

TOWN OF CHAPEL HILL - LAND DEVELOPMENT PERMIT APPLICATION ATTACHMENT 1

APPLICANT (person to whom correspondence will be mailed):

Name: Richard Gurlitz Address: 5310 S. Alston Ave. Suite 220
City: Durham State: NC Zip: 27713 Phone: (Office) 489-9000 (Home) 493-8937
fax

PROPERTY INFORMATION:

Tax Map(s): 7.46 Block(s): B Lot(s): 11+11B Property Identification #(s): 9799242361
9799148584

Address: 141 S. Elliott Road, Chapel Hill, NC 27514

Location: North side of Elliott at/between Franklin and US 15-501 Byp.
(north, east, south, west) (Street) (Street) (Street)

Zoning District(s) and Gross Land Area Within Each: CC Zoning - 10.919 AC

Present Land Use(s): Retail & Theatre

Land Area within Resource Conservation District (RCD) and/or Watershed Protection District: 2.34 AC

Has this request been reviewed by the Community Design Commission? If yes, date(s) May 2003

Name of Proposed Development: Village Plaza Theatre

TYPE OF REQUEST REFER TO KEY ON REVERSE SIDE

- Administrative Review - Zoning Compliance Permit 1, 9, 12, 14, 15, 16, 17, 18, 24, 26, 27, 29
- Resource Conservation District Encroachment - Zoning Compliance Permit 1, 3, 4, 9, 12, 14, 15, 16, 17, 18, 24, 25, 26, 27, 29
- Site Plan Review - Zoning Compliance Permit 1, 2, 3, 4, 7, 9, 12, 14, 16, 17, 18, 23, 24, 26, 27, 28, 29
- Final Plans 1, 3, 4, 9, 12, 14, 15, 16, 17, 18 or 22, 24, 26, 28
- Minor Subdivision (including townhouse divisions & commercial subdivisions) 1, 3, 4, 8, 13, 14, 17, 22, 23, 28
- Subdivision - Preliminary Plat 1, 2, 3, 4, 6, 7, 11, 17, 22, 23, 24, 27, 28, 29
- Subdivision - Final Plat 8, 13, 14, 17, 22, 28
- Special Use Permit - Special Use (SU) 1, 2, 3, 4, 5, 7, 9, 11, 12, 17, 18, 23, 24, 26, 27, 28, 29
Classification of SU: Modification
- Special Use Permit - Planned Development (PD) 1, 2, 3, 4, 5, 7, 9, 11, 12, 17, 18, 23, 24, 26, 27, 28, 29
Classification of PD: _____
- RCD/Watershed Protection Variance 1, 2, 3, 4, 12, 17, 19, 21, 23, 25
- Variance/Appeal 1, 2, 3, 4, 12, 17, 19, 21, 23
- Zoning Map Amendment: from _____ to _____ 1, 2, 3, 4, 17, 20, 23, 28
- Other

The undersigned property owner(s) or contract purchaser(s) hereby authorize(s) the filing of this application, and authorize(s) on-site review by authorized staff.

Signature: Bill Wilson - REI - EASTERN FEDERAL Date: 1.6.04

Signature: Rick Rollesano - REI - MARK PROPERTIES Date: 1.6.04

The undersigned applicant hereby certifies that, to the best of his or her knowledge and belief, all information supplied with this application is true and accurate.

Signature: Richard Gurlitz Date: 1.6.04

TOWN OF CHAPEL HILL - PROJECT FACT SHEET

(Revised May 14, 2003)

A. IDENTIFICATION OF DEVELOPMENT

Date: 01-06-04

Plans dated: 09-26-03 Tax Map 7.46 Block B Lot 11&11B

Parcel Identification Numbers (PINs) 9799242361 and 9799148584

Name of Project: Village Plaza Theatre

Type of Request: Zoning Compliance Permit

Use Group (Sec. 3.7-1): C Zoning District(s): CC

B. GROSS LAND AREA (Sec. 3.8-1)

Net Land Area (App. A) NLA 475,632

♦ Choose one of the following, or a combination, not to exceed 10% of the net land area figure.

Credited Street Area (App. A) Total adjacent frontage x 1/2 width of the right-of-way CSA 44,562

Credited Open Space (App. A) Total adjacent frontage x 1/2 public or dedicated right-of-way COS n/a

TOTAL: GROSS LAND AREA (Sec. 2.51) NLA + (CSA and/or COS) = GLA (not to exceed NLA + 10%) GLA 520,194

C. REQUIRED LAND USE INTENSITY (Sec. 3.8-1, 5.5)

(For multiple zoning districts, please attach a separate sheet with calculations)

Floor Area Ratio FAR 0.264 Maximum Floor Area (FAR x GLA) MFA 111,368

Impervious Surface Ratios

- Low Density Option ISR 0.25 Maximum Impervious Surface or (ISR x GLA) MIS 130,049
- High Density Option ISR 0.5 Maximum Impervious Surface or (ISR x GLA) MIS 260,097
- High Density Non Residential Option ISR 0.7 Maximum Impervious Surface or (ISR x GLA) MIS 364,136

Recreation Space Ratio RSR n/a Minimum Recreation Space (RSR x GLA) RSR n/a

D. DIMENSIONAL MATRIX REQUIREMENTS

(Based upon proposed plans)

DIMENSIONAL MATRIX REQUIREMENTS			Existing (sq.ft.)	Proposed (sq.ft.)	Total (sq.ft.)
Floor area	Floor Area on all Floors	FA	70,034	40,000	110,034
Principal Building Area	Floor Area on Ground Level	BA(1)	70,034	40,000	110,034
Garage Building Area	Enclosed Car Parking Area	BA(2)	n/a		n/a
Other Enclosed Building Area	Community Building, Storage, Etc.	BA(3)	n/a		n/a
Other Ground Level Building Area	Covered Porches, Breezeways, Car Parking (if underneath), Etc.	BA(4)	n/a		n/a
Building Area	BA(1)+BA(2)+BA(3)+BA(4)	BA	70,034	40,000	110,034
Basic Uncovered Area	GLA-BA	UA	450,160		410,160
Recreational Space (Sec. 5.5)		RS	n/a		n/a
*Gross Land Area with Impervious Surface					
*Percentage of Gross Land area with Impervious Surface (Imper÷GLA)			%	%	%
*If Located in the Watershed Protection District, Percentage of Impervious Surface on July 1, 1993					%

*Only if lot is less than 21,780sq.ft.

LOT SIZE	Required	Existing/Proposed
Lot Size (Sec. 3.8-1)	5,500	475,632
Lot width (Sec. 3.8-1)	50	274 (min.)
Street Frontage Width (Sec. 3.8-1)	50	274

D. DIMENSIONAL MATRIX

REQUIREMENTS (Cont.) 19

SETBACKS AND HEIGHT		Required	Proposed
Setbacks (Sec 3.8, Table 3.8-1)	Street	22	22
	Interior	8	392
	Solar	9	392
Maximum Height (Sec. 3.8-1)	Primary	34	26
	Secondary	60	32

BUILDINGS/DWELLING UNITS	Required	Proposed	PARKING SPACES	Required	Proposed	Percent of Total Spaces
Number of Buildings			Regular Spaces	679	414	84.5%
Number of Dwelling Units			Compact Spaces	0	67	13.7%
Number of Efficiency Units			Handicap Spaces	9	9	1.8%
Number of Single Bedroom Units			Total Spaces	688	490	NA
Number of 2 Bedroom Units			Loading Spaces	0	0	NA
Number of 3 Bedrooms Units			Other			

E. LANDSCAPE BUFFERYARDS (Sec 5.6)

Location	Required Minimum Width	Proposed Width
1. Elliott Road at US 15-501	15' Type 'A'	15' Type 'A'
2. Elliott Road Frontage	15' Type 'A'	Alternate Type 'A'
3. US 15-501 Frontage	75' Type 'D'	75' Type 'D'
4. 'Whole Foods' Property line	30' Type 'B'	Alternate Type 'B'
5. 'Staple/Eastgate' Property Line	30' Type 'B'	Existing Off-Site
6. 'Days Inn' Property Line	30' Type 'B'	30' Type 'B'

UTILITIES (- which applies)

Water	Sewer	Electric Service	Telephone Service	Solid Waste Collection
OWASA X	OWASA X	Underground X	Underground X	Town X
# Well(s)	# Septic Tank(s)	Above Ground	Above Ground	Private
Community Well(s)	Comm. Package Plant			

*NOTE: Public water and sewer required if located inside Urban Service Boundaries.

Other	10 - 15%	>15-25%	>25%
Area in Slope Interval*			
Soil Type(s) On Lot Ur = Urban Land; Ww = White Store			

- Only required for lots created after January 27, 2003.

G. ADJOINING or CONNECTING STREETS

STREET NAME	Right-of-Way Width	Pavement Width	No. of Lanes	Paved or Unpaved?	Existing Sidewalk (Yes/No)	Existing Curb/Gutter (Yes/No)
Elliott Road	60'	36'	3	Paved	No	Yes
US 15-501	200'	72'	6	Paved	No	Yes

APPLICATION FOR MODIFICATION
OF THE SPECIAL USE PERMIT
OF
EASTERN FEDERAL CORPORATION and
TRIANGLE V II LIMITED PARTNERSHIP

STATEMENT OF JUSTIFICATION

Eastern Federal Corporation ("Eastern") and Triangle V II Limited Partnership ("Triangle") own approximately twelve acres of land that comprise the Village Plaza shopping center in Chapel Hill. Eastern's parcel is primarily designed to operate the Village Plaza Theaters. Triangle's parcel is the site of such tenants as Spa Health Clubs, Visart Video and Monterey Mexican Restaurant. Although under two owners, the parcels are joined under one Special Use Permit.

On January 27, 2003, the Chapel Hill Town Council approved a Resolution for An Application For a Special Use Permit For Village Plaza Shopping Center on property described as Chapel Hill Township Tax Map 46, Block B, Lots 11 and 11B (PIN #9799-24-2361 and 9799-14-8584).

The approved SUP resolution contains "Stipulations Specific to the Development." Stipulation (4) reads:

- 4. Elliott Road Access Driveway "C and D": That the applicant improve the two northern most driveways (driveway "C and D") along Elliott Road to provide 30-foot wide driveways with striped left and right turn lanes exiting the site, stop signs and one lane entering the site. That, if practical, the reconstructed driveways shall intersect Elliott Road at a 90 degree angle. The final design and configuration of these two reconstructed driveways along Elliott Road shall be reviewed and approved by the Town Manager prior to the issuance of a Zoning Compliance Permit.

Subsequent to approval of the Special Use Permit on January 27, 2003 it has been clarified to both Council and Applicant that Driveway "D" as noted in the resolution prepared by Staff is located just south of Red Hot & Blue. Driveway "D" is not on the Applicant's site but is located on the adjacent parcel owned by Ginn (just to the north of Eastern's parcel). Mr. Waldon explained to the Council at the January 27, 2003 meeting that the Town Staff had taken off the cross-access easement agreement as part of the list of conditions since the applicant was unable to reach an agreement with the adjacent property owner Ginn and that the Town could not require a third-party to comply with the conditions of the Project. Stipulation 4 requires a third-party owner agreement to provide an easement for the off-site improvements of Driveway "D" and, therefore, should have been deleted from the requirements of the approved resolution. However, in what has been described as an "error in process" by Town Manager Cal Horton, Driveway "D" was not deleted from Stipulation 4 prior to the approval by Council. For purposes of additional background attached as Exhibit "A" and incorporated herein by reference is a letter to the Town Attorney and Town Manager from the applicant's attorney, Wayne R. Hadler dated November 24, 2003 and a response letter from the Town Manager to Wayne R. Hadler dated December 12,

2003.

The modification of the Special Use Permit is for the limited purpose of removing the requirement to improve Driveway "D" along Elliott Road as set forth in Stipulation 4. The removal of the requirement will not jeopardize the public health, safety, or general welfare of the citizens of Chapel Hill. The modification of the Special Use Permit will not change the site as it relates to compliance with the Chapel Hill Land Use Management Ordinance, and with all other applicable regulations. It is noted for the record that the Traffic Impact Analysis completed by RSH Architects-Engineers-Planners, Inc. for The Town of Chapel Hill in December 2001 only considered Driveways "C" and "D" although two other driveways exist on the project site. The study states "It should be noted that this analysis assigns all site traffic to the two site drives although exiting traffic is likely to disperse to other drives if delays occur at site drives."

By removing the requirement of improving Driveway "D" there will be no loss of valuable parking spaces on the Ginn property and no loss of a sidewalk along Elliott Road that would result from the approximate six (6) foot widening of Driveway "D." Therefore, it is not expected that the approval of the modification will have any negative impact on the values of any of the contiguous properties. Approving the modification of the Special Use Permit is in effect approving the intent of the Project approval granted January 27, 2003 in which the Council removed a cross-access easement that would have required an agreement from the adjacent property owner.

Lastly, the approval of the modification of the Special Use Permit to remove the off-site improvement of Driveway "D" conforms with the general plans for the physical development of the Town, as contained in the Chapel Hill Land Use Management Ordinance and in the Comprehensive Plan.

For the above reasons, it is respectfully requested that the Town of Chapel Hill approve the modification of the Special Use permit for Village Plaza Shopping Center Renovation.