

<p>PREPARED BY AND RETURN TO:</p> <p>TOWN CLERK TOWN OF CARRBORO 301 West Main Street CARRBORO, NORTH CAROLINA 27510</p>



**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: Winmore Land Management, Inc.
OWNERS: Annie H. Collier, Bryan and Helen Yates, Fay H. Daniel
PROPERTY LOCATION (Street Address): 1318 Homestead Road, 1400 Homestead Road, 1410 Homestead Road, and 700 Lake Hogan Farm Road
TAX MAP, BLOCK, LOT(S): 7.109..11, 7.109..11C, 7.109..11D and 7.109..15
PROPOSED USE OF PROPERTY: Village Mixed Use Development - Village Mixed Use Architecturally Integrated Subdivision of 98 Single-Family Lots, 66 Multi-Family Townhome Lots, 68 Multi-Family Apartments, and 20 Commercial Lots
CARRBORO LAND USE ORDINANCE USE CATEGORY: 32.000 (VMU). For the residential areas (1.111, 1.321, 1.331), all uses listed under 15-176.2(b)(2)(a and b) (as of 11-26-02) are allowed. For the commercial areas, all uses listed under B-3-T and O/A in the Table of Permissible Uses (as of 11-11-02) are allowed.
MEETING DATES: May 27, May 28, June 3, June 10, 2003

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 pointed out specifically to the 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 the development is approved as presented, per Section 15-176.2(a)(1) and 15-176.2(b) of the Carrboro Land Use Ordinance.

4. That a proposed civic use is hereby permissible on the 'proposed future civic use' lot as a part of this development, but any project proposed to be constructed on the 'proposed future civic use' lot shall be subject to a separate CUP review and approval process. Further, that the following use categories shall be permissible on the civic use lot: 5.200, 5.300, 6.110, 6.121, 6.140, 13.000, 15.100, 15.800, 22.200, 22.300, as well as meeting halls and schools.

5. That arrangements be made to assure the continued affordability of 48 units within the development. Specifically, the 24 units proposed in the affordable apartment complex and the 24 units that may be proposed at a later date on the 'co-op' lot (lot #99) shall be restricted in a manner that is consistent with the language found in Section 15-182.4 of the Carrboro Land Use Ordinance. The restrictions must be reviewed and approved by the Town Attorney, and must be in place prior to final plat approval.

6. That 24 apartment units (Use. 1.331) are permissible on the "co-op" lot (Lot #99) as part of this development, but that any project proposed to be constructed on the "co-op" lot will be subject to a separate CUP review and approval process.

7. That no additions or interior renovations designed to increase the heated square footage of the size-limited units can be approved/completed within the first year following the issuance of the Certificate of Occupancy per Section 15-188(e) of the Carrboro Land Use Ordinance. This statement must also be included on the recorded final plat and reference the applicable 'size-limited unit' lots.

8. That 'Homeowner's Association (HOA) Documents' (for both the residential and commercial portions of the project) be reviewed and approved by the Town Attorney prior to final plat approval, and that the HOA documents include the language found in a letter from Winmore Land Management dated February 18, 2003 regarding permissible uses in residential districts.

9. That all cross-sections shown on the construction plans shall show utility line locations for all proposed utilities, that all proposed roads and bridges shall comply with Town of Carrboro and/or NCDOT TND road and bridge standards, and that full compliance shall be demonstrated on the construction plans for the project, except where specific deviations to those standards are permitted by the granting of this CUP for Olmsted Drive, which represents a hybrid of Town standards and NCDOT standards.

10. That the applicant realign the proposed sidewalk on the construction plans so that it will fall completely within the existing NCDOT right-of-way, and that the 'end-point' for the sidewalk construction shall be where it ties in with the existing sidewalk on the south side of Camden Lane. Further, that the applicant agrees to construct intersection improvements at the Homestead Road/High School Road intersection shown in Exhibit A, subject to approval by NCDOT (and acquisition by NCDOT of any necessary additional right-of-way), or reasonable, alternative intersection improvements as required by NCDOT. The Homestead/High School

Road intersection improvements must be completed prior to the issuance of a Certificate of Occupancy for the 117th primary residential dwelling unit.

11. That the applicant must obtain a driveway permit from NCDOT prior to construction plan approval.

12. That the Board of Aldermen chooses the parkway design presented on Sheet 3a of the plans, and that the parkway design, including the 12-foot wide pedestrian/bicycle path be included on the construction plans.

13. That a 'speed-table' or other traffic calming feature from the Town's Residential Traffic Management Plan be added to the plans at the construction plan stage, on Winmore Avenue, immediately to the west of the Bolin Creek bridge crossing.

14. That the Board of Aldermen chooses the originally proposed alignment of Kiley Street and Atterbury Street, allowing an offset between the intersections where they intersect with Winmore Avenue.

15. That all sight triangle easements be free of street trees and other obstructions and be shown as such on the construction plans.

16. That the construction plans and final plat for the project include a 'private' label for the proposed 8-foot pedestrian way easements between Lots 4 and 5 and Lots 8 and 9.

17. That the construction plans for the project shall include design configurations for the two proposed bus stop locations and that the developer shall build the bus stops during road construction for the project. Further, the Board finds acceptable the use of the future bus stop locations as on-street parking areas until such time as Chapel Hill Transit provides service to the development.

18. That the applicant provide a diagonal parking plan for Lot H on the construction plans, consistent with the one-way traffic flow pattern presented for Burroughs Lane.

19. That the applicant must receive approval of a minor modification to the CUP before making use of the proposed 'overflow parking area' identified on the project plans, and that the applicant must obtain formal permission from Duke Power to make such use of the area before obtaining modification approval.

20. That the 'multi-use field' note be removed from the proposed 'overflow parking' area on the construction plans.

21. That the Homeowner's Association documents for the project shall include language specifically providing that on residential lots the required number of off-street parking spaces, including spaces in enclosed or partially enclosed garages, will be maintained for use as parking spaces.

22. That, if NCDOT deems it necessary, the proposed 17 willow oak trees alongside Homestead Road not be included on the construction plans.

23. That the applicant modify the lighting plan to the satisfaction of the Public Works Department with regard to the developer and homeowner's association being responsible for the additional costs associated with the placement of decorative lights around the main roundabout traffic circle prior to construction plan approval.

24. 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.

25. That the applicant further explore the possibility of including a 'linear stormwater infiltrator system' in the project, and that the stormwater feature may be included on the

construction plans if the Town Engineer and Town's Environmental Planner are satisfied with evidence presented by the applicant with regard to the workability and potential success of such a system on the site. If the feature is approved, then the applicant shall be allowed to modify the other stormwater features on the site at the construction plan level, so long as the Town Engineer confirms that the final stormwater-related aspects of the plan do comply with the requirements of the Carrboro Land Use Ordinance.

26. That if the 'linear stormwater infiltrator system' is approved, then the applicant shall include notations on the construction plans for the project establishing that the Winmore Homeowner's Association will be responsible for the maintenance of the feature, even though it is contained within a Town of Carrboro Public Access Easement.

27. That the applicant reconfigure the proposed locations of stormwater pipes wherever possible, so that pipes are contained within the public right-of-way, or that the applicant include stormwater easements on the construction plans and on the final plat on any lots that still contain any portion of the public stormwater piping system.

28. That the applicant 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 project. Digital as-builts should be in DXF format and shall include a base map of the whole project and all separate plan sheets. As-built DXF files should include all layers or tables containing storm drainage features. Storm drainage features should be clearly delineated in a data table. The data should be tied to horizontal controls.

29. That an application for a "No Impact Certification" or Conditional Letter of Map Revision (CLOMR) must be submitted to FEMA by the developer for the Bolin Creek crossing prior to the construction plans being approved. No construction governed by the issuance of a CLOMR or No Impact Certification may take place until certifications are issued.

30. That if a Letter of Map Revision (LOMR) must be obtained from FEMA, that such letter must be obtained prior to final plat approval.

31. That a 404 National Wetlands Permit from the US Army Corp of Engineers and a 401 Water Quality Certification from NCDENR's Division of Water Quality be obtained by the developer prior to the constructions plans being approved.

32. That the applicant must obtain all necessary temporary construction easements and permanent easements related to the project before construction plan approval, and that all easements shall be labeled appropriately on the construction plans and, for permanent easements, on the final plat.

33. That the 30-foot Town of Carrboro Public Access Easement be extended the entire length of the existing driveway so as to provide a possible public access point to the greenway from Homestead Road, and that this extension be shown on the final plat for the project.

34. That the applicant must receive approval of a detailed striping plan for the proposed pedestrian/bicycle trail prior to construction plan approval, and that the cross-section and striping plan must be shown on the construction plans. Additionally, the construction plans must show separation devices where roads and trails come together at bridge crossings to ensure pedestrian and bicycle safety.

35. That the Winmore Homeowner's Association documents shall stipulate that the playfields included in the development shall be cared for or otherwise maintained without the use of chemical fertilizers or pesticides.

36. That when building permit plans for each storefront and townhouse use building are submitted, the plans shall be forwarded to the Carrboro Appearance Commission for review prior to the issuance of the building permit.

37. That prior to construction plan approval, the applicant shall submit to the Town staff copies of contractual agreements with third-party builders for the construction of the 24-unit affordable housing apartment building and the construction of the 24-unit cooperative housing area identified on the plans as Lot 99, as well as a complete conditional use permit application for the 24-unit cooperative housing area on Lot 99. The contractual agreements shall include language referencing an anticipated review and construction schedule, and shall state that upon receiving the land, the third-party builders agree to construct the affordable housing within a specified timeframe. The contractual agreements shall be reviewed and approved by the Town Attorney.

38. That the applicant shall offer 7 townhome units to Orange Community Housing and Land Trust at a price consistent with the language found in Section 15-182.4 of the Carrboro Land Use Ordinance.

39. That the final plat for the project include an offer of dedication to the Town of Carrboro for the land along and near Bolin Creek totaling approximately 27 acres as shown on Exhibit B. Also, prior to final plat approval, the applicant shall submit for review and approval by the Town Attorney an encroachment agreement or easement document that provides to the Winmore Homeowner's Association a right of access to and maintenance responsibilities for all recreation facilities and stormwater features located within the open space. The encroachment agreement or easement document must be recorded with the final plat for the project.

40. That the design of the stormwater wetland be modified to soften the edges and give it more of an appearance of a natural wetland.

41. That the developers consider changing some of the specific plants scheduled for the wetland unit.

42. That fully shielded lighting fixtures (as defined by International Dark Sky Association's Lighting Fixtures Guidelines) be installed along public streets, rather than cobra heads, to reduce light pollution and that the lights be similar in look and function to the lights being used along the private streets within the development. And, that the applicant modify the lighting plan to the satisfaction of the Public Works Department with regard to the developer and homeowner's association being responsible for the additional costs associated with the placement of such lights.

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:

_____(SEAL) BY _____
Town Clerk Interim Town Manager

I, _____, a Notary Public in and for said County and State, do hereby certify that Sarah C. Williamson, 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 Michael B. Brough, Interim Town Manager of said Town of Carrboro and Sarah C. Williamson, 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 ____ day of _____, 20__.

_____(SEAL)
Notary Public

My Commission Expires:_____

I, Annie H. Collier, owner, 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.

Owner

NORTH CAROLINA
ORANGE COUNTY

I, _____, a Notary Public in and for said County and State, do hereby certify that Annie H. Collier appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and notarial seal this the ____ day of _____, 20__.

Notary Public

My Commission Expires:_____

We, Bryan and Helen Yates, owners, do hereby acknowledge receipt of this Conditional Use Permit. The undersigned owners do further acknowledges 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.

Owner

Owner

NORTH CAROLINA
ORANGE COUNTY

I, _____, a Notary Public in and for said County and State, do hereby certify that Bryan and Helen Yates appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and notarial seal this the ____ day of _____, 20__.

Notary Public

My Commission Expires:_____

I, Fay H. Daniel, owner, do hereby acknowledge receipt of this Conditional Use Permit. The undersigned owner does further acknowledges 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.

Owner

NORTH CAROLINA
ORANGE COUNTY

I, _____, a Notary Public in and for said County and State, do hereby certify that Fay H. Daniel appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and notarial seal this the ____ day of _____, 20__.

Notary Public

My Commission Expires:_____

(Not valid until fully executed and recorded)

STATE OF NORTH CAROLINA
COUNTY OR ORANGE

The foregoing certificate(s) of _____Notary/Notaries
Public of the designated governmental units (is) (are) certified to be correct.

This the ____ day of _____, A.D. 20____.

Register of Deeds

By:_____
Assistant/Deputy Register of Deeds

PREPARED BY AND RETURN TO:

TOWN CLERK
TOWN OF CARRBORO
301 West Main Street
CARRBORO, NORTH CAROLINA 27510