

**A RESOLUTION APPROVING AN EXTENSION OF THE DATE ON WHICH A
CUP WOULD OTHERWISE EXPIRE FOR THE LITCHFIELD AIS CUP
LOCATED AT 900 HOMESTEAD ROAD**

WHEREAS, the Carrboro Board of Aldermen approved a Conditional Use Permit for the Litchfield AIS, CUP at 900 Homestead Road on June 22, 2010; 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 Litchfield AIS, CUP is hereby extended to January 1, 2014.

PHILIP
POST
&
ASSOCIATES

September 21, 2012
#510405

Town of Carrboro
Planning Department
301 West Main Street
Carrboro, NC 27510
Attn: Marty Roupe

Re: Litchfield AIS Subdivision – Permit Extension Request

Dear Marty:

On behalf of Mark Zimmerman with Homestead Partners, LLC, we do hereby request an extension of the CUP Permit for the Litchfield AIS Subdivision that was approved by the Board of Aldermen on June 22, 2010. A summary of the need for this extension is detailed by Mr. Zimmerman as follows:

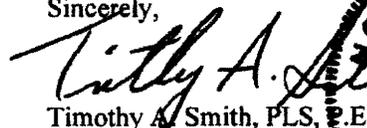
“This permit extension is necessary because of economic conditions. The CUP was granted in 2010, less than two years after the start of the worst economic recession in decades. While the economy has very slowly been recovering, the lagging sector has been real estate development. Several reasons are responsible for this. First, the bursting of the real estate development bubble initially precipitated the recession. The concurrent credit crunch stemmed from precarious bank lending to real estate development. Several constraints to development resulted from those issues. First, federal lending requirements were tightened essentially preventing any land development loans. There are no local or regional banks that will currently consider loaning for land development at this time. Second, a significant amount of commotion occurred in the building and development industry among local, regional and national companies. Many were forced into bankruptcy and the survivors have been unable to self-finance development of new lots.

Homestead Partners, LLC has been diligent in trying to overcome these systemic obstacles. We have been in regular contact with loan officers at area banks inquiring as to whether federal requirements will once again allow for land development. Those restrictions have not yet been lifted. We have sought private equity financing without success. We have also had discussions with local developers and builders about joint development, again without success. Finally, we have sought buyers for the property through actively listing the property with a land specialist. That is an on-going effort that we will continue to pursue.

Homestead Partners, LLC is committed to seeing the approved CUP, a very good plan appropriate for the location and the community, developed to provide quality market rate and affordable residential housing in the Northern Transition Area. Hopefully, the beginnings of a residential real estate market recovery will continue, allowing lending sources for new development to be freed from restrictions and to provide much needed capital to fund projects like this.” – *Mark Zimmerman*

Please let us know if you have any questions regarding our request or if you need any further documentation or information.

Sincerely,


Timothy A. Smith, PLS, P.E.





bcc

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AM

20100723000003250 PRMIT
Bk:RB4982 Pg:573
07/23/2010 11:47:01 AM 1/5

FILED Deborah B. Brooks
Register of Deeds, Orange Co., NC
Recording Fee: \$26.00
NC Real Estate TX: \$.00 *SWB*

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
Litchfield Architecturally Integrated Subdivision**

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: Homestead Partners, LLC
OWNERS: Homestead Partners, LLC
PROPERTY LOCATION (Street Addresses): 900, 904 and 906 Homestead Road
TAX MAP, BLOCK, LOT(S): 7.109..18, 18A and 19D (PIN #s: 9779276836, 9779287186, and 9779280230) <i>on</i>
PROPOSED USE OF PROPERTY: Major Subdivision consisting of the following uses: 1.111 (single-family detached), 1.231 (duplex) and 1.241 (two-family apartment)
CARRBORO LAND USE ORDINANCE USE CATEGORY: 26.100
MEETING DATES: May 25, 2010 and June 22, 2010

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. That, prior to construction plan approval, a recombination plat is approved by the Town and recorded by Orange County Register of Deeds, showing the reconfigured lot in conformance with the approved CUP plans.
4. The continued affordability of the units (identified as 1, 2, 18, 19, 27, 28) must be ensured through working directly with Community Home Trust, in accordance with LUO Section 15-182.4.
5. Certificates of Occupancy for six (6) of the last 'market-rate' units to be constructed may not be issued until such time as a corresponding affordable unit (located on lots 1, 2, 18, 19, 27, 28) is constructed and 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.
6. That, prior to construction plan approval, the applicant explores alternative traffic calming techniques for Lucas Lane, including but not limited to a mid-block curb extension (also known as a "choker).
7. That prior to construction plan approval, the applicant receive a driveway permit from NCDOT.
8. That, prior to Construction Plan approval, the sidewalk detail on the detail sheet is labeled and specifies that sidewalk thickness shall increase to a minimum of 6" thick where all driveways cross the sidewalk.
9. 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.
10. That flexibility be allowed in the execution of the street tree planting plan (subject to the approval of public works and the planning department), such that the combination of existing and proposed trees along all publicly dedicated streets in Litchfield meet the street tree requirements of Section 15-315 of the Land Use Ordinance.
11. That, prior to construction plan approval, the equivalent of a Type A screen be shown on the development side of the Homestead Road Buffer. Maintenance of this buffer is a continued condition of this permit.
12. That flexibility is allowed during Construction Plan approval and in the execution of the Drainage Plans. Changes will be processed as insignificant deviations so long as they are found not to have a substantial impact on neighboring properties, the general public, or those intended to occupy or use the proposed development.
13. That, prior to Construction Plan approval, the HEC-RAS flood study shall be approved by the Town Engineer to study the 100 year flood (with backwater analysis) for both the existing and proposed conditions; any substantial design changes made as a result of this study (to comply with the LUO) will require the approval of either staff or the Board of Aldermen (with possible public hearing) per the provisions of 15-64 of the LUO. Substantial design changes would be defined as those that have a substantial impact on neighboring properties, the general public, or those intended to occupy or use the proposed development.
14. That all state and federal 401 and 404 permits be obtained prior to construction plan approval if necessary.



15. 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.
16. That the developer shall include 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 Town engineer and Environmental Planner for approval prior to construction plan approval. Upon approval, the plans shall be included in the homeowners' association documentation.
17. 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.
18. 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.
19. That all new street lighting be provided by full cutoff fixtures.
20. That construction plans and subsequent building permits demonstrate compliance with the current lighting provisions of Article XV of the Land Use Ordinance, in place at the time of this hearing.
21. That the applicant receive(s) CAPs from the Chapel Hill Carrboro City Schools District pursuant to Article IV, Part 4 of the Land Use Ordinance, prior to construction plan approval.
22. That the applicant submit a Voluntary Annexation Petition prior to final plat approval.
23. That the applicant provide, in each of the 10,000 sq ft play areas, a hedge or other border along the Lucas Lane frontage between the sidewalk and the play area and that the applicant provide shaded seating in the 10,000 sq ft play areas.
24. That the HOA and design standards documents include green-building guidelines for new construction and do not prohibit clotheslines, solar panels and other renewable energy measures.

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 being all of the property above described, do hereby accept this Conditional Use Permit, together with all its conditions, binding upon them and their successors in interest.



THE TOWN OF CARRBORO

ATTEST:

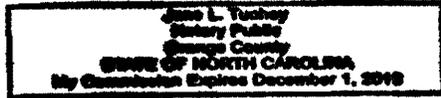
Sharmin E. Mirman
Deputy Town Clerk

BY Carl M. Efrid
For Town Manager

I, Jane L. Tuckey a Notary Public in and for said County and State, do hereby certify that Sharmin Mirman, Deputy 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 Carl M. Efrid, signing for the Town Manager of said Town of Carrboro and Sharmin Mirman, Deputy 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 21 day of July, 2010.

(SEAL)



Jane L. Tuckey
Notary Public

My Commission Expires: 12-1-2013



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.



HOMESTEAD PARTNERS, LLC

By: [Signature]
Title: Member - Manager

N.C. (STATE)
ORANGE (COUNTY)

I, T. B. Seagraves Jr., a Notary Public of the County and State aforesaid, certify that William E. Tate personally appeared before me this day and acknowledged that he is Member-Manager of Homestead Partners, LLC, 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 Homestead Partners, LLC thereof all by authority duly given.

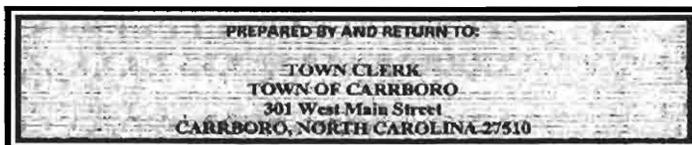
Witness my hand and official seal, this 2nd day of July, 2010.

[Signature]
Notary Public

(SEAL)

My commission expires: 2-28-14

(Not valid until fully executed and recorded)



(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).

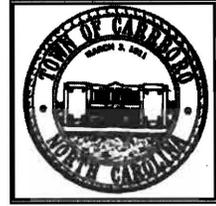
(e) Notwithstanding any of the provisions of Article VIII (Nonconforming Situations), this section shall be applicable to permits issued prior to the date this section becomes effective.

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.