

TOWN OF CHAPEL HILL

306 NORTH COLUMBIA STREET
CHAPEL HILL, NORTH CAROLINA 27516
Telephone (919) 968-2728

ORANGE COUNTY

NORTH CAROLINA

MODIFICATION OF SPECIAL USE PERMIT (Corrected)

KNOW ALL MEN BY THESE PRESENTS, that the undersigned property owner(s) Southern Village Limited Partnership, having applied to the Town of Chapel Hill for modification of the existing Special Use Permit recorded in Book 1197, beginning on page 498, at the Office of the Register of Deeds, said modification was granted by the Town of Chapel Hill on October 22, 1996; the terms of said modification being as follows:

NAME OF PROJECT: Southern Village - Village Core Storefront District and Village Green Entranceway District
TYPE OF SPECIAL USE: Planned Development - Mixed Use
NAME OF DEVELOPER: Bryan Properties, Inc.

DESCRIPTION OF PREMISE

LOCATION: West of U.S. Highway 15-501, north of Dogwood Acres
TAX MAP REFERENCE: Chapel Hill Township Tax Map 126, Block A, Lots 4 and p/o 4K; and Chapel Hill Township Tax Map 126E

DESCRIPTION OF DEVELOPMENT

GROSS LAND AREA: 25 acres OFFICE SPACE: 145,000 sq. ft.
COMMERCIAL SPACE: 62,500 sq. ft. RESIDENTIAL SPACE: 162,500 sq. ft.

SPECIAL TERMS AND CONDITIONS

Development according to the Site Plan for the Southeast Tract, Sheet SE-3, stamped "received March 2, 1993"; the general principles outlined in the "Traditional Neighborhood Design Guidelines" (submitted by the applicant and subject to the revisions listed below); the plans dated November 10, 1995; and the special terms and conditions listed below:

SPECIFIC TERMS

Modification to Section 14.6.7 of the Development Ordinance, Minimum Off-Street Parking Requirements, which stipulates the minimum number of off-street parking spaces required, to:

- reduce the non-residential parking number requirements by half; and
- count both on-street and off-street parking toward fulfillment of parking number requirements for both residential and non-residential development.

Modification to Section 13.7 of the Development Ordinance, Land Use Intensity (LUI) Ratios, to allow the application of Use Group B, Town Center-1 zoning district Land Use Intensity Ratios to development in the Village Core subject to the following overall limitations:

- 162,500 square feet of residential floor area;
- 62,500 square feet of commercial floor area;
- 145,000 square feet of office floor area.

Stipulations Specific to the Development

1. Construction Deadline: That construction begin by June 28, 1998 with a valid Master Land Use Plan approval and be completed by June 28, 2008.

2. Required Improvements:

- a. That one half of a 120-foot right-of-way along the Highway 15-501 frontage be dedicated, with additional right-of-way dedicated at the project entrance off Highway 15-501 if determined to be necessary by the Town Manager. The dedication shall occur prior to issuance of a Zoning Compliance Permit for the first phase of development.
- b. That the developer install a traffic signal or provide a payment-in-lieu to the Town for the intersection of Highway 15-501 and the entrance to the village core. The signal shall be installed or payment-in-lieu made to the Town prior to issuance of a Zoning Compliance Permit for the first phase of development using this intersection as primary access.
- c. That the developer add a left turn lane and a right hand deceleration/turn lane on Highway 15-501 at the entrance into the village core.
- d. That the entrance off Highway 15-501 be constructed at a width which accommodates four lanes: - one lane into the development, one lane for right turns onto Highway 15-501, and two left turn lanes onto Highway 15-501. The entrance shall initially be striped to accommodate three lanes: one lane into the development, one lane for right turns onto Highway 15-501, and one left turn lane onto Highway 15-501.
- e. That sidewalk be installed on at least one side of each public street, except the alleys and the highway.
- f. That any public parks and public recreation areas be dedicated and deeded to the Town.
- g. That adequate transit stops, with benches and possible shelters, be provided as appropriate. The Town Manager shall determine the number and location of transit stops to be located within the site as more is learned about the use of future buildings and potential transit needs. The streets shall be built to Town standards, and shall be dedicated as public streets.
- h. That each road stubout to a subsequent phase be extended (cleared and graded) at least 100 feet into the adjacent future phase(s). Signage shall be located at each roadway stubout that indicates the roadway will be extended for future development.
- i. That traffic control signage and pavement markings conform to the standards in the Manual of Uniform Traffic Control Devices (MUTCD). The developer shall be responsible for maintaining the signs until the development is annexed by the Town.
- j. That wet detention basins and/or other stormwater management facilities be provided in accordance with all applicable Town regulations, including the Town's Water Supply Protection regulations, State regulations, and Federal (FEMA) regulations.

Design and construction of any stormwater management facility shall be approved by the Town Manager. All plans and final plats shall include dedication of permanent easements for ingress/egress as necessary for maintenance operations and equipment.

3. Ownership and Responsibilities of Common Areas: That an owners' association be created for the maintenance and regulation of the private (residential, office, park, landscape, and commercial) areas. All property owners (owning property within the area of the Master Land Use Plan approval), excluding governmental bodies, must be represented in the owners' association. This owners' association may have maintenance responsibilities for development elements which affect the entire development, including the stormwater management facility.

In addition, separate neighborhood association(s) and/or owners' association(s) for the Village Core Storefront District and Village Green Entranceway Transition District shall be created for the maintenance and regulations of the residential, office, and commercial areas. The documents creating these entities shall be reviewed for approval by the Town Manager, and shall be recorded in the Orange County Register of Deeds Office prior to issuance of a Zoning Compliance Permit for the first phase of development.

The responsibilities of these entities shall include the ownership and maintenance of the private alleys, private green spaces, private parks or recreation space, existing cemeteries and grave sites, and the perimeter buffers. These entities shall also be responsible for any "add-on fees" charged by Duke Power for special street lighting.

4. Impervious Surface: As part of every application for Final Plan Approval and Zoning Compliance Permit, the developer shall provide an up-to-date cumulative total for impervious surfaces in the applicable drainage sub-basin.

5. Design-Related Stipulations: The following revisions/additions shall be incorporated into the applicant's Traditional Neighborhood Development Design Guidelines. A revised copy of the Guidelines shall be submitted to the Town's Planning Department, and shall supersede the original set of guidelines. The

revised guidelines must be received and approved by the Town Manager prior to issuance of a Zoning Compliance Permit for the first phase of development. Subsequent revisions may be reviewed for approval by the Town Manager.

- a. All sidewalks with public rights-of-way shall be at least 5 feet in width. Or, the Town Manager may approve a narrower width in situations where there are topographical or other constraints.
- b. Landscape protection measures shall be to Town standards. The Town Manager may review and approve other methods on a case by case basis.
- c. Include specific street construction standards and materials; maximum slopes and vertical curve data; curb type; drainage methods; and typical cross-sections.
- d. That all one-way streets should include islands at the intersections to help direct traffic flow.
- e. Address landscaping of street side slopes and traffic islands.
- f. Address lighting of streets and alleys.
- g. All alley/street intersections must be at least 100 feet apart. The Town Manager may approve narrower separations on a case by case basis.
- h. No alleys shall intersect a street at a point where the street slopes over 15%.
- i. Widths of the right-of-way for public alleys shall be:
 - with no curb and gutter - 30 feet
 - with curb and gutter - 24 feet.
- j. That all driveway locations, for residential and non-residential uses, be reviewed for approval by the Town Manager.
- k. Parking areas shall be located behind the buildings in the storefront district and the entranceway district where possible.
- l. Provide more specifics on the provisions for refuse storage and recycling containers, pads, access and other refuse management issues including trash compactors.
- m. That all signage shall be reviewed for approval by the Town's Appearance Commission.
- n. That the building setbacks for the perimeter of the 312-acre site be in accordance with Subsection 18.8.9.4 of the Development Ordinance. All other setbacks shall be as described in the Traditional Neighborhood Design Guidelines.
- o. That the floor area limits for different uses within the Village Core Storefront District shall be in accordance with the submitted TND Guidelines, except that the grocery store/pharmacy may be increased to 15,000 square feet of floor area.

6. Land-Use Related Stipulations:

- a. Land uses within these two districts (Village Core Storefront and Village Green Entranceway Transition) shall be limited to those described in the uses shown on the approved Master Plan (included in the Traditional Neighborhood Development Design Guidelines) and Subsection 12.3 (schedule of uses) of the Chapel Hill Development Ordinance. In cases where the Master Plan and Traditional Neighborhood Development Design Guidelines list a use not included in Subsection 12.3 of the Development Ordinance, the use shall not be permitted. Uses shall be in accordance with those defined in Article 2 of the Development Ordinance.

Notwithstanding the above limitations on land use in the Village Core Storefront District, the central block (bounded by Market Street, Aberdeen, and Kildaire) may be used for parking.

- b. That the south central square in the Village Storefront District may be used for a fire station, but for no other drive-through use.
- c. That for the Village Core District, the percentage of retail floor area may be increased by up to 20%, and the floor area of the alternate component(s) accordingly be reduced, so that there is no net increase in floor area.
- d. That the development identified with this Special Use Permit Modification application shall be required to comply with the Land Use Intensity requirements of the underlying zoning district, but individual site-by-site applications for development within the boundary of the Special Use Permit Modification shall not be required to demonstrate compliance with the Land Use Intensity requirements.

- e. That, in the Village Core Storefront District, the Development Ordinance parking regulations for non-residential uses be modified to reduce the minimum required parking space number by 50%, so that the following requirements would apply:
- 1 parking space per 700 square feet of office space,
 - 1 parking space per 500 square feet of non-restaurant commercial space,
 - 1 parking space per 8 restaurant seats,
 - 1 parking space per 8 theater seats.

For residential parking, the Development Ordinance minimum requirements shall apply.

For both residential and non-residential uses, on-street parking may be counted towards fulfilling the minimum parking number requirements.

- f. That the maximum number of dwelling units for the entire Southern Village development shall not exceed 1,388.
- g. That the maximum commercial space for this district shall be 62,500 square feet of floor area; the maximum office space shall be 145,000 square feet of floor area; and the maximum residential space shall be 162,500 square feet of floor area.
7. Review Process: For subphases and blocks and building within the Storefront District and the Entranceway Transition District, all development shall be approved by the Planning Board as Site Plan Reviews. All signage shall be approved by the Appearance Commission.

In the approval of future Site Plan application(s) for the district, the Planning Board shall have authority to retain or delete the section of the alley between Brookgreen Drive and Aberdeen Street.

8. Stormwater Management Plan: That a general stormwater management plan for the entire 312-acre site be approved by the Town Manager prior to issuance of the first Zoning Compliance Permit. A detailed stormwater management plan, based on the Town's Hydros program, shall be submitted with the final plan application for approval by the Town Manager.
9. Steep Slopes: That each submittal for Site Plan approval or Zoning Compliance Permit include a map showing lots and street segments on slopes of 10% or more and indicating how the development and construction will comply with the steep slopes regulations in the Development Ordinance:
- for slopes of 10-15%, site preparation techniques shall be used which minimize grading and site disturbance;
 - for slopes of 15-25%, demonstrate specialized site design techniques and approaches for building and site preparation; and
 - for slopes of 25% or greater, provide a detailed site analysis of soil conditions, hydrology, bedrock conditions, and other engineering/environmental aspects of the site.

Each final plan application shall demonstrate compliance with the steep slopes regulations in the Development Ordinance. The Town Manager shall decide if the proposed building and site engineering techniques are appropriate.

10. Encroachment Agreements: That any required State or local encroachment agreements (for landscaping and other required improvements) be approved prior to issuance of a Zoning Compliance Permit.

Stipulation Related to Recreation Area

11. Recreation Space Requirements for Residential Component: That recreation space of sufficient area and type be provided for the residential components within this phase of development in accordance with Article 13 of the Development Ordinance. The plans for the recreation area shall be reviewed for approval by the Town Manager. The developer shall remain responsible for the recreation area unless the Town or owners' association accepts the property.

Stipulation Related to Service Stations

12. Service Stations: That for any service station within this development, the following stipulations shall apply:
- a. That all applicable Town regulations, including those pertaining to water supply watershed protection, be complied with.
 - b. That all applicable Town regulations, including those pertaining to water supply watershed protection, storm drainage, and hazardous materials be complied with. Following is a partial list:

- an emergency contingency plan must be prepared, in accordance with the requirements of Federal regulations, as part of the development application. The report must be updated annually;
 - any storage container for hazardous materials (such as gasoline) shall be equipped with leak detection devices and shall be double-walled or have other secondary containment features;
 - storage areas shall be protected by a dike of appropriate size; and
 - all floor drains that might collect hazardous materials must be connected to a tank or catch basin of appropriate size, and shall not be open to the site's natural drainage system.
- c. That the plans and operation of the gas station comply with Subsection 18.7.15 of the Chapel Hill Development Ordinance and include the following standards for service stations:
- the lot must be at least 20,000 square feet in area;
 - the lot must front and have direct access to an arterial or collector street;
 - provisions must be made for ventilation and dispersion and removal of fumes, and for the removal of hazardous chemicals and fluids; and
 - the service station driveways must be at least 300 feet from any intersecting street, and at least 750 feet from any other service station driveway.
- d. Additional protective measures for stormwater quality:
- that surface runoff from the gas station be routed to an oil-sand separator for liquid waste collection to filter the grease, oils, and other pollutants from the stormwater above the stormwater inlets;
 - provisions for a waste disposal plan, addressing disposal methods and record-keeping for solid waste, waste trapped in the oil-sand separator, grease traps (and/or other filtering devices), and liquid waste in accordance with Federal, State, and local regulations. The plan and records are to be provided to the Town annually;
 - for the fuel tanks: provision of double-walled piping with automatic leak detectors, and double-walled tanks with interstitial monitoring and automatic alarm systems; registration with the State and annual tank fees paid to the State; and
 - provision of monitoring well(s) with a regular monitoring program.

Stipulations Related to State and Federal Government Approvals

13. State or Federal Approvals: That any required State or Federal permits and encroachment agreements (including but not limited to those needed for improvements to Highway 15-501, for stormwater management and erosion control, for water and sewer extension, and for development in the Water Supply Protection Area) be approved and copies of the approved permits and agreements be submitted to the Town of Chapel Hill prior to the issuance of a Zoning Compliance Permit for the subject phase of development.
14. NCDOT Approvals: That plans for improvements to State-maintained roads be approved by NCDOT prior to issuance of a Zoning Compliance Permit for the subject phase of development.

Stipulations Related to Landscape Elements

15. Landscape Protection Plan: That a detailed landscape protection plan be approved by the Town Manager prior to issuance of a Zoning Compliance Permit.

This plan shall include areas of vegetation to be preserved; the anticipated clearing limit lines; proposed grading; proposed utility lines; a detail of protective fencing; and construction parking and materials staging/storing areas.

The plan shall show the use of tree protection fencing between infrastructure construction and existing vegetation in:

- all required buffers
- all common areas (public or private)

- all areas designated to be used for multifamily (including townhouses) and nonresidential, or mixed use development.
- other areas, to be determined by the Town Manager.

16. Street Tree Plantings: That the developer shall provide street tree plantings in the following locations:

- along the storefront district streets
- at the entranceway on Highway 15-501
- along the entrance road from Highway 15-501 into the storefront district
- in the central public green

In addition, street tree plantings shall be provided where no existing trees are shown as remaining within twenty feet of the curb on the Landscape Protection Plans submitted with final plan applications.

These trees will be installed to Town standards as detailed in the Town's Design Manual and/or approved by the Town Manager.

17. Landscape Plan Approval: That detailed landscape plans (including buffers and street tree plantings), landscape maintenance plans, and lighting plans be reviewed by the Town Manager for approval prior to issuance of a Zoning Compliance Permit.

The following buffers shall be provided, and that if any existing vegetation is to be used to satisfy the buffer requirements that this vegetation will be protected by fencing from adjacent construction:

- Type D buffer (minimum width 75', as measured from the new right-of-way line) along Highway 15-501

Supplemental plantings may be necessary to fulfill the requirements for buffers, screening, and entranceway plantings.

18. Plantings along the Highway Frontage: That plantings be provided and existing vegetation preserved along the highway frontage in general compliance with the Town's Master Landscape Plan for Entranceway Corridors along U.S. 15-501.

Stipulations Related to Water, Sewer and Other Utilities

19. Fireflow: That a preliminary fire hydrant plan and fireflow report for the 25-acre site be submitted with the final plans for this phase.

A detailed hydrant plan and fireflow report shall be required prior to the issuance of a Zoning Compliance Permit for this phase. The following flows and pressures shall be provided:

- For non-residential: 2,500 - 12,000 gallons per minute, at 20 pounds per square inch residual pressure;
- For multifamily: 1,500 - 2,500 gallons per minute, at 20 pounds per square inch residual pressure; and
- For single-family: 750 gallons per minute, at 20 pounds per square inch residual pressure.

20. Utility Service Laterals: That prior to paving streets, utility service laterals (including cable and telephone) shall be stubbed out to the front property lines of each lot.

21. OWASA Easements: That easement documents as required by OWASA and the Town Manager be recorded before final plat approval.

22. Utility/Lighting Plan Approval: That the final utility/lighting plan be approved by Orange Water and Sewer Authority, Duke Power, Time Warner Cable, Public Service Company, Southern Bell, and the Town Manager, before issuance of a Zoning Compliance Permit. The property owner shall be responsible for assuring these utilities, including cable television, are extended to serve the development. Plans may include installation of empty duct banks for future street lights and signal cable along internal streets.

Miscellaneous Stipulations

23. Solid Waste Management Plan: That a detailed solid waste management plan, including a recycling plan and plan for managing and minimizing of construction debris, be approved by the Town Manager prior to issuance of a Zoning Compliance Permit.

24. Transportation Management Plan: That prior to issuance of a Zoning Compliance Permit for any portion of the proposed office or commercial uses, the applicant prepare, for approval by the Town Manager, a Transportation Management Plan. Required components of each Transportation Management Plan may include:

- a. Provision for designation of a Transportation Coordinator;
- b. Provisions for an annual Transportation Survey and Annual Report to the Town Manager;
- c. Quantifiable traffic reduction goals and objectives;
- d. Ridesharing incentives; and
- e. Public Transit incentives.

25. Detailed Plans: That final detailed site plans, grading plans, utility/lighting plans, stormwater management plans (with hydrologic calculations), landscape plans, and landscape maintenance plans be approved by the Town Manager before issuance of a Zoning Compliance Permit, and that such plans conform to plans approved by this application and demonstrate compliance with all applicable regulations and the design standards of the Development Ordinance and the Design Manual.

The Town Manager may require adjustments to the street design to enhance safety and maintenance operations.

26. Certificates of Occupancy: That no Certificates of Occupancy be issued until all required public improvements are complete; and that a note to this effect shall be placed on the final plat.

If the Town Manager approves a phasing plan, no Certificates of Occupancy shall be issued for a phase until all required public improvements for that phase are complete; no Building Permits for any phase shall be issued until all public improvements required in previous phases are completed to a point adjacent to the new phase; and that a note to this effect shall be placed on the final plat.

27. Sight Triangle Easements: That sight triangle easements be provided on the final plat.

28. New Streets - Traffic Signs: That the property owners shall be responsible for placement and maintenance of temporary regulatory traffic signs including street name signs before issuance of any Certificate of Occupancy until such time that the street system is accepted for maintenance by the Town.

29. New Street Names and Numbers: That the name of the development and its streets and house/building numbers, be approved by the Town Manager prior to issuance of a Zoning Compliance Permit.

30. Erosion Control: That a general soil erosion and sedimentation control plan for the 312-acre site be reviewed by the Orange County Erosion Control Officer with the review of the final plans for the first phase of development.

A phase-specific detailed erosion control plan shall be submitted with each final plan application for review and approval by the Orange County Erosion Control Officer.

31. Silt Control: That the applicant take appropriate measures to prevent and remove the deposit of wet or dry silt on adjacent paved roadways.

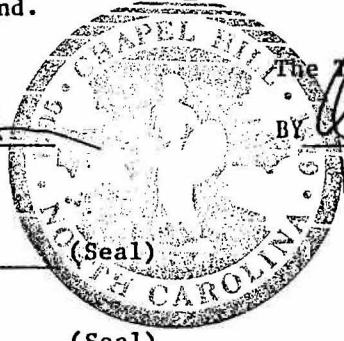
32. Continued Validity: That continued validity and effectiveness of this approval is expressly conditioned on the continued compliance with the plans and conditions listed above.

33. Non-Severability: That if any of the above conditions is held to be invalid, approval in its entirety shall be void.

IN WITNESS WHEREOF, the Town of Chapel Hill has caused this instrument to be executed in its name as evidence of the issuance of said permit, and the undersigned being all of the property owners of the property above described, have executed this instrument in evidence of their acceptance of said Special Use Permit Modification as covenant running with the land.

ATTEST

Peter M. J. Richardson
Town Clerk



The Town of Chapel Hill
BY W. Calvin Horton
KB

ACCEPTED

Owner

Owner

ATTEST

Secretary

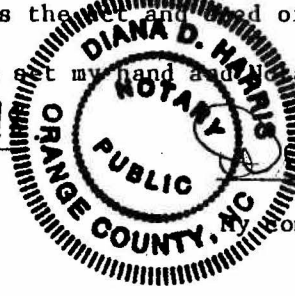
BY Corporate Name

Title

I, Diana D. Harris, a Notary Public in and for said County and State do hereby certify that W. Calvin Horton, Town Manager of the Town of Chapel Hill, and Peter M. J. Richardson, Town Clerk, duly sworn says each for himself that he knows the corporate seal of the Town of Chapel Hill and that the seal affixed to the foregoing instrument is the corporate seal of the Town of Chapel Hill, that W. Calvin Horton, Town Manager of said Town of Chapel Hill, and Peter M. J. Richardson, Town Clerk for the Town of Chapel Hill, subscribed their names thereto, that the corporate seal of the Town of Chapel Hill was affixed thereto, all by virtue of a resolution of the Chapel Hill Town Council, and that said instrument is the _____ of the Town of Chapel Hill.

IN WITNESS WHEREOF, I have hereunto set my hand and Notarial Seal this the

26th day of June, 1998



Diana D. Harris
Notary Public
My commission expires: 10-5-98

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

WITNESS my Hand and Notarial Seal, this _____ day of _____, 19____

Notary Public
My commission expires: _____

THIS _____ day of _____, 19____, personally come before me, _____, a Notary Public of Orange County, North Carolina, _____ who being by me duly sworn, says that he knows the common seal of the _____, and is acquainted with _____, who is President of said corporation and he, _____, who is Secretary of said corporation, and saw the President sign the foregoing instrument and he, the said _____, signed his name in attestation of the execution of said instrument in the presence of said President of said corporation.

WITNESS my hand and Notarial Seal, this the _____ day of _____, 19____.

Notary Public
My commission expires: _____