



CONSIDER AN APPLICATION FOR SITE PLAN REVIEW CONSTRUCTION START TIME EXTENSION – CHAPEL HILL COOPERATIVE PRESCHOOL

STAFF REPORT

TOWN OF CHAPEL HILL PLANNING AND DEVELOPMENT SERVICES
 Ralph Karpinos, Town Attorney
 Ben Hitchings, Director
 Judy Johnson, Operations Manager

PROPERTY ADDRESS 108 Mt. Carmel Church Road	PLANNING COMMISSION DATE April 3, 2018	APPLICANT Chapel Hill Cooperative Preschool
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STAFF RECOMMENDATION

That the Planning Commission consider the request to extend the construction start time for the project and adopt Resolution A.

PROCESS

This request, for a change to one provision of the Site Plan approval resolution granted by the Planning Commission to extend the time to begin construction, comes back to the Planning Commission (Commission) because the original site plan review resolution of the Commission, adopted on January 25, 2017, included a provision requiring that construction begin by January 25, 2018.

Construction did not begin by January 25, 2018.

After a careful reading of the terms of that resolution and the provisions of the Town’s Land Use Management Ordinance (LUMO), the Town staff and Town Attorney concluded that an extension of the date for construction to begin, beyond the date set by the Commission’s resolution, can be granted by the Commission but not by the Town Manager.

The LUMO provides for extensions of construction time limits to be authorized and allowed by action of the Town Manager once a zoning compliance permit has been issued by Town Staff – an administrative step which generally follows shortly after the approval by the Commission of a Site Plan.

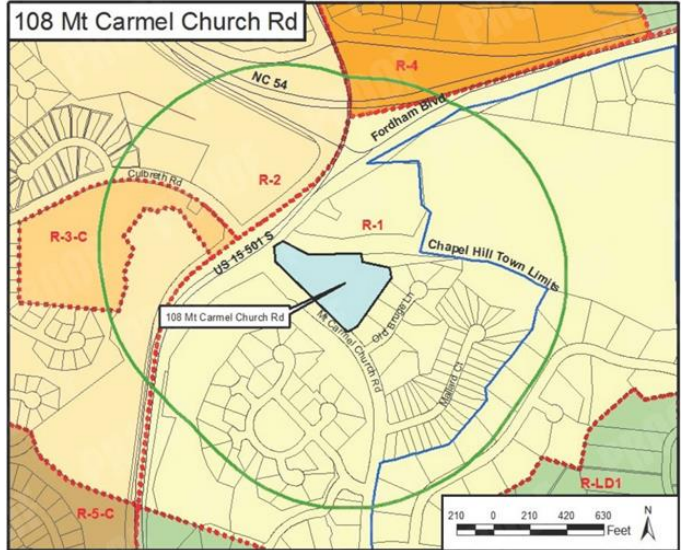
Complications in this particular case delayed the submittal of an application for a zoning compliance permit. Specifically in this case there was an appeal of the Commission’s decision to the Board of Adjustment and an appeal of the Board of Adjustment decision to Superior Court. (The end result of those appeals was to affirm the Commission’s original action, eleven months after the Commission’s approval). There was also discussion with the Town Council related to the submittal of a special use permit to allow an expansion of the parking area included in the Commission’s site plan approval action.

RECOMMENDATION

The Staff and Town Attorney believe that a correct reading of the Commission’s resolution and the provisions in Section 4.7 precludes an extension, by action of the Town Manager, of the time set in the Commission’s January 25, 2017 resolution. However, based on the specific facts and circumstances and our interpretation of the LUMO and Commission’s resolution, we believe that:

- Balancing all the legal and equitable factors involved in this specific case, that the extension should be granted by the Commission as a ministerial, and not a discretionary, action; and, further,
- Granting of the requested six month extension of the Commission’s site plan approval should not open up the original site plan application and approval for full review and reconsideration.

PROJECT LOCATION



ATTACHMENTS

1. Resolution A
2. Resolution B
3. January 25, 2017 Site Plan Review Resolution approved by Commission
4. Application Form & Materials
5. Project Summary Form

RESOLUTION A

(Approving the Site Plan Review Application)

**A RESOLUTION APPROVING AN APPLICATION FOR A SITE PLAN REVIEW
CONSTRUCTION START TIME EXTENSION FOR THE CHAPEL HILL COOPERATIVE
PRESCHOOL (PIN'S 9787-29-6199, 9787-29-7266, 9787-29-9045, AND 9787-29-
0047; PROJECT #16-088)**

BE IT RESOLVED by the Planning Commission of the Town of Chapel Hill that it finds that the Site Plan Review Construction Start Time Extension application for the Chapel Hill Cooperative Preschool on property identified as Orange County Property Identifier Numbers 9787-29-6199, 9787-29-7266, 9787-29-9045, and 9787-29-0047, if developed according to the Site Plan dated August 24, 2016 (revised November 09, 2016 and November 17, 2016) and the conditions listed below would comply with all required regulations and standards of the Land Use Management Ordinance and Design Manual.

This finding is conditioned on the following:

Stipulations Specific to the Development

1. Construction Deadline: That construction begins by July 1, 2018, to be completed by July 1, 2020.

BE IT FURTHER RESOLVED that the Planning Commission hereby approves the application for the extension of the construction start date to July 1, 2018 for a Site Plan Review for Chapel Hill Cooperative Preschool in accordance with the plans and conditions listed above and the Site Plan Review resolution dated January 25, 2017.

This the 3rd of April, 2018.

RESOLUTION B
(Denying the Site Plan Review Application)

**A RESOLUTION DENYING AN APPLICATION FOR A SITE PLAN REVIEW
CONSTRUCTION START TIME EXTENSION FOR THE CHAPEL HILL COOPERATIVE
PRESCHOOL (PIN's 9787-29-6199, 9787-29-7266, 9787-29-9045, AND 9787-29-
0047; PROJECT #16-088)**

BE IT RESOLVED by the Planning Commission of the Town of Chapel Hill that it finds that the Site Plan Review Construction Start Time Extension application for the Chapel Hill Cooperative Preschool, on property identified as Orange County Property Identifier Numbers 9787-29-6199, 9787-29-7266, 9787-29-9045, and 9787-29-0047, if developed according to the Site Plan dated August 24, 2016 (revised November 09, 2016 and November 17, 2016) and the conditions listed below would not comply with the provisions of the Chapel Hill Land Use Management Ordinance and Design Manual:

(INSERT REASON FOR DENIAL)

BE IT FURTHER RESOLVED that the Planning Commission hereby denies the Site Plan Review Construction Start Time Extension application for Chapel Hill Cooperative Preschool, located at 108 Mt. Carmel Church Rd.

This the 3rd day of April, 2018.