

NORTHEN BLUE, L.L.P.
A LIMITED LIABILITY PARTNERSHIP
ATTORNEYS AT LAW
THE EXCHANGE AT MEADOWMONT
1414 RALEIGH ROAD
SUITE 435
CHAPEL HILL, NORTH CAROLINA 27517

JOHN A. NORTHEN
J. WILLIAM BLUE, JR.
DAVID M. ROOKS
VICKI L. PARROTT
STEPHANIE OSBORNE-RODGERS
JOHN PAUL H. COURNOYER

MAILING ADDRESS:
P. O. BOX 2208
CHAPEL HILL, NC 27515-2208

TELEPHONE (919) 968-4441
TELEFAX (919) 942-6603
www.northenblue.com

E-MAIL: DMR@NBFIRM.COM

January 3, 2014

Hon. Lydia Lavelle
Mayor
Town of Carrboro
301 W. Main Street
Carrboro, NC 27510

Re: Special use permit issued to Calvin and Nora Mellott and Mellott Trucking and Supply, Co. on property at 407 Jones Ferry Road, PIN: 9778549917 & 9778641957

Dear Mayor Lavelle:

I represent Mr. & Mrs. Mellott and Mellott Trucking and Supply Company who own two parcels on Jones Ferry Road where Mr. Mellott's grading contracting business is now headquartered. I write to request that the Board of Alderman extend the special use permit it granted to Mr. & Mrs. Mellott, Mellott Trucking and Supply Co. and Northwest Property Group, LLC as developer for the two tracts for one year pursuant to Section 15-62(c) of the Land Use Ordinance.

Some background might be helpful. The Board initially granted the special use permit on September 25, 2007 for the redevelopment of the property as a grocery store based shopping center. The developer objected to two conditions imposed by the Board and appealed the imposition of those conditions to Superior Court. The Superior Court ruled in favor of the Town. The developer appealed this decision to the Court of Appeals which determined that the Board had failed to include adequate findings of fact in its order approving the permit with the conditions in question and remanded the case back to the Superior Court with instructions to the Superior Court to remand the case to the Board of Alderman to make findings of fact to support its decision to impose the conditions. All of this took time so the final special use permit was not issued until November 21, 2011.

As we know all too well, economic conditions changed dramatically after September 2007. The developer was not in a position to go forward with the project when the final permit was issued and no grocery store, the logical anchor tenant, expressed interest in the project until very recently. Mr. Mellott filed a request to extend the permit and paid the requisite fee before

NORTHEN BLUE, L.L.P.

Hon. Lydia Lavelle

January 3, 2014

Page 2

the permit expired in November on the strength of inquiries he received from two different grocery store chains who might now be interested in the project. Mr. Mellott has no firm offers in hand and is not a position to discuss who might be interested in the property, but the level of interest was high enough to warrant paying the extension fee and asking the Board to extend the permit for a year.

Under Section 15-62(c) of the Land Use Ordinance, the Board may extend a permit for up to a year 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.

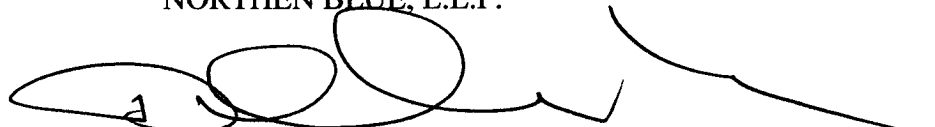
Technically, the permit expired on November 21, 2013 but Mr. Mellott made timely application before the permit had expired. There have been two Board meetings since Mr. Mellott made his application but there has not been time to get the request on the agenda.

The Mellotts have proceeded with all the diligence a weak economy would allow them to muster and they have acted in good faith. There have no changes in the surrounding property or in the use of the applicants' property that would warrant a new application. Mr. Mellott anticipates that if the project were to go forward, it would be as a grocery store just as was the case when the project was originally considered.

Please let me know if you need any additional information.

Sincerely,

NORTHEN BLUE, L.L.P.

A handwritten signature in black ink, appearing to read 'David M. Rooks', with a long horizontal flourish extending to the right.

David M. Rooks

DMR

cc: Calvin Mellott
Marty Roupe