



CONSIDER AN APPLICATION FOR SPECIAL USE PERMIT MODIFICATION – The Oaks Condominiums Stormwater Drainage Improvements

SUMMARY REPORT

TOWN OF CHAPEL HILL PLANNING AND DEVELOPMENT SERVICES
 Ben Hitchings, Director
 Judy Johnson, Operations Manager
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PROPERTY ADDRESS 101 Oak Tree Drive, PIN 9798-45-1394	DATE September 19, 2018	APPLICANT John R. McAdams Company for The Oaks HOA
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STAFF RECOMMENDATION

- That the Council continue and close the public hearing held September 5, 2018 for The Oaks Condominiums Special Use Permit (SUP) Modification, and
- That the Council adopt Resolution A, approving the application.

STAFF ANALYSIS

The applicant requests a modification to the landscape buffer regulations. See attached Technical Report for additional information.

PROCESS

The application is before the Council for approval of an SUP Modification. The Council must consider the **four findings** for approval of an SUP, which demonstrate 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;
- would comply with all required regulations and standards of the Land Use Management Ordinance;
- 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
- 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:

- Modifying the landscape buffer on Burning Tree Drive.
- Removing a total of 30 trees in order to install the drainage system; 23 of the trees are within the Burning Tree Drive buffer.
- Planting 15 trees.

PROJECT OVERVIEW

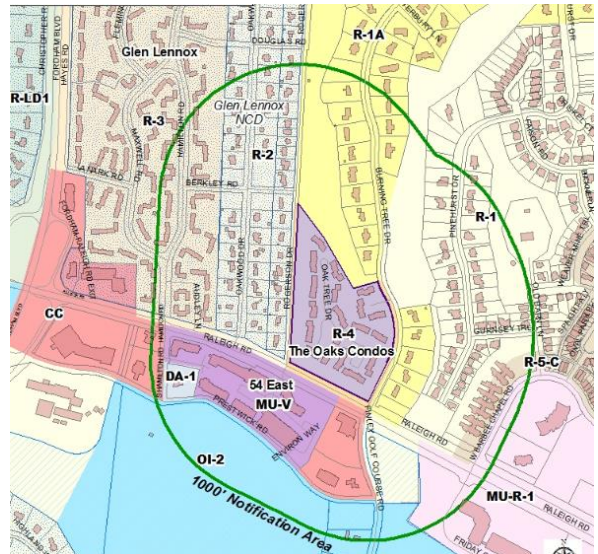
The Oaks Condominiums is an existing multifamily development at the intersection of Burning Tree Drive and NC 54. The applicant proposes installing a storm drainage conveyance system to reduce flooding on site. The design and layout of the proposed system are constrained by the existing buildings and infrastructure servicing the condominiums.

This project would disturb approximately 34,000 square feet of land to install stormwater bypass measures including concrete pipes, junction boxes, culverts, and swales. The applicant proposes a 77-foot section of pipe along Burning Tree Drive and within an existing storm drain easement.

The original SUP for the site requires that the applicant submit a landscape plan for review and approval by the CDC.

The site is currently zoned Residential-4 (R-4).

PROJECT LOCATION



ATTACHMENTS

1. Technical Report
2. Draft Staff Presentation
3. Resolution A
4. Resolution B
5. Project Details
6. Application and Project Fact Sheet
7. Submitted Plans

TECHNICAL REPORT

- 1971 Town Council approved a Special Use Permit (SUP) for The Oaks Condominiums, with the approved plans noting two natural areas along Burning Tree Drive that were to remain undisturbed.

- 1974 Council approved an SUP Modification with additional landscaping between the buildings and Hwy. 54.







- June 20, 2018 Applicant presented Concept Plan for The Oaks Condominiums Drainage Improvements to Council.

Connections to 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:

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

Staff believes The Oaks Condominium stormwater improvement 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 Medium Residential (4-8 units per acre).

Resource Conservation District and Jordan Buffer Encroachments:

The site contains Resource Conservation District (RCD) in the area where the applicant proposes the drainage improvements. The Land Use Management Ordinance allows driveways and utility service lines in all three zones of the RCD where there is a practical necessity (Table 3.6.3-2). The Applicant proposes removing two maple trees and installing a 36-inch pipe and end wall with riprap in a portion of a 50-foot Streamside zone.

The site also contains a 50-foot Jordan Buffer in the area where the applicant proposes installing the stormwater drainage system, necessitating that the applicant acquire a Jordan

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

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

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>

Buffer Authorization to disturb land in this location. The Town’s Stormwater staff has issued this Jordan Buffer Authorization.

Proposed Modification for Approval:

1) Section 5.6.6 Buffer Modification: The Land Use Management Ordinance a 20-foot Type C landscape buffer, with 6 large trees, 10 small trees and 36 shrubs per 100 linear feet. The applicant proposes a modified Type C buffer adjacent to Burning Tree Drive, classified as a Collector Road, on the eastern edge of the property. The requested modification would have less plant material and less width than normally required.

The existing canopy trees include oak, cedar, hickory, mulberry, and elm. To install the drainage system, a total of 30 trees are proposed to be removed; 23 trees are within the Burning Tree Drive buffer. The applicant is proposing to replant 15 trees.

Staff Comment: Staff believes that Council could find a public purpose for fewer plantings and narrower buffer width. The stormwater system improvements will reduce flooding on the property, make the area safer during rain events, reduce flood damage to homes, and reduce the need for flood-prone property owners to obtain flood insurance.

Council Findings and Public Purpose: The Council may modify the regulations according to Section 4.5.6 of the Land Use Management Ordinance. Staff believes that the Council could make 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.

For additional information on the proposed modifications, please refer to the developer’s attached materials.

Special Use Permit Modification Findings

Tonight, based on evidence in the record thus far, we provide the following evaluation of this application based on the four findings of fact that the Council must consider for granting a Special Use Permit. Council may review further evidence as part of the continued public hearing process. Summary of the evidence in the record to date is as follows:

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:

Evidence in Support	The applicant’s Statement of Justification includes the following: “In order to minimize flooding on the north side of the development, a bypass pipe has been proposed to divert stormwater around the development and discharge on the upstream side of Burning Tree Drive into the existing culverts running under Burning Tree Drive.”
Evidence in Opposition	To date, there is no evidence of opposition.

Staff Response: We believe, based on the evidence entered into the record to date, that the Council could make the finding that the development would be operated to maintain or

promote the public health, safety, and general welfare. We believe that the Special Use Permit Modification would provide relief from flooding that currently endangers residents of the site.

Finding #2: That the use or development would comply with all required regulations and standards of the Land Use Management Ordinance:

Evidence in Support	Application form, project fact sheet, and site plan (as attached).
Evidence in Opposition	To date, there is no evidence of opposition.

Staff Response: We believe, based on the application and evidence entered into the record to date, that the proposed SUP modification would comply with all required regulations and standards of the LUMO.

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 of development is a public necessity.

Evidence in Support	The applicant’s Statement of Justification includes the following: “In order to minimize flooding on the north side of the development, a bypass pipe has been proposed to divert stormwater around the development and discharge on the upstream side of Burning Tree Drive into the existing culverts running under Burning Tree Drive.”
Evidence in Opposition	To date, there is no evidence of opposition.

Staff Response: We believe, based on the evidence entered into the record to date, that the Council could make the finding that the reduction in flooding impacts would maintain or enhance the value of contiguous properties.

Finding #4: That the use 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.

Evidence in Support	No change is proposed to the use, zoning, density, or parcel boundaries for this SUP modification.
Evidence in Opposition	To date, there is no evidence of opposition.

Staff Response: We believe the SUP modification complies with the Land Use Plan and themes in the 2020 Comprehensive Plan. Relevant goals and objectives in the Comprehensive Plan include, but are not limited to the following:

- Promote a safe, vibrant and connected (physical and person) community (Community Prosperity and Engagement.3);
- Protect neighborhoods from the impact of development such as stormwater runoff, light and noise pollution, and traffic (Nurturing Our Community.8).