

TOWN OF CHAPEL HILL

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

ORANGE COUNTY

NORTH CAROLINA

SPECIAL USE PERMIT

KNOW ALL MEN BY THESE PRESENTS, that the undersigned property owner(s), Capkov Ventures, Inc. and James H. Pickard, 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 October 27, 1999, the terms of which are as follows:

NAME OF PROJECT: Franklin Grove Townhomes

NAME OF DEVELOPER: Capkov Ventures, Inc.

DESCRIPTION OF PREMISE

LOCATION: North side of East Franklin Street, between Elliott Road and Milton Avenue.

TAX MAP REFERENCE:

Chapel Hill Township Tax Map 45, Block A, Lot 1 (PIN # 9799-15-5719), Lot 2 (PIN # 9799-16-4182), Lot 3 (PIN # 9799-15-5996), Lot 4 (PIN # 9799-15-6867), Lot 5 (PIN # 9799-15-7800), Lot 6 (PIN # 9799-15-7761), Lot 9 (PIN # 9799-16-5024)

DESCRIPTION OF DEVELOPMENT

GROSS LAND AREA: 379,000 sq. ft.

TOTAL FLOOR AREA: 107,479 sq. ft.

NUMBER OF DWELLING UNITS: 58

NUMBER OF PARKING SPACES: 116

SPECIAL TERMS AND CONDITIONS

Development according to the Site Plan dated October 30, 1998 (revised June 9, 1999 and September 2, 1999) on file in the Chapel Hill Planning Department, and according to the special terms and conditions set forth below:

Stipulations Specific to the Development

1. That construction begin by October 27, 2001 (two years from the date of Council approval) and be completed by October 27, 2002 (three years from the date of Council approval).
2. Land Use Intensity: That this Special Use Permit approves a 58 unit multi-family residential development consisting of 53 new townhomes, the renovation of 4 existing single-family dwelling units, and one existing single-family dwelling unit, with a total Floor Area of 107,479 square feet; Outdoor Space of 292,596 square feet; Livability Space of 190,508 square feet; Recreation Space of 17,841 square feet, and a minimum of 116 on-site parking spaces, within the boundaries of this Special Use Permit.
3. Abandonment of Right-of-Way: That the applicant provide documentation that the North Carolina Department of Transportation (NCDOT) has abandoned 50 feet of right-of-way along the property's southeastern frontage, for a length of approximately 140 feet. This documentation shall be provided prior to the issuance of a Zoning Compliance Permit.
4. East Franklin Street and Elliott Road: That the following intersection improvements and signal upgrades be approved by the Town and the North Carolina Department of Transportation (NCDOT) prior to the issuance of a Zoning Compliance Permit; and, that the improvements/upgrades be constructed prior to the issuance of a Certificate of Occupancy for the Franklin Grove development:
 - > A protected/permitted left turn lane phase for southbound traffic on Elliott Road;
 - > A protected/permitted left turn lane phase for northbound traffic on Elliott Road; and
 - > Pedestrian signals with push button actuation, for all four corners of the intersection.

5. **East Franklin Street and Eastgate Drive:** That a \$5,000 payment-in-lieu for a pedestrian crossing signal to link the linear park and the greenway at this intersection, be received by the Town prior to the issuance of a Zoning Compliance Permit (the payment would be refunded after 5 years, if the signal has not been installed).
6. **Dedication of Public Streets:** That all internal roadways shall be dedicated as public streets and built to Town standards.
7. **Adjustment of Road Layout:** That the road which loops through the northern part of the site be redesigned to (1) relax the curve radii and the extent to which vehicles must negotiate the proposed double curve, and (2) to eliminate the proposed dead end stub in the center of the site, prior to the issuance of a Zoning Compliance Permit.
8. **On-Street Parking:** That the final location of on-street parking be reviewed and approved by the Town Manager, prior to the issuance of a Zoning Compliance Permit.
9. **Pavement Surface:** That pavement surface delineation be utilized at each driveway/ sidewalk intersection, subject to the approval of the Town Manager prior to installation.
10. **Renovation of Milton Avenue Homes:** That the applicant will renovate four (4) homes on Milton Avenue to standards agreed upon by the applicant and Orange Community Housing Corporation (OCHC), and approved by the Town Manager.
11. **Sale of Milton Avenue Homes:** That the applicant will sell the four renovated properties to the Community Land Trust in Orange County for \$118,000 each, and will finance the sale of these properties for 90 days after sale.
12. **NCDOT Approval:** That any required permits or encroachment agreements by the North Carolina Department of Transportation be obtained, and copies of the permits and agreements be submitted to the Town, prior to the issuance of a Zoning Compliance Permit.

Stipulations Related to Landscape Elements

13. **Landscape Plan Approval:** That a detailed Landscape Plan and Landscape Maintenance Plan shall be approved by the Town Manager prior to issuance of a Zoning Compliance Permit.
14. **Landscape Protection Plan:** That the Town Manager shall approve a Landscape Protection Plan prior to issuance of a Zoning Compliance Permit.
15. **Landscape Bufferyards:** That the following landscape bufferyards shall be provided, and that if any existing vegetation is to be used to satisfy the buffer requirements, the vegetation shall be protected by fencing from adjacent construction:
 - ◆ Type D landscape bufferyard (minimum width 30 feet) along the property's southern East Franklin Street frontage.
 - ◆ Type C landscape bufferyard (minimum width 20 feet) along the site's western property line.
 - ◆ Type B landscape bufferyard (minimum width 10 feet) along the property's northern property line.
 - ◆ Type B landscape bufferyard (minimum width 15 feet) along Milton Avenue adjacent to the Residential-4 (R-4) zoning district.
 - ◆ Type C landscape bufferyard (minimum width 20 feet) along Milton Avenue adjacent to the Office/Institutional-2 (OI-2) zoning district.
16. **Alternative Buffers:** In the event that the applicant is unable to provide the minimum required number of plantings for the proposed landscape bufferyards, then the applicant will be required to receive approval of any alternative buffers from the Community Design Commission, prior to the issuance of a Zoning Compliance Permit.
17. **Grading and Landscape Plans:** That the grading and landscape protection plans shall identify all road and sidewalk improvements.
18. **Protection of Significant Trees:** That the applicant make necessary adjustments to the retaining wall and/or 12-foot planting strip along the property's East Franklin Street frontage, during the review and approval of the Grading and Landscaping Plans for this site, prior to the issuance of a Zoning Compliance Permit. These adjustments may include allowing meandering of the sidewalk and retaining wall in an effort to preserve the root zone for two of the significant oak trees along the property's East Franklin Street frontage.

Stipulations Related to Recreation Space

19. **Recreational Amenities:** That the applicant shall provide active recreational elements including a bocce ball court, game tables, a horseshoe pit, a small lawn area that will be available for other recreational uses, and bird-feeding stations with viewing areas as part of the development.

20. **Recreational Space Design:** That the bocce ball court should be designed to drain quickly in the event that the detention basin is flooded; and that a hard path should be provided into the detention basin and surrounding the bocce ball court.
21. **Recreational Space Requirement:** Based on the combination of recreational amenities on this site, the Town Manager shall have the authority to determine if the minimum recreational space requirements for this site are being fulfilled, prior to the issuance of a Zoning Compliance Permit.
22. **Recreation Equipment:** That the Town Manager shall approve all recreation structures and equipment prior to installation.

Stipulations Related to Fire Safety

23. **Fire Flow Report:** That a fire flow report and detailed construction plans, sealed by a registered engineer, be approved by the Town Manager prior to issuance of a Zoning Compliance Permit.

Stipulations Related to Homeowners' Association

24. **Homeowners' Association:** That a Homeowners' Association 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, however designated. The Homeowners' Association documents shall be approved by the Town Manager, recorded at the Orange County Register of Deeds Office and cross-referenced on the final plat.
25. **Stormwater Detention Facility:** That the stormwater detention facility shall be owned and maintained by the Homeowners' Association.
26. **Ownership of Recreation Area:** That all recreation and common areas, including landscape bufferyards, shall be owned and maintained by the Homeowners' Association.
27. **Pavement Delineation:** That all areas of pavement delineation and texturing shall be maintained by the Homeowners' Association.

Stipulations Related to Refuse Collection & Recycling

28. **Private Refuse Collection:** That this development shall have private refuse collection.
29. **Solid Waste Management Plan:** That a Solid Waste Management Plan shall be approved by the Town Manager prior to issuance of a Zoning Compliance Permit.
30. **Shared Dumpster Agreement:** That a shared dumpster/compactor access agreement which assures that the refuse containers may be serviced across property lines and, if needed, that all parties may use the proposed trash/recycling area(s), be approved by the Town Manager and recorded at the Register of Deeds Office prior to issuance of a Zoning Compliance Permit.
31. **Future Recycling Area:** That the applicant identify a future standard recycling area that would be able to accommodate 7-9 recycling roll-carts, for approval by the Town Manager prior to issuance of a Zoning Compliance Permit.

Miscellaneous Stipulations

32. **Stormwater Management Plan:** That a Stormwater Management Plan, based on the Town's Hydros program, be approved by the Town Manager prior to issuance of a Zoning Compliance Permit. Based on a 25-year storm, the post-development stormwater run-off rate should not exceed the pre-development rate.
33. **Erosion Control:** That a soil erosion and sedimentation control plan, including provisions for maintenance of facilities and modifications of the plan if necessary, be approved by the Orange County Erosion Control Officer, and that a copy of the approval letter be provided to the Town Manager, prior to issuance of a Zoning Compliance Permit.
34. **Building Elevations and Site Lighting:** That the Community Design Commission shall approve building elevation and site lighting plans prior to issuance of a Zoning Compliance Permit.
35. **Stone Walls:** That the Community Design Commission shall approve elevations and materials for the stone walls proposed on the site, prior to the issuance of a Zoning Compliance Permit.
36. **Utility Plan Approval:** That the final utility plan shall 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.
37. **Detailed Plans:** That the final detailed site plans, grading plans, utility and lighting plans, stormwater management plans (with hydrologic calculations), and landscape plans shall be approved by the Town Manager prior to issuance of a Zoning Compliance Permit, and that such plans shall conform to plans approved by this application and demonstrate compliance with all applicable conditions and the design standards of the Development Ordinance and Design Manual.

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 Ordinance as covenant running with the land.

ATTEST

Joyce A. Smith
Town Clerk

[Signature]
Owner

Owner



The Town of Chapel Hill

W. Calvin Horton
Town Manager

Corporate Name

BY

ATTEST

[Signature]
Secretary

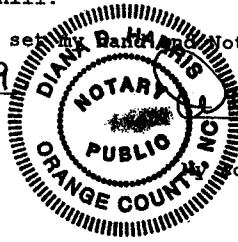
I, Diana D. Harris, a Notary Public in and for said County and State do hereby certify that W. Calvin Horton, Town Manager of the Town of Chapel Hill, and Joyce A. Smith, Town Clerk, duly sworn says each for himself that he knows the corporate seal of the Town of Chapel Hill and that the seal affixed 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

29th day of November, 1999



Diana D. Harris
Notary Public

Commission expires: 10-26-2003

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 23rd day of December, 1999, personally come before me,

Wayne R. Hadler, a Notary Public of Orange County, North Carolina,

Eric B. Chapp who being by me duly sworn, says that he knows the common seal of the Corporation, and is acquainted with

Scott Hovens, who is President of said corporation and he,

Eric B. Chapp, who is Secretary of said corporation, and saw the

President sign the foregoing instrument and he, the said Eric B. Chapp, 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 23 day of December, 1999.

WAYNE R. HADLER
NOTARY PUBLIC
ORANGE COUNTY, NC

Wayne R. Hadler
Notary Public

My commission expires: 5/22/2000