

February 9, 2009

Mayor Foy and Town Council Members
Town of Chapel Hill
405 MLK Jr. Blvd.
Chapel Hill, NC 27514

Dear Mayor and Council:

Tonight we are here for the continuation of the Aydan Court public hearing.

History

On October 20, the Aydan Court Public Hearing was continued so that we and Staff could better address your concerns regarding stormwater for Aydan Court. You provided 22 questions to be answered by staff, with our assistance on some issues, in order to compare an R-1 single family development and the medium density Aydan Court.

We returned to you on December 8th, two weeks after you deleted "neighborhood centers" from the wording of the amended R-SS-C zoning district. This was the zoning district which Aydan Court was told to use, that and no other. You stated you would make decisions about the use of R-SS-C neighborhood centers on a case-by-case basis. You re-affirmed your interest in receiving the comparisons requested in October in order to understand what was preferable: Aydan Court or single family.

And so we have returned to you, two months later.

This month marks the start of the third year since our application for Aydan Court was first submitted to the Town of Chapel Hill. It has been a long and sometimes an arduous process. From the beginning, I was committed to the important energy and sustainability goals that you, Council, had established for me and other developers, and I was committed to creating the very best and most attractive townhome and condo flat environment possible. In May of 2007 you provided favorable comments on the project at the Concept Plan Review and encouraged me to move ahead. In our process together, you, Council, have challenged me to go beyond my goals and the LUMO standards, and I am happy to show you the results of your challenge.

Benefits to Town - Aydan vs. Single Family

As part of our re-zoning and SUP process, Aydan Court offers to the Town of Chapel Hill a number of attractive benefits:

1. Extension of the Highway 54 bike and pedestrian path from Meadowmont to the entry to the Waterfowl Impoundment, a distance of 2040 feet.
2. With DOT and Town of Chapel Hill, coordination of valuable improvements to Highway 54, required by Aydan Court but aiding Highway 54 motorists and residents of Downing Creek and Sherwood Forest.
3. A \$17,000 payment in lieu for transit
4. On-site affordable housing and an affordable payment-in-lieu
5. A \$20,000 contribution to public art (here is our public art proposal, missing due to lack of time last week with staff)
6. Energy & sustainability exceeding 20% of NC ASHRAE
7. Connectivity to Meadowmont through the future development of the adjacent UNC at Chapel Hill Foundation property

None of these benefits, except for the stub-out to the west, will accrue to the Town and its citizens if the property is developed within its current R-1 single-family zoning.

And with an estimated real estate value of over 30 million dollars, Aydan Court will offer more than twice the amount of property tax revenue of a single family development.

Single Family Plans Requested

Among your October questions, you requested that we provide layouts showing single family R-1 options. As we did previously for staff, we have provided for you tonight a traditional SF plan, a cluster SF plan and a Planned Development option single-family plan. Each uses the same entry to the site and connects to the UNC Foundation property. The conventional 10-lot subdivision plan is the most straightforward approach to an R-1 approval process.

As you can see, in each layout the roadway and homes will disturb the same slopes as Aydan Court. In each layout the intermittent stream disturbance is the same. Large homes will use up to 50% impervious surface, more than Aydan Court's 31%. These single family layouts are a step backwards into more sprawl, not forward with compact growth that sustains business and transit.

Stormwater - Biggest Difference

The most remarkable difference between an R-1 single family development and medium density Aydan Court is our innovative stormwater management proposal, which will go further to protect the Impoundment than any R-1 subdivision could possibly do. In response to your prompting, Council, and concerns expressed by some area citizens who treasure the Impoundment as a valuable resource, Aydan Court will become a stormwater leader with one of the most innovative stormwater plans in USA medium density residential development. Council, you asked us to look for more solutions, and we have gone to extremes to do everything reasonable to protect the adjacent Waterfowl Impoundment.

At this time, I would like walk thru our site plan with you and detail what we propose to do and the resulting effects. Civil engineer Warren Mitchell is available for your technical questions.

First of all, we are proposing an innovative rainwater harvesting program. Rainwater from the condo building roof, approximately 16% of the impervious surface at Aydan Court, will be recycled and used to flush the toilets in the 37 condo units plus fitness area. A large storage tank will reside under the level of the garage, and of course we will have a backup mechanism to switch to OWASA water in the rare instances where needed. This excellent idea came directly from Sue Burke, our own stormwater expert. This effectively reduces the amount of impervious surface from 47% to about 31% of the site. Rainwater harvesting techniques are used from time to time in commercial buildings in the USA, but rarely - rarely- in residential structures, particularly with only 37 units. I hope that future developers of medium density housing in Chapel Hill will consider rainwater harvesting for their needs and that Aydan Court will be a model for and leader in this type of stormwater reduction.

Irrigation. Our rainwater-supplied underground irrigation tank, which picks up rainwater from the roofs of the townhomes and internal courtyard, will provide irrigation needs for our native landscape plantings.

Innovations to our stormwater system include what is termed a "treatment train" due to the redundant sequential nature of the stormwater treatment process. The first flush of rainwater filters initially through a bio-retention basin and then into the second water quality structure, the hydrodynamic separator. And finally stormwater goes into a storage tank after which it gradually leaves the site.

This sequential process provides for additional cleaning of the stormwater, and it increases the time it takes for the water to move through the site. By slowing down the travel time, the water quality structures will work better and the peak

flow discharge will be reduced. In other words, the water quality is improved and the water quantity is decreased.

The State of NC recognizes that with the use of 2 basins in tandem, each designed for 85% total suspended solids, as we have, the water quality of any run-off increases to 97.5%.

The first flush of rainwater is always the dirtiest, because it contains a wide variety of pollutants, such as solids from parking lots and roofs, grease and oil, heavy metals, unwanted nitrogen and phosphorous. Bio-retention is an efficient method for removing these pollutants.

We are using 3 different types of bio-retention basins that all provide the same water quality benefits. We selected the different types of basins depending on the specific conditions at each location. Some of our quality basins will be urban style basins, modeled after the Portland Oregon "Green Street" type of basin. Other basins will be installed inside parking lot islands, as have been previously used on many projects in town. The third type of bio-retention basin will use a gabion wall to support the basin on a slope. All three basins will be filled with sandy loam, planted with grasses, shrubs, trees.

The surface of all bio-retention facilities is depressed to allow for ponding of runoff that filters through engineered soil mix. Water filters through the bio-retention area into the surrounding soil, flows out both through an underdrain, and through the plant uptake. Bio-retention can also be effective in reducing peak runoff rates, reducing runoff volumes, and restoring groundwater.

The stormwater design for Aydan Court includes a water quality structure - a concrete cylindrically-shaped hydrodynamic separator tank , which will provide the second level of treatment after it has received the bio-retention pre-treatment. This facility is designed to remove 85% of total suspended solids from the volume of post-development runoff resulting from the first 1-inch of precipitation.

In the Vortsentry, water enters and moves in a circular motion. This circular motion is engineered to force sediment and other solids to settle out. Anything that can float will float to top and debris is captured in that way as well.

After the hydrodynamic separator tank, the water moves thru underground piping to a nearby infiltration / storage tank. This underground tank will store the volume of water and slowly release it at a fraction of one cubic foot per second -- or in other words a trickle. Any particles that make it past the other water quality measures will have a chance to settle out in this tank because our

slow rate of release means that the tank will take several days to drain completely. This tank is constructed with hundreds of baffles which will increase the time that the stormwater takes from inlet to outlet and encourage any particles to settle out in the tank. The quality of this final trickle of water should be nearly equal to that of drinking water.

Combined, the Aydan Court stormwater system elements keep 97.5% of total suspended solids on site. More importantly for the impoundment and the waterfowl, the Aydan Court plan will provide detention for the 100 year storm – not the 25 year storm that is the town's design standard. Sue Burke has reviewed our stormwater proposals, and I believe she is here tonight to answer your questions.

We have been tracking recent information on the Jordan Lake rules, and we are confident that we more than meet their anticipated requirements.

The Impoundment

Despite this remarkable stormwater management system designed to protect the Impoundment, Council, I expect that tonight, as at each of our past public meetings, Aydan Court opponents will again rise to their feet and urge you to deny this project in order to protect the Impoundment. I respect that our system of government gives us all a chance to speak. But what concerns me, Council, is that they have not examined our stormwater management program. The theme of their words dates back to the Planning Board meeting of September 2008, whereas our stormwater management plan has been continually updated thru early January of this year. At least one of the opponents, with whom I have corresponded and is probably in this room tonight, still believes that if Aydan Court is rejected the land will remain undeveloped. My offer to meet with them, to explain in detail what we are doing and how it actually HELPS the Impoundment, was met with silence or dismissal. If they speak against the project again without examining what we are doing, then I would have to say their words are discredited by their lack of information. Aydan Court is a model, a leader for environmentally respectful development. Thirteen thousand other acres in Chapel Hill and Carrboro drain into the Impoundment. I hope that Aydan Court will lead the way with future stormwater management systems for developments in the watershed to protect the Impoundment:

Breach of Trust in Staff Review Process by Planning Director

While talking about our system of government, I must ask you: what has happened to our process, to the process you initiated on October 20th when you gave Staff twenty-two questions so you could sort out whether Aydan Court

medium density as proposed is better - or worse - for the Impoundment and for our community than Aydan Court large lot single-family. You wanted to sort out these questions to help you understand pros and cons of each zoning district, and yet, as far as I know, you do not have those answers from staff tonight, and here we are talking about zoning.

In early November, we did our homework in replying to the part of the questions that were assigned to us by Staff.

On December 8th, when I came here to plead for the survival of Aydan Court, I did so after having been told by the Planning Director that my project was "premature" and dead, that no further work would be done by Staff on the project due to the removal of the words "neighborhood center" from the R-SS-C amended zoning district. It seems that the Planning Director is still in the same place, even though on December 8th Council advised us to move ahead. You were told on December 8th that you would have the answers to the 22 questions. But with the package you received last Thursday, that information was missing, as well as other critical information that we had supplied.

R-SS-C and Meadowmont Businesses

Removing the applicability of the R-SS-C to neighborhood centers on November 24th was not only a blow to Aydan Court, but also to the neighborhood centers and their needs. What about the struggling business owners in Meadowmont? How many more vacancies do we need to see, especially in these difficult economic times, before our local government shows concern and support for non-downtown small business in Chapel Hill? Aydan Court is clearly an adjunct neighborhood to Meadowmont. There is no doubt in my mind that the 58 residences in Aydan Court will look to Meadowmont as their shopping, banking, dining, exercise haven. Meadowmont businesses have been totally unaware of the R-SS-C district and the neighborhood center language which was removed on November 24th. They have begun to speak up, as you have seen, and I suspect that they will continue to speak more about their needs and what they expect from Council.

The Process

One additional document, which also was not provided to Council, is this letter of January 26 to Mayor Foy from Bruce Runberg of UNC concerning hunting buffers. Here it is.

I have been trying to understand how it could be that Council does not have the comparisons it requested. How could this be? On Thursday early afternoon of

last week we were advised by Phil Mason: "The staff will not be presenting anything related to the Council's list of questions from October as related to the SUP application. The focus will be action on the rezoning application." As we understood it, Council's request for the October questions was clearly a preamble to a decision about the re-zoning. And why did staff not tell us early on that this was their decision, even as we labored and spends thousand of dollars to provide answers to questions that they did not intend to present to you.

Why has the Aydan Court approval process been continually prolonged and shall I say derailed, so that you are unable to see in a public forum specifically why this exemplary development is so much better than the alternative. More and more people in our community are becoming aware of the unnecessary roadblocks that are being presented, both to you and to Aydan Court, and they are also asking about "transparency in government" - the words of our new president - where is it in Chapel Hill? This breach of trust by the town staff, who last Thursday recommended denial of Aydan Court re-zoning, who did not give you answers to your 22 questions dating back to October 20th, who did not provide the single family layouts that we created at your request, who ignored our carefully written justification for restoring "neighborhood centers" to the amended R-SS-C district, who did not pass on to you reports by stormwater and other personnel, who did not provide to you the erosion control plan requested by Jim Ward and which has been reviewed by Sue Burke and Orange County Erosion Control, who have prevented you from knowing that a single family subdivision disturbs the same steep slopes and intermittent stream as the proposed Aydan Court, and whose pre-Public Hearing document to you of last Thursday, by not including any of our report or theirs on matters relating to the SUP, further prolongs the Aydan Court process - at great cost to the Town and to the developer - this breach of trust is unconscionable. I believe these actions by Staff, at a minimum, absolutely require that the Council take action to state that all information submitted to the staff for transmission to the Council shall be provided without prejudice and in a timely manner.

Council, what do you see as our next steps? What can we do and what can you do to move expeditiously ahead so that the essential and ultimate questions of this process - is Aydan Court better than a single family development -- can be answered without further delay

Thank you.

Carol Ann Zinn