

## STAFF REPORT

**TO:** Town Council

**DATE:** June 17, 2022

**PROJECT:** Conditional Use Permit, now Special Use Permit-A,  
Extension Request for Mixed Use Building at 603 Jones  
Ferry Road

**APPLICANT:** Mr. Tom Wiltberger  
Terra Nova Global Properties  
310 East Main Street, #305  
Carrboro, NC 27510

**OWNERS:** FJC Trust  
Contact: Francis and Jenny Chan  
101 Harkness Circle  
Durham, NC 27705

**PURPOSE:** Request for an extension of date when Conditional Use  
Permit would otherwise expire for a Mixed Use Building at  
603 Jones Ferry Road. This CUP permit will otherwise  
expire on June 26<sup>th</sup>, 2022.

**EXISTING ZONING:** O (Office)

**PIN:** 9778-34-6032

**LOCATION:** 603 Jones Ferry Road

**TRACT SIZE:** 1.1 acres (47,916sf)

**EXISTING LAND USE:** Vacant

**PROPOSED LAND USE:** Mixed Use Building-1<sup>st</sup> floor to be office space (use#  
3.120) and 2<sup>nd</sup> floor to be four (4) residential units (use#  
1.200)

**SURROUNDING  
LAND USES:** North: O, Willow Creek Office Complex  
South: R-3, Ashbrook Apartments  
West: R-3, Poplar Place Apartments  
East: R-3, Ashbrook Apartments

**RELEVANT****ORDINANCE SECTIONS:** Section 15-62                      Expiration of Permits**BACKGROUND**

The applicant is requesting that the date on which a previously issued Conditional Use Permit (CUP) would otherwise expire, on June 26<sup>th</sup>, 2022, be extended two years to an expiration date of June 26, 2024.

The Town Council originally granted the Conditional Use Permit on June 26, 2018. Town Council subsequently approved an extension request that created the current expiration date of June 26, 2022. The CUP allows for the construction of 1<sup>st</sup> floor to be office space (use# 3.120) and 2<sup>nd</sup> floor to be four (4) residential units (use# 1.200).

**APPLICABLE LUO PROVISIONS**

Extensions to the date on which a permit would otherwise expire must be granted in accordance with Section 15-62 (Expiration of Permits) of the LUO. Specifically, please note that Section 15-62(a) of the LUO dictates that the CUP would expire, on June 26, 2022 in this case, because less than ten percent (10%) of the total cost of all construction, erection, alteration, excavation, demolition, or similar work on the development authorized by the permit has been completed on the site. Construction plans are under review, onsite work has not commenced.

Section 15-62(c) gives the permit-issuing authority (Town Council) the authority to grant an extension to the date on which the permit would otherwise expire. Section 15-62(c) reads as follows:

*“(c) The permit-issuing authority may extend for a period up to two years 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 two years upon the same findings. All such extensions may be granted without resort to the formal processes and fees required for a new permit.”*

Staff offers the following information related to the conditions outlined in Section 15-62(c):

**1.        The permit has not yet expired.**

COMPLIANCE:        *No, the permit has not expired. The permit is set to expire on June 26<sup>th</sup>, 2022.*

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

COMPLIANCE: *Yes, the permit recipient has proceeded with due diligence and in good faith. Mr. Francis Chan has been dealing with a personal health issue as well as navigating market disruptions associated with the pandemic, as explained in the applicant's letter.*

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

COMPLIANCE: *Yes, it is true that conditions have not changed so substantially as to warrant a new application. No changes to the property have taken place since the permit was originally approved.*

**RECOMMENDATION**

Town Staff recommends that the Town Council adopt the attached resolution approving the permit extension request. The new expiration date for the permit would be June 26, 2024.