

**A RESOLUTION APPROVING AN EXTENSION OF THE DATE ON WHICH A
CUP WOULD OTHERWISE EXPIRE FOR THE BUTLER CUP
LOCATED AT 105 PADGETTE LANE**

WHEREAS, the Carrboro Board of Aldermen approved a Conditional Use Permit for The Butler, CUP at 8110 Old NC 86 on August 26, 2008; and

WHEREAS, the original CUP expiration date was extended by state legislative action to January 1, 2013 in response to the economic crisis; and

WHEREAS, the Board of Aldermen finds, per Section 15-62(c) of the LUO, that: 1) the CUP has not yet expired, 2) the permit recipient has proceeded with due diligence and in good faith, and 3) conditions have not changed so substantially as to warrant a new application.

NOW, THEREFORE BE IT RESOLVED by the Carrboro Board of Aldermen that the expiration date for the Butler, Conditional Use Permit is hereby extended to January 1, 2014.

Kay Richardson
8 Kendall Dr.
Chapel Hill, NC 27517
919-942-4800

9/25/12

Marty Roupe
Development Review Administrator
Town of Carrboro
301 W. Main St.
Carrboro, NC 27510

Dear Mr. Roupe:

This letter serves as a request for a one-year extension of the conditional-use permit issued for The Butler, which expires Jan. 1, 2013.

I purchased this property out of bank foreclosure in August 2012 and am proceeding with due diligence and in good faith toward using the property in accordance with the CUP. I am a partner in Main Street Properties of Chapel Hill LLC, the developer of the 300 East Main project to the north, and we are working with town officials and the N.C. Department of Environment and Natural Resources (the Butler property is a Brownfields site) to best coordinate The Butler with 300 East Main.

With less than five months between closing on the purchase and the expiration of the CUP, there is no way to begin construction by Jan. 1. Meanwhile, conditions have not changed so substantially as to warrant a new application, so I request that the Board of Aldermen extend the existing one.

Please let me know if you have any questions or require additional information.

Yours truly,



Kay Richardson



20081022000250430 PRMIT
Bk:RB4618 Pg:473
10/22/2008 01:25:25 PM 1/5

FILED Joyce H. Pearson
Register of Deeds, Orange Co., NC
Recording Fee: \$26.00
NC Real Estate TX: \$0.00

m
LB

<p>PREPARED BY AND RETURN TO: TOWN CLERK TOWN OF CARRBORO 301 West Main Street CARRBORO, NORTH CAROLINA 27510</p>



**ORANGE COUNTY
NORTH CAROLINA**

**TOWN OF CARRBORO
CONDITIONAL USE PERMIT GRANTED
The Butler Mixed Use Building**

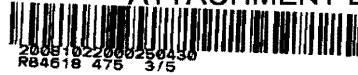
On the date(s) listed below, the Board of Aldermen of the Town of Carrboro met and held a public hearing to consider the following application:

APPLICANT: Downtown Urban Ventures, LLC and Edwin Andrews Properties, Inc.
OWNERS: Downtown Urban Ventures, LLC and Edwin Andrews Properties, Inc.
PROPERTY LOCATION (Street Address): 120 Brewer Lane
TAX MAP, BLOCK, LOT(S): 7.92.A.22 9778-96-8060 m
PROPOSED USE OF PROPERTY: Construction of a five-story mixed use building.
CARRBORO LAND USE ORDINANCE USE CATEGORY: Building Site: 27.000, Combination Use including: 1.310, 3.110, 3.120, 3.130, 3.150, 3.210, 3.220, 3.250
MEETING DATES: June 24 and August 26, 2008

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 of no effect.

3. That no size-limited unit may be enlarged for one year after issuance of a certificate of occupancy.
4. That the applicant make a payment-in-lieu of affordable housing for four (4) of the nine (9) proposed affordable units in the amount not to exceed \$100,000 per unit to be paid to the Town of Carrboro's Affordable Housing Special Review Fund, and that the remaining five (5) affordable dwellings provided be, at a minimum, one-bedroom units.
5. That a fee in-lieu of recreation points equivalent to 44.93 points @ \$186.98 per point, or \$8,401.00 (subject to fee change on July 1, 2008) be paid to the Town of Carrboro prior to construction plan approval.
6. 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).
7. That prior to construction plan approval, the applicant provide to the Town of Carrboro 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.
8. That the applicant be allowed to deviate from the presumptive parking standard requirement 149 spaces by providing 136 spaces based upon their written justification that anticipates shared use of spaces between business and residential uses (Attachment G).
9. That the applicant must receive a Town of Carrboro driveway permit for Brewer Lane prior to construction plan approval (if found to be necessary).
10. That, per the provisions of Section 15-309 of the Carrboro Land Use Ordinance, 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).
11. 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.
12. 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.
13. That the applicant shall provide to the Carrboro 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.
14. 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, bio-retention 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 the Town of Carrboro engineer and Environmental Planner for approval prior to construction plan approval. Upon approval, the plans shall be included in the homeowners' association documentation.



15. That prior to construction plan approval, the applicant gain written permission from the UNC Property Office to access their site via the Libba Cotton Bikeway so as to perform work necessary to implement the approved plan.
16. That prior to construction plan approval, a construction traffic management plan be approved by the Town of Carrboro addressing the project's impact during construction on both the Libba Cotton Bikeway and the surrounding streets.
17. That prior to issuance of the Certificate of Occupancy, if it is deemed necessary by the Carrboro Fire Department, the applicant replace the existing bollards on the Libba Cotton bikeway (the ones that directly affect emergency access to the new building) with improved, removable or collapsible bollards.
18. 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.
19. That prior to construction plan approval, a shared-use and maintenance easement between the owners of 110 and 120 Brewer Lane be approved by the Town Attorney and recorded regarding the solid waste facility arrangement for the two properties.
20. That prior to issuance of the Certificate of Occupancy, the applicant provide evidence that they have fulfilled the relevant terms, provisions and requirement of their recorded Brownfield Agreement with NCDENR.
21. That the applicant must obtain all necessary temporary and permanent easements prior to construction plan approval.
22. That condominium owner's association documents are approved by the Carrboro Town Attorney prior to issuance of the Certificate of Occupancy.
23. That the applicant receive(s) CAPS from the Chapel Hill-Carrboro City Schools district pursuant to Article IV, Part 4 of the Carrboro Land Use Ordinance prior to construction plan approval.
24. That if Orange Community Housing and Land Trust is unable to sell any affordable unit within one year of the date it receives a certificate of occupancy, Downtown Urban Ventures, or its successors or assigns, will be released from its obligation to sell that unit to OCHLT and may instead provide to the Town of Carrboro a payment-in-lieu of providing an affordable unit, consistent with the applicable related Carrboro Land Use Ordinance language.
25. That prior to construction plan approval, the applicant must prepare, and the Town Manager accept, a three-party agreement between the future owner's association, Orange Community Housing and Land Trust, and the Town of Carrboro. The agreement must: 1) stipulate that either the Land Trust or the Town must verify compliance with the applicable provisions of the conditional use permit and Land Use Ordinance relating to affordable housing prior to the sale/resale of any affordable unit; 2) establish and implement a 1% transfer fee program wherein market-rate units will subsidize affordable units within the development; and 3) stipulate that the owner's association covenants must include language regarding the affordable units and properly disclose related information to purchasers of market-rate units information regarding the 1% transfer fee program. Details regarding this condition must be presented to and approved by the Carrboro Town Attorney and Town Manager prior to construction plan approval. Monies collected in the affordable housing transfer fee program, associated with the sale/resale of properties, are to be placed into a fund for the specific purpose of paying condominium and townhome owner's association dues for persons who acquire affordable housing.
26. That the applicant fulfill their agreements as listed in Attachment E-1 (Summary Actions Agreed to by the Applicant Relative to Advisory Board Recommendation), with the revision of #17 to require the pedestrian connection to the north from the courtyard be handicap accessible.

27. That the developer will post in a prominent location on the building site, a contact number for the public to call to report concerns. The contact should be available at all times.

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.

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.

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, Sarah C. Williamson, of the property above described, do hereby accept this Conditional Use Permit, subject to the conditions, as binding upon them and their successors in interest.



THE TOWN OF CARRBORO

ATTEST:

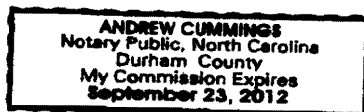
Sarah C. Williamson (SEAL)
Town Clerk

BY St. Stewart
Town Manager

I, Andrew Cummings, 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 7th day of OCTOBER, 2008.

(SEAL)



Andrew Cummings
Notary Public

My Commission Expires: 9/23/2012



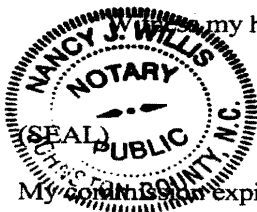
IN TESTIMONY WHEREOF, the undersigned Limited Liability Partnership Grantor has caused this instrument to be executed in the appropriate partnership name by the duly authorized general partner, and has adopted as its seal the word "Seal" appearing beside its name and their signature(s), this sealed instrument being executed and delivered on the date first above written.

(SEAL)

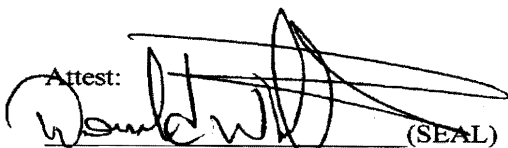
DOWNTOWN URBAN VENTURES, LLC

By: Title: Member/ManagerNorth Carolina (STATE)Wake (COUNTY)

I, Nancy J. Willis, a Notary Public of the County and State aforesaid, certify that Richard W. Gaylord, Jr personally appeared before me this day and acknowledged that he is Member/Manager of Carr Mill Limited Partnership, and that by authority duly given and as the act of the limited partnership, the foregoing instrument was signed in its name by him as Member/Manager on behalf of the limited partnership as Member/Manager thereof all by authority duly given.

my hand and official seal, this 29th day of September, 2008.Nancy J. Willis
Notary PublicMy commission expires: 10/30/09

Attest:


(SEAL)
Secretary

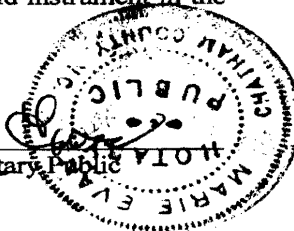
EDWIN ANDREWS PROPERTIES, INC.

BY 

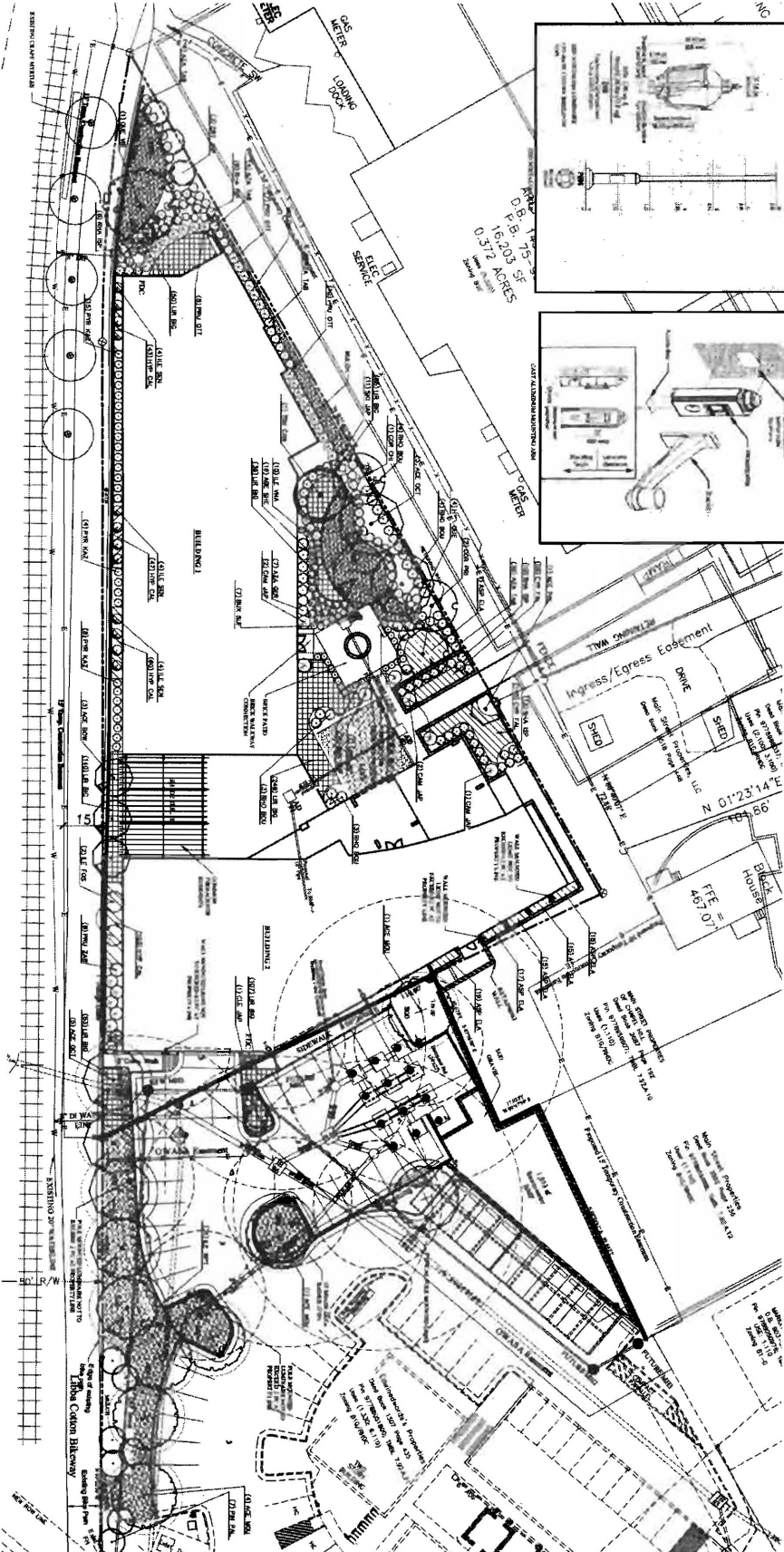
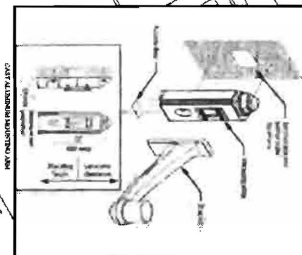
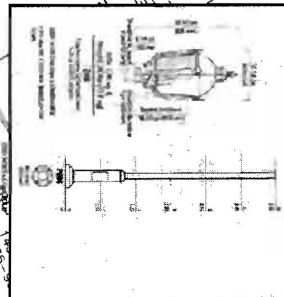
Vice President

NORTH CAROLINA
ORANGE COUNTY

I, Marie Evans, a Notary Public of Chatham County, N.C. do hereby certify that Donald Whittier appeared before me this day and being duly sworn says that he/she knows the common seal of Edwin Andrews Properties, Inc., and is acquainted with Donald Whittier who is Secretary of said corporation and he/she, Donald Whittier who is Secretary of said corporation, saw the said Vice President sign the foregoing instrument and that he/she, Donald Whittier, Secretary as aforesaid, affixed said seal of said instrument and he/she, the said Secretary, signed his/her name in attestation of execution of said instrument in the presence of said President of said corporation.

Witness my hand and notarial seal, this the 25 day of Sept., 2008.My Commission Expires: 4-28-2013

LEGEND
 ALL DIMENSIONS IN FEET
 ALL DIMENSIONS IN FEET
 ALL DIMENSIONS IN FEET
 ALL DIMENSIONS IN FEET



01 PLANTING PLAN FOR 320 E. MAIN CONDOMINIUMS & 110 BREWER LANE



REVISIONS	DATE	BY	CHKD.
1. Initial Design	01/11/2017	W. Cline	W. Cline
2. Final Design	01/11/2017	W. Cline	W. Cline
3. Final Design	01/11/2017	W. Cline	W. Cline
4. Final Design	01/11/2017	W. Cline	W. Cline
5. Final Design	01/11/2017	W. Cline	W. Cline

Owner: 320 E. Main Condominiums, LLC
 320 E. Main Lane, Suite 300
 Raleigh, NC 27601
 Phone: 919.781.1111
 Fax: 919.781.1111
 Owner's Contact: Mr. Michael
 Office Phone: 919.781.1111
 Mobile Phone: 919.781.1111

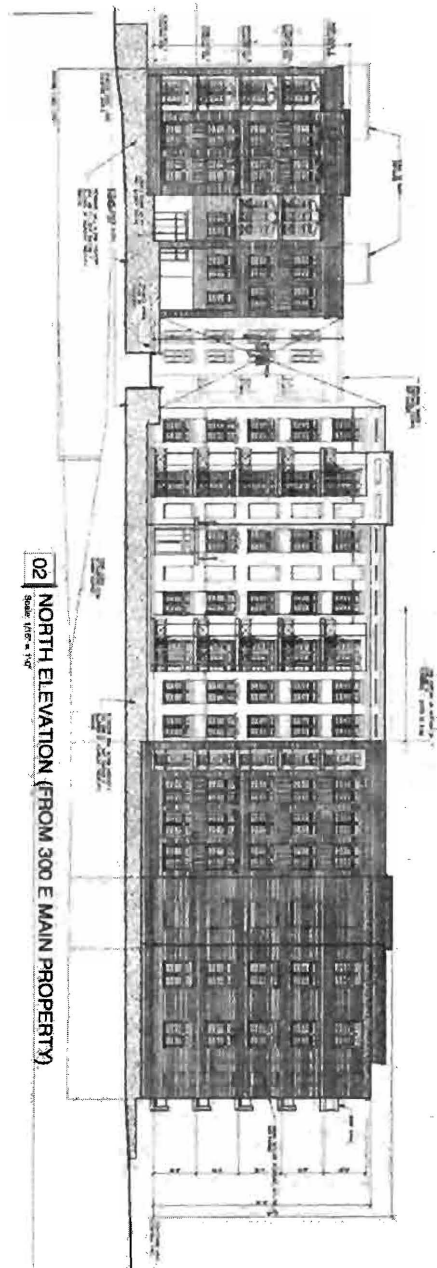
DATE: 01/11/2017
 DRAWN BY: W. Cline
 CHECKED BY: W. Cline
 PROJECT: 320 E. Main Condominiums, LLC
 SUBMITTAL FOR: Final Design
 PLAN: PLANTING

Conditional Use Permit
 Not for Construction

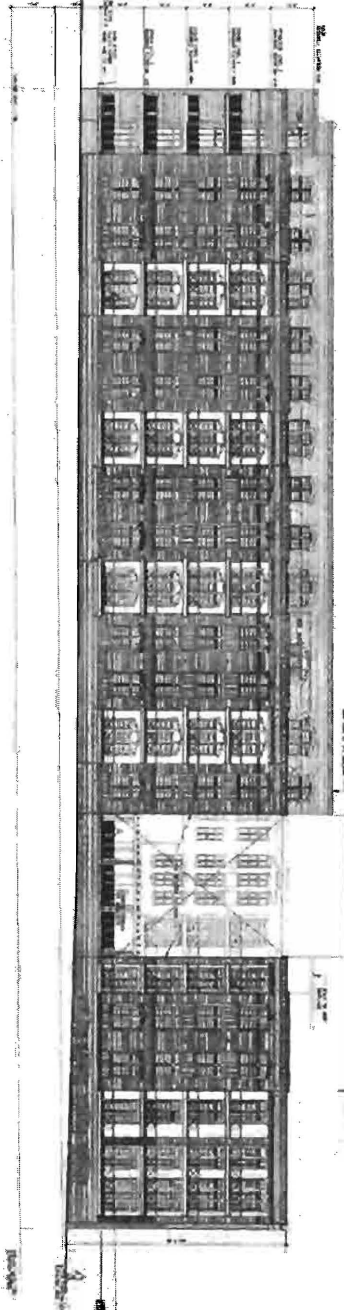
"The Butler" Condominiums
 120 Brewer Lane
 Carrboro, NC

CLINE DESIGN
 W. Cline, Designer
 1101 S. Main Street, Suite 100
 Raleigh, NC 27601
 Phone: 919.781.1111
 Fax: 919.781.1111
 Email: wcline@cline-design.com

LP1.00



02 NORTH ELEVATION (FROM 300 E MAIN PROPERTY)



01 SOUTH ELEVATION (FROM BIKE PATH)

TYPICAL MATERIALS
 BRICK WITH WHITE GROUT AND RED GLAZED
 TERRAZZO AT ENTRANCE
 CONCRETE AT BALCONY
 CONCRETE AT TERRACE
 CONCRETE AT DRIVEWAY

Conditional Use Rezoning
 Permit Application

NO.	DESCRIPTION	DATE
01	Initial Design	01/15/18
02	Revised Design	02/15/18
03	Final Design	03/15/18
04	Construction	04/15/18
05	Completed	05/15/18

Owner:
 The Butler Condominiums, LLC
 120 Brewer Lane
 Carrboro, NC 27510
 Phone: 919.791.7777
 Fax: 919.791.7777
 Email: info@thebutlercondos.com

DATE: 02/15/18

DESIGNED BY: [Signature]

CHECKED BY: [Signature]

DATE: 02/15/18

DESIGNED BY: [Signature]

CHECKED BY: [Signature]

"The Butler" Condominiums
 120 Brewer Lane
 Carrboro, NC



(c) If a development that is to be built in phases or stages includes improvements that are designed to relate to, benefit, or be used by the entire development (such as a swimming pool or tennis courts in a residential development) then, as part of his application for development approval, the developer shall submit a proposed schedule for completion of such improvements. The schedule shall relate completion of such improvements to completion of one or more phases or stages of the entire development. Once a schedule has been approved and made part of the permit by the permit-issuing authority, no land may be used, no buildings may be occupied, and no subdivision lots may be sold except in accordance with the schedule approved as part of the permit, provided that:

- (1) If the improvement is one required by this chapter then the developer may utilize the provisions of Subsections 15-60(a) or 15-60(c);
- (2) If the improvement is an amenity not required by this chapter or is provided in response to a condition imposed by the board, then the developer may utilize the provisions of Subsection 15-60(b).
- (3) Changes in phasing schedules may be made in the same manner as other permit modifications pursuant to the procedures set forth in Section 15-64.
(AMENDED 2/24/87)

Section 15-62 Expiration of Permits.

(a) Zoning, special use, conditional use, and sign permits shall expire automatically if, within two years after the issuance of such permits: (AMENDED 5/26/81)

- (1) The use authorized by such permits has not commenced, in circumstances where no substantial construction, erection, alteration, excavation, demolition, or similar work is necessary before commencement of such use; or
- (2) Less than ten percent of the total cost of all construction, erection, alteration, excavation, demolition, or similar work on any development authorized by such permits has been completed on the site. With respect to phased development (see Section 15-61), this requirement shall apply only to the first phase.

(b) If, after some physical alteration to land or structures begins to take place, such work is discontinued for a period (i) of one year if the date of discontinuance occurs more than one year after the issuance of the permit, or (ii) equal to two years less the time between the issuance of the permit and the time work is discontinued if the date of discontinuance occurs less than one year after the issuance of the permit, then the permit authorizing such work shall immediately expire. However, expiration of the permit shall not affect the provisions of Section 15-63.

(c) The permit-issuing authority may extend for a period up to one year the date when a permit would otherwise expire pursuant to subsections (a) and (b) if it concludes that (i) the permit has not yet expired, (ii) the permit recipient has proceeded with due diligence and in good faith, and (iii) conditions have not changed so substantially as to warrant a new application. Successive extensions may be granted for periods up to one year upon the same findings. All such extensions may be granted without resort to the formal processes and fees required for a new permit.

(d) For purposes of this section, a permit within the jurisdiction of the Board of Aldermen or the board of adjustment is issued when such board votes to approve the application and issue the permit. A permit within the jurisdiction of the zoning administrator is issued when the earlier of the following takes place: **(AMENDED 11/10/81)**

- (1) A copy of the fully executed permit is delivered to the permit recipient, and delivery is accomplished when the permit is hand delivered or mailed to the permit applicant; or
- (2) The zoning administrator notifies the permit applicant that the application has been approved and that all that remains before a fully executed permit can be delivered is for the applicant to take certain specified actions, such as having the permit executed by the property owner so it can be recorded if required under G.S. 15-46(c).

(e) Notwithstanding any of the provisions of Article VIII (Nonconforming Situations), this section shall be applicable to permits issued prior to the date this section becomes effective.

Section 15-63 Effect of Permit on Successors and Assigns.

(a) Zoning, special use, conditional use and sign permits authorize the permittee to make use of the land and structures in a particular way. Such permits are transferable. However, so long as the land or structures or any portion thereof covered under a permit continues to be used for the purposes for which the permit was granted, then:

- (1) No person (including successors or assigns of the person who obtained the permit) may make use of the land or structures covered under such permit for the purposes authorized in the permit except in accordance with all the terms and requirements of that permit; and
- (2) The terms and requirements of the permit apply to and restrict the use of land or structures covered under the permit, not only with respect to all persons having any interest in the property at the time the permit was obtained, but also with respect to persons who subsequently obtain any interest in all or part of the covered property and wish to use it for or in

TOWN OF CARRBORO

BOARD OF ALDERMEN



PERMIT EXTENSION WORKSHEET

I. FINDINGS REQUIRED BY SECTION 15-62(c)

A. The permit has not yet expired.

- ☐ Yes
☐ No

B. The permit recipient has proceeded with due diligence and in good faith.

- ☐ Yes
☐ No

C. Conditions have not changed so substantially as to warrant a new application.

- ☐ Yes
☐ No

II. GRANTING THE PERMIT EXTENSION REQUEST

- ☐ The Permit Extension Request is granted, extending the expiration date of the previously issued Conditional Use Permit by a period of one year from the date on which it would otherwise expire.

III. DENYING THE PERMIT EXTENSION REQUEST

- ☐ The Permit Extension Request is denied because it fails to comply with the ordinance requirements set forth above in Section I.