance.

NOW, THEREFORE BE IT RESOLVED by the Carrboro Board of Aldermen that the Board of Aldermen approve the minor modification to the Ballentine Architecturally Integrated Subdivision CUP allow the project to be converted from a two phase project into a four phase project according to the phasing exhibit presented at the minor modification meeting and that the existing CUP be modified by replacing conditions 5, 6, 7, 8, 11, 16, 17, 18 & 24 be replaced with the following conditions:

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

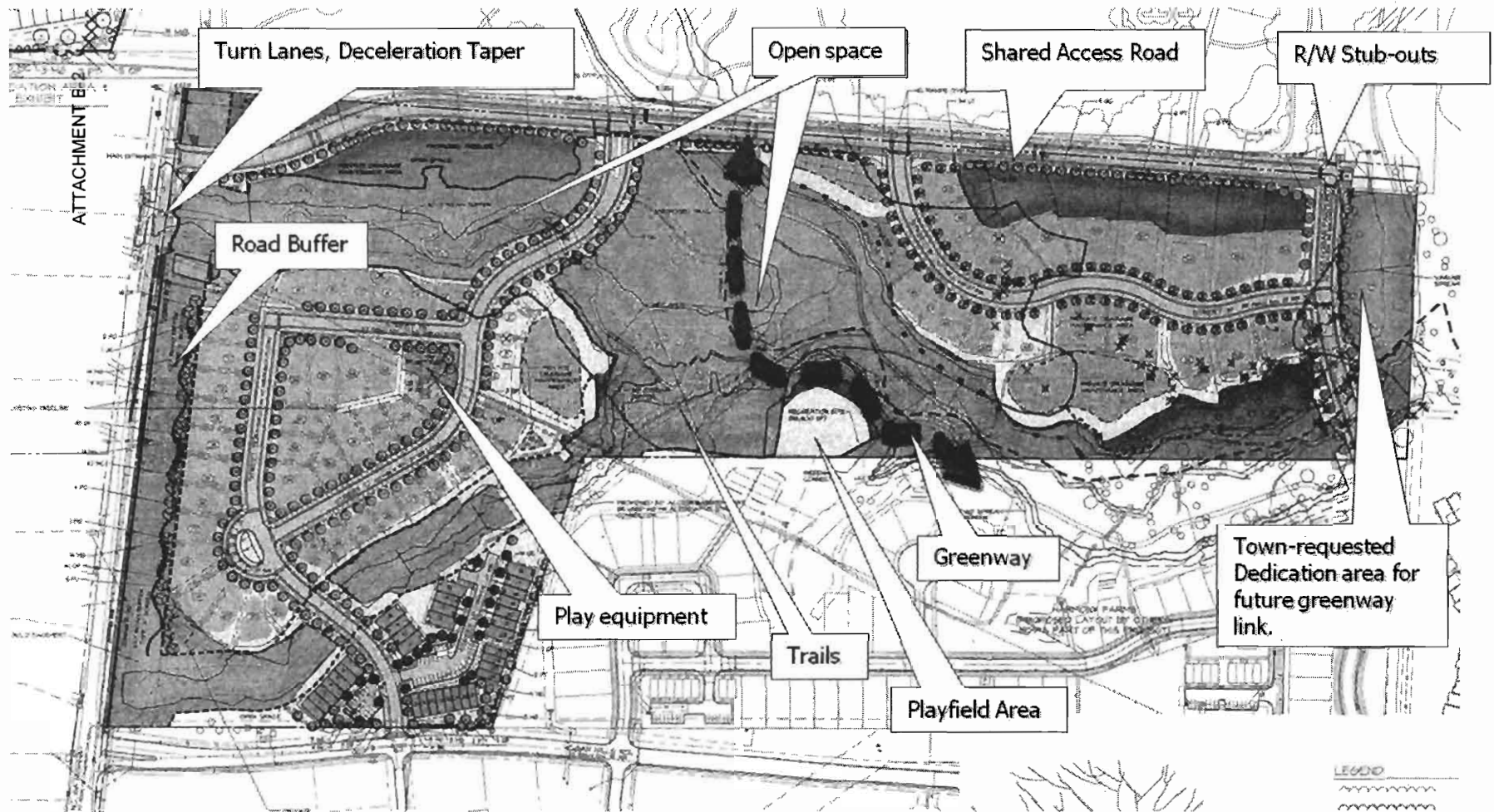
Homeowner's Association necessary to allow Street B2 to connect to the Hogan Hills Road R/W has been substantially secured.

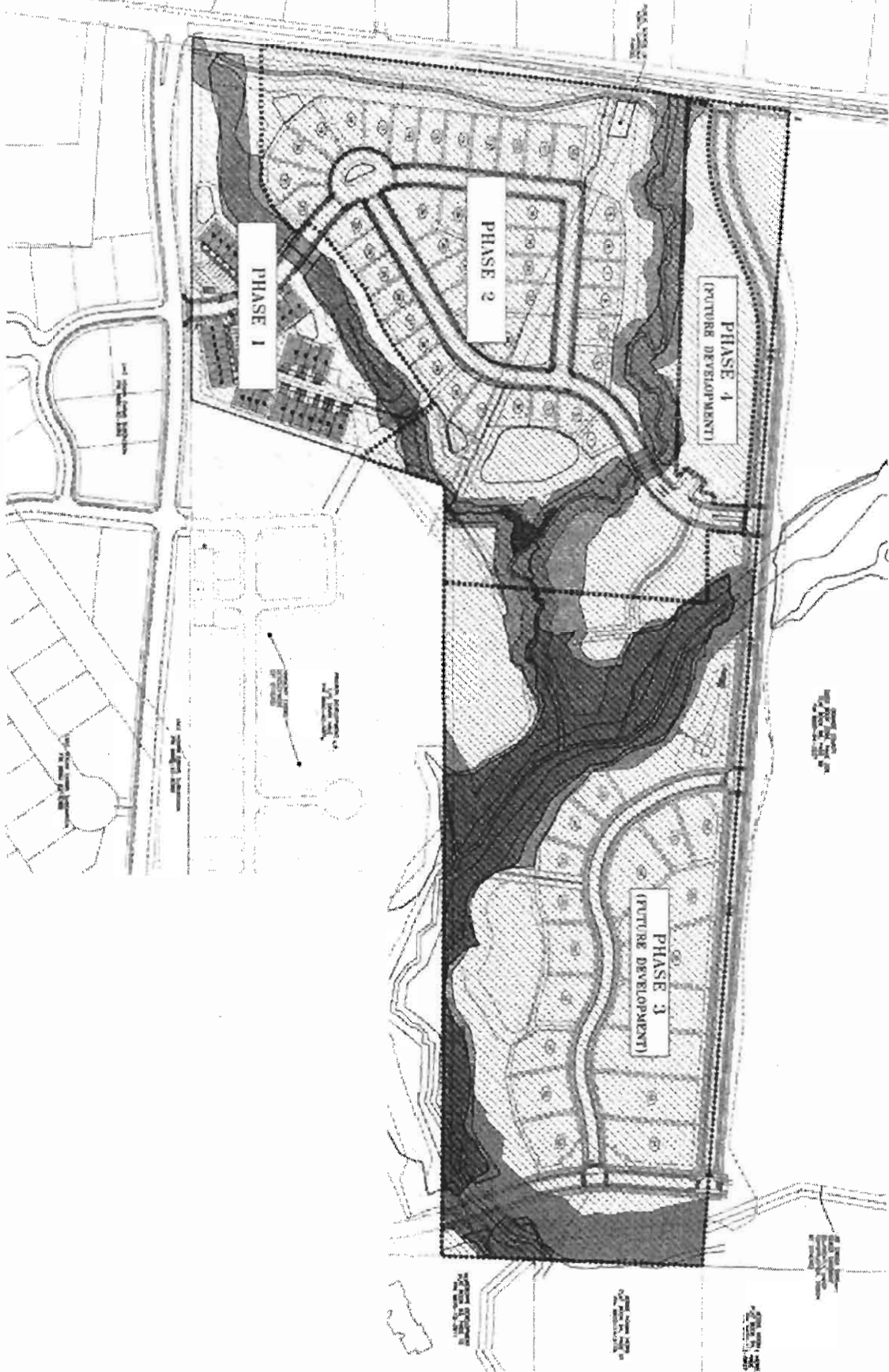
8. That prior to construction plan approval, the applicant receive a driveway permit from NCDOT in accordance with any conditions imposed by such agency including but not limited to encroachment/maintenance agreements for lighting and sidewalks.
11. That prior to final plat approval for Phase 1, an offer of dedication of the open space areas on the east side and adjacent to the Lake Hogan Farm road extension be made to the Town.
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.~~
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 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.

Furthermore, that the additional condition is added to the Conditional Use Permit:

- 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.







McAdams
EX
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100

**BALLENTINE**  
SINGLE FAMILY LOTS AND TOWNHOMECOMMUNITY  
CARRBORO, NORTH CAROLINA  
OVERALL PHASING PLAN EXHIBIT

**M/I JONES, LLC**  
1551 HIGHWAY 100, SUITE 100  
FREDERICK, MD 21704, FAX: 301-221-0000  
JONES@M/IJONES.COM • 301-221-0000

REVISION
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100

**THE JOHN R. McADAMS COMPANY, INC.**  
ENGINEERING • PLANNING • SURVEYING • ENVIRONMENTAL  
1000 BARTLETT PARKWAY, SUITE 100, CHARLOTTE, NC 28203  
800-333-3333 • www.jrmc.com • 704-333-3333



**ORANGE COUNTY  
NORTH CAROLINA**

**TOWN OF CARRBORO  
CONDITIONAL USE PERMIT GRANTED  
Ballentine Property AIS**

On the date(s) listed below, the Board of Aldermen of the Town of Carrboro met and held a public hearing to consider the following application:

<b>APPLICANT:</b> M/I Homes
<b>OWNERS:</b> M/I Homes
<b>PROPERTY LOCATION (Street Address):</b> 8110 Old NC 86
<b>TAX MAP, BLOCK, LOT(S):</b> 7.23.C.31
<b>PROPOSED USE OF PROPERTY:</b> Major subdivision consisting of the following uses: 1.111 (single-family detached), 1.321 (multi-family, townhomes (no greater than 20% of the units may have more than three (3) bedrooms))
<b>CARRBORO LAND USE ORDINANCE USE CATEGORY:</b> 26.100, 1.111, 1.321
<b>MEETING DATES:</b> June 26, 2007 and August 28, 2007

Having heard all the evidence and arguments presented at the hearing, the Board finds that the application is complete, that the application complies with all of the applicable requirements of the Carrboro Land Use Ordinance for the development proposed, and that therefore the application to make use of the above-described property for the purpose indicated is hereby approved, subject to all applicable provisions of the Land Use Ordinance and 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 the permit shall be void and of no effect.
3. Certificates of Occupancy for seventeen (17) "market-rate" units will be withheld until such time as the corresponding affordable units (units 1, 2, 3, 4, 5, 6, 7, 25, 26, 27, 28, 29, 30, 31, 32, 33, & 34) are granted COs and are offered for sale or rent for an amount consistent with the language found in Section 15-182.4 of the Town of Carrboro Land Use Ordinance. Each affordable unit that meets this qualification may reduce the number of withheld market rate COs by one.
4. If the Land Trust is unable to sell any affordable unit within one year of the date it receives a certificate of occupancy, M/I Homes will be released from its obligation to sell that unit to the Land Trust and may sell the unit in accordance with the affordable housing provisions of the Carrboro Land Use Ordinance in existence prior to June 26, 2007 (the date of their amendment). Per the requirements of Section 15-128 of the Land Use Ordinance, the Board authorizes use of the referenced, pre-June 26, 2007 provisions based on the findings of "substantial expenditures". Should this scenario transpire, in accordance with Section 15-182.4, the developer shall include in the restrictive covenants applicable to the subdivision, and in the deeds for the affordable units, covenants and restrictions that are sufficient to ensure that the affordable units will remain affordable as described in that section. Those covenants and restrictions shall include provisions that will allow the Town of Carrboro to enforce the commitment that the housing units remain affordable. These documents shall be subject to the approval of the Town Attorney.
5. That, prior to final plat approval, the applicant provides to the Town, in accordance with applicable LUO provisions, a financial security sufficient to construct their portion of the remaining, uncompleted road and stream crossing, from the eastern terminus of Street A, as shown on plans, to the property line directly to the east. The value of said security shall be determined by the 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 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 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.
9. That the applicant provide on the property, a 10' paved trail (meeting the Town of Carrboro's greenway standard) within a public access easement along the entirety of the Old NC 86 road frontage. The alignment may meander to avoid trees and other obstacles as needed.
10. That written authorization is provided from the Town of Carrboro Public Works Director prior to allowing the use of asphalt for the proposed mixed-use trail that fronts Old NC 86.
11. That an offer of dedication of the open space areas on east side of Lake Hogan Farm road extension be made to the Town.
12. That the 10' greenway trails demonstrate compliance on the construction plans with the greenway facilities specifications identified in the AASHTO Guide for the Development of Bicycle Facilities.
13. That the single family home lots, when developed have sufficient room to conveniently park two cars, off of the street, without blocking the sidewalk. Garages may not be counted toward this requirement. This parking will be shown on individual plot plans during the building permit stage.
14. That, for the townhome parking lots, the Board hereby allows a deviation from the parking requirements of 15-291(g), finding that 57 spaces are sufficient to serve the 34



- townhomes. Per 15-292(a), the board makes this finding based on evidence submitted by the applicant as referenced in Attachment E of the staff report.
15. That the proposed street tree planting layout be revised to meet the spacing requirements of Section 15-315 of the LUO.
  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.
  17. That the Buckhorn Branch CLOMR be received prior to Phase 2 (East Side of Buckhorn Branch) final plat approval.
  18. That a LOMR be received prior to granting building permits for the final 50% of Phase 2 lots (9 Lots) unless a bond is posted covering a LOMR approval and any potential infrastructure modifications deemed necessary as a result of the LOMR approval process for Buckhorn Branch.
  19. 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.
  20. 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.
  21. That the developer provide a written statement from the electrical utility stating that electric service can be provided to all locations shown on the construction plans prior to the approval of the construction plans.
  22. That fire flow calculations and building-sprinkler design (as required) must be submitted and approved by the Town Engineer and Town Fire Department prior to construction plan approval.
  23. That the plans be revised such that the dumpsters and recycling facilities located between units 11 and 12 allow a clear 35' turning radius for efficient collection-vehicle access.
  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.
  25. That the subdivision must comply with the requirements of Section 15-177(d)-3a which specifies that developments of greater than 14 units provide a minimum of nine (9) significantly different house plans (i.e. elevations sets).
  26. 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.
  27. That prior to construction plan approval, the applicant either meet the requirements through proof of compliance of, enhance or, find an alternate-to, the proposed hydrodynamic separators, such that they satisfy the Town's stormwater requirements with regards to water quality.
  28. That prior to Construction Drawing approval Town staff and the Consulting Engineer meets with NCDOT District Engineer to pursue the reduction in speed along Old NC 86. If NCDOT reduces the speed limit, the intersection could be moved to the original access easement location (subject to NCDOT approval). If not, the intersection would remain as shown on the CUP plans.
  29. That the homeowner's association document should contain language encouraging landscaping design and flora requiring no irrigation or water usage, and that the homeowner's association documents contain no language requiring or encouraging lawn and landscaping techniques or species which encourage regular water usage.
  30. All street construction on those streets proposed for acceptance by the Town of Carrboro shall be certified by an engineer. Engineering certification is the inspection by the



developer's engineer of the street's subgrade, base material, asphalt paving, sidewalks and curb and gutter, when used. The developer's engineer shall be responsible for reviewing all compaction tests that are required for streets to be dedicated to the town. The developer's engineer shall certify that all work has been constructed to the town's construction specifications.

This permit shall automatically expire within two years of the date of issuance if the use has not commenced or less than 10 percent (10%) of total cost of construction has been completed or there has been non-compliance with any other requirements of Section 15-62 of the Carrboro Land Use Ordinance.

If this permit authorizes development on a tract of land in excess of one acre, nothing authorized by the permit may be done until the property owner properly executes and returns to the Town of Carrboro the attached acknowledgment of the issuance of this permit so that the town may have it recorded in the Orange County Registry.

NORTH CAROLINA

ORANGE COUNTY

IN WITNESS WHEREOF, the Town of Carrboro has caused this permit to be issued in its name, and the undersigned being all of the property above described, do hereby accept this Conditional Use Permit, together with all its conditions, as binding upon them and their successors in interest.

THE TOWN OF CARRBORO

ATTEST:

\_\_\_\_\_(SEAL) BY \_\_\_\_\_  
Town Clerk Town Manager

I, \_\_\_\_\_, a Notary Public in and for said County and State, do hereby certify that Sarah C. Williamson, Town Clerk for the Town of Carrboro, personally came before me this day and being by me duly sworn says each for himself that she knows the corporate seal of the Town of Carrboro and that the seal affixed to the foregoing instrument is the corporate seal of the Town of Carrboro, that Steven E. Stewart, Town Manager of said Town of Carrboro and Sarah C. Williamson, Town Clerk for the Town of Carrboro subscribed their names thereto; that the corporate seal of the Town of Carrboro was affixed thereto, all by virtue of a resolution of the Board of Aldermen, and that said instrument is the act and deed of the Town of Carrboro.

IN WITNESS THEREOF, I have hereunto set by hand and notarial seal this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

(SEAL)

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

M/I HOMES

BY: Blum

ATTEST:

J. M. MedlinSecretary Vice President of M/I Homes

STATE OF NORTH CAROLINA

Johnston COUNTY

This the 25 day of October, 2007, personally appeared before me, Carrie E. Merendino, a Notary Public in and for said County and State; Edward F. Kristensen, who being by me duly sworn, says that she knows the common seal of Edward F. Kristensen and is acquainted with Edward F. Kristensen who is the Area President of M/I Homes and saw the Area President sign the foregoing instrument and that he/she, Secretary of aforesaid, affixed said seal to said instrument, and signed her name in attestation of the execution of said instrument in the presence of said Jeremy Medlin.

WITNESS my hand and notarial seal, this the 25 day of October, 2007.Carrie E. Merendino

Notary Public

My Commission Expires: 6/24/08

(Not valid until fully executed and recorded)

PREPARED BY AND RETURN TO:

TOWN CLERK  
TOWN OF CARRBORO  
301 West Main Street  
CARRBORO, NORTH CAROLINA 27510

Section 4. This resolution shall become effective upon adoption.

The foregoing resolution having been submitted to a vote received the following vote and was duly adopted this 26th day of June 2007:

Ayes: Joal Hall Broun, Mark Chilton, Dan Coleman, John Herrera, Randee Haven-O'Donnell, Alex Zaffron

Noes: Jacquelyn Gist

Absent or Excused: None

\*\*\*\*\*

**PUBLIC HEARING ON BALLENTINE ARCHITECTURALLY INTEGRATED SUBDIVISION  
CONDITIONAL USE PERMIT REQUEST LOCATED AT 8110 OLD N.C. 86**

M/I Homes as represented The John R. McAdams Company, has submitted an application for the construction of a 96 dwelling unit subdivision located at 8110 Old NC 86. The Conditional Use Permit, if approved, would allow the creation of 62 single-family-detached and 34 townhome lots with associated infrastructure, including publicly dedicated streets.

Jeff Kleaveland was sworn in and made the presentation.

Mitch Huff, representing M/I Homes and Kevin Hamak, the project's landscape architect, were sworn in.

Mr. Huff stated that they had been working with surrounding property owners and public entities to come up with their development proposal. He stated that they would accept all of the staff's recommended conditions.

Mr. Hamak stated that they accept all of the staff recommendations, but have a few concerns about some advisory board recommendations. He stated that they feel that they have done the best they can given the site constraints trying to have a good mix of housing. He stated that they are meeting the 40% requirement for open space and they are providing 48% open space. He expressed concern about being able to meet the EAB recommendation about level spreader design guidelines, but feels they are meeting the stormwater requirements. They do not agree with the NTAAC's recommendation that there not be an entrance to the subdivision off N.C. 86.

Jeremy Finch with the John McAdams Co, was sworn in. He said that he and the town's engineer were proposing the following language in lieu of providing a filtration system: "that the applicant must, prior to construction drawing approval, investigate and obtain approval from the town engineer alternative treatment methods to potentially replace or enhance the proposed hydrodynamic separators."

James Carnahan, Chair of the Planning Board, was sworn in. He stated that the Planning Board recommended that the developer increase the density of the project and asked the Board of Aldermen to consider rezoning the property.

Robert Kirschner was sworn in. He suggested that different homeowners associations be required for each housing type.

Jay Bryan, Chair of the NTAAC, was sworn in. He reviewed the recommendations of the Northern Transition Area Advisory Committee.

Robert Dowling, Executive Director of the Orange Community Housing and Land Trust, was sworn in. He stated that he had met with the developer about the affordable housing units. M/I Homes will build 17 affordable townhomes and provide a mix of 2 and 3 bedroom units. They will sell us the 2 bedroom units for \$120,000 and 3 bedroom units for \$130,000. The OCHLT will need additional public subsidy in order to sell these homes to qualified buyers.

Alderman Zaffron asked Mr. Dowling to consider the new affordable housing ordinance provision over the summer to see if they can come to a better resolution in regard to this permit.

Alderman Gist stated that she would like to see the moderate income housing have equal access to amenities, including schools and the park.

MOTION WAS MADE BY ALEX ZAFFRON AND SECONDED BY JACQUELYN GIST TO CONTINUE THIS PUBLIC HEARING UNTIL AUGUST 28, 2007. VOTE: AFFIRMATIVE ALL

\*\*\*\*\*

**PUBLIC HEARING ON AN ORDINANCE AMENDING THE CARRBORO LAND USE ORDINANCE PROVISIONS DEALING WITH STORMWATER MANAGEMENT**

A draft ordinance amending the Land Use Ordinance to revise stormwater management provisions in relation to the NPDES Phase II permit and the Jordan Lake TMDL has been prepared. It was necessary for the Board of Aldermen to receive public comment before taking action.

The following resolution was introduced by Alderman Dan Coleman and duly seconded by Alderman Randee Haven-O'Donnell.

A RESOLUTION ADOPTING A STATEMENT  
EXPLAINING THE BOARD OF ALDERMEN'S REASONS FOR ADOPTING  
AN AMENDMENT TO THE TEXT OF THE CARRBORO LAND USE ORDINANCE  
Resolution No. 247/2006-07

WHEREAS, an amendment to the text of the Carrboro Land Use Ordinance has been proposed, which amendment is described or identified as follows: An Ordinance Amending the Carrboro Land Use Ordinance dealing with stormwater management.

NOW THEREFORE, the Board of Aldermen of the Town of Carrboro concludes that the above described amendment is necessary in order to support the policies embodied in Carrboro Vision2020, particularly:

Policy 5.22 and 5.23 and the

Facilitated Small Area Plan for Carrboro's Northern Study Area (Goal 1, Objectives 1 and 2).

BE IT FURTHER RESOLVED that the Board concludes that its adoption of the above described amendment is reasonable and in the public interest because it makes local regulations and procedures consistent with adopted policies.

This resolution becomes effective upon adoption.

Section 6. Applicant shall distribute flyers of notification of the contents of any resolution passed to persons occupying property abutting the streets where the event is to take place.

Section 7. Applicant will be responsible for all costs incurred by the Public Works Department to facilitate this event. Applicant will be sent an itemized bill for the final costs incurred by Public Works.

Section 8. This resolution shall become effective upon adoption.

The foregoing resolution having been submitted to a vote received the following vote and was duly adopted this 28th day of August 2007:

Ayes: Joal Hall Broun, Mark Chilton, Dan Coleman, Jacquelyn Gist, John Herrera, Randee Haven-O'Donnell, Alex Zaffron

Noes: None

Absent or Excused: None

\*\*\*\*\*

**CONTINUATION OF THE PUBLIC HEARING ON THE BALLENTINE ARCHITECTURALLY INTEGRATED SUBDIVISION CONDITIONAL USE PERMIT REQUEST LOCATED AT 8110 OLD N.C. 86**

The Board of Aldermen continued a public hearing opened on June 26, 2007 on a conditional use permit request submitted by M/I Homes as represented by The John R. McAdams Company for the construction of a 96-dwelling unit subdivision located at 8110 Old NC 86. The conditional use permit, if approved, would allow the creation of 62 single-family-detached and 34 townhome lots with associated infrastructure, including publicly dedicated streets.

James Carnahan, Chair of the Planning Board, stated that the Planning Board had made an additional recommendation on August 2<sup>nd</sup> asking that the developer increase the number of units to achieve the full build-out allowable under the current Land Use Ordinance.

Jay Bryan, Chair of the NTAAC, addressed the NTAAC's recommendation about moving the entrance to this development and their request that the speed limit on Old 86 from Eubanks to Hogan Hills Roads be lowered. He asked that a town delegation meet with NCDOT about reducing the speed limit.

Robert Dowling, Executive Director of OCHLT, addressed the affordable housing component of the development. He stated that the OCHLT will need to subsidize each of the 17 affordable housing units by \$30,000.

Kevin Hamak addressed the Planning Board's request for increased density within the development. He gave a breakdown of the housing types and number of units. He stated that the entrance road will be shared with Orange County's Twin Creeks Park, the school and this development. He also explained the improvements proposed for this intersection and stated that they have agreed to work with officials to have the speed limit lowered.

Ed Kristensen of M/I Homes was sworn in. He stated that their development meets the town's requirements and felt the Planning Board's request for additional density is unfair at this stage of the development process. He stated that he felt the development will be a diverse and family-oriented community. He stated that they would consider draught tolerant ground cover.

Henry Wells, the town's engineer, was sworn in. He explained the purpose of a level spreader and stated that the grass spreader would be best for this development. He also responded to the EAB's condition #6 and explained staff condition #25.

Mr. Christiansen spoke about Energy Star for New Homes and about the Home Builders Association of Durham, Orange and Chatham Counties' Green Building Initiative. They have agreed to the central neighborhood composting facility recommendation.

MOTION WAS MADE BY ALEX ZAFFRON AND SECONDED BY DAN COLEMAN TO CLOSE THE PUBLIC HEARING. VOTE: AFFIRMATIVE ALL

MOTION WAS MADE BY ALEX ZAFFRON AND SECONDED BY JOAL HALL BROUN THAT THE APPLICATION IS COMPLETE. VOTE: AFFIRMATIVE ALL

MOTION WAS MADE BY ALEX ZAFFRON AND SECONDED BY JOAL HALL BROUN THAT THE APPLICATION COMPLIES WITH ALL APPLICABLE REQUIREMENTS OF THE LAND USE ORDINANCE. VOTE: AFFIRMATIVE ALL

MOTION WAS MADE BY ALEX ZAFFRON AND SECONDED BY JOHN HERRERA THAT THE APPLICATION, IF GRANTED, 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 is permit shall be void and of no effect.
3. Certificates of Occupancy for seventeen (17) "market-rate" units will be withheld until such time as the corresponding affordable units (units 1, 2, 3, 4, 5, 6, 7, 25, 26, 27, 28, 29, 30, 31, 32, 33, & 34) are granted COs and are offered for sale or rent for an amount consistent with the language found in Section 15-182.4 of the Town of Carrboro Land Use Ordinance. Each affordable unit that meets this qualification may reduce the number of withheld market rate COs by one.
4. If the Land Trust is unable to sell any affordable unit within one year of the date it receives a certificate of occupancy, M/I Homes will be released from its obligation to sell that unit to the Land Trust and may sell the unit in accordance with the affordable housing provisions of the Carrboro Land Use Ordinance in existence prior to June 26, 2007 (the date of their amendment). Per the requirements of Section 15-128 of the Land Use Ordinance, the Board authorizes use of the referenced, pre-June 26, 2007 provisions based the findings of "substantial expenditures". Should this scenario transpire, in accordance with Section 15-182.4, the developer shall include in the restrictive covenants applicable to the subdivision, and in the deeds for the affordable units, covenants and restrictions that are sufficient to ensure that the affordable units will remain affordable as described in that section. Those covenants and restrictions shall include provisions that will allow the Town of Carrboro to enforce the commitment that the housing units remain affordable. These documents shall be subject to the approval of the Town Attorney.
5. That, prior to final plat approval, the applicant provides to the Town, in accordance with applicable LUO provisions, a financial security sufficient to construct their portion of the remaining, uncompleted road and stream crossing, from the eastern terminus of Street A, as shown on plans, to the property line directly to the east. The value of said security shall be determined by the 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 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 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.

9. That the applicant provide on the property, a 10' paved trail (meeting the Town of Carrboro's greenway standard) within a public access easement along the entirety of the Old NC 86 road frontage. The alignment may meander to avoid trees and other obstacles as needed.

10. That written authorization is provided from the Town of Carrboro Public Works Director prior to allowing the use of asphalt for the proposed mixed-use trail that fronts Old NC 86.

11. That an offer of dedication of the open space areas on east side of Lake Hogan Farm road extension be made to the Town.

12. That the 10' greenway trails demonstrate compliance on the construction plans with the greenway facilities specifications identified in the AASHTO Guide for the Development of Bicycle Facilities.

13. That the single family home lots, when developed have sufficient room to conveniently park two cars, off of the street, without blocking the sidewalk. Garages may not be counted toward this requirement. This parking will be shown on individual plot plans during the building permit stage.

14. That, for the townhome parking lots, the Board hereby allows a deviation from the parking requirements of 15-291(g), finding that 57 spaces are sufficient to serve the 34 townhomes. Per 15-292(a), the board makes this finding based on evidence submitted by the applicant as referenced in Attachment E of the staff report.

15. That the proposed street tree planting layout be revised to meet the spacing requirements of Section 15-315 of the LUO.

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.

17. That the Buckhorn Branch CLOMR be received prior to Phase 2 (East Side of Buckhorn Branch) final plat approval.

18. That a LOMR be received prior to granting building permits for the final 50% of Phase 2 lots (9 Lots) unless a bond is posted covering a LOMR approval and any potential infrastructure modifications deemed necessary as a result of the LOMR approval process for Buckhorn Branch.
19. 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.
20. 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.
21. That the developer provide a written statement from the electrical utility stating that electric service can be provided to all locations shown on the construction plans prior to the approval of the construction plans.
22. That fire flow calculations and building-sprinkler design (as required) must be submitted and approved by the Town Engineer and Town Fire Department prior to construction plan approval.
23. That the plans be revised such that the dumpsters and recycling facilities located between units 11 and 12 allow a clear 35' turning radius for efficient collection-vehicle access.
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.
25. That the subdivision must comply with the requirements of Section 15-177(d)-3a which specifies that developments of greater than 14 units provide a minimum of nine (9) significantly different house plans (i.e. elevations sets).
26. 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.
27. That prior to construction plan approval, the applicant either meet the requirements through proof of compliance of, enhance or, find an alternate-to, the proposed hydrodynamic separators, such that they satisfy the Town's stormwater requirements with regards to water quality.
28. That prior to Construction Drawing approval Town staff and the Consulting Engineer meets with NCDOT District Engineer to pursue the reduction in speed along Old NC 86. If NCDOT reduces the speed limit, the intersection could be moved to the original access easement location (subject to NCDOT approval). If not, the intersection would remain as shown on the CUP plans.

MOTION WAS ALEX ZAFFRON AND SECONDED BY DAN COLEMAN THAT THE HOMEOWNER'S ASSOCIATION DOCUMENTS SHOULD CONTAIN LANGUAGE ENCOURAGING LANDSCAPING DESIGN AND FLORA REQUIRING NO IRRIGATION OR WATER USAGE, AND THAT THE HOMEOWNERS ASSOCIATION DOCUMENTS CONTAIN NO LANGUAGE REQUIRING OR

ENCOURAGING LAWN AND LANDSCAPING TECHNIQUES OR SPECIES WHICH ENCOURAGE  
REGULAR WATER USAGE. VOTE: AFFIRMATIVE ALL

It was the consensus of the Board to schedule a discussion on the use of underground sprinkler systems and other areas of environmental concern, e.g. clothes lines, for a future meeting.

MOTION WAS MADE BY ALEX ZAFFRON AND SECONDED BY JOAL HALL BROWN THAT THE APPLICATION IS GRANTED, SUBJECT TO THE CONDITIONS AGREED UPON ABOVE. VOTE: AFFIRMATIVE ALL

\*\*\*\*\*

**PUBLIC HEARING ON A REQUEST TO PERMANENTLY CLOSE A SECTION OF CENTER STREET RIGHT-OF-WAY**

The purpose of this agenda item was to hold public hearing on a request to permanently close a section of Center Street right-of-way adjacent to 203 Center Street.

MOTION WAS MADE BY ALEX ZAFFRON AND SECONDED BY JACQUELYN GIST TO CLOSE THE PUBLIC HEARING AS NO ONE WISHED TO SPEAK. VOTE: AFFIRMATIVE ALL

The following resolution was introduced by Alderman Alex Zaffron and duly seconded by Alderman Jacquelyn Gist.

A RESOLUTION ORDERING THE CLOSING OF A 30-FOOT WIDE BY 62-FOOT FOOT LONG  
SECTION OF CENTER STREET RIGHT-OF-WAY ADJACENT TO  
203 CENTER STREET AND 500 POPLAR AVENUE  
Resolution No. 01/2007-08

THE BOARD OF ALDERMEN OF THE TOWN OF CARRBORO RESOLVES:

WHEREAS, the Board of Aldermen at its June 19, 2007 meeting adopted a resolution declaring its intention to close a 30-foot wide by 62-foot long section of Center Street right-of-way adjacent to the following properties: PIN: 9778-87-0991 (203 Center Street) and PIN: 9778-87-2082 (500 Poplar Avenue), further described as: Beginning at a point where the south property line of 203 Center Street intersects the Center Street right-of-way, then northerly along the Center Street right-of-way a distance of 62 feet, then easterly along the Center Street right-of-way for a distance of 30 feet, then southerly along the Center Street right-of-way for a distance of 62 feet, and then westerly a distance of 30 feet to the point of beginning; and

WHEREAS, in this same resolution the Board of Aldermen declared its intent to reserve its right, title, and interest in any utility improvements or easement with the 30-foot wide portion of right-of-way proposed for closing; this reservation shall also extend to utility improvements or easements owned by private utilities which at the time of the proposed street closing have a utility agreement or franchise with the Town.

WHEREAS, in this same resolution the Board of Aldermen set a public hearing on this question for August 28 at 7:30 pm in the Town Hall; and

WHEREAS, a copy of this resolution was published in the Chapel Hill Herald newspaper on July 29 and August 5, 12, 19 of 2007 and was sent by certified mail to the owners of property adjoining the street and a notice of the public hearing was posted in two places along said street, all in accordance with G.S. 160A-299; and

Office of the County  
Attorney

**ORANGE COUNTY**  
**P.O. BOX 8181**  
**200 S. CAMERON STREET**  
**HILLSBOROUGH, NC 27278**



June 10, 2010

Mr. Jeff Kleaveland  
Town of Carrboro  
Planning Department  
301 West Main Street  
Carrboro, NC 27510

Re: Ballentine Subdivision

Dear Mr. Kleaveland:

This letter is to confirm Orange County's intent to permit MI Homes to utilize an existing farm road, lying on the property line of the MI Homes property and Orange County property, for emergency access to the Ballentine Subdivision during construction. The use of said farm road may begin immediately upon the execution of an agreement between MI Homes and Orange County memorializing the terms of the use.

Further, at an as yet to be determined time in the future Orange County intends to work with MI Homes, in some manner to be agreed upon later, to collaborate on the construction of a public road, which shall provide access to both the Ballentine Subdivision and the Twin Creeks (Moniese Nomp) District Park and Educational Campus. It is currently Orange County's position that once the Ballentine Subdivision and the Twin Creeks Park construction move toward completion, construction of the public road should begin and dedication of a public right of way should occur.

Yours truly,

A handwritten signature in cursive script, appearing to read 'John Roberts', is written over a horizontal line.

John Roberts  
Orange County Attorney

CC David Stancil  
Jeremy Medlin

**From:** [Martin Roupe](#)  
**To:** [Jeff Kleaveland](#)  
**Subject:** FW: Update on Ballentine AIS CUP Condition  
**Date:** Saturday, March 08, 2008 12:36:54 PM

---

Jeff,  
 Please find below the email we discussed, for the construction plan file.

Thanks,  
 Marty

---

**From:** Martin Roupe  
**Sent:** Thursday, March 06, 2008 4:56 PM  
**To:** Dan Coleman; Jacquelyn Gist ; Joal Hall Broun ; John Herrera; Lydia Lavelle; Mark Chilton; Randee Haven-O'Donnell; Sarah Williamson; Steve Stewart  
**Cc:** Roy M. Williford; Adena Messinger  
**Subject:** Update on Ballentine AIS CUP Condition

Dear Mayor and Board Members:

You may recall that a condition was placed on the Ballentine AIS CUP related to Old NC 86 and the entryway for the subdivision. The condition reads as follows:

- 28. *That prior to Construction Drawing approval Town staff and the Consulting Engineer meets with NCDOT District Engineer to pursue the reduction in speed along Old NC 86. If NCDOT reduces the speed limit, the intersection could be moved to the original access easement location (subject to NCDOT approval). If not, the intersection would remain as shown on the CUP plans.***

Note that staff (including the Engineer) has worked with NCDOT and the developer since the permit was issued to satisfy this condition. Specifically, in addition to meeting and discussing in the field, Transportation Planner Adena Messinger sent a letter to NCDOT regarding the matter and they responded to notify the Town that they put a request for additional study of the corridor in their queue for further study (in accordance with the CUP condition). At this point, NCDOT is not recommending or agreeing with the request for a change to the speed limit. They may / may not recommend something different for the corridor when they further study the issue, but the developer now is free to move forward with construction plans for their project and they have in fact recently submitted the construction plans for review.

At this time, staff is simply keeping the Board informed on the matter. As always, please feel free to ask any questions you may have about the matter.

Thanks,  
 Marty

---

Marty Roupe, Development Review Administrator  
 Town of Carrboro Planning Department  
 301 West Main Street  
 Carrboro, NC 27510  
 (919) 918-7333 – phone  
 (919) 942-1720 – fax  
[mrroupe@townofcarrboro.org](mailto:mrroupe@townofcarrboro.org) – email  
[www.townofcarrboro.org](http://www.townofcarrboro.org) – Town of Carrboro Homepage  
[www.townofcarrboro.org/pzi/zoning.htm](http://www.townofcarrboro.org/pzi/zoning.htm) -- Zoning Division Homepage