



OPEN THE EVIDENTIARY HEARING: SPECIAL USE PERMIT MODIFICATION FOR CHAPEL HILL NORTH, 1800 MARTIN LUTHER KING JR. BLVD. (PROJECT 21-007)

SUMMARY REPORT

TOWN OF CHAPEL HILL PLANNING DEPARTMENT
 Colleen Willger, Director
 Judy Johnson, Assistant Director
 Anya Grahn, Principal Planner

PROPERTY ADDRESS 1800 Martin Luther King Jr. Blvd.	MEETING DATE May 18, 2022	APPLICANT Harris Teeter Properties, LLC, on behalf of Chapel Hill North Station LLC and Chapel 40 LLC
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STAFF RECOMMENDATION

That the Council 1) open the evidentiary hearing; 2) receive evidence; 3) continue the Evidentiary Hearing to June 15, 2022. With the implementation of 160D, advisory boards are conducting preliminary forums with comments and recommendations transmitted to the applicants. No comments or recommendations from advisory boards are forwarded to Council during quasi-judicial hearings.

PROCESS

The property is subject to a Master Land Use Plan (MLUP), approved by the Town Council in 1990. It is also encumbered by a Special Use Permit (SUP) approved by Council in 1991 and modified in 2018. The applicant wishes to modify the SUP to allow for the construction of a fuel station, pharmacy drive-in window, and other site improvements. The MLUP modification is a separate item before the Council tonight.

The application is before the Council for approval of a Special Use Permit (SUP) Modification. 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. Complies with all required regulations and standards of the Land Use Management Ordinance;
3. Is located, designed, and proposed to be operated so as 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 proposed development requests the following modifications to the existing SUP:

- Expand the boundaries of the 1991 SUP to include the outparcel for the Harris Teeter fuel center lot (PIN 9880-27-0438)
- Modify the landscape buffers prescribed by the SUP
- Allow a pharmacy drive-in window
- Martin Luther King Jr. Blvd. bicycle lane

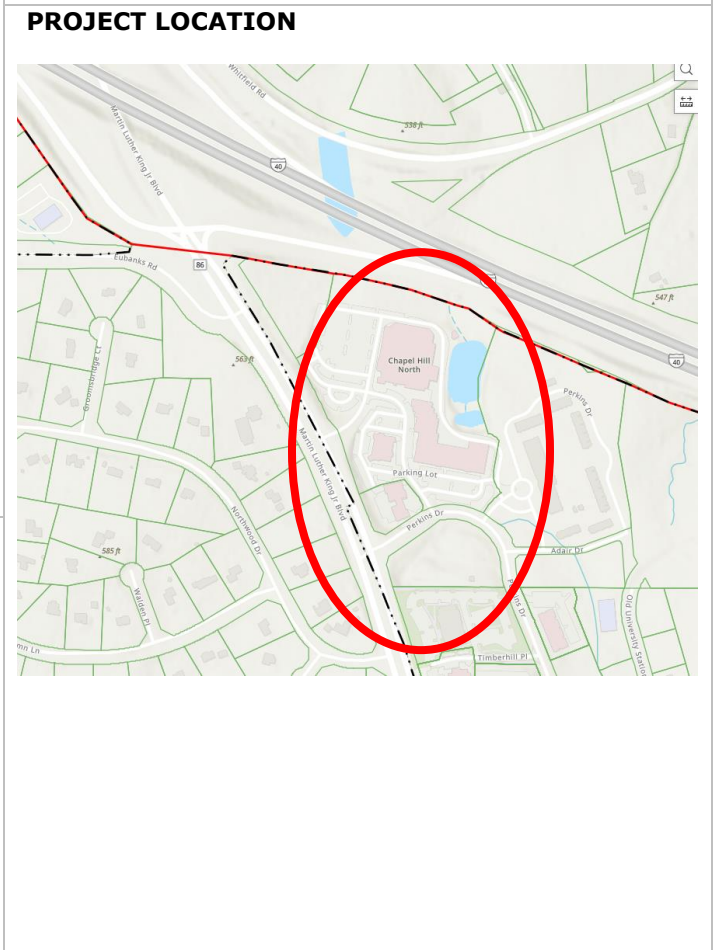
PROJECT OVERVIEW

The existing Special Use Permit authorized:

- 106,500 sq. ft. of office square footage
- 150,500 sq. ft. of commercial square footage
- 1,016 parking spaces.

The applicant proposes to expand the Harris Teeter grocery store by constructing:

- 11,572 sq. ft. expansion to the grocery store building
- Pharmacy drive-in at the north end of the building
- New fuel center with 7 fuel pumps (14 fueling positions) and a 240 sq. ft. kiosk
- Additional 50 parking spaces and drive aisles



ATTACHMENTS	<ol style="list-style-type: none"> 1. Technical Report and Project Details 2. Draft Staff Presentation 3. Resolution A (Approving the Application) 4. Resolution B (Denying the Application) 5. Applicant Materials 6. Submitted Plans 7. Traffic Impact Analysis
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TECHNICAL REPORT

PROJECT OVERVIEW

The application proposes modifying the existing Special Use Permit on the site to expand the existing Harris Teeter grocery store to incorporate a pharmacy drive-in window on the north side of the building, construct additional parking areas, and construct a new fuel center. More details about the proposed development can be found in the applicant's narrative and statement of justification in the Application Materials.

Information about the site and proposed zoning districts 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 identified physical and regulatory characteristics of the land relevant to considering a Special Use Permit Modification:

- On April 22, 1991, the Council approved the existing Special Use Permit (SUP). The 1991 SUP included the following stipulations:
 - That the gas station building, canopy, and site be designed so that tractor-trailer trucks cannot approach and use the fuel pumps, but so that access is provided for service vehicles, and that hours of operation for the gas station and convenience store be limited to daily operation between 6:00 am and 11:00 pm.
 - That the underground storage tanks for fuel at the gas station be double-walled and equipped for interstitial monitoring with an automatic alarm system; or that they be designed, constructed, and monitored to meet a greater safety rating. The gas station owner shall register all underground storage tanks and pay annual tank fees in conformance with State regulations.
 - That piping from the underground storage tanks be double-walled. Underground piping that conveys fuel under pressure must be equipped with an automatic line leak detector.
 - That a monitoring well be drilled on the gas station site. Final plans showing the location and depth of the test well are to be submitted to the Town Manager and the North Carolina Department of Environment, Health, and Natural Resources, Division of Environmental Management/Groundwater Section for approval. Testing shall be conducted at time intervals approved by the State and Town Manager and reports shall be submitted to the State.
 - That the final plans demonstrate that the development meets or exceeds all applicable local, State, and federal regulations regarding underground fuel tanks and groundwater protection.
 - That surface runoff from the gas station be routed to an oil-sand separator for liquid waste collection, and that the filtered water drain into the sanitary sewer

system for treatment downstream. The liquid waste must be disposed of in manner deemed appropriate by local, State, and federal agencies.

- The parcels are zoned Mixed Use–Office/Institutional-1 (MU-OI-1). This zoning district is intended to provide for the coordinated development of office, commercial, and residential uses, and their necessary support functions near key highway intersections and transit corridors in Chapel Hill.
- The northern outparcel with the proposed fuel center is contiguous to the existing Harris Teeter property.
- The site is in the North MLK (Sub-Area D), a focus area identified in the Future Land Use Map (FLUM).
- The site is bordered by Interstate 40 to the north, Martin Luther King Jr. Blvd. to the west, and Perkins Drive. Access to the site is from Martin Luther King Jr. Blvd. and Perkins Drive.
- The site has hydrological features.
- The proposed development would add 69,000 sq. ft. of new impervious surface area.

PROPOSED SPECIAL USE PERMIT MODIFICATION

The applicant has submitted a Special Use Permit Modification application, for review of the development proposal, without the need for rezoning, and which allows site-specific standards to be formulated and applied as conditions through a quasi-judicial process. The application provides an opportunity to establish agreed-upon conditions that modify use, intensity, and development standards in order to address impacts reasonably expected to be generated by development. Conditions can also address conformance of the development with Town regulations and adopted plans.

PROPOSED MODIFICATIONS TO SPECIAL USE PERMIT

The requested modification to the 1991 SUP for this development has been outlined below:

- 1. Extend SUP to encumber fuel center parcel:** The existing SUP does not encumber the adjacent outparcel (PIN 9880-27-0438) that is the proposed fuel center site. As such, the applicant is requesting to extend the SUP to this parcel in this application. By extending the SUP to the adjacent outparcel (PIN 9880-27-0438), the gross land area encumbered by the SUP will be 736,844 square feet.

The April 21, 1991 SUP for Chapel Hill North Phase I envisioned a fuel station to be located within this development based on the stipulations of approval regarding the design and operation of the fuel station. The existing gas station at 1860 Martin Luther King, Jr. Boulevard was part of the original MLUP and SUP approvals.

Staff Comment: The proposal is to modify the boundaries of the existing SUP, to encumber the outparcel PIN 9880-27-0438, extends the uses approved by the MLUP and SUP to this parcel.

- 2. Modify the Landscape Buffer Widths Stipulated by the 1991 SUP:** The 1991 SUP requires the applicant provide a Type 'E' of at least 100 feet in width along Interstate 40; the applicant proposes modifying this to a 30-foot Type 'D' Buffer to accommodate the building expansion. The buffer modification request states that small, minor view corridors and breaks in the landscaping will be provided along the edges of the shopping

center property for visibility of the grocery store to the public while still screening the proposed fuel center.

The 1991 SUP also calls for a Type D buffer of at least 30 feet in width along the Martin Luther King Jr. Blvd. frontage with the section of buffer in front of the gas station expanded to at least 50 feet in width. The applicant is requesting the buffer in this area be modified to a 30-foot width with small encroachments.

Staff Comment: Staff believes Council can find a public purpose in reducing the buffer width in order to enhance the visibility of the development and allow for the proposed additional development.

3. Modify to allow a drive-in window use for the proposed pharmacy: The applicant proposes a pharmacy drive-in window addition to Harris Teeter will be a positive contribution to the store and its customers. The applicant states that:

- The pharmacy drive-in window would provide more convenient pickup for any prescriptions Harris Teeter's existing customers may need.
- The facility will not provide any kind of negative stacking or site impacts that a typical fast food restaurant drive-in would provide.
- The pharmacy would be located off to the side of the grocery store, have two separate lanes for faster service, and would stack in the rear of the store as to not disrupt any circulation within the shopping center.

Staff Comment: Staff believes Council can find a public purpose in allowing a drive-in window pharmacy as it provides a convenient pickup option for prescriptions at the side of the grocery store. Drive-ins are typically not in line with TOD principles due to their ability to drive more car traffic, slow transit vehicles on the road, and impair walking access to and from transit stations. While the proposed pharmacy drive-in may attract more vehicle trips, the drive-in is located on an internal drive and at a distance from transit or pedestrian routes, mitigating the impacts.

OTHER CONSIDERATIONS:

4. Martin Luther King Jr. Blvd. Bicycle Lane:





The Mobility Plan calls for raised bike lanes on Martin Luther King Jr. Boulevard. Council adopted the Mobility and Connectivity Plan as a component of Chapel Hill 2020 in October 2020. Staff had requested raised bike facilities as part of the comprehensive plan. The applicant declined to provide raised bike lanes.

Staff Comment: Staff requests that Council decide whether the site plan meets the finding of being in general conformity with the Comprehensive Plan without the raised bike lane.

CONSISTENCY WITH THE COMPREHENSIVE PLAN AND OTHER DOCUMENTS

Town staff are currently reviewing 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.

Comprehensive Plan Themes:

<input checked="" type="checkbox"/>		Create a Place for Everyone	<input checked="" type="checkbox"/>		Develop Good Places, New Spaces
<input checked="" 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 Harris Teeter Addition and Fuel Center 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](#)⁵, designates this site for multi-family, shops, and offices; multifamily residential; commercial/office, and parks and green/gathering spaces. The proposed grocery store expansion and fuel station use falls within the commercial uses proposed for this site, and in keeping with the MLUP and SUP.

FINDINGS OF FACT

In order to establish and maintain sound, stable, and desirable development within the planning jurisdiction of the Town and ensure that Special Use Permits (SUP) demonstrate a high quality of overall site and building design, the Council must make the following findings of fact (as stated in Land Use Management Ordinance Section 4.5) prior to approving a SUP:

- 1) Finding #1:** That the use or development is located, designed, and proposed to be operated so as to maintain or promote the public health, safety, and general welfare;
- 2) Finding #2:** That the use or development complies with all required regulations and standards of this chapter, including all applicable provisions of articles 3 and 5, the applicable specific standards contained in the supplemental use regulations (article 6), and with all other applicable regulations;
- 3) Finding #3:** That the use or development is located, designed, and proposed to be operated so as to maintain or enhance the value of contiguous property, or that the use or development is a public necessity; and
- 4) Finding #4:** That the use or development conforms with the general plans for the physical development of the town as embodied in this appendix and in the comprehensive plan.

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

² https://www.municode.com/library/#!/nc/chapel_hill/codes/code_of_ordinances?nodeId=CO_APXALAUSMA

³ <http://www.townofchapelhill.org/town-hall/departments-services/public-works/engineering/design-manual-and-standard-details>

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

⁵ <http://www.townofchapelhill.org/home/showdocument?id=15001>



PROJECT FACT SHEET




Overview

Site Description	
Project Name	Chapel Hill North (Harris Teeter Expansion and Fuel Center)
Address	1800 Martin Luther King Jr Boulevard
Property Size (GLA)	736,884 sq. ft.
Project Area	221,285 sq. ft. (5.08 acres)
Existing	Chapel Hill North – Business office-type; and Business-General
Orange County Parcel Identifier Numbers	9880-27-0438 and 9880-27-5036
Existing Zoning	Mixed Use-Office/Institutional-1 (MU-OI-1)


Site Design

Topic	Comment	Status
Use/Density (Sec 3.7)	Business office-type; and Business-General (Expansion to existing Grocery Store with pharmacy drive-in and Fuel Center)	
Dimensional Standards (Sec. 3.8)	Comply with LUMO Section 3.8; Dimensional standards (setbacks) only apply to exterior property lines	
Floor area (Sec. 3.8)	<i>Maximum:</i> 259,200 sq. ft. of retail per MLUP <i>Existing:</i> 167,301 sq. ft. <i>Proposed:</i> 12,029 sq. ft. <i>Total</i> 179,330 sq. ft.	
Inclusionary Zoning (Sec. 3.10)	NA	NA
Landscape		
Buffer – North (Sec. 5.6.2)	<i>Required:</i> Type 'E' Buffer with width of at least 100 ft. <i>Proposed:</i> Type 'D' Buffer of 30 ft.	M
Buffer – East (Sec. 5.6.2)	<i>Required:</i> Type 'C' Buffer of 20 ft. <i>Proposed:</i> Type 'C' Buffer of 20 ft.	
Buffer – South (Sec. 5.6.2)	<i>Required:</i> Type 'C' Buffer of 20 ft. <i>Proposed:</i> Type 'C' Buffer of 20 ft.	
Buffer - West (Sec. 5.6.2)	<i>Required:</i> Type 'D' Buffer of 30 ft. with 50 ft. buffer in front of gas station <i>Proposed:</i> Type 'D' Buffer with reduced widths.	M
Tree Canopy (Sec. 5.7)	<i>Required:</i> 40% <i>Proposed:</i> 40%	
Parking Landscape Standards (Sec. 5.9.6)	Meet Town standards	

Environment		
Resource Conservation District (Sec. 3.6)	<i>Maximum:</i> 20% land disturbance, 10% impervious surface <i>Proposed:</i> 5,908 sq. ft. (4.2%) land disturbance, 2,150 sq. ft. (1.5%) impervious surface	
Erosion Control (Sec. 5.3.1)	Orange County Erosion Control permit required	
Steep Slopes (Sec. 5.3.2)	Meet Town standards	
Stormwater Management (Sec. 5.4)	Use existing stormwater pond, evaluate and modify as needed to incorporate impervious surface	
Land Disturbance	224,334 sq. ft. (5.15 acres)	
Impervious Surface (Sec. 3.8)	<i>Existing:</i> 405,108 sq. ft. (60.3%) <i>New:</i> +64,904 sq. ft. <i>Total:</i> 470,012 sq. ft. (70.0%)	
Solid Waste & Recycling	Public trash and recycling pickup proposed	
Jordan Riparian Buffer (Sec. 5.18)	Not applicable	NA
Access and Circulation		
Road Improvements (Sec. 5.8)	Proposing to improve internal accessible sidewalk connections to Martin Luther King, Jr. Blvd.	
Vehicular Access (Sec. 5.8)	Access from Perkins Drive	
Bicycle Improvements (Sec. 5.8)	The applicant has declined to construct a raised bicycle lane along the Martin Luther King Jr. Blvd.	C
Pedestrian Improvements (Sec. 5.8)	Pedestrian links throughout the site will help connect the shopping center with public street sidewalks and transit	
Transit (Sec. 5.8)	No transit improvements proposed.	NA
Traffic Impact Analysis (Sec. 5.9)	Completed	
Vehicular Parking (Sec. 5.9)	<i>SUP Maximum:</i> 1,016 spaces <i>Existing:</i> 484 spaces (including 19 accessible spaces) <i>Proposed:</i> 534 spaces (including 20 accessible spaces)	
Bicycle Parking (Sec. 5.9)	<i>No change</i>	NA
Parking Design Standards (Sec. 5.9.5)	Meet Town standards	
Loading Space Requirements (Sec. 5.9)	<i>No change to 2 existing loading docks</i>	
Building Height		
Building Height (Sec. 3.8)	<i>Required:</i> Primary Building Height: 44 ft.; Secondary Building Height: 90 ft.	

	<i>Proposed:</i> Primary Building Height: Less than 34 ft.; Secondary Building Height: 34 ft.	
Technical		
Fire	Meet Town Standards	
Site Improvements	11,800 sq. ft. expansion to the grocery store building; pharmacy drive-in window; new fuel center with 7 fuel pumps (14 fueling positions) and a 240 sq. ft. kiosk; additional parking and drive aisles	
Recreation Area (Sec. 5.5)	Not required for commercial uses	NA
Lighting Plan (Sec. 5.11)	Maximum of 0.3 foot-candles at property line	
Homeowners Association (Sec. 4.6)	Not applicable	NA
Adequate Public Schools (Sec. 5.16)	Not applicable	NA

Project Summary Legend

Symbo l	Meaning
	Meets Requirements
M	Seeking Modification
C	Requires Council Endorsement
FP	Required at Final Plan;
NA	NA