

Prepared by: Kendal Brown, Chapel Hill Planning Department



TOWN OF CHAPEL HILL
405 MARTIN LUTHER KING JR BLVD
CHAPEL HILL, NC 27514
(919) 968-2728

ORANGE COUNTY

NORTH CAROLINA

SPECIAL USE PERMIT

KNOW ALL MEN BY THESE PRESENTS that the undersigned property owner, Howard Perry and Walston Properties, LLC, having applied to the Town of Chapel Hill for a Special Use Permit for the use and development of the property hereinafter described as Orange County Parcel Identifier Numbers 9799-04-7995 and 9799-04-6951, the same was issued by the Town of Chapel Hill on March 9, 2009, the terms of the Special Use Permit as follows:

NAME OF PROJECT: 1609 East Franklin Street Office Development

NAME OF DEVELOPER: Howard Perry and Walston Properties, LLC

DESCRIPTION OF PREMISE

LOCATION: 1609 East Franklin Street

ORANGE COUNTY PARCEL IDENTIFIER NUMBERS: 9799-04-7995 and 9799-04-6951

DESCRIPTION OF DEVELOPMENT

GROSS LAND AREA: 1.9 Acres

MAXIMUM FLOOR AREA: 17,318 square feet

MINIMUM/MAXIMUM # OF PARKING SPACES: 50 Minimum/61 Maximum

SPECIAL TERMS AND CONDITIONS

Development according to the Site Plan dated September 3, 2008 and revised October 23, 2008, on file in the Chapel Hill Planning Department, and to the terms and conditions set forth below:

Stipulations Specific to the Development

1. Construction Deadline: That construction begin by February 23, 2012 and be completed by February 23, 2013.
2. Land Use Intensity: That this Special Use Permit authorizes construction of one building with:

Gross Land Area	1.9 acres
Maximum Business, Office-Type Floor Area	17,318 square feet
Vehicular Parking Spaces	Minimum 50/ Maximum 61
Minimum Bicycle Parking Spaces	7

3. Recombination Plat: That the two lots associated with this development (Orange County Parcel Identifier Numbers 9799-04-7995 and 9799-04-6951) be recombined to form one lot, and that the final plat be recorded at the Orange County Register of Deeds office prior to issuance of a Zoning Compliance Permit.

Transportation

4. Bicycle Parking: That the applicant comply with current regulations in place at time of approval.
5. Handicapped Parking: That the applicant comply with the requirements of the North Carolina Accessibility Code.
6. Access Easements: That a cross access easement, from the driveway off East Franklin Street to both the vehicular stub-out to the eastern property line and to the future vehicular connection to the west be identified on the final plat; and that the plat be recorded at the Orange County Register of Deeds Office prior to issuance of a Zoning Compliance Permit. The driveway and the stubouts shall be at least 20 feet wide with appropriate turning radii to accommodate large vehicles such as fire trucks and refuse collection vehicles.
7. NCDOT Approval: That the North Carolina Department of Transportation shall approve the plans and encroachment agreements for all work within the East Franklin Street right-of-way prior to the issuance of a Zoning Compliance Permit.
8. Velma Road Curb and Gutter: That the existing curb cut on Velma Road be replaced with Town standard curb and gutter.
9. Velma Road Sidewalk: That the applicant shall make a payment-in-lieu for construction of a sidewalk.
10. Pedestrian Crossing: That the applicant provide a payment-in-lieu of \$5,000 toward installation of a pedestrian crossing on East Franklin Street. That the location and construction date for the pedestrian crossing shall be approved by the Town Manager.
11. Transportation Management Plan: That prior to issuance of a Zoning Compliance Permit, the applicant shall prepare a Transportation Management Plan according to the Town's Transportation Management Plan Guidelines for approval by the Town Manager. The required components of the Transportation Management Plan shall include:
- ◆ Provision for designation of a Transportation Coordinator;
 - ◆ Provisions for an annual Transportation Survey and Annual Report to the Town Manager;
 - ◆ Quantifiable traffic reduction goals and objectives;
 - ◆ Ridesharing incentives;
 - ◆ Public transit incentives;
 - ◆ Traffic demand strategies for employees of the site, including items such as posted transit information;
 - ◆ Other measures subject to approval by the Town Manager.

Landscaping and Elevations

12. Landscape Plan Approval: That a detailed Landscape Plan, including landscape maintenance schedule, be approved by the Town Manager prior to issuance of a Zoning Compliance Permit. That several crape myrtle trees, of the Biloxi variety, be installed near the East Franklin street sidewalk in a location to be approved by the Town Manager.
13. Landscape Protection Plan: That a detailed Landscape Protection Plan shall be approved by the Town Manager prior to issuance of a Zoning Compliance Permit. The plan shall include a note indicating that metal tree protection fencing will be installed prior to demolition of the existing buildings on the site.
14. 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:

Location	Bufferyard Required
Western property line (along Ballet School)	10 ft Type B
Western property line, southern portion	20 ft Type C
Southern property line (E. Franklin St.)	30 ft. Type D, alternative
Eastern property line	10 ft. Type B
Northeastern property line	20 ft. Type C
Northern property line	20 ft. Type C

15. Alternative Buffer: That prior to the issuance of a Zoning Compliance Permit, the applicant receive approval from the Community Design Commission for the alternative Type D bufferyard along East Franklin Street.
16. Building Elevations and Alternative Buffers: That the Community Design Commission shall approve alternative buffer plans and building elevations including the location and screening of all HVAC/Air Handling Units for this project, prior to issuance of a Zoning Compliance Permit.
17. Lighting Plan: That the Community Design Commission shall approve a lighting plan for this site and shall take additional care during review to ensure that the proposed lighting plan will minimize 1) upward light pollution and 2) offsite spillage of light, prior to issuance of a Zoning Compliance Permit.

18. Landscape Screening and Shading: That the following landscaping standards of the Land Use Management Ordinance be provided:
- Section 5.9.6(a): 5-foot wide planting strip around buildings
 - Section 5.9.6(d): parking lot shading requirements

Utilities

19. Utility/Lighting Plan Approval: That the final utility/lighting plans be approved by Orange Water and Sewer Authority, Duke Energy Company, Public Service Company, AT&T, Time Warner Cable and the Town Manager before issuance of a Zoning Compliance Permit.
20. 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.
21. Sewer Line: That all plans be approved by Orange Water and Sewer Authority and constructed according to their standards. Where sewer lines are located beneath drive aisles and parking areas construction methods approved by OWASA shall be employed, to ensure that sewer lines will not be damaged by heavy service vehicles. Final plans shall be approved by OWASA and the Town Manager prior to issuance of a Zoning Compliance Permit.
22. Overhead Power Lines: That all proposed or relocated utility lines other than 3-phase electric power distribution lines shall be located underground.

Stormwater

23. Stormwater Management Plan: This project must comply with the stormwater management requirements of the Land Use Management Ordinance to provide for 85 percent total suspended solids removal, the retention of the increase in stormwater runoff volume for the 2-year storm for a period of 2-5 days, and the control of the stormwater runoff rate for the 1-year, 2-year, and 25-year storms.
24. Erosion and Sedimentation Controls: If one (1) acre or more is uncovered by land-disturbing activities for this project, 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. This financial guarantee is intended to cover the costs of restoration of failed or failing soil erosion and sedimentation controls, and/or to remedy damages resulting from land-disturbing activities, should the responsible party or parties fail to provide prompt and effective remedies acceptable to the Town. Contact Larry Tucker, for further information at (919) 968-2833.

The applicant will need to provide a copy of the approved erosion and sediment control permit for each project from the Orange County Erosion Control Division prior to receiving a Zoning Compliance Permit.

25. Stormwater Operations and Maintenance Plan: Prior to issuance of a Certificate of Occupancy (C/O), a Stormwater Operations and Maintenance Plan, signed by the owner(s) and recorded by the County Register of Deeds, shall be provided for the proposed stormwater management facilities and submitted to the Stormwater Management Engineer for approval. A schedule of inspection and maintenance tasks shall be included.
26. As-Built Plans: Provide certified as-built plans for building footprints, parking lots, street improvements, storm drainage systems and stormwater management structures, and all other impervious surfaces. The as-built plans should be in DXF binary format using State plane coordinates and NAVD 88.
27. Curb Inlets: In lieu of stenciling, all new Town and State right-of-way and private curb inlet hoods/covers installed within the Chapel Hill Planning Jurisdiction shall be pre-cast stating, "Dump No Waste! Drains to Jordan Lake", in accordance with the specifications of the Town Standard Detail SD-5A.
28. Stormwater Management Structure Location: No stormwater management structures are permitted in the rights-of-way or building setbacks.
29. Stormwater Easements: All stormwater management, treatment and conveyance facilities located on and below the ground shall be wholly contained within an easement entitled: "Reserved Stormwater Facility Easement Hereby Dedicated" and shall be reserved from any development which would obstruct or constrict the effective management, control, and conveyance of stormwater from or across the property, other than the approved design and operation functions. A copy of the final plat or easement exhibit, signed and sealed by a North Carolina-registered Land Surveyor and recorded by the County Register of Deeds, and containing the following notes shall be submitted prior to issuance of the Certificate of Occupancy.
- All engineered stormwater management control, treatment, and conveyance structures on and below the ground shall be wholly located within an easement entitled: "Reserved Stormwater Facility Easement Hereby Dedicated" and shall be reserved from any development which would obstruct or constrict the effective management, control, and conveyance of stormwater from or across the property, other than the approved design and operation functions.
 - Unless specifically designated as being "Public" and accepted by the Town of Chapel Hill, the "Reserved Stormwater Facility Easement(s)" and the facilities it/they protect are considered to be private, with the sole responsibility of the owner to provide for all required maintenance and operations as approved by the Town Manager.
 - The Reserved Stormwater Facility Easement and the Operations and Maintenance Plan are binding on the owner, heirs, successors, and assigns.

Miscellaneous Stipulations

30. 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.
31. Heavy-Duty Pavement: That all drive aisles accessing the proposed refuse/recycling area shall be constructed of heavy-duty pavement.
32. Detailed Plans: That the final detailed site plan, grading plan, utility/lighting plans, stormwater management plan (with hydraulic 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 the plans approved by this application and demonstrate compliance with all applicable conditions and design standards of the Development Ordinance and Design Manual.
33. Energy Efficiency: That the Final Plans incorporate a "20 percent more energy efficient" feature relative to the energy efficiency standard of the American Society of Heating, Refrigeration, and Air Conditioning Engineers (ASHRAE), as amended and in effect at the time of building permit issuance. Comparable standards generally recognized as applicable to building energy consumption, as amended and in effect at the time of building permit issuance, may be used by the applicant when incorporating the "20 percent more energy efficient" feature into the final plans.
34. Energy Management Plan: That the final plan application include an Energy Management Plan. The plan shall: a) consider utilizing sustainable energy, currently defined as solar, wind, biofuels, and hydroelectric power; b) consider purchase of carbon offset credits and green power production through coordination with the NC GreenPower program; c) provide for 20 percent more efficiency that ensures indoor air quality and adequate access to natural lighting; and allows for the proposed utilization of sustainable energy in the project; and that the property owner reports to the Town of Chapel Hill the actual energy efficiency achieved during the period ending one year after occupancy.
35. Silt Control: That the applicant take appropriate measures to prevent and remove the deposit of wet or dry silt on adjacent paved roadways.
36. Demolition Plan: That if the applicant's construction plan includes a phasing plan, that includes a phase which delays site work or the construction of the proposed building for a period greater than 30 days, a separate Demolition Plan must be submitted for review and approval by the Town Manager and the Orange County Solid Waste and must show how demolition waste can be recycled. The Plan must include stabilization of the site during and after the demolition phase.
37. Construction Management Plan: That a Construction Management Plan, be approved by the Town Manager prior to issuance of a Zoning Compliance Permit. The construction management plan shall: 1) indicate how construction vehicle traffic will be managed; 2) identify parking areas for on-site construction workers including plans to prohibit parking in residential neighborhoods; 3) indicate construction staging and material storage areas; 4) identify construction trailers and other associated temporary construction management structures; and 5) provide clear requirements regarding the timing of land clearing, delivery of concrete, and buffer installation, in substantial conformance with the terms stated in the letter dated March 9, 2009 from Psychology Associates submitted at the March 9, 2009 Town Council meeting, provided that the buffer installation may be deferred to the extent necessary for other site work or for maximizing viability of the plants to be installed.
38. Traffic and Pedestrian Control Plan: That a Work Zone Traffic Control Plan for movement of motorized and non-motorized vehicles on any public street that will be disrupted during construction be approved by the Town Manager prior to issuance of a Zoning Compliance Permit. The plan shall include a pedestrian management plan indicating how pedestrian movements, including pedestrians using the existing transit system, will be safely maintained. Pedestrian access along the Franklin Street frontage shall be maintained continuously throughout the construction process. The applicant shall apply to the Town Manager for a street closure permit at least 5 working days prior to closing the street.
39. 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 Zoning Compliance Permit. That the detail of the sign shall be reviewed and approved by the Town Manager prior to the issuance of a Zoning Compliance Permit.
40. Vested Rights: This Special Use Permit constitutes a site specific development plan establishing a vested rights as provided by N.C.G.S. Sec. 160A-185.1 and Appendix A of the Chapel Hill Land Use Management Ordinance.
41. 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.
42. Open Burning: That the open burning of trees, limbs, stumps and construction debris associated with this development is prohibited.
43. Continued Validity: That continued validity and effectiveness of this approval is expressly conditioned on the continued compliance with the plans and conditions listed above.
44. Non-severability: That if any of the above conditions is held to be invalid, approval in its entirety shall be void.

ORANGE COUNTY

NORTH CAROLINA

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 1609 East Franklin Street Office Development Special Use Permit covenant running with the land.

TOWN OF CHAPEL HILL

BY: [Signature]
Roger L. Stancil, Town Manager

KB PDK

ATTEST:

[Signature]
Sabrina Oliver, Town Clerk



NORTH CAROLINA
ORANGE COUNTY

I, Samantha Kryder, a Notary Public in and for said County and State do

hereby certify that Roger L. Stancil, Town Manager of the Town of Chapel Hill,

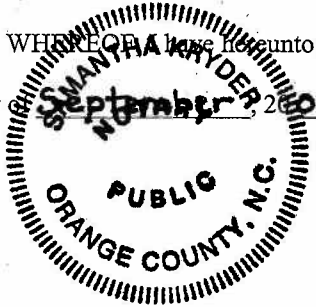
and Sabrina M. Oliver, Town Clerk, duly sworn says each for himself that he knows the corporate seal of the Town of Chapel Hill and that the seal affixed to the foregoing instrument is the corporate seal of the Town of Chapel Hill, that

Roger L. Stancil, Town Manager of said Town of Chapel Hill, and

Sabrina M. Oliver, 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

25th day of September, 2009.



[Signature]
Samantha Kryder
Notary Public

My commission expires: February 27, 2013

ACCEPTED:

David N. Jones, Howard Perry & Walston Properties, LLC

By: [Signature]
David N. Jones

NORTH CAROLINA
ORANGE COUNTY

I certify that David N. Jones personally appeared before me this day, acknowledging to me that she signed the foregoing document, on behalf of Howard Perry & Walston Properties, LLC.

[Signature]
Official Signature of Notary Public

ROGER B. BERNHOLZ
Notary's Printed or Typed Name, Notary Public

Date: October 9, 2009

(Official Seal)

