

ATTACHMENT 4**SUMMARY OF PLANNING BOARD ACTION**

Subject: Aydan Court - Application for Special Use Permit

Meeting Date: September 2, 2008

Recommendation: That the Council deny the Resolution of approval for a Special Use Permit:

The Board voted unanimously (8-0) to recommend that Council deny the Aydan Court Special Use Permit application for the following reasons:

- The application does not meet the goals on the Comprehensive Plan:
 - The application proposes residential development on a site designated on the Land Use Plan (a component of the Comprehensive Plan) as Open Space.
 - The application proposes to disturb more than 25% of the slopes on the site that are 25% or greater, contrary to the Land Use Management Ordinance regulations (the applicant requested a Modification to Regulations for Steep Slope regulations).
 - The proposal does not meet the current zoning district, Residential-1 (R-1) and the board recommended denial of the accompanying rezoning request to the Residential-Special Standards-Conditional (R-SS-C) zoning district.
- The Board also voted to append a detailed list of concerns from one of the Planning Board members, Judy Weseman.

Vote: 8-0

Ayes: George Cianciolo (Chair), Michael Collins (Vice-Chair), John Ager, Michael Gerhardt, Andrea Rohrbacher, Del Snow, James Stroud, and Judith Weseman

Nay: None

Prepared by: George Cianciolo, Chair
Phil Mason, Staff

Ayden Court Special Use Permit and Rezoning Request
Chapel Hill Planning Board Meeting
September 2, 2008

My major concerns about Ayden Court are summarized below.

1. The Comprehensive Plan shows open space as the recommended land use for this property. Hence, I do not agree with the applicant's position that the project conforms to the Comprehensive Plan since open space would be replaced with housing.
2. The project is located immediately adjacent to the Army Corps of Engineers Jordan Lake Watershed Property. This property is a significant waterfowl habitat. Changes in the use of the adjacent property will increase the volume of stormwater entering this property and will also increase the stormwater pollutant load entering the property. Impacts on waterfowl are foreseeable.
3. The applicant maintains they will conserve and protect the natural setting of Chapel Hill and elaborates this point by stating that the adjacent land, also called the Upper Little Creek Waterfowl Impoundment Area, will be protected by a combination of factors including the high stormwater standards adopted by the Town. I disagree that they will meet this requirement. Although the Town has adopted state recommended stormwater standards, those standards do not require that post-construction stormwater water quality and quantity be equal or better than pre-construction standards.

Instead, the standards require that pre- and post-construction stormwater runoff for a two year storm be unchanged. However, for a more significant rainfall (somewhat more than two inches over a defined time interval), new developments such as Ayden Court must just design to contain stormwater flow to protect the public safety, not to avoid downstream increases in water quantity. So for a five year storm (i.e., a larger amount of rainfall that typically falls every five years), the waterfowl impoundment will see increased flow. There is philosophical debate in the scientific community that these five, 25, and 100 year heavy rainfalls are occurring at shorter intervals than their named frequency meaning that, if anything, the number of severe storms impacting the waterfowl impoundment may be increasing.

Water quality will also be changed. Right now, Chapel Hill only requires that a relatively high percentage (85%) of sediment be removed prior to discharge of stormwater. Still, not all sediment is removed. This will cause the nearby waterfowl impoundment to slowly fill with sediment over time. In manmade stormwater detention ponds, maintenance including periodic removal of sediment is required. In the case of Ayden Court, they are not required to clean outside their property limits.

Chapel Hill presently doesn't require that other common pollutants found in stormwater such as nitrogen and phosphorus be removed. The construction of Ayden Court will likely increase nitrogen and phosphorus in stormwater compared with current conditions since these are the two

active ingredients in fertilizer. Fertilizer would be expected to be used on the landscaped areas where now it is not.

Jordan Lake has been identified as a nutrient sensitive lake with the worst area that at the New Hope Creek discharge area. Ayden Court will drain into the waterfowl impoundment which drains into New Hope Creek. The nitrogen and phosphorus can cause increased algae and algal blooms in the waterfowl impoundment and exacerbate algae and other related problems in Jordan Lake. The algal plant cycle also lowers dissolved oxygen which adversely affects fish populations.

Ayden Court petitioners state that they plan to capture stormwater for irrigation reuse. Although water reuse is encouraged and will potentially lessen the nitrogen and phosphorus discharge into the adjacent waterfowl impoundment, the simple math of stormwater capture and reuse shows that 100% recycle does not occur. In addition, once the stormwater storage areas fill, additional stormwater will flow through the system into the impoundment. This is particularly significant during months in which irrigation isn't applied (winter months) or during times of sufficient rain when irrigation isn't needed.

In summary, I am opposed to making an exception to the comprehensive plan by allowing an exception to the land use plan because this project has not shown any compelling reason why such an exception should be made. Further, the project represents a significant potential of harm to the adjacent preserved area and wildlife habitat because of increased pollution loads including sediment, nitrogen and phosphorus.

Judy Weseman
Planning Board Member

SUMMARY OF TRANSPORTATION BOARD ACTION

Subject: Aydan Court, Application for Special Use Permit

Meeting Date: September 11, 2008

Recommendation: That the Council adopt Revised Resolution A.

Vote: 6-0

Ayes: Rudy Juliano, Matt Scheer, Mirta Mihovilovic, Nicolas Montgomery, Carol Hazard, Adrian Randall

Nays: None

Prepared by: Rudy Juliano, Chair, Transportation Board
David Bonk, Manager Transportation and Long Range Planning

**SUMMARY OF
COMMUNITY DESIGN COMMISSION ACTION**

Subject: Aydan Court Special Use Permit Application

Meeting Date: April 16, 2008

Recommendations: That the Council adopt Resolution A included as Attachment 3 to the April 15, 2008 Staff Report, with the revisions submitted by applicant at the meeting as indicated below:

- Extend Construction Start and Completion Deadlines to 3 and 7 Years Respectively.
- Provide Minimum of 10 Bicycle Parking Spaces and Maximum of 39 Bicycle Parking Spaces.
- Do Not Consider Use of Sustainable Energy, Carbon Offsets, or 20% More Efficiency.
- Include Limitations in Covenants Regarding Use of Solar Collection Devices, Including Clothelines.

Vote: 6 - 0

Ayes: Mark Broadwell, Chris Culbreth, Kathryn James, Glenn Parks, Amy Ryan, and Jonathan Whitney.

Discussion:

- That exiting the development onto Hwy 54 will be difficult until a stub-out to the west is completed providing a second entrance/exit to the site.
- That hunting and use of fire arms on the adjacent Army Corps land is worrisome.

Jonathan Whitney, Chair
Kay Pearlstein, Staff

**SUMMARY OF BICYCLE AND PEDESTRIAN
ADVISORY BOARD ACTION**

Subject: Aydan Court 2100 NC-54 - Application for Special Use Permit

Meeting Date: April 22, 2008

Recommendation: That the Council adopt Resolution A included as Attachment 3 in the April 15, 2008 Staff Report.

Vote: 5-1, 1 Abstained

Ayes: Brian Decker, Kate Millard, Jed Dube, Ray Magyar, Doug MacLean.

Nays: Linda Gaines

Abstained: Tabitha Combs

Comments: Concerns were related to environmental impact of the project - steep slopes, waterways, resource conservation district.

The applicants plan to extended the off-road bike way past their project's frontage in order to connect with the existing bicycle/pedestrian infrastructure was viewed favorable by the Board and should be encouraged of all applicants when relevant.

Prepared by: Brian Decker, Vice-Chair, Bicycle and Pedestrian Advisory Board (for Perri Morgan, Chair)
David Bonk, Long Range and Transportation Planning Coordinator

MEMORANDUM

TO: Mayor and Town Council

FROM: Terry Blalock, Chair,
Parks and Recreation Commission

SUBJECT: Development Application: Aydan Court

DATE: April 16, 2008

The Commission voted unanimously (9-0) to recommend that the Council adopt Resolution A.

The Commission agreed that the extension of the 10 foot wide multi-purpose path along the north side of NC 54 was a good way for this applicant to meet the project's recreation space requirement.

MEMORANDUM

TO: Mayor and Town Council

FROM: Greenways Commission
Glenn Parks, Chair

SUBJECT: Development Application: Aydan Court

DATE: September 24, 2008

The Commission reviewed the September 2, 2008 memorandum from the Planning Director to the Planning Board and voted unanimously (5-0) to recommend that the Council include items #46 and #47 from Resolution A in any approval for the project. These items concern the proposed greenway trail along NC 54, a component of the Town's Greenways Master Plan.

Commission members voting yes were: Glenn Parks (Chair), Jim Earnhardt (Vice Chair) Christine Berndt, Mary Ann Freedman, and Reed Huegerich. Absent: Mary Blake and Gary Galloway

A quorum was present.

The Commission also agreed to forward the following individual comments from Commission member Berndt addressing broader environmental issues related to the preservation of significant natural areas:

The memorandum included information that the project site is identified as part of the Little Creek Bottomlands on the Durham County Inventory of Natural Areas as an area to be protected due to rare species and desirability of preserving the upland buffers.

The information provided also stated that the U.S. Army Corps of Engineers routinely asks for a 100 foot buffer for sites adjacent to its land.

The Council could consider adding a stipulation that would specifically address the permanent preservation of the trees in the RCD along the site's frontage with N.C. 54 to meet the Town's entranceway protection goals.