

FILED Joyce H Pearson
Register of Deeds Orange COUNTY, N
BY: *Wendy R. Y...*
Deputy

ATTACHMENT 14

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TOWN OF CHAPEL HILL

ORANGE COUNTY

NORTH CAROLINA

SPECIAL USE PERMIT

KNOW ALL MEN BY THESE PRESENTS, that the undersigned properly owner(s), Habitat for Humanity, Orange County, Inc., having applied to the Town of Chapel Hill for a Special Use Permit for the use and development of the property hereinafter described, the same was issued by the Town of Chapel Hill on November 10, 2003, the terms of which are as follows:

NAME OF PROJECT: Rusch Hollow

DESCRIPTION OF PREMISE

LOCATION. East side of Rogers Road between Peppers Trail and Rusch Road.

TAX MAP REFERENCE: The site is identified as Chapel Hill Township Tax Map 23, Block D, Lots 14,15, and 20, PIN's 9870424466,9870539615,9870534641.

DESCRIPTION OF DEVELOPMENT

| | | | |
|------------------------------------|--|-----------------------------|------------|
| Total # of Residential Structures: | 14 | Minimum Lot Size: | 4,700 s.f. |
| Type/Number of Dwelling Units: | 12 Single Family 2 Duplex Units 3 Tri-plex Units | Minimum Lot Width: | 65 feet |
| Maximum Floor Area Total: | 20,000 s.f. | Minimum Recreation Area: | 7,500 s.f. |
| Minimum Street Setback: | 20 feet | Minimum Interior Setback: | 8 feet |
| Minimum Solar Setback: | 8 feet | Maximum Impervious Surface: | 44 percent |

SPECIAL TERMS AND CONDITIONS

Development according to the Site Plan dated July 22, 2003 (on file in the Chapel Hill Planning Department), with the following modifications of regulations:

1. Modification of Subsection 4.6.4 of the Land Use Management Ordinance to allow the Town Manager approval, rather than Planning Board approval, of Minor Subdivision applications associated with this development.

Said public purposes being the time savings associated with a shorter review period to effect the recording of individual lots, given that the development proposal, including the subdivision of land, has been authorized with this approval by the Town Council.

Stipulation Specific to the Development

1. That construction begin by November 10, 2005 (two years from the date of Council approval) and be completed by November 10, 2006 (three years from the date of Council approval).
2. Land Use Intensity: This Special Use Permit authorizes the creation of 14 residential lots, and land use intensity requirements and dimensional standards as specified below:

*Return to: Habitat for Humanity - 1829 E. Franklin St.
#1200B, Chapel Hill, NC 27514*

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| Land Use Intensity / Dimensional Standards | |
|--|--|
| No. of Residential Structures | 14 |
| Type/Number of Dwelling Units | Single Family Use - 12 Dwelling Units Duplex Building- 2 Dwelling Units Tri-plex Building - 3 Dwelling Units |
| Min. Lot Size | 4,700 square feet |
| Min. Street Frontage | 65 feet |
| Max. Floor Area | 20,000 sq ft |
| Min. Recreation Area | *7,500 square feet |
| Min. Lot Width | 65 feet |
| Min. Street Setback | 20 |
| Min. Interior Setback | 8 |
| Min. Solar Setback | 8 |
| Max. Impervious Surface | 44% |
| Max. Floor Area | 20,000 sq ft |

* That if determined necessary by the Town Manager, the Recreation Area may be reduce in square footage in order to accommodate design revisions to the stormwater management facility and/or preserve the wetlands area.

Stipulations Related to Transportation Issues

3. Internal Streets/Sidewalks: That all internal streets be built to Town standard, constructed in a 27 foot cross section, including curb and gutter, including a 5-foot wide sidewalk and three foot utility strip on one side of the road, within a 40 foot right-of-way. The sidewalk shall be provided on at least one side of all internal streets.
4. Construction in Wetlands: Construction of public or private improvements shall be prohibited on the portions of the wetlands within the proposed right-of-way in front of lots 10 and 11. Future construction of public or private improvements within this area shall be prohibited unless authorized by Council action.
5. Access to Lot 10 and 11: Access to lot 10 shall be through a private access easement across lot 11, unless the Town Council authorizes construction across the wetland area in front of lots 10 and 11.
6. Rogers Road Improvements: That improvement along the site's Rogers Road frontage shall include a sidewalk and widening of the north bound roadway pavement width to 16 feet in order to accommodate a bicycle lane. These improvements shall be constructed within the Rogers Road right-of-way.
7. Dedicated Right-of-Way Recordation: That all required dedicated right-of-way, including additional right-of-way necessary for improvements along Rogers Road, shall be shown on a recorded final plat, subject to approval by the Town Manager prior to the issuance of a Zoning Compliance Permit. The dedicated right-of-way shall extend to a point one-foot behind the inside edge of the proposed sidewalk.
8. Direct Access Prohibited: That direct vehicular access be prohibited from Rogers Road and Rusch Road and that the access prohibition be identified on the final plans and plat.

Stipulations Related to Affordable Housing

9. Affordable Housing: That prior to Town approval of a plat for recordation of the new lots, the applicant shall provide, for Town Manager review and approval, deed restrictions guaranteeing the affordability component of the development. The deed restrictions must, at a minimum:
 - a. Include 100% of the housing units in Rusch Hollow as long-term Affordable housing;
 - b. Offer for sale twelve of the units to households earning at or below 50% of the area median income. These 12 units must remain affordable for at least ninety-nine years;
 - c. Deed restrictions must require that the 12 units be sold over a 99 year period only to households that earn 80% or less than the area median income;
 - d. Provide five rental units for households at or below 50% of area median income, ensuring that they remain affordable over a 99 year period; and
 - e. That these restrictions shall be recorded and cross referenced on the final plat.
10. Homeowners' Association: That a Homeowners' Association shall be created that has the capacity to place a lien on the property of a member who does not pay the annual charges for maintenance of common areas or easements, however designated. The Homeowners' Association documents shall be approved by the Town Manager prior to recordation at the Orange County Register of Deeds Office and shall be cross-referenced on the final plat.
11. Dedication and Maintenance of Common Areas: That the Rogers Road landscape bufferyard area, the recreation area and stormwater facility shall be deeded to the Homeowners' Association. The deeds shall be reviewed and approved by the Town Manager and cross referenced on the final plan. Maintenance of the common areas shall be the responsibility of the applicant or a property/homeowners association. The Homeowners' Association documents shall include a language addressing management and continual maintenance for the common areas.



Stipulations Related to Landscaping and Architectural Issues

12. Landscave Protection Plan: That a detailed Landscape Protection Plan, clearly indicating which rare and specimen trees shall be removed and preserved and including Town standard landscaping protection notes, shall be approved by the Town Manager prior to issuance of a Zoning Compliance Permit.
13. Landscaping Plan: Bufferyard and Front Yard Tree Plan: That a detailed landscape plan including a Type "A" 20-foot wide landscape bufferyard along Rusch Road, a front yard tree planting plan, and landscape maintenance plan, be approved by the Town Manager prior to issuance of a Zoning Compliance Permit. The landscape plan shall indicate the size, type, and location of all proposed plantings.
14. Resource Conservation District Landscape Bufferyard: A minimum 6-foot wide landscape bufferyard, with trees, shall be provided on this proposed development site, between the Resource Conservation District area on the adjoining property to the east and the proposed stormwater management feature and recreation area Existing vegetation may be used to satisfy the buffer requirement.
15. Tree Protection Fencing: That the limits of land disturbance with tree protection fencing, including off-site infrastructure construction associated with the 8-inch sewer main extension, shall be shown on the Landscape Protection Plan, to be approved by the Town Manager prior to issuance of a Zoning Compliance Permit.

Stipulations Related to Environmental Issues

16. Permanent Retention Basin Installation:
 - a. Compliance with the Town's Impervious Surface Limits shall be demonstrated with the provision of a permanent stormwater retention facility in accordance with the requirements of the Land Use Management Plan and Design Manual.
 - b. The property owner shall post a performance bond or other surety instrument satisfactory to the Town, in an amount approved by the Town Manager, to assure maintenance, repair, or reconstruction necessary for adequate performance of the engineered stormwater controls.
 - c. The Owners' or Homeowners' Association shall be responsible for arranging for annual inspections of all facilities by an appropriately certified engineer, to determine whether the facility and associated structures are operating acceptably according to design requirements, and to report findings of said inspections to the Town Manager, with such recommendations for maintenance or repair as may be warranted. Any needed repairs shall be completed within 120 days unless otherwise approved by the Town Manager. Restrictive covenants shall be recorded which identify these responsibilities of the Owners' or Homeowners' Association, including maintenance.
 - d. Maintenance of the facility shall be the responsibility of the applicant or a property/homeowners association. A maintenance plan shall be provided, to be approved by the Town Manager. The plans shall address inspection, maintenance intervals, type of equipment required, access, and related matters.
 - e. As part of every application for Final Plan Approval, Zoning Compliance Permit, and residential Building Permit, the applicant shall provide an up-to-date cumulative total for impervious surfaces in the particular sub-basin.
 - f. All sediment deposited in the ponds during construction activity on contributing sites must be removed before "normal" pond operation begins.
17. Steep Slopes: That each submittal for Final Plan approval shall include a plan 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 Land Use Management Ordinance:
 - a. For slopes of 10 - 15%, site preparation techniques shall be used which minimize grading and site disturbance;
 - b. for slopes of 15 - 25%, demonstrate specialized site design techniques and approaches for building and site preparation; and
 - c. for slopes of 25% or greater, provide a detailed site analysis of soil conditions, hydrology, bedrock conditions, and other engineering or environmental aspects of the site.

Each Final Plan application shall demonstrate compliance with the steep slopes regulations in the Land Use Management Ordinance. The Town Manager shall decide if the proposed building and site engineering techniques are appropriate. These restrictions shall be referenced in the Homeowners' Association documents.

18. Stormwater Management Plan: That prior to the issuance of a Zoning Compliance Permit the applicant shall submit a Stormwater Management Plan for review and approval by the Town Manager. The plan shall be based on the 1-year, 2-year, and 25-year frequency, 24-hour duration storms, where the post-development stormwater run-off rate shall not exceed the pre-development rate and the post-development stormwater runoff volume shall not exceed the pre-development volume for the local 2-year frequency, 24-hour duration storm event. Engineered stormwater facilities shall also remove 85% total suspended solids and treat the first inch of precipitation utilizing NC Division of Water Quality design standards.
19. Storm Drainageway Easement: That all stormwater management improvements, outside public right-of-way, shall be located inside resewed storm drainageway easements, per Town guidelines, to be approved by the Town Manager prior to the issuance of a Zoning Compliance Permit.
20. Stormwater Operations and Maintenance Plan: That the applicant shall provide a Stormwater Operations and Maintenance Plan for all engineered stormwater facilities. We recommend that the plan include the owner's financial responsibility and include the maintenance schedule of the facilities to ensure that it continues to function as originally intended and shall be approved by the

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Town Manager, prior to the issuance of a Zoning Compliance Permit.

- 21. Wetlands Location: That the applicant submits Final Plans which show the location of State or federally regulated wetlands on the site. That any proposed disturbance of wetlands shall demonstrate compliance with applicable State and federal regulations.
- 22. State or Federal Approvals: That any required State or federal permits or encroachment agreements for development in the wetlands must be approved by the appropriate agencies and copies of the approved permits be submitted to the Town Manager prior to the issuance of a Zoning Compliance Permit.
- 23. Erosion Control: That a detailed soil erosion and sedimentation control plan, including provision for maintenance of facilities and modifications of the plan if necessary, be approved by the Orange County Erosion Control Officer and the Town Manager prior to issuance of a Zoning Compliance Permit. That a performance guarantee be provided in accordance with Section 5-97.1 of the Town Code of Ordinances prior to issuance of any permit to begin land-disturbing activity.
- 24. Silt Control: That the applicant takes appropriate measures to prevent and remove the deposit of wet or dry silt on adjacent paved roadways.

Stipulations Related to Utility and Service Issues

- 25. Off-Site Sewer Construction: That approval of this Special Use Permit shall authorize the installation of the off-site sewer infrastructure.
- 26. Off-Site Sewer Easement: That off-site utility easements, authorizing the installation of the 8-inch sewer line shall be provided and approved by the Town Manager and OWASA and recorded at the Orange County Register of Deeds Office prior to the issuance of a Zoning Compliance Permit.
- 27. Resource Conservation District Boundaries: That the boundaries of any Resource Conservation District, including that associated with the off-site sewer improvements, shall be indicated on the final plans and final plat.
- 28. OWASA Easements: That easement documents as required by OWASA, and the Town Manager, be recorded concurrently with the final plat. That the final plat shall be approved by OWASA prior to Town Manager approval.
- 29. Utility/Lighting Plan Approval: That the final Utility/Lighting Plan be approved by Duke Power Company, Orange Water and Sewer Authority, BellSouth, Public Service Company, Time Warner Cable, and the Town Manager prior to issuance of a Zoning Compliance Permit.
- 30. Utility Line Placement: That all new utility lines shall be placed underground. The applicant shall indicate proposed off-site utility line routing and upgrades required to service the site on Final Plans, to be approved by the Town Manager prior to issuance of a Zoning Compliance Permit.
- 31. Solid Waste Management Plan: That a Solid Waste Management Plan, including provisions for recycling, and for managing and minimizing construction debris and removal of existing residential debris piles, shall be approved by the Town Manager prior to issuance of a Zoning Compliance Permit.
- 32. Fire Flow: That a fire flow report, shall be prepared and sealed by a registered professional engineer, and showing that flows meet the minimum requirements of the Town Design Manual, to be approved by the Town Manager prior to issuance of a Zoning Compliance Permit.
- 33. Fire Hydrant Spacing: That maximum spacing between fire hydrants shall not exceed 500 feet, subject to approval by the Town Manager prior to issuance of a Zoning Compliance Permit.

Stipulations Related to Miscellaneous Issues

- 34. Recreation Area Improvements: That the 7,500 square foot recreation area may include a picnic table and picnic shelter, or other recreational amenities deemed adequate by the Town Manager.
- 35. Wetlands Preservation: To minimize the impact of the development on the wetlands area, the 7,500 square foot recreation area may be decreased in size or eliminated. In-lieu of a recreation area, the area may be used for stormwater management, as a portion of a residential lot, or for any other design element deemed appropriate by the Town Manager as a means to preserve the wetlands.
- 36. Minor Subdivision Approval: That approval of the Minor Subdivision application creating the lots authorized with this approval shall be by the Town Manager rather than the Town Planning Board.
- 37. Construction Management Plan: That a Construction Management Plan, indicating how construction vehicle traffic will be managed, shall be approved by the Town Manager prior to the issuance of a Zoning Compliance Permit.
- 38. Open Burning: That the open burning of trees, limbs, stumps and construction debris associated with this development is prohibited unless it is demonstrated to the Town Manager or his designee that no reasonable alternative means are available for removal of the materials from the subject property. The Fire Marshall may establish safety standards, which must be met in order to receive a permit.
- 39. Detailed Plans: That final detailed site plans, grading plans, utility/lighting plans, stormwater management plans (with hydrologic calculations), and landscape plans and landscape maintenance plans be approved by the Town Manager prior to issuance of a Zoning Compliance Permit, and that such plans conform to the plans approved by this application and demonstrate compliance with all applicable conditions and the design standards of the Land Use Management Ordinance and the Design Manual.

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- 40. As-Built Plans: That as-built plans in DXF binary format using State place coordinates, shall be provided for street improvements and all other existing or proposed impervious surfaces prior to issuance of the first Certificate of Occupancy.
- 41. Certificates of Occupancy: That no Certificates of Occupancy shall be issued until all required public improvements are completed; and that a note to this effect shall be placed on the final plat.
- 42. **That 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.**
- 43. Street Names and Addresses: That the name of the development and its streets and house numbers be approved by the Town Manager prior to the issuance of a Zoning Compliance Permit.
- 44. Construction Sign: **That the applicant shall post a construction sign that lists the property owner's representative and telephone number, the contractor's representative and telephone number, and a telephone number for regulatory information at the time of issuance of a Building Permit, prior to the commencement of any land disturbing activities. The construction sign may have a maximum of 16 square feet of display area and may not exceed 6 feet in height. The sign shall be non-illuminated, and shall consist of light letters on a dark background.**
- 45. Continued Validity: That continued validity and effectiveness of this approval is expressly conditioned on the continued compliance with the plans and conditions listed above.
- 46. 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 as covenant running with the land.

ATTEST
Joyce A. Smith
Town Clerk

The Town of Chapel Hill
BY W. Calvin Horton
Town Manager



ACCEPTED

Owner

Owner

ATTEST
John L. Tyrrell
Secretary

Habitat for Humanity
Orange County, Inc.
Corporate Name
John L. Tyrrell as President
Title



ORANGE COUNTY NORTH CAROLINA

I, Amy T. Harvey, 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 Joyce A. Smith, 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 Joyce A. Smith, 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 act and deed of the Town of Chapel Hill.

IN WITNESS WHEREOF, I have hereunto set my hand and Notarial Seal this the 15 day of June 2004



Amy T. Harvey
Notary Public
My commission expires: May 8, 2005

ORANGE COUNTY NORTH CAROLINA

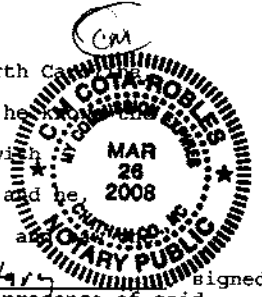
I, _____, a Notary Public in and for said State and County do hereby certify that _____ owners, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my Hand and Notarial Seal, this _____ day of _____, 20____.

Notary Public
My commission expires: _____

ORANGE COUNTY NORTH CAROLINA

THIS 24th day of June, 2004, personally come before me, CM COTA-ROBLES, a Notary Public of Chatham County, North Carolina. Robert A. Reda, Jr. who being by me duly sworn, says that he is the Secretary of the Orange Co. Inc common seal of the Habitat for Humanity, and is acquainted with John L. Tyrrell, who is President of said corporation and Robert A. Reda, Jr., who is Secretary of said corporation, and he, the said Secretary signed his name in attestation of the execution of said instrument in the presence of said President of said corporation.



President sign the foregoing instrument and he, the said Secretary 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 24th day of June, 2004.



CM Cota-Robles
Notary Public
My commission expires: Mar. 26, 2008