

A RESOLUTION APPROVING A MINOR MODIFICATION TO THE BALLENTINE ARCHITECTURALLY INTEGRATED SUBDIVISION CONDITIONAL USE PERMIT, ALLOWING FOR PAYMENT-IN-LIEU OF PROVIDING TWO AFFORDABLE HOMES AND CONVERSION OF THE TWO UNITS TO NON-ENCUMBERED MARKET-RATE HOMES

Draft Resolution No. 194/2011-12

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 Land Use Ordinance provides for the possibility of a developer providing a payment-in-lieu of constructing one or more affordable dwelling units,

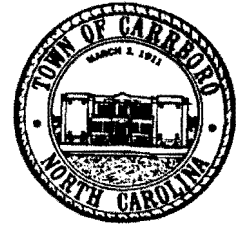
WHEREAS, the Board of Aldermen finds that the applicant has satisfied the requirements related to minor modifications contained in the Land Use Ordinance.

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, allowing payment-in-lieu of constructing two affordable homes on lots 25 and 26. The two dwelling units may be converted to market-rate housing as a result of this approval, subject to the following condition:

- That payment of \$_____ must be made to the Town of Carrboro Affordable Housing Special Reserve Fund prior to Certificates of Occupancy being issued for dwelling units located on lots 25 and 26 of the Ballentine development.

PREPARED BY AND RETURN TO:

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



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:

APPLICANT: M/I Homes
OWNERS: M/I Homes
PROPERTY LOCATION (Street Address): 8110 Old NC 86
TAX MAP, BLOCK, LOT(S): 7.23.C.31
PROPOSED USE OF PROPERTY: 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))

CARRBORO LAND USE ORDINANCE USE CATEGORY: 26.100, 1.111, 1.321

MEETING DATES: 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 this 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:

Town Clerk

BY _____
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: _____

ATTEST:

Secretary

STATE OF NORTH CAROLINA
_____ COUNTY

This the ____ day of _____, 2005, personally appeared before me, _____, a Notary Public in and for said County and State; _____, who being by me duly sworn, says that she knows the common seal of _____ and is acquainted with _____, who is the _____, and saw the _____ 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 _____.

WITNESS my hand and notarial seal, this the ____ day of _____, 2007.

(SEAL)

Notary Public

My Commission Expires: _____

(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**

Memorandum

To: Mayor Chilton and the Carrboro Board of Aldermen
From: Edward Kristensen, Area President of M/I Homes of Raleigh, LLC
Date: 2/28/2012
Re: CUP Minor modification- Ballentine Development

As the Board may recall, Robert Dowling and Anita Badrock of the Community Home Trust presented a three-fold request before the Board on February 21, 2012 regarding the issue of affordable homes in the Ballentine development. We at M/I, have worked closely with the Community Home Trust and are in full agreement with the comments presented that evening.

We are before you to act upon those requests as the builder/developer and to seek approval for:

- (1) Converting the Townhome units #25 and #26 from an affordable designation (buyers making below 80% of the AMI) to one of market designation (buyers for whom there is no income limit). These two units are currently part of a mixed building, which presents design, marketing issues for M/I, and long term maintenance issues for the Community Home Trust.
- (2) M/I would expect to make a reasonable payment in lieu for these two units that are part of a 4 unit mixed building of market rate and affordable townhomes.

The units in this building are designed with no garages and a considerably smaller "footprint" and much lower square footages than the other "market rate" townhomes to be built in the community. As such, the value in the market place will be relatively diminished.

None the less, M/I is prepared to provide a \$30,000 payment in here for each of the two units (\$60,000 total).

- (3) As proposed by the Home Trust, we request being able to build the market-rate townhomes at a faster pace than we can build the affordable townhomes. As explained by the Home Trust, they are constrained from selling all the affordable units in 2012 due to the limitations in their sources of subsidy. M/I Homes remains happy to work with the Home Trust on a schedule that enables them to sell the affordable units as their sources of subsidy are available.

Thank you for your attention.



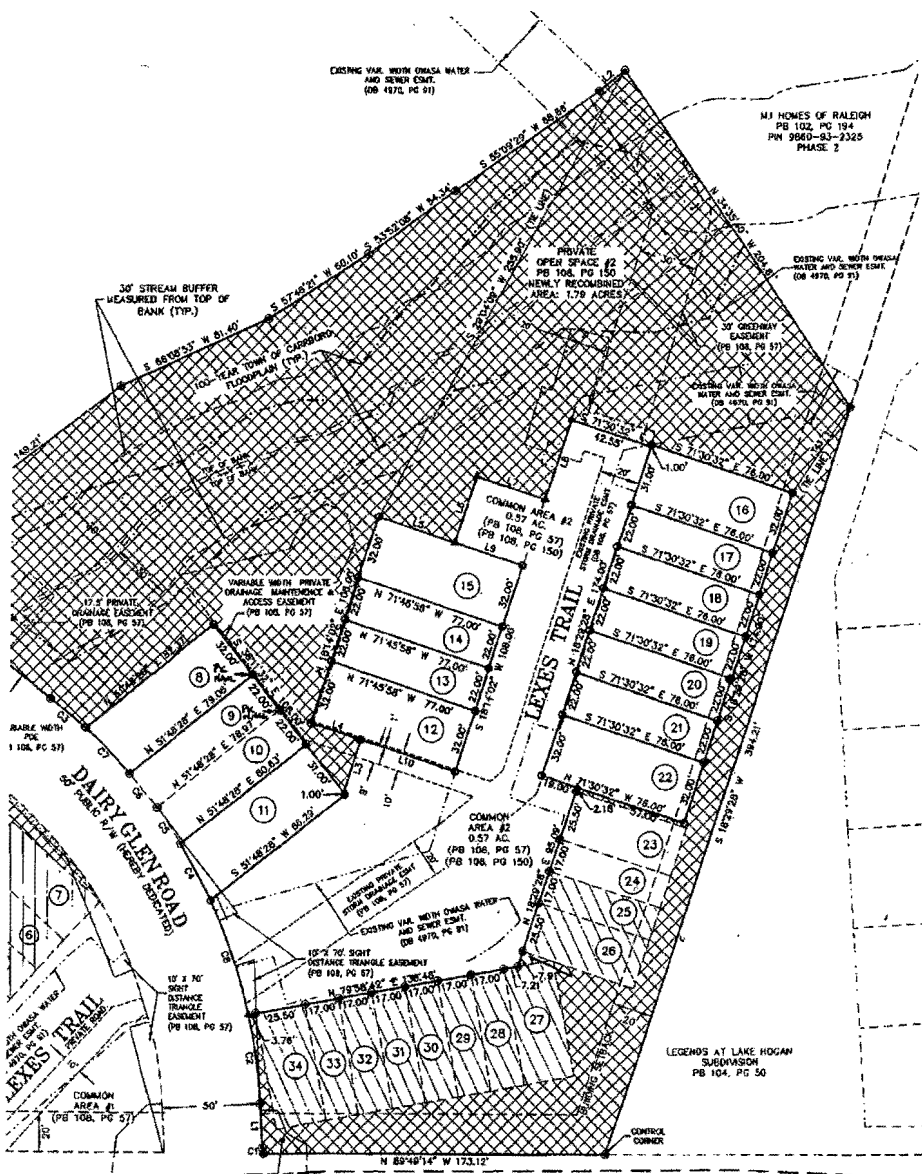
REVISIONS: 2011-09-13 TOWN COMMENTS

FILED: 2011-09-13
 Register of Deeds, Orange County, NC
 10229/2011 00161410 PG 111

JEWALK

GENERAL NOTES

1. SEE SHEET 1 OF 2 FOR GENERAL NOTES.



LEGEND

- ⊙ EXISTING IRON PIPE
- IRON PIPE SET
- ▲ CALCULATED POINT
- ▨ AFFORDABLE LOTS
- ▧ OPEN SPACE



THE JOHN R. McADAMS COMPANY, INC.
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REVISIONS:	DATE	BY	DESCRIPTION
2011-09-13			TOWN COMMENTS

OWNER:
 M/J HOMES, LLC
 1511 SUNDAY DRIVE, SUITE 100
 RALEIGH, NORTH CAROLINA 27607
 TEL: 919-233-5740

BALLETINE PHASE 1 - TOWNHOME SUBDIVISION
 LOTS 8, 11-22, COMMON AREA #2 AND
 OPEN SPACE # 2 TOWN OF CARRBORO
 CHAPEL HILL, TOWNSHIP, ORANGE COUNTY, NORTH CAROLINA
RECOMBINATION PLAT

PROJECT NO.	MEM-09000
FILE NUMBER	MHD0000-R2
DESIGNED BY	RTF
DRAWN BY	EMM
SCALE	1"=40'
DATE	08-28-2011
SHEET NO.	2-2

FOR MULTIPLE PIN SHEET
 SEE BOOK PAGE 465

