



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

**STAFF REPORT**

TOWN OF CHAPEL HILL PLANNING AND DEVELOPMENT SERVICES  
 Ben Hitchings, Director  
 Judy Johnson, Operations Manager  
 Michael Sudol, Planner II

<b>PROPERTY ADDRESS</b> 101 Oak Tree Drive, PIN 9798-45-1394	<b>DATE</b> August 14, 2018	<b>APPLICANT</b> John R. McAdams Company for The Oaks Homeowner’s Association
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**STAFF RECOMMENDATION**

That the Environmental Stewardship Advisory Board, Community Design Commission, Transportation and Connectivity Advisory Board, and Planning Commission review and make a recommendation on the application to the Town Council.

**STAFF ANALYSIS**

The applicant is asking for a modification to the landscape buffer regulations. See attached Staff Analysis for additional information.

**PROCESS**

The Town Council has asked that the Advisory Boards and Commissions make a recommendation to the Council on The Oaks Condominiums Special Use Permit application. 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 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**

- Modifications to the landscape buffer on Burning Tree Drive.
- Are the proposed tree replacements appropriate?

**PROJECT OVERVIEW**

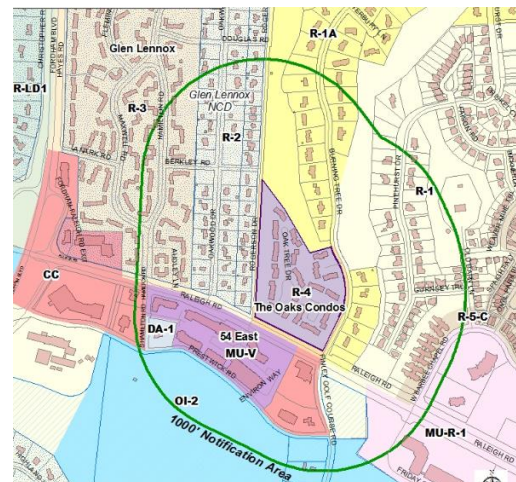
The Oaks Condominiums is an existing multifamily development at the intersection of Burning Tree Drive and NC 54. This application proposal is to install a storm drainage conveyance system to reduce existing flooding issues on site. The design and layout of the proposed system are constrained by the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

This project is projected to disturb approximately 39,000 square feet of land to install stormwater bypass items that include concrete pipes, junction boxes, culverts, and swales. A 77-foot section of 24-inch pipe is proposed under Burning Tree Drive and within an existing storm drain easement.

As part of the original SUP for the site, a landscape plan must be provided and approved by the CDC.

The site is currently zoned R-4

**PROJECT LOCATION**



**ATTACHMENTS**

1. Project Summary Form
2. Resolution A
3. Resolution B
4. Application Form & Materials
5. Submitted Plans

**TECHNICAL REPORT**






- 1971 Special Use Permit was approved for The Oaks Condominiums with the approved plans noting two natural areas along Burning Tree Drive that were to remain undisturbed.
- 1974 Special Use Permit Modification was approved with additional landscaping between the buildings and Hwy. 54.
- June 20, 2018 Concept Plan for The Oaks Condominiums is presented to Council. Improvements to prevent current flooding problems was presented.

**Connections to other Documents:**

Town staff has reviewed this application for compliance with the themes from the [2020 Comprehensive Plan](#)<sup>1</sup>, the standards of the [Land Use Management Ordinance](#)<sup>2</sup>, and the [Town of Chapel Hill, NC : Design Manual and Standard Details](#)<sup>3</sup> 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 type="checkbox"/>		Support Community Prosperity	<input 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](#)<sup>4</sup>, 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 in the area where the drainage improvements are proposed. Table 3.6.3-2 of the Land Use Management Ordinance allows driveways and utility service lines in all 3 zones of the Resource Conservation District where there is a practical necessity. A portion of a 50-foot Streamside zone is proposed to have two maple trees removed and a 36-inch pipe and end wall with riprap installed.

The site also contains a 50-foot Jordan Buffer in the area where the stormwater drainage system is proposed. A Jordan Buffer Authorization is needed to do land disturbance in the area where the drainage system is proposed within this 50-foot protected area on each side of the stream bank. Stormwater staff has issued Jordan Buffer Authorization. **(make sure Kiel has completed this)**

**A Proposed Modification for Approval:**

**1) Section 5.6.6 Buffer Modification:** The Land Use Management Ordinance requires the

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

<sup>2</sup> [https://www.municode.com/library/#!/nc/chapel\\_hill/codes/code\\_of\\_ordinances?nodeId=CO\\_APXALOUSMA](https://www.municode.com/library/#!/nc/chapel_hill/codes/code_of_ordinances?nodeId=CO_APXALOUSMA)

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

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

landscape buffer to be a 20-foot Type C 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 proposed modification is to have less plant material and less width than required.

During the intervening years since approval of the Special Use Permit in 1971, the buffer has lost much of the shrubbery, small trees and many of the large trees. The large trees that were not lost in the buffer have now matured into a sizable tree and forms a mature canopy. The canopy trees include oak, cedar, hickory, mulberry, and elm. To install the drainage system, a total of 31 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 less 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 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.

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