



CONSIDER AN APPLICATION FOR SPECIAL USE PERMIT - CHRIST COMMUNITY CHURCH, 141 ERWIN ROAD (PROJECT #19-119)

STAFF REPORT

TOWN OF CHAPEL HILL PLANNING
 Judy Johnson, Interim Director
 Becky McDonnell, Planner II

| PROPERTY ADDRESS | MEETING DATE | APPLICANT |
|------------------|-----------------|---------------------------------------|
| 141 Erwin Road | October 7, 2020 | Byron Peters, Christ Community Church |

TOWN MANAGER’S RECOMMENDATION

After reviewing and discussing key issues with Town staff, and based on the evidence in the record to date, the Town Manager believes that the Council could make the findings required to approve the requested modifications to regulations.

Therefore, the Town Manager recommends that the Council 1) continue and close the public hearing; and 2) adopt Resolution A approving the application.

UPDATES SINCE SEPTEMBER 9, 2020 PUBLIC HEARING

Additional information regarding stormwater discharge within the setback along the southern property line has been provided in the attached Technical Report under “Special Considerations.”

The public hearing this evening is an evidentiary quasi-judicial hearing, and the Council is able to close the hearing and act this evening.

PROCESS

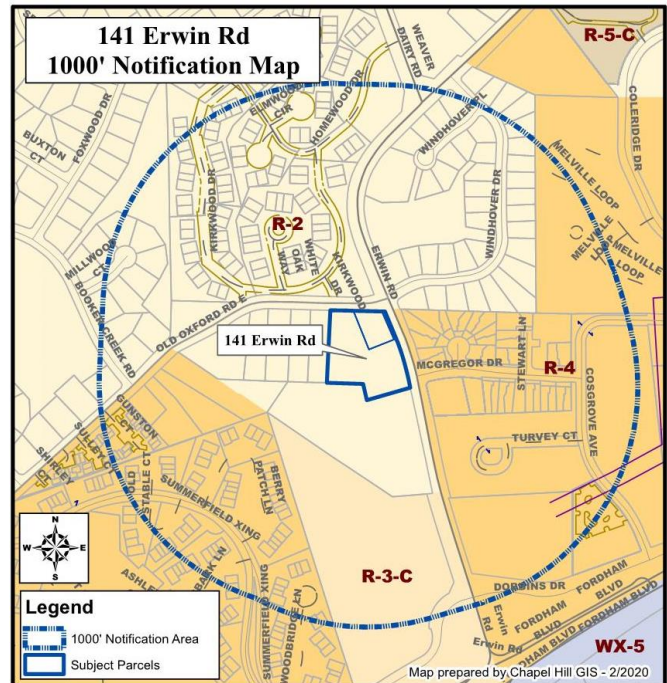
The application will be presented to Council for approval of a Special Use Permit. The Council must consider the four findings for approval of a Special Use Permit, which indicate that the use or development:

1. is located, designed, and proposed to be operated so as to maintain or promote the public health, safety, and general welfare;
2. would comply with all required regulations and standards of the Land Use Management Ordinance;
3. is located, designed, and proposed to be operated to maintain or enhance the value of contiguous property, or that the use or development is a public necessity; and
4. conforms to the general plans for the physical development of the Town as embodied in the Land Use Management Ordinance and in the Comprehensive Plan.

DECISION POINTS

The applicant proposes several modifications to the regulations per LUMO Section 4.5.6, outlined in the Technical Report and applicant materials.

PROJECT LOCATION



PROJECT OVERVIEW

The project proposes an approximately 11,400 square foot place of worship, Christ Community Church, with associated 117 space parking lot, street improvements, stormwater management facility, etc.

Zoning: Residential-2 (R-2)
 Use: Place of Worship
 Property Size: 2.8 acres
 Proposed Floor Area: 11,420 square feet
 Maximum Vehicle Parking: 117 spaces
 Minimum Bicycle Parking: 8 spaces

ATTACHMENTS

1. Technical Report
2. Project Details Table
3. Draft Staff Presentation
4. Resolution A (Approval)
5. Resolution B (Denial)
6. Advisory Board Recommendations
7. Application Form & Materials



TECHNICAL REPORT

PROJECT OVERVIEW

The applicant has submitted a Special Use Permit application for the site at 141 Erwin Road to accommodate a new place of worship and associated parking spaces, stormwater facilities, and other improvements. The site currently consists of two separate parcels with an existing single-family home and a daycare. The Statement of Justification explains that the applicant is seeking a Special Use Permit to develop the site to a greater intensity than what is currently allowed. More details about the proposed development can be found in the applicant's narrative and application materials.

Information about the site and proposed development can be found below, as well as a list of proposed Modifications to Regulations, other important considerations that Staff has identified, and an analysis of the project's consistency with the Comprehensive Plan and relevant Findings of Fact.

SITE CONTEXT

Staff has identified the following physical and regulatory characteristics of the land which are relevant to consideration of a Special Use Permit:

- The 2.8-acre subject site fronts on Erwin Road, an arterial street, and Old Oxford Road, a collector street, both of which have no existing bus service.
- Property on the opposite side of Erwin Road (McGregor Place Condominiums and Erwin Village) is zoned Residential-4 (R-4) and is developed as multifamily residential consistent with the intent of the Residential-4 (R-4) district.
- Other property surrounding the site is zoned Residential-2 (R-2). Existing uses include vacant property and single-family residential.
- No hydrology features have been identified on the site. The southern portion of the site contains significant tree areas. The proposed site layout in the Special Use Permit application suggests that portions of these areas will be preserved.

PROPOSED MODIFICATIONS TO REGULATIONS

- 1) Section 5.6.6 Schedule of Required Buffers:** The Land Use Management Ordinance requires a Type C 30' wide buffer along western property line. The applicant requests a modification to reduce the buffer by 4.8' in one portion to allow for the preservation of an existing shed. The modified buffer would be comprised of existing mature trees and an existing 8' tall solid fence.

Staff Comment: Staff believes that the Council could find a public purpose for the modified buffer, as the fence will provide opaque screening and the modification will allow preservation of a 50-year-old shed.

- 2) Section 5.6.5 Responsibility for Buffer:** The applicant is proposing a shared buffer

along the southern property line. The Land Use Management Ordinance allows buffers to be shared between adjacent properties, with the property that is first to develop being responsible for meeting buffer requirements at the time. When the second property is developed, any additional screening or land required must be provided at that time. The applicant has reached an agreement with the southern property owner, Summit Hospitality Group, to share the required 20' wide buffer. The applicant requests that Council approve this modification to provide a 10' wide buffer at this time, with the remaining buffer width provided at the time that the second property is developed.

Staff Comment: Staff believes that the Council could find a public purpose for the modified buffer, as the intent of the Land Use Management Ordinance will be met through the agreement between the two property owners.

- 3) Section 4.5.4(b)(1) Modifications of Special Use Permits:** The Land Use Management Ordinance states that a modification to a Special Use Permit boundary constitutes a minor modification which must be approved by the Council. The applicant proposes a future lot line adjustment with adjacent property to the south and requests that the lot line adjustment (and therefore SUP boundary adjustment) be allowed as an administrative approval by the Town Manager.

Staff Comment: Staff believes the Council could find a public purpose for the lot line adjustment, as the request is based on an agreement with the adjacent property owner and will more easily allow for the shared buffer (see modification request #2 above), a fire lane connection between the two properties, and an improved site layout for the project site.

- 4) Section 3.8.3(b)(1) Exceptions to Setback and Height Regulations:** The Land Use Management Ordinance allows certain architectural features to exceed the maximum building height limit by up to 15%, including cupolas. The applicant is proposing to exceed the 15% increase by 9.75" for a portion of the proposed cupola.

Staff Comment: Staff believes the Council could find a public purpose for the increased height, as the cupola adds an aesthetic element to the structure.

- 5) Section 4.5.5 Expiration and Revocation of Special Use Permit Approvals:** The Land Use Management Ordinance states that construction must begin with twenty-four months of approval of a Special Use Permit. The applicant requests that this deadline be modified to a five-year construction start date and an eight-year construction completion date.

Staff Comment: Staff believes the Council could find a public purpose for the modified construction timeline, as the applicant has stated that additional fundraising will be needed before construction can begin.

Council Findings and Public Purpose: The Council has the ability to modify the regulations according to Section 4.5.6 of the Land Use Management Ordinance. Staff believes that the Council could modify the regulations if it makes a finding in this particular case that public purposes are satisfied to an equivalent or greater degree. If the Council chooses to deny a request for modifications to regulations, the developer's alternative is to revise the proposal to comply with the regulations.

SPECIAL CONSIDERATIONS

Council Question regarding Stipulation #7 in Resolution A: Why is the discharge point needed with the underground detention system that is proposed under the parking lot? Is the outfall only for discharge if the parking lot facility overflows? And what obligations does the southern property have to make sure that there is no additional discharge of the stormwater onto further downstream properties, that are already experiencing flooding problems?

Staff Response: An underground detention system is designed to store water during a storm event. The captured water is released through an outlet pipe that is specifically designed to let water out in a controlled manner at pre-development flow rates. Christ Community Church proposed connecting their outlet to the adjoining property, 137 Erwin Road, but the development plans for that site are conceptual. This stipulation was made so that if the sequencing of the projects or the agreement falls through, Christ Community Church would be required to outfall the stormwater from their detention system outside of the setback. By agreeing to accept the stormwater on their property, the owner of 137 Erwin Road, Summit Properties, will have to demonstrate that the post-development flow off the site does not exceed the pre-development flow, per the Land Use Management Ordinance Section 5.4.6. The post-development flow off 137 Erwin Road would be equivalent to the sum of stormwater runoff from their site and the stormwater received from Christ Community Church.

Applicant Response: Discharge: All stormwater runoff from Christ Community Church is currently overland flow onto the Summit property. Staff has written Stipulation #7 to specify how the future discharge will occur in case Christ Community Church is built first, or if the Summit property is developed first. If the Summit property is built first, Christ Community Church has worked closely with Summit so that the discharge pipe from Christ Community Church will connect to the stormwater piping system on Summit. If Christ Community Church is built first, the system will discharge onto Christ Community Church property, outside all setbacks and buffers, in such a way as to meet all Town Ordinance and Design Guidelines for flow onto the Summit property.

What will happen on the Summit property? Christ Community Church has no knowledge of exactly how Summit will fulfill their stormwater responsibilities. We do know that Summit must comply with all Town Ordinances and Design Guidelines so as to not increase peak runoff, to retain stormwater volume from new impervious surfaces, and to carefully control any erosion from their site. Also, the Summit stormwater solutions will be carefully and thoroughly reviewed by Council, by Advisory Boards, Town staff, and by all surrounding neighborhoods.

CONSISTENCY WITH THE COMPREHENSIVE PLAN AND OTHER DOCUMENTS

Town staff has reviewed this application for compliance with the themes from the [2020 Comprehensive Plan](#)¹, the standards of the [Land Use Management Ordinance](#)², and the [Town of Chapel Hill, NC : Design Manual and Standard Details](#)³ and offers the following evaluation:






¹ <https://www.townofchapelhill.org/home/showdocument?id=15001>

² https://library.municode.com/nc/chapel_hill/codes/code_of_ordinances?nodeId=CO_APXALOUSMA

³ <https://www.townofchapelhill.org/home/showdocument?id=2645>

Comprehensive Plan Themes: The following are themes from the 2020 Comprehensive Plan, adopted June 25, 2012:

Council Goals:

| | | | | | |
|-------------------------------------|---|------------------------------|-------------------------------------|---|----------------------------------|
| <input type="checkbox"/> |  | Create a Place for Everyone | <input checked="" type="checkbox"/> |  | Develop Good Places, New Spaces |
| <input type="checkbox"/> |  | Support Community Prosperity | <input checked="" type="checkbox"/> |  | Nurture Our Community |
| <input checked="" type="checkbox"/> |  | Facilitate Getting Around | <input type="checkbox"/> |  | Grow Town and Gown Collaboration |

Staff believes the Christ Community Church proposal complies with the above themes of the 2020 Comprehensive Plan.

Land Use Plan: The [2020 Land Use Plan](#)⁴, a component of the 2020 Comprehensive Plan, designates this site for Low Residential (1-4 dwelling units/acre) land use.

⁴ <https://www.townofchapelhill.org/home/showdocument?id=1215>














PROJECT FACT SHEET

Overview


| Site Description | |
|---|--|
| Project Name | Christ Community Church |
| Address | 141 Erwin Road |
| Property Description | 122,810 SF (2.8 acres) |
| Existing Use | Single family home, daycare, and accessory buildings |
| Orange County Parcel Identifier Number | 9799-39-9116 and 9799-49-0235 |
| Zoning | Residential-2 (R-2) |

| Topic | Comment | Status | |
|---|--|------------------------------------|----------|
| Use (Sec 3.7) | Place of Worship | | |
| Dimensional Standards (Sec. 3.8) | Required | Proposed | |
| | Height | 50 ft. / More than 50 ft. | M |
| | Street | 26 ft. / 30.3 ft. | |
| | Interior | 11 ft. / More than 11 ft. | |
| | Solar | 13 ft. / Street setback supersedes | |
| Lot Size (Sec. 3.8) | Minimum: 10,000 SF | | |
| | Proposed: 122,810 SF (2.8 acres) | | |
| Floor area (Sec. 3.8) | Maximum floor area: 11,421 square feet | | |
| | Proposed floor area: 11,420 square feet | | |
| Modifications to Regulations (Sec. 4.5.6) | Section 5.6.6 - 30' buffer required along western property line; applicant requests 6.8' reduction in one portion to allow for preservation of existing shed; modified buffer in this area is comprised of existing mature trees and 8' solid fence | M | |
| | Section 5.6.5 - 20' buffer required along southern property line; applicant requests to provide 10' of buffer on site and for adjacent property to provide the remaining 10' at time in which that parcel develops | | |
| | Section 4.5.4(b)(1) - Applicant plans a lot line adjustment with adjacent property to the south; a modification to SUP boundaries constitutes a minor modification to an SUP; applicant requests that the lot line adjustment (and therefore SUP boundary adjustment) be allowed as a minor change by the Town Manager | | |
| | Section 3.8.3(b)(1) - A 15% increase above the building | | |

| | | |
|--|---|---|
| | envelope is permitted for certain architectural features, such as cupolas. The applicant requests an increase of 9.75" for a portion of the cupola that exceeds the permitted 15% increase. | |
| | Section 4.5.5 - The applicant requests a five-year construction start date and eight-year construction completion date. | |
| Adequate Public Schools (Sec. 5.16) | N/A | N/A |
| Inclusionary Zoning (Sec. 3.10) | N/A | N/A |
| Landscape | | |
| Buffer – North (Sec. 5.6.2) | Required: 20 ft. Type C buffer |  |
| | Provided: >20 ft. Type C buffer utilizing existing vegetation | |
| Buffer – East (Sec. 5.6.2) | Required: 30 ft. Type D buffer |  |
| | Provided: 30 ft. Type D buffer utilizing existing vegetation | |
| Buffer – South (Sec. 5.6.2) | Required: 20 ft. Type C buffer | M |
| | Provided: 10 ft. utilizing existing vegetation | |
| Buffer - West (Sec. 5.6.2) | Required: 20 ft. Type C buffer | M |
| | Provided: >20 ft. Type C buffer reduced to 15.4 ft. in one location; existing vegetation and solid 8' fence | |
| Tree Canopy (Sec. 5.7) | Required: 40% |  |
| | Proposed: >40% | |
| Landscape Standards (Sec. 5.9.6) | Constructed to Town standards |  |
| Environment | | |
| Resource Conservation District (Sec. 3.6) | No RCD is present. |  |
| Erosion Control (Sec. 5.3.1) | More than 1 acre of land disturbance proposed, so a performance bond required. |  |
| Steep Slopes (Sec. 5.3.2) | The application must comply. |  |
| Stormwater Management (Sec. 5.4) | Stormwater management will be provided with underground sand filter |  |
| Jordan Riparian Buffer (Sec. 5.18) | N/A | N/A |
| Land Disturbance | 76,445 SF (1.75 acres) |  |
| Impervious Surface (Sec. 3.8) | 51,949 SF (42.3%) |  |
| Solid Waste & Recycling | A Solid Waste Management Plan has been submitted. |  |
| Access and Circulation | | |

| | | |
|--|--|---|
| Road Improvements (Sec. 5.8) | Widening of Erwin Road, including left turn lane, and Old Oxford Road |  |
| Vehicular Access (Sec. 5.8) | Full access to Erwin Road, full access to Old Oxford Road and one access connecting to undeveloped parcel to the south |  |
| Bicycle Improvements (Sec. 5.8) | Bike lane on Erwin Road frontage |  |
| Pedestrian Improvements (Sec. 5.8) | 5' sidewalk along Erwin Road and Old Oxford Road frontages |  |
| Traffic Impact Analysis (Sec. 5.9) | TIA completed |  |
| Vehicular Parking (Sec. 5.9) | Minimum: 50 parking spaces Maximum: 125 parking spaces Proposed: 117 parking spaces |  |
| Transit (Sec. 5.8) | None |  |
| Bicycle Parking (Sec. 5.9) | Minimum: 5 Proposed: 8 |  |
| Parking Lot Standards (Sec. 5.9) | Construct to Town standards. |  |
| Electric Vehicle Parking | Three electric vehicle charging and parking spaces and 12 EV ready parking spaces |  |
| Technical | | |
| Fire | The loop design of the parking lot serves as fire access. |  |
| Site Improvements | New building and parking lot that are ADA compliant |  |
| Recreation Area (Sec. 5.5) | N/A |  |
| Lighting Plan (Sec. 5.11) | 0.3 foot-candles at property line is required. Street lighting is required. | FP |

Project Summary Legend

| Symbol | Meaning |
|---|------------------------------|
|  | Meets Requirements |
| M | Seeking Modification |
| C | Requires Council Endorsement |
| FP | Required at Final Plan; |
| NA | Not Applicable |