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



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**

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: Coulter Jewell Thames PA; Belmont Sayre, LLC
OWNERS: Ken Reiter, Belmont Sayre, LLC (Contract Purchaser)
PROPERTY LOCATION: 402, 410 & 430 N Greensboro Street & 113 Parker Street
PINs - 9778877556, 9778877448, 9778879369 & 9778970512 ; <i>9778877317 LB</i>
PROPOSED USE OF PROPERTY: Mixed use commercial/residential development – creation of a 4 story multi-family residential building with 94 dwelling units and a 2 story, 22,706 square foot commercial building with associated infrastructure.
CARRBORO LAND USE ORDINANCE USE CATEGORY: 1.321, 1.400(all), 2.110, 2.120, 2.130, 2.210, 2.220, 2.230, 3.110, 3.120, 3.130, 3.130, 3.150, 3.250, 5.310, 5.320, 6.140, 8.100, 8.200, 8.500, 8.600, 15.820 & 27.000.
MEETING DATES: March 21, 2013, April 2, 2013

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, per the provisions of 15-141.4(f), the Board hereby finds that the additional density in this permit is authorized by the provision of building and site elements in at least three of the following seven areas: stormwater management, water conservation, energy conservation, on-site energy production, alternative transportation, provision of affordable housing, and the provision of public art and/or provision of outdoor amenities for public use.
4. That the applicant must obtain approval from the Town (either at a staff or Board level), if changes to the allocation of uses in the commercial building areas result in a parking requirement that exceeds the parking amount approved by the permit.
5. Per Section 15-141.4(g), occupancy permits may not be given for residential floor area if doing so would cause the ratio of residential floor area for which an occupancy permit has been issued to non-residential floor area for which an occupancy permit has been issued to exceed four to one (4:1).
6. 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.
7. That prior to construction plan approval, the proposed 10' to 14' pedestrian and greenway easement adjacent to the railroad right-of-way be identified as "public".
8. That, prior to construction plan approval, the right-of-way sidewalk will satisfy the 10 foot sidewalk width requirement of section 15-221(f) of the LUO.
9. That the Board of Aldermen hereby finds that that the loading and unloading areas shown on the plans are sufficient to accommodate delivery operations in a safe and convenient manner though they do not satisfy the provisions of Section 15-300 by allowing this loading area to be located within a parking aisle. The Board makes this finding by accepting the applicant's written justification for this arrangement.
10. 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.
11. Per Section 15-263.1, 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 stormwater BMP in the development, 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.
12. 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;
13. 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.
14. The developer must provide a functional connection from the Parker Street right-of-way for purposes of providing a secondary means of access for emergency situations. A means of accomplishing the connection must be demonstrated on the plans before the construction plans may be approved and the actual connection must be in place before framing begins.
15. That prior to construction plan approval the lighting plan in the area adjacent to the property identified as 105 Parker Street (Orange County PIN 9778877317) be adjusted to satisfy the provisions of Section 15-242.5 of the LUO.
16. That prior to issuance of a certificate of occupancy the applicant formalizes a Commercial Dumpster Service agreement to address the need for addition solid waste services for the development.



17. That the .81 points/square foot calculation for the *indoor fitness center facility* recreation points ratio is found to be acceptable per the provisions of Appendix G and that the recreational facilities provided by the project satisfy the provisions of Section 15-196 of the LUO. The Board hereby authorizes that the recreation points table of 15-196(b) to be amended to include this new points calculation and its associate facility category.
18. That the urban amenities not yet fully described by the CUP plans presented at the public hearing will require approval by the Appearance Commission prior to construction plan approval. To the extent the dollar value of urban amenities are less than the amount required under the ordinance, the applicant shall, prior to receiving a Certificate of Occupancy make a payment of a fee in lieu for the remaining balance
19. That the Board hereby accepts the draft Construction Management Plans as prepared by Landmark Builders and presented to the Board during the April 2nd public hearing with the understanding that will be subject to additional review and modification during construction plan review.
20. Consistent with rezoning condition number 5, for a period of 99 years from the date a certificate of occupancy issued, a minimum of 10 percent of the residential units shall remain affordable by a family whose annual gross income equals 60 percent of the median gross annual family income, as most recently established by the U.S. Department of Housing and Urban Development (or successor agency), for a family of a specific size within the Metropolitan Statistical Area where the Town of Carrboro is located (the "60% units"), and an additional 10 percent shall remain affordable at 80 percent of the median gross annual family income (the "80% units"). Housing costs and unit size shall be determined in accordance with the provisions of Section 15-182.4 (b) (1) of the Carrboro Land Use Ordinance.
21. The developer shall establish or provide for arrangements to ensure that the 60% units are made available for sale or rent only to families whose annual gross income does not exceed 60 percent of the median gross annual income of a family of the same size within the Metropolitan Statistical Area where the Town of Carrboro is located, and that the 80% units are made available for sale or rent only to families whose annual gross income does not exceed 80 percent of the median gross annual income of a family of the same size within the MSA where the Town of Carrboro is located. (The term "family" as used in these conditions shall have the same meaning as the term is defined in Subsection 15-15(39) of the Land Use Ordinance. The term "income qualified family" as used in these conditions means a family that meets the foregoing income criteria).
22. So long as the residential units within the development remain in single ownership and are offered for rent, the owner of the development shall not be required to designate particular units as being "affordable units," provided that the requisite number of units within the development are rented or offered for rent in such a manner as to qualify as affordable in accordance with conditions 20 & 21 above and Section 15-182.4 of the Land Use Ordinance.
23. So long as the residential units within the development remain in single ownership and are offered for rent, then whenever a vacancy occurs in a unit that must be rented as an affordable unit in order for the development to remain in compliance with conditions 20 & 21 above, the entity responsible for leasing the units (i) shall offer to lease such affordable unit only to income qualified families, and (ii) shall not offer to lease the affordable unit to an income qualified family, one or more of whose members is a full-time, undergraduate or graduate student, if the opportunity exists to lease the affordable unit to an income qualified family that does not include a full-time, undergraduate or graduate student. The entity responsible for leasing the units may conclude that no opportunity exists to lease the affordable unit to an income qualified family that does not include a full-time undergraduate or graduate student if, despite good faith efforts (including contacting local agencies engaged in providing or promoting affordable housing) such entity is unable to enter into a lease with such an income qualified family within fifteen days after the affordable unit has become vacant.
24. In the event that the residential units within this development are converted in condominiums in accordance with Chapter 47C of the North Carolina General Statutes, the declaration shall identify the specific units that must remain affordable as set forth in these conditions and Section 15-182.4 of the Carrboro Land Use Ordinance.
25. That the Board hereby finds that, of the 94 units, 20 affordable units are required. This includes 10 units at 80% of AMI, and 10 units at 60% of AMI.
26. That the Board of Aldermen hereby finds that 170 parking spaces are sufficient to serve the proposed development based on the applicant's justification statement regarding joint



use of the proposed parking spaces, the provision of on-site car sharing, and the site's proximity to commercial areas, bus lines, bicycle lanes and existing pedestrian facilities. The owner is permitted to use up to 2 of the 170 spaces for the placement of composting facilities.

27. That the Board of Aldermen hereby finds the project's design acceptable per the provisions of LUO Section 15-178 (b).
28. That the rezoning conditions of the B-1(g) Conditional Zoning district created for the subject properties have been hereby satisfied subject to the conditions of this Conditional Use Permit. Modifications to the rezoning conditions approved for this B-1(g) Conditional Zoning district will require approval by the Board of Aldermen subject to additional public hearing.
29. That a thorough construction site recycling plan will be included in the construction management plan.
30. That electrical service conduit is provided within the buildings for the purpose of facilitating convenient future installation of rooftop solar photovoltaic arrays.
31. That local builders and supply companies will be used to the extent possible.
32. That no construction traffic will be routed through residential neighborhoods or streets.
33. That the sidewalk will remain open during construction by method of covering and/or protective barriers as needed.

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, as binding upon them and their successors in interest.

THE TOWN OF CARRBORO

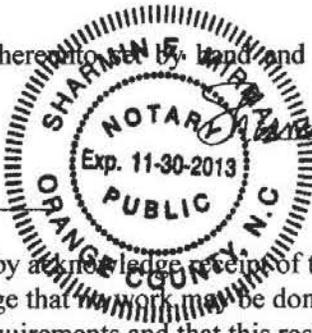
ATTEST:

Catherine C. Wilson (SEAL)
Town Clerk

BY David Andrews
Town Manager

I, Sharmin E. Mirman, a Notary Public in and for said County and State, do hereby certify that Catherine C. Wilson, 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 David Andrews, Town Manager of said Town of Carrboro and Catherine C. Wilson, 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 my hand and notarial seal this the 1st day of October, 2013.



Sharmin E. Mirman (SEAL)
Notary Public

My Commission Expires: 11-30-2013

We, Shelton Station, LLC, owners, do hereby acknowledge receipt of this Conditional Use Permit. The undersigned owner does further acknowledge that no work may be done pursuant to this permit except in accordance with all of its conditions and requirements and that this restriction shall be binding upon them and their successors in interest.

SHELTON STATION, LLC

By: Belmont Sayre, LLC, its Manager

By: [Signature]
Kenneth M. Reiter, Manager

By: [Signature]
Mark Moshier, Manager

NORTH CAROLINA

Orange COUNTY

I, Jennifer D. Ray, a Notary Public for said County and State, do hereby certify that Kenneth M. Reiter and Mark Moshier, representing Shelton Station, a limited liability company, personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of the company.



Witness my hand and official seal this the 30th day of September, 2013.

Jennifer D. Ray
Notary Public

My Commission Expires June 14, 2016

(Not valid until fully executed and recorded)

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CARRBORO, NORTH CAROLINA 27510**