



## Legislation Details (With Text)

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**Title:** Continuation of the Public Hearing: Review of the Sanderway AIS Conditional Use Permit  
PURPOSE: To continue the public hearing for the Sanderway Architecturally Integrated Subdivision CUP opened by the Board on Tuesday June 26, 2018. Again, GH-2, LLC has submitted a CUP application for the construction of an 18-lot residential subdivision with associated public and private infrastructure to be located at 1236 Hillsborough Rd. The staff report and attachments from the original agenda item can be found here:

<<https://carrboro.legistar.com/LegislationDetail.aspx?ID=3537424&GUID=CFD77242-853A-4186-BEA0-70C87392524C&Options=&Search>>

Project Plans can be found here:

<<http://carrboro.legistar.com/gateway.aspx?M=F&ID=90e52895-5e97-498a-8a69-a4e64789eb15.pdf>>

### Indexes:

### Code sections:

**Attachments:** 1. Attachment A -Vicinity and Utility Map, 2. Attachment B - Responses to Joint Review Advisory Board Recommendations, 3. Attachment C- Original Joint Review Recommendations, 4. Attachment D - AHAC Recommendation 9.19.18, 5. Attachment E - SWAC Recommendation 9.20.18, 6. Attachment F - Corrected Page 4 of original staff report, 7. Attachment G - OWASA Email, 8. Attachment H - McAdams report

Date	Ver.	Action By	Action	Result
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### TITLE:

Continuation of the Public Hearing: Review of the Sanderway AIS Conditional Use Permit

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**DEPARTMENT:** Planning

**CONTACT INFORMATION:** Jeff Kleaveland, 919-918-7332

**INFORMATION:** The Conditional Use Permit, if approved, would allow the creation of an 18 lot residential subdivision, with common shared open spaces, recreation amenities and supporting infrastructure. The subject property is zoned R-20 and is about 8.54 acres in size. The subject parcel is identified by Orange County PIN 9779-14-2354. For a vicinity map, see Attachment A (also contains utility information).

Pursuant to requests made by the Board during the first June 26 meeting, staff offers the following information:

Responses to Advisory Board Comments

The applicant has provided these. Staff has enclosed the original recommendation sheets (Attachment C & D).

Additional recommendations were provided from the following advisory boards on meetings held this week:

Affordable Housing Advisory Commission

The project was presented to this commission on 9/19/2018. Their recommendations are attached (Attachment D).

Stormwater Advisory Commission Meeting

As requested by the Board, the project was presented to the Stormwater Advisory Commission (SWAC) for review (on 9/20/18); their recommendations are attached (Attachment E). The applicant finds the proposed conditions therein acceptable.

Maintenance of Shared Driveway/Multi-use path segment

The three existing lots north of Sanderway (1242, 1244 & 1246 Hillsborough St) currently depend on a driveway easement that crosses over the subject parcel. It is staff's understanding that this existing easement cannot be abandoned without the consent of these property owners. Because of this, the current easement alignment is expected to remain. In light of this, Please see the corrected page 4 of the original staff report removing reference to providing bollards on this existing driveway; this will not be possible (Attachment F).

They access their lots and homes via a gravel driveway. The Sanderway plans show a portion of this driveway alignment will be directed onto the new public street while the driveway itself will be collocated with the proposed paved, multi-use path. The developer intends to maintain one lane of access to the homes throughout construction.

The Town' default policy for multi-use paths built in new subdivisions is that they be constructed within a public easement to AASHTO paving standards and maintained by the Homeowner's Association. This being said, the Sanderway Homeowner's Association, as a continuing requirement of their permit, would also be responsible for the continued maintenance of the public multi-use trail, including the segment that serves also as the driveway to these three lots.

The following conditions were drafted by the applicant (with added edits from the Town) to address neighbor concerns associated with the topics described above:

1. That the existing non-exclusive easement providing access to the three lots (1242, 1244 & 1246 Hillsborough St) located directly north of the Sanderway AIS, not be abandoned and that all rights and privileges of the three lot owners as well as the underlying property owner not be altered in any manner.
2. That the Sanderway Homeowner's Association will maintain the paved public multi-use path portion of

the non-exclusive access easement that is used by the owners of 1242, 1244 & 1246 Hillsborough St to access their properties. This portion shall be maintained to Town standards. In the event that the said portion is not adequately maintained, the Town will require the Sanderway Homeowner's Association to repair the area. In the event that the HOA does not act with reasonable speed to correct maintenance problems, the Town is authorized to make necessary repairs and charge the cost of this work to the Sanderway HOA directly, or, as a lien if there are problems with collecting reimbursement. In light of this arrangement, the Sanderway Homeowner's documents will include language that describes their responsibility both for the maintenance of the multi-use path and, if they fail in this responsibility, their responsibility for the reimbursement of the Town for repairs made by the Town. This language shall also reference the Town's ability to use liens on the HOA to secure reimbursement.

3. That during the construction process, continued accessibility for the three lots shall be maintained uninterrupted.

#### OWASA

Staff and the applicant have met with OWASA to discuss future possible sewer alignments that would benefit 1242, 1244 & 1246 Hillsborough St. See the attached OWASA summary email (Attachment G).

#### Possible Stormwater flooding of existing wells:

Staff investigated the subject of flooding damage to water supply wells with Orange County Environmental Health (OCEC) to see if existing well heads at risk could be retrofitted to make them flood-proof. In short, OCEC does not issue permits for such modifications.

#### Maintaining utility service throughout construction

Utility services will be located prior to construction and the risks accordingly assessed and mitigated as needed.

#### Solid Waste Pickup

The current pick-up arrangement will remain with the added improvement of a paved turn around apron at the tee that leads to the lower three lots.

#### 1242, 1244 & 1246 Hillsborough St - professional representation

The owners of the above-referenced properties have secured legal representation by the Morningstar Law Group as well as professional engineering representation by the John R. McAdams Company. Their legal advisors have been in discussions with the applicant's legal advisor, Wayne Hadler. Regarding engineering review, Daniel Perry, PE of McAdams has prepared the attached report (Attachment H).

**FISCAL & STAFF IMPACT:** Applicant has paid the associated fees with the permit request.

**RECOMMENDATION:** Town staff requests that the Board continue the public hearing started on June 26<sup>th</sup> and consider all pertinent evidence presented. In absence of public, health, safety and/or welfare reason(s) to deny, staff recommends that the Board of Aldermen approve the 18 lot Sanderway AIS CUP based on compliance with the Land Use Ordinance, subject to the following conditions:

1. That Certificates of Occupancy for the final the two units may not be issued until such time as the *payment in lieu* for 4.25 affordable units is made (in accordance with the Town's fee schedule at the time of payment). A note to this effect shall be required on the final plat.

2. That, prior to construction plan approval, the roadway section is shown on the plans continuing to southeast to terminate at the property line.
3. Prior to construction plan approval, the plans need to include a standard detail, per section 15-291 of the LUO, demonstrating that each lot can provide off-street parking sufficient to accommodate two cars, excluding those spaces provided within the garage.
4. That flexibility be allowed in the execution of the street tree planting plan (subject to the approval of public works and the planning department), such that the combination of existing and proposed trees along all publicly dedicated streets in the subdivision meet the street tree requirements of Section 15-315 of the Land Use Ordinance and that the final arrangement is such that 1/3<sup>rd</sup> of the street trees retained and/or proposed for this purpose are evergreen.
5. That the developer and, when this responsibility is transferred, the Homeowner's Association, assume full maintenance and repair responsibility for the Filtera stormwater treatment devices located with the proposed public street right-of-way. This responsibility includes, but is not limited to, incidental damages caused by routine Public Works street operations which include, but are not limited to, plowing, road salting, waste collection, and leaf pickup. Related language detailing this responsibility shall be included in the Homeowner's Association declarations and covenants as well as their stormwater operations and maintenance documents.
6. That the applicant shall provide to the Zoning Division, prior to the recordation of the final plat for the project or before the release of a bond if some features are not yet in place at the time of the recording of the final plat, Mylar and digital as-builts for the stormwater features of the project. Digital as-builts shall be in DXF format and shall include a base map of the whole project and all separate plan sheets. As-built DXF files shall include all layers or tables containing storm drainage features. Storm drainage features will be clearly delineated in a data table. The data will be tied to horizontal controls.
7. Per Section 15-263.1, that the developer shall include a detailed stormwater system maintenance plan, specifying responsible entity and schedule. The plan shall include scheduled maintenance activities for each stormwater BMP in the development, performance evaluation protocol, and frequency of self-reporting requirements (including a proposed self-reporting form) on maintenance and performance. The plan and supporting documentation shall be submitted to Town engineer and Environmental Planner for approval prior to construction plan approval.
8. That, prior to issuance of a CO, a final plat, or the certification of a stormwater BMP, the Town may require a performance security be posted for a period of two years per the provisions of Section 15-263 (i).
9. That utilities shall be installed underground per the provisions or 15-246 of the Land Use Ordinance.
10. That the developer provide a written statement from the electrical utility stating that electric service can be provided to all locations shown on the construction plans prior to the approval of the construction plans;
11. That fire flow calculations must be submitted and approved by the Town Engineer and Town Fire

Department prior to construction plan approval.

12. That the applicant receive(s) CAPS from the Chapel Hill-Carrboro City Schools district pursuant to Article IV, Part 4 of the Carrboro Land Use Ordinance prior to construction plan approval.
13. That, prior to final plat approval, the Homeowner's declarations and covenants shall satisfy the applicable provisions of the Land Use Ordinance subject to review and approval of the Town Attorney.

Possible New Conditions from Applicant

14. That the existing non-exclusive easement providing access to the three lots (1242, 1244 & 1246 Hillsborough St) located directly north of the Sanderway AIS, not be abandoned and that all rights and privileges of the three lot owners as well as the underlying property owner not be altered in any manner.
15. That the Sanderway Homeowner's Association will maintain the paved public multi-use path portion of the non-exclusive access easement that is used by the owners of 1242, 1244 & 1246 Hillsborough St to access their properties. This portion shall be maintained to Town standards. In the event that the said portion is not adequately maintained, the Town will require the Sanderway Homeowner's Association to repair the area. In the event that the HOA does not act with reasonable speed to correct maintenance problems, the Town is authorized to make necessary repairs and charge the cost of this work to the Sanderway HOA directly, or, as a lien if there are problems with collecting reimbursement. In light of this arrangement, the Sanderway Homeowner's documents will include language that describes their responsibility both for the maintenance of the multi-use path and, if they fail in this responsibility, their responsibility for the reimbursement of the Town for repairs made by the Town. This language shall also reference the Town's ability to use liens on the HOA to secure reimbursement.
16. That during the construction process, continued accessibility for the three lots shall be maintained uninterrupted.

Possible New Conditions from SWAC (slightly reworded for clarity).

17. That a re-review of satisfaction of the CUP level Stormwater Engineering Requirements checklist submittal be performed by the Town;
18. That, all impervious surfaces must drain to the stormwater management system.
19. That, a demonstration be made that the development will not increase the peak flow at the driveway culvert (on the ephemeral stream) downstream of the homes and at the downstream limit of the development for the post development - 1, 2, 5, 10, 25 year storms. The analysis has to include impacts to the peak flow due to installation of a sewer line along the OWASA easement and any other clearing of vegetation and trees.
20. That, lot 7 be required to have an undisturbed drainage easement put in place for the ephemeral stream as part of the recorded plat.