

RESOLUTION A
Approving the Application

A RESOLUTION APPROVING AN APPLICATION FOR A PRELIMINARY PLAT FOR THE AQUABELLA MAJOR SUBDIVISION MODIFICATION FOR PROPERTIES LOCATED AT 120, 121, AND 130 GRAND ALEXANDER COURT (PROJECT #SUB-23-1) (2024-09-25/R-9)

WHEREAS, the Council of the Town of Chapel Hill approved the preliminary plat for a major subdivision to create the four lots that originally comprised the Aquabella Subdivision on November 06, 2006, through adoption of resolution 2006-11-06/R-9a; and

WHEREAS, the final plat for the Aquabella Subdivision was recorded on September 22, 2016; and

WHEREAS, the Council of the Town of Chapel Hill has considered the application for major subdivision submitted by John and Leslie Mackowiak, property owners of 120, 121, and 130 Grand Alexander Court, to create nine total lots (six new lots) from three existing lots to increase the number of lots in the Aquabella Subdivision from four to 10.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council finds that the major subdivision modification proposed by John and Leslie Mackowiak, on properties identified as 120, 121, and 130 Grand Alexander Court and Orange County Property Identifier Number(s) 9798-67-1690, 9798-67-1340, and 9798-67-0429, if developed according to the preliminary plat dated July 25 2024, and the stipulations listed below, would comply with the provisions of the Land Use Management Ordinance.

These findings are based on the following supplemental stipulations:

Stipulations Specific to the Development

1. Expiration of Preliminary Plat: A Final Plat application must be filed within one year of the date of this approval, otherwise this preliminary plat is subject to reapproval by the Town Council. The Town Manager may grant extensions in accordance with provisions of the Land Use Management Ordinance (LUMO).
2. Number of Lots: This approval shall authorize the creation of nine total lots (six new lots). This approval also increases the total number of lots for the Aquabella Subdivision to ten lots.
 - a. The total number of lots created is allowed through the affordable housing payment described in Stipulation 3 that utilizes the inclusionary zoning development bonuses described in Section 3.10 of the Land Use Management Ordinance.
3. Affordable Housing: The developer shall provide a payment-in-lieu of providing an affordable housing unit as the payment provides an equivalent or greater amount of affordable dwelling units that better achieves the goals, objectives, and policies of the comprehensive plan. The amount of the payment shall be reviewed and approved by the Town Manager in accordance with Section 3.10 of the Land Use Management Ordinance. The developer shall provide the payment to the Town before the final plat is recorded with the Orange County Register of Deeds or before the first Zoning Compliance Permit

is issued for new residential development, whichever comes first. A note shall be included on the final plat.

- a. The affordable housing payment shall be determined by multiplying the per-unit dollar amount established by the Town by 15 percent of six or 12 dwelling units.
 - b. Use restrictions shall apply to the six net new lots if the affordable housing payment is based six dwelling units. The final plat shall identify the six lots where the use restriction applies, and the number of units allowed on each lot.
4. Stormwater Management: Prior to issuance of a Zoning Compliance Permit for any lot within this subdivision, plans for development on that lot must demonstrate compliance with minimum stormwater management requirements found in LUMO.
5. Tree Canopy Coverage: Any lots used for two-family residential units, attached or detached, must meet minimum tree canopy requirements as shown on the final plat.
6. Previous Approval: The stipulations of the November 6, 2006 (2006-11-06/R-9a), preliminary plat approval for the original Aquabella Subdivision remain in effect, except as modified below:
 - a. Stipulation 8 is modified to require continuation of the sidewalk on the other side of Grand Alexander Court so all newly created lots will front on a street that meets current Town standards.
 - b. Stipulation 11 is modified to allow the relocation of the 5-foot-wide pedestrian/bicycle path and 10-foot-wide access easement. If relocated, the 10-foot-wide easement shall connect to the 10-foot-wide easement shown on Lot 3 in the Spotters Ridge Final Plat (Bk 105 Pg 7). The final location of the path shall be approved by the Town Manager before a Zoning Compliance Permit is issued. The developer shall construct the path prior to approval of a Final Zoning Inspection for any new dwelling units on the remaining lots or the relocation of the ephemeral stream, whichever happens first.
 - c. Stipulation 12 is modified to require the developer provide a new deed to the Homeowners' Association and dedication if the 5-foot-wide pedestrian/bicycle path and 10-foot-wide access easement are relocated prior to recordation of the Final Plat.
 - d. Stipulation 20 is modified to require preservation of significant trees to the extent practicable to meet current tree protection standards. A Zoning Compliance Permit is required for work impacting trees on lots for single- and two-family residential use where the total land disturbance exceeds 5,000 square feet. The applicant shall provide a landscape protection plan that meets all LUMO requirements, including identifying significant tree stands and rare and specimen trees, before a Zoning Compliance Permit can be issued. A note on the final plan shall be included to address this work.
 - e. Stipulations 23 through 25, as well as 28, are voided because resource conservation district (RCD) does not apply to ephemeral streams.
 - f. Stipulation 30 shall also apply to any land outside of the Aquabella Subdivision that is acquired and utilized to meet stormwater management requirements. In such case, the subdivision boundary shall be amended pursuant to Stipulation 8 below.
7. Ephemeral Stream Disturbance: The subdivision must meet current LUMO stormwater management standards which allow land disturbance within an ephemeral stream channel provided the disturbance is minimized and the applicant demonstrates the necessity of the disturbance. A Zoning Compliance Permit must be issued to authorize the disturbance.

8. Subdivision Boundary Increase: Should land outside of the Aquabella Subdivision be acquired and utilized to meet requirements of the Land Use Management Ordinance or Design Manual, such as stormwater management, the preliminary plat shall be considered amended to include that land within the subdivision's boundary. The amended boundary shall be reflected in the final plat to be submitted to the Town Manager for review and approval before recordation.

Miscellaneous Stipulations

9. Continued Validity: Continued validity and effectiveness of this approval is expressly conditioned on the continued compliance with the plans and stipulations listed above.
10. Non-severability: If any of the above stipulations is held to be invalid, approval in its entirety shall be void.

BE IT FURTHER RESOLVED that the Council of the Town of Chapel hereby approves the application for a preliminary plat to modify the Aquabella Subdivision in accordance with the plans and stipulations listed above.

This the 25th day of September, 2024.