

Adopted Version

A public hearing of the Carrboro Board of Aldermen was held on Tuesday, August 26, 2008 at 7:30 p.m. in the Town Hall Board Room.

Present and presiding:

Mayor	Mark Chilton
Aldermen	Joal Hall Broun
	Dan Coleman
	Jacquelyn Gist
	John Herrera
	Randee Haven-O'Donnell
	Lydia Lavelle
Town Manager	Steven E. Stewart
Town Attorney	Michael B. Brough
Town Clerk	Sarah C. Williamson

APPROVAL OF MINUTES OF PREVIOUS MEETINGS

MOTION WAS MADE BY DAN COLEMAN AND SECONDED BY JACQUELYN GIST TO APPROVE THE JUNE 24 AND JULY 31, 2008 MINUTES AS AMENDED. VOTE: AFFIRMATIVE ALL

A RESOLUTION ACCEPTING THE N.C. LEAGUE OF MUNICIPALITIES GREEN CHALLENGE

The purpose of this agenda item was to request adoption of a resolution for the Town to participate in the North Carolina League of Municipality Green Challenge.

The following resolution was introduced by Alderman Dan Coleman and duly seconded by Alderman Jacquelyn Gist.

A RESOLUTION ACCEPTING THE N.C. LEAGUE OF MUNICIPALITIES
GREEN CHALLENGE
01/2008-09

WHEREAS, the Town of Carrboro wants to emphasize the benefits of energy conservation and conservation of other natural resources such as water; and

WHEREAS, the Town of Carrboro wants to demonstrate that conservation practices can be applied to the daily operations of municipal government and to infrastructure projects; and

WHEREAS, the Town of Carrboro seeks to find methods of service delivery and operations that conserve energy and resources, thus saving taxpayer dollars and protecting and preserving the environment; and

WHEREAS, sound conservation practices can reduce government costs over the long-term; and

WHEREAS, the Town of Carrboro chooses to lead by example to show the practicality and effectiveness of conservation practices; and

WHEREAS, the Town of Carrboro seeks to encourage its citizens and its businesses to be stewards of the environment;

NOW THEREFORE, BE IT RESOLVED THAT the Board of Aldermen of the Town of Carrboro accepts the NCLM Green Challenge and pledges to work toward achieving the various levels of the challenge, indicating measures accomplished to save energy and other natural resources over the next three years.

The foregoing resolution having been submitted to a vote received the following vote and was duly adopted this 28th day of August 2008:

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

Noes: None

Absent or Excused: None

CONTINUATION OF A PUBLIC HEARING ON A LAND USE ORDINANCE TEXT AMENDMENT TO MODIFY IMPERVIOUS SURFACE LIMITATIONS FOR DAY CARE USES IN VILLAGE MIXED USE DEVELOPMENTS

A draft ordinance which would, if adopted, amend the text of the Land Use Ordinance to modify impervious surface limitations for day care uses in Village Mixed Use developments has been prepared and revised per directions from the Board of Aldermen. The Board of Aldermen has received public comment on the draft ordinance and must adopt a resolution of consistency in conjunction with any action on the draft ordinance.

Mayor Chilton stated that the applicant had requested that this public hearing be continued until the Board's October public hearing.

MOTION WAS MADE BY JOHN HERRERA AND SECONDED BY JOAL HALL BROUN TO CONTINUE THIS PUBLIC HEARING TO OCTOBER 28, 2008. VOTE: AFFIRMATIVE ALL

CONTINUATION OF PUBLIC HEARING ON "THE BUTLER" MIXED USE BUILDING CONDITIONAL USE DISTRICT REZONING/CONDITIONAL USE PERMIT

Downtown Urban Ventures, LLC has submitted applications for a B-1(c) conditional use rezoning and, a conditional use permit to allow for the construction of a five-story mixed use building on the property adjacent to the existing 110 Brewer Lane mixed use project. Prior to reaching a decision on a request for a CUP, the Board must hold a public hearing to receive input. The applicants requested that the Aldermen review, deliberate and offer comment on the proposed plans.

Mayor Chilton asked to be recused from consideration of this matter because one of his clients owns property associated with this development.

MOTION WAS MADE BY JOAL HALL BROUN AND SECONDED BY DAN COLEMAN TO RECUSE THE MAYOR. VOTE: AFFIRMATIVE ALL

Trish McGuire, the town's Planning Administrator, reminded the Board that this is a combination public hearing--the Board will be taking action on the conditional use rezoning first then the conditional use permit.

Jeff Kleaveland, one of the town's Planners, reviewed the recommendations proposed.

Michael Neal, the project engineer, explained how their project will connect to the surrounding area.

Eric Wolfe, the developer's landscape architect, was sworn in. He addressed the type of trees/shrubs proposed between this building and the 300 E. Main Street project.

Robert Dowling, Executive Director of OCHLT, was sworn in. He stated that the developers have been very forthcoming and willing to do what has been asked of them. He asked the developer to provide five one-bedroom units and a payment-in-lieu for each of the four studio units.

Alderman Broun asked for an annual report from OCHLT on the turnover of affordable housing units.

Jon Wilner, Executive Director of the ArtsCenter, was sworn in. He asked where the bike and walking path will be located.

Mr. Neal explained that the bike/walking path will connect to the 300 E. Main Street project.

Marty Roupe, the town's Zoning Administrator, was sworn in. He addressed the developer's request for a reduction in the parking requirements.

Mr. Neal stated that they will wet the dust down in working areas and use some type of ground cover in the reserve areas.

MOTION WAS MADE BY DAN COLEMAN AND SECONDED BY LYDIA LAVELLE TO CLOSE THE PUBLIC HEARING. AFFIRMATIVE SIX, EXCUSED ONE (CHILTON)

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 MAP OF THE CARRBORO LAND USE ORDINANCE
Resolution No. 09/2008-09

WHEREAS, an amendment to the map of the Carrboro Land Use Ordinance has been proposed, which amendment is described or identified as follows: AN ORDINANCE AMENDING THE CARRBORO ZONING MAP TO REZONE APPROXIMATELY .96 ACRES OF LAND KNOWN AS THE DOWNTOWN URBAN VENTURES LLC PROPERTY FROM B-1-(G) (GENERAL BUSINESS) TO B-1(C) CU (TOWN CENTER BUSINESS CONDITIONAL USE).

NOW, THEREFORE, the Board of Aldermen of the Town of Carrboro resolves:

Section 1. The Board concludes that its adoption of the above-described amendment is reasonable and in the public interest because the Town seeks to encourage a variety of appropriate mixed use developments in the downtown that maximize the use of land by building up, not out, that provide additional residential opportunities, both affordable and market rate, and that result in the development of underutilized properties.

Section 3. 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 2008:

Ayes: Joal Hall Broun, Dan Coleman, Jacquelyn Gist, Randee Haven-O'Donnell, John Herrera, Lydia Lavelle

Noes: None

Absent or Excused: Mark Chilton

MOTION WAS MADE BY DAN COLEMAN AND SECONDED BY LYDIA LAVELLE TO ADOPT THE ORDINANCE ENTITLED, "AN ORDINANCE AMENDING THE CARRBORO ZONING MAP TO REZONE APPROXIMATELY .96 ACRES OF LAND KNOWN AS THE DOWNTOWN URBAN VENTURES LLC PROPERTY FROM B-1-(G) (GENERAL BUSINESS) TO B-1(C) CU (TOWN CENTER BUSINESS CONDITIONAL USE). VOTE: AFFIRMATIVE SIX, EXCUSED ONE (CHILTON)

MOTION WAS MADE BY DAN COLEMAN AND SECONDED BY RANDEE HAVEN-O'DONNELL THAT THE APPLICATION IS COMPLETE. VOTE: AFFIRMATIVE SIX, EXCUSED ONE (CHILTON)

MOTION WAS MADE BY DAN COLEMAN AND SECONDED BY RANDEE HAVEN-O'DONNELL THAT THE APPLICATION COMPLIES WITH ALL SPECIFIC REQUIREMENTS OF THE LAND USE ORDINANCE. VOTE: AFFIRMATIVE SIX, EXCUSED ONE (CHILTON)

MOTION WAS MADE BY DAN COLEMAN AND SECONDED BY RANDEE HAVEN-O'DONNELL THAT THE BOARD FINDS THAT THE PROPOSED USE WILL NOT SUBSTANTIALLY INJURE THE VALUE OF ADJOINING OR ABUTTING PROPERTY. VOTE: AFFIRMATIVE SIX, EXCUSED ONE (CHILTON)

MOTION WAS MADE BY DAN COLEMAN AND SECONDED BY JOAL HALL BROUN THAT THE BOARD FINDS THAT THE PROPOSED USE WILL BE IN HARMONY WITH THE AREA IN WHICH IT IS LOCATED. VOTE: AFFIRMATIVE SIX, EXCUSED ONE (CHILTON)

MOTION WAS MADE BY DAN COLEMAN AND SECONDED BY JOAL HALL BROUN THAT THE BOARD FINDS THAT THE PROPOSED USE WILL BE IN GENERAL CONFORMITY WITH THE LAND USE PLAN, THOROUGHFARE PLAN, AND OTHER PLANS OFFICIALLY ADOPTED BY THE BOARD. VOTE: AFFIRMATIVE SIX, EXCUSED ONE (CHILTON)

MOTION WAS MADE BY DAN COLEMAN AND SECONDED BY RANDEE HAVEN-O'DONNELL THAT IF THE APPLICATION IS GRANTED, THE PERMIT 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 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 NC DENR.
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.

VOTE: AFFIRMATIVE SIX, EXCUSED ONE (CHILTON)

MOTION WAS MADE BY DAN COLEMAN AND SECONDED BY RANDEE HAVEN-O'DONNELL THAT THE APPLICATION IS GRANTED, SUBJECT TO THE ABOVE CONDITIONS. VOTE: AFFIRMATIVE SIX, EXCUSED ONE (CHILTON)

Alderman Coleman asked that the town staff look into a program for replacing trees taken down during development.

MOTION WAS MADE BY DAN COLEMAN AND SECONDED BY RANDEE HAVEN-O'DONNELL TO HAVE STAFF LOOK INTO A PROGRAM FOR TREE REPLACEMENT AS A RESULT OF DEVELOPMENT. VOTE: AFFIRMATIVE SIX, EXCUSED ONE (CHILTON)

Alderman Coleman asked that the town staff compile a list of Environmental Advisory Board recommendations from the past 12-18 months (which were not approved by the Board of Aldermen) to see if any of those recommendations could be incorporated into the land use ordinance.

Alderman Broun asked that the Board be given a list of the Planning Department's top ten projects.

**PUBLIC HEARING ON A MAJOR MODIFICATION OF PHASE A OF 300 EAST MAIN STREET
CONDITIONAL USE PERMIT TO INCORPORATE PHASE B OF THE PROJECT**

Main Street Partners, LLC has submitted an application for a Major Modification of the Phase A of 300 East Main Street Conditional Use Permit to allow for construction of multiple commercial buildings on an assemblage of land on and near 300 East Main Street. Prior to reaching a decision on a request for a CUP, the Board must hold a public hearing to receive input. Town staff requested that the Board of Aldermen hold a public hearing but withhold a decision on the project until additional information regarding stormwater and lighting is submitted.

Marty Roupe, the town's Zoning Administrator, was sworn in and presented the project. He stated that he had received the lighting plan for this project late today.

Laura van Sant was sworn in and explained the process involved in the proposed project. She stated that they would like to avoid temporary accommodations for existing tenants by constructing new space and moving the tenants in. A couple of tenants will have to find temporary quarters. She stated that the parking deck will be built prior to the construction of the front buildings. She stated that there will be a five to seven-year build out. She stated that there will be recycling for all the tenants and they have had discussions with Orange County Solid Waste about food waste recycling. She stated that they will be attempting to save the large oak trees. She stated that they will have cisterns to collect roof water from the buildings for irrigation purposes. She stated that there will not be a charge for parking and valet service.

Jim Spencer was sworn in. He presented the project plans and answered the Board's questions. He stated that the ArtsCenter would be able to use the existing area at the rear of the building for outside play area for the children. He stated that the building will be mostly scored concrete with different colors and textures. It will look like brick. He stated that the planters will be moved around depending on the need.

Brooks Hole was sworn in and explained the configuration of the roof. He stated that it would not be ideal to have roof gardens.

Manish Atma was sworn in. He explained the conference facility will accommodate 200 people, and that there will be a limited service restaurant in the hotel. He explained that a Hilton Garden Inn is a full service hotel. He stated that they will have their own in-house laundry. He explained that the hotel will use power flush toilets and water restrictors in showers, and will place notices in the rooms that sheets will not be changed every day.

Alderman Gist asked for a copy of the water saving devices for the Hilton Garden Inns and pictures of other Hilton Garden Inns.

Gary Wallach, a resident of Westbury Drive, was sworn in. He expressed his concern about the “lack of Carrboro” in the proposed project.

Jon Wilner, Director of the ArtsCenter, was sworn in. He stated that the ArtsCenter is very in tune with the proposed project, and that he likes the architecture of the project.

Patrick McDonough, a resident of 105 Fidelity Street, was sworn in. He encouraged the use of the Jones Ferry Road Park and Ride lot in lieu of the parking deck, suggested that the developer cut their parking in half and use the park and ride lot. He stated that the town needs to stop thinking about parking piecemeal and think about accessibility in a holistic manner.

Ricardo Palao, a resident of 103 Boyd Street, was sworn in. He expressed concern about there not being enough parking, asked that the town allow left turns in and out of Boyd Street, or at least decent and clear signage to direct traffic flow. He asked for a pedestrian crosswalk between Rosemary and Brewer Lane, and expressed concern about the construction interaction on his home, including construction traffic, noise, dirt, screening and lighting.

Austin Brown, a resident of 310 Blueridge Road, was sworn in. He suggested that bike parking be placed close to the entrance of the buildings, suggested that the speed in the entrance be very low to avoid pedestrian interaction, and expressed concern about Main Street being widened.

Bob Kirschner was sworn in. He asked if the composting could be extended to multi-family developments.

Peter Lee, Chair of the Economic Sustainability Commission, was sworn in. He stated that the ESC strongly supports the project with the staff conditions, stated that the project will have a positive impact on the town’s tax base, and that the project will provide more jobs and will help maintain the community aspect of the social interactions. He suggested a working relationship with developer and town and local businesses to allow for a sixth floor on the parking deck to provide additional downtown parking. He asked if the town should mitigate the risk of the ArtsCenter and Cat’s Cradle not being able to be located in this complex.

The Board asked for staff follow up on the following:

1. The possibility of left turn into and out of Boyd Street
2. Screening for 103 Boyd Street
3. Traffic calming across the plaza
4. Look at the cost of valet parking as compared to shuttle service
5. Ensure all stormwater concerns are addressed
6. Whether conditions are being recommended for verbal agreements
7. Possibility of a crosswalk across Main Street
8. Possibilities for the courtyard area; i.e., outside patio, etc.

9. Contact number for after hours
10. Connection to Butler project
11. More concrete plan for dealing with existing tenants to allow businesses to remain open
12. Pictures of other Hilton Garden Inns
13. Hilton Garden Inns policy on water conservation

MOTION WAS MADE BY JOAL HALL BROUN AND SECONDED BY RANDEE HAVEN-O'DONNELL TO CONTINUE THIS PUBLIC HEARING TO SEPTEMBER 16, 2008. VOTE: AFFIRMATIVE ALL

CONSIDERATION OF A MODIFICATION OF THE CONDITIONAL USE PERMIT FOR 110 BREWER LANE

Edwin Andrews, Inc. has submitted an application for a Minor Modification of the existing 110 Brewer Lane Conditional Use Permit. This modification is a necessary component of "The Butler" CUP/CU Rezoning proposed for the adjacent property. If that project is approved, this modification will need to be executed as a matter of procedure, thereby formally recording the required (and requested) changes to this property made necessary by "The Butler" project. If that project is not approved, this modification request will be withdrawn.

MOTION WAS MADE BY JOAL HALL BROUN AND SECONDED BY JACQUELYN GIST TO RECUSE MAYOR CHILTON FROM CONSIDERATION OF THIS ITEM. VOTE: AFFIRMATIVE ALL

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

A RESOLUTION APPROVING THE MINOR MODIFICATION TO THE 110 BREWER LANE CUP
Resolution No. 04/2008-09

WHEREAS, the Carrboro Board of Aldermen approved a Conditional Use Permit for 110 Brewer Lane on September 20, 1994; and

WHEREAS, the Town of Carrboro Land Use Ordinance requires that substantial changes to the property constitute 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 proposed minor modification to the 110 Brewer Lane CUP which will 1) enable access to "The Butler" mixed use building, 2) expand the existing parking lot and, 3) provide new and revised infrastructure is hereby approved subject to the following conditions.

1. That the applicant be allowed to deviate from the CUP-approved parking requirement of 65 spaces by providing 82 spaces based upon their written parking justification letter provided with this agenda item (Attachment E).
2. That the existing light fixtures on the existing light poles throughout the parking area be replaced with full cutoff fixtures that are fully shielded along the all property lines.
3. That prior to construction plan approval the applicant provide to the Town 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 the final plat.

4. That screening gates be provided for the proposed dumpster to prevent views of the dumpster from the south, while still allowing access as needed.
 5. That prior to final plat approval a maintenance agreement for stormwater facilities used jointly by the 110 and 120 Brewer Lane properties and their owners be approved by the Town Attorney.
 6. 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.
 7. 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 Town engineer and Environmental Planner for approval prior to construction plan approval.
 8. That prior to construction plan approval the design for the landscape island along the western property line (on the east side of "The Butler" mixed-use building) be shortened as necessary to facilitate movement of solid waste and recycling trucks, as recommended by Orange County Solid Waste.
 9. That prior to construction plan approval, a shared-use and maintenance easement be approved by the Town Attorney and recorded regarding the solid waste facility arrangement for the both the 110 and 120 Brewer Lane Properties.
10. That the applicant make a payment in lieu of ten (10) recreation points in the amount of \$186.98 per point, totaling \$1869.80 to be paid to the Town's appropriate recreational facilities fund. Said payment is to cover the basketball court of 110 Brewer lane removed as a result of this project.

The foregoing resolution having been submitted to a vote received the following vote and was duly adopted this 28th day of August 2008:

Ayes: Joal Hall Broun, Dan Coleman, Jacquelyn Gist, Randee Haven-O'Donnell, John Herrera, Lydia Lavelle

Noes: None

Absent or Excused: Mark Chilton

MOTION WAS MADE BY DAN COLEMAN AND SECONDED BY RANDEE HAVEN-O'DONNELL TO ADJOURN THE MEETING AT 11:01 P.M. VOTE: AFFIRMATIVE ALL

Mayor

Town Clerk

