TOWN OF CHAPEL HILL

Town Council
Meeting Agenda

Town Hall
405 Martin Luther King Jr.
Boulevard
Chapel Hill, NC 27514

Mayor Jessica Anderson
Mayor pro tem Amy Ryan
Council Member Camille Berry
Council Member Melissa McCullough
Council Member Paris Miller-Foushee
Council Member Theodore Nollert
Council Member Adam Searing
Council Member Elizabeth Sharp
Council Member Karen Stegman

Wednesday, March 20, 2024 6:00 PM **RM 110 | Council Chamber**

Language Access Statement

For interpretation or translation services, call 919-969-5105.

ဘာသာပြန်ဆိုခြင်းနှင့် စကားပြန်ခြင်းအတွက်၊ (၉၁၉) ၉၆၉-၅၁၀၅ ကိုဖုန်းခေါ်ပါ။

Para servicios de interpretación o traducción, llame al 919-969-5105.

如需口头或书面翻译服务，请拨打 919-969-5105.

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In-Person Meeting Notification

View the Meeting
- *View and participate in the Council Chamber.*
- *Live stream the meeting - https://chapelhill.legistar.com/Calendar.aspx*
- *Spectrum is replacing 1998 encoder that transmits programming to cable channel 18. It remains offline until complete.*
- *The Town of Chapel Hill wants to know more about who participates in its programs and processes, including Town Council meetings.*
- *Participate in a voluntary demographic survey before viewing online or in person - https://www.townofchapelhill.org/demosurvey*

Parking
- *Parking is available at Town Hall lots and the lot at Stephens Street and Martin Luther King Jr. Boulevard.*
- *See http://www.parkonthehill.com for other public lots on Rosemary Street*
- *Town Hall is served by NS route and T route, and GoTriangle Routes of Chapel Hill Transit.*

Entry and Speakers
• Entrance on the ground floor.
• Sign up at the meeting starting at 5:30 PM with the Town Clerk to speak.
• If more than 14 people sign up for an item, Council will reduce speaking time from 3 minutes to 2 min./person.
• Please do not bring signs.

ROLL CALL

OPENING

ANNOUNCEMENTS BY COUNCIL MEMBERS

PUBLIC COMMENT FOR ITEMS NOT ON PRINTED AGENDA AND PETITIONS FROM THE PUBLIC AND COUNCIL MEMBERS

Petitions and other similar requests submitted by the public, whether written or oral, are heard at the beginning of each regular meeting. Except in the case of urgency and unanimous vote of the Council members present, petitions will not be acted upon at the time presented. After receiving a petition, the Council shall, by simple motion, dispose of it as follows: consideration at a future regular Council meeting; referral to another board or committee for study and report; referral to the Town Manager for investigation and report; receive for information. See the Status of Petitions to Council webpage to track the petition. Receiving or referring of a petition does not constitute approval, agreement, or consent.

1. Madison Haley, Haw River Assembly, Share Trash Trap Program initiative. **[24-0129]**

AGENDA ITEMS

CONSENT

Items of a routine nature will be placed on the Consent Agenda to be voted on in a block. Any item may be removed from the Consent Agenda by request of the Mayor or any Council Member.

2. Approve all Consent Agenda Items. **[24-0130]**

By adopting the resolution, the Council can approve various resolutions and ordinances all at once without voting on each resolution or ordinance separately.

3. Approve a Sole Source Breathing Air Compressor Purchase **[24-0131]**

By adopting the resolution, the Council acknowledges and approves the acceptance of a sole source purchase from SubAquatics for the acquisition of one breathing air compressor unit.

4. Approve a Chapel Hill Police Sole Source Purchase **[24-0132]**

By adopting the resolution, the Council acknowledges and approves the acceptance of a sole source purchase from VirTra Systems for the acquisition of advanced simulation equipment. The acquisition will have no direct fiscal impact on the organization's budget, as it is fully funded by a grant.

5. Award a Bid for Street Patching, Milling, Resurfacing, and Re-Striping on Town-Maintained Streets. **[24-0133]**

By adopting the resolution, the Council award a bid to Daniels Inc. of Garner for street patching, milling, resurfacing, re-striping, and curb and gutter replacement on Town-maintained streets.

6. Execute of a new encroachment and lease agreement with T-Mobile South, LLC for the maintenance and operation of existing wireless communications facilities in Northern Community Park **[24-0134]**

By adopting the resolution, the Council authorizes the Town Manager to execute a new encroachment and lease agreement for the maintenance and operation of T-mobile's existing wireless communications system on a Duke Energy Corporation transmission tower that is located in the Town's Northern Community Park. The term of the agreement is five years with the option to extend for another five years.

7. Approving A Resolution Limiting the Scope of the Modification to Aura Chapel Hill **[24-0135]**

By adopting the resolution, the Council shall limit the scope of the review in the Aura Chapel Hill Conditional Zoning Modification Legislative Hearing to the Offsite Lighting standards modification request.

DISCUSSION

ZONING ATLAS AMENDMENT(S)

Zoning Atlas Amendment: The Zoning Atlas Amendment, to change the zoning designation on this property, is Legislative. The Council receives and considers public comment on the merits of the proposed rezoning, including opinions, when making Legislative decisions.

8. Open the Legislative Hearing: Aura Chapel Hill **[24-0136]**

Conditional Zoning Lighting Modification

PRESENTER: Corey Liles, Planning Manager

a. Without objection, the preliminary report and any other materials submitted at the hearing for consideration by the Council will be entered into the record
b. Introduction and preliminary recommendation
c. Presentation by the applicant
d. Recommendation of the Planning Commission
e. Comments from the public
f. Comments and questions from the Mayor and Town Council
h. Referral to the Manager and Attorney.
i. Motion to recess the Hearing to April 17, 2024.

RECOMMENDATION: That the Council open the legislative hearing, receive and provide comments on the proposed Conditional Zoning, and continue the legislative hearing to April 17, 2024

CONTINUED DISCUSSION

9. Open the Public Hearing and Consider a Request to Close the Unmaintained and Unpaved Public Right-of-Way Portion of Old Hargraves Road. **[24-0137]**

PRESENTER: Rob Gehris, Engineer III

RECOMMENDATION: That the Council open the Public Hearing to consider closing the unmaintained and unpaved public rights-of-way portion of Old Hargraves Road. The Council may close the Public Hearing this evening and act on the requested closures or refer action to a future meeting.

LAND USE MANAGEMENT TEXT AMENDMENT(S)

10. Open the Legislative Hearing to Consider Land Use Management Ordinance Text Amendments to the Stormwater Management Requirements. **[24-0138]**

PRESENTER: Sue Burke, Senior Engineer

RECOMMENDATION: That the Council open the Legislative Hearing, receive public comment, provide comments on the proposed text amendments, and continue the hearing to April 24, 2024.

REQUEST FOR CLOSED SESSION TO DISCUSS ECONOMIC DEVELOPMENT, PROPERTY ACQUISITION, PERSONNEL, AND/OR LITIGATION MATTERS

TOWN OF CHAPEL HILL

Town Hall
405 Martin Luther King Jr. Boulevard
Chapel Hill, NC 27514

Item Overview

Item #: 1., **File #:** [24-0129], **Version:** 1 **Meeting Date:** 3/20/2024

Madison Haley, Haw River Assembly, Share Trash Trap Program initiative.

Staff:
Sabrina M. Oliver, Director and Town Clerk
Brenton Hodge, Assistant Town Clerk

Department:
Governance Services

Overview: Petitions and other similar requests submitted by the public, whether written or oral, are heard at the beginning of each regular meeting. Except in the case of urgency and unanimous vote of the Council members present, petitions will not be acted upon at the time presented. After receiving a petition, the Council shall, by simple motion, dispose of it as follows: consideration at a future regular Council meeting; referral to another board or committee for study and report; referral to the Town Manager for investigation and report; receive for information. See the Status of Petitions to Council <https://www.townofchapelhill.org/government/mayor-and-council/how-to-submit-a-petition/petition-status> webpage to track the petition. Receiving or referring of a petition does not constitute approval, agreement, or consent.

Recommendation(s):

That the Council consider the petition.

Attachments:

- Madison Haley Request

Amy Harvey

From: Madison Haley <madisonclaiire@gmail.com>
Sent: Monday, February 26, 2024 1:39 PM
To: All Agenda Materials
Cc: Emily Sutton
Subject: Non-Profit Request to Present at Town Council Meeting

Follow Up Flag: Follow up
Flag Status: Flagged

Categories: Agenda Packet Process

> **Caution external email:** Don't click links or attachments from unknown senders. To check or report click the Phish Alert Button

Good Afternoon,

My name is Madison Haley and I'm the Plastics Program Assistant at a local environmental non-profit called Haw River Assembly. At Haw River Assembly, we aim to promote environmental education, conservation and pollution prevention, and to put into peoples' hands the tools and knowledge they need to be effective guardians of the river.

I'm reaching out today regarding our "Trash Trap Program," an initiative where we put litter collection devices in local streams to clean up our watershed, educate folks, get volunteers out in the community, and collect litter data to inform future policy. We recently installed a device in Bolin Creek at the Chapel Hill Community Center in collaboration with your Stormwater Department, and it's been a really rewarding process. Here is a StoryMap on our program for more information.

We are interested in sharing more about the program with the Chapel Hill Town Council and community members, and would like to present at a future Town Council Meeting. **Would you be able to tell me more about the process of getting on the meeting agenda?**

Thank you for taking the time to read this!

Sincerely,

Madison

Madison Haley (she/her)
Plastics Program Assistant
Haw River Assembly

TOWN OF CHAPEL HILL

Town Hall
405 Martin Luther King Jr. Boulevard
Chapel Hill, NC 27514

Item Overview

Item #: 2., **File #:** [24-0130], **Version:** 1 **Meeting Date:** 3/20/2024

Approve all Consent Agenda Items.

Staff:
Sabrina M. Oliver, Director/Town Clerk
Brenton Hodge, Assistant Town Clerk

Department:
Governance Services

Overview: Items of a routine nature to be voted on in a block. Any item may be removed from the Consent Agenda by the request of the Mayor or any Council Member.

Recommendation(s):

That the Council adopt the various resolutions and ordinances.

Fiscal Impact/Resources: Please refer to each agenda item for specific fiscal notes.

Attachments:

- Resolution

A RESOLUTION ADOPTING VARIOUS RESOLUTIONS AND ENACTING VARIOUS ORDINANCES (2024-03-20/R-1)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby adopts the following resolutions and ordinances as submitted by the Town Manager in regard to the following:

3. Approve a Sole Source Breathing Air Compressor Purchase. (R-2)
4. Approve a Chapel Hill Police Sole Source Purchase. (R-3)
5. Award a Bid for Street Patching, Milling, Resurfacing, and Re-Striping on Town-Maintained Streets. (R-4)
6. Execute of a new encroachment and lease agreement with T-Mobile South, LLC for the maintenance and operation of existing wireless communications facilities in Northern Community Park. (R-5)
7. Approving A Resolution Limiting the Scope of the Modification to Aura Chapel Hill. (R-6)

This the 20th day of March, 2024.

The Agenda will reflect the text below and/or the motion text will be used during the meeting.

By adopting the resolution, the Council can approve various resolutions and ordinances all at once without voting on each resolution or ordinance separately.

TOWN OF CHAPEL HILL

Town Hall
405 Martin Luther King Jr.
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Chapel Hill, NC 27514

Item Overview

Item #: 3., **File #:** [24-0131], **Version:** 1 **Meeting Date:** 3/20/2024

Approve a Sole Source Breathing Air Compressor Purchase

Staff:
Jay Mebane, Fire Chief
Ryan Campbell, Administrative Services Manager

Department:
Fire

Overview: The purpose of this project is to seek approval for the acceptance of a sole source purchase from SubAquatics Inc DBA Safe Air Systems. The proposed acquisition includes a complete air compressor unit to be installed at fire station 2. This air compressor unit is used to fill the air cylinders that are used in fire suppression operations. Currently the town maintains one such station at fire station one and another on a mobile air trailer. Both systems are Bauer manufactured. Bauer has a sole source agreement in North Carolina to use SubAquatics as their distributor. This additional system will allow one of our most outlying stations to have the ability to refill their air packs without having to come into downtown.

Recommendation(s):

That the Council approve the resolution accepting the source purchase from SubAquatics DBA Safe Air Systems for the acquisition of a breathing air compressor unit for fire station 2.

Fiscal Impact/Resources: In fiscal year 2024's development $250,000 was set aside in a capital items account for capital needs specifically for the fire department. In the development of this account this compressor project was identified as one piece of equipment that is needed. This $250,000 in capital funding will be used to fund this purchase as outlined in the department's 5-year master budgeting plan for capital expenses.

Attachments:

- Resolution
- Sole source memo from the vendor

A RESOLUTION FOR THE APPROVAL OF A SOLE SOURCE PURCHASE OF A BREATHING AIR COMPRESSOR UNIT FROM SUBAQUATICS INC DBA SAFEAIR SYSTEMS (2024-03-20/R-2)

WHEREAS, the Town of Chapel Hill recognizes the critical importance of providing personal protective equipment to ensure the safety of first responders; and

WHEREAS, Bauer Systems has partnered with SubAquatics Inc for the distribution of breathing air compressors in North Carolina; and

WHEREAS, the Town of Chapel Hill strives to leave fire units available in their home stations as frequently as possible; and

WHEREAS, the requirement for fire apparatus to travel away from their home stations to refill the air cylinders they rely on in fire suppression reduces the availability of that unit; and

WHEREAS, the funding and facilities exist for a new compressor unit to be house at fire station 2 made from the same manufacturer as existing units elsewhere in the town.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby approves the sole source procurement of a breathing air compressor unit from SubAquatics Inc DBA Safe Air Systems.

BE IT FURTHER RESOLVED that the Town Manager is authorized and directed to take all necessary steps to complete the procurement process with SubAquatics, including the execution of any required contracts or agreements.

This the 20th day of March, 2024.

The Agenda will reflect the text below and/or the motion text will be used during the meeting.

By adopting the resolution, the Council acknowledges and approves the acceptance of a sole source purchase from SubAquatics for the acquisition of one breathing air compressor unit.

BAUER COMPRESSORS
Quality. Our DNA

February 8, 2024

To: Jay Mebane
Fire Chief
City of Chapel Hill Fire Department
403 Martin Luther King Jr. Blvd.
Chapel Hill, NC 27514

Ref: Bauer Compressors, Inc. Sales and Service Authorization

Please accept this letter as confirmation that Safe Air Systems is the only factory authorized Bauer Compressors, Inc. ("Bauer") sales and service distributor for your account. Bauer has appointed Safe Air Systems as the exclusive distributor of record for your account. We have had a long-standing relationship with Safe Air Systems and find them to be a highly focused and customer driven organization. They have the capability of providing sales and service support on all breathing air products manufactured by Bauer. Their contact information is as follows:

Safe Air Systems
210 Labrador Dr
Randleman, NC 27317
Tel: 336-645-8241
Attn: Mark Prillaman

This appointment of Safe Air Systems as your exclusive distributor of record is valid until January 31, 2025, or until Bauer changes or revokes this appointment, in writing, whichever comes first.

Please feel free to contact me if I can provide any additional information or answer any questions for you.

Sincerely,

Bauer Compressors, Inc.

William Dickson
Vice President of Sales, Breathing Air Products

TOWN OF CHAPEL HILL

Town Hall
405 Martin Luther King Jr. Boulevard
Chapel Hill, NC 27514

Item Overview

Item #: 4., **File #:** [24-0132], **Version:** 1 **Meeting Date:** 3/20/2024

Approve a Chapel Hill Police Sole Source Purchase

Staff:
Celisa Lehew, Chief of Police

Department:
Police

Overview: The purpose of this project is to seek approval for the acceptance of a sole source purchase from VirTra Systems, a leading provider of cutting-edge simulation technology tailored for law enforcement training. The proposed acquisition includes a comprehensive suite of simulation equipment and software designed to enhance the effectiveness and realism of training and de-escalation tactics within our organization, reducing the need for the use of force and improving de-escalation skills.

Recommendation(s):

That the Council That the Council approves the resolution accepting the sole source purchase from VirTra Systems for the acquisition of advanced simulation equipment. This decision is recommended based on the unique capabilities offered by VirTra's technology, including patented features such as the V-Threat-Fire® device, seamless integration of real and interactive video, and proprietary software solutions. By investing in VirTra Simulation Equipment, our organization will enhance the effectiveness of training programs for law enforcement and military personnel, ensuring readiness and proficiency in handling real-world scenarios while prioritizing safety and compliance with regulatory standards.

Decision Points:

- Approval of the resolution to accept the sole source purchase from VirTra Systems for the acquisition of advanced simulation equipment.

Fiscal Impact/Resources: The acquisition of the simulator equipment has no direct fiscal impact on the organization's budget, as it is fully funded by a grant that has already been accepted by the council. These grant funds are designated specifically for the acquisition of advanced simulation technology to enhance law enforcement training capabilities. Therefore, the acquisition will not incur any financial burden on the organization's operating budget or require additional appropriations from local funds.

Attachments:

- Resolution
- Sole-source Justification Memo

A RESOLUTION APPROVES THE SOLE SOURCE PROCUREMENT OF VIRTRA SIMULATION EQUIPMENT FROM VIRTRA SYSTEMS (2024-03-20/R-3)

WHEREAS, the Town of Chapel Hill recognizes the critical importance of providing comprehensive training solutions for law enforcement personnel; and

WHEREAS, VirTra Systems has been identified as the pioneering developer and producer of proprietary simulation systems and software tailored for small arms and use of force training since 2001; and

WHEREAS, extensive market research has confirmed that VirTra Systems is the sole manufacturer offering advanced capabilities in simulation technology, including their patented V-Threat-Fire® Device; and

WHEREAS, VirTra holds exclusive patents for crucial elements integral to law enforcement training, including safe electric shock impulses through the V-Threat-Fire device, specialized training cartridges for TASER® products by Axon®, and kits simulating mechanical malfunctions in real firearms; and

WHEREAS, VirTra's simulation systems offer seamless integration of interactive video across interconnected screens, facilitating immersive and realistic training scenarios, and their V-Author® scenario software is exclusively compatible with VirTra Simulators; and

WHEREAS, VirTra's Virtual Interactive Coursework Training Academy® (V-VICTA®) delivers a one-of-a-kind, certified curriculum and interactive virtual coursework designed exclusively for law enforcement departments, providing a comprehensive program for training, testing, and sustaining critical skills; and

WHEREAS, market research confirms that VirTra Systems stands as the sole responsive and responsible source for the equipment and capabilities outlined above, specifically tailored for integration with the VirTra V-180-LE equipment.

NOW, THEREFORE, BE IT RESOLVED that the Town of Chapel Hill hereby approves the sole source procurement of VirTra Simulation Equipment from VirTra Systems, recognizing their unique capabilities, exclusive patents, and comprehensive training solutions that align with the requirements for top-tier training solutions for law enforcement personnel.

BE IT FURTHER RESOLVED that the Town Manager is authorized and directed to take all necessary steps to complete the procurement process with VirTra Systems, including the execution of any required contracts or agreements.

This the 20th day of March, 2024.

The Agenda will reflect the text below and/or the motion text will be used during the meeting.

By adopting the resolution, the Council acknowledges and approves the acceptance of a sole source purchase from VirTra Systems for the acquisition of advanced simulation equipment. The acquisition will have no direct fiscal impact on the organization's budget, as it is fully funded by a grant.

powered by Legistar™

POLICE DEPARTMENT
Town of Chapel Hill
828 Martin Luther King Jr. Blvd.
Chapel Hill, NC 27514-2600

phone (919) 968-2760 *fax* (919) 968-2846
www.townofchapelhill.org

December 8, 2023

Memorandum

To: Amy Oland
From: Joshua Mecimore
Subject: Justification for Sole Source Purchase - VirTra Simulation Equipment

I am writing to propose the procurement of VirTra Simulation Equipment from VirTra Systems as a sole source provider for the Town of Chapel Hill. The purpose of this memorandum is to outline the unique capabilities and exclusivity of VirTra's products, justifying the decision for this specific acquisition.

1. Uniqueness and Specialization:
VirTra Systems has been the pioneering developer and producer of proprietary simulation systems and software tailored for small arms and use of force training since 2001. Their simulation technology, incorporating real and interactive video seamlessly displayed across multiple screens, remains unparalleled in the industry. After extensive market research, it is evident that VirTra is the sole manufacturer offering such advanced capabilities, particularly with their patented V-Threat-Fire® Device.

2. Exclusive Patents and Innovations:
VirTra holds exclusive patents (#8,016,594, #8,267,691, #10,438,503, #10,436,539) for crucial elements integral to law enforcement training. Notably, they are the only company authorized to produce and sell simulation equipment incorporating safe electric shock impulses through the V-Threat-Fire device, specialized training cartridges for TASER® products by Axon®, and kits simulating mechanical malfunctions in real firearms.

3. Seamless Integration and Versatility:
VirTra's simulation systems offer seamless integration of interactive video across interconnected screens, facilitating immersive and realistic training scenarios. Additionally, their V-Author® scenario software is exclusively compatible with VirTra Simulators, allowing the creation of unique and interactive training content specifically designed by the Chapel Hill Police Department to address the unique needs of our community.

4. Comprehensive Training Solutions:
VirTra's Virtual Interactive Coursework Training Academy® (V-VICTA®) delivers a one-of-a-kind, certified curriculum and interactive virtual coursework designed exclusively for law enforcement departments. This comprehensive program, in conjunction with VirTra's simulators, provides an all-in-one solution for training, testing, and sustaining critical skills.

5. Sole Source Provider:
Market research confirms that VirTra Systems stands as the sole responsive and responsible source for the equipment and capabilities outlined above, specifically tailored for integration with the VirTra V-180-LE equipment. Their exclusive offerings, including the patented technologies and software, directly fulfill the unique needs of our organization.

In conclusion, the acquisition of VirTra Simulation Equipment from VirTra Systems as the sole source provider aligns with our requirements for top-tier training solutions that meet regulatory compliance, ensure realism in scenarios, and facilitate comprehensive skill development for our personnel.

Please let me know if further details or clarification are needed regarding this proposed procurement.

Sincerely,

Joshua Mecimore
Assistant Chief of Police
(919)968-2747

TOWN OF CHAPEL HILL

Town Hall
405 Martin Luther King Jr. Boulevard
Chapel Hill, NC 27514

Item Overview

Item #: 5., **File #:** [24-0133], **Version:** 1 **Meeting Date:** 3/20/2024

Award a Bid for Street Patching, Milling, Resurfacing, and Re-Striping on Town-Maintained Streets.

Staff:
Lance Norris, Director
Michael Wright, Streets and Construction Superintendent

Department:
Public Works

Overview: The purpose of this item is to recommend that the Council award a bid to Daniels Inc. of Garner for street patching, milling, resurfacing, re-striping, and curb and gutter replacement on Town-maintained streets.

Recommendation(s):

That the Council:

- adopt the attached resolution awarding a bid and authorizing the Town Manager to execute a contract with the lowest responsive, responsible bidder, Daniels Inc. of Garner, in an amount of $749,753.60; and
- authorize the Town Manager to extend the base bid contract twice at the same base unit price by a one-year contract addendum if mutually agreeable to both parties (Town of Chapel Hill and the Contractor). (Unit prices for the bid alternates can be resubmitted with each contract extension addendum.)

Key Issues:

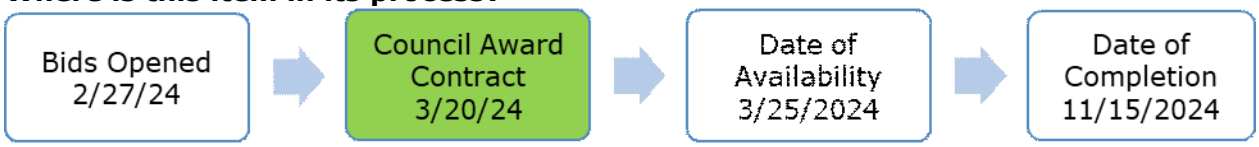
- A third-party Engineering Firm conducts a Pavement Condition Survey every other year to evaluate the condition of Town-maintained paved streets. To prioritize and select streets for resurfacing, staff considers the pavement condition rating from the survey and the use of the street for multiple modes of travel. Attached is a list of streets scheduled for resurfacing based on available funding.
- The streets scheduled for resurfacing had an overall rating of "Poor".
- As part of our review process, Public Works distributed an extended list of streets under consideration for resurfacing to internal staff, including the Bicycle and Pedestrian Champion's Team, and external entities, including local utility companies.
- In January 2024, the Transportation and Connectivity Advisory Board (TCAB) received a tentative street resurfacing plan based on the annual operating budget allocation.
- The Town solicited formal bids for street resurfacing on the Town website and received three responsive bids. Daniels Inc. of Garner was determined to be the lowest responsive, responsible bidder.
- This bid included three alternatives:
    - Alternate #1 - Manhole Cover/ Water Valve Box Adjustments were included at the request of the Orange Water and Sewer Authority (OWASA). OWASA will obtain their own contractor to conduct the adjustments at their cost. This item is not included in the contract amount.
    - Alternate #2 - Trackless Tack (a fast-drying mix used to bond asphalt layers that minimizes vehicles tracking emulsified asphalt elsewhere) is included in the contract amount and will

be covered by Town funds.
  - Alternate #3 - Thermo-Plastic Pavement Markings. This bid alternate is included in the contract amount and will be covered by Town funds.

- The Town's Emergency Management and Communications Offices will work with other Town staff to provide updates on resurfacing in coordination with other major construction projects in Town. Information on project progress will be available to the public on the Getting Around Chapel Hill webpage <https://www.townofchapelhill.org/residents/transportation/getting-around-chapel-hill>.
- Town staff will provide letters giving at least two weeks' notice of construction to residences and businesses on the streets scheduled for resurfacing. No-Parking signs will be placed on the road at least 48 hours in advance of construction and will list the project start date.

Fiscal Impact/Resources: The proposed resurfacing list includes funding from FY24 (~$591,154) and funding from Stormwater Enterprise Fund ($158,600).

Where is this item in its process?



Attachments:

- Resolution
- List/Map of Streets Scheduled for Resurfacing

The Agenda will reflect the text below and/or the motion text will be used during the meeting.

By adopting the resolution, the Council award a bid to Daniels Inc. of Garner for street patching, milling, resurfacing, re-striping, and curb and gutter replacement on Town-maintained streets.

A RESOLUTION AUTHORIZING THE TOWN MANAGER TO EXECUTE A CONTRACT WITH DANIELS INC OF GARNER IN AN AMOUNT OF $749,753.60 FOR STREET RESURFACING (2024-03-20/R-4)

WHEREAS, the Town of Chapel Hill solicited formal bids for street resurfacing on the Town website on February 9, 2024, in accordance with G.S. 143-129; and

WHEREAS, three responsive bids were received and opened on February 27, 2024; and

WHEREAS, the responsive bids were evaluated, and Daniels Inc. of Garner was determined to be the lowest responsive, responsible bidder; and

WHEREAS, the bid permits an increase or decrease of up to 25% in the scope of work.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council authorizes the Town Manager to execute a contract with the lowest responsive, responsible bidder, Daniels Inc of Garner, in an amount of $749,753.60.

BE IT FURTHER RESOLVED that the Town Manager is authorized to extend the base bid contract twice at the same base unit price by a one-year contract addendum if mutually agreeable to the Town and Daniels Inc of Garner.

This the 20th day of March, 2024.

Fiscal Year 2024 Street Resurfacing List of Streets

STREET	FROM	TO
Pinehurst Dr.	Pavement Change	Dead end
Oakwood Dr.	Raleigh Rd.	Cleland Rd.
Ransom St.	Cameron Ave.	McCauley St.
Springberry Ln.	Finley Forest Dr.	Summerwalk Cir.
University Dr. (W)	Pittsboro St.	Ransom St.

Examples of Current Streets Anticipated to be Resurfaced

Oakwood Drive

Pavement Condition Rating
29 - Very Poor

Pinehurst Drive

Pavement Condition Rating
40 - Very Poor

TOWN OF CHAPEL HILL

Town Hall
405 Martin Luther King Jr. Boulevard
Chapel Hill, NC 27514

Item Overview

Item #: 6., **File #:** [24-0134], **Version:** 1 **Meeting Date:** 3/20/2024

Execute of a new encroachment and lease agreement with T-Mobile South, LLC for the maintenance and operation of existing wireless communications facilities in Northern Community Park

Staff:
Chris Butts, Chief Information Office

Department:
Technology Solutions

Overview: The attached resolution would authorize the Town Manager to execute an encroachment and lease agreement for the maintenance and operation of T-mobile's existing wireless communications system on a Duke Energy Corporation transmission tower. The term of the agreement is five years with the option to extend for another five years. In return, T-mobile pays the Town $37,391.11 per year with an annual increase of 3%. The lease for the wireless communications equipment was originally approved by Council in 1998 and was amended to last for 15 years.

Recommendation(s):

That the Council adopt the attached resolution to authorize the Town Manager to execute a new encroachment and lease agreement for the maintenance and operation of T-mobile's existing wireless communications system on an existing Duke Energy Corporation transmission tower for a period of up to ten years.

Key Issues:

- North Carolina Statute 160A-272 authorizes the Town to lease or rent Town property pursuant to a resolution of the Council authorizing the execution of the lease or rental agreement adopted at a regular Council meeting upon 10 days' public notice. The item was published on the Council Agenda on March 6, 2024, providing 14 days notice.

Fiscal Impact/Resources: The new lease amount would begin at $37,391.11 per year with an annual increase of 3% over the previous year paid in one lump sum within 30 days of the lease and encroachment approval.

Attachments:

- Resolution
- Town Contract
- Encroachment and Lease Agreement

A RESOLUTION AUTHORIZING THE TOWN MANAGER TO EXECUTE AN ENCROACHMENT AND LEASE AGREEMENT FOR A PORTION OF THE NORTHERN COMMUNITY PARK FOR THE PURPOSE OF ALLOWING T-MOBILE SOUTH, LLC TO MAINTAIN THEIR CELLULAR EQUIPMENT ON A DUKE ENERGY TOWER (2024-03-20/R-5)

WHEREAS, the Town Council previously authorized SprintCom, Inc to place a wireless communications system on and around an existing Duke Energy tower; and

WHEREAS, T-Mobile South, LLC, is the successor in interest to SprintCom, Inc; and

WHEREAS, the North Carolina Statute 160A-272 authorizes the Town to lease or rent Town property pursuant to a resolution of the Council authorizing the execution of the lease or rental agreement adopted at a regular Council meeting upon 10 days' public notice and such notice has been made.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby Authorizes the Town Manager to execute of a new encroachment and lease agreement for the maintenance and operation of T-mobile's South LLC's existing wireless communications system on a Duke Energy Corporation transmission tower located in the Northern Community Park, as described in the March 20 meeting materials.

This the 20th day of March, 2024.

The Agenda will reflect the text below and/or the motion text will be used during the meeting.

By adopting the resolution, the Council authorizes the Town Manager to execute a new encroachment and lease agreement for the maintenance and operation of T-mobile's existing wireless communications system on a Duke Energy Corporation transmission tower that is located in the Town's Northern Community Park. The term of the agreement is five years with the option to extend for another five years.

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STATE OF NORTH CAROLINA
COUNTY OF ORANGE

CONTRACT FOR
Encroachment and Lease Agreement

This Contract is made and entered into by and between the "Town of Chapel Hill", herein "Town", and T-Mobile South, LLC, successor in interest to SprintCom Inc. herein "Contractor", for services hereinafter described for the Town of Chapel Hill. This Contract is for Encroachment and Lease Agreement on the Town property known as the Northern Community Park on Homestead Road.

WITNESSETH

That for and in consideration of the mutual promises and conditions set forth below, the Town and Contractor agree:

1. Duties of the Contractor: The Contractor agrees to perform those duties described in Exhibit A attached hereto and incorporated herein by reference.

2. Duties of the Town: The Town shall pay for the Contractor's services as set forth in Exhibit A.

3. Fee Schedule and Maximum Sum: Payment shall be made according to Exhibit A.

4. Billing and Payment: The Contractor shall submit a bill to the Town for work performed under the terms of this Contract. The Contractor shall bill and the Town shall pay the rates set forth therein. Payment will be made by the Town within thirty (30) days of receipt of an accurate invoice, approved by the contact person or his/her designee.

5. Indemnification and Hold Harmless: The Contractor agrees to indemnify and hold harmless the Town of Chapel Hill and its officers, agents and employees from all loss, liability, claims or expense (including reasonable attorneys' fees) arising from bodily injury, including death or property damage to any person or persons proximately caused in whole or in part by the negligence or willful misconduct of the Contractor except to the extent same are caused by the negligence or misconduct of the Town.

6. Insurance Provisions: The Town requires evidence of Contractor's current valid insurance (if applicable) in the amounts stated below during the duration of the named project and further requires that the Town be named as an additional insured for Commercial General Liability and Business Automobile policies. The required coverage limits are: 1) Commercial General Liability and Business Automobile - $1,000,000 per occurrence and 2) Workers' Compensation - $100,000 for both employer's liability and bodily injury by disease for each employee and $500,000 for the disease policy limit. Based on nature of services to be provided by the contractor and assessment of risk posed to the Town, the Town may require evidence of supplementary insurance coverages.

7. Non-Discrimination: The Contractor contractually agrees to administer all functions pursuant to this Contract without discrimination because of race, creed, sex, national origin, age, economic status, sexual orientation, gender identity or gender expression.

8. Federal and State Legal Compliance: The Contractor must be in full compliance with all applicable federal and state laws, including those on immigration.

9. E-Verify: The Contractor shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. Further, should Contractor utilize a subcontractor(s), Contractor shall require the subcontractor(s) to comply with the requirements of Article 2, Chapter 64 of the General Statutes. Pursuant to North Carolina General Statute § 143-133.3 (c)(2), contracts solely for the purchase of apparatus, supplies, materials, and equipment are exempt from this E-Verify provision.

10. Amendment: This Contract may be amended in writing by mutual agreement of the Town and Contractor.

11. Termination: Either party may terminate this Contract at any time by giving the other party thirty (30) days written notice of termination prior to the end of the term as described herein.

12. Interpretation/Venue: This Contract shall be construed and enforced under the laws of North Carolina. The courts and the authorities of the State of North Carolina shall have exclusive jurisdiction over all controversies between the parties which may arise under or in relation to this Contract. In the event of any dispute between the parties, venue is properly laid in Orange County, North Carolina for any state court action and in the Middle District of North Carolina for any federal court action. Contrary to any provision that may be contained in any exhibit attached hereto the Town shall not consent to 1) resolving any dispute by means of arbitration and/or 2) waiver of a trial by jury.

13. Preference: In the event that the terms of any exhibit attached hereto are not consistent with the terms of this Contract, this Contract shall have preference; provided that where either any exhibit attached hereto or this Contract establishes higher standards for performance by either party, the higher standard, wherever located, shall apply.

14. Severability: The parties intend and agree that if any provision of this Contract or any portion thereof shall be held to be void or otherwise unenforceable, all other portions of this Contract shall remain in full force and effect.

15. Assignment: This Contract shall not be assigned without the prior written consent of the parties.

16. Entire Agreement: This Contract shall constitute the entire agreement of the parties and no other warranties, inducements, considerations, promises, or interpretations shall be implied or impressed upon this Contract that are not expressly addressed herein. All prior agreements, understandings and discussions are hereby superseded by this Contract.

17. Construction Project Related Sales Tax: If applicable, the Contractor shall furnish the Town certified statements setting forth, the cost of all materials purchased from each vendor and the amount of North Carolina sales and use taxes paid thereon. In the event the Contractor makes several purchases from the same vendor, the Contractor's certified statement shall indicate the invoice number, the inclusive dates of the invoices, the total amount of the invoices, and the North Carolina sales and use taxes paid thereon. The Contractor's certified statement shall also include the cost of any tangible personal property withdrawn from the Contractor's warehouse stock and the amount of North Carolina sales or use tax paid thereon by the Contractor. The Contractor shall furnish such additional information as the Commissioner of Revenue of the State of North Carolina may require to substantiate a refund claim by the Town for sales or use taxes. The Contractor shall obtain and furnish to the Town similar certified statements by the subcontractors. The certified statements to be furnished shall be in the form of the standard CONTRACTOR'S SALES TAX REPORT and shall be submitted with each request for payment. The Town will not make payment to the Contractor until the CONTRACTOR'S SALES TAX REPORTS ARE SUBMITTED. Any and all refunds received by the Town of said taxes shall remain with the Town, and the Contractor shall not be entitled to such refund.

18. Term: This Contract, unless amended as provided herein, shall be in effect until September 30, 2028.

[*SIGNATURES ON FOLLOWING PAGE.*]

This Contract is between the Town of Chapel Hill and T-Mobile South, LLC, successor in interest to SprintCom Inc.for Encroachment and Lease Agreement on the Town property known as the Northern Community Park on Homestead Road

IN WITNESS WHEREOF, the parties hereto cause this agreement to be executed in their respective names.

T-MOBILE SOUTH, LLC

_____	_____
SIGNATURE	PRINTED NAME & TITLE
_____	_____
WITNESS	PRINTED NAME & TITLE

TOWN OF CHAPEL HILL

_____
DEPARTMENT HEAD/EXECUTIVE DIRECTOR OR DEPUTY/TOWN MANAGER

_____
PRINTED NAME & DEPARTMENT

ATTEST BY TOWN CLERK:

_____	
TOWN CLERK	TOWN SEAL

Town Clerk attests date this the _____day of _____, 20____.

Approved as to Form and Authorization

_____
TOWN LEGAL STAFF

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

_____	_____
FINANCE OFFICER	DATE

STATE OF NORTH CAROLINA
ORANGE COUNTY

ENCROACHMENT AND LEASE AGREEMENT

This Encroachment and Lease Agreement ("Agreement"), made as of the date of the last signature below, by and between T-Mobile South LLC, a Delaware limited liability company ("Licensee"), and the Town of Chapel Hill, a municipal corporation under the laws of North Carolina ("Town").

WHEREAS, Licensee desires to continue to encroach on the Town property, located at 2516/2700 Homestead Road, Chapel Hill, North Carolina, known as the Northern Community Park on Homestead Road as shown on the Site Plan attached hereto as Exhibit A (the "Site"), for the maintenance and operation of Licensee's existing wireless communications system on an existing Duke Energy Corporation transmission tower and the right to install and maintain associated utility wires, cables, conduits, and pipes under a 10 foot wide easement from the nearest utility connection;

WHEREAS, Town owns and maintains the property at said location;

WHEREAS, Town and Licensee's affiliate, SprintCom, Inc., had a previous Encroachment and Lease Agreement for the Site ("Prior Agreement), which is expired on September 20, 2023 and since which time Licensee has remained on the Site, with Town's permission, under the terms of the Prior Agreement; and

WHEREAS, Town and Licensee desire to enter into a new Agreement for the Site.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions set forth herein, Town grants to Licensee a license to encroach upon the Town property at the location described above to construct, install, erect, and maintain the above described encroachment in generally the location shown on Exhibit A, together with the right of ingress and egress within said area whenever the same is necessary for the purpose of inspecting, maintaining and/or repairing said encroachment.

This Agreement is subject to, and conditioned upon, the following covenants and provisions.

This Agreement shall be binding upon Town and Licensee and their respective successors in interest or title.

1. Licensee, and its successors in interest and title, shall be responsible for construction, reconstruction, maintenance and repair of the above-described encroachment, at Licensee's expense.

2. Licensee shall comply with any applicable Town ordinances, regulations and policies regarding construction and maintenance of said encroachment.

3. Licensee, and its successors in interest or title, agree to defend, indemnify, and hold Town of Chapel Hill and its employees and agents free and harmless from and against any and all damages, settlements, charges, professional fees or other liabilities of every kind arising out of or relating to any and all claims, actions and proceedings in connection with or arising directly out of the construction, installation, maintenance, or erection upon the Town property authorized by the Agreement excepting, however, such liabilities and losses as may be due to or caused by the acts or omissions of Town or its employees or agents.

4. Town may, upon 180 days' written notice by the Town Manager, or as otherwise required by the terms of the Franchise Ordinance, require relocation or removal of all or a portion of said encroachment at Licensee's expense, or at the expense of Licensee's successors in interest or title, to allow for necessary public purposes, and upon said relocation or removal of this license and encroachment and lease agreement shall thereupon terminate and cease.

5. Licensee, and Licensee's successors in interest and title, agree to prudently maintain its facility in accordance with applicable law, so as to not adversely affect the public health, safety or welfare.

6. Additional parties are prohibited from attaching to or using Licensee's equipment without the explicit written permission of the Town; provided, however, use of Licensee's equipment shall not apply to any third party that has or will enter into a mobile virtual network operating agreement or an agreement with Licensee for roaming services.

7. Initial Term and Rental. This Agreement shall be for an Initial term of five (5) years and eight days, beginning September 21, 2023 and ending September 30, 2028, at an annual rental of Thirty-Seven Thousand Three Hundred Ninety-One and 11/100 Dollars ($37,391.11) (with a three percent annual increase beginning in the second year and each year thereafter) to be paid in advance to Town annually during the term; provided, however, that if the Franchise Ordinance (as defined herein) is terminated or revoked, Licensee shall have no further obligation to pay any rental or other amounts due under this Agreement after the date of such termination or revocation. The first payment, which shall be due no later than 30 days from the date of this Agreement, shall include the period September 21, 2023 through September 30, 2024 in the sum of Thirty-Seven Thousand Three Hundred Ninety-One and 11/100 Dollars ($37,391.11)..

8. Extension of Term. Licensee shall have the option to extend the term of this Agreement for one (1) additional consecutive five (5) year period. The option for an extended term shall be deemed automatically exercised without notice by Licensee to Town, unless Licensee gives Town written notice of its intention not to exercise any such option, in which case the term of this Agreement shall expire at the end of the then current term. All references herein to the term of this Agreement shall include the term as it is extended as provided in this Agreement.
   It is expressly understood that all rights granted to Licensee under this Agreement are irrevocable until this Agreement expires or sooner terminates as herein provided.

9. Governmental Approvals. This Agreement is subject to Licensee's obtaining and maintaining in effect all certificates, permits, licenses and other approvals required by governmental authorities for its use of the property. If at any time during the term of this agreement, Licensee is unable to use the property for a communications facility in the manner intended by Licensee due to imposed governmental conditions or requirements, or any necessary certificate, permit, license or approval is rejected or any previously issued certificate, permit, license or approval is canceled, expires, lapses, or is otherwise withdrawn or terminated by the applicable governmental authority, or soil boring tests or radio frequency propagation tests are found to be unsatisfactory so that Licensee, in its sole discretion will be unable to use the property for a communications facility in the manner intended by the Licensee, Licensee shall have the right to terminate this Agreement by written notice to the Town and all rentals paid to the Town prior to the termination date shall be retained by the Town. Upon such termination, this Agreement shall become null and void and the Town and Licensee shall have no further obligations to each other under this Agreement other than Licensee's obligation to remove its property as hereinafter provided.

10. Termination. Either party may terminate this Agreement at any time by giving the other party thirty (30) days written notice of termination prior to the end of the term as described herein.

11. Removal of Improvements. Title to all improvements and equipment constructed or installed by Licensee on the property shall remain in Licensee, and all improvements and equipment constructed by Licensee shall always be and remain the property of Licensee, regardless of whether such improvements or equipment are attached or affixed to the property. Licensee, upon termination of this Agreement, shall, within a reasonable period not to exceed sixty (60) days from the date of such termination, remove all improvements, fixtures and personal property constructed or installed on the property by Licensee.

Notwithstanding the preceding sentence, in the event Town revokes Licensee's franchise pursuant to the Franchise Ordinance, Licensee shall have a period of one hundred eighty (180) days from receipt of written notice of revocation in which to complete such removal and restoration and, if Licensee fails to so remove its equipment within such time period, Town shall have the right to remove such equipment and to draw funds from the letter of credit or call upon the guarantee required under the Franchise Ordinance to cover its costs. Notwithstanding the foregoing, Town may require the removal of said equipment in such a shorter period as Town may determine, in the event the Town Manager determines said removal is necessary for public safety purposes. In such event, Town will provide as much advance written notice as is reasonably feasible to Licensee.

12. Restoration of Site. Licensee, upon termination of this Agreement, shall, within a reasonable period not to exceed sixty (60) days from the date of such termination, or one hundred eighty (180) days from date of involuntary franchise termination, restore the property to its original above grade condition, reasonable wear and tear and loss by casualty excepted. Licensee shall notify Town of its intent and schedule to remove its equipment.

13. Scope of Project. Licensee shall maintain the existing array-style wireless communications transmitting device at the top of an existing 97-foot Duke Energy Corporation-owned electric transmission tower (Line index number IE1968, tower number 8) as described on Exhibit A. Under no circumstances will the transmitting equipment, antennas, wires, lightning rods, or any other devices attached to the tower exceed 107 feet above ground level, without the written permission of the Town Manager. All necessary equipment shall be located either on or within the existing electric transmission tower. Licensee agrees to landscape the area around the tower and fence in a manner that is acceptable to the Town Manager.

14. Maintenance. The Licensee agrees to maintain the condition of the equipment and landscape materials in a reasonable condition and to repair or replace any portion of the equipment or landscaping that is dangerous or would appear to any reasonable person to be in need of repair.

15. Damage to Town Facilities. In the event that Licensee damages Town Property while constructing or maintaining the equipment and/or utility lines, Licensee agrees to restore Town property to its original condition that existed just prior to damage, if possible. If restoration of Town property to such condition is not feasible, Licensee agrees to restore the Town property to the fullest extent possible and to pay the difference in the value of the property before and after the damage occurred. The value shall be determined by negotiation between Licensee and Town. If Licensee and Town cannot agree to the value of the loss, an independent appraiser acceptable to both parties may be hired to determine the value of the loss of the damaged property. In this case, Licensee shall pay all of the costs associated with hiring an independent appraiser. In the event that vegetation is destroyed or damaged by Licensee, Licensee shall replace trees or shrubs with similar plant material of a like species and size. Licensee agrees to warrant all replacement vegetation for a minimum of two years.

16. Use. Licensee shall use the Property for the purpose of constructing, maintaining and operating a communications facility and uses incidental thereto, which facility may consist of such equipment as is necessary to house telecommunications equipment.

17. Hazardous Substances. Licensee, by entering this Agreement, assumes no responsibility or liability for the presence of hazardous substances on, under or around the property, as long as the hazardous substances were not generated, stored, disposed of, or transported to, on, under or around the property by Licensee or its employees, agents or contractors. Town, by entering this Agreement, assumes no responsibility or liability for the presence of hazardous substances on, under or around the property generated, stored, disposed of or transported to, on, under or around the property by Licensee or its employees, agents or contractors or otherwise resulting from Licensee's use of the property. For purposes of this Agreement, "hazardous substances" shall mean (i) any substance, which contains gasoline, diesel fuel or other petroleum hydrocarbons, (ii) any substance which is flammable, radioactive, corrosive or carcinogenic,

(iii) any substance the presence of which on the property causes or threaten to cause a nuisance or health hazard affecting human health, the environment, the property or property adjacent thereto, or (iv) any substance the presence of which on the property requires investigation or remediation under any hazardous substance law, as the same may hereafter be amended. "Hazardous Substance Law" means the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Sec.9601 et seq,; the Resource Conservation and Recovery Act, 42 U.S.C Sec. 6901 et Beg.; the Hazardous Materials Transportation Act, 49 U.S.C. Sec. 1801 et seq; the Clean Water Act 33 U.S.C. Sec.1251 et seq.; the Clean Air Act, 42 U.S.C. Sec.7401 et seq.; the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. Sec. 136 et seq.; the Toxic Substances Control Act, 15 U.S.C. Sec.2601 et seq.; the Emergency Planning and Community Right to Know Act (SARA Title III) 42 U.S.C. Sec.I1001 et seq.; and any applicable state law or regulation.

18. Franchise Ordinance. In connection with this Agreement, Town has granted to Licensee a franchise to operate a personal communications service in the Town of Chapel Hill; the terms and conditions of which have been accepted by Licensee. Town and the Licensee agree that this Agreement shall automatically terminate upon termination of the Franchise Ordinance.

19. Opportunity to Cure. If Licensee shall fail to pay any rental or other amounts payable under this Agreement when due, or if Licensee should fail to perform any other covenants, terms or conditions of this Agreement, prior to exercising any rights or remedies against Licensee on account thereof, Town shall first provide Licensee with written notice of the failure and provide Licensee with a ten (I0) day period to cure such failure if the failure is a failure to pay rental or other money under this Agreement, or a thirty (30) day period to cure such failure if the failure is a failure to perform any other covenant, term or condition of this Agreement. If the failure is not a failure to pay rental or any other sum of money hereunder but is not capable of being cured within a thirty (30) day period, Licensee shall be afforded a reasonable period of time to cure the failure provided that Licensee promptly commences curing the failure after the notice and prosecutes the cure to completion with due diligence. In the event of a default hereunder that is not cured within applicable cure periods, or in the event the Town elects to revoke Licensee's franchise pursuant to the Franchise Ordinance, Town may terminate this Agreement upon one hundred twenty (120) days prior written notice to Licensee.

20. Notices. All notices hereunder must be in writing and shall be deemed validly given on the date when deposited in the United States mail, by certified mail, return receipt requested, addressed as follows (or to any other address that the party to be notified may have designated to the other party by like notice at least ten (10) days prior thereto):

    Licensee: T-Mobile USA, Inc.
    12920 SE 38th Street
    Bellevue, WA 98006
    Attention: Lease Compliance/5RA0856A

    Town: Chapel Hill Parks & Recreation Department
    200 Plant Road
    Chapel Hill, North Carolina 27514
    Attention: Director of Parks & Recreation

    The parties may substitute recipient's names and addresses by giving notice as provided hereunder. Rejection or refusal to accept delivery of any notice, or the inability to deliver any notice because of a changed address, of which no notice was given, shall be deemed to be receipt of such notice.

21. Licensee shall have the right to assign, sublease or otherwise transfer this Agreement, upon written notice to Landlord, to (a) any entity controlling, controlled by or under common control with Licensee; (b) any entity acquiring substantially all of the assets of Licensee; or (c) any successor entity in a merger,

acquisition or consolidation involving Licensee.

THE REMAINDER OF THIS PAGE WAS INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the parties hereto have set their hands and affixed their respective seals the day and year first above written.

TOWN OF CHAPEL HILL

_____
Town Manager

ATTEST:

Town Clerk Town Seal

Town Clerk attests date this the ____ day of _____, 2023.

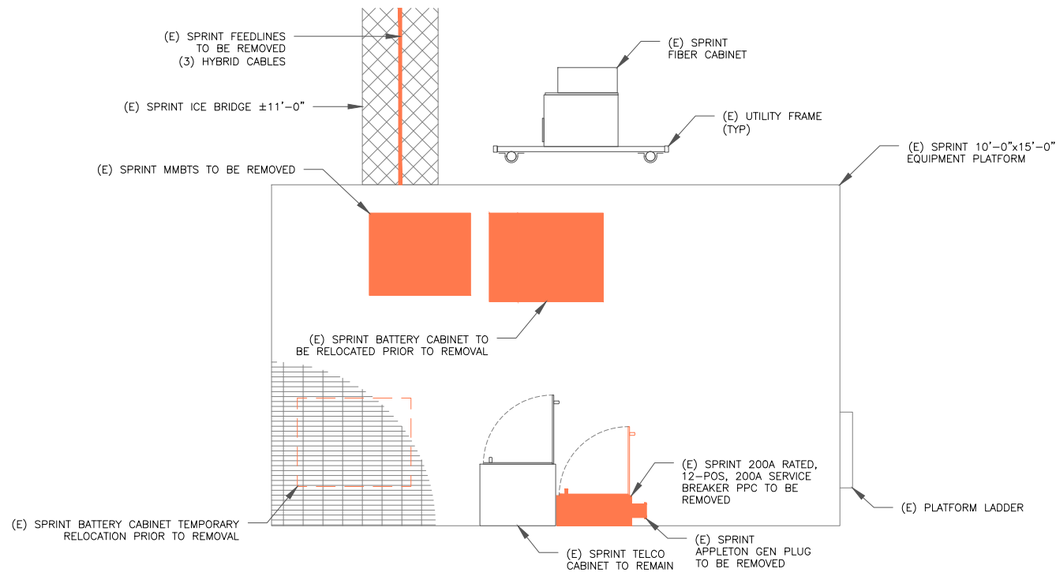
Approved as to Form and Authorization

_____
Town Attorney

LICENSEE:
T-Mobile South LLC

By: _____
Name:
Title:
Date: _____

Exhibit "A"
Site Plan

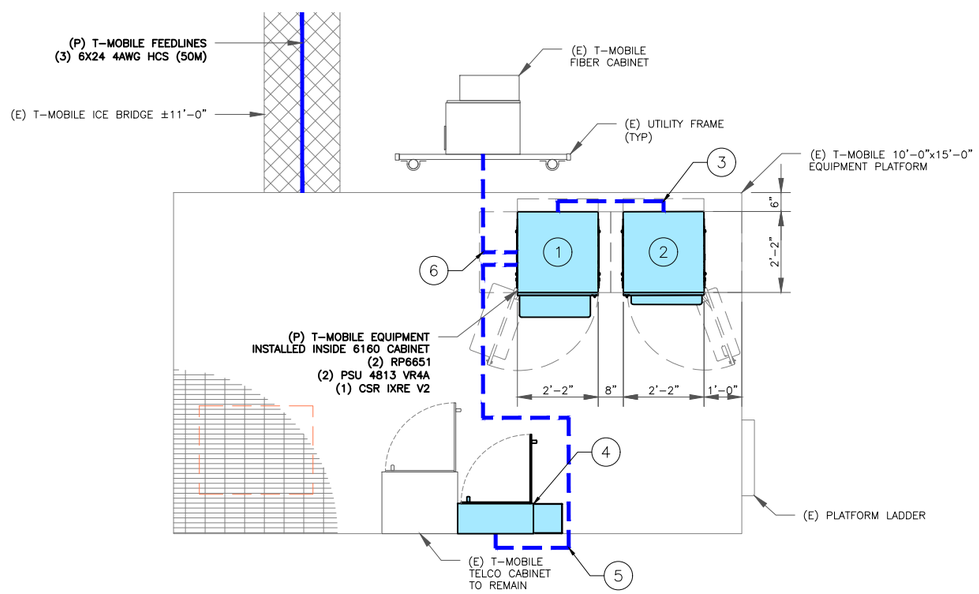


1 EXISTING EQUIPMENT PLAN
SCALE: 2' 1' 0 2' 1/2"=1'-0" (FULL SIZE) 1/4"=1'-0" (11x17)

N

EQUIPMENT LEGEND:

- EXISTING
- TO BE RELOCATED/REMOVED
- NEW/RELOCATED



2 FINAL EQUIPMENT PLAN
SCALE: 2' 1' 0 2' 1/2"=1'-0" (FULL SIZE) 1/4"=1'-0" (11x17)

N

KEYED NOTES

1. PROPOSED ENCLOSURE 6160 CABINET ATTACHED TO PAD AT EACH CORNER PER MANUFACTURER'S SPECIFICATIONS. GROUND CABINET WITH MECHANICAL 2-LUG CONNECTION & #2 TINNED SOLID COPPER IN 3/4" NON METALLIC FLEX. CONDUIT TO EXISTING EQ. GROUND (TYP)
2. PROPOSED ENCLOSURE B160 BATTERY CABINET ATTACHED TO PAD AT EACH CORNER PER MANUFACTURER'S SPECIFICATIONS. GROUND CABINET W/MECHANICAL 2-LUG CONNECTION & #2 TINNED SOLID COPPER IN 3/4" NON METALLIC FLEX. CONDUIT TO EXISTING EQ. GROUND. (TYP)
3. PROPOSED (2) 2" CONDUITS WITH PULLSTRINGS FROM PROPOSED ENCLOSURE 6160 CABINET TO PROPOSED ENCLOSURE B160 BATTERY CABINET.
4. PROPOSED PPC CABINET W/CAM-LOK GEN PLUG ATTACHED TO EXISTING HANDRAIL. MAINTAIN 36"x48" CLEARANCE IN FRONT OF PANEL. GROUND PER MANUFACTURER DETAILS.
5. PROPOSED (1) 2" CONDUIT FROM EXISTING PPC TO PROPOSED ENCLOSURE 6160 CABINET.
6. PROPOSED (1) 2" CONDUIT FROM PROPOSED 6160 CABINET FOR TELCO/FIBER CONNECTIVITY. FINAL CONNECTION REQUIREMENTS TBD.

EXISTING LEGACY CABINETS TO BE REMOVED AFTER THE PROPOSED T-MOBILE EQUIPMENT IS ON AIR & LEGACY EQUIPMENT IS WILTED.

EQUIPMENT NOTE

THE CABINETS ARE CONSTRUCTED OF NONCOMBUSTIBLE MATERIALS TO MEET THE REQUIREMENTS OF THE CURRENT NFPA 37 EDITION 2018. CABINET CONSTRUCTION THAT PASSED A SIMULATED BRUSH FIRE TEST TO DEMONSTRATE COMPLIANCE TO TELCORDIA GR-487-CORE SECTION 3.39 FIRE RESISTANCE REQUIREMENT R3-265. REFER TO THE NATIONAL TECHNICAL SYSTEMS (NTS) REPORT NO. PR067628-GR487.

CONDUIT NOTE

UNDERGROUND CONDUIT SHALL BE SCHEDULE 40 PVC CONDUIT (MEET NEMA TC2 - 1990). EXPOSED CONDUIT SHALL BE RIGID GALVANIZED STEEL CONDUIT BEFORE RISING ABOVE GRADE. PLUG AND CAP EACH END OF SPARE OR EMPTY CONDUITS AND PROVIDE TWO SEPARATE PULL STRINGS - 200 LB. TEST POLYETHYLENE CORD. ALL CONDUIT BENDS SHALL BE A MIN. OF 24" RADIUS. RGS CONDUITS, WHEN SPECIFIED, SHALL MEET UL-6 FOR GALVANIZED STEEL. ALL FITTINGS SHALL BE SUITABLE FOR USE W/ THREADED RIGID CONDUIT. LIQUIDTIGHT FLEX METAL CONDUIT (LFMC) IS ACCEPTABLE ABOVE GRADE, AS REQUIRED AND NECESSARY. CONDUITS MUST BE CONTINUOUS THROUGH STUB-UP AREA.

DISCLAIMER:

PROPOSED CONDUIT ROUTES DEPICTED HEREIN ARE DIAGRAMMATIC IN NATURE. UTILIZE BEST PRACTICES WHEN ROUTING PROPOSED CONDUIT TO MINIMIZE INTERFERENCE WITH EXISTING OR FUTURE EQUIPMENT.

PM&A
P. MARSHALL & ASSOCIATES
3545 WHITEHALL PARK DRIVE
SUITE 450 CHARLOTTE,
NORTH CAROLINA 28273

T-Mobile
2105 WATER RIDGE PARKWAY, SUITE 400
CHARLOTTE, NC 28217

smartlink
1997 ANNAPOLIS EXCHANGE PKWY.
SUITE 200
ANNAPOLIS, MD 210401

T-MOBILE SITE NUMBER:
5RA0856A

ADDRESS:
2516/2700 HOMESTEAD RD
CHAPEL HILL NC, 27516

SITE TYPE:
98' TRANSMISSION TOWER
SPRINT RETAIN

REV	DATE	DRWN	DESCRIPTION	DES./QA
A	10/21/22	RLB	PRELIM	RSW
0	2/6/23	RSW	FOR CONSTRUCTION	RSW
1	4/3/23	RSW	1A UPDATE	RSW

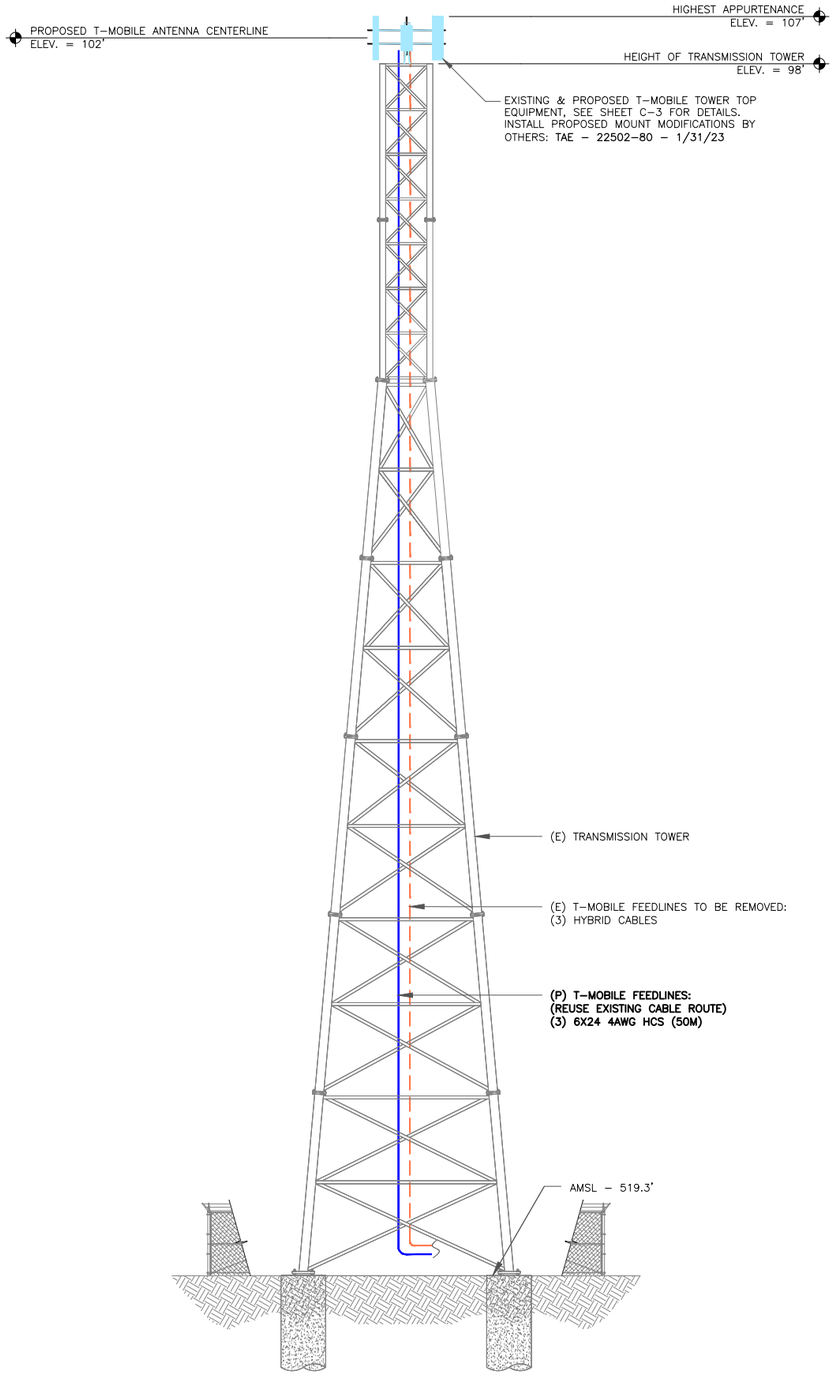
IT IS A VIOLATION OF LAW FOR ANY PERSON, UNLESS THEY ARE ACTING UNDER THE DIRECTION OF A LICENSED PROFESSIONAL ENGINEER, TO ALTER THIS DOCUMENT.

PMA PROJECT #: 22SMLTNC-0032

SHEET NUMBER:
C-1.2

EQUIPMENT LEGEND:

- EXISTING
- TO BE RELOCATED/REMOVED
- NEW/RELOCATED



1 FINAL ELEVATION
SCALE: NOT TO SCALE

GENERAL NOTES

1. REFER TO TOWER STRUCTURAL ANALYSIS FOR PROPOSED ANTENNA CABLE LOADING DETAILS
2. TOWER ELEVATION SHOWN IS NOT DRAWN TO SCALE AND IS ONLY INTENDED FOR REFERENCE PURPOSES. REFER TO ORIGINAL TOWER DESIGN FOR ADDITIONAL INFORMATION.
3. ALL TOWER DIMENSIONS SHALL BE VERIFIED WITH THE PLANS PRIOR TO COMMENCING CONSTRUCTION. NOTIFY THE ENGINEER IMMEDIATELY IF ANY DISCREPANCIES ARE DISCOVERED.
4. ALL HARDWARE ASSEMBLE MANUFACTURER'S INSTRUCTIONS SHALL BE FOLLOWED EXACTLY AND SHALL SUPERSEDE ANY CONFLICTING NOTES ENCLOSED HEREIN.
5. ALL MATERIALS AND EQUIPMENT FURNISHED SHALL BE NEW AND OF GOOD QUALITY, FREE FROM FAULTS AND DEFECTS AND IN CONFORMANCE WITH THE CONTRACT DOCUMENTS. ANY AND ALL SUBSTITUTIONS MUST BE PROPERLY APPROVED AND AUTHORIZED IN WRITING BY THE OWNER AND ENGINEER PRIOR TO INSTALLATION. CONTRACTOR SHALL FURNISH SATISFACTORY EVIDENCE AS TO THE KIND OF QUALITY OF THE MATERIALS AND EQUIPMENT BEING SUBSTITUTED.
6. CONTRACTOR TO REFER TO THE MOUNT ANALYSIS FOR THIS PROJECT. TAE - 22502-80 - 1/31/23

FINISH NOTES:

TOWER-	GALVANIZED
TOWER MOUNTS-	GALVANIZED
ANTENNA-	NEUTRAL (MANUFACTURER FINISH)
FOUNDATIONS-	UNPAINTED CONCRETE
ICE BRIDGE-	GALVANIZED
CABLES-	BLACK

TOWER LOADING SUMMARY

EXISTING	REMOVE	EQUIPMENT	ADD	TOTAL
3	3	ANTENNA	9	9
0	0	TMA	0	0
6	6	RADIOS	6	6
0	0	COAX	0	0
3	3	HYBRIDS	3	3

PM&A
P. MARSHALL & ASSOCIATES
3545 WHITEHALL PARK DRIVE
SUITE 450 CHARLOTTE,
NORTH CAROLINA 28273

T-Mobile
2105 WATER RIDGE PARKWAY, SUITE 400
CHARLOTTE, NC 28217

smartlink
1997 ANNAPOLIS EXCHANGE PKWY.
SUITE 200
ANNAPOLIS, MD 210401

T-MOBILE SITE NUMBER:
5RA0856A

ADDRESS:
2516/2700 HOMESTEAD RD
CHAPEL HILL NC, 27516

SITE TYPE:
98' TRANSMISSION TOWER
SPRINT RETAIN

REV	DATE	DRWN	DESCRIPTION	DES./QA
A	10/21/22	RLB	PRELIM	RSW
0	2/6/23	RSW	FOR CONSTRUCTION	RSW
1	4/3/23	RSW	1A UPDATE	RSW

NORTH CAROLINA PROFESSIONAL SEAL 024136 ENGINEER PATRICK W. MARSHALL
04/03/23

IT IS A VIOLATION OF LAW FOR ANY PERSON, UNLESS THEY ARE ACTING UNDER THE DIRECTION OF A LICENSED PROFESSIONAL ENGINEER, TO ALTER THIS DOCUMENT.

PMA PROJECT #: 22SMLTNC-0032

SHEET NUMBER:
C-2

TOWN OF CHAPEL HILL

Town Hall
405 Martin Luther King Jr. Boulevard
Chapel Hill, NC 27514

Item Overview

Item #: 7., **File #:** [24-0135], **Version:** 1 **Meeting Date:** 3/20/2024

Approving A Resolution Limiting the Scope of the Modification to Aura Chapel Hill

Staff:
Britany Waddell, Director
Judy Johnson, Assistant Director
Corey Liles, Planning Manager
Jacob Hunt, Planner II

Department:
Planning

Overview: A resolution limiting the scope of the modification to the Conditional Zoning Application for Aura Chapel Hill.

Recommendation(s): That the Council adopt Resolution A.

Attachments:

- Resolution A
- Petition for a Limited Scope Review

A RESOLUTION LIMITING THE SCOPE OF THE MODIFICATION TO THE CONDITIONAL ZONING APPLICATION FOR 1000 MARTIN LUTHER KING JR. BLVD (2024-03-20/R-6)

WHEREAS, the Council of the Town of Chapel Hill has considered the petition requesting a limited scope review of a Conditional Zoning Modification application submitted by Trinsic Residential Group (Owner), for property located at 1000 Martin Luther King Jr. Blvd and identified as Orange County Property Identifier Number 9789-35-9617; and

WHEREAS, the Council believes the proposed modification, limited to Offsite Lighting standards modification, will have minimal impacts; and

WHEREAS, the Council finds, in this particular case, that the limited review of the application, is reasonable.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Town of Chapel Hill that the Conditional Zoning modification application for 1000 Martin Luther King Jr. Blvd:

1. Limit the scope of the review in the Legislative Hearing to the Offsite Lighting standards modification;

This the 20th day of March, 2024.

The Agenda will reflect the text below and/or the motion text will be used during the meeting.

By adopting the resolution, the Council shall limit the scope of the review in the Aura Chapel Hill Conditional Zoning Modification Legislative Hearing to the Offsite Lighting standards modification request.

Parker Poe

Collier R. Marsh
Partner
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colliermarsh@parkerpoe.com

Atlanta, GA
Charleston, SC
Charlotte, NC
Columbia, SC
Greenville, SC
Raleigh, NC
Spartanburg, SC
Washington, DC

September 7, 2023

Mayor and Council
Town of Chapel Hill
405 Martin Luther King Jr. Blvd
Chapel Hill, NC 27514

Re: **Petition for Limited Scope Review of Minor Modification to Approved Conditional Zoning**
1000 Martin Luther King Jr. Blvd, Chapel Hill NC 27514

Dear Mayor Hemminger and Members of Council:

We represent Trinsic Residential Group ("Trinsic"), the developer of the Aura Chapel Hill Project located at 1000 Martin Luther King Jr. Blvd (Parcel No. 9789-35-9617). Aura Chapel Hill's conditional zoning was approved on June 28, 2021 through Ordinance No. 2021-06-28-O-1, with an accompanying Conditional Zoning Permit approved and recorded on October 18, 2021 (Deed BK 6750, PG 1652-1665(14)).

On behalf of Trinsic, we are submitting this Petition for Limited Scope Review of Minor Modification to Approved Conditional Zoning related to Aura Chapel Hill (the "Petition"). The Petition requests a minor change to the offsite illumination requirements that will allow Trinsic to develop the site consistent with the approved conditional zoning. Specifically, the Petition requests to exceed Land Use Management Ordinance (LUMO) Section 5.11.4's offsite illumination maximum of 0.3 foot-candles. The Petition is supported by the neighboring property owner that would be affected by this change.

Summary of Proposed Modifications

The proposed modification involves Aura Chapel Hill's outdoor lighting. Duke Energy's Enterprise LED light fixtures (details of which are provided in **Exhibit A**) will be located along Aura Chapel Hill's northern property line. The light fixtures are located throughout the site, providing aerial street lighting, and were approved during the CDC approval process. However, the Enterprise LED lighting on Aura Chapel Hill's northern border exceeds LUMO Section 5.11.4's offsite illumination maximum of 0.3 foot-candles. The alternative option would be to use Micro Roadway LED lighting fixtures (details of which are provided in **Exhibit B**). As set forth below, The Enterprise LED lighting fixtures are the superior option because they are consistent with the

approved conditional zoning, of a higher quality, and they meet the design intent of the overall development. The Enterprise LED floor-candle photometric plan is included in **Exhibit C**.

Justification of Minor Modification

The requested minor modification is justified because it will facilitate development that is consistent with the approved conditional zoning and because it is supported by the neighboring property owner that would be affected by the modification. Duke Energy's Enterprise LED light fixtures were approved in the conditional zoning and are the preferred light fixtures throughout the project. The Enterprise LED light fixtures are the preferred choice because they are energy efficient, visually appealing, and in conformity with the design intent of the overall development.

The intended beneficiary of the LUMO Section 5.11.4 offsite illumination requirements are adjacent property owners. The adjacent property to the north that would be affected by this request is the Shadowood Apartments located at 101 Shadowood Dr., Chapel Hill, NC 27514 (Parcel No. 9789365443). Trinsic held a meeting with the Shadowood Apartments' ownership to discuss the subject lighting along the shared border and to request their approval and support. The owners of the Shadowood Apartments do support this Petition and their letter of support is attached as **Exhibit D**.

Trinsic is excited about Aura Chapel Hill and continues to advance the project forward with the goal of delivering a vibrant community in the near future. Trinsic has worked with the Town and neighbors to deliver a high-quality community that aligns with the unique character of Chapel Hill. The Council's approval of this Petition will support the project's timely advancement towards these goals.

We appreciate your consideration of this petition. Please feel free to contact me with any questions.

Sincerely,

Marie Farmer
OBO Collier R. Marsh

Collier R. Marsh

CRM:crm

Attachments

TOWN OF CHAPEL HILL

Town Hall
405 Martin Luther King Jr. Boulevard
Chapel Hill, NC 27514

Item Overview

Item #: 8., **File #:** [24-0136], **Version:** 2 **Meeting Date:** 3/20/2024

Open the Legislative Hearing: Aura Chapel Hill Conditional Zoning Lighting Modification

Staff:
Britany Waddell, Director
Judy Johnson, Assistant Director
Corey Liles, Planning Manager
Jacob Hunt, Planner II

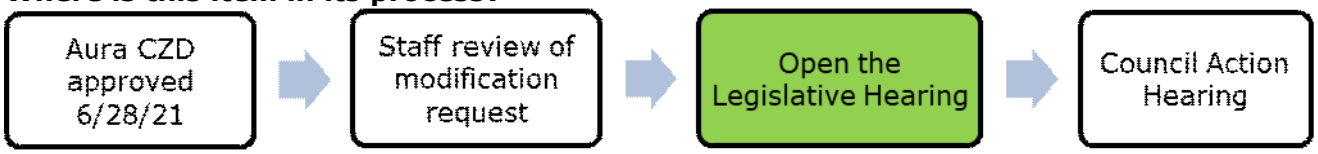
Department:
Planning

Overview: See the Staff Report on the next page.

Recommendation(s): That the Council open the legislative hearing, receive and provide comments on the proposed Conditional Zoning, and continue the legislative hearing to April 17, 2024

Decision Points:
- Modification to off-site lighting standards

Where is this item in its process?



Attachments:
- Staff Presentation
- Applicant's Requested Modifications to Regulations and Statements
- Applicant Draft Presentation
- Planning Commission Recommendation
- Resolution A - Consistency and Reasonableness
- Ordinance A - Approving the Application
- Resolution B - Denying the Application

The Agenda will reflect the text below and/or the motion text will be used during the meeting.

PRESENTER: Corey Liles, Planning Manager

a. Without objection, the preliminary report and any other materials submitted at the hearing for consideration by the Council will be entered into the record
b. Introduction and preliminary recommendation
c. Presentation by the applicant
d. Recommendation of the Planning Commission
e. Comments from the public
f. Comments and questions from the Mayor and Town Council
h. Referral to the Manager and Attorney.
i. Motion to recess the Hearing to April 17, 2024.

RECOMMENDATION: That the Council open the legislative hearing, receive and provide comments on the proposed Conditional Zoning, and continue the legislative hearing to April 17, 2024

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Aura - 1000 Martin Luther King Jr. Blvd - Conditional Zoning Modification
Staff: Britany Waddell, Judy Johnson, Corey Liles, Jacob Hunt
Meeting Date: March 20, 2024

Project Overview

- Trinsic Residential Group requests a modification to the approved Conditional Zoning District for Aura Chapel Hill.
- This modification is to increase the maximum Offsite Illumination standard specified in the Land Use Management Ordinance from 0.3 foot-candles to 1.3 foot-candles along the northern property boundary.
- The modification would allow for the same LED light fixtures across the Aura site.
- Council approved the Conditional Zoning for Aura at their meeting on June 28, 2021.

Staff Recommendation & Analysis

☑	Staff recommend that Council **approve the modification**, with the conditions of approval of the original Conditional Zoning District remaining in effect.

1. Consistency with the Comprehensive Plan:

The proposed lighting will create a development that is more visually consistent than the alternative lighting design that would meet the Town's lighting standards.

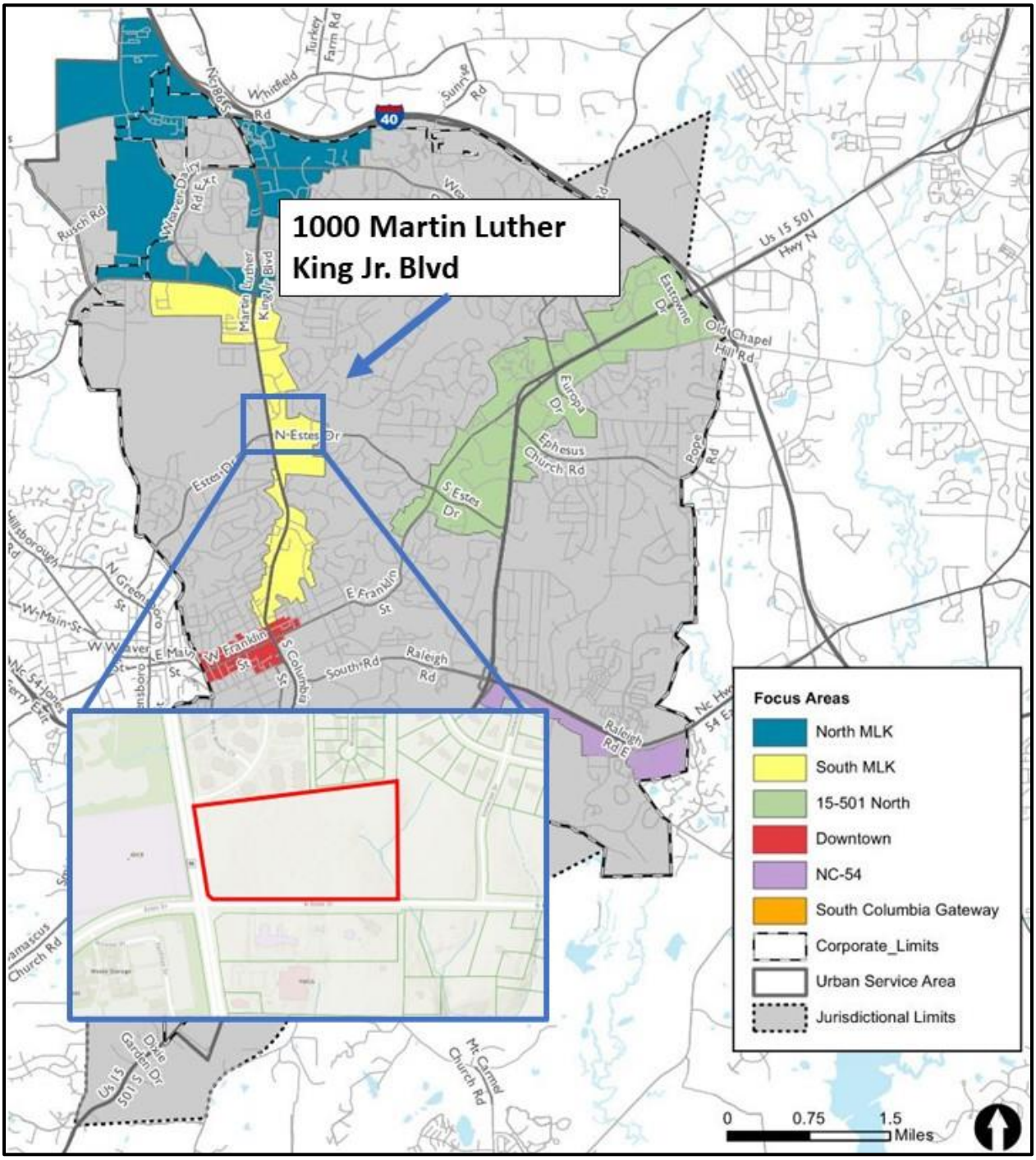
This modification aligns with Goal 3 (Be Green and Sustainable) of the Complete Community Strategy as it allows for the continuation of sustainable building techniques and practices on the site.

Public Engagement

Trinsic has provided a letter from the adjacent property owners in support of the proposed modification. The Town sent Notice of the Public Hearing to property owners within 1,000 feet of the site prior to tonight's meeting. Signs have been posted on the site indicating a zoning amendment.

CONDITIONAL ZONING MODIFICATION
AURA

Project Location



Attachments

Applicant Materials

1. Applicant's Requested Modifications to Regulations and Statements
2. Applicant Draft Presentation

Advisory Board Materials

3. Planning Commission Recommendation

Ordinance and Resolutions

4. Resolution A – Consistency and Reasonableness
5. Ordinance A – Approving the Application
6. Resolution B – Denying the Application

Parker Poe

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Raleigh, NC
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September 7, 2023

Mayor and Council
Town of Chapel Hill
405 Martin Luther King Jr. Blvd
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We appreciate your consideration of this petition. Please feel free to contact me with any questions.

Sincerely,

Marie Farmer
OBO Collier R. Marsh

Collier R. Marsh

CRM:crm

Attachments

EXHIBIT A

Outdoor Lighting

ENTERPRISE LED

ENTERPRISE LED

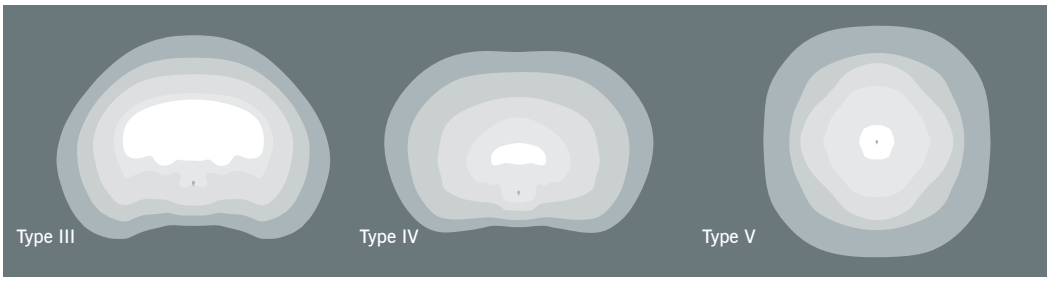
LED (Light-emitting diode)	150 / 220 watts
Mounting height	20' – 30'
Color	Black Green (Special Conditions) Bronze (Special Conditions) Gray (Special Conditions)
Pole	Style A

IESNA cutoff classification: Full-cutoff

Color temperature: 3,000K Primary
4,000K Available

FIXTURE	WATTS	LUMENS	PATTERN	BUG RATING
Enterprise	150	15,091 15,595 16,500	III IV V	B2-U0-G3 B3-U0-G3 B4-U0-G2
Enterprise	220	21,502 22,219 23,507	III IV V	B3-U0-G3 B3-U0-G4 B5-U0-G3

LIGHT DISTRIBUTION PATTERNS



light distribution patterns

POLE AVAILABLE	MOUNTING HEIGHT	FOUNDATION
Style A	20', 25', 30'	Direct Bury, Anchor Base

For additional information, contact us at **ODLCarolinas@duke-energy.com**.

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EXHIBIT B

Outdoor Lighting

MICRO ROADWAY LED

MICRO ROADWAY LED

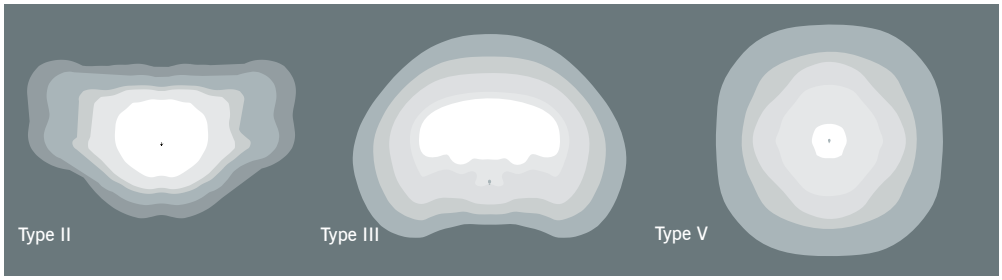
LED (Light-emitting diode)	50 / 70 watts
Mounting height	20' – 30'
Color	Black Green Bronze Gray
Pole	Wood Style A

IESNA cutoff classification: Full-cutoff

Color temperature: 3,000K Primary
4,000K Available

FIXTURE	WATTS	LUMENS	PATTERN	BUG RATING
Micro	50	5,407 5,342 5,434	II III V	B1-U0-G1 B1-U0-G1 B3-U0-G1
Micro	70	7,820 7,782	II III	B2-U0-G2 B1-U0-G2

LIGHT DISTRIBUTION PATTERNS



light distribution patterns

POLE AVAILABLE	MOUNTING HEIGHT	FOUNDATION
Style A	20', 25', 30'	Direct Bury, Anchor Base
Wood	25', 30'	Direct Bury

For additional information, contact us at **ODLCarolinas@duke-energy.com**.

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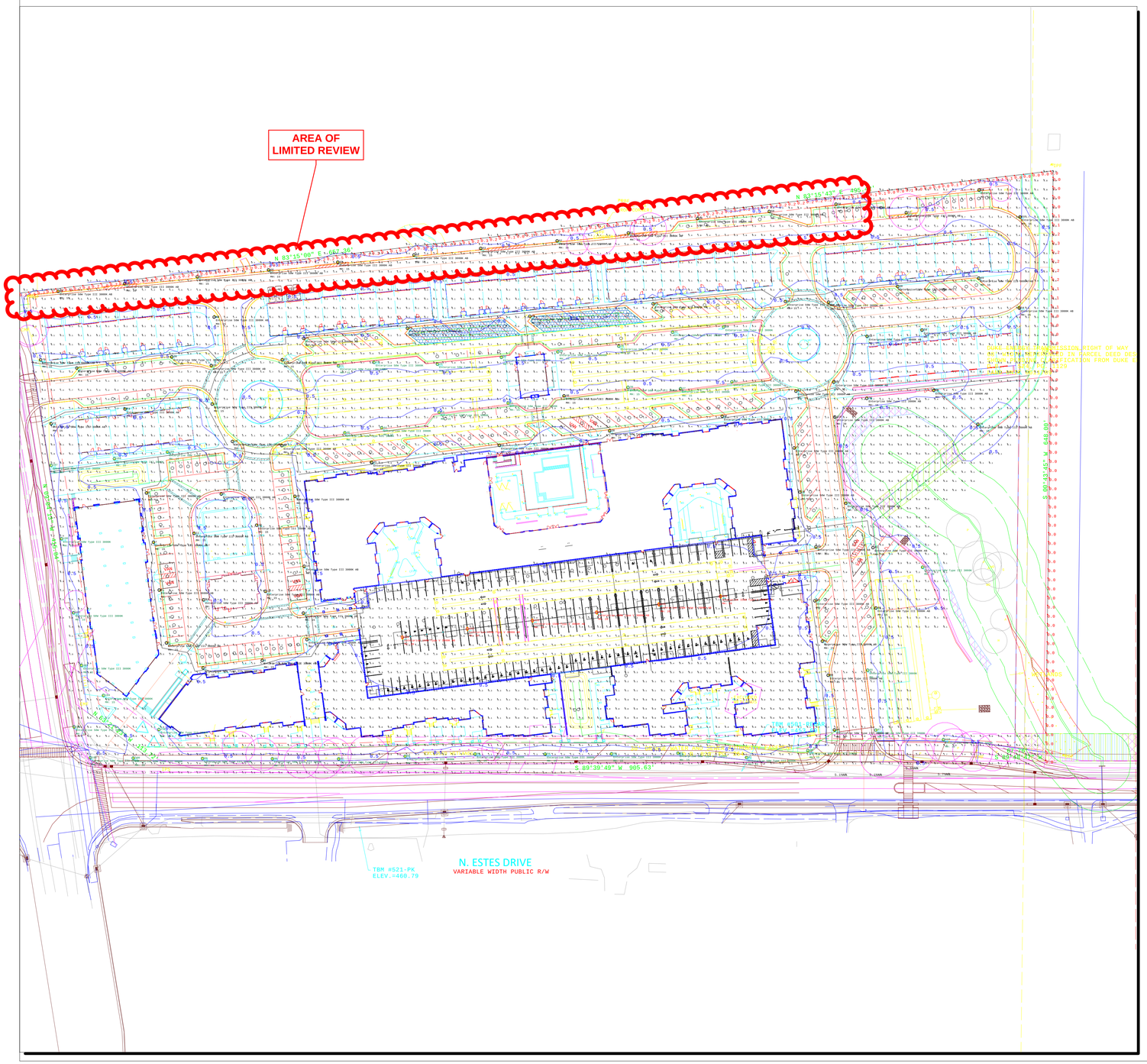
EXHIBIT C

Luminaire Schedule						
Symbol	Qty	Label	Arrangement	Total Lamp Lumens	LLF	Description
	40	Enterprise 50W Type III 3000K	Single	N.A.	0.850	PMM-SA1B-730-U-SL3
	73	Enterprise 50W Type III 3000K AB	Single	N.A.	0.850	PMM-SA1B-730-U-SL3
	6	Enterprise 150W Type V 3000K AB	Single	N.A.	0.850	PMM-SA3C-730-U-5WQ-154W

Calculation Summary								
Label	CalcType	Units	Avg	Max	Min	Avg/Min	Max/Min
Property Line	Illuminance	Fc	0.17	1.3	0.0	N.A.	N.A.
Site	Illuminance	Fc	0.90	4.3	0.0	N.A.	N.A.



Luminaire Location Summary					
LumNo	Label	X	Y	Mounting Height	Orient
1	Enterprise 50W Type III 3000K AB	1983672.932	795478.707	15	96.17
2	Enterprise 50W Type III 3000K AB	1983669.099	795507.797	15	277.251
3	Enterprise 50W Type III 3000K AB	1983623.997	795455.931	15	96.459
4	Enterprise 50W Type III 3000K AB	1983558.826	795447.587	15	97.479
5	Enterprise 50W Type III 3000K AB	1983518.686	795475.099	15	8.427
6	Enterprise 50W Type III 3000K AB	1983510.752	795533.06	15	7.8
7	Enterprise 50W Type III 3000K AB	1983504.438	795585.603	15	7.653
8	Enterprise 50W Type III 3000K AB	1983496.755	795639.747	15	3.691
9	Enterprise 50W Type III 3000K AB	1983578.84	795638.62	15	96.12
10	Enterprise 50W Type III 3000K AB	1983617.775	795604.321	15	6.805
11	Enterprise 50W Type III 3000K AB	1983549.077	795595.373	15	186.459
12	Enterprise 50W Type III 3000K AB	1983559.474	795522.369	15	185.717
13	Enterprise 50W Type III 3000K AB	1983627.307	795531.75	15	6.478
14	Enterprise 50W Type III 3000K AB	1983670.026	795559.171	15	189.464
15	Enterprise 50W Type III 3000K AB	1983659.801	795635.967	15	191.034
16	Enterprise 50W Type III 3000K AB	1983591.235	795696.264	15	56.65
17	Enterprise 50W Type III 3000K AB	1983645.501	795691.79	15	115.889
18	Enterprise 50W Type III 3000K AB	1983568.948	795737.276	15	23.078
19	Enterprise 50W Type III 3000K AB	1983567.961	795779.562	15	270
20	Enterprise 50W Type III 3000K AB	1983524.52	795789.088	15	276.085
21	Enterprise 50W Type III 3000K AB	1983645.896	795786.057	15	252.904
22	Enterprise 50W Type III 3000K	1983707.578	795779.299	15	96.66
23	Enterprise 50W Type III 3000K	1983746.545	795783.195	15	98.748
24	Enterprise 50W Type III 3000K AB	1983669.474	795809.342	15	273.811
25	Enterprise 50W Type III 3000K AB	1983783.234	795820.579	15	276.754
26	Enterprise 50W Type III 3000K	1983816.284	795781.178	15	97.555
27	Enterprise 50W Type III 3000K	1983886.484	795788.703	15	98.809
28	Enterprise 50W Type III 3000K AB	1983917.715	795833.732	15	277.213
29	Enterprise 50W Type III 3000K	1983948.456	795794.62	15	97.126
30	Enterprise 50W Type III 3000K	1984015.403	795800.967	15	97.019
31	Enterprise 50W Type III 3000K AB	1984053.131	795847.435	15	277.765
32	Enterprise 50W Type III 3000K	1984074.491	795816.261	15	96.776
33	Enterprise 50W Type III 3000K	1984130.442	795821.895	15	97.431
34	Enterprise 50W Type III 3000K AB	1984198.275	795849.894	15	303.569
35	Enterprise 50W Type III 3000K	1984139.588	795761.723	15	279.705
36	Enterprise 50W Type III 3000K AB	1984128.908	795723.91	15	99.384
37	Enterprise 50W Type III 3000K	1984083.158	795754.074	15	276.516
38	Enterprise 50W Type III 3000K AB	1984005.329	795707.985	15	97.449
39	Enterprise 50W Type III 3000K	1984025.535	795755.677	15	279.462
40	Enterprise 50W Type III 3000K AB	1983955.288	795746.313	15	279.023
41	Enterprise 50W Type III 3000K	1983893.831	795738.375	15	277.594
42	Enterprise 50W Type III 3000K AB	1983884.161	795692.047	15	99.866
43	Enterprise 50W Type III 3000K	1983818.154	795728.412	15	278.969
44	Enterprise 50W Type III 3000K	1983755.057	795711.231	15	279.464
45	Enterprise 50W Type III 3000K AB	1983744.088	795673.274	15	98.84
46	Enterprise 50W Type III 3000K	1983714.502	795705.747	15	278.469
47	Enterprise 50W Type III 3000K AB	1984245.751	795849.186	15	235.582
48	Enterprise 50W Type III 3000K AB	1984321.608	795866.505	15	274.599
49	Enterprise 50W Type III 3000K AB	1984410.634	795875.624	15	275.648
50	Enterprise 50W Type III 3000K AB	1984348.339	795818.575	15	94.701
51	Enterprise 50W Type III 3000K AB	1984288.03	795811.772	15	94.758
52	Enterprise 50W Type III 3000K AB	1984251.41	795761.402	15	160.016
53	Enterprise 50W Type III 3000K AB	1984209.826	795751.559	15	71.705
54	Enterprise 50W Type III 3000K AB	1984455.11	795842.765	15	132.921
55	Enterprise 50W Type III 3000K AB	1984455.911	795942.743	15	237.843
56	Enterprise 50W Type III 3000K AB	1984410.997	795972.301	15	276.522
57	Enterprise 50W Type III 3000K AB	1984331.018	795947.465	15	274.717
58	Enterprise 50W Type III 3000K AB	1984253.831	795956.792	15	276.159
59	Enterprise 50W Type III 3000K AB	1984180.613	795948.758	15	276.522
60	Enterprise 50W Type III 3000K AB	1984101.781	795941.027	15	275.104
61	Enterprise 50W Type III 3000K AB	1984025.904	795925.238	15	274.509
62	Enterprise 50W Type III 3000K AB	1983947.692	795916.493	15	275.798
63	Enterprise 50W Type III 3000K AB	1983863.756	795908.274	15	274.277
64	Enterprise 50W Type III 3000K AB	1983790.439	795900.979	15	275.489
65	Enterprise 50W Type III 3000K AB	1983706.842	795893.098	15	275.973
66	Enterprise 50W Type III 3000K AB	1983630.826	795884.612	15	277.763
67	Enterprise 50W Type III 3000K AB	1983552.596	795876.968	15	275.196
68	Enterprise 50W Type III 3000K AB	1983472.73	795869.511	15	274.621
69	Enterprise 50W Type III 3000K AB	1983399.716	795861.195	15	276.713
70	Enterprise 50W Type III 3000K AB	1983380.478	795785.867	15	271.226
71	Enterprise 50W Type III 3000K AB	1983420.316	795776.857	15	275.833
72	Enterprise 50W Type III 3000K AB	1983392.025	795715.784	15	114.237
73	Enterprise 50W Type III 3000K AB	1983473.192	795731.833	15	96.881
74	Enterprise 50W Type III 3000K AB	1984409.714	795715.176	15	310.602
75	Enterprise 50W Type III 3000K AB	1984361.185	795752.34	15	97.763
76	Enterprise 50W Type III 3000K AB	1984287.766	795743.645	15	93.27
77	Enterprise 50W Type III 3000K AB	1984207.914	795689.101	15	9.464
78	Enterprise 50W Type III 3000K AB	1984214.228	795640.618	15	6.544
79	Enterprise 50W Type III 3000K AB	1984264.626	795628.36	15	186.667
80	Enterprise 50W Type III 3000K AB	1984231.904	795580.612	15	277.294
81	Enterprise 50W Type III 3000K AB	1984294.483	795579.688	15	184.285
82	Enterprise 50W Type III 3000K AB	1984230.666	795521.279	15	334.652
83	Enterprise 50W Type III 3000K AB	1984297.67	795513.407	15	188.889
84	Enterprise 50W Type III 3000K AB	1984238.842	795477.017	15	5.999
85	Enterprise 50W Type III 3000K	1984288.717	795445.029	15	188.798
86	Enterprise 50W Type III 3000K AB	1984245.305	795439.603	15	5.839
87	Enterprise 50W Type III 3000K	1984297.629	795379.343	15	186.786
88	Enterprise 50W Type III 3000K AB	1984252.138	795379.458	15	6.953
89	Enterprise 50W Type III 3000K AB	1983571.058	795832.825	15	13.829
90	Enterprise 50W Type III 3000K	1984222.941	795356.906	15	273.814
91	Enterprise 50W Type III 3000K	1984080.394	795354.01	15	270.635
92	Enterprise 50W Type III 3000K	1984155.681	795349.249	15	259.996
93	Enterprise 50W Type III 3000K	1984007.503	795353.274	15	269.36
94	Enterprise 50W Type III 3000K	1983934.619	795352.985	15	270.672
95	Enterprise 50W Type III 3000K	1983857.683	795353.116	15	267.452
96	Enterprise 50W Type III 3000K	1983780.764	795350.538	15	270
97	Enterprise 50W Type III 3000K	1983707.789	795347.674	15	270
98	Enterprise 50W Type III 3000K	1983635.632	795347.832	15	268.561
99	Enterprise 50W Type III 3000K	1983558.251	795348.12	15	272.213
100	Enterprise 50W Type III 3000K	1983482.253	795348.58	15	266.827
101	Enterprise 50W Type III 3000K	1983435.059	795349.013	15	249.237
102	Enterprise 50W Type III 3000K	1983417.322	795382.778	15	189.812
103	Enterprise 50W Type III 3000K	1983425.439	795450.324	15	190.357
104	Enterprise 50W Type III 3000K	1983449.512	795417.402	15	262.056
105	Enterprise 50W Type III 3000K	1983416.726	795508.156	15	188.839
106	Enterprise 50W Type III 3000K	1983403.451	795589.411	15	185.907
107	Enterprise 50W Type III 3000K	1983391.971	795669.973	15	185.907
108	Enterprise 50W Type III 3000K	1983461.561	795677.356	15	272.601
109	Enterprise 50W Type III 3000K	1983519.741	795684.572	15	276.226
110	Enterprise 50W Type III 3000K	1984371.817	795368.791	15	264.71
111	Enterprise 150W Type V 3000K AB	1983777.817	795481.246	20	95.44
112	Enterprise 150W Type V 3000K AB	1983849.113	795490.483	20	95.624
113	Enterprise 150W Type V 3000K AB	1983920.577	795499.577	20	97.651
114	Enterprise 150W Type V 3000K AB	1983991.01	795508.66	20	100.156
115	Enterprise 150W Type V 3000K AB	1984059.397	795517.323	20	92.961
116	Enterprise 150W Type V 3000K AB	1984126.94	795526.127	20	99.464
117	Enterprise 50W Type III 3000K	1984348.921	795558.163	20	209.356
118	Enterprise 50W Type III 3000K	1983510.471	795379.957	20	215.418
119	Enterprise 50W Type III 3000K AB	1984252.551	795723.093	20	180

Customer Design

#	Date	Comments

Revisions

Drawn By: Weston Snow Photometric Designer
Checked By:
Date:6/8/2023
Scale: 1"=60'

1000 MLK Jr Blvd
Chapel Hill

EXHIBIT D

MID-ATLANTIC APARTMENT MANAGEMENT, LLC
92 River Road
Summit, NJ 07901

September 7, 2023

Mayor and Council
Town of Chapel Hill
405 Martin Luther King Jr. Blvd.
Chapel Hill, NC 27514

Re: Notice of Support and Approval of Petition for Limited Scope Review of Minor Modification to Approved Conditional Zoning
1000 Martin Luther King Jr. Blvd, Chapel Hill, NC 27514

Dear Mayor Hemminger and Members of Council:

I am the authorized signatory of the Manager of Shadowood Apartments, located at 101 Shadowood Dr., Chapel Hill, NC 27514 with Parcel No. 9789365443. Shadowood Apartments is adjacent to 1000 Martin Luther King Jr. Blvd, which is the subject of the pending Petition for Limited Scope Review of Minor Modification to Approved Conditional Zoning (the "Petition").

I have been advised by the adjacent property owner that they are seeking a modification to the approved conditional zoning in order to exceed the Land Use Management Ordinance Section 5.11.4 offsite illumination limit of 0.3 foot-candles. On behalf of Shadowood Apartments, we have no objections to the Petition and encourage its approval by the Town Council. To the extent the Petition is modified in any way, we respectfully request the opportunity to review and revise this notice, if necessary.

Thank you for considering our input on the Petition and please feel free to contact me with any questions.

Sincerely,

Mid-Atlantic Apartment Management, LLC

By: _____
Andrew S. Rosen, authorized signatory

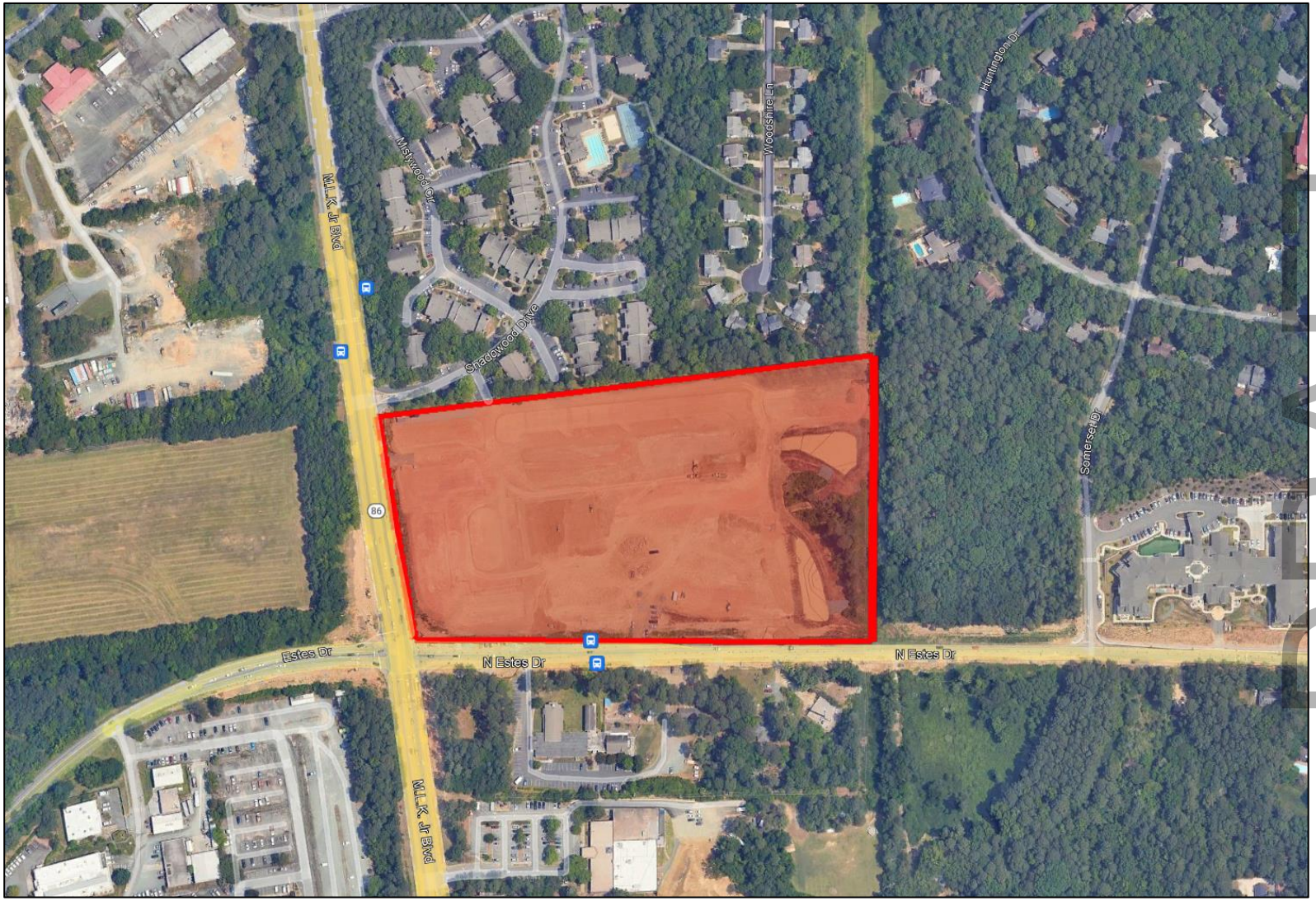
Aura Chapel Hill

Offsite Lighting Minor Modification

DRAFT

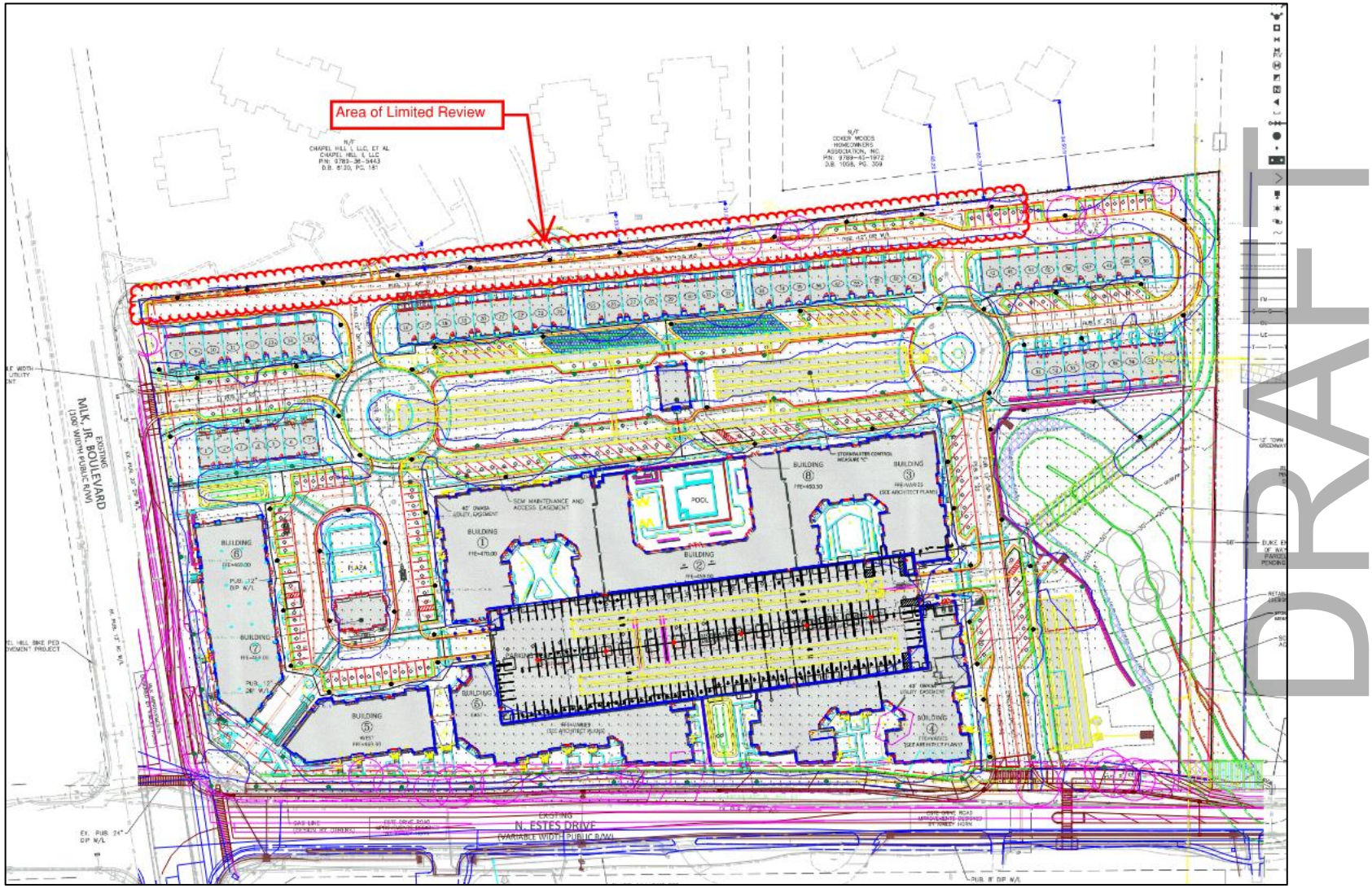
TRG

Site Location



DRAFT

Photometric Plan



Enterprise Fixture

EXHIBIT A

Outdoor Lighting

ENTERPRISE LED

ENTERPRISE LED

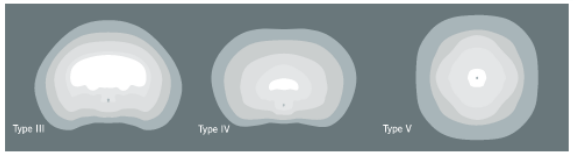
LED (Light-emitting diode)	150 / 220 watts
Mounting height	20' – 30'
Color	Black Green (Special Conditions) Bronze (Special Conditions) Gray (Special Conditions)
Pole	Style A

IESNA cutoff classification: Full-cutoff

Color temperature: 3,000K Primary
4,000K Available

FIXTURE	WATTS	LUMENS	PATTERN	BUG RATING
Enterprise	150	15,091	III	B2-U0-G3
		15,595	IV	B3-U0-G3
		16,500	V	B4-U0-G2
Enterprise	220	21,502	III	B3-U0-G3
		22,219	IV	B3-U0-G4
		23,507	V	B5-U0-G3

LIGHT DISTRIBUTION PATTERNS



light distribution patterns

POLE AVAILABLE	MOUNTING HEIGHT	FOUNDATION
Style A	20', 25', 30'	Direct Bury, Anchor Base

DUKE ENERGY.

For additional information, contact

DRAFT

Shoebox Fixture

EXHIBIT B

Outdoor Lighting

MICRO ROADWAY LED

MICRO ROADWAY LED

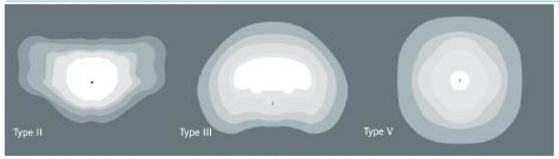
LED (Light-emitting diode)	50 / 70 watts
Mounting height	20' – 30'
Color	Black Green Bronze Gray
Pole	Wood Style A

IESNA cutoff classification: Full-cutoff

Color temperature: 3,000K Primary
4,000K Available

FIXTURE	WATTS	LUMENS	PATTERN	BUG RATING
Micro	50	5,407	II	B1-U0-G1
		5,342	III	B1-U0-G1
		5,434	V	B3-U0-G1
Micro	70	7,820	II	B2-U0-G2
		7,782	III	B1-U0-G2

LIGHT DISTRIBUTION PATTERNS



light distribution patterns

POLE AVAILABLE	MOUNTING HEIGHT	FOUNDATION
Style A	20', 25', 30'	Direct Bury, Anchor Base
Wood	25', 30'	Direct Bury

DUKE ENERGY.

For additional information, contact

DRAFT

PLANNING COMMISSION

The charge of the Planning Commission is to assist the Council in achieving the Town's Comprehensive Plan for orderly growth and development by analyzing, evaluating, and recommending responsible town policies, ordinances, and planning standards that manage land use and involving the community in long-range planning.

RECOMMENDATION
FOR AURA CHAPEL HILL LIGHTING CZD MODIFICATION

February 20, 2024

Recommendation: **Approval** ☑ **Approval with Comments** ☐ **Denial** ☐

Motion: Jonathan Mitchell moved, and Geoff Green seconded, a recommendation that the Council adopt Resolution A and Ordinance A for the Aura Chapel Hill Lighting CZD Modification.

Vote: 6 – 0

Yeas: Elizabeth Losos (Chair), Wesley Mcmahon(Co-Chair), Strother Murry-Ndinga, Jonathan Mitchell, Geoff Green, Erik Valera

Nays:

Prepared by: Jacob Hunt, Planner II

RESOLUTION A
Resolution of Reasonableness and Consistency

A RESOLUTION REGARDING THE REASONABLENESS AND CONSISTENCY WITH THE COMPREHENSIVE PLAN OF THE APPLICATION FOR A MODIFICATION TO THE OFFICE/INSTITUTIONAL–3–CONDITIONAL ZONING DISTRICT (OI-3-CZD) FOR THE PROPERTY LOCATED AT 1000 MARTIN LUTHER KING JR. BLVD (2024-[MO-DAY**]/R-#)**

WHEREAS, the Council of the Town of Chapel Hill has considered the application to modify the Conditional Zoning District submitted by Trinsic Residential Group (Owner), for the property located at 1000 Martin Luther King Jr. Blvd and identified as Orange County Property Identifier Number 9789-35-9617 to accommodate revised lighting plans, and

WHEREAS, the Council finds that the amendment, if enacted, is reasonable and in the public's interest, as explained by, but not limited to, the following considerations:

- Cohesive lighting across the site

WHEREAS, the Council finds that the amendment, if enacted, is consistent with the Town's Comprehensive Plan, as explained by, but not limited to, the following elements of the Comprehensive Plan:

- Goal 3 (Be Green and Sustainable) of the Complete Community Strategy component of the Comprehensive Plan, as the proposed Modification uses sustainable building techniques and practices on the site.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby finds the proposed Modification to the Conditional Zoning District to be reasonable and consistent with the Town Comprehensive Plan.

This the 20th day of March, 2024.

ORDINANCE A
(Approving the Conditional Zoning Modification)

AN ORDINANCE MODIFYING THE PREVIOUSLY APPROVED OFFICE/INSTITUTIONAL–3–CONDITIONAL ZONING DISTRICT (OI-3-CZD) (PROJECT #20-074) FOR AURA LOCATED AT 1000 MARTIN LUTHER KING JR. BLVD (PROJECT #MOD-23-9)(2024-XX-XX/O-X)

WHEREAS, the Council of the Town of Chapel Hill previously considered and approved an Office/Institutional-3-Conditional Zoning District for Aura located at 1000 Martin Luther King Jr. Blvd on June 28, 2021; and

WHEAREAS, the Council has considered the application submitted by Trinsic Residential Group (Owner), to modify the Conditional Zoning District for the property located at 1000 Martin Luther King Jr. Blvd and identified as Orange County Property Identifier Number 9789-35-9617 to accommodate revised lighting plans, and finds that the amendment is:

- Consistent with the Town's Comprehensive Plan, per NCGS 160D-605; and
- Reasonable and in the public's interest, per NCGS 160D-605;
- Warranted because of changing conditions and warranted to achieve the purposes of the Comprehensive Plan, per LUMO 4.4

WHEREAS, the application, if rezoned according to the conditions listed below would, per LUMO 4.4.3(f):

1) Conform with the applicable provisions of the Land Use Management Ordinance and Town Code
2) Conform with the Comprehensive Plan
3) Be compatible with adjoining uses
4) Mitigate impacts on surrounding properties and the Town as a whole
5) Be harmonious with existing and proposed built systems including utility infrastructure, transportation facilities, police and fire coverage, and other public services and facilities
6) Be harmonious with natural systems such as hydrology, topography, and other environmental constraints.

MODIFICATIONS TO REGULATIONS

WHEREAS, the Council of the Town of Chapel Hill finds, in this particular case, that the proposed development with the following requested modifications to regulations satisfies public purposes to an equivalent or greater degree:

1) LUMO Section 5.11.4 Lighting Standards: Increase the maximum Offsite Illumination standard to 1.3 foot-candles along the northern property boundary.

This finding is based on a determination that the public purposes are satisfied to an equivalent or greater degree as the lighting that would be required to achieve an offsite illumination of 0.3 foot candles is not in character with a residential development.

CONDITIONAL ZONING DISTRICT MODIFICATION

NOW, THEREFORE, BE IT ORDAINED by the Council of the Town of Chapel Hill that the Council finds, in this particular case, the proposed rezoning subject to the conditions below satisfies the intent and purposes of the Office/Institutional-3-Conditional Zoning District (OI-3-CZD).

BE IT FURTHER ORDAINED by the Council of the Town of Chapel Hill that the following conditions are hereby incorporated by reference:

1. Existing Permit: The existing Conditional Zoning Permit dated June 28, 2021, on file at the Town of Chapel Hill Planning Department, and recorded in the Orange County Registry (Book 6750, Pages 1652-1665) remains in effect except as modified by this ordinance.

2. Consent to Conditions: This approval is not effective until the property owner(s) provides written consent to the approval. Written consent must be provided within ten (10) business days of enactment by the Town Council.

3. Continued Validity: Continued validity and effectiveness of this approval shall be expressly conditioned on the continued compliance with the plans and conditions listed above.

4. Non-Severability: If any of the above conditions is held to be invalid, approval in its entirety shall be void.

BE IT FURTHER ORDAINED that the Council hereby approves the application for the modification of the Conditional Zoning for Aura at 1000 Martin Luther King Jr. Blvd.

This the 20th day of March, 2024.

RESOLUTION B
(Denying the Conditional Zoning Modification)

A RESOLUTION DENYING AN APPLICATION FOR A CONDITIONAL ZONING MODIFICATION FOR AURA AT 1000 MARTIN LUTHER KING JR. BLVD (2024-XX-XX/R-X)

BE IT RESOLVED by the Council of the Town of Chapel Hill that it finds that a Conditional Zoning Modification application, proposed by Trinsic Residential Group (Owner), located at 1000 Martin Luther King Jr. Blvd and identified as Orange County Property Identifier Number 9789-35-9617, would not:

1) Conform with the applicable provisions of the Land Use Management Ordinance and Town Code with modifications shown below.
2) Conform with the Comprehensive Plan
3) Be compatible with adjoining uses
4) Mitigate impacts on surrounding properties and the Town as a whole
5) Be harmonious with existing and proposed built systems including utility infrastructure, transportation facilities, police and fire coverage, and other public services and facilities
6) Be harmonious with natural systems such as hydrology, topography, and other environmental constraints

BE IT FURTHER RESOLVED that the Council hereby denies the application for a Conditional Zoning modification for Aura at 1000 Martin Luther King Jr. Blvd.

This the 20th day of March, 2024.

TOWN OF CHAPEL HILL

Town Hall
405 Martin Luther King Jr. Boulevard
Chapel Hill, NC 27514

Item Overview

Item #: 9., **File #:** [24-0137], **Version:** 1 **Meeting Date:** 3/20/2024

Open the Public Hearing and Consider a Request to Close the Unmaintained and Unpaved Public Right-of-Way Portion of Old Hargraves Road.

Staff:
Lance Norris, Director
Chris Roberts, Manager of Engineering and Infrastructure
Rob Gehris, Engineer III

Department:
Public Works

Overview: The property owner of 201 Hillcrest Road and 1100 Roosevelt Drive has requested that an unmaintained and unimproved public right-of-way (ROW) that appears on plats next to that person's property be closed. The platted name of this ROW is Old Hargraves Road. The ROW begins just north of the intersection of Roosevelt Drive and Hillcrest Road and travels north-east for approximately 1,200 feet to a termination point parallel to Valley Park Drive. The ROW varies in width but averages 16 feet wide.

This public right-of-way is not in use, and the Town has no apparent need for the rights-of-way.

North Carolina General Statute Sec. 160A-299 sets out the process for closing public right-of-way (see copy attached). The steps set out in this report and the attached resolution follow the statutory requirements.

Recommendation(s):

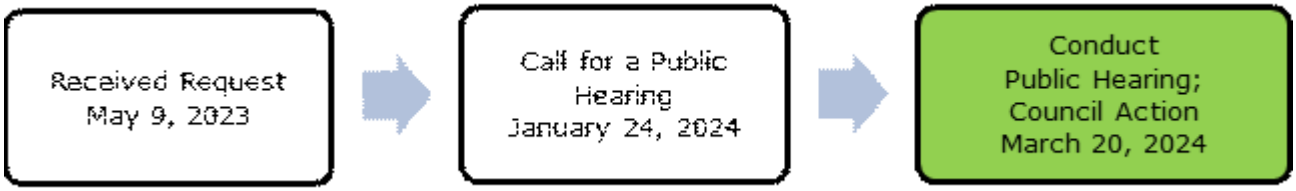
That the Council open the Public Hearing to consider closing the unmaintained public rights-of-way, platted as Old Hargraves Road located north of the intersection of Roosevelt Drive and Hillcrest Road and continuing north-east for approximately 1,200 feet to a termination point parallel to Valley Park Drive. The Council may close the Public Hearing this evening and act on the requested closures or refer action to a future meeting.

Fiscal Impact/Resources: Impacts to future investments are unknown.

Key Issues:

- This closure request is for the unmaintained and unpaved portion of Old Hargraves Road per the attached map.
- Requested by property owner of 201 Hillcrest Road and 1100 Roosevelt Dr.
- All adjacent property owners have been notified through phone conversations, certified mail, emails, physical signs placed in predominant places at the edges of the requested right-of-way closure areas, and the notice has been published in the News & Observer for four consecutive weeks during February 2024.
- There have been no objections received for this request.

Where is this item in its process?



Attachments:

- Resolution
- Staff Presentation
- Request from Whit Rummel, Property Owner of 201 Hillcrest Road and 1100 Roosevelt Drive.
- Map of requested Old Hargraves Road Right-of-Way Closure
- General Statute 160A-299
- Street Closure Plat for Hillcrest Road, Orange County Parcel Book 90, Page 7

A RESOLUTION TO OPEN THE PUBLIC HEARING AND CONSIDER A REQUEST TO CLOSE THE UNMAINTAINED AND UNPAVED PUBLIC RIGHTS-OF-WAY PORTION OF OLD HARGRAVES ROAD (2024-03-20/R-7)

WHEREAS, the Town of Chapel Hill has received a request to close the unmaintained and unpaved public rights-of-way portion of Old Hargraves Road; and

WHEREAS, all abutting properties have existing access to and from public streets and closure of the right-of-way section in question would not deprive any property owner of reasonable means of ingress and egress; and

WHEREAS, a Public Hearing regarding the proposed right-of-way closure was held on March 20, 2024; and

WHEREAS, all of the adjacent property owners have been notified and there have been no objections to this closure; and

WHEREAS, the Council finds, upon review of the facts and of information received at the Public Hearing, that closing this section of Old Hargraves Road right-of-way would not be contrary to the public interest and that no individual owning property in the vicinity of the proposed closures would be deprived of reasonable means of ingress and egress to his or her property by the closing of said right-of-way.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby adopts this order pursuant to North Carolina G.S. 160A-299, permanently closing this unmaintained and unpaved public right-of-way portion of Old Hargraves Road.

BE IT FURTHER RESOLVED that a plat showing the closure and a copy of this Order shall be recorded by the adjacent property owners, with the Orange County Registry, upon approval by the Town and certification by the Town Manager that the preceding conditions of approval have been met, said certification to be attached to this Resolution as an Exhibit prior to recordation.

This the 20th day of March, 2024.

The Agenda will reflect the text below and/or the motion text will be used during the meeting.

PRESENTER: Rob Gehris, Engineer III

RECOMMENDATION: That the Council open the Public Hearing to consider closing the unmaintained and unpaved public rights-of-way portion of Old Hargraves Road. The Council may close the Public Hearing this evening and act on the requested closures or refer action to a future meeting.

Public Hearing for the Public Right-Of-Way Closure – OLD HARGRAVES ROAD

Date: March 20, 2024

DRAFT

Staff Recommendation

- That the Council open and close a Public Hearing to consider the public right-of-way of Old Hargraves Road.

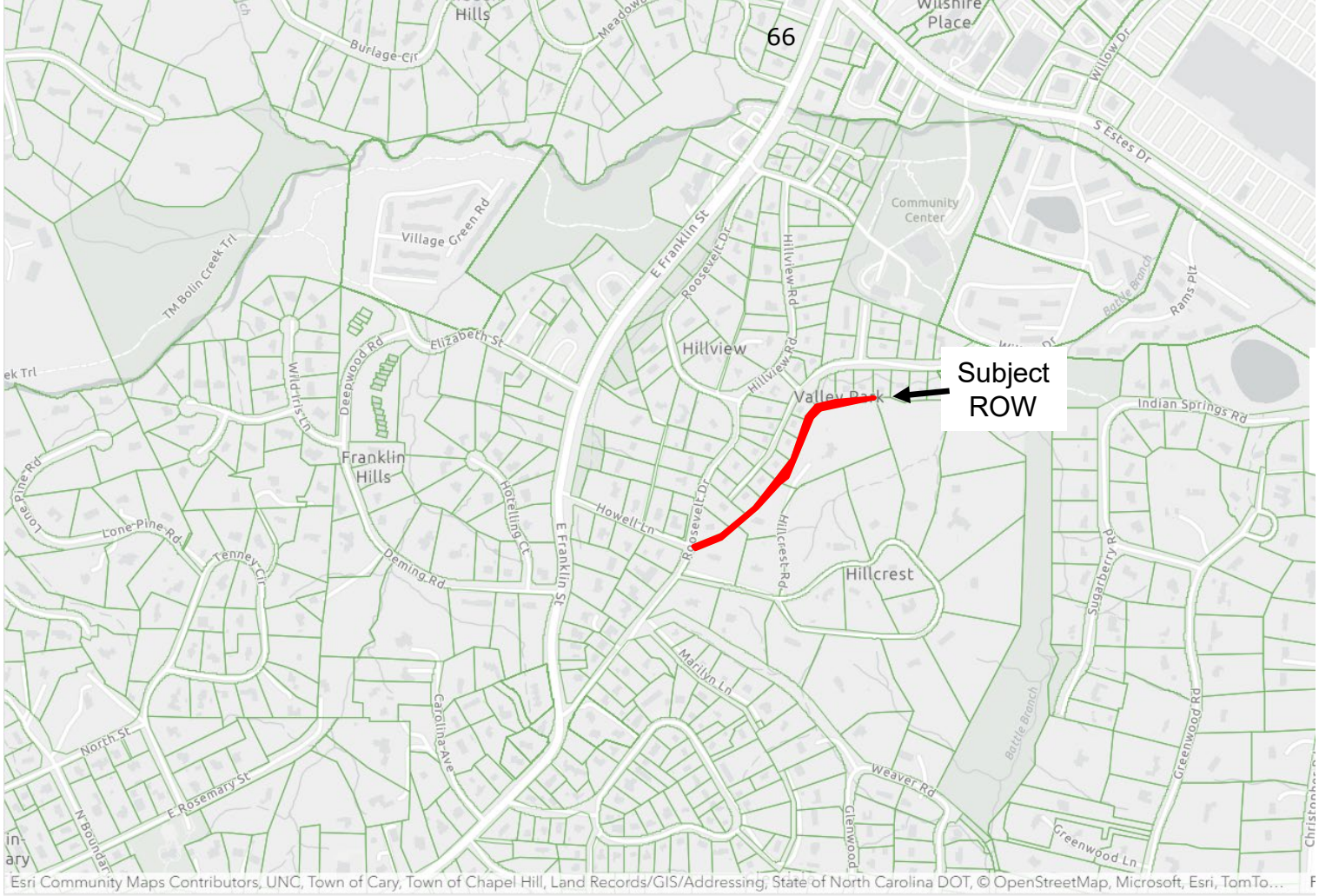
- Adopt Resolution R-__ to close the requested right-of-way area.

DRAFT

Right-of-Way Closure Process

- Review Recorded Plat
- General Statute 160A-299
  - Council Adopt a Resolution Declaring Its Intent to Close the Right-of-way
  - Call a Public Hearing
  - Publish a Notice of Resolution Once a Week for Four Successive Weeks Prior to the Hearing
  - Notice of the Closing and Public Hearing Posted in Two Places
  - If Approved, a Certified Copy of the Order filed with the Register of Deeds (by applicant or fronting property owners)
  - Recorded New Plat (by applicant or fronting property owners)

DRAFT



Area Map

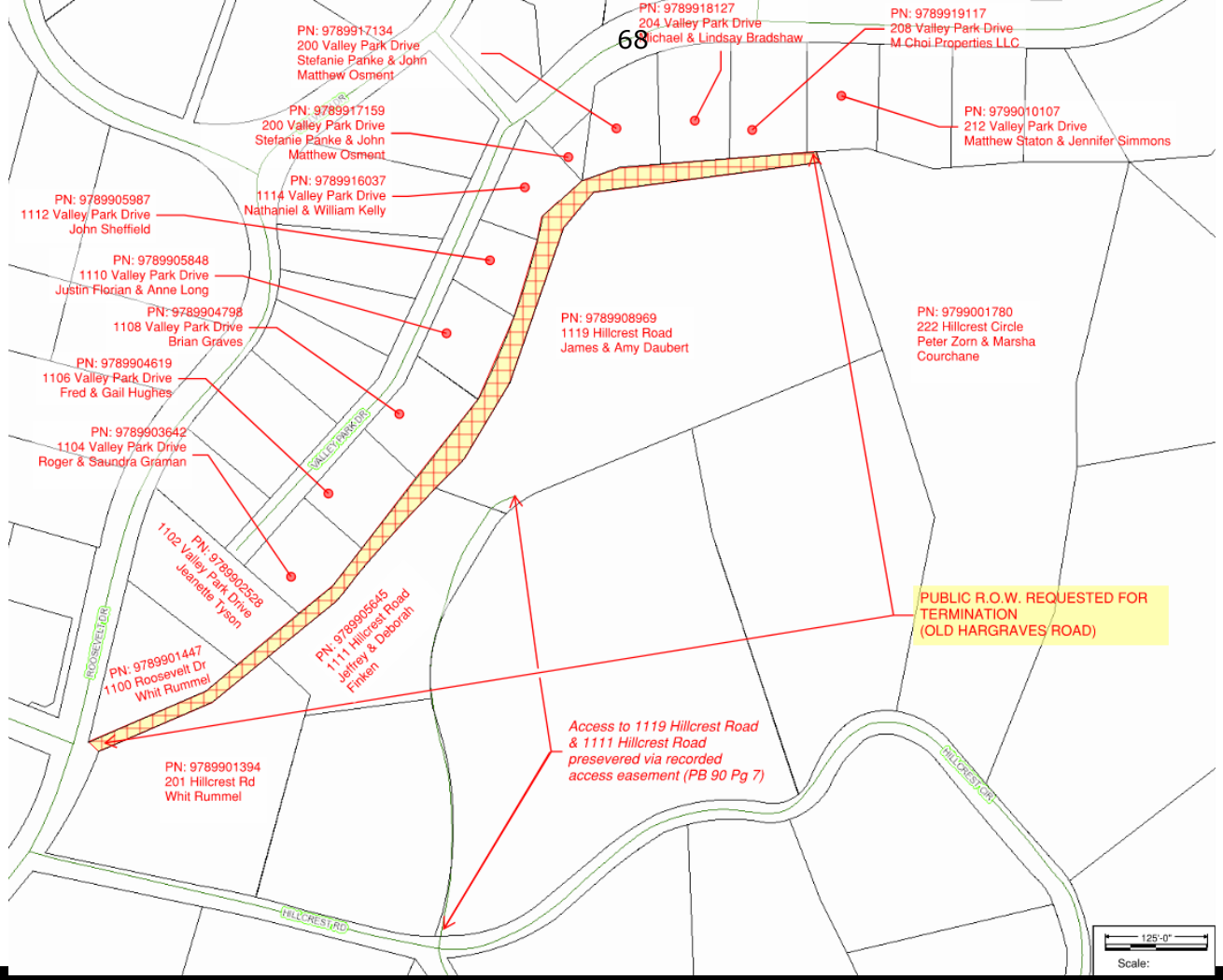
DRAFT

Where is this in the process?

Call for a Public Hearing
January 24, 2024

Open and Close the
Public Hearing, Council Action
March 20, 2024

DRAFT



Parcel Map

DRAFT

Parcel information and boundaries provided by Orange County NC GIS Data, last updated January 2024.

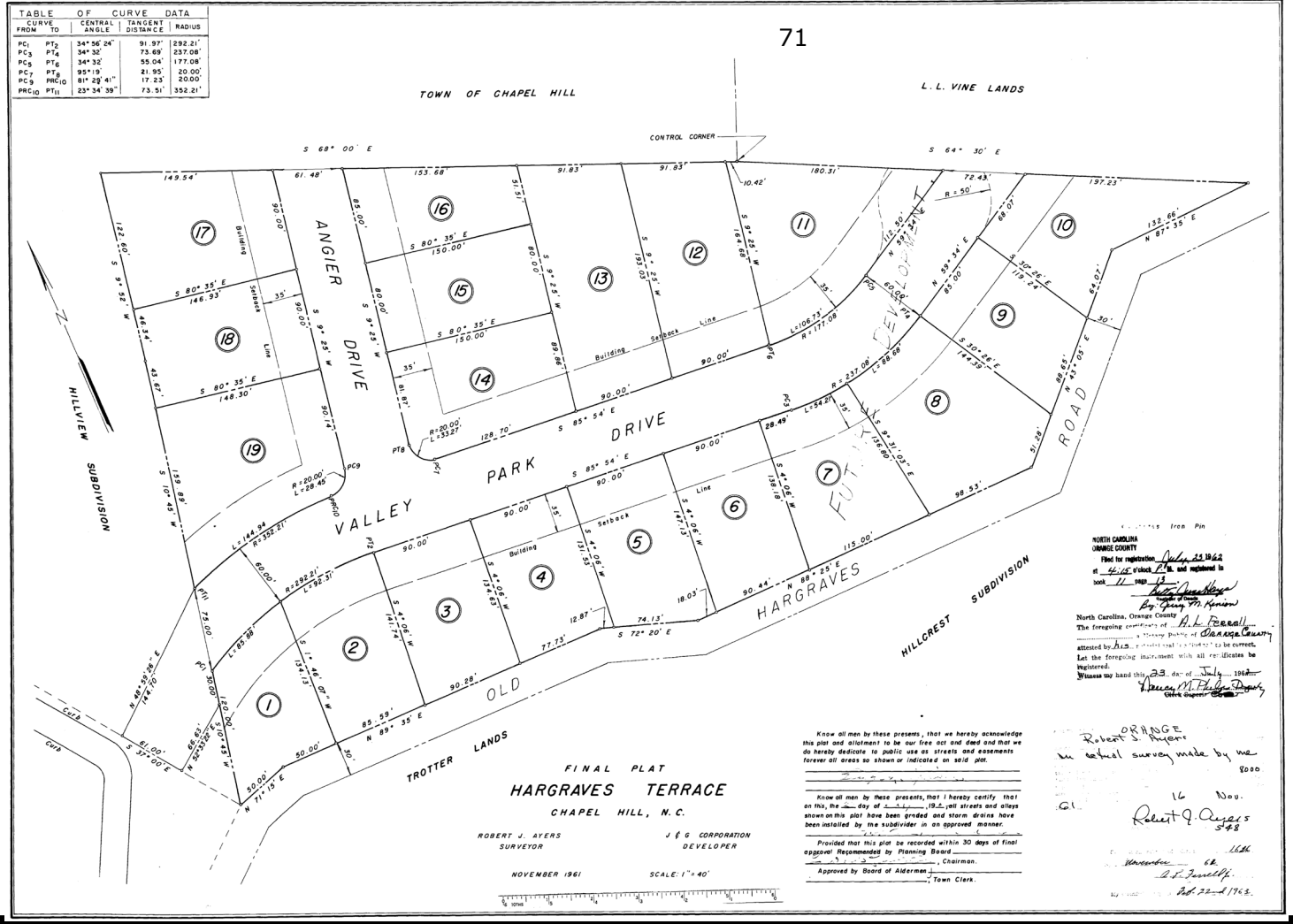
Key Considerations

- This closure request is for the unimproved and unpaved Old Hargraves Road per the attached map.
- Closure requested by property owner of 201 Hillcrest Street and 1100 Roosevelt Dr.
- 17 parcels (15 owners) border this right-of-way. Town Staff and the Request have discussed closure with a majority of owners.
  - No objections from adjacent parcel owners have been received for this request.
- Closing the subject public right-of-way will not deny access to adjacent properties.
- Neither the Town nor OWASA have a need for this right-of-way.

DRAFT

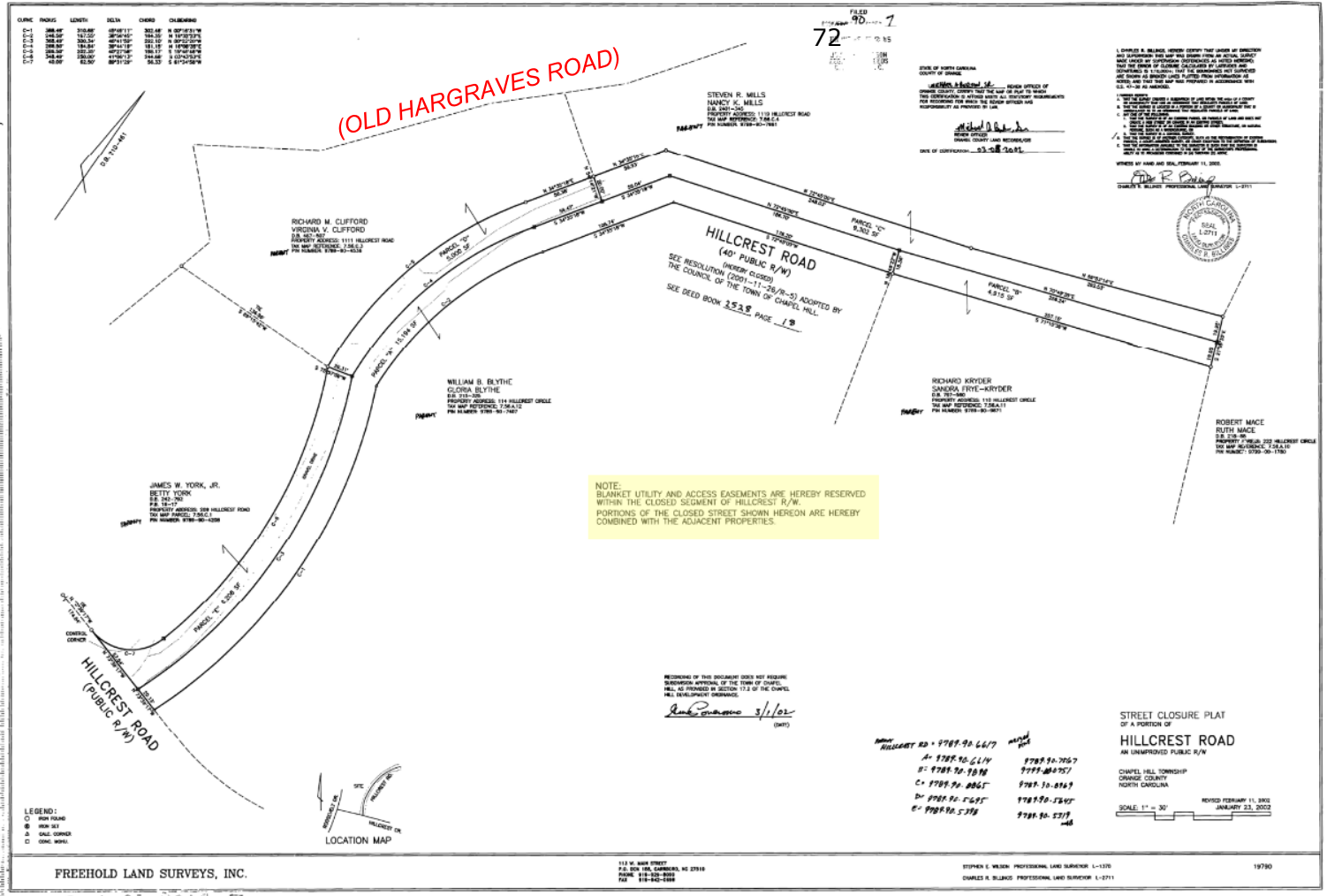
Old Hargraves Road ROW (left fork), driveway access to 201 Hillcrest Rd (right fork). Photo taken from Roosevelt Dr. curbline adjacent to 1100 Roosevelt Drive.

DRAFT



Recorded Subdivision Plat for Hargraves Terrace, Orange County, NC Parcel Book 11, Page 13 (recorded Feb. 22, 1963)

DRAFT



Recorded Street Closure Plat, Orange County, NC Parcel Book 90, Page 7. Access to 1119 Hillcrest Road and 1111 Hillcrest Road is preserved via access easement from Hillcrest Circle

DRAFT

Staff Recommendation

- That the Council open and close a Public Hearing to consider closing the public right-of-way of Old Hargraves Road

- Consider adoption of Resolution R-___ to close the requested right-of-way area.

DRAFT

From: whit rummel <whitr@mac.com>
Sent: Tuesday, May 9, 2023 12:58 PM
To: Judy Johnson <jjohnson@townofchapelhill.org>
Subject: Road Abandonment question

External email: Don't click links or attachments from unknown senders. To check or report click the Phish Alert Button

Hi Judy,

Hope you've been well, and have found time for a little R&R!

Some of my neighbors and myself are interested in getting information on a discontinued road that runs through several properties, including my own.

The Orange County tax map shows a proposed road (Old Hargraves Road) that would begin on the eastern side of Roosevelt Dr. to service a subdivision called Hillview Homes sometime before 1960. This strip was never used and has been left dormant for over sixty years. It stubs out into private property further down the hill.

I'd like to know how to formalize closure of this "road" since I own parcels on both sides of the beginning of the strip. Can you please tell me how to find out what process I'd need to follow to initiate an abandonment procedure? My two parcels are:

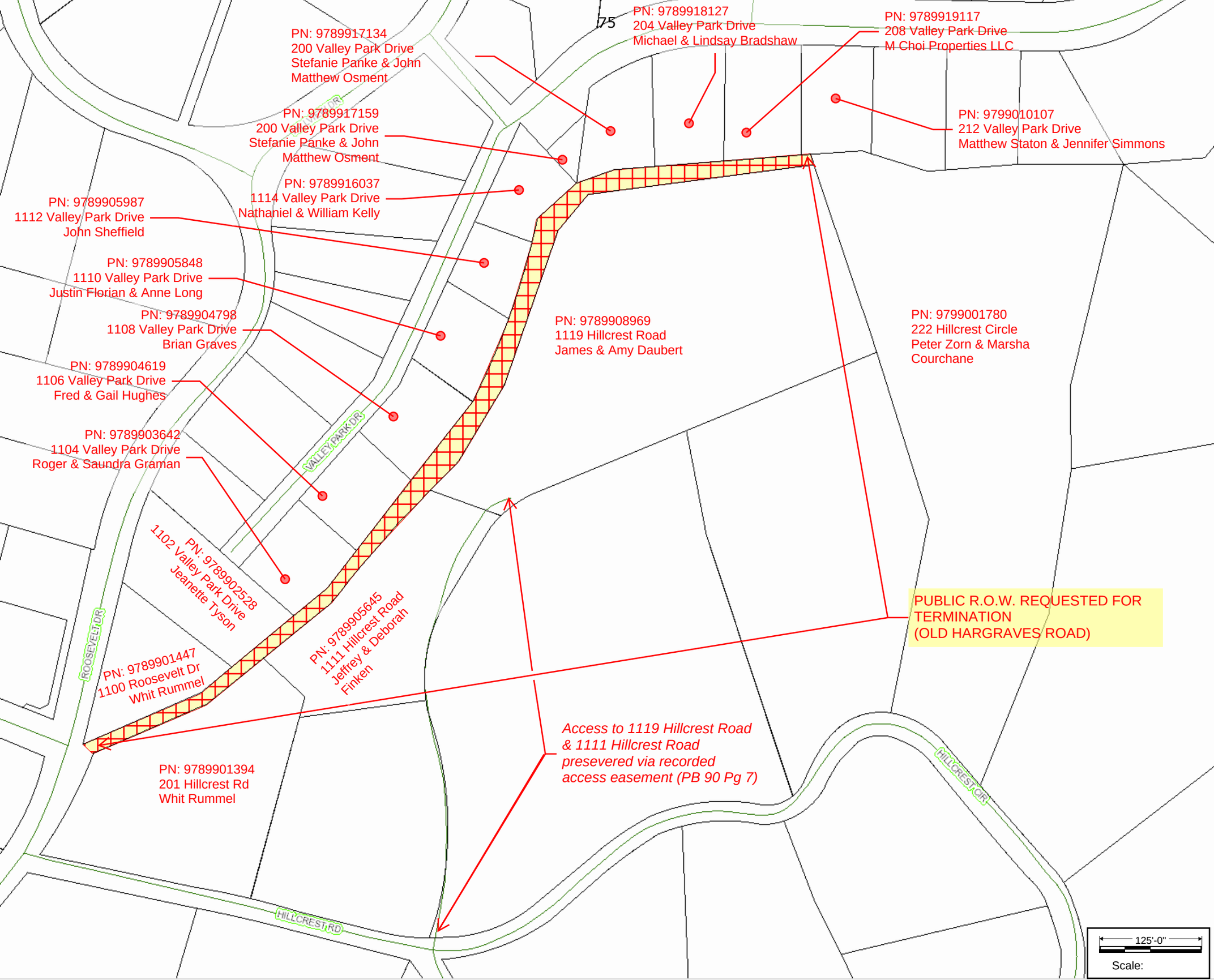
201 Hillcrest Road: (9789901394)

1100 Roosevelt Dr. (9789901447)

Interested neighbors include several families along Valley Park Drive as well as Hillcrest Circle.
I've attached a tax map image to help describe it (below).

Thanks for any help you can provide.

Many Thanks,
Whit Rummel
(919) 967-6200


PN: 9789918127
204 Valley Park Drive
Michael & Lindsay Bradshaw
PN: 9789919117
208 Valley Park Drive
M Choi Properties LLC
PN: 9789917134
200 Valley Park Drive
Stefanie Panke & John
Matthew Osment
PN: 9799010107
212 Valley Park Drive
Matthew Staton & Jennifer Simmons
PN: 9789917159
200 Valley Park Drive
Stefanie Panke & John
Matthew Osment
PN: 9789916037
1114 Valley Park Drive
Nathaniel & William Kelly
PN: 9789905987
1112 Valley Park Drive
John Sheffield
PN: 9789905848
1110 Valley Park Drive
Justin Florian & Anne Long
PN: 9789904798
1108 Valley Park Drive
Brian Graves
PN: 9789904619
1106 Valley Park Drive
Fred & Gail Hughes
PN: 9789903642
1104 Valley Park Drive
Roger & Saundra Graman
PN: 9789908969
1119 Hillcrest Road
James & Amy Daubert
PN: 9799001780
222 Hillcrest Circle
Peter Zorn & Marsha
Courchane
VALLEY PARK DR
PN: 9789902528
1102 Valley Park Drive
Jeanette Tyson
PN: 9789905645
1111 Hillcrest Road
Jeffrey & Deborah
Finken
PUBLIC R.O.W. REQUESTED FOR
TERMINATION
(OLD HARGRAVES ROAD)
ROOSEVELT DR
PN: 9789901447
1100 Roosevelt Dr
Whit Rummel
Access to 1119 Hillcrest Road
& 1111 Hillcrest Road
presevered via recorded
access easement (PB 90 Pg 7)
PN: 9789901394
201 Hillcrest Rd
Whit Rummel
HILLCREST CIR
HILLCREST RD
125'-0"
Scale:

§ 160A-299. Procedure for permanently closing streets and alleys.

(a) When a city proposes to permanently close any street or public alley, the council shall first adopt a resolution declaring its intent to close the street or alley and calling a public hearing on the question. The resolution shall be published once a week for four successive weeks prior to the hearing, a copy thereof shall be sent by registered or certified mail to all owners of property adjoining the street or alley as shown on the county tax records, and a notice of the closing and public hearing shall be prominently posted in at least two places along the street or alley. If the street or alley is under the authority and control of the Department of Transportation, a copy of the resolution shall be mailed to the Department of Transportation. At the hearing, any person may be heard on the question of whether or not the closing would be detrimental to the public interest, or the property rights of any individual. If it appears to the satisfaction of the council after the hearing that closing the street or alley is not contrary to the public interest, and that no individual owning property in the vicinity of the street or alley or in the subdivision in which it is located would thereby be deprived of reasonable means of ingress and egress to his property, the council may adopt an order closing the street or alley. A certified copy of the order (or judgment of the court) shall be filed in the office of the register of deeds of the county in which the street, or any portion thereof, is located.

(b) Any person aggrieved by the closing of any street or alley including the Department of Transportation if the street or alley is under its authority and control, may appeal the council's order to the General Court of Justice within 30 days after its adoption. In appeals of streets closed under this section, all facts and issues shall be heard and decided by a judge sitting without a jury. In addition to determining whether procedural requirements were complied with, the court shall determine whether, on the record as presented to the city council, the council's decision to close the street was in accordance with the statutory standards of subsection (a) of this section and any other applicable requirements of local law or ordinance.

No cause of action or defense founded upon the invalidity of any proceedings taken in closing any street or alley may be asserted, nor shall the validity of the order be open to question in any court upon any ground whatever, except in an action or proceeding begun within 30 days after the order is adopted. The failure to send notice by registered or certified mail shall not invalidate any ordinance adopted prior to January 1, 1989.

(c) Upon the closing of a street or alley in accordance with this section, subject to the provisions of subsection (f) of this section, all right, title, and interest in the right-of-way shall be conclusively presumed to be vested in those persons owning lots or parcels of land adjacent to the street or alley, and the title of such adjoining landowners, for the width of the abutting land owned by them, shall extend to the centerline of the street or alley.

The provisions of this subsection regarding division of right- of-way in street or alley closings may be altered as to a particular street or alley closing by the assent of all property owners taking title to a closed street or alley by the filing of a plat which shows the street or alley closing and the portion of the closed street or alley to be taken by each such owner. The plat shall be signed by each property owner who, under this section, has an ownership right in the closed street or alley.

(d) This section shall apply to any street or public alley within a city or its extraterritorial jurisdiction that has been irrevocably dedicated to the public, without regard to whether it has actually been opened. This section also applies to unopened streets or public alleys that are shown on plats but that have not been accepted or maintained by the city, provided that this section shall not abrogate the rights of a dedicator, or those claiming under a dedicator, pursuant to G.S. 136-96.

(e) No street or alley under the control of the Department of Transportation may be closed unless the Department of Transportation consents thereto.

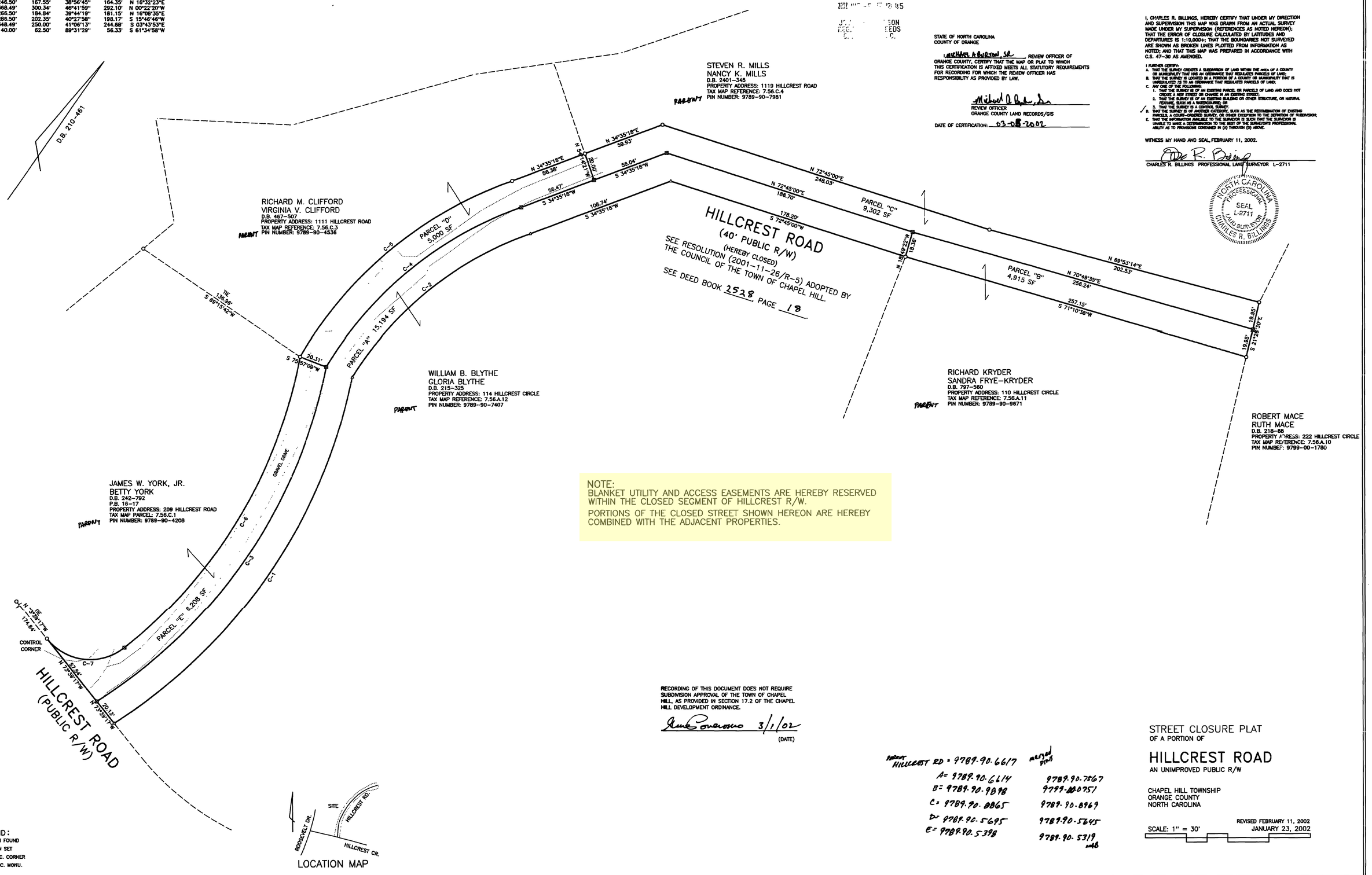
(f) A city may reserve a right, title, and interest in any improvements or easements within a street closed pursuant to this section. An easement under this subsection shall include utility, drainage, pedestrian, landscaping, conservation, or other easements considered by the city to be in the public interest. The reservation of an easement under this subsection shall be stated in the order of closing. The reservation also extends to utility improvements or easements owned by private utilities which at the time of the street closing have a utility agreement or franchise with the city.

(g) The city may retain utility easements, both public and private, in cases of streets withdrawn under G.S. 136-96. To retain such easements, the city council shall, after public hearing, approve a "declaration of retention of utility easements" specifically describing such easements. Notice by certified or registered mail shall be provided to the party withdrawing the street from dedication under G.S. 136-96 at least five days prior to the hearing. The declaration must be passed prior to filing of any plat or map or declaration of withdrawal with the register of deeds. Any property owner filing such plats, maps, or declarations shall include the city declaration with the declaration of withdrawal and shall show the utilities retained on any map or plat showing the withdrawal. (1971, c. 698, s. 1; 1973, c. 426, s. 47; c. 507, s. 5; 1977, c. 464, s. 34, 1981, c. 401; c. 402, ss. 1, 2; 1989, c. 254; 1993, c. 149, s. 1; 2015-103, s. 1.)

CURVE	RADIUS	LENGTH	DELTA	CHORD	CH.BEARING
C-1	388.49'	310.68'	45°49'11"	302.46'	N 00°16'31"W
C-2	248.50'	167.55'	38°56'45"	164.35'	N 16°32'23"E
C-3	368.49'	300.34'	46°41'59"	292.10'	N 00°22'20"W
C-4	266.50'	184.84'	39°44'19"	181.15'	N 16°08'35"E
C-5	286.50'	202.35'	40°27'58"	198.17'	S 15°46'46"W
C-6	348.49'	250.00'	41°06'13"	244.68'	S 03°43'53"E
C-7	40.00'	62.50'	89°31'29"	56.33'	S 61°34'58"W

FILED
BOOK 90 PAGE 7
2002 MAR 06 PM 12:45
JOYCE ... SON
REGISTER OF DEEDS
ORANGE CO., N.C.

FB
2/28/02



STATE OF NORTH CAROLINA
COUNTY OF ORANGE

Michael R. Bailey, Sr. REVIEW OFFICER OF ORANGE COUNTY, CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING FOR WHICH THE REVIEW OFFICER HAS RESPONSIBILITY AS PROVIDED BY LAW.

Michael R. Bailey, Sr.
REVIEW OFFICER
ORANGE COUNTY LAND RECORDS/GIS

DATE OF CERTIFICATION: 03-08-2002

I, CHARLES R. BILLINGS, HEREBY CERTIFY THAT UNDER MY DIRECTION AND SUPERVISION THIS MAP WAS DRAWN FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (REFERENCES AS NOTED HEREON); THAT THE ERROR OF CLOSURE CALCULATED BY LATITUDES AND DEPARTURES IS 1:10,000+; THAT THE BOUNDARIES NOT SURVEYED ARE SHOWN AS BROKEN LINES PLOTTED FROM INFORMATION AS NOTED; AND THAT THIS MAP WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED.

I FURTHER CERTIFY:
A. THAT THE SURVEY CREATES A SUBDIVISION OF LAND WITHIN THE AREA OF A COUNTY OR MUNICIPALITY THAT HAS AN ORDINANCE THAT REGULATES PARCELS OF LAND;
B. THAT THE SURVEY IS LOCATED IN A PORTION OF A COUNTY OR MUNICIPALITY THAT IS UNREGULATED AS TO AN ORDINANCE THAT REGULATES PARCELS OF LAND;
C. ANY ONE OF THE FOLLOWING:
1. THAT THE SURVEY IS OF AN EXISTING PARCEL OR PARCELS OF LAND AND DOES NOT CREATE A NEW STREET OR CHANGE IN AN EXISTING STREET;
2. THAT THE SURVEY IS OF AN EXISTING BUILDING OR OTHER STRUCTURE, OR NATURAL FEATURE, SUCH AS A WATERCOURSE; OR
3. THAT THE SURVEY IS A CONTROL SURVEY.
✓ D. THAT THE SURVEY IS OF ANOTHER CATEGORY, SUCH AS THE RECOMBINATION OF EXISTING PARCELS, A COURT-ORDERED SURVEY, OR OTHER EXCEPTION TO THE DEFINITION OF SUBDIVISION;
E. THAT THE INFORMATION AVAILABLE TO THE SURVEYOR IS SUCH THAT THE SURVEYOR IS UNABLE TO MAKE A DETERMINATION TO THE BEST OF THE SURVEYOR'S PROFESSIONAL ABILITY AS TO PROVISIONS CONTAINED IN (A) THROUGH (D) ABOVE.

WITNESS MY HAND AND SEAL, FEBRUARY 11, 2002.

CHARLES R. BILLINGS PROFESSIONAL LAND SURVEYOR L-2711

NORTH CAROLINA PROFESSIONAL SEAL L-2711 LAND SURVEYOR CHARLES R. BILLINGS

NOTE:
BLANKET UTILITY AND ACCESS EASEMENTS ARE HEREBY RESERVED WITHIN THE CLOSED SEGMENT OF HILLCREST R/W.
PORTIONS OF THE CLOSED STREET SHOWN HEREON ARE HEREBY COMBINED WITH THE ADJACENT PROPERTIES.

RECORDING OF THIS DOCUMENT DOES NOT REQUIRE SUBDIVISION APPROVAL OF THE TOWN OF CHAPEL HILL, AS PROVIDED IN SECTION 17.2 OF THE CHAPEL HILL DEVELOPMENT ORDINANCE.

3/1/02
(DATE)

PARENT HILLCREST RD = 9789-90-6617
A= 9789-90-6614
B= 9789-90-9898
C= 9789-90-8865
D= 9789-90-5695
E= 9789-90-5398

MERGED PARCELS
9789-90-7567
9789-00-0751
9789-90-8969
9789-90-5645
9789-90-5319

STREET CLOSURE PLAT
OF A PORTION OF
HILLCREST ROAD
AN UNIMPROVED PUBLIC R/W

CHAPEL HILL TOWNSHIP
ORANGE COUNTY
NORTH CAROLINA

SCALE: 1" = 30'

REVISED FEBRUARY 11, 2002
JANUARY 23, 2002

LEGEND:
- IRON FOUND
- IRON SET
- CALC. CORNER
- CONC. MONU.

FREEHOLD LAND SURVEYS, INC.

113 W. MAIN STREET
P.O. BOX 188, CARRBORO, NC 27510
PHONE 919-929-8090
FAX 919-942-0598

STEPHEN E. WILSON PROFESSIONAL LAND SURVEYOR L-1370
CHARLES R. BILLINGS PROFESSIONAL LAND SURVEYOR L-2711

19790

BOOK 90 PAGE 7

Book 90

TOWN OF CHAPEL HILL

Town Hall
405 Martin Luther King Jr. Boulevard
Chapel Hill, NC 27514

Item Overview

Item #: 10., **File #:** [24-0138], **Version:** 1 **Meeting Date:** 3/20/2024

Open the Legislative Hearing to Consider Land Use Management Ordinance Text Amendments to the Stormwater Management Requirements.

Staff:	**Department:**
Lance Norris, Director	Public Works
Chris Roberts, Manager of Engineering and Infrastructure	
Sue Burke, Senior Engineer	
Britany Waddell, Director	Planning

Overview: Council has expressed interest in revisions to the Land Use Management Ordinance (LUMO) to add the 100-year 24-hour duration storm event to the stormwater requirements. The text amendments will address the peak flow rate requirements and clarify the water quality volume requirement in LUMO Section 5.4 Stormwater Management.

Recommendation(s):

That the Council open the Legislative Hearing, receive public comment, provide comments on the proposed text amendments, and continue the hearing to April 24, 2024.

Attachments:

- Planning Commission Recommendation
- Stormwater Management Utility Advisory Board Recommendation
- Resolution A - Consistency and Reasonableness
- Ordinance A - Approving the Text Amendments
- Resolution B - Denying the Text Amendments
- Emails received from the public

The Agenda will reflect the text below and/or the motion text will be used during the meeting.

PRESENTER: Sue Burke, Senior Engineer

RECOMMENDATION: That the Council open the Legislative Hearing, receive public comment, provide comments on the proposed text amendments, and continue the hearing to April 24, 2024.

PLANNING COMMISSION

The charge of the Planning Commission is to assist the Council in achieving the Town's Comprehensive Plan for orderly growth and development by analyzing, evaluating, and recommending responsible town policies, ordinances, and planning standards that manage land use and involving the community in long-range planning.

RECOMMENDATION
FOR STORMWATER MANAGEMENT TEXT AMENDMENT

February 20, 2024

Recommendation: **Approval ☑** **Approval with Comments ☐** **Denial ☐**

Motion: Geoff Green moved, and Jonathan Mitchell seconded, a recommendation that the Council adopt Resolution A and Ordinance A for the Stormwater Management Text Amendment.

Vote: 6 – 0

Yeas: Elizabeth Losos (Chair), Wesley Mcmahon(Co-Chair), Strother Murry-Ndinga, Jonathan Mitchell, Geoff Green, Erik Valera

Nays:

Prepared by: Jacob Hunt, Planner II

DRAFT

STORMWATER MANAGEMENT UTILITY ADVISORY BOARD

RECOMMENDATION

LAND USE MANAGEMENT TEXT AMENDMENTS TO THE STORMWATER MANAGEMENT REQUIREMENTS

MEETING DATE:	February 27, 2024
BOARD MEMBERS PRESENT:	Audrey Britton, Chad Pickens, Janet Clarke, Linda Sanders, Neal Bench, Paxton Ramsdell, Shugong Wang
BOARD MEMBERS ABSENT:	Rachel Willis (exc.)

Mr. Bench made a motion to recommend to the Town Council the adoption of the Land Use Management Ordinance text amendments to the stormwater management requirements. Ms. Sanders seconded the motion.

It passed unanimously (7-0) in a roll call vote.

RESOLUTION A
(Resolution of Consistency)

A RESOLUTION REGARDING AMENDING THE CHAPEL HILL LAND USE MANAGEMENT ORDINANCE SUBSECTION 5.4.6 REGARDING GENERAL PERFORMANCE CRITERIA FOR STORMWATER MANAGEMENT. (2024-MM-DD/R-#)

WHEREAS, at the June 9, 2021 Council meeting, several Council members presented a petition to the Town Council requesting a comprehensive review of the Town's stormwater management regulations; and

WHEREAS, there is concern that the stormwater management regulations adopted in 2003 do not address the increased precipitation frequency and intensity being experienced as a result of climate change; and

WHEREAS, the Town contracted with the team of Skidmore, Owings & Merrill and SRF Consulting Group (SRF) to conduct a review of the Town's stormwater management regulations, including the areas of review listed in the Council petition; and

WHEREAS, the SRF report recommended adding the 100-year, 24-hour storm event to the peak runoff rate control design storms, and also recommended clarifying the runoff volume that is to be treated to the 85% TSS removal requirement; and

WHEREAS, the Booker Creek Working Group recommended adoption of the 100-year design storm to the peak flow rate requirements; and

WHEREAS, at the November 29, 2023 meeting, several Council members presented a petition to the Town Council requesting that the addition of the 100-year storm be added to the regulations as soon as possible; and

WHEREAS, the Planning Commission reviewed the text amendments to the Land Use Management Ordinance Subsection 5.4.6 on February 20, 2024, and recommended that the Council enact the text amendments; and

WHEREAS, on January 24, 2024, the Council called a Legislative Hearing to amend Subsection 5.4.6 of the Land Use Management Ordinance as it relates to General Performance Criteria for Stormwater Management for the Council's March 20, 2024, meeting; and

WHEREAS, the Council of the Town of Chapel Hill has considered the proposed text amendment to the Land Use Management Ordinance (LUMO) Subsection 5.4.6; and

WHEREAS, upon consideration the Council finds that the amendment is reasonable and in the public's interest and is warranted to achieve the purposes of the Comprehensive Plan as explained by, but not limited to, the following goals of the Chapel Hill 2020 Comprehensive Plan:

- Maintain and improve air quality and water quality, and manage stormwater to heal local waterways and conserve biological ecosystems within the town boundaries and the Extra Territorial Jurisdiction (*Nurturing Our Community*.2)
- Protect neighborhoods from the impact of development such as stormwater runoff, light and noise pollution, and traffic (*Nurturing Our Community*.8)

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby finds the proposed text amendment to be consistent with the Town Comprehensive Plan.

This the __ day of _____, 2024.

ORDINANCE A
(Enacting the Land Use Management Ordinance Text Amendment Proposal)

AN ORDINANCE AMENDING SUBSECTION 5.4.6 OF THE CHAPEL HILL LAND USE MANAGEMENT ORDINANCE REGARDING GENERAL PERFORMANCE CRITERIA FOR STORMWATER MANAGEMENT. (2024-MM-DD/O-X)

WHEREAS, at the June 9, 2021 Council meeting, several Council members presented a petition to the Town Council requesting a comprehensive review of the Town's stormwater management regulations; and

WHEREAS, there is concern that the stormwater management regulations adopted in 2003 do not address the increased precipitation frequency and intensity being experienced as a result of climate change; and

WHEREAS, the Town contracted with the team of Skidmore, Owings & Merrill and SRF Consulting Group (SRF) to conduct a review of the Town's stormwater management regulations, including the areas of review listed in the Council petition; and

WHEREAS, the SRF report recommended adding the 100-year, 24-hour storm event to the peak runoff rate control design storms, and also recommended clarifying the runoff volume that is to be treated to the 85% TSS removal requirement; and

WHEREAS, the Booker Creek Working Group recommended adoption of the 100-year design storm to the peak flow rate requirements; and

WHEREAS, at the November 29, 2023 meeting, several Council members presented a petition to the Town Council requesting that the addition of the 100-year storm be added to the regulations as soon as possible; and

WHEREAS, the Planning Commission reviewed the text amendments to the Land Use Management Ordinance Subsection 5.4.6 on February 20, 2024, and recommended that the Council enact the text amendments; and

WHEREAS, on January 24, 2024, the Council called a Legislative Hearing to amend Subsection 5.4.6 of the Land Use Management Ordinance as it relates to General Performance Criteria for Stormwater Management for the Council's March 20, 2024, meeting; and

WHEREAS, the Council of the Town of Chapel Hill has considered the proposed text amendment to the Land Use Management Ordinance (LUMO) Subsection 5.4.6; and

WHEREAS, upon consideration the Council finds that the amendment is reasonable and in the public's interest and is warranted to achieve the purposes of the Comprehensive Plan as explained by, but not limited to, the following goals of the Chapel Hill 2020 Comprehensive Plan:

- Maintain and improve air quality and water quality, and manage stormwater to heal local waterways and conserve biological ecosystems within the town boundaries and the Extra Territorial Jurisdiction (*Nurturing Our Community*.2)
- Protect neighborhoods from the impact of development such as stormwater runoff, light and noise pollution, and traffic (*Nurturing Our Community*.8)

NOW, THEREFORE, BE IT ORDAINED by the Council of the Town of Chapel Hill that the Town Code of Ordinances, Appendix A. Land Use Management Ordinance shall be amended as follows:

Section 1. Article 5. DESIGN AND DEVELOPMENT STANDARDS, Section 5.4 Stormwater management, Subsection 5.4.6 General Performance Criteria for Stormwater Management is revised to read as follows:

"The following are required stormwater management performance criteria for new development and redevelopment that increases impervious surface:

(a) Stormwater quality treatment shall be designed to achieve ~~average annual~~ eighty-five percent (85%) ~~percent~~ average annual total suspended solids (TSS) removal ~~and must apply to the volume of post-development runoff resulting~~ for runoff generated from the first ~~one~~ inch of precipitation. Alternative treatment methods to achieve eighty-five (85) percent average annual TSS removal may be acceptable. ~~The eighty-five (85) percent requirement applies to eighty-five (85) percent of the additional suspended solids that are the result of the new development.~~

(b) The stormwater runoff volume leaving the site post-development shall not exceed the stormwater runoff volume leaving the site pre-development (existing conditions) for the local 2-year frequency, 24-hour duration storm event for all development except single-family and two-family dwellings on lots existing as of January 27, 2003, or on lots pursuant to a preliminary plat that was approved by the town council prior to January 27, 2003. This may be achieved by hydrologic abstraction, recycling and/or reuse, or any other accepted scientific method.

(c) The stormwater runoff rate leaving the site post-development shall not exceed the stormwater runoff rate leaving the site pre-development (existing conditions) for the local 1-year, 2-year, ~~and~~ 25-year, and 100-year 24-hour storm events.

(d) Land disturbance within the stream channel of any ephemeral stream shall be minimized, and prohibited unless explicitly authorized by issuance of a zoning compliance permit after demonstration of the necessity for the disturbance."

Section 2. This ordinance is effective upon adoption.

This the ____ day of _____, 2024.

RESOLUTION B
(Denying the Land Use Management Ordinance Text Amendment Proposal)

A RESOLUTION DENYING AMENDING THE CHAPEL HILL LAND USE MANAGEMENT ORDINANCE SUBSECTION 5.4.6 REGARDING GENERAL PERFORMANCE CRITERIA FOR STORMWATER MANAGEMENT. (2024-MM-DD/R-#)

WHEREAS, on January 24, 2024, the Council called a Legislative Hearing to amend Subsection 5.4.6 of the Land Use Management Ordinance (LUMO) as it relates to General Performance Criteria for Stormwater Management for the Council's March 20, 2024, meeting; and

WHEREAS, the Council has considered the proposed text amendments to LUMO 5.4.6 related to the general performance criteria for stormwater management, and finds that the amendments are not reasonable and in the public's interest and are not warranted to achieve the purposes of the Comprehensive Plan.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby denies the proposed Land Use Management text amendments.

This the ___ day of _____, 2024.

Stormwater Text Amendment Public Information Meeting

Evening Meeting Chat Transcript

February 13, 2024 6:00 PM

18:13:19 From Judy Johnson : LUMO Rewirt public meetings are scheduled for March 25, April 29, and May 20 6-7:30 at the libray

18:14:36 From Sammy Bauer : Can you hear us now?

18:18:49 From Sammy Bauer : Good evening. This chat box is used for quality of service and public comments. Your messages

are seen by the panelists. This chat is a public record.

18:18:56 From BJ Warshaw : Hello, everyone! In case it hasn't been noted, the link for this session is incorrect at https://www.townofchapelhill.org/government/departments-services/public-works/stormwater-management/construction-stormwater-regulations/proposed-lumo-amendments-stormwater-quality-and-peak-flow-rate-requirements

18:19:25 From BJ Warshaw : Replying to "Hello, everyone! In ..."

Found correct one at https://www.townofchapelhill.org/Home/Components/Calendar/Event/21626/15

18:20:03 From Sammy Bauer : Replying to "Hello, everyone! In ..."

Thank you for letting us know.

18:25:21 From Sammy Bauer : If you have questions or comments, you can raise your hand or use the chat.

18:31:03 From Sammy Bauer : https://www.townofchapelhill.org/government/departments-services/public-works/engineering/design-manual-and-standard-details

18:32:13 From Sammy Bauer : Share your feedback with Council by emailing mayorandcouncil@townofchapelhill.org

18:39:34 From BJ Warshaw : Clarification: Is that volume calculation for two years prior to the time of development breaking ground?

19:06:44 From Sammy Bauer : According to the 2023 Q3 report of the NOAA project, they expect to publish results in Q4 of 2025. I found the report here: https://www.pooledfund.org/Details/Study/702

19:07:12 From BJ Warshaw : Reacted to "According to the 202..." with 👍

19:18:11 From BJ Warshaw : Will this recording be available somewhere?

Stormwater Text Amendment Public Information Meeting

Afternoon Meeting Chat Transcript

February 13, 2024 12:30 PM

00:02:20 Zoom1 Webinar1: Good afternoon. This chat box is used for quality of service and public comments. Your messages

are seen by the panelists. This chat is a public record.

00:02:52 Zoom1 Webinar1: Can you all hear us?

00:07:12 Zoom1 Webinar1: The chat should be enabled now.

00:10:44 Zoom1 Webinar1: For specific details about the changes, go to this website: https://www.townofchapelhill.org/government/departments-services/public-works/stormwater-management/construction-stormwater-regulations/proposed-lumo-amendments-stormwater-quality-and-peak-flow-rate-requirements

00:11:04 Zoom1 Webinar1: The text is available here: https://www.townofchapelhill.org/home/showpublisheddocument/55210/638434229719855660

00:26:34 Zoom1 Webinar1: Engineering Design Manual: https://www.townofchapelhill.org/government/departments-services/public-works/engineering/design-manual-and-standard-details

00:29:22 Zoom1 Webinar1: To send feedback to Council, email mayorandcouncil@townofchapelhill.org

01:05:02 Cameron Rice: thank you all.

Ernest Odei-Larbi

From: Cameron Rice <crice@advancedcivildesign.com>
Sent: Monday, February 12, 2024 12:12 PM
To: Chris Roberts
Cc: Ernest Odei-Larbi; Sue Burke; Sammy Bauer; Shay Stevens; Holly Fraccaro; George Retschle; Bill Derks; Chuck Hill; Ramsden, Wendi; Dillon Smith; Royster, Preston; Phil Koch; Phil Post; Justin Brown; Christina Strauch
Subject: RE: Share your feedback on the draft amendments to the Chapel Hill Stormwater Ordinance

> **Caution external email:** Don't click links or attachments from unknown senders. To check or report click the Phish Alert Button

Chris,

In the past NCDEQ's 85% TSS removal was the standard. NCDEQ no longer uses this criterion. Their case studies have shown it not reflective of the actual field performance. According to the NCDEQ most SCMs do not remove 85% of TSS, especially at lower concentrations of TSS in the influent.

Per 15A NCAC 02H .1002 (37) "Primary SCMs" include bioretention cell, infiltration system, permeable pavement, wet pond, stormwater wetland, sand filter, rainwater harvesting, or an approved new stormwater technology that is designed, constructed, and maintained in accordance with the minimum design criteria.

If Town Council approves adding the 100-yr/24-hr storm event to the required runoff rate it will limit which SCM(s) can be used. Wet ponds will likely be the only choice. I don't believe most soils in Orange County work well for infiltration of large drainage areas.

Table 3: Potential Siting Constraints for SCMs

SCM	Size of Drainage Area	Space Needed	[illegible] Allowed	Works with [illegible] Slopes	Works with [illegible] Table	Works with [illegible] Bedrock	Works with High Sediment Input	Works in Poorly Drained Soils
Bioretention without Underdrain	S	L	Low	Y	N	N	N	N
Bioretention with Underdrain	S	L	Low	Y	N	N	N	Y
Stormwater Wetland	S-L	L	Low	N	Y	N	Y	Y
Wet Pond	M-L	M-L	High	N	Y	N	Y	Y
Sand Filter	S	S	Medium	Y	N	N	N	Y
Permeable Pavement	S-M	N/A	Low	N	N	N	N	Y
Infiltration Device	S-L	S-L	High	N	N	N	N	N

I reviewed the hydraulic calculations for an Advanced Civil Design project titled Chandler Woods, a single-family subdivision off Homestead Road. This project has two wet ponds and one bio-retention. When evaluating the 25-yr and 100-yr/24-hr storm events the post development peak runoff rate without a SCM increased by 37%. The post development runoff volume without a SCM increased by 38%. To account for this increase in both run-off rate and volume wet ponds will need to increase in area and depth.

According to the USGS the 100-yr storm event is used to define limits of floodplains. The 100-yr storm event statistically has a 1% chance of occurring in any given year. The effects of development on peak flows are generally much greater for low-recurrence interval floods than for high-recurrence interval floods, such as 25- 50- or 100-year floods. I's unaware of how much floodplain is currently located within the Town limits and if this amendment is the best solution the Town's problem.

Thanks,
Cameron M. Rice, P.E.
Senior Project Manager

Advanced Civil Design, Inc.
Engineers and Surveyors
51 Kilmayne Drive, Suite 102
Cary, NC 27511
main: 919.481.6290 (ext 241)
direct: 919.535.4056
cell: 919.780.8005
crice@advancedcivildesign.com
www.advancedcivildesign.com

From: Chris Roberts <croberts@townofchapelhill.org>
Sent: Tuesday, February 6, 2024 4:29 PM
To: Holly Fraccaro <holly@hbadoc.com>; Phil Post <philip.n.post@gmail.com>; George Retschle <GeorgeR@ballentineassociates.com>; Bill Derks <Derks@mcadamsco.com>; Chuck Hill <hill.chuck@tandh.com>; Ramsden, Wendi <ramsden.w@tandh.com>; Cameron Rice <crice@advancedcivildesign.com>; Dillon Smith <dillons@ballentineassociates.com>; Royster, Preston <royster.p@tandh.com>; Tony Whitaker tony.whitaker@civil-consultants.com; Ernest Dodson ernie.equinox@gmail.com; John Harris johnharris@harriseng.net; Phil Koch <Phil.Koch@EarthCentric.com>; Gleason, Sean gleason@mcadamsco.com <Gleason>; Sean gleason@mcadamsco.com; Justin Brown <JBrown@trinsicres.com>; Ethan Mindrebo EMindrebo@Pennoni.com; Timmons Group info@timmons.com; BOHLER Engineering NC@BohlerEngin.com; Will Swaringen wswaringen@bohlereng.com
Cc: Ernest Odei-Larbi <eodei-larbi@townofchapelhill.org>; Sue Burke <sburke@townofchapelhill.org>; Sammy Bauer <sbauer@townofchapelhill.org>; Shay Stevens <sstevens@townofchapelhill.org>; Christina Strauch <cstrauch@townofchapelhill.org>
Subject: Share your feedback on the draft amendments to the Chapel Hill Stormwater Ordinance

Good afternoon,

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Please see the below for information about the amendment, the comment opportunities, and a timeline. This is a public meeting so please feel free to forward this invite.

The proposed text amendment LUMO Section 5.4.6 Stormwater Management will

- Address the peak flow rate requirements and
- Clarify the Total Suspended Solids (TSS) water quality requirements.

Share your feedback with Council by April 24, 2024 by:

- **Joining the hybrid public information meetings** on February 13 at the Town Public Library or vitually:
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- **Sharing your feedback** during the Town Council's public hearing on March 20 and the regular meeting on April 24.

To learn more about the text amendment, see the Town website.

Sincerely,
Chris R

Chris Roberts, PE | Manager of Engineering and Infrastructure | Town of Chapel Hill
Public Works Department | 6850 Millhouse Rd. | Chapel Hill, NC 27516
(o) 919-969-5091 | (m) 919-624-8984 | (f) 919-969-2003 | Email: croberts@townofchapelhill.org

Sue Burke

From: Ernest Odei-Larbi
Sent: Thursday, February 8, 2024 8:55 AM
To: Phil Post; Chris Roberts
Cc: Holly Fraccaro; George Retschle; Bill Derks; Chuck Hill; Ramsden, Wendi; Cameron Rice; Dillon Smith; Royster, Preston; Phil Koch; Justin Brown; Sue Burke; Sammy Bauer; Shay Stevens; Christina Strauch; Eric Chupp
Subject: RE: Share your feedback on the draft amendments to the Chapel Hill Stormwater Ordinance

Phil,

Page 5 of Chapter C-2 of the design manual allow up to 18 inches above the planting surface for peak attenuation volume.

Ernest Odei-Larbi, PE, CFM | Senior Engineer | Stormwater Management Division |
Public Works Department | 208N. Columbia St. | Chapel Hill, NC 27514
Phone: 919-968-2717| Fax: 919-968-7276

From: Phil Post <philip.n.post@gmail.com>
Sent: Wednesday, February 7, 2024 4:23 PM
To: Chris Roberts <croberts@townofchapelhill.org>
Cc: Holly Fraccaro <holly@hbadoc.com>; George Retschle <GeorgeR@ballentineassociates.com>; Bill Derks <Derks@mcadamsco.com>; Chuck Hill <hill.chuck@tandh.com>; Ramsden, Wendi <ramsden.w@tandh.com>; Cameron Rice <crice@advancedcivildesign.com>; Dillon Smith <dillons@ballentineassociates.com>; Royster, Preston <royster.p@tandh.com>; Phil Koch <Phil.Koch@earthcentric.com>; Justin Brown <JBrown@trinsicres.com>; Ernest Odei-Larbi <eodei-larbi@townofchapelhill.org>; Sue Burke <sburke@townofchapelhill.org>; Sammy Bauer <sbauer@townofchapelhill.org>; Shay Stevens <sstevens@townofchapelhill.org>; Christina Strauch <cstrauch@townofchapelhill.org>; Eric Chupp <ericbchupp@bellsouth.net>
Subject: Re: Share your feedback on the draft amendments to the Chapel Hill Stormwater Ordinance

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Chris,
By my rough back of envelope calculation is this change might increase storage by 25%.
It will probably result in more wet ponds or wetland solutions, which are fine for larger projects which can be excavated to get volume.
I worry about smaller, infill projects that typically use bioretention and I worry about the increase in footprint size for a bio solution on a small project.

Can we figure out a way to credit LID solutions on a smaller project? For instance if an increase in impervious has been substantially reduced by demolishing existing impervious, or if we propose green top paving or if we propose a reduction in standard impervious dimensions to reduce runoff?? Roadside ditches? Etc Etc, or any other clever LID solution?

I know these ideas do not need to be in LUMO, but can we add a paragraph to the Design Manual that will allow creative, leading edge LID solutions for a small project? Maybe even an exemption amount for

small projects, where anything below 750 sf of added impervious can be approved if it does not increase the 100 yr rate more than say 5%??? or a similar cfs threshold??

Or can we store more than 12 inches in a Bio on a small infill project???

Phil

On Tue, Feb 6, 2024 at 4:29 PM Chris Roberts <croberts@townofchapelhill.org> wrote:

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--

Philip N. Post , PE, PLS
Phone / Text (919) 818-7862

Sue Burke

From: Ernest Odei-Larbi
Sent: Thursday, February 8, 2024 9:07 AM
To: ericbchupp; Chris Roberts; Phil Post
Cc: Holly Fraccaro; George Retschle; Bill Derks; Chuck Hill; Ramsden, Wendi; Cameron Rice; Dillon Smith; Royster, Preston; Phil Koch; Justin Brown; Sue Burke; Sammy Bauer; Shay Stevens; Christina Strauch
Subject: RE: Share your feedback on the draft amendments to the Chapel Hill Stormwater Ordinance

Eric,

The previous design manual required design engineers to check for 100-year peak discharge elevation for detention/retention/infiltration facilities. This amendment is just adding 100-year -24 hour storm event to the stormwater runoff rate analysis in LUMO.

Ernest Odei-Larbi, PE, CFM | Senior Engineer | Stormwater Management Division |
Public Works Department | 208N. Columbia St. | Chapel Hill, NC 27514
Phone: 919-968-2717| Fax: 919-968-7276

From: ericbchupp <ericbchupp@bellsouth.net>
Sent: Wednesday, February 7, 2024 5:06 PM
To: Chris Roberts <croberts@townofchapelhill.org>; Phil Post <philip.n.post@gmail.com>
Cc: Holly Fraccaro <holly@hbadoc.com>; George Retschle <georger@ballentineassociates.com>; Bill Derks <derks@mcadamsco.com>; Chuck Hill <hill.chuck@tandh.com>; Ramsden, Wendi <ramsden.w@tandh.com>; Cameron Rice <crice@advancedcivildesign.com>; Dillon Smith <dillons@ballentineassociates.com>; Royster, Preston <royster.p@tandh.com>; Phil Koch <phil.koch@earthcentric.com>; Justin Brown <jbrown@trinsicres.com>; Ernest Odei-Larbi <eodei-larbi@townofchapelhill.org>; Sue Burke <sburke@townofchapelhill.org>; Sammy Bauer <sbauer@townofchapelhill.org>; Shay Stevens <sstevens@townofchapelhill.org>; Christina Strauch <cstrauch@townofchapelhill.org>
Subject: Re: Share your feedback on the draft amendments to the Chapel Hill Stormwater Ordinance

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Dear Earnest,

Did anyone in Storm Water conduct a cost benefit analysis on the proposed amendments? For example, looking at the additional land that would be needed for the larger ponds and what that would add to the cost of housing in comparison to the incremental increase in water quality or flow rate? It seems to me that in a time when the affordability of homes has become a national crisis, with home ownership being out of reach for those who work in or around Chapel Hill, the cost of the additional regulations should be analyzed against real water quality metrics. Chapel Hill already has some of the toughest storm water regulations in the State of North Carolina, and the widest stream buffer of any jurisdiction that I am aware of. When looking at the width of stream buffers all the research that I have seen is in agreement that the first 100' of stream buffer yields the vast majority of improvements in water quality. The benefits from the last 25' of a 150' buffer are negligible. Do we regulate water quality to the point where nothing can be built? I think we are almost there in Chapel Hill. Has any cost benefit analysis been done?

Best Regards, Eric Chupp

Director of Development
Capkov Ventures Inc.
(919) 260-7262

On Wednesday, February 7, 2024 at 04:24:09 PM EST, Phil Post <philip.n.post@gmail.com> wrote:

Chris,
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--
Philip N. Post , PE, PLS
Phone / Text (919) 818-7862

Sue Burke

From: Chris Roberts
Sent: Wednesday, November 15, 2023 9:26 AM
To: Ernest Odei-Larbi; Sue Burke; Zachary Strickland; Joao Pereira; Robert Gehris; Jay Paskins
Cc: Allison Weakley
Subject: FW: 100-year Detention

From: George Retschle <GeorgeR@ballentineassociates.com>
Sent: Monday, June 6, 2022 3:57 PM
To: Chris Roberts <croberts@townofchapelhill.org>
Cc: Judy Johnson <jjohnson@townofchapelhill.org>
Subject: 100-year Detention

External email: Don't click links or attachments from unknown senders. To check or report forward to reportspam@townofchapelhill.org

Chris,

I took a look at the Weavers Grove SCM #8 (wetland) and found that increasing the detention from 25-year to 100-year resulted in the following from the 4.85 acre drainage area:

- Required detention storage increased by 3,209 cubic feet
    - At $15/cu ft estimated cost for stormwater wetland construction, this totals just over $48,000.
- Increase retaining wall height by 8" x 410 lf = 275 sf to accommodate additional pond volume. At $20/sf, this totals approximately $5,500.

There wasn't a significant increase in the footprint of the SCM because there was already no room to expand it. We provided the additional volume by increasing the retaining wall height inside the pond.

This "upgrade" cost Habitat well over $50k.

It must be noted that on projects where underground stormwater facilities are necessary, the cost of going from 25-year detention to 100-year detention will be much higher. In the case above, the increase was roughly $10,000 per treated acre ($50k over 4.85 acres of post-dev DA). With a precast underground system it would be somewhere on the order of double that, or $20,000/treated acre.

For the record, I am against requiring all projects to provide 100-year peak flow attenuation across the boards. I do believe there are times when it is warranted, though, but it should be required only when there is objective evidence provided by a competent professional with stormwater expertise demonstrating that it is needed.

I hope this helps.

Regards,

George J. Retschle, PE*
President
Ballentine Associates, PA *Since 1979*
221 Providence Road | Chapel Hill, NC 27514
O: 919.929.0481 D: 984.884.4625 M: 919.796.1131
georger@ballentineassociates.com | ballentineassociates.com
* NC, VA

Please note new email address and update your records