

# THE BROUGH LAW FIRM

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## ATTACHMENT 1

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May 1, 2006

Chapel Hill Town Council  
c/o Mr. Gene Poveromo  
Chapel Hill Planning Department  
Town of Chapel Hill  
405 Martin Luther King Jr. Blvd.  
Chapel Hill, NC 27514

Re: Special Use Permit for Europa Drive Property  
Chapel Hill File No. 7.27.E.2E

Dear Members of the Town Council:

I am writing regarding the property located at the corner of Europa Drive and Legion Road in Chapel Hill (PIN# 9799468987) and the special use permit (SUP) that was granted by the Chapel Hill Town Council on May 13, 2002 to Mr. Allen Nester to construct an office building on that property (Resolution 2002-05-13/R-12a).

Although Mr. Nester was originally required to complete construction on the project by May 13, 2005, the Town Manager granted him a one-year extension allowing Mr. Nester until May 13, 2006 to finish. I am writing you now, on Mr. Nester's behalf, to request that he be granted a two-year extension on the time to complete the project, with the new completion date being May 13, 2008.

To grant an extension, Chapel Hill Land Use Management Ordinance 4.5.5(c) requires the following:

- A. The permit holder submitted the request within sixty (60) days of the completion date;
- B. The permit holder has proceeded with due diligence and good faith; and
- C. Conditions have not changed so substantially as to warrant Town Council reconsideration of the approved development."

Mr. Nester has complied with all three of these provisions:

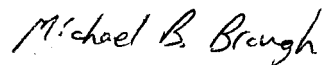
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- A. We are submitting this request within sixty days of the current completion date, May 13, 2006.
- B. Mr. Nester has acted and continues to act with due diligence and good faith in completing this project. The reason Mr. Nester has been unable to move forward with the construction of his development is that paragraph 44 of his SUP stipulates that "[n]o 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 . . . are completed and open to traffic." As you know, construction of the U.S 15-501 Superstreet project has not yet begun, and for obvious financial and practical reasons Mr. Nester cannot undertake the construction of his office building not knowing whether it can be occupied when completed.
- C. Mr. Nester intends to build the same project that was approved by the Town Council, and the conditions around and near the site have changed little, if any, since his SUP was first approved.

Enclosed is the \$1,000.00 application fee required for this extension request. Feel free to contact me if you have questions, and thank you for your attention to this matter.

Sincerely,

THE BROUGH LAW FIRM



Michael B. Brough

MBB:las  
Enclosure  
cc: Mr. Allen Nester