



38  
HAB

⑥  
IRREGULAR FORM NO 3" Top Margin

FILED Joyce H. Pearson  
Register of Deeds Orange COUNTY, NC  
BY: *Delwaha B. Knab*  
ASST



TOWN OF CHAPEL HILL

ORANGE COUNTY

NORTH CAROLINA

SPECIAL USE PERMIT/PLANNED DEVELOPMENT-MIXED USE

KNOW ALL PERSONS BY THESE PRESENTS, that the owner of the property, which is identified below, having applied to the Town of Chapel Hill for a Special Use Permit/Planned Development-Mixed Use for the use and development of the property hereinafter described, the same was approved by the Town of Chapel Hill Town Council on March 24, 2003, and has been issued to the current-owner of record, Cameron Company LLC, the terms of which are as follows

NAME OF PROJECT: Marriott Residence Inn Hotel  
NAME OF DEVELOPER: Summit Hospitality Group, Ltd.

RETURN TO: SCOTT RADNICK  
505 WESTMINSTER DR  
CHAPEL HILL, NC 27514

DESCRIPTION OF PREMISE

LOCATION: Northwest corner of the Erwin Road/Dobbins Drive intersection.

TAX MAP REFERENCE: The site is identified as Chapel Hill Township Tax Map 27, Block A, Lot 3, PIN 9799480252.  
mas

DESCRIPTION OF DEVELOPMENT

Net Land Area:	578,935 s.f.	Total # of Buildings:	3
Maximum # of Parking Spaces:	126	Minimum Number of Bicycle Spaces:	13
Maximum Floor Area Total:	79,120 s.f.	Maximum Floor Area (Hotel):	73,120 s.f.
Maximum # of Lodging Units:	108	Minimum Recreation Space:	7,000 s.f.

Stipulation Specific to the Development

1. That construction begin by March 24, 2005 and be completed by August 1, 2006.
2. Land Use Intensity: This Special Use Permit authorizes the construction of a Planned Development - Mixed Use including the following:
  - A. A three-story hotel building and associated one-story guest check-in building containing no more than 73,120 square feet of floor area, and a maximum of 108 lodging units. Use of the guest check in building shall include a hearth room, meeting room, exercise room, lobby/vestibule, front desk area, administrative offices, limited food service facilities, housekeeping, maintenance, and associated employee and utility areas.
  - B. A two-story building including 3,000 square feet of general office floor area on the ground floor and 3,000 square feet of residential floor area, consisting of four one-bedroom dwelling units on the second floor.
  - C. Associated recreational amenities including a pool.
  - D. This approval does not authorize a restaurant.
  - E. Extended-Stay Facility: The hotel shall be an extended-stay hotel facility containing lodging units which include independent kitchen facilities and which are designed and marketed to the public for occupancy primarily for periods of five nights (one business week) or more. Any change to the use of the hotel facility from an extended-stay facility shall require Town Council approval of a Special Use Permit Modification.
3. Parking: That a maximum of 126 parking spaces shall be provided on the site. All parking lots shall be designed to Town standards.

4. **Building Location and Height Limitations:** No building shall be placed closer than 175 feet to the joint property line of the Marriott site and Summerfield Crossing, nor closer than 100 feet to any other property line and no building shall exceed 45 feet in height.
5. **Taxation:** That during any time this property is exempt from ad valorem property taxes, the owner shall make annual payments-in-lieu of property taxes, the amount to be determined based on a valuation determined by the Orange County Tax Supervisor and the applicable year's established city and county tax rate.

Required Improvements

6. **U.S. Hwy. 15/501:** That no Certificate of Occupancy shall be issued for any part of this development until the Superstreet improvements at the intersection of U.S. 15-501 and Europa Drive/Erwin road, being designed and constructed by N.C. Department of Transportation, are completed and open to traffic, or until August 1, 2006, whichever is sooner.
7. **Dobbins Drive Relocation and Reconfiguration:** That public right-of-way be dedicated along Dobbins Drive to correspond with the North Carolina Department of Transportation's plans for the relocation and reconfiguration of this roadway, and that the width of this right-of-way dedication be approved by NCDOT and the Town Manager, and the right-of-way dedicated, prior to issuance of a Zoning Compliance Permit.
8. **Dobbins Drive Right-of-Way Dedication:** That a 60-foot public right-of-way, or one-half of a 60-foot public right-of-way as applicable, be dedicated along Dobbins Drive prior to issuance of a Zoning Compliance Permit.
9. **Dobbins Drive Realignment and Reconfiguration:** That the portion of Dobbins Drive located west of Erwin Road (and along this property's frontage) be realigned/reconfigured to line up with the eastern intersection of Dobbins Drive and Erwin Road. This realigned/reconfigured portion of Dobbins Drive shall be constructed to include 26 feet of pavement, curb and gutter, and a 5-foot concrete sidewalk along one side of the road. No Certificate of Occupancy would be issued for any part of this development until Superstreet improvements are completed or until August 1, 2006.
10. **Dobbins Drive - Existing Portion (No Reconfiguration Needed):** That the portion of Dobbins Drive that is not involved in the NCDOT reconfiguration project be improved to include curb and gutter, and a five-foot concrete sidewalk. These improvements shall be constructed prior to the issuance of a Certificate of Occupancy.
11. **Bus Stop on Dobbins Drive:** That the developer either provide a bus stop including a shelter, bench and 5-foot by 10-foot pad on Dobbins Drive once this road is reconfigured; or, that a payment-in-lieu be provided for this bus stop, at an amount to be approved by the Town Manager, prior to issuance of a Zoning Compliance Permit.
12. **Sidewalk from Parking Lot to Dobbins Drive:** That a sidewalk be constructed from the southern parking lot to Dobbins Drive, in order to provide a direct pedestrian connection to Dobbins Drive and the required bus stop.
13. **Erwin Road Right-of-Way:** That one-half of a 110-foot public right-of-way be dedicated along this property's Erwin Road frontage, and that the location of this right-of-way be approved by the North Carolina Department of Transportation and the Town Manager, and the right-of-way dedicated, prior to issuance of a Zoning Compliance Permit.
14. **Erwin Road Improvements:** That Erwin Road be improved to provide 44 feet of pavement width along this site's frontage, including a bicycle lane, a left turn lane, curb and gutter, a three-foot wide planting strip, and a five-foot wide concrete sidewalk. These improvements shall be constructed prior to the issuance of a Certificate of Occupancy.
15. **Construction of Road Improvements/Payment In Lieu:** That the applicant shall work with North Carolina Department of Transportation and the Town to construct improvements required by the Town and desired by North Carolina Department of Transportation. In the case of the Dobbins Drive realignment and Erwin Road improvements, the applicant shall provide a payment in lieu to the Town for forwarding to North Carolina Department of Transportation for the Town required improvements that exceed the improvements North Carolina Department of Transportation would otherwise make. For the "remainder of Dobbins Drive (the approximately 340 feet of Dobbins Drive not involved in the realignment) the applicant shall either construct the improvements required by the Town or make a payment in lieu should the Town or North Carolina Department of Transportation wish to construct these improvements.
16. **Pedestrian Access:** Sidewalks connecting the internal sidewalks on the site to external sidewalks on Erwin Road and Dobbins Road will be provided as well as a sidewalk connecting the parking areas on the southern side of the site directly to Dobbins Drive.
17. **Bicycle Parking:** That bicycle parking, as required by the Town's Design Manual, will be provided. Three (3) Class I (enclosed) bicycle parking spaces and ten (10) Class II (stationary 'U' rack) bicycle parking spaces be provided on this site. Safe bicycle access to and from the hotel site will be provide.

Stipulations Related to State or Federal Government Approvals

18. **Permits:** That any required State permits or encroachment agreements 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.

Stipulations Related to Landscaping and Architectural Issues

19. **Landscape Plan Approval:** That a detailed landscape plan, landscape maintenance plan, and lighting plan be approved by the Town Manager prior to issuance of a Zoning Compliance Permit.
20. **Landscape Protection Plan:** That a Landscape Protection Plan be approved by the Town Manager prior to issuance of a Zoning Compliance Permit; and that the Plan include Town standard notes and details.

21. **Required Buffers:** That the following landscape bufferyards be provided; and if any existing vegetation is to be used to satisfy the buffer requirements, the vegetation will be protected by fencing from adjacent construction:
- ◆ Western Property Line (Summerfield Crossing): Type 'C' landscape bufferyard (minimum width 100 feet);
  - ◆ Southern Property Line (Dobbins Drive): Type 'D' landscape bufferyard (minimum width 30 feet);
  - ◆ Northern Property Lines: Type 'C' landscape bufferyard (minimum width 20 feet); and
  - ◆ Eastern Property Line (along Erwin Road): Type 'D' landscape bufferyard (minimum width 50 feet);
- Alternative buffers will not be permitted.
22. **Tree Protection Fencing:** That tree protection fencing shall be installed a minimum of 15 feet from the interior edge of the required western landscape bufferyard to protect the root systems of the landscape bufferyard vegetation, subject to Town Manager approval.
23. **Buffer Adjoining Summerfield Crossing:** A permanent deed restricted buffer of existing vegetation, a minimum of 100 feet in width, shall be created along the joint property line with Summerfield Crossing.
24. **No Paths/Trails:** No connector pedestrian paths or trails shall be permitted in the perimeter landscape bufferyard adjacent to Summerfield Crossing.
25. **Preservation of 24-inch Cedar:** That the 24-inch Cedar tree located in the southwest corner of the site adjacent to the southern detention basin be preserved.
26. **Building Elevations:** That the Community Design Commission approve building elevations, including the location and screening of all HVAC/Air Handling Units for this project, prior to issuance of a Zoning Compliance Permit.
27. **Lighting Plan:** That the Community Design Commission approve a lighting plan for this project prior to issuance of a Zoning Compliance Permit.
28. **Building Lighting:** No building mounted lighting will be placed on the sides or ends of the guest buildings where those facades face Summerfield Crossing.
29. **Parking Lot Lighting:** Parking lot lighting shall: a) Be designed to provide for the safe movement of hotel guests and employees; b) Use fixtures not greater than 15 feet in height with high pressure sodium lamps; c) Use cut-off or similar shield devices to prevent light spillage away from the parking lots; and d) Be consistent with the Town of Chapel Hill and Duke Power lighting standards.

Stipulations Related to Environmental Issues

30. **Impervious Surface Limits:** That the maximum amount of impervious surface area on the site shall not exceed 20% of the gross land area of the site.
31. **Stormwater Flow and Site Disturbance-Northern Drainage Swale:** The natural drainage swale passing from west to east across the northern portion of the site (and to the north of all proposed site disturbance shown on the accompanying Special Use Permit) shall be protected from encroachment during construction by tree protection fencing and other devices as approve by the Town of Chapel Hill.
32. **Parking Lot on Northern Portion of Site:** That the parking lot proposed to be located on the northern portion of the development be reduced in size or relocated, subject to Town Manager approval, and that the stormwater management plan include special attention to the stormwater run-off from this portion of the site to protect the northern drainage swale in the vicinity.
33. **Land Disturbance in the Resource Conservation District:** That land disturbance in the Resource Conservation District is prohibited in accordance with the rules and regulations of Article 5 of the Town's Land Use Management Ordinance.
34. **Stormwater Management Plan:** That a Stormwater Management Plan shall be approved by the Town Manager prior to issuance of a Zoning Compliance Permit. 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.
- Depending on the development site location, size in area and the condition of the existing conveyance system and associated lands, the Manager may waive or change the peak discharge rate criteria in part or in whole if, based on an approved Stormwater Management Plan, it is demonstrated that detention would intensify existing peak discharges or may cause other problems on abutting or downstream properties. In addition, the plans shall show all storm drainage outlets and address any impact the stormwater from these outlets may have on abutting properties.
35. **Stormwater Easements:** That the final plans and final plat include an easement titled "Reserved Storm Drainageway." That the easement shall be included on all engineered stormwater features located above and below ground including pipes, streams, and ditches that carry water to and from abutting properties. The easement must be recorded prior to issuance of a Zoning Compliance Permit.

That unless specifically designated by the Town as "Public," drainage features and infrastructure, within the "Reserved Storm Drainageway" shall be considered private and the responsibility of the property owner. That drainage easements are not required for drainage structures and conveyance systems that handle internal stormwater runoff within a single lot or parcel. This detail shall be noted on the final plans.

36. **Performance Guarantee:** That if more than one acre of land is disturbed, then a performance guarantee in accordance with Section 5-97.1 Bonds of the Town Code of Ordinances shall be required prior to final authorization to begin land-disturbing activities.
37. **Erosion Control:** That a detailed soil erosion and sedimentation control plan, including provision for a maintenance of facilities and modification of the plan if necessary, be approved by the Orange County Erosion Control Officer, and that a copy of the approval be provided to the Town Manager prior to issuance of a Zoning Compliance Permit.
38. **Silt Control:** That the applicant take appropriate measures to prevent and remove the deposit of wet or dry silt on adjacent paved roadways.

#### Stipulations Related to Utility and Service Issues

39. **Heating/Air Conditioning System:** That the heating/air conditioning system for the facility be a ductless split system unit with rotary compressor and noise abatement, or the equivalent or better system, subject to Town Manager approval, with dense shrubs planted adjacent to each compressor. The system shall comply with the Chapel Hill Noise Ordinance.
40. **OWASA Sewer Connection:** The hotel shall be developed so that sanitary sewer service shall not require the clearing of and use of the existing OWASA easement crossing Summerfield Crossing.
41. **Utility Plan Approval:** That the final utility plan be approved by Orange Water and Sewer Authority (OWASA), Duke Power Company, BellSouth, Public Service Company, Time Warner Cable, and the Town Manager before issuance of a Zoning Compliance Permit.
42. **Underground Utilities:** That all utility lines, other than 3-phase electric power distribution lines, shall be placed underground.
43. **Fire Flow:** That a fire flow report prepared by a registered professional engineer, showing that flows meet the minimum requirements of the Design Manual, be approved by the Town Manager prior to issuance of a Zoning Compliance Permit.
44. **Sprinkler system:** That a sprinkler system be provided in the proposed building, and that the Fire Marshal approve the Fire Department's connections to the system prior to issuance of a Zoning Compliance Permit.
45. **Fire Prevention:** That all Fire Department safeguards and requirements be established and confirmed, and that the Department approve all fire hydrant locations, siamese connections, building evacuation capabilities, and fire truck access to the proposed building, prior to issuance of a Zoning Compliance Permit.
46. **Location of Refuse Collection Facilities:** That the refuse collection/recycling facility shall be relocated, away from the Summerfield Crossing neighborhood and the northern drainage swale, to a new location on the site subject to Town Manager approval.
47. **Refuse Collection Facilities:** That a minimum of two bulk refuse dumpsters be provided to service the site; or, alternative refuse collection facilities be proposed and approved by the Town Manager prior to the issuance of a Zoning Compliance Permit.
48. **Solid Waste Management Plan:** That a detailed solid waste management plan, including a recycling plan and a plan for managing and minimizing construction debris, be approved by the Town Manager prior to the issuance of a Zoning Compliance Permit.

#### Stipulations Related to Recreation Space

49. **Recreation Space for Four One-Bedroom Dwelling Units:** That residents of the four one-bedroom dwelling units shall have access to the recreational amenities associated with the hotel. That prior to the issuance of a Zoning Compliance Permit, the applicant shall submit to the Town Manager, for review and approval, a proposed deed guaranteeing use of the recreation facility by residents of the dwelling units. Deed shall include a provision allowing use of the recreation facility free of fees or cost to residents of the dwelling units.

#### Affordable Housing Stipulations

50. That the developer shall identify and reserve no fewer than one of the four one-bedroom dwelling units as an "affordable unit," in accordance with the following conditions:
  - A. If the affordable unit(s) is provide for private ownership, such opportunity shall be provided in accordance with the following conditions:
    - That the affordable unit shall only be available for private ownership and occupancy.
    - That the affordable unit shall be priced so as to be affordable for Qualified Buyers. Qualified Buyers shall be defined as individuals or families with gross incomes equal to 80% or less of the median income for the Raleigh-Durham-Chapel Hill Metropolitan Statistical Area (MSA), as provided by the U.S. Department of Housing and Urban Development (HUD).
    - Each Qualified Buyer shall deliver to the Developer written evidence, acknowledged in writing by the

Orange Community Housing Corporation (or alternative organization as approved by the Town Manager), that such buyer has been officially determined to be a Qualified Buyer.

- That mechanisms shall be established to guarantee that the affordable unit shall be permanently affordable and available to Qualified Buyers, subject to the approval of the Town Manager and the Orange Community Housing Corporation (or alternative organization as approved by the Town Manager), prior to the issuance of a Zoning Compliance permit.
  - That the affordable unit shall be constructed and available for occupancy, prior to issuance of a Certificate of Occupancy for the hotel.
- B. Alternatively, if the affordable unit(s) is provided for rental, such opportunity shall be provided in accordance with the following conditions:
- That eligible renters for affordable dwelling units shall include families earning 80% or less of median 3-person family income for the Raleigh-Durham-Chapel Metropolitan Statistical Area (MSA). Section 8 vouchers will be accepted for these units.
  - That rental rates shall not exceed current Section 8 Fair Market rents (including utilities) as published by the U.S. Department of Housing and Urban Development, according to the number of bedrooms in each unit (e.g. 2002 rate: 2 bedroom unit, \$777/month).
  - That the owner and management company enter into a "good faith" marketing agreement to ensure that the affordable units are rented to eligible low-income renters. The owner shall work with local non-profit low income housing organizations to advertise affordable units and recruit eligible renters. The "good faith" marketing agreement shall be subject to the approval of the Town Manager and the Orange Community Housing Corporation (or alternative organization as approved by the Town Manager) prior to the issuance of a Zoning Compliance Permit.
  - That the recorded deed restrictions shall include a provision that if after working with local non-profits, owner/management company are unable to recruit eligible renters, they may rent such units to other renters without restrictions for up to 12 months, if written authorization is provided in advance for such rental units from Orange Community Housing and Land Trust (or alternative organization as approved by the Town Manager) and approved the Town of Chapel Hill.
- C. That the applicant shall record deed restrictions to ensure that the affordable units remain affordable in perpetuity to low income owners or renters, subject to approval by the Town Manager and the Orange Community Housing and Land Trust (or alternative organization as approved by the Town Manager), prior to the issuance of a Zoning Compliance Permit.
- D. That the affordable unit(s) be constructed and available for occupancy prior to the issuance of a Certificate of Occupancy for the hotel.

Miscellaneous Stipulations

51. Detailed Plans: That final detailed site plan, grading plan, utility/lighting plans, stormwater management plan (with hydraulic calculations), landscape plan and landscape management plan be approved by the Town Manager before 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.
52. Transportation Management Plan: That prior to issuance of a Zoning Compliance Permit, the applicant prepare a Transportation Management Plan for approval by the Town Manager. The required components of the Transportation Management Plan shall include:
1. Provision for designation of a Transportation Coordinator;
  2. Provisions for an annual Transportation Survey and Annual Report to the Town Manager;
  3. Quantifiable traffic reduction goals and objectives;
  4. Ridesharing incentives;
  5. Public transit incentives; and
  6. Other measures determined appropriate by the Town Manager.
53. 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.
54. Construction Sign Required: That the applicant post a construction sign that lists the property owner's representative, with a telephone number; the contractor's representative, with a telephone number; and a telephone number for regulatory information at the time of issuance of a Building Permit. The construction sign may have a maximum of 32 square feet of display area and may not exceed 8 feet in height. The sign shall be non-illuminated, and shall consist of light letters on a dark background.
55. Continued Validity: That continued validity and effectiveness of this approval is expressly conditioned on the continued compliance with the plans and conditions listed above.
56. Non-severability: That the Council's findings are expressly based on this permit and the approved development being completed in compliance with all of the conditions set out in this permit. Therefore, if any of the above conditions is held to be invalid, approval of this Special Use Permit 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 pursuant to the Ordinance of the Town of Chapel Hill.

ATTEST

Sandra K. Cook  
Town Clerk *acting*



Florentine Miller  
Town Manager *SP*

ACCEPTED

Cameron Company LLC

By: Scott C. Sullivan, Manager  
William H. Cameron, Manager (Seal)

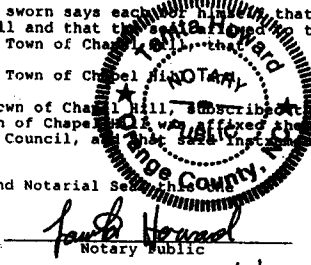
I, Tanita Howard, a Notary Public in and for said County and State do hereby certify that Florentine Miller, *acting* Town Manager of the Town of Chapel Hill,

and Sandra K. Cook, *acting* Town Clerk, duly sworn says each of them that he knows the corporate seal of the Town of Chapel Hill and that the Tanita Howard the foregoing instrument is the corporate seal of the Town of Chapel Hill.

Florentine Miller, *acting* Town Manager of said Town of Chapel Hill, and Sandra K. Cook, *acting* 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

15<sup>th</sup> day of July, 2005.



Tanita Howard  
Notary Public  
My commission expires: 11/21/09

*New Hanover*  
~~ORANGE COUNTY~~

I, Vanessa Martindale, a Notary Public in and for said State and County do hereby certify that Scott C. Sullivan and William H. Cameron, Managers of Cameron Company LLC, a North Carolina limited liability company, personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of the Company by authority duly given.

WITNESS my Hand and Notarial Seal, this 8 day of July, 2005

Vanessa Martindale  
Notary Public  
My commission expires: 3/31/07

20050716000000000000 PH/ILT  
DL: R233003 P: 339  
07/15/2005 04:57:16PM 6/7