

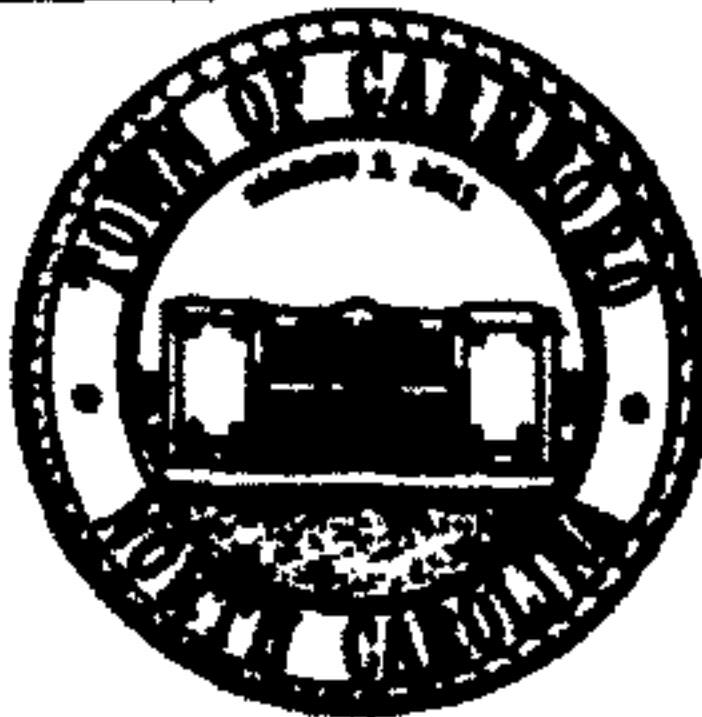


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FILED Mark Chilton  
Register of Deeds, Orange Co, NC  
Recording Fee: \$26.00  
NC Real Estate TX: \$.00

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

TOWN OF CARRBORO  
CONDITIONAL USE PERMIT, MAJOR MODIFICATION  
(Formerly The Butler Mixed-Use Building)

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: Main Street Properties, LLC, of Chapel Hill, NC.
OWNERS: Main Street Properties, LLC, of Chapel Hill, NC.
PROPERTY LOCATION (Street Address): 390 E. Main Street
TAX MAP, BLOCK, LOT(S): 9778968060 <i>LKB</i>
PROPOSED USE OF PROPERTY: Construction of a five-story hotel.
CARRBORO LAND USE ORDINANCE USE CATEGORY: Hotel Use #34.100
MEETING DATES: January 26, 2016, February 23, 2016 and March 8, 2016

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. Prior to issuance of a certificate of occupancy the applicant will provide a Public Bike Path Easement for the portion of the Libba Cotton bike path that encroaches on the subject property.
4. That the retaining wall that fronts the bike way is at least 18" tall and has mounted on it a railing such that the total height of the wall and railing or fence is at least 48".
5. That the applicant provide at some location along the length of the proposed 5' sidewalk along the northern frontage of the hotel a concrete pad/turnout sufficient for a wheelchair. Said pad/turnout shall meet ADA requirements.
6. That the Board of Aldermen hereby finds that the maximum parking space demand estimate of up to 157 parking spaces for the hotel is sufficient to serve the needs of the proposed hotel based upon the applicant's parking analysis and narrative justifying the arrangement based upon their joint-use parking experience with the *300 E. Main St. CUP* parking inventory as well as the site's proximity to bus lines, bicycle lanes and existing pedestrian facilities. Furthermore, the Board finds that 39 parking spaces are provided on-site while the remaining 118 are located on the adjacent *300 E. Main St. CUP* property and are considered satellite spaces. Said satellite spaces shall be allocated by the required modification of the *300 E. Main Street CUP*.
7. That the Board of Aldermen hereby finds that the existing truck loading and unloading areas on the adjacent property are sufficient to accommodate delivery operations for the hotel in a safe and convenient manner based upon information provided by the applicant. Prior to construction plan approval, said areas shall be provided with a recorded easement granting the hotel the right to use them in this manner.
8. That prior to construction plan approval and the issuance of a certificate of occupancy, the applicant provide evidence from NCDEQ that they have a plan approved by NCDEQ in place to satisfy all applicable provisions of the applicant's Brownfield Agreement with NCDEQ prior to or during construction of the hotel facility.
9. Prior to construction plan approval, that the applicant revise their landscape plan to include plants that are known to benefit pollinator insects per the recommendations of the NC Cooperative Extension and the Xerces Society. Said plans shall exclude those that are considered invasive per Appendix E of the Land Use Ordinance.
10. That the Landscape Plan of the project be revised to include the plantings on the roof deck of the building's first level as shown on the "exterior renderings" of the proposed hotel on sheet A3.3 (dated 2/12/16) from the plan set presented to the Board of Aldermen.
11. That the requirement of the standard Type A screening requirement between the hotel and the parking deck expansion be waived per the applicant's written waiver request letter.
12. That the applicant record on a plat landscape easements on the *300 East Main Street CUP* property sufficient to plant the six additional canopy trees needed to satisfy the tree canopy and shading requirements of the LUO.
13. The Board of Aldermen finds it acceptable for the applicant to use a Filterra Biofiltration/Bioretention System stormwater device, whose NCDEQ approval is still pending, to manage and treat stormwater runoff during the interim surface-parking phase. If the Filterra is not sooner listed as an approved device by NCDEQ, the applicant's right to use the Filterra for the interim surface parking phase will expire three years after the issuance of a Certificate of Occupancy for the hotel and applicant will then either direct the relevant stormwater into its existing approved system under the existing parking deck or replace the Filterra with an alternate NCDEQ approved device subject to the Town's approval.
14. That, prior to construction plan approval, the applicant provide evidence explaining how operation and maintenance responsibilities of the stormwater system will be shared by the owners of the subject property and the adjacent *300 East Main St. CUP* properties.
15. 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.
16. 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.
17. That, prior to issuance of a CO, a final plat, or the certification of a stormwater BMP, the Town may require a performance security to be posted for a period of two years per the provisions of Section 15-263(i).
  18. That, prior to construction plan approval, the applicant obtain the required permissions and authorization from OWASA as they pertain to the proposed sewer system.
  19. 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.
  20. That prior to construction plan approval the applicant demonstrate compliance with the outdoor lighting provisions of Section 15-242 and 243 of the LUO for the outdoor fixtures associated with the interim parking lot.
  21. That, prior to issuance of the building permit for the parking deck expansion, the applicant must demonstrate that structurally and dimensionally sufficient secondary emergency access to the hotel is provided to the extent reasonably required by the Fire Department. This access shall require the review and approval of the Fire Department.
  22. 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.
  23. That the project be phased such that Phase A, beginning immediately will include the construction of the hotel, interim parking, and required stormwater BMPs. Phase B will begin by or before a five year period following the issuance of a certificate of occupancy of the new hotel.
  24. That the Board hereby grants a deviation in the glazing requirements of Section 15-178 allowing 42% ground floor and 36.9% overall glazing due to the location of the building with respect to Main Street as described in the Appearance Commission's recommendation dated October 1<sup>st</sup>, 2015.
  25. That prior to building permit approval and the issuance of a certificate of occupancy, the client demonstrate that the plans and the completed building incorporate the building design and performance measures described by the applicant's responses to the EAB's *Green and Sustainable Buildings Checklist*. These measures include, but are not limited to, reducing energy consumption by 20% from the standard model (ASHRAE/IESNA Standard 90.1-2004), using 30% materials with recycled content (per ISO 14021), using low-emitting materials for paints, adhesives, and materials, and, using high-albedo roofing materials. Such efforts will be in accordance with the standards referenced by the applicant in Attachment Q (attached herein) of the Board's agenda materials. The high-albedo roofing material shall exceed the EPA's Energy Star requirements, be listed with the Cool Roof Rating Council and be compliant with California's Title 24 Energy Efficiency Building Standards.
  26. That prior to construction plan approval, the applicant submit materials to satisfy the Construction Management Plan provisions of Section 15-49(c1).
  27. That proposed signage for Hilton Garden Inn must be presented to the Board of Aldermen for review prior to approval.
  28. The developer proposes to use the existing parking garage that is part of the *300 East Main St. CUP* (herein referred to as the "Property") to accommodate some of the parking requirements related to the construction of a 5-story Hilton Hotel at 390 E. Main Street. As a condition of approval of the modified Conditional Use Permit for 390 E. Main Street for the construction of a 5-story Hilton Hotel, the developer shall, within ninety (90) days of approval of the modified conditional use permit, cause a study to be conducted by a qualified professional of the actual usage of parking at the existing *300 East Main Street CUP* parking garage and at the existing surface parking (together referred to as the "On-site Parking") at the Property. A report of the parking study shall be delivered to the Town within 150 days of approval of a modified Conditional Use Permit for 390 E. Main Street. If the results of such study show that the existing parking capacity of the On-site Parking is insufficient to meet the peak demand for parking generated by the existing uses at the Property, then the developer shall be required to present to the Town a plan demonstrating how the developer will provide additional parking or take other steps to meet the demand for parking generated by the existing uses at the Property and the hotel prior to the issuance of a building permit for the hotel.
  29. The developer shall execute an option agreement to extend the existing parking lease and agreement with the Town in accordance with the Board of Alderman's resolution of March 8<sup>th</sup>, 2016 that authorizes this option agreement.





30. That the bike path connection at west side of the property must be paved and accessible to the public in the form of a ramp without utilizing steps.
31. That the applicant shall involve a LEED accredited professional with the ongoing design of the project and will use as many green building techniques as possible in their plans (for example: low impact design and development, resource efficiency, energy efficiency, water conservation and reuse, indoor environmental quality, homeowner education, etc.) and that the applicant shall utilize the LEED Green and Sustainable Buildings Checklist as a means of quantifying its contribution to sustainability.
32. That the following applicant responses to Town Environmental Checklists from the original agenda item material labeled "Attachment Q" and are to be included as conditions of this permit:

**Construction activity pollution prevention**

*Yes, the architectural design team is committed to preventing pollution of the air with dust and particulate matter in accordance with the US EPA Construction General Permit and the National Pollution Discharge Elimination Program.*

**Stormwater**

*A bioretention area adjacent to the southern wall of the hotel will be constructed to treat the roof runoff for water quality and the overflow will be directed to an underground storage system to manage the peak flow runoff rates.*

**Heat island effect, non-roof**

*Parking for the hotel will be in an underground parking garage which helps to eliminate the need for more surface parking. In addition trees will be planted adjacent to the street to the north of the hotel to provide shading for the asphalt.*

**Heat island effect, roof**

*The design at this time is for the roof to be white.*

**Light Pollution reduction**

*All lights for the project are to be building mounted at a height not to exceed 15 feet and to be full cutoff in design.*

**Water-efficient landscaping**

*A bioretention area will be planted with trees and shrubs designed to collect and treat roof runoff. Other plantings are native (i.e. dogwoods) to this climate and do not require supplemental watering.*

**Water use reduction**

*Our goal is to reduce water use by 20%*

**Optimized energy performance**

*We plan to demonstrate that based on ASHRAE/IESNA Standard 90.1-2004 that all of the energy costs within and associated with the building project are at least 20% less than the standard model.*

**Renewable energy**

*We do not have plans to implement renewable energy at this time.*

**Construction waste management**

*We are committed to the goal of recycling all materials as practical including cardboard, metal, brick, acoustical ceiling panels, concrete, plastics, clean wood, glass, gypsum wallboard, carpet, and insulation.*

**Recycled content**

*We are setting a goal of 30% use of materials with recycled content per ISO 14021.*

**Regional Materials**

*We plan to use 30% of all project building materials that have been extracted, harvested or recovered as well as manufactured within a 500 mile radius of the project site.*

**Rapidly renewable materials**

*We plan to utilize building materials and products that are made from plants that have a harvest cycle that is typically 10 years or shorter, for at least 2.5% of the value of the total building materials.*

**Certified wood**

*We are not planning to meet this goal at this time.*

**Low-emitting materials**

*The project will be constructed with the following:*

- ☐ adhesives and sealants on the inside that comply with SCAQMD Rule 1168 for low or no VOC content,
- ☐ paints and coatings with GS-11 for walls and ceilings, GC-03, for anti-corrosive ferrous metal coatings; SCAQMD Rule 1113, for clear wood finishes, floor coatings, stains and shellacs,





- ☐ carpet systems that meet the Carpet and Rug Institute's Green Label Plus program. Carpet adhesives shall not exceed 50 f/L,
- ☐ Composite wood and agrifiber products inside the building that do not include urea formaldehyde resins

#### **Daylight and views**

*The design at this time will not achieve a minimum daylight illumination level of 25 footcandles at 30 inches above the floor in 75% of all regularly occupied areas.*

#### **Exhibit #36**

##### **Response to Sustainability Checklist**

*(please use Vision 2020 ID number below to relate response to checklist)*

*1.11 This project supports the development of greenways dedicated to public use along easements as there exists a bikeway along the southern boundary that is partially located on the project site. In addition a connector from the private street onto the bikeway will be constructed which will connect the bikeway to the 300 East Main St. CUP project and the Hilton Garden Inn project.*

*1.12 Not applicable because not parks or playfields are part of development.*

*1.45 This project will have a neighborhood meeting to encourage citizen participation in the planning of this project.*

*2.12 This project is not located in a sensitive area.*

*2.11 This project will remove what previously was a storage area for an automobile repair shop and replace it with an architecturally pleasing hotel which will provide accommodations and support space for people visiting Carrboro and for meetings. A bioretention stormwater feature and underground storage system will be installed to mitigate negative impacts to the stormwater system.*

*2.21 A bioretention area and semi-opaque screen will be provided between the railroad and adjacent multi-family use respectively, whereas there is no need for a buffer between this commercial use and the two commercial uses to the north and northeast. There are no trees per the town's criteria that will be removed on-site.*

*2.22 This project is clearly dense but due to the urban and commercial nature of the project there is limited open space.*

*2.23 The trees and shrubs that are proposed to be planted are from the Town's approved list or are non-invasive species.*

*2.31 The architectural design of the building is distinctive and interesting with multiple materials, much glazing and substantial shadow lines.*

*2.32 Not applicable since this isn't for single family or multi-family.*

*2.41 This project will be of similar size and height to the adjacent 300 East Main St. CUP Hotel and parking deck and will have access from Main Street and Boyd Street.*

*2.42 This project is utilizing an existing private street access to eliminate the need for any new streets as well as providing parking underneath the building reducing the need for surface parking with their associated heat island effect. This project will replace an unattractive view from the bikeway with a bioretention facility with its associated plantings.*

*2.43 This project will remove two utility poles and move the associated utilities underground. In addition this project will plant six trees adjacent to asphalt to help mitigate the adverse effects from heated pavement.*

*2.51 Noted.*

*2.52 Not applicable.*

*2.53 The project's load is within the capacity of the existing infrastructure.*

*3.1 A bioretention area and semi-opaque screen will be provided between the railroad and adjacent multi-family use respectively, whereas there is no need for a buffer between this commercial use and the two commercial uses to the north and northeast. There are no trees per the town's criteria that will be removed on-site.*

*3.2 This project is located in close proximity to the downtown and will help to enhance the social and economic aspect of the center of Carrboro.*

*3.21 The hotel project is building up and not out. In addition it is increasing the density of commercial development.*

*3.22 The design of this hotel structure is architecturally interesting and significant.*

*3.23 This hotel project will definitely provide enhanced lodging opportunities for the Town and provide meeting space and a supporting restaurant to attract patrons.*

*3.25 The lighting along the back of the Arts Center/Brewery/Cats Cradle will be improved as a result of this development.*

*3.27 Noted.*

*3.28 Not applicable since this isn't a residential development*

*3.31 Project is located close to existing shopping areas.*



*3.32 Our project is connected to the adjacent shopping areas by sidewalks.*

*3.5 Noted.*

*3.61 This project addresses this goal of economic diversity by providing a higher scale of lodging than presently exists in the downtown.*

*3.63 Currently this property is in a derelict condition. This project will therefore develop underutilized property in the downtown area.*

*4.11 Noted.*

*4.12 Not applicable as we have no roads connected to our development.*

*4.14 Noted.*

*4.15 Being a high density project it has the potential to support potential public transit routes (passenger rail).*

*4.21 With additional meeting space this project will provide support for special events.*

*4.31 The design of this project is sensitive to the adjacent bikeway and with the addition of a bikeway connector it will enhance its use.*

*4.32 Noted.*

*4.33 Noted.*

*4.41 Not applicable as we have no roads connected to our development.*

*4.51 A bikeway connector will be built as a part of this development.*

*4.52 A bikeway connector will be built as a part of this development.*

*4.61 Not applicable.*

*5.12 Not applicable.*

*5.13 Required recycling facilities will be provided.*

*5.21 Noted.*

*5.22 Stormwater features associated with this project are designed to help improve stormwater quality and quantity.*

*5.23 Stormwater features associated with this project are designed to help improve stormwater quality and quantity.*

*5.31 This project has the potential to enhance the adjacent railroad greenway by replacing an overgrown, unattractive and abandoned site with bioretention features as well as architecturally pleasing structure.*

*5.32 Not applicable to our site.*

*5.41 Noted.*

*5.51 Noted.*

*5.6 Not applicable to our site.*

*6.11 Not applicable to our site.*

*6.12 Not applicable to our site.*

*6.13 Not applicable to our site.*

*6.15 Noted.*

*6.16 Not applicable to our site.*

*6.17 Not applicable to our site.*

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

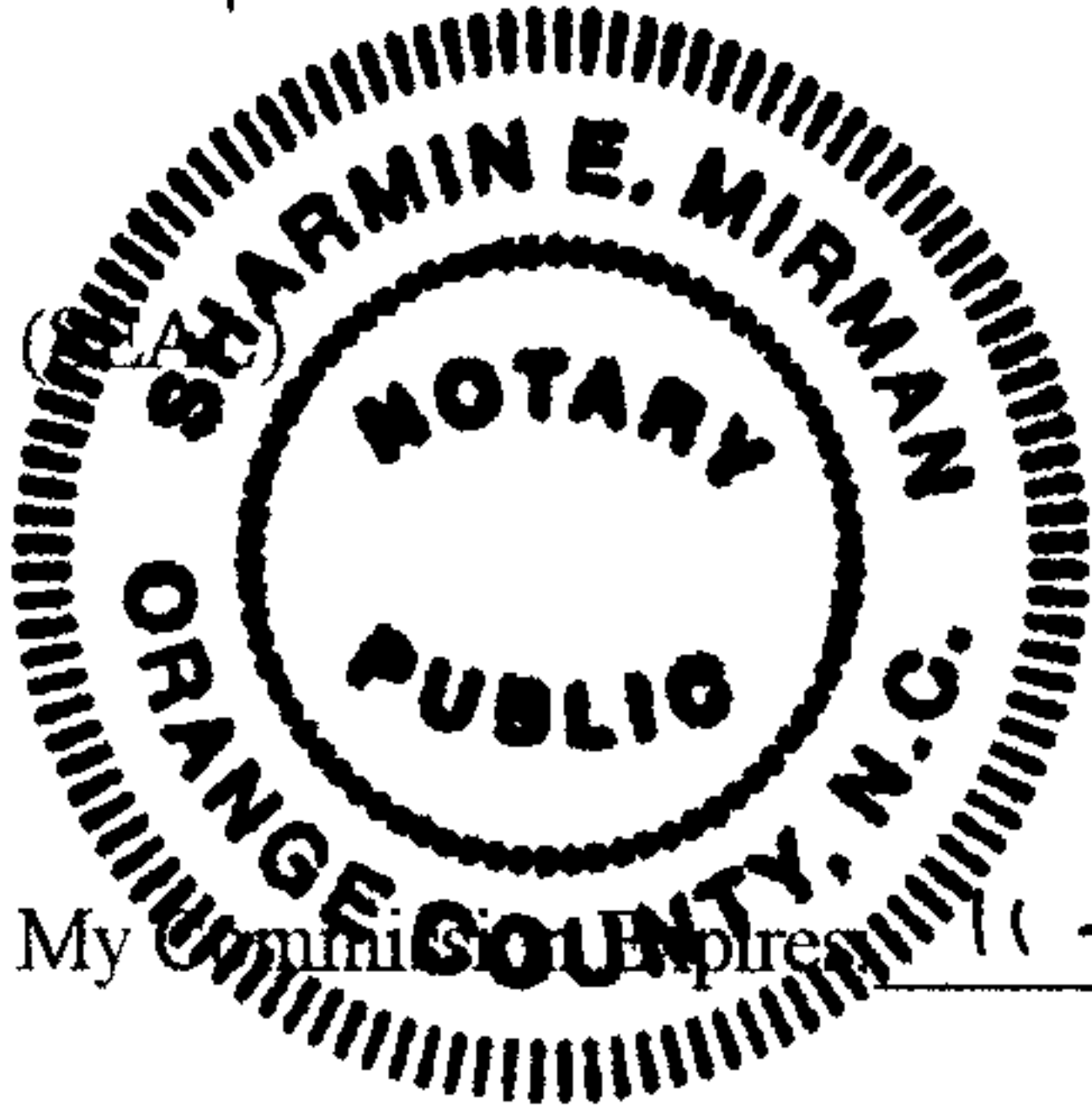
ATTEST:

Catherine Dorando (SEAL)  
Town Clerk

BY David Andrews  
Town Manager

I, Sharmine E. Mirman, a Notary Public in and for said County and State, do hereby certify that Catherine Dorando, 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 Dorando, 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 10<sup>th</sup> day of July, 2017



Sharmine E. Mirman  
Notary Public



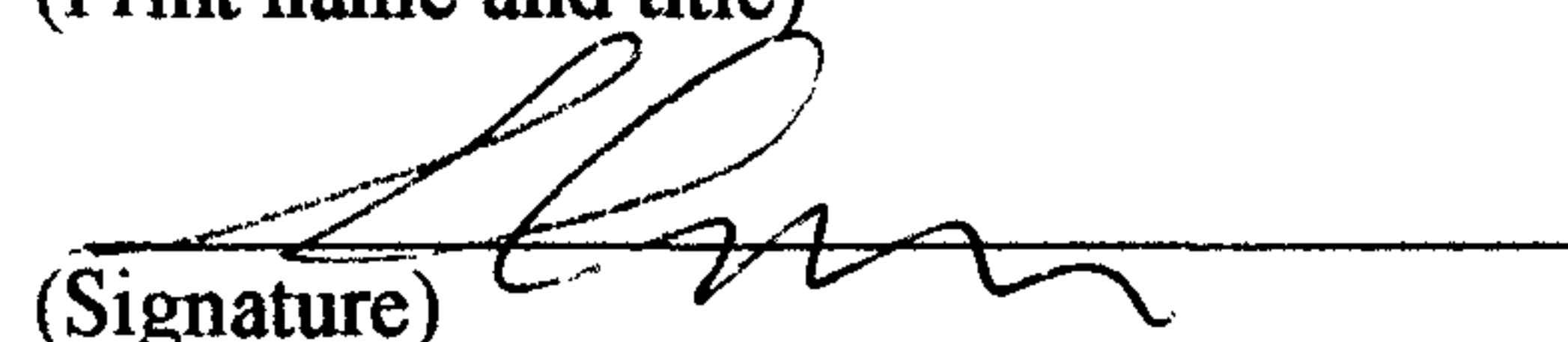
NORTH CAROLINA  
ORANGE COUNTY

We, Main Street Properties, LLC, owners, do hereby acknowledge receipt of this Conditional Use Permit Modification. The undersigned representative for Main Street Properties, LLC 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.

MAIN STREET PROPERTIES, LLC

By:

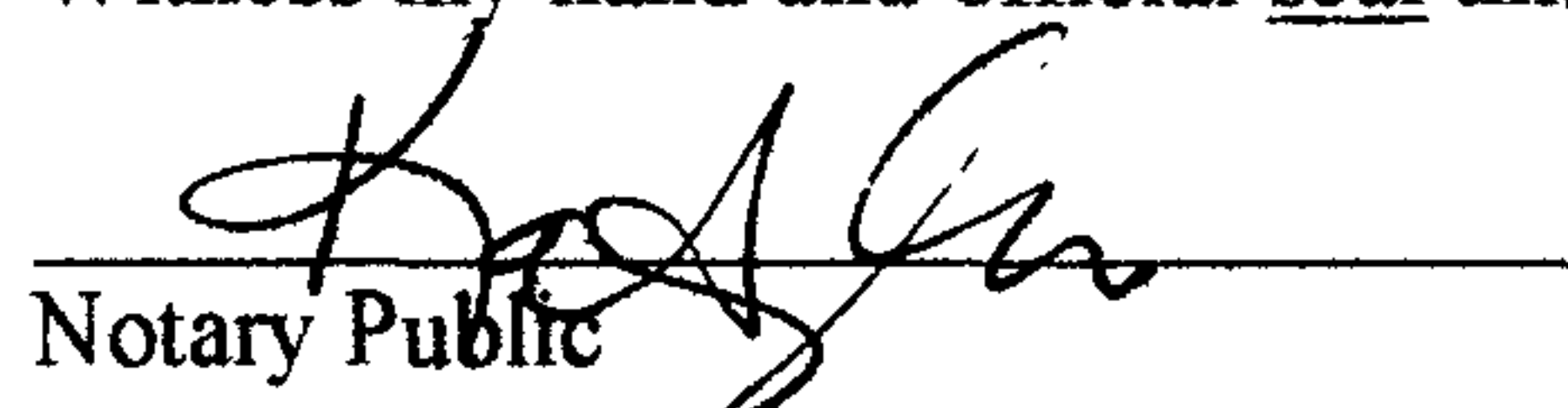
SHERMAN RICHARDSON MAN.  
(Print name and title)

(Signature) 

NORTH CAROLINA  
ORANGE COUNTY

I, Karina Aguilar, a Notary Public for said County and State, do hereby certify that Sherman Richardson representing Main Street Properties 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 7<sup>th</sup> day of July, 2017.

  
Notary Public

My Commission Expires: March 14, 2018

(Not valid until fully executed and recorded)

PREPARED BY AND RETURN TO: TOWN CLERK, TOWN OF CARRBORO, 301 W. MAIN STREET, CARRBORO, N.C. 27510