

December 30, 2002

Planning Board
Planning Department
Town of Chapel Hill
306 N. Columbia Street
Chapel Hill, NC 27516

Re: Creekside Subdivision
Response to December 3, 2002 Board meeting

Dear Town of Chapel Hill Planning Board and Staff:

We are writing to respond to questions raised at the December 3, 2002 Planning Board meeting regarding the Planning Board review of the Creekside Subdivision. The Board's recommendation on the project was postponed until the January 07, 2003 Planning Board meeting in order for the applicant to respond to questions raised by the Board. Eleven items were raised by the Board and are listed on page 14 of the meeting minutes. Some items were not questions, but merely stated recommendations held by the board. All items have been addressed by the applicant:

1. How might this plan look different under the Land Use Management Ordinance?

It is probable that this project will not be approved for preliminary plat by the Town Council until after the Land Use Management Ordinance (LUMO). For this reason, the Town Planning Staff and Planning Board have requested that the applicant make revisions to the plan that illustrate the plan can comply with the new LUMO as presented in the 4th draft. Two elements of the new LUMO were presented graphically by the applicant at the December 03 Planning Board meeting. The first item presented showed the increase of the RCD along Morgan Creek from 100 feet to 150 feet. The second item that was presented graphically was a representation of all land on the property with slopes of 25% grade or steeper. Both items were represented on one drawing. Several of the discussion items will affect the existing plan, but will not change the lot configuration. These items include the RCD, and the required 20' buffer on lot 1 and 2. A plan showing the new RCD determination will be produced.

2. The Planning Board made a request of Town staff to visit the property and make another determination of the existing Resource Conservation District boundary. The request was for the determination of any perennial and intermittent RCD boundary affecting the property. The property was evaluated by the Engineering Department staff in 1997 and it was determined then that only an RCD existed along Morgan Creek. The small creeks that border the property were determined not to be perennial at that time. We designed the subdivision based on that RCD determination.

Town staff visited the property shortly after the December 03 Planning Board meeting to evaluate the creeks and tributaries on the property and make another determination of the perennial stream RCD boundaries affecting the property. The intermittent stream determination could not be performed. The staff and applicant believe some sections of the existing creeks will be determined to be intermittent. The determination cannot be made until after the Planning Board meeting on January 7, 2003. The intermittent stream RCD boundary will be revised after the Town has completed the determination. If sections of the tributaries bordering the property are determined to be intermittent, the lots will not be affected. In every case, home sites are all farther than 50 feet to any tributary.

An RCD field verification was made by Engineering dated December 13, 2002 to determine what perennial streams existed on this property. Of course Morgan Creek was determined to be perennial. Additionally, approximately 300 feet of the tributary along the property boundary behind lots 8,9,10 and 11 was determined to be perennial. This begins at Morgan Creek and ends near the French / Stutt property boundary across the tributary. This will affect lot 8. A new drawing will be produced showing this revision.

3. Need more information from OWASA.

The current plan reflects comments made by OWASA on the original plan during the DHR process. The revised sanitary sewer main serving this project was discussed with OWASA staff in June of 2002. The route was determined to be preferred because it did not require a crossing over Morgan Creek. Plans were delivered to OWASA this month and comments should be sent to the Planning Department.

4. Status update/progress report on issue of dedication of land to Botanical Gardens.

Warren Mitchell met with Johnny Randall on December 17, 2002 to discuss the details of the land dedication. The one acre of land along Morgan Creek will be a fee simple transfer of land to the Botanical Gardens Foundation Inc. Some discussion took place about possible conservation easements on proposed lots within the subdivision. Mr. Mitchell said he would discuss the issue with the other partners.

5. What would be stormwater management facilities/solutions on this site to meet volume and water quality standards?

The new LUMO will require all project to meet minimum stormwater management performance criteria related to water quality, rate of discharge, and volume of stormwater discharged. In summary, the project must maintain pre-development runoff conditions after the project is developed for specific storm event criteria. This project falls within the FJ-B watershed boundary and is required to meet minimum stormwater runoff design criteria under the current development ordinance. The application for Creekside Subdivision presented this project as meeting the Low Density option which is 24% impervious area or less. Under the new LUMO, water quality, volume of stormwater, and rate of runoff performance criteria will apply to the development.

Effective, Low Impact stormwater design begins close to the source of runoff, not at the end of the conveyance features (pipes and ditches). The purpose of Low Impact Design is to create a developed site that will closely replicate the pre-developed

runoff conditions through methods such as infiltration trenches and basins, rain barrels, reduced impervious surface, pervious paving, roads with grass swales instead of curbing, bio-retention, vegetative buffers, and drywells. We will use a combination of these elements of Low Impact Design for the Creekside Subdivision to comply with the new LUMO stormwater requirements.

Our approach to the stormwater requirements has several elements that are all tied together. First, we propose to limit the amount of impervious area on each lot. All driveways and individual sidewalks can be constructed of porous concrete or asphalt. These innovative products have been used locally with excellent results. This will limit runoff that must be managed to just the roofs of houses. Each house may have somewhere between 2500 and 3000 square feet of roof area. This runoff will be managed on each lot with individual bio-retention basins, sand filters, infiltration basins, grass swales and/or storage tanks or basins. Because of the large lots in this subdivision, each lot will be required to comply with the stormwater regulations.

The street will be constructed with conventional methods using asphalt. The asphalt will produce runoff which must be managed for 85% TSS removal, 2-year 24hour volume control, and 25-year storm peak discharge control. We want to use methods to manage the street runoff that will allow the additional runoff to infiltrate into the soil instead of capturing the runoff at one location which is 'end-of-pipe' thinking and runs contrary to the Low Impact Management techniques we want to incorporate in this project. The grass swales adjacent to the street will be constructed as infiltration basins using gravel or other means below the ditch where the stormwater will infiltrate into the soil. This should address the volume, quality and peak discharge issues. We recognize and appreciate the efforts of the Planning Board to reduce impervious area on the project by eliminating the sidewalk and reducing the street width to 20 feet.

Complying with the new stormwater requirements will by no means be easy to achieve. In fact, we are being asked to consider requirements for which design details have not been created. Most of the home sites slope outward toward the perimeter of the project. The buffers protecting the creeks and tributaries will be disturbed to introduce possible stormwater basins, grass-swales, and underground storage tanks. Disturbing these wooded buffers for stormwater facilities will remove significant trees and increase the runoff by mechanically working the soil in the buffer areas.

6. The Board doesn't think sidewalks are needed.

We agree and appreciate these actions that will keep the conformity in the neighborhood and reduce the impervious surface.

7. The Board doesn't think the trail on lots 9 and 10 is needed.

We agree. We also feel the trail adjacent to lot 11 connecting the proposed neighborhood street to Morgan Creek Road is also not necessary.

8. Consider requirement for 20 foot wide landscape buffer along the road at the entrance continue as a homeowners' association easement along the north side of lot 11, rather than an easement on private property.

We understand the argument behind making this land part of the homeowners' association, but we do not agree this is appropriate in this case. First of all, the project must meet the current restrictive covenants of the Morgan Creek Neighborhood which is a minimum lot size of 0.8 acres. By taking the 20' buffer land out of lot 1, this lot would be smaller than the minimum lot size. Additionally, the buffer easement legally can enforce the same restrictions and we could require that the homeowners association would take action if the buffer was disturbed.

9. The Board would like the road width to be 20 feet instead of 22 feet.

We agree.

10. Would the developer consider phasing the development so that all lots were not being cleared and built upon at the same time?

In a larger subdivision, this may be possible and possibly advantageous. For an 11 lot subdivision it is not appropriate. The most compelling reason not to phase the project is to get the trucks in the project one time and when they leave they are gone. This will minimize the disruption to the neighborhood. Furthermore, all of the utilities must be installed at one time because the water comes from one direction and the sewer comes from the opposite direction. Phasing is not an option.

11. Answer to the question about the clear title to land which Ms. Chapman referred to in her statement.

(Verify that the land being dedicated as recreation area behind lot 11 and listed as 5,470 square feet was correctly recombined with the parent tract as presented in the application)

The applicant requested from their attorney to research the ownership history of this parcel and offer a legal opinion of the current status. That opinion is presented with this letter. It is their opinion that the property does belong to the Adams heirs to whom the applicant has a contract to purchase the property from.

AFFORDABLE HOUSING PROPOSAL:

The Town of Chapel Hill Comprehensive Plan has a stated goal of encouraging developers to create housing that is affordable to moderate and low income households. Creekside subdivision is proposed with 11 single-family lots. The applicant wants to propose several options that would add an affordable housing component to Creekside Subdivision as stated in the Town's Comprehensive Plan. At this time, there is no requirement for a subdivision with 11 lots. We propose the following affordable housing options to be considered by the Town Council:

- a. The applicant of Creekside Subdivision will make a payment-in-lieu contribution of \$52,500 to the Orange Community Housing Corporation for affordable housing.

or

- b. The applicant proposes sponsorship of a Habitat for Humanity home within the Town of Chapel Hill planning jurisdiction at a cost not to exceed \$50,000.

or

- c. The applicant will create a minimum of 2 homes within the subdivision that will have accessory apartments of size allowed by the development ordinance.

We hope we were able to successfully address the Planning Board's comments and that a favorable recommendation can be made to the Town Council on the Board's behalf.

With best regards,
Mitchell Westendorf, PA



Warren D. Mitchell, PE

59

BEEMER, SAVERY, HADLER & JONES, P.A.

ATTORNEYS AT LAW

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December 27, 2002

Warren Mitchell
Mitchell Westendorf, P.A.
210 North Columbia Street
Chapel Hill, NC 27514

Re: Creekside Project

Dear Warren:

I have reviewed my title notes to the reserve lot as shown on plat book 5/153 Orange County Registry, that was recombined with the 12 acre tract owned by Martha Galli and Ann A. Adams and John Mozart, Co-Trustees, back on December 29, 1992. You asked me to verify the ownership of this small piece, as someone at the town had raised a question as to the title to this section.

A brief history of the tract is as follows: the small piece in questions was deeded from J. Edison Adams, Trustee to J. Edison Adams and wife Katherine Adams by deed recorded in Book 186, Page 596, Orange County Registry on April 19, 1962. J. Edison Adams died on June 7, 1981 (see Estate File 81-E-216, Orange County Clerk of Superior Court's Office and Death Book D60-828, Orange County Registry), and his portion of the property passed to his wife, Katherine Smith Adams by operation of law, since the title was held by tenancy by the entirety. Katherine Smith Adams did not remarry. She died on February 21, 1986 (see Estate File 86-E-75, Orange County Clerk of Superior Court's Office), leaving all of her property to her two beneficiaries, Martha Adams Galli and John E. Adams. John E. Adams died on April 18, 1989 (see Estate File 89-E-385, Orange County Clerk of Superior Court's Office). He left his property in trust to Ann A. Adams and John Mozart, Co-Trustees as provided in his will. So, as of today, the property is owned by Martha Adams Galli and Ann A. Adams and John Mozart, Co-Trustees, as tenants in common (as shown in the deed recorded in Book 1066, Page 322, Orange County Registry).

(60)

I hope this letter will clear up any questions the town has concerning this small piece of your project. I will be happy to provide further documentation if required. If you have any other questions please do not hesitate to give me a call.

Sincerely,
Beemer, Savery, Hadler & Jones, P.A.

A handwritten signature in black ink, appearing to be 'Jeffrey A. Jones', written in a cursive style.

Jeffrey A. Jones



TOWN OF CHAPEL HILL

December 13, 2002

Mr. Roger Waldon
Chapel Hill Planning Department
306 N. Columbia Street
Chapel Hill, NC 27516

Dear Mr. Waldon:


A field verification was conducted on the property Tax Map # 7.70.D.5, PIN# 9787-59-6577 (Creekside Subdivision Site) on December 12, 2002.

Morgan Creek runs along the east side of this lot. It is perennial.

A small tributary enters Morgan Creek at the southeast corner of this lot. It is perennial for a short distance upstream of the confluence with Morgan Creek. The perennial determination of the tributary begins near the southeast corner of parcel 7.70..6A, approximately 300 feet upstream of the confluence.

The Resource Conservation will apply to the noted portion of the tributary in question and to Morgan Creek.

Regards,


Sandra Maurz
Engineering Technician

SM/jcf

cc: Larry Tucker, Senior Engineering Coordinator
Deborah Squires, Senior G.I.S. Technician
Maggie Bowers, Zoning Enforcement Officer