



TOWN OF CHAPEL HILL

Town Council

Meeting Minutes - Draft

Town Hall
405 Martin Luther King Jr.
Boulevard
Chapel Hill, NC 27514

Mayor Pam Hemminger
Mayor pro tem Jessica Anderson
Council Member Donna Bell
Council Member Allen Buansi
Council Member Hongbin Gu

Council Member Nancy Oates
Council Member Michael Parker
Council Member Rachel Schaevitz
Council Member Karen Stegman

Wednesday, May 23, 2018

7:00 PM

RM 110 | Council Chamber

Roll Call

Present: 7 - Mayor pro tem Jessica Anderson, Council Member Allen Buansi, Council Member Hongbin Gu, Council Member Nancy Oates, Council Member Michael Parker, Council Member Karen Stegman, and Council Member Rachel Schaevitz

Absent: 2 - Mayor Pam Hemminger, and Council Member Donna Bell

Other Attendees

Town Manager Roger L. Stancil, Deputy Town Manager Florentine Miller, Town Attorney Ralph Karpinos, Communications Specialist Mark Losey, Planner II Michael Sudol, Interim Principal Planner Corey Liles, Planning Manager Phil Mason, Planning and Development Services Operations Manager Judy Johnson, Senior Planner Aaron Frank, Business Management Director Kenneth C. Pennoyer, Director of Planning and Development Services Ben Hitchings, Police Chief and Executive Director for Community Safety Chris Blue, Executive Director Technology Scott Clark, Traffic Engineering Services Manager Kumar Neppalli, Planner II Jake Lowman, Transportation Planning Manager Bergen Watterson, Town Manager's Intern Lindsey Bineau, Deputy Town Clerk Amy Harvey

OPENING

Mayor pro tem Anderson called the meeting to order at 7:00 pm. Mayor Hemminger and Council Member Bell were absent, excused.

a. Mayor pro tem Anderson Regarding Successes Video - Public Works Week

[\[18-0475\]](#)

Mayor pro tem Anderson introduced a "Celebrating Successes" video about the Town's Public Works Department. The video included employees' statements about how they maintain infrastructure and provide Town services. Mayor pro tem Anderson said that it was Public Works Week in Chapel Hill and expressed appreciation to employees on behalf of the

Town for their hard work and service.

b. Council Member Buansi Regarding A Moment of Silence to Honor Mildred Council

[\[18-0476\]](#)

Council Member Buansi noted that Mildred Council, the long-time owner and lead chef at Mama Dip's restaurant, had passed away. Ms. Council had been a community activist who held a special place in the hearts of all, especially the African American community of Northside, he said. After holding a moment of silence in her honor, Council Member Buansi said that a proclamation regarding Ms. Council's legacy would be presented to her family at a Council meeting in June.

Mayor pro tem Anderson expressed gratitude on behalf of the Town for Ms. Council's generosity, leadership and compassion. Ms. Council had touched lives throughout the world and would be missed, she said.

c. Council Member Buansi Regarding Proclamation - Peace Officers Memorial Day

[\[18-0477\]](#)

Council Member Buansi read a proclamation regarding a 2018 Orange County Peace Officers Memorial Service. He said that President John F. Kennedy had signed a 1962 proclamation that designated May 15th as Peace Officers Memorial Day and the week in which it falls as Police Week. Council Member Buansi said that the petition called upon citizens to honor local peace officers who had lost their lives or become disabled in the performance of duty. He encouraged citizens to attend a memorial service at the Chapel Hill Police Department on May 24th, at 4:00 pm.

Police Chief Chris Blue thanked the Town for the proclamation and said that all community members were invited to the ceremony, which would honor any police officer who had lost his/her life during service to Orange County over the years and those who had lost their lives nationally in 2018.

d. Mayor pro tem Anderson Regarding Proclamation - Gun violence Awareness Day

[\[18-0478\]](#)

Mayor pro tem Anderson read a proclamation declaring June 1, 2018 to be for Gun Violence Awareness Day in Chapel Hill. The proclamation included statistics on gun violence and stated that public safety was elected officials' highest responsibility. To honor Americans whose lives had been taken and those who had been injured, a national coalition of organizations had designated June 1st as the fourth national Gun Violence Awareness Day, she said.

Mayor pro tem Anderson said that the Town was renewing its commitment to reduce gun violence and pledging to do all it could to keep firearms out of the wrong hands and to encourage responsible gun ownership. She asked all citizens to support their local communities' efforts to prevent the

tragic effects of gun violence.

Moms Demand Action's (MAD) Orange County representative Sara Veety thanked the Mayor and Council for their continued support and for advocating for common sense gun legislation. She said that MAD would celebrate the proclamation at 11:00 am on Friday at the Peace and Justice Plaza. She also invited all to come and show support at a bigger event at Hillsdale Park in Durham on June 2nd at 10:00 am.

e. Council Member Parker Regarding Proclamation - Farmer's market 10 Anniversary.

[\[18-0479\]](#)

Council Member Parker read a proclamation declaring Saturday, May 19th, to be Farmers Market Day in Chapel Hill. He urged all to thank farmers and market organizers for their hard work and commitment to the community by continuing to support them through patronage. Council Member Parker outlined the many benefits of buying products directly from farmers and said that the Market was celebrating 10 years of service to the Town and surrounding communities.

Andrew Ross accepted the proclamation and said that he cared for 1500 animals and worked with wonderful people. He thanked the Council and noted that seeing them or their friends at the Farmers Market on Tuesdays or Saturdays would mean a lot.

f. Mayor pro tem Anderson and the Town Manager Deferred Agenda Item #11 Greene Tract Considerations to a Future Date

[\[18-0480\]](#)

Mayor pro tem Anderson said that the Council had agreed to defer Agenda Item 11 to a future meeting due to its long agenda.

PETITIONS FROM THE PUBLIC AND COUNCIL MEMBERS

1. Petitions from the Public and Council Members.

[\[18-0453\]](#)

a. Julie Richardson/Mt. Carmel Church Road Residents Regarding Chapel Hill Cooperative Preschool

Richard Andrews explained that Ms. Richardson's petition was requesting that the Town Attorney help the Council be prepared with factual background if the Carmel Church Road residents' request came back before it, rather than having it go directly into the SUP process.

A motion was made by Council Member Parker, seconded by Council Member Schaevitz, that this Petition be received and referred to the Town Manager and Mayor. The motion carried by a unanimous vote.

b. Matt Tynan Regarding Traffic Safety/Calming Measures

[\[18-0481\]](#)

Matt Tynan, a Chapel Hill resident, expressed concern about the previous petition, stating that he assumed it was intended to prevent approval of a

site permit for a preschool due to traffic issues on Mt. Carmel Church Road. He argued that delaying or denying the permit would not address existing traffic safety issues. Mr. Tynan asked the Council to consider additional traffic-calming measures for a stretch of road between Bennett Road and Highway 15-501. He said that the Council could fix the safety problem by lowering the speed limit there.

A motion was made by Council Member Buansi, seconded by Council Member Stegman, that this Petition be received and referred to the Town Manager and Mayor. The motion carried by a unanimous vote.

c. Jeanette Bench - Request to Obtain Agreement with CHCCS
for Summer Camp Space

[\[18-0482\]](#)

Jeanette Bench, vice chair of the Parks, Greenways and Recreation Commission, said that the Commission had voted unanimously to petition the Council to obtain an agreement with the Chapel Hill Carrboro City Schools (CHCCS) to allow the use of school facilities for Parks and Recreation Department summer camps. She said that more than a 1,000 children were on the waiting list for the Town's current locations where 2,745 spaces were already taken.

Ms. Bench pointed out that there had once been such an agreement between the Town and CHCCS. She said that the Commission felt it was time to put that in place again. She asked the Council to direct the Town Manager to negotiate an agreement as soon as possible and to provide a status update prior to June 13, 2018.

A motion was made by Council Member Schaevitz, seconded by Council Member Buansi, that this Petition be received and referred to the Town Manager and Mayor. The motion carried by a unanimous vote.

PUBLIC COMMENT - ITEMS NOT ON PRINTED AGENDA

a. Jenn Weaver and Julia Sendor Request for Funding a
Position at the Orange County Food Council

[\[18-0483\]](#)

Hillsborough Commissioner Jenn Weaver, speaking as co-chair of the Orange County Food Council, asked the Town to help fund a full-time coordinator for the Food Council in collaboration with Carrboro, Hillsborough and Orange County. She said that the new person would coordinate the convening of many food system participants to fulfill the Food Council's mission of building a community-driven food system that would insure access to nutritious food for all.

b. Rose Wang and Camille Witt Regarding Youth Council
Request for Funding

[\[18-0484\]](#)

Rose Wang and Camille Witt, representing the Chapel Hill Youth Council, explained their funding request.

Ms. Wang thanked the Council and Manager for adding funding for teen programs and organizations to the Town's proposed FY 2018-19 budget. With those funds, the Youth Council would facilitate bringing the teen perspective to Town issues by posting hearings and open mikes for all teens, she said. Ms. Wang explained that the Youth Council would also organize volunteers to paint murals and beautify the Teen Center, host Halloween haunted houses, and bake cookies for the Ronald McDonald House during the holiday season.

Camille Witt, a Youth Council officer and member of One Song Productions, discussed the benefits of open mic events for teens. She said that the requested funding would allow teens to lift up and support each other. Open mic sessions had been packed, despite the problems of cramped space, mediocre microphones, and poor lighting, Ms. Witt said.

ANNOUNCEMENTS BY COUNCIL MEMBERS

a. Mayor pro tem Anderson Regarding Memorial Day Services.

[\[18-0485\]](#)

Mayor pro tem Anderson said that a special remembrance service would be held at the Orange County Veterans Memorial at 2501 Homestead Road on Monday, May 28th, at 7:30 am.

b. Mayor pro tem Anderson Regarding an Orange County Peace Coalition Service.

[\[18-0486\]](#)

Mayor pro tem Anderson announced a Peace Coalition service at the Chapel Hill Public Library on Memorial Day, beginning at 2:00 pm.

c. Council Member Gu Regarding Photo Exhibition for Forgotten Heroes.

[\[18-0487\]](#)

Council Member Gu noted that a photo exhibit to honor US/China Joint Force veterans would open at the Chapel Hill Public Library on Saturday at 10:00 am and run to Monday, May 28th.

d. Council Member Stegman Regarding Ephesus Elementary Student Comments to Council.

[\[18-0488\]](#)

Council Member Stegman read comments that Ephesus Elementary School third-graders had recently written to her about what they would like to see changed in Town and what could stay the same. Their suggestions included hundreds more books at the Library, more charity, putting more apartments and work buildings close to each other, more trees and stop cutting them down, more animals in the wild, more solar panels for electricity, and cat parks so that cats could exercise too. She said that adults would have an opportunity to provide input as well on June 10th and 11th at University Place.

CONSENT*Approval of the Consent Agenda*

A motion was made by Council Member Gu, seconded by Council Member Stegman, that R-1 be adopted, which approved the Consent Agenda. The motion carried by a unanimous vote.

2. Approve all Consent Agenda Items. [\[18-0454\]](#)
This resolution(s) and/or ordinance(s) was adopted and/or enacted.
3. Approve the Sale of Parking Pay Stations to the City of Raleigh. [\[18-0455\]](#)
This resolution(s) and/or ordinance(s) was adopted and/or enacted.
4. Authorize the Town Manager to Execute a Contract for Memorial Art Benches at Merritt's Pasture. [\[18-0456\]](#)
This resolution(s) and/or ordinance(s) was adopted and/or enacted.
5. Authorize Town Manager to Enter into a Municipal Agreement with NCDOT for Construction of a Roundabout at Mt. Carmel Church Road and Bennett Road, sign a Deed for Highway Right of Way, and sign an Acknowledgement of Voluntary Donation of Property. [\[18-0457\]](#)
This resolution(s) and/or ordinance(s) was adopted and/or enacted.
6. Rename the Library Board of Trustees to the Chapel Hill Public Library Advisory Board as Recommended by the Board and Clarify its Responsibilities. [\[18-0458\]](#)
This resolution(s) and/or ordinance(s) was adopted and/or enacted.
7. Adjust Municipal Campaign Contributions and Disclosure Limits as Required by Ordinance. [\[18-0459\]](#)
This resolution(s) and/or ordinance(s) was adopted and/or enacted.
8. Amend the 2018 Council Calendar. [\[18-0460\]](#)
This resolution(s) and/or ordinance(s) was adopted and/or enacted.

INFORMATION

9. Receive Upcoming Public Hearing Items and Petition Status List. [\[18-0461\]](#)

This item was received as presented.

DISCUSSION

10. Consider a 2018 General Obligation (G.O.) Affordable Housing Bond Referendum Adoption of Bond Order, Ballot Question and Referendum Details. [\[18-0462\]](#)

Director of Business Management Ken Pennoyer opened a discussion regarding a 2018 Affordable Housing (AH) referendum and authorization to issue \$10 million of AH bonds. If the Council approved the bond order, it would take effect when approved by Town voters, he said. Mr. Pennoyer explained that Council approval would also mean publishing the bond order, setting the ballot question, setting the referendum for November 6, 2018, and requesting that the Board of Elections of Orange and Durham Counties conduct the referendum.

Mr. Pennoyer read the ballot question. He said that a successful referendum would give the Council authority to issue the AH bonds within a seven-year period, with a three-year extension if approved by the Local Government Commission. The Council could issue all, some, or none of the bonds within the authorized period, he said. Mr. Pennoyer recommended that the Council adopt the bond order and resolution regarding publication of the order and set the details of the referendum.

Lissa Mohr, a Chapel Hill resident, verified with Mayor pro tem Anderson that the funds would be used for the Town's public housing master plan and for AH units. She said that there was much AH where she lived and that she had not seen it in wealthier Town neighborhoods. She was not opposed to AH, but thought it should be spread more evenly throughout Town, Ms. Mohr said.

A motion was made by Council Member Schaevitz, seconded by Council Member Stegman to adopt the Bond Order, Ballot Question, and Referendum Details. The motion carried by a unanimous vote.

A motion was made by Council Member Schaevitz, seconded by Council Member Parker, that R-6 be adopted. The motion carried by a unanimous vote.

11. Presentation: Greene Tract Considerations. [\[18-0425\]](#)

This item was deferred to a future meeting.

12. Consider the Wireless Communications Master Plan and Land Use Management Ordinance Text Amendment - Proposed Amendments to Articles 3, 5, 6, and Appendix A.

[\[18-0463\]](#)

Phil Mason, project manager for the Town's Wireless Communications Initiative (WCI), continued the public hearing. He said that the WCI's purpose was to position the Town to get the maximum benefits from wireless improvements while minimizing unwanted impacts to the community. He gave a PowerPoint presentation and reviewed the public process to date. Feedback from industry representatives had led to a revised ordinance, he said.

Mr. Mason said that staff had not agreed with a Community Design Commission (CDC) recommendation regarding wireless lease funds being consigned to libraries and other public facilities. That would restrict the Council's choices about what to do with lease income, he said. He clarified that the WC ordinance did not specify where lease revenue would go and that the Council, if desired, could designate accounts to receive those funds.

Mr. Mason said that a compromise had been reached with regard to issues that industry representatives had raised at the public hearing. This included separating different facility types, eliminating the requirement for sub-grade auxiliary equipment in underground vaults, increasing the height of small wireless facilities to 50 feet, and decreasing the minimum separation distance for small wireless facilities in public rights-of-way, he said. Mr. Mason provided details on each of those proposed revisions and said that staff viewed them as reasonable compromises. He recommended that the Council close the public hearing, adopt Resolutions A and B, and enact the WCI master plan and Land Use Management Ordinance text amendments.

Council Member Oates confirmed with Mr. Mason that 40 feet was the standard height for small facilities and that 120 feet was the height for macro towers.

Council Member Gu asked about procedures for measuring radio frequency.

Susan Rabold, of CityScape Consultants, replied that language had been added that would require industry to document their compliance with radio frequency standards provided by the federal government. That was the most they could do to address that issue, she said.

Council Member Gu mentioned safety concerns, and Ms. Rabold replied that regulation could not go beyond what the federal government already required. Industry could only be required to provide a statement of compliance, and that had been added to the ordinance, she said.

Mayor pro tem Anderson praised and thanked staff members for their hard work, and thanked Ms. Rabold as well. It had been a record-setting project from start to finish and she was happy with the end result, she said.

A motion was made by Council Member Parker, seconded by Council Member Schaevitz, to Close the Public Hearing. The motion carried by a unanimous vote.

A motion was made by Council Member Parker, seconded by Council Member Buansi, that R-8 be adopted. The motion carried by a unanimous vote.

A motion was made by Council Member Gu, seconded by Council Member Schaevitz, that R-9 be adopted. The motion carried by a unanimous vote.

A motion was made by Council Member Stegman, seconded by Council Member Schaevitz, that O-4 be Enacted. The motion carried by a unanimous vote.

- 13.** Consider an Application for Special Use Permit Modification - Chapel Hill High School, 1709 High School Road, (Project #17-059).

[\[18-0464\]](#)

Senior Planner Aaron Frank gave a PowerPoint presentation on a special use permit (SUP) modification for Chapel Hill High School (CHHS), an approximately 100-acre property at the intersection of Sewell School Road and High School Road that was zone Residential-1 and designated for institutional land use in the Town's Comprehensive Plan. The proposal before the Council was to expand and renovate the building, provide transportation improvements, and expanded enrollment by 105 students, he said.

Mr. Frank pointed out that the proposal would reduce parking from 596 to 518 spaces, with an associated decrease in impervious surface. In addition, 163 new bike parking spaces and stormwater management improvements were being proposed, he said. He outlined proposed modifications to requirements for tree canopy, the western buffer, building height, and bicycle parking. He said that Town advisory boards had reviewed and recommended approval, with conditions that had been incorporated.

Mr. Frank pointed out that a requirement for a traffic impacts analysis (TIA) if the school exceeded 1,625 students had been removed. He said that transportation would be managed on site through a separate stipulation that required a TIA to be performed six months following occupancy. Mr. Frank recommended that the Council close the public

hearing and adopt Resolution A, approving the SUP.

Council Member Oates discussed and verified the location of a security gate and the plan for circulation to and from the drop-off area with Mr. Frank.

Loren Hintz, a Chapel Hill resident, pointed out a conflict between removing trees to accommodate bike and sidewalk while also requiring the applicant to preserve as many trees as possible. He said that walkers and people waiting for buses would appreciate having shade trees and noted that trees had not been replaced after road expansion in other parts of Town. Mr. Hintz pointed out that exceptions had been made in Town in the past in order to preserve mature trees. He had measured the area and believed it could easily accommodate the existing trees, some of which he and his students had planted over the years, he said.

Mr. Hintz said that it was vital for the Town to spell out its plans for a bike path and sidewalk on Sewell Road in the permit. He urged the Council to make sure that plans for the new rain gardens include rescuing existing plants. Mr. Hintz expressed caution about potential flooding in the area and said he hoped engineers were aware that the flood plans were outdated.

Kirsten Barker, PTSA president at CHHS, mentioned recent school shootings in the US and said that parents had begun contacting her about making CHHS safer. Parents had been asking her when the permit would be issued so that construction of a more closed campus could begin, she said. Ms. Barker asked Council members to not allow concerns about salvaging plants and the traffic pattern delay the process. She asked the Town to approve the project so that CHHS could break ground as soon as school ended on June 8, 2018.

In response to a request by Council Member Buansi, Mr. Frank indicated on a map the area that contained the large trees that Mr. Hintz had mentioned.

Blake Hall, a landscape architect with Timmons Group, said that there were nine willow oaks in the area where the plan was to widen the road and add a bike lane. He showed where the plan was to save two of those trees and said they could try to save as many as possible.

Council Member Oates asked about the possibility of widening the road from the other side.

Mr. Hall replied that he did not know if there was enough right of way to add 10 feet without grading back into properties.

Mr. Frank commented that staff had spent a lot of time on that issue and could continue to see if any space would allow for modification as the project moved to final plans.

Council Member Oates pointed out that the trees, having been planted by students, had emotional impact in addition to providing shade.

Mr. Frank said that the trees had been of considerable interest to the CDC and that their stipulation of approval had directed the Town's landscape architect to look at optimizing saving them to the extent possible in the northern portion.

Mr. Hall pointed out that a small utility strip existed between the curb and sidewalk. Eliminating that could save some area, he said.

Council Member Gu asked how the queuing analysis in the TIA had been done.

Mr. Hall replied that a third party had done the TIA and had based the queuing number on how many parents were currently dropping students off. The NC Department of Transportation's municipal schools transportation assistant had helped determine the number with a third party traffic engineer, he said.

Council Member Gu asked what measures were in place to evaluate congestion issues when enrollment exceeded the planned maximum.

Mr. Hall replied that a stipulation would require CHHS to do a TIA within six months of the new school's opening.

School Superintendent Todd LoFrese explained that CHHS was very close to capacity. Therefore, the six-month TIA would present a realistic picture of what they could expect at CHHS, he said.

Mr. Frank explained that the applicant would be required to report the TIA to staff, which would evaluate it and determine whether improvements were needed.

Council Member Gu asked if there was a plan for modifications if certain conditions were to occur, and Mr. Frank said that reports would go to the Council for discussion regarding how intersections were performing.

Council Member Gu asked if there was a set of remedies for certain conditions, and Mr. Frank replied that the Town would rely on its transportation engineer to work with the applicant to determine mitigation measures.

Council Member Parker moved to close the public hearing and adopt Resolution 12. Council Member Buansi seconded the motion, and Council Member Oates proposed a friendly amendment to have the Town's landscape architect see if trees could be saved along the southern edge of High School Road.

Council Members Parker and Buansi accepted the friendly amendment and the Council voted unanimously to adopt R-12.

Mr. LoFrese thanked the Council on behalf of the entire CHHS community and invited them to the groundbreaking for the new school on June 12th.

A motion was made by Council Member Parker, seconded by Council Member Buansi, to Close the Public Hearing. The motion carried by a unanimous vote.

A motion was made by Council Member Parker, seconded by Council Member Buansi, that R-12 be adopted as amended. The motion carried by a unanimous vote.

14. Consider Adoption of the Blue Hill Design Guidelines and Enactment of Associated Text Amendments to Form District Regulations

[\[18-0465\]](#)

Principal Planner Corey Liles introduced the item regarding the final version of the Design Guidelines (DG) and associated text amendments for the Blue Hill District (BHD). He said that the purpose of the item was to review and consider adoption and enactment of the DG.

Project Consultant Nore Winter, with Winter & Company, said that the purpose of the DG was to establish a common understanding of principles that promote a walkable and green character in the BHD. The DG would provide guidance for applicants, establish review criteria for the CDC, and promote the development of a walkable community with opportunities to live, shop, work and share the community experience, he said. He noted minor edits that the CDC had suggested and said that the Planning Commission (PC) had recommended adoption of the DG as drafted.

Mr. Winter pointed out that new language had been added to address a couple of issues that the Council had previously raised. These included screening for pass-throughs near parking areas, and rooftop space being considered outdoor amenity space, he said. He provided details on both of those issues in a PowerPoint presentation. He also discussed shielded lighting and decorative screening on fences and addressed the intent of the DG language.

With regard to the text amendments, Mr. Liles explained that the purpose was to more clearly link the DG to the form based code while also making minor clarifications and technical corrections. Seven categories of text amendments addressed the following: frontage types (revisions to type D in particular), varied building massing, pass-through dimensions, design alternatives (including using rooftop amenity space to meet the outdoor amenity requirement), enhanced standards, review authority and application requirements, and name change/technical edits.

Mr. Liles explained that the Council would be the body approving updates but that staff would make technical corrections and formatting organizational improvements, with Council approval. He pointed out revisions that staff had made to text amendments presented at the prior public hearing. He said that the CDC and PC had both recommended enactment, with some revisions and minor edits, which had been incorporated. Staff recommended closing the public hearing and adopting Resolution-14 (the DG) and Resolution-15 (text amendments) and enacting Ordinance-5, Mr. Liles said.

Council Member Oates confirmed with Mr. Liles that, as proposed, alleyways of a certain width could not be used to define breaks between blocks. "So it's basically a narrow street," she said, adding that she could live with that.

Council Member Schaevitz said that she could not find a number for maximum module length in the guidelines, and Mr. Liles replied that a maximum of 80 feet was written into the ordinance.

Council Member Schaevitz verified with Mr. Liles that the existing block length standard of a maximum of 450 feet -- with a design alternative of 600 feet, if approved by CDC -- was not proposed to change.

Mayor pro tem Anderson asked if obtaining a Certificate of Approval would mean that the CDC could not deny the project.

Mr. Liles replied that an applicant affirmatively demonstrating how it was meeting the DG would support a CDC finding that the application had met the Land Use Management Ordinance (LUMO).

Town Attorney Ralph Karpinos added that the Town was setting a standard that said if an applicant met those provisions it would be entitled to approval under the LUMO. If the Council chose not to approve, then the applicant could appeal that to the Board of Adjustment, he explained.

Mayor pro tem Anderson asked if the CDC could deny an application that did not meet a DG standard.

Mr. Karpinos replied that the LUMO set standards and the DG show how to meet those. If an applicant could point to a basis for how it met the ordinance based on the guidelines then it would be entitled to approval, he said.

Mayor pro tem Anderson confirmed with Mr. Karpinos that an applicant could argue that something met the ordinance and that they had a right to approval even though it was not what the DG asked for. It would be up to the CDC to determine whether it agreed or not, Mr. Karpinos said.

Virginia Gray, a Meadows resident, said that design principles that

promote green character in the BHD seemed ironic considering the great loss of tree canopy there and across Town. She gave examples of areas that had been clear-cut in the BHD and said that residents were sad about that. Ms. Gray also said that it was time for an updated TIA and that development plans should take the mobility needs of an aging population into account.

Lissa Mohr, a Hamlin Park resident, said that the plan to widen a road near her home would lead to more noise, traffic, and pollution. Members of her homeowners association had been talking about selling their homes because of it, she said. Ms. Mohr characterized the traffic plan for Elliott Road as "asinine" and asked the Council to not approve it without further discussion.

Scott Murray, a landscape architect representing Mannish Atma of the Atma Hotel Group, requested a 60-day grace period for projects that had already heavily invested in the BHD process. He described the difficulties and costs that code changes and delays had created for Mr. Atma since 1966 and said that the revisions being considered would have devastating impacts on the project.

Mr. Murray explained that limiting the third and fourth floors of main buildings would cut almost 60 units out of Mr. Mannish's project, which would be a deal-breaker. He pointed out that their phasing plans, which had been clearly discussed with the Town over a 16-month period, had been based on the current form based code. However, the Town had recently told his client that their phased approach would not entitle the project to the densities and floor areas that had been discussed all along, he said.

Mr. Murray said that the Atma Group was not able to design future buildings to the newly-required level of detail and were also at risk for additional requirements compromising the feasibility of their project. He said that concerns about too much multi-family housing were unwarranted in their situation. Mr. Murray said that they had worked for more than 20 months and had invested more than \$3 million in good faith and that he could not stress enough how extraordinarily devastating the proposed modifications would be. He asked the Council to include a provision that would allow a 60-day grace period for projects that had already invested so much.

Aaron Nelson, president of the Chapel Hill-Carrboro Chamber of Commerce, asked the Council to support Mr. Murray's request for a 60-day waiver. He praised the intent of the DG, but pointed out that the petitioners were in an unusual circumstance, having invested \$3 million in good faith and having followed rules that the Council was now changing.

Mr. Karpinos referred Council members to an alternative ordinance that would address the speakers' concerns by providing a delayed effective date

for projects that had achieved a certain place in the process.

Mayor pro tem Anderson confirmed with Mr. Liles that no other projects would meet those criteria.

Council Member Parker commended Mr. Winter and staff on the improvements, which he characterized as another huge leap forward. With regard to the applicant's request for an extension, he said that the Town strove for fairness and predictability in how development proceeded. The applicant had been working in good faith and had chosen not to submit a fully developed plan in order to work with the community and provide a project that it wanted to see, he pointed out. Council Member Parker said that the alternative language was fair and he hoped the Council would approve a 60-day waiver.

Council Member Schaevitz confirmed with the applicant that the 70 percent massing limitation was the biggest problem for them, but that vertical stepping and the articulation along the street would add cost as well. Mr. Murray added that having the CDC look at all four sides of the building, even inside a courtyard, meant having to come back with design alternatives, which would add cost.

Council Member Buansi confirmed with Mr. Murray that the applicant had received good feedback from the CDC and currently had 13 design alternatives, half of which were the result of discussions with the CDC.

Mr. Liles explained that the applicant had submitted the project for a Certificate of Appropriateness and that there had been interest in creating an opportunity for future connectivity to adjacent sites. The grade change between the current Quality Inn and the Europa Center created challenges for setting up streets or connections that could be extended in the future, said Mr. Liles.

Mayor pro tem Anderson asked if there were elements of the new DG with which the applicant could adhere.

Mr. Murray replied that they liked the new street types and that narrower sidewalks would be beneficial. There was a provision for phasing, but he did not think it would address their project, which had not gotten a formal okay on future buildings that they had been working on defining for two years, he said.

Mayor pro tem Anderson again asked what elements from the new DG would apply to the project if the Council were to grant an exception.

Mr. Murray replied that the Type A street, which allowed for six-foot sidewalks, would allow them to do on-street parking and still comply with the fire code.

Mr. Nelson commented that the applicant had probably not read the DG in great detail because they had been focusing on one aspect. If the Council was asking whether they could do all the other things if the Council gave them their top floors, he did not think that they could do so in 60 days, Mr. Nelson said.

Mr. Murray agreed that it would take much more detailed study. They had not even engaged architects on the key buildings and having to dive into the process for something that would not be built for three or four years was scary, he said.

Council Member Oates confirmed that the applicant would lose 60 of 260 apartments that had been planned. She noted the desperate need for AH in the area and asked if the applicant would be able to convert some of those to AH.

Mannish Atma, the applicant, replied that they had not underwritten AH because it was not part of the code requirement.

Council Member Oates told Mr. Karpinos that she was concerned about a reference to "multiple properties" even though only one was being discussed.

Mr. Karpinos explained that "multiple property owners" referred to the fact that there might be multiple people who own this property.

Council Member Gu asked whether or not the CDC had informed the applicant that a revision to the form based code was coming. She noted that the Town had discussed the issue several times at public hearings.

Mr. Murray replied that they had understood a revision was coming, but they had made it clear in every discussion with the Town that theirs was a multi-phased project with certain densities and that everything had been predicated on the existing code.

Council Member Gu said she did not think that most of the other changes would cause financial burdens for the applicant. She said that the CDC, staff, and consultant had put a lot of effort into those. She asked if the applicant could pledge that they would work with the rest of the DG.

Mr. Atma replied that he was a local resident whose Carrboro development had taken five years to receive approval. Council members could look at that and see how well it was situated and how much thought had gone into it, he said. Mr. Atma acknowledged that Council members and others were not happy about some things that had happened, but he asked them to not punish him because of that.

Council Member Stegman expressed agreement with Council Member Parker's comments about the project being a unique situation that merited

an exemption. If the applicant could make any of the other design features work, that would be great, she said. However, it would not be fair for the Council to try and require that at the current point, especially given the location of the parcel and the difficulty of developing it, she said.

Council Member Buansi expressed appreciation for all the work that had gone into developing the DG. He said that the CDC seemed to be empowered through them. He understood and respected the concern about having worked in good faith with Town staff and the CDC based on the form based code as it had been written, he said. Council Member Buansi expressed support for the exempting the applicant with the recognition that it was a special circumstance and that the exemption would apply only to that property.

Council Member Gu confirmed with Mr. Karpinos that the Council was under no legal obligation to grant an exemption. The current status of the project would not give the applicant a vested right under the law, Mr. Karpinos said. The applicant might take it to court, and the court might rule otherwise, but the Council was not obligated under current law to do what it was being asked, Mr. Karpinos said.

Council Member Gu said that she would like the Council to be generally consistent in such cases. If they were to grant a 60-day exemption, why would another project, such as Park Apartments, not request more time, she asked. Council Member Gu said that she felt uncomfortable with the arbitrariness of the request.

Mr. Karpinos replied that the Council had taken situations into account and established delayed effective dates for ordinances because of such situations, without necessarily putting in stipulations that apply it to only one project. However, there was only one project in this situation, he pointed out. Mr. Karpinos said that the Council could establish a delayed effective date and then anyone who submitted an application by that date would be protected. He pointed out that after a recent conversation regarding Park Apartments the Council had negotiated an arrangement and adopted a policy that gave that developer exceptions to ordinances.

Council Member Gu said that having consistency and predictability in the permitting process had been the impetus for the form based code. She asked what kind of grace period the Town had given projects in the past when it was initiating new ordinances or guidelines.

Mr. Karpinos replied that he could not answer that without going back and studying every time the Council had changed the LUMO. However, he knew that a number of exceptions to effective dates had been written into some Town ordinances, he said. Establishing a grace period or effective date when enacting an ordinance depended on the significance of the ordinance and the impacts it might have on existing lots and

developments, he said.

Mayor pro tem Anderson said that it was difficult to enact changes without knowing who it would and would not apply to. She did not think the applicant in this case should have to pay for the fact that the Council did not have that in place, she said. She said that the Council had to be fair and ask staff to figure out how to avoid a similar situation in the future. Mayor pro tem Anderson said that someone who had been working in good faith with the Town should not be penalized.

Mayor pro tem Anderson asked if Council members wanted to talk about other pieces of the DG.

Council Member Oates asked if granting a grace period would affect the next item about changing WX to WC zoning.

Mr. Karpinos replied that he expected it would, but he noted that the next item was merely to open a public hearing. The Council would likely hear evidence and comments from people and staff would bring back a full report at a later Council meeting, he said.

A motion was made by Council Member Parker, seconded by Council Member Buansi, to Close the Public Hearing. The motion carried by a unanimous vote.

A motion was made by Council Member Parker, seconded by Council Member Stegman, that R-14 be adopted. The motion carried by a unanimous vote.

A motion was made by Council Member Parker, seconded by Council Member Gu, that R-15 be adopted. The motion carried by a unanimous vote.

A motion was made by Council Member Parker, seconded by Council Member Stegman, that O-5.1 be Enacted. The motion carried by a unanimous vote.

ZONING ATLAS AMENDMENT and SPECIAL USE PERMIT

ZONING ATLAS AMENDMENT

- 15.** Open the Public Hearing: Zoning Atlas Amendment - Eastowne Redevelopment Medical Office Building - 1.

[\[18-0466\]](#)

Planner Michael Sudol explained that the zoning atlas amendment (ZAA) for 100 Eastowne Drive, had been evaluated by staff and the Planning Commission and was before the Council to open the public hearing. With a PowerPoint presentation, he showed the site at the intersection of Highway 15-501 and Eastowne Drive and said that the Town's future land use map showed the area as mixed use with office emphasis.

Mr. Sudol explained that the applicant had proposed rezoning from OI-2 to OI-3 (which would allow for twice the floor area). The LUMO defined OI-2 as medium intensity office/institutional development and OI-3 was intended for major educational, research, public service, office uses and support functions, he said. Mr. Sudol recommended that the Council receive the staff report, take public comment, and recess the public hearing to June 27, 2018.

A motion was made by Council Member Parker, seconded by Council Member Buansi, to continue the Public Hearing to June 27, 2018. The motion carried by a unanimous vote.

SPECIAL USE PERMIT

16. Open the Public Hearing: Special Use Permit Modification - Eastowne Redevelopment Medical Office Building - 1.

[\[18-0467\]](#)

Mr. Sudol gave a PowerPoint presentation on a proposed SUP modification for a six-story, 153,000 square-foot medical office and clinic at 100 Eastowne Drive. He noted the associated ZAA and said that all advisory boards and the PC had evaluated the application. He provided basic information about the proposal that would include a 5.5-story/580-space parking deck. The applicant was proposing to demolish four buildings on the lower portion of the site, he said.

Mr. Sudol showed a site plan that indicated access along Eastowne Drive and a secondary emergency/fire access off Highway 15-501. He noted a proposed surface parking area to the north and discussed it in relation to the Resources Conservation District (RCD). He said that requested modifications related to buffers along Highway 15-501, building height, and RCD encroachment. All advisory boards had recommended approval, with conditions that had been incorporated, he said. Mr. Sudol recommended that the Council open the public hearing and then recess it to June 27, 2018.

Council Member Stegman asked about the reasons for an exception to height across from Pinegate Apartments.

Mr. Sudol replied that it was related to the location of the site and the way it was pulled back from the RCD. He deferred to the applicant for more detail but said that it would be difficult to meet the 35-foot requirement considering how the site was designed.

Mayor pro tem Anderson asked about a discrepancy regarding the property being listed as office rather than medical.

Mr. Sudol said that he had received a notice about that just that day and that staff would be looking into it and bringing an answer to the Council before June 27th.

Council Member Anderson confirmed with Mr. Sudol that Town advisory boards had received potentially incorrect information.

Council Member Gu said that the current RCD buffer requirement was 150 feet and asked what the proposed buffer was.

Mr. Sudol showed on the map where an encroachment up to the 100-foot line had been proposed but then removed so that only part would go to that 100-foot line.

Council Member Gu verified where a stream was and confirmed with Mr. Sudol that there had been no flooding issues, as far as he knew.

Council Member Schaevitz asked that Council be sent a revised TIA well in advance of the June 27th hearing.

Mr. Sudol agreed and said that he was optimistic that new numbers would be available at least a couple of weeks before that date.

Council Member Parker asked if there would be time before the next meeting to work through the different traffic mitigations that might be required before that meeting, and Mr. Sudol deferred to the applicant to answer that.

Simon George, vice president of Real Estate at UNC Healthcare, gave a PowerPoint presentation on the project. He noted that UNC Healthcare had downsized it from 300,000 to 150,000 square feet since first bringing it before the Council in January and February 2018. He said that one building was needed immediately and that a second one would be built as part of a master plan.

Mr. George said that the current traffic flow in the vicinity was office use but there would be constant patient flow throughout the day when the building was in use. He said that parking in the RCD would be for a current building that would remain there. UNC Healthcare had agreed to add a greenway trail along Highway 15-501, he said, and he responded to feedback regarding a garage entrance, shifting the parking garage farther back, adding a bus stop, and adding a 10-foot multi-use path.

Mr. George said that a "master plan" that some had seen was really only a concept plan showing what could happen on the site. He said UNC Healthcare was proposing two timelines: one for developing the first building in summer 2018 and the other for developing a master planning process that would kick off during summer 2018 as well. The building was expected to be complete in mid-2020 and the master plan would likely be complete in the summer or fall 2020, he said. Mr. George said that UNC Healthcare would need the second building on site in coming years and that it would be done as part of the master planning process.

Bill Derks, from McAdams Company, gave a PowerPoint presentation regarding aspects that had been discussed with various Town boards. He showed an exhibit regarding bike and pedestrian activity at the site that had been requested by the Transportation and Connectivity Board. Mr. Derks explained changes and improvements pertaining to greenways, sidewalks, an electric vehicle conduit, and removing a portion of a surface lot from the Rural Conservation District. He said that the three modifications were for the D buffer along Highway 15-501, the RCD, and building height.

Mr. Derks mentioned that the PC had asked for more context to show the impact of building height on adjacent properties and showed renderings depicting views from several directions. He said that UNC Healthcare did not agree with a PC request to not clear where the second building would go. The topography was shallow rock and blasting would be required, so UNC wanted to have that blasting completed before the first building was operating, Mr. Dirks explained.

Andy King, with MHA Works, gave a PowerPoint presentation on the building's design. He said that the CDC had accepted the height but had proposed minimizing the large appearance by changing how windows were laid out. He said that outside material colors would be tan, gray and terra cotta and there would be solar shading on the west and south exterior facades. The landscaping contour, groupings, placement and scale were all correct on the drawings, said Mr. King. He also showed the current design for the parking structure.

Council Member Buansi confirmed with Mr. George that parking was planned to be free.

Council Member Stegman confirmed that the applicant had not reached out to residents of Pinegate. She asked if there were plans to do so, and Mr. George replied that there were, "potentially."

Mr. Sudol said that notifications had been mailed to property owners within a 1,000-foot radius and that signs and notices had been posted with information about the current hearing.

Council Member Schaevitz asked if there had been any feedback from the CDC or PC regarding a 74-foot versus 35-foot exemption for the medical office building.

Mr. Sudol said that he did not recall any specific feedback but would look into the matter and report back to Council.

Mr. Derks said that there had been a discussion about the building height the first time the applicant went to the CDC but that no board had seemed concerned or had requested any change to the modification request.

Council Member Parker commented that the PC had not had reservations about the height specifically but had asked that height be illustrated in a way that would let the Council fully understand how it would look.

Mr. George agreed that the PC had asked for balloons or massing models, and that they had elected to do the massing model that he had just presented.

Council Member Schaevitz confirmed that a copy of the applicant's slide presentation would be provided to the Council.

Council Member Gu noted that the PC had expressed concern about the number of trees that would be eliminated along Highway 15-501.

Mr. George described how carefully they would remove rock from that area where a greenway trail would meander in order to preserve some of the quality trees. He said that they planned to build walls around the main trees in order to protect them.

Chris Berndt, a CDC member, made a personal plea that the forested buffer along Highway 15-501 be preserved. She pointed out that nearly every tree on the applicant's property had been x-ed out on their Plan C3. The applicant intended to clear cut and would request that trees in the NC Department of Transportation's right of way be cut as well, she said. She said that the result would be to totally remove an urban forest from Chapel Hill.

Ms. Berndt expressed strong opposition to that plan. If tree removal had to be done, however, she pointed out that the PC had suggested replanting canopy trees within the 30-foot buffer. She said that the staff report stated that the PC's suggestion had been included in the stipulations, but she had not been able to find it there. Ms. Berndt said that a better solution for the community would be to maintain the forested buffer, which defined the Town's character at the entryway.

Julie McClintock, a Chapel Hill resident, expressed agreement with Ms. Berndt's remarks and noted that Councils had traditionally been concerned about the appearance of Town entryways. She acknowledged that UNC Healthcare wanted its building to be maximally visible but said there would be no problem seeing it above the trees. With regard to traffic, Ms. McClintock pointed out that a Town mobility study had found that there would not be much mobility at all on Highway 15-501 in 2020. Staff had done great work on that study but needed to be able to actually use it when there was a master plan, she said.

Council Member Parker pointed out that only part of a Highway 15-501 study that was underway was meant to address traffic and transportation. The Town was adding buildings one at a time but did not have a clear

vision of how to address traffic in the future when the master plan was built out, he said. He said that there was no notion of how any traffic improvements would be paid and he recommended that the Town start to think in a more future-oriented way.

Council Member Oates agreed that Medical Office Building would be visible above the trees. She pointed out that it takes a long time for some trees to grow and asked the applicant to return with information about what size trees they wanted to plant. She said that the area would look entirely graceless with no trees and that a proposed greenway along the frontage should be protected from the traffic. Having just a sidewalk and no trees along Highway 15-501 would defeat the purpose of that greenway, Council Member Oates said. She asked the applicant to protect as many trees as possible.

Council Member Buansi said that he agreed with his colleagues. The proposed development would only compound traffic problems along Highway 15-501 if the Town did not think ahead about how to mitigate that, he said. He asked staff to report back on that issue for more discussion.

Council Member Gu confirmed with the applicant that the idea for a pedestrian path along Highway 15-501 had been the result of discussions with staff about extending the Town's greenway plan and that had led to a need for grading in the area. She verified with the applicant that having to build a meandering path had compounded the tree save issue.

Council Member Schaevitz confirmed with the applicant that there was a trade-off between trees and the path. She asked if there was any other reason for grading and tree removal, and the applicant mentioned reducing density for visibility reasons. They could still keep some of the larger, higher quality trees, and could obviously do a lot more of that if they did not need to regrade the area for a path, the applicant said.

Council Member Stegman said that she understood the argument for visibility but that a medical clinic did not need as much visibility as University Mall, for example, where people might pull off the road spontaneously. She asked if it would be possible to replace more trees and make the area denser after the path was in place.

Mr. Derks offered to return with a landscape plan that would address the size of the planned trees and the request for more canopy trees.

Council Member Gu asked why the path needed to meander. Would having it closer to Highway 15-501 not be better for cyclists and pedestrians, she asked.

Mr. Derks pointed out that there had also been comments about moving the path away from Highway 15-501 and separating it from the road with

trees so it would be more shaded and protected. He said that the plan was to preserve about 17 oaks and cedars and 9 pines. They were trying to select the more important trees if the plan was to meander the path through that area, he said.

Council Member Gu asked staff if there was a plan to connect the path to anything else, and Mr. Sudol replied that it was not shown on the Bike and Pedestrian Mobility Plan but was thought to be a good connection for the future light rail gateway station. In addition, future development along that frontage would build out that connection, he said.

Council Member Gu inquired about locating the path closer to the highway, and Mr. Sudol replied that the difference would be in the comfort of pedestrians and cyclists. There probably would still be some grading necessary, but he could not comment for sure on the impact on trees, he said.

Mayor pro tem Anderson said that the TIA was her first concern and she agreed with Council Member Parker about the importance of staff thinking holistically about the area. She expressed concern about the current TIA not being based on correct information and said she did not fully understand why a medical facility would generate less traffic at peak times. Mayor pro tem Anderson stressed the importance of getting accurate information about expected traffic generation before meeting again on this application.

Mr. Derks explained that the logic had been that the building would not have many employees. There would be fewer people at peak times and more people spread throughout the day, so counts would actually go down, he said.

Mayor pro tem Anderson replied that she hoped that was true but would like to see a revised TIA before the Council reconvened. She confirmed with the applicant that they would return with traffic counts broken down by phases and at full build-out.

Council Member Anderson agreed with others that the need to decrease the buffer for more visibility from the street was probably less for a medical building than for retail. She noted a desire by several Council members to keep the buffer and said it seemed as though there could be an option to do so, since that was a stronger interest than having a path that was completely shielded from Highway 15-501.

Mayor pro tem Anderson said she was somewhat concerned about how fast the process was moving but understood the need for speed, and more space, and was glad that the Council would see a master plan for the other buildings. The remaining issues were related to the TIA, buffer, looking holistically at traffic, and clear-cutting, she said.

The applicant asked for the Council's opinion regarding the greenway path, noting that an obvious option would be to not build it.

Council Member Parker asked how difficult it would be to retrofit a complete path in the future when UNC Healthcare's master plan was complete and the Town knew what the area would look like.

Mr. George replied that building it later would be a definite possibility, and Mayor pro tem Anderson said that she was seeing a lot of Council members nodding in agreement.

A motion was made by Council Member Schaevitz, seconded by Council Member Buansi, continue the Public Hearing to June 27, 2018. The motion carried by a unanimous vote.

**17. Open the Public Hearing: Land Use Management Ordinance
Text Amendments Regarding Modifications to Form District
Regulations in Section 3.11.**

[\[18-0468\]](#)

Director of Planning and Development Services Ben Hitchings gave a PowerPoint presentation regarding modifications to Blue Hill District regulations based on the Council's desire to increase non-residential development and address building size and massing concerns. He said that a related petition introduced in March 2018 had led to several Council discussions and meetings with advisory boards. Staff had sent out notices regarding the proposed text/map amendments, he said.

Mr. Hitchings presented a summary of staff comments regarding different properties in the district, some of which were on the ground or in the pipeline. He pointed out that Economic Development Officer Dwight Bassett had described a progression from residential to commercial to office development and had addressed a slowing in growth of the residential lease rate but that housing demand continued to be strong throughout the region.

Mr. Hitchings showed the properties that had been proposed for a map amendment and said that the text amendment would create two new walkable commercial districts. Two sites, currently zoned WX-7 and WX-5 could be rezoned to WC-7 and WC-5, respectively, he said. However, the Council would first have to create those districts and then define the allowable uses, he explained. Mr. Hitchings said that no other changes to form based code standards were being proposed while the WX districts were being translated to WC districts.

Council Member Parker asked about the criteria used for determining which sites were best suited for the WC designation.

Mr. Hitchings pointed out that Mr. Bassett had gone through an analysis of properties' locations and where they stood regarding development and redevelopment at the last Council meeting regarding the issue. And

redevelopment would depend on other factors as well, he said.

Council Member Oates asked about commercial parking, and Mr. Hitchings replied that it would be allowed as a secondary/accessory use and as a primary use if someone wanted to run a parking lot.

Council Member Oates pointed out that the Council had discussed shared parking. It seemed as though someone would have to build a parking deck that everyone could use, she pointed out.

Mr. Hitchings agreed, and said that the Council could change the process to enable other uses if it chose. Making parking an allowable use would make it easier for someone to pursue that activity, he said.

Council Member Stegman asked if staff had analyzed the financial impact on taxes if development slowed or did not happen.

Mr. Hitchings replied that Sustainability Officer John Richardson had recently presented a semi-annual BHD update, which tracked growth in the tax base and revenue to help support paying off the debt on transportation improvements. The Town seemed to be on track, he said, but added that staff had not taken a deeper look at how the current proposal would affect properties.

Council Member Stegman said it would be important to look at whether the proposed changes would affect the analysis of usage.

Tony Sease, principal with CiviTech Consultants, discussed visual permeability related to building size, and pedestrian permeability, which was about the quality and number of destinations and the safety and desirability of access routes to those destinations. He said that there were four potential ways, beyond those included in design guidelines, of addressing permeability. These pertained to: pass-throughs being linked to outdoor amenity spaces; maximum building footprint square footage; maximum percent lot coverage; and maximum building length.

Mr. Sease gave a PowerPoint presentation on the pros and cons of each of those four items. He pointed out that they would apply only to the residential portion of any proposed project and would presumably be adopted for all projects in the BHD. Impacts from adopting the proposed change would include reducing the potential development footprint for residential from 94 to 90/88 percent and constraining the resulting non-building areas to purposeful uses and intentional designs, he said.

Mayor pro tem Anderson clarified that 6 percent outdoor amenity space was required for all uses in the BHD and was separate from recreational space. Under the present ordinance it was solely related to residential property but could be accommodated internal to the project, she said.

Council Member Parker confirmed with Mr. Sease that a fenced in, ground level pool at a residential building would count as long as it was not internal to the building.

Council Member Stegman asked if reducing the footprint for residential buildings could potentially lead to more expensive units.

Mr. Sease replied that there would likely be an effect because it would have some impact on the pro forma.

Mr. Hitchings pointed out that the Council had adopted massing standards earlier in the meeting and was currently addressing the option regarding recreation space. He said that the PC and CDC had recommended the revised standards, had made some additional suggestions regarding connectivity, and had suggested offering incentives for commercial development rather than adding commercial districts. Mr. Hitchings recommended that the Council open the public hearing on the text amendments and massing and then recess the hearing to June 27, 2018.

Council Member Gu asked if the massing and permeability options would apply only to two lots.

Mr. Hitchings replied that staff had been thinking it would apply throughout the BHD but that the Council could structure it however it chose.

Mr. Sease said that it would not apply to the commercial district since the recreation space requirement did not apply to single-use development.

Mr. Hitchings said that it would apply to the residential portions of a mixed-use building, however.

Council Member Gu asked if that applied to projects that had not yet been submitted. She referred to the earlier discussion about a grace period for the new DG.

Mr. Hitchings said that the Council had an opportunity to take action at the end of June. If staff received a completed application before then, that applicant would have the option of choosing the existing or the new standard while any projects that came in after adoption would be subject to any new requirement, he explained.

Council Member Parker commented that passing the text amendment at the end of June would mean that it would apply to the Atma parcel and the conversation regarding that would need to be held again.

Mr. Hitchings replied that it would depend on the extent of a residential component in that project. He offered to clarify that with the applicant.

Mayor pro tem Anderson expressed support for doing that and Council Member Gu said that any grace period needed to be specified.

Council Member Buansi asked about the rationale behind the CDC's recommendation against the proposal to add commercial zoning districts rather than offer incentives.

Mr. Hitchings explained that the CDC had been wondering why the policy was focused on particular properties instead of being cast more broadly across the district.

Council Member Stegman asked how property owners had been contacted regarding the proposed text amendments.

Mr. Hitchings said they had received direct communication from Mr. Bassett and notices had been publicized and posted. A special effort had been made to have direct communication and several people had come in and talked with staff about the details of the proposal, he said.

Council Member Stegman asked about feedback, and Mr. Hitchings said that the Council would hear some of that during public comment.

Mr. Little, a Chapel Hill native, said that his family had owned the Staples property since the mid-1950s. He had determined that multi-family housing was the property's highest and best use and had entered into a purchase contract with a developer in March 2018, he said, noting that he had thus complied with BHD development requirements at that time. If the Town was considering changing the allowed uses for his property, then his partner would walk away from the deal, he said.

Mr. Little questioned the fairness of the Council's proposed action, which he said felt rushed, inconsistent with the purposes of Form Based Code, and seemed aimed at his property. He and his family had honored the BHD plan and believed that the Town should honor its commitment to property owners, especially to one who had already entered into a purchase contract, Mr. Little said.

Dickson Phillips, of the Robinson Bradshaw and Hinson Law Firm, spoke on behalf of the Little/Conninger partnership, and noted that the Staples property was one of three from which the proposal would remove residential use. He asked to apply his time for the current item to Item 18, but Mayor pro tem Anderson refused to allow that.

Mr. Phillips said that the Council's proposal would take permitted uses from a few select property owners while leaving the rest of the district unaffected. If enacted, that would have a severe effect on his client and the sudden occurrence suggested a specific intent to take away the rights that his client was planning to exercise, he said. Making adjustments in the district should be done in a more deliberate and holistic way, he

argued.

Mr. Phillips pointed out that PC and CDC comments had been uniformly and severely critical of the proposal for being fundamentally unfair and bad policy. The Council's stated purpose was to promote commercial development, but the proposed changes would merely prohibit residential development on certain parcels, he said. Mr. Phillips said that the Council appeared to be working at cross purposes to the stated goals of the BHD and the specific code in the Comprehensive Plan, which included promotion of a mixed-use area with substantial residential that supports commercial development in a walkable area. He pointed out that the proposal was directly counter to the consistent and predictable decision-making process that the Town had intended to create.

Wes Pope, a Chapel Hill native and president of Colonial Motors (owners of University Ford property since 1961), said that the University Ford property was not going to be redeveloped -- commercial or residential -- period. He agreed with all that Mr. Phillips had said about the process seeming rushed and not good policy. It was unfair to those who were being "spot down-zoned," he said.

Mr. Pope said that Mr. Bassett had reported being in constant contact with property owners, but that he had never heard anything from Mr. Bassett or anyone else on Town staff even though Mr. Bassett had had his contact information since March 27th. Mr. Pope explained that University Ford had a long-term lease. He expressed concern about his family's options for the property in 10-15 years and he appealed to the Council for fairness. Mr. Pope said that he did not believe his property would have been included in the petition if anyone had contacted him about its status.

Ms. McClintock said that CHALT (Chapel Hill Alliance For a Livable Town) members supported the creation of the new WC districts and would like to see it applied to all existing commercial mixed-use properties. The primary reason for the change was that residential development had succeeded and was oversupplied, she said. Ms. McClintock recommended that the Council continue to address massing. She said that maximum lot coverage sounded like a strong idea and that there seemed to be much interest in tying it to the recreation space requirement. The maximum block length was still important, she said, and she noted that the guidelines were not necessarily enforceable.

In response to a request for clarification from Council Member Stegman, Mayor pro tem Anderson explained that the Council was currently addressing the commercial zone and would then address the massing issue. The next item would be about the commercial zone specifically, and how the WC-5 and WC-7 zones would be applied to those parcels, she said.

Council Member Parker said that he generally supported Mr. Sease's

recommendations and would like to see some analysis or conversation with developers about real world implications before June 27th. With regard to the WC districts, he said that it might make sense to include some sort of look-back or sunset provision to see if it needed to be tweaked, or modified, or blown up down the road, he said. Council Member Parker said that having the zone appeared to be a useful tool, but the Council needed to make sure that it was applied democratically.

Council Member Oates asked Mr. Hitchings about a PC comment about how limiting residential development meant limiting AH as well. Does the PC not understand that the Town was not getting any AH, she asked.

Mr. Hitchings replied that he was not sure what that comment meant. He pointed out that the Town had seen a contribution of units in the 80-120 percent AMI range with the Park Apartments project. However, Council Member Oates was correct with respect to units under and at the 80 percent AMI range, he said.

Council Member Oates said that PC members might need some clarification if they start talking that way again.

Council Member Schaevitz said that the massing idea seemed interesting and that she would like to hear the PC's feedback on that. With regard to restrictive zoning, she had heard comments about better ways to encourage commercial development and was interested in hearing whatever strategies were available to make that happen, she said. Council Member Schaevitz stressed the importance of keeping the conversation going regarding options for encouraging commercial development.

Council Member Stegman said that it felt like the Council was at the beginning of a process. There were a lot of competing priorities and a lot of information that Council members had requested but did not yet have, she pointed out. She said that the Town had not analyzed the impacts and trade-offs of different decisions. The Council thought it had done a thoughtful analysis of properties but was learning that some property owners did not even know about the petition, she said. She asked for specific numbers regarding housing demand in Chapel Hill. Council Member Stegman said that the June 27th deadline seemed rushed because the Council was unlikely to get answers that would lead to good goals in a month.

Council Member Gu said that the recommendations regarding massing and how to place recreation areas were very helpful toward creating purposeful walkable destinations and she would like to see that move forward. She asked for more information on how the two lots had been selected for WC zoning and how the Town was currently defining that new district. Without a better explanation from staff regarding the criteria for selecting those two parcels, the decision sounded arbitrary, she said. Council Member Gu stressed the need for a process that was transparent,

predictable, and fair. She said that the case for why and how the Council had reached its decision needed to be made clearer for the CDC and PC as well.

Council Member Buansi asked when staff recommendations for AH were expected to come before the Council. He said that it might be helpful to have those along with the WC districts because there might be some overlap.

Mr. Hitchings replied that the AH presentation was tentatively scheduled for the fall and that staff was not on a schedule where they could bring it forward in June.

Council Member Oates clarified that Mr. Buansi was referring to how the Town could have an incentive for commercial and perhaps a disincentive for residential by requiring AH. She asked if it was correct, however, that could not be done according to state law.

Mr. Hitchings replied that there were a couple of ways to deliver AH: one was through the entitlements process, as new development projects come forward, but that was not currently an option in the BHD unless the Town revised the framework; the other was through partnerships, and the Council was pursuing that with the AH bond. These were issues that needed to be discussed with the Housing team and staff would not be able to fit that in over the next month, Mr. Hitchings said.

Council Member Oates asked if it would be too disruptive to approve something in June and then revisit at some point and add AH to the requirements.

Mr. Hitchings replied that it was an open question. A second phase would be possible, but it would require direction from the Council and options formulated for consideration, he said.

Mayor pro tem Anderson said, in summary, that the Council was interested in the proposed massing ideas, in hearing what the PC thought, and in potentially talking with developers about the implications of losing 6 percent of buildable area. She had heard Council members express concern about parity and equity regarding zoning and an interest in AH, she said.

Mayor pro tem Anderson said that she shared the equity concern and had been hoping that the new zone would include more than three parcels. However, she understood that pursuing that would mean starting another process to create a zone for the remaining parcels, she said. Mayor pro tem Anderson said that studies had shown that there would still be housing demand even if the Town built out the entire BHD with housing, but she pointed out that it would mean losing the opportunity for commercial development forever. She expressed interest in figuring out a

way to increase commercial in all of the remaining WX parcels.

Council Member Schaevitz said that the idea of percentages of commercial was interesting. She confirmed with Mr. Hitchings that this could go to the Planning Commission for feedback on June 5th as well.

Council Member Stegman commented that the goal of incentivizing commercial development was not a bad idea but that the Town needed to look at the economics of it and better understand the impacts and trade-offs. She expressed concern that it could not happen by June 27 and said she did not want to unintentionally stop development altogether or have other unintended consequences.

Council Member Gu said that the Council had discussed and concluded that a course change was necessary three weeks ago. More than 1500 units had been approved for the district and development was off balance, she pointed out. She felt as though the Council had not explained why the change would affect only two parcels, she said, adding that she could not explain that fully herself. Council Member Gu said she strongly believed that more properties should be included and would be looking for information regarding that.

A motion was made by Council Member Parker, seconded by Council Member Schaevitz, to continue the Public Hearing to June 27, 2018. The motion carried by a unanimous vote.

18. Open the Public Hearing: Zoning Atlas Amendment for Application of WC-Subdistricts in the Blue Hill District.

[\[18-0469\]](#)

Principal Planner Corey Liles gave a PowerPoint presentation on the Blue Hill District zoning atlas amendment (ZAA) for the WC sub-districts. He explained that the ZAA specifically related to non-residential development and tracked with the text amendments discussed in Item 17. He showed on a map where the sites were proposed to be and explained that the text amendments had created the walkable commercial sub-districts WC-7 and WC-5, and the ZAA would apply them to specific sites. Mr. Liles showed the three sites, which included six parcels on map. He recommended that the Council open the public hearing and then continue it to June 27, 2018.

Mr. Phillips provided historical background on the University Ford site and the Little family. He said he was sympathetic to the Council's goals but thought there would be legal problems with the current proposal. The Town would carry the burden of showing that such spot zoning was justified and had a reasonable basis, he said. Mr. Phillips said that there was no objective standard for what the residential/commercial balance should be and that prohibiting residential development would not do anything to promote commercial development since that was determined by the marketplace. Mr. Phillips said he hoped the Council would decide that it made more sense to find other ways to achieve its ends.

Council Member Parker said that he had not expected only three sites to be the outcome and would like to have seen a more thorough analysis of which properties made the most sense, given where they were located. If those properties did not develop in 10 years, the Town would not have lost anything by rezoning them but would make its intentions clear, he said. Council Member Parker proposed re-looking at the sites that had been designated for the potential new zoning type along with other sites as well.

Council Member Schaevitz said she wholeheartedly agreed with Council Member Parker's comments. The Council needed a more intentional and thorough approach, she said.

Council Member Gu pointed out that residential development was 30 percent above the mark and commercial was way below. The petition had been based on data, not just a feeling that there was not enough commercial development, she said. She felt comfortable with the Council's attempt to do something to change the course, but agreed that applying it needed to be done more systematically and consistently, said Council Member Gu.

Mayor pro tem Anderson said she was hearing interest from the Council in having a more holistic approach to selecting parcels that were good commercial development possibilities. She asked staff to return with a way to move forward.

Council Member Oates confirmed with Mr. Karpinos that the Council could rezone anything that was not residential to commercial and those property owners could later petition the Town to change that zoning to residential if more residential were needed. She said that such a more generic approach would avoid the perception of spot zoning.

A motion was made by Council Member Parker, seconded by Council Member Gu, to continue the Public Hearing to June 27, 2018. The motion carried by a unanimous vote.

APPOINTMENTS

19. Appointments to the Board of Adjustment. [\[18-0470\]](#)
The Council appointed James Bartow, Paul Bungard, Lawrence Daquiaoag, Michael Fox, and Daniel Hatley to the Board of Adjustment.
20. Appointments to the Human Services Advisory Board. [\[18-0471\]](#)
The Council appointed Sammy Bauer, Katherine Henz, and Joshua Ravitch to the Human Services Advisory Board.
21. Appointments to the Orange Water and Sewer Authority Board [\[18-0472\]](#)

of Directors.

The Council appointed Bruce Boehm and Jeff Danner to the Orange Water and Sewer Authority Board of Directors.

- 22.** Recommend a Chapel Hill Representative to the Orange County Animal Services Advisory Board to the Orange County Board of Commissioners.

[\[18-0473\]](#)

A motion was made by Council Member Schaevitz, seconded by Council Member Buansi, that R-17 be adopted as amended. The motion carried by a unanimous vote.

ADJOURNMENT

The meeting was adjourned at 12:33 am.