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FILED Deborah B. Brooks
 Register of Deeds, Orange Co. NC
 Recording Fee: \$26.00
 NC Real Estate TX: \$0.00

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**

Lloyd Square 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: Layton Wheeler
OWNERS: Layton Wheeler
PROPERTY LOCATION (Street Address): 100 Deer Street PARCEL IDENTIFICATION NUMBER: 9779115880 <i>mab</i>
TAX MAP, BLOCK, LOT(S): 7.107B.H.1
PROPOSED USE OF PROPERTY: Major subdivision to allow the creation of 16 lots.
CARRBORO LAND USE ORDINANCE USE CATEGORY: 26.100 - major subdivision consisting of the following uses: 1.111 - single-family detached, 1.231 - duplex, maximum 20% units ≥ 3 bedrooms/unit
MEETING DATES: September 22, 2009

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, the developer demonstrates how the objectives of Section 15-182.4 of the LUO are to be satisfied. Section 15-182.4 requires the continued affordability of the units located on lots 5 & 6 and requires that these units are offered only to qualified buyers.

4. Certificates of Occupancy for each of the two (2) bonus 'market-rate' units may not be issued until such time as a corresponding affordable unit (located on lots 5 & 6) 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, and, the *payment in lieu* for .55 of an affordable unit is made (in accordance with the Town's fee schedule at the time of payment). The two bonus units are to be identified on the plans prior to construction plan approval and shall be identified on the final plat.

5. That, if the developer chooses Community Home Trust (CHT) to manage the affordable units per Section 15-182.4 and CHT is unable to secure subsidy money and/or unable to market the affordable units at the price authorized by the LUO, then the Town Attorney must approve an alternative arrangement for ensuring long term affordability of these units.

6. That the single family home lots, when developed have sufficient room to conveniently park two cars on a paved driveway, 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.

7. That prior to construction plan approval, a Type C screen be shown between the new lots and the public right of way. This requirement may be satisfied by a combination of existing and proposed trees per the guidelines as established in Appendix E and Article XIX of the Land Use Ordinance.

8. That, prior to Construction Plan approval, a 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.

9. That flexibility is allowed in the execution of the drainage plan as outlined in the applicant's letter. These 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.

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. That the developer shall include detailed stormwater system maintenance plan, specifying responsible entity, schedule and creation of reserve fund for future maintenance needs. The plan shall include scheduled maintenance activities for each unit in the development, (including, bio-retention areas, swales, and dry detention basin), 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.

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 (as required) must be submitted and approved by the Town Engineer and Town Fire Department prior to construction plan approval.
14. 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.
15. That the applicant be required to submit a road dust control plan that incorporates the guidance provided by EPA in <http://www.epa.gov/owow/nps/gravelroads/sec4.pdf> as part of construction plan approval, with a schedule approved by the Town Manager. This plan would be in effect while construction traffic for this development is using Deer Street.
16. That the developer would consult with the Chapel Hill-Carrboro City Schools and town staff to prepare a construction schedule that restricts delivery and crew arrivals during school let-in/let-out times.
17. That the construction traffic management plan be submitted to the Town Manager for approval.
18. That natural mulch be used for the tot lot.

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.



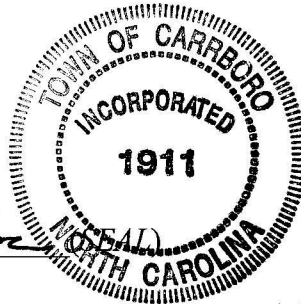
NORTH CAROLINA

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.

ATTEST:

Catherine C. Wilson
Town Clerk



THE TOWN OF CARRBORO

BY

Steven E. Stewart
Town Manager

I *Catherine C. Wilson*, a Notary Public in and for said County and State, do hereby certify that Catherine 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 Steven E. Stewart, Town Manager of said Town of Carrboro and Catherine 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 by hand and notarial seal this the 12th day of January, 2011.



Catherine Cara Wilson
Notary Public

My Commission Expires: 10/26/2015



OWNERS

BY: *Edward J. Hahn*
Edward J. Hahn

Joanne Rossetti
Joanne Rossetti

NEW YORK
~~North Carolina~~
Suffolk County

I, Mary Amanda Duff, a Notary Public for said County and State, do hereby certify that Edward J. Hahn and Joanne Rossetti personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal, this the 8th day of November, ~~2009~~ 2010.

MARY AMANDA DUFF
Notary Public, State of New York
No. 01DU6227170
Qualified in Suffolk County
Commission Expires Sept. 7, 2014

Mary Amanda Duff
Notary Public

(SEAL)

My Commission Expires: Sept 7, 2014

(Not valid until fully executed and recorded)

<p>PREPARED BY AND RETURN TO:</p> <p>TOWN CLERK TOWN OF CARRBORO 301 West Main Street CARRBORO, NORTH CAROLINA 27510</p>
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suggested that the School System take part in discussions to reduce that traffic. He explained that a sewer easement document has been prepared that would allow for Mr. Rabinowitz access to the sewer line.

MOTION WAS MADE BY DAN COLEMAN AND SECONDED BY RANDEE HAVEN-O'DONNELL TO CONTINUE THIS PUBLIC HEARING TO OCTOBER 6, 2009 WITH THE REQUEST THAT THE TOWN STAFF REPORT BACK ON OPTIONS FOR DEALING WITH PEAK HOUR TRAFFIC ON HOMESTEAD ROAD. VOTE: AFFIRMATIVE ALL

A PUBLIC HEARING ON A CONDITIONAL USE PERMIT REQUEST FOR THE LLOYD SQUARE ARCHITECTURALLY INTEGRATED SUBDIVISION (ITEM B(2))

Layton Wheeler, as represented by Phil Post and Associates, has submitted an application for the construction of a 16-dwelling unit subdivision located at 100 Deer Street. If approved, this conditional use permit would allow the creation of 16 lots, two of which will be occupied by duplexes. The project will rely upon existing infrastructure and does not require the creation of new roadways.

Jeff Kleaveland, one of the town's Zoning Development Specialists, was sworn in and made the staff presentation.

Phil Post was sworn in and presented the site plan. He stated that they agree with staff recommendations, that there will only be a small portion of sewer line needed as far as infrastructure, and one tree will be need to be removed to build the infrastructure. He stated that they will pay a 55% payment in lieu of affordable housing for the third unit, and will install a 6-foot tall chain link fence along their property on the Quail Roost Drive side to separate the building lots from the Quail Roost sidewalk. In addition, the construction parking and supply storage will be on one of the lots within the development. The ditch along Lisa Drive should separate the construction from that street. He suggested the installation of a temporary rubber speed bump during construction. He stated that gravel and clay can be mixed together to reduce dust, with the addition of water. He stated that the developer will initiate a street paving petition to pave Deer Street.

Layton Wheeler was sworn in. He stated that the homes will be from 2800 to 3200 square feet. He presented drawings of the proposed homes. He stated that he does not plan to install fire sprinklers in the homes. He stated that he plans to build most the homes himself.

Ken Mills was sworn in. He asked how the developer would put speed bumps on a dirt road and expressed concern about construction traffic on Deer Street that has no sidewalks.

Bob Kirschner was sworn in and asked that the developer volunteer to add sprinkler systems to the homes, specifically to the duplex.

Mark Alexander was sworn in. He expressed concern about construction traffic tearing up the newly paved Lisa Drive and asked who would be responsible for making repairs.

Chuck James, a resident of 110 Lisa Drive, was sworn in. He expressed concern about Deer Street being used as a race track, and also expressed concern about his yard being flooded.

Mr. Post stated that they cannot have water backup even on public a right-of-way.

Marsha Mills was sworn in. She expressed concern about children in the area of construction and flooding on their property from this development.

Phil Post stated that there is a retention facility within the development

George Seiz, the town's Public Works Director, was sworn in. He stated that the town has used temporary speed bumps in the past, and expressed concern about damaging any existing pavement.

MOTION WAS MADE BY LYDIA LAVELLE AND SECONDED BY DAN COLEMAN TO CLOSE THE PUBLIC HEARING. VOTE: AFFIRMATIVE ALL

MOTION WAS MADE BY JACQUELYN GIST AND SECONDED BY JOAL HALL BROUN THAT THE APPLICATION IS COMPLETE. VOTE: AFFIRMATIVE ALL

MOTION WAS MADE BY DAN COLEMAN AND SECONDED BY RANDEE HAVEN-O'DONNELL THAT THE APPLICATION COMPLIES WITH ALL APPLICABLE REQUIREMENTS OF THE LAND USE ORDINANCE. VOTE: AFFIRMATIVE ALL

MOTION WAS MADE BY RANDEE HAVEN-O'DONNELL AND SECONDED BY DAN COLEMAN THAT THE APPLICATION IS GRANTED, 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 and of no effect.
3. That, prior to construction plan approval, the developer demonstrates how the objectives of Section 15-182.4 of the LUO are to be satisfied. Section 15-182.4 requires the continued affordability of the units located on lots 5 & 6 and requires that these units are offered only to qualified buyers.
4. That, prior to construction plan approval, the developer demonstrates how the objectives of Section 15-182.4 of the LUO are to be satisfied. Section 15-182.4 requires the continued affordability of the units located on lots 5 & 6 and requires that these units are offered only to qualified buyers.
5. That, if the developer chooses Community Home Trust (CHT) to manage the affordable units per Section 15-182.4 and CHT is unable to secure subsidy money and/or unable to market the affordable units at the price authorized by the LUO, then the Town Attorney must approve an alternative arrangement for ensuring long term affordability of these units.
6. That the single family home lots, when developed have sufficient room to conveniently park two cars on a paved driveway, 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.
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8. That, prior to Construction Plan approval, a 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.

9. That flexibility is allowed in the execution of the drainage plan as outlined in the applicant's letter. These 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.
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. That the developer shall include detailed stormwater system maintenance plan, specifying responsible entity, schedule and creation of reserve fund for future maintenance needs. The plan shall include scheduled maintenance activities for each unit in the development, (including, bio-retention areas, swales, and dry detention basin), 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.
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16. That the developer would consult with the Chapel Hill-Carrboro City Schools and town staff to prepare a construction schedule that restricts delivery and crew arrivals during school let-in/let-out times.
17. That the construction traffic management plan be submitted to the Town Manager for approval.
18. That natural mulch be used for the tot lot.

VOTE: AFFIRMATIVE ALL

Alderman Broun requested that the town staff monitor speeding on Deer Street.

MOTION WAS MADE BY DAN COLEMAN AND SECONDED BY RANDEE HAVEN-O'DONNELL TO ASK THE ENVIRONMENTAL ADVISORY BOARD AND ENVIRONMENTAL PLANNER TO REVIEW THE LIST OF PLANTINGS FOR RAIN GARDENS AND BIO-RETENTION AREAS TO ENSURE THAT

THE QUESTIONS ABOUT DEER RESISTANT AND NON-EVASIVE PLANTS ARE ADDRESSED.

VOTE: AFFIRMATIVE ALL

MOTION WAS MADE BY RANDEE HAVEN-O'DONNELL AND SECONDED BY JACQUELYN GIST
TO ADJOURN THE MEETING AT 10:41 P.M. VOTE: AFFIRMATIVE ALL

Mayor

Town Clerk