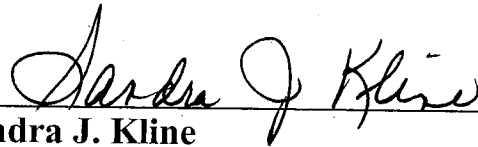


I, Sandra J. Kline, Acting Town Clerk of the Town of Chapel Hill, North Carolina, hereby certify that the attached is a true and correct copy of Resolution 2006-11-06/R-9a adopted by the Chapel Hill Town Council on November 6, 2006.

This the 17th day of November, 2006.



Sandra J. Kline  
Acting Town Clerk



**A RESOLUTION APPROVING AN APPLICATION FOR A PRELIMINARY PLAT FOR AQUABELLA SUBDIVISION (File No. 7.54B.D.4A, PIN 9798-67-1484) (2006-11-06/R-9a)**

BE IT RESOLVED by the Council of the Town of Chapel Hill that it finds that the Aquabella Subdivision, proposed by John Mackowiak, on the property identified as Chapel Hill Township Tax Map 54B, Block D, Lot 4A, if developed according to the preliminary site plan dated May 15, 2006 and the conditions listed below, would comply with the provisions of the Land Use Management Ordinance:

These findings are based on the following:

Stipulations Specific to the Development

1. Expiration of Preliminary Plat: That this Preliminary Plat approval shall be valid for one year from the date of approval subject to reapproval by the Town Manager in accordance with the provisions of the Land Use Management Ordinance.
2. Number of Lots: That this approval shall authorize the creation of 4 lots on 4.7 acres.

Stipulations Related to Transportation, Access and Circulation

3. Pinehurst Drive Speed Hump: That the applicant remove the existing speed hump on Pinehurst Drive and, if determined necessary by the Town Manager, construct a new speed hump, outside of the intersection curb radius of the new intersection. That the final location for the new speed hump on Pinehurst Drive shall be approved by the Town Manager.

That the applicant shall obtain an Engineering Construction Permit, prior to beginning any work within the public right-of-way. That the construction associated with the speed humps shall be completed, and work within the right-of-way accepted by the Town, prior to the approval of a Final Plat.

4. Residential Curb-Cuts on Pinehurst Drive Prohibited: That the final plans and the recorded subdivision plat include a note prohibiting residential curb-cuts along the site's frontage on Pinehurst Drive.
5. Internal Road Improvements: That the applicant construct a 27-foot wide road, measured from back of curb to back of curb, with 30-inch wide curb and gutter within a 45-foot wide right-of-way. That the road shall be built to Town standard.
6. Cul-de-sac radius: That the cul-de-sac be built to Town standard within a 40-foot radius.
7. Curb Inlets: That curb inlets be constructed to Town standard and approved by the Town Manager prior to issuance of a Zoning Compliance Permit.

8. Sidewalk Improvements: That a 5-foot wide sidewalk, built to Town Standard, shall be constructed on one side of the new road and extend around the entire bulb of the cul-de-sac.
9. Brick Sidewalk Alternate: That, if the applicant desires to construct a 5-foot wide brick sidewalk in lieu of the Town standard sidewalk, an encroachment agreement requiring that the Homeowners' Association be responsible for its maintenance, shall be reviewed and approved by the Town Manager prior to the issuance of a Zoning Compliance Permit. A copy of the Homeowners' Association documents establishing Homeowners' Association responsibility of maintenance of a brick sidewalk shall be recorded concurrently with and cross referenced on the final plat.
10. Pavement Marking Plan: That prior to the issuance of a Zoning Compliance Permit the Town Manager shall approve a street sign, on-street parking and pavement marking plan. The signs shall be installed prior to issuance of the first Certificate of Occupancy.
11. Pedestrian/Bicycle Path to the Rayfield Property: That prior to the issuance of the first Certificate of Occupancy for construction of new dwelling units on a lot created by this subdivision, the applicant or Homeowners' Association shall construct a 5-foot wide improved pedestrian/bicycle path within a 10-foot access easement, or alternate path as approved by the Town Manager, to the Rayfield property.

That the construction of the path involve minimal land disturbance. As best as possible, the location of the path shall be coordinated with the proposed residential development on the Rayfield property. The final location and design of the path shall be approved by the Town Manager prior to the issuance of a Zoning Compliance Permit.

12. Pedestrian/Bicycle Path: Maintenance, Dedication and Easement: That the applicant, or Homeowners' Association, shall be responsible for the construction and maintenance of the pedestrian/bicycle path and the stormwater management facilities. That prior to the approval of a Final Plat, the applicant provide for Town Manager review and approval, a deed conveying to the Homeowners' Association a 10-foot wide strip of land that contains the pedestrian path and the easement area associated with the stormwater management facilities. The deed shall be recorded concurrently and cross referenced on the final plat.

That with the recordation of a final plat, the applicant shall dedicate a 10-foot wide public pedestrian/bicycle access easement for the path connection to the Rayfield property. The easement and boundaries shall be reviewed and approved by the Town Manager prior to recordation at the Orange County Register of Deeds Office.

13. Stormwater Management Facilities: Maintenance, Dedication and Easement: That the applicant, or Homeowners' Association, shall be responsible for the construction and maintenance of the stormwater management facilities. That prior to the approval of a Final Plat, the applicant provide for Town Manager review and approval, a deed conveying to the Homeowners' Association land that contains the stormwater management facilities. The deed shall be recorded concurrently and cross referenced on the final plat.

That with the recordation of a final plat, the applicant shall dedicate a stormwater easement for the stormwater management facilities. The easement and boundaries shall be reviewed and approved by the Town Manager prior to recordation at the Orange County Register of Deeds Office.

14. Pedestrian/Bicycle Path Signage: That at such time that the pedestrian path connects to an approved and constructed pedestrian/bicycle path on the Rayfield property, the applicant or Homeowners' Association shall post and maintain a sign stating "Public Access" at the entrance to the path. The design and location of the sign shall be reviewed and approved by the Town Manager.

#### Stipulations Related to Recreation

15. Payment-in-Lieu for Required Recreation Area: That the applicant shall provide a payment-in-lieu for that portion of the recreation area not satisfied by the public easement area associated with the pedestrian/bicycle path. That the square footage associated with the public easement encumbering the pedestrian/bicycle path shall be considered suitable recreation area and counted toward reducing the required recreation area payment-in-lieu.

That the payment amount shall be reviewed and approved by the Town Manager in accordance with the Land Use Management Ordinance, Section 5.5.2. That the recreation payment amount shall be submitted to the Town prior to recordation of the final plat.

#### Stipulation Related to Landscaping and Tree Protection

16. Landscape Buffer and Planting Plan: That the applicant shall provide either an alternate ✓ buffer or a 20-foot wide Type-C buffer along the Chapel Hill Country Club frontage. A landscaping planting plan for the bufferyard shall be reviewed and approved by the Town Manager prior to the issuance of a Zoning Compliance Permit.
17. Landscape Bufferyard Maintenance and Ownership: That prior to the recordation of the final plat the applicant shall provide, for Town Manager review and approval, the location of the landscape buffer easement along the property line with Chapel Hill Country Club. Responsibility for maintenance of the landscape buffer easements shall be that of the Homeowners' Association with appropriate references in the Association documents.
18. Landscape Protection Plan: That a detailed Landscape Protection Plan, clearly indicating which rare and specimen trees will be removed and preserved and indicating significant tree stands, and including Town standard landscaping protection notes, shall be approved by the Town Manager prior to issuance of a Zoning Compliance Permit.
19. Tree Protection Fencing: That the limits of land disturbance and tree protection areas be indicated with tree protection fencing and shown on the Landscape Protection Plan, to be approved by the Town Manager prior to issuance of a Zoning Compliance Permit.

20. Preservation of Significant Trees: That the final plans and all applicable Single Family Zoning Compliance Permits include the preservation of all trees identified in the significant tree stand located in the southwest corner of proposed lot 1.
21. Community Design Commission Approval of Alternate Buffer: That the Community Design Commission shall approve an alternate bufferyard, along the Chapel Hill Country Club frontage, unless the applicant provides a 20-foot type C buffer.
22. Sight Distance Triangle: That no plantings with a mature height greater than 2-feet are planted within the sight distance triangle at the intersection of Pinehurst Drive and the new subdivision street.

#### Stipulations Related to Resource Conservation District

23. Boundaries: That the boundaries of the Resource Conservation District be indicated on the final plat and plan. A note shall be added to all final plats and final plans, indicating, "Development shall be restricted within the Resource Conservation District in accordance with the Chapel Hill Land Use Management Ordinance."
24. Construction Standards: That for encroachment(s) into the Resource Conservation District, the requirements and standards of Section 3.6.3(g) of the Land Use Management Ordinance, including minimization of land disturbance, and all other applicable Resource Conservation District regulations must be adhered to. This approval authorizes construction of a public roadway through the Resource Conservation District.
25. Variances: That all variances necessary for development within the Resource Conservation District are obtained before application for final plat or final plan approval for the subject phase(s) of development. That no lot be created that would require a Resource Conservation District Variance in order to be built upon.
26. Buildable Lots: That all residential construction, including clearing, grading and construction shall be located entirely outside of the Resource Conservation District. That prior to the issuance of a Zoning Compliance Permit, it must be demonstrated, for each lot, that there is sufficient buildable area outside: the Resource Conservation District; slopes of 25% or greater; easements; and building setback limits.
27. Grading Plan: That a Grading Plan, with existing and proposed contours, shall be approved by the Town Manager prior to issuance of a Zoning Compliance Permit.

#### Stipulations Related To Stormwater Management

28. Land Disturbance Activity Prohibited in the Resource Conservation District: That all required erosion control sediment basins and all stormwater improvements, including associated clearing and grading, shall be located entirely outside of the Resource Conservation District and shall not impact the root systems of any significant trees.

29. Stormwater Facility Prohibited in the Public Right-of-Way: That all detention/retention basins, stormwater facilities and associated infrastructure be located outside of existing or proposed right-of-way.
30. Stormwater Management Plan: That prior to the issuance of a Zoning Compliance Permit, the applicant shall submit a Stormwater Management Plan for review and approval by the Town Manager. The plan shall be based on the 1-year, 2-year, and 25-year frequency, 24-hour duration storms, where the post-development stormwater run-off rate shall not exceed the pre-development rate. The plan shall provide for the retention of stormwater run-off volume for the 2-year storm. Engineered stormwater facilities shall also remove 85% total suspended solids and treat the first inch of precipitation utilizing NC Division of Water Quality design standards.
31. Best Management Practices: That the applicant shall employ Best Management Practices, such as drainage swales and level spreaders, to manage the rate and quality of runoff, based on best available information from the NC State University Cooperative Extension. Bio-retention areas to be designed in accordance with the standards specified in the Engineering Design Manual and the Land Use Management Ordinance. Final design and locations shall be approved by the Town Manager prior to the issuance of a Zoning Compliance Permit.
32. Storm Drainageway Easement: That all stormwater management improvements, outside public right-of-way, shall be located inside reserved storm drainageway easements and shown on the final plat and final plans, per Town guidelines, to be approved by the Town Manager prior to the issuance of a Zoning Compliance Permit
33. Stormwater Operations and Maintenance Plan: That the applicant shall provide a Stormwater Operations and Maintenance Plan for all engineered stormwater facilities. The plan shall include the owner's financial responsibility and include the maintenance schedule of the facilities to ensure that it continues to function as originally intended and shall be approved by the Town Manager, prior to the issuance of a Zoning Compliance Permit. The Stormwater Operations and Maintenance Plan shall be referenced in the Homeowners' Association documents.
34. Residential Stormwater Impact Statement: That for each lot, a stormwater impact statement addressing stormwater management on a lot by lot basis, must be reviewed and approved by the Town Manager prior to the issuance of a Single Family Zoning Compliance Permit for said lot. Residential stormwater facilities on individual lots must be within a stormwater drainage easement and covenants shall be provided for the maintenance of the facilities. A note to this effect shall be placed on the final plat and final plans.
35. Erosion Control: That a detailed soil erosion and sedimentation control plan, including provision for maintenance of facilities and modifications of the plan if necessary, be approved by the Orange County Erosion Control Officer and the Town Manager prior to issuance of a Zoning Compliance Permit. That a performance guarantee be provided in accordance with Section 5-97.1 of the Town Code of Ordinances prior to issuance of any permit to begin land-disturbing activity.

36. Silt Control: That the applicant takes appropriate measures to prevent and remove the deposit of wet or dry silt on adjacent paved roadways.

Stipulations Related to Steep Slopes

37. Steep Slopes: That all Final Plan applications, including the Single-Family Zoning Compliance Permits, shall demonstrate compliance with the steep slopes regulations in the Land Use Management Ordinance. The application shall include a plan showing residential building areas and street segments on slopes of 10% or more. The plan shall indicate how the development and construction will comply with the steep slopes regulations in the Land Use Management Ordinance including:
- a. for slopes of 10 - 15%, site preparation techniques shall be used which minimize grading and site disturbance;
  - b. for slopes of 15 - 25%, demonstrate specialized site design techniques and approaches for building and site preparation; and
  - c. for slopes of 25% or greater, provide a detailed site analysis of soil conditions, hydrology, bedrock conditions, and other engineering or environmental aspects of the site.

Prior to the issuance of a Zoning Compliance Permit the Town Manager shall decide if the proposed residential and infrastructure building and site engineering techniques are appropriate. Steep slope restrictions shall be referenced in the Homeowners' Association documents.

Stipulations Related to Water, Sewer, and Other Utilities

38. Utility/Lighting Plan Approval: That the final Utility/Lighting Plan 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.
39. Street Lighting Plan: That a street lighting plan shall be reviewed and approved by Duke Power Company and the Town Manager prior to the issuance of a Zoning Compliance Permit. That if the proposed street lighting plan includes non-standard poles and/or fixtures that the plans indicate that the applicant, or Homeowners' Association, shall be responsible for the additional cost as determined by Duke Power.
40. OWASA Easements: That easement documents as required by OWASA and the Town Manager be recorded concurrently with the final plat. That the final plat shall be reviewed and approved by OWASA and the Town Manager prior to the issuance of a Zoning Compliance Permit.
41. Placement of Utility Lines Underground: That all new utility lines shall be placed underground.

42. Fire Flow: That a fire flow report shall be prepared and sealed by a registered professional engineer, and shall show that flows meet the minimum requirements of the Town Design Manual, to be approved by the Town Manager prior to issuance of a Zoning Compliance Permit.
43. Fire Hydrant Spacing: That maximum spacing between fire hydrants shall not exceed 400 feet, subject to approval by the Town Manager.

#### Stipulations Related to Homeowners' Association

44. 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 prior to recordation at the Orange County Register of Deeds Office and shall be cross-referenced on the final plat. The Homeowners' Association documents shall comply with Section 4.6.7 of the Land Use Management Ordinance.

#### Miscellaneous Stipulations

45. State or Federal Approvals: That any required State or federal permits or any required encroachment agreements for development in areas such as wetlands must be approved by the appropriate agencies and copies of the approved permits be submitted to the Town Manager prior to the issuance of a Zoning Compliance Permit.
46. Street Names and Addresses: That the name of the development and its streets and house numbers be approved by the Town Manager prior to the issuance of a Zoning Compliance Permit.
47. Construction Management Plan: That a Construction Management Plan, indicating how construction vehicle and pedestrian traffic will be managed, shall be approved by the Town Manager prior to the issuance of a Zoning Compliance Permit.
48. Solid Waste Management Plan: That a Solid Waste Management Plan, including provisions for recycling, for managing and minimizing construction debris, and a pre-demolition and pre-construction meeting, shall be approved by the Town Manager prior to issuance of a Zoning Compliance Permit.
49. Open Burning: That the open burning of trees, limbs, stumps and construction debris association with this development is prohibited.
50. Detailed Plans: That final detailed site plans, grading plans, utility/lighting plans, stormwater management plans (with hydrologic calculations), and landscape plans and landscape maintenance plans be approved by the Town Manager prior to issuance of a Zoning Compliance Permit, and that such plans conform to the plans approved by this application



and demonstrate compliance with all applicable conditions and the design standards of the Land Use Management Ordinance and the Design Manual.

51. As-Built Plans: That as-built plans in DXF binary format using State plane coordinates, shall be provided for street improvements and all other existing or proposed impervious surfaces prior to issuance of the first Certificate of Occupancy for construction of new dwelling units on proposed new Lots 1, 2, and 4 created by this subdivision.
52. Plant Rescue: That the applicant consider conducting plant rescue activities on the site prior to initiation of development activity.
53. Certificates of Occupancy: That no Certificate of Occupancy shall be issued for construction of new dwelling units on a lot created by this subdivision until all required public improvements are completed; and that a note to this effect shall be placed on the final plat.

That if the Town Manager approves a phasing plan, no Certificates of Occupancy shall be issued for a phase until all required public improvements for that phase are complete; no Building Permits for any phase shall be issued until all public improvements required in previous phases are completed to a point adjacent to the new phase, and that a note to this effect shall be placed on the final plat.

54. Construction Sign: That the applicant shall post a construction sign that lists the property owner's representative and telephone number, the contractor's representative and telephone number, and a telephone number for regulatory information at the time of the commencement of any land disturbing activities. The construction sign may have a maximum of 4 square feet of display area and may not exceed 6 feet in height. The sign shall be non-illuminated, and shall consist of light letters on a dark background.
55. Schools Adequate Public Facilities Ordinance: That the applicant provides the necessary Certificates of Adequacy of Public Schools prior to recordation of the final plat.
56. Continued Validity: That continued validity and effectiveness of this approval is expressly conditioned on the continued compliance with the plans and conditions listed above.
57. Non-severability: That if any of the above conditions is held to be invalid, approval in its entirety shall be void.

BE IT FURTHER RESOLVED by the Council of the Town of Chapel Hill that the Council hereby approves the application for a Preliminary Plat for the Aquabella Subdivision in accordance with the plans and conditions listed above.

This the 6<sup>th</sup> day of November, 2006.