



TOWN OF CHAPEL HILL

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

Town Council

Meeting Minutes - Final

Mayor Pam Hemminger
Mayor pro tem Karen Stegman
Council Member Jessica Anderson
Council Member Camille Berry
Council Member Tai Huynh

Council Member Paris Miller-Foushee
Council Member Michael Parker
Council Member Amy Ryan
Council Member Adam Searing

Wednesday, March 8, 2023

7:00 PM

RM 110 | Council Chamber

Language Access Statement

For interpretation or translation services, call 919-969-5105.

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Para servicios de interpretación o traducción, llame al 919-969-5105.

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919-969-5105.

In-Person Meeting Notification

View the Meeting

- View and participate in the Council Chamber.
- Live stream the meeting - <https://chapelhill.legistar.com/Calendar.aspx>
- View on cable television channel at Chapel Hill Gov-TV (townofchapelhill.org/GovTV)
- The Town of Chapel Hill wants to know more about who participates in its programs and processes, including Town Council meetings.
- Participate in a voluntary demographic survey before viewing online or in person - <https://www.townofchapelhill.org/demosurvey>

Parking

- Parking is available at Town Hall lots and the lot at Stephens Street and Martin Luther King Jr. Boulevard.
- See <http://www.parkonthehill.com> for other public lots on Rosemary Street
- Town Hall is served by NS route and T route, and GoTriangle Routes of Chapel Hill Transit.

Entry and COVID-19 Protocols

- Entrance on the ground floor.
- Visitors and employees will self-screen. Do not enter if you have these symptoms: Fever, chills, cough, sore throat, shortness of breath, loss of taste or smell, headache, muscle pain

ROLL CALL

Mayor Hemming called the meeting to order at 7:00 p.m. All Council Members were present, with the exception of Council Member Huynh, who was out of Town.

- Present:** 8 - Mayor Pam Hemminger, Mayor pro tem Karen Stegman, Council Member Jessica Anderson, Council Member Camille Berry, Council Member Paris Miller-Foushee, Council Member Michael Parker, Council Member Amy Ryan, and Council Member Adam Searing
- Excused:** 1 - Council Member Tai Huynh

OTHER ATTENDEES

Interim Town Manager Chris Blue, Deputy Town Manager Mary Jane Nirdlinger, Deputy Town Manager Loryn Clark, Town Attorney Ann Anderson, Assistant Planning Director Judy Johnson, Planning Manager Corey Liles, Affordable Housing and Community Connections Director Sarah Viñas, Planning Director Britany Waddell, Police Chief Celisa Lehew, Community Safety Planner Meg McGurk, Senior Project Manager Sarah Poulton, Community Outreach Manager Shay Stevens, Interim Parks and Recreation Director Atuya Cornwell, Emergency Management Coordinator Kelly Drayton, Communications Manager Ran Northam, Fire Marshall Chris Kearns, Police Officer Dave Shick, and Assistant Town Clerk Brenton Hodge.

OPENING

0.01 Council Vote on A Resolution In Solidarity With Chapel Hill's LGBTQ+ Community.

[\[23-0206\]](#)

Mayor Hemminger said that she and the Council were releasing a joint statement with Orange County, Carrboro and other districts opposing NC Senate Bill 49 (the "Parents Bill of Rights"), which would prohibit gender-affirming care for people under the age of 18. She emphasized the importance of speaking out and supporting the LGBTQIA+ community.

Each Council Member read a portion of Resolution 0.1, which listed the reasons for the Council's support. The resolution opposed House Bill 43 as well and stated that the Council was against all legislation that eroded the safety, health, civil rights and/or bodily autonomy of LGBTQIA+ people, including minors.

A motion was made that the Council adopted R-0.1. The motion carried by a unanimous vote.

0.02 International Women's Day Video.

[\[23-0207\]](#)

The Council viewed a video that showed women who lead and/or work for the Town in various capacities carrying out their tasks. Mayor Hemminger pointed out that it was International Women's Day and Women's History Month. The video's intent was to highlight some of the Town's amazing women and to recognize the contributions that women make to the community, she said.

0.03 Proclamation: National Developmental Disabilities Awareness Month.

[\[23-0208\]](#)

Council Member Anderson read a proclamation declaring March 2023 to be Developmental Disability Awareness Month in Chapel Hill and expressing the Council's support for developmentally disabled community members and their families. The proclamation said that the Council was committed to addressing the barriers that people with disabilities confront.

Jacklyn Boheler, executive director of Be3 Coffee, said that B3 had no organizational hierarchy and that people with and without disabilities held leadership roles at all levels. Be3 honored diverse ways of being and believed that all people longed to be seen, heard and valued, she said. Alex Martel, an ambassador with B3 Coffee, explained how to contact the company and said it was creating a space where everyone belonged.

Lisa Kaylie, executive director at Extraordinary Ventures, said that her firm's mission was to create and nurture self-sustaining businesses with a focus on creating job opportunities for people with intellectual and developmental disabilities.

ANNOUNCEMENTS BY COUNCIL MEMBERS

0.04 Mayor Hemminger Regarding MPO Transportation Planning Meeting.

[\[23-0209\]](#)

Mayor Hemminger said that Town had been asked during a recent Metropolitan Planning Organization meeting to join other cities in sending a letter of support for commuter rail funding for North Carolina. Metro Mayors and the League of Mayors had signed on as well, and the goal was to have all letters submitted by March 10, 2023, she said.

0.05 Mayor Hemminger Regarding Ground Breaking at U Place.

[\[23-0210\]](#)

Mayor Hemminger pointed out that demolition had begun at U Place. The redeveloped project would have more gathering places, less impervious surface, more green areas and trees, and more retail opportunities, she said.

0.06 Council Member Ryan Regarding Lights Out Chapel Hill.

[\[23-0211\]](#)

Council Member Ryan said that the Town had agreed to help the Audubon

Society protect migrating birds by reminding people to turn their lights off and close their drapes at night during spring migration. Information was available on the New Hope Audubon Society's Facebook page and/or website, she said.

Mayor Hemminger pointed that a wide range of activities and resources related to local waterways would be available during Orange County Creek Week, from March 17 to March 26, 2023.

0.07 Mayor Hemminger Regarding North Carolina Cities Initiative.

[\[23-0212\]](#)

Mayor Hemminger said that Community Sustainability Manager John Richardson and his team had helped coordinate the North Carolina Cities Initiative and that representatives from cities throughout North Carolina had come to Chapel Hill to address environmental change. She said that passage of the Inflation Reduction Act (aka Renewable Energy Act) had opened new opportunities for towns to get tax credits.

0.08 Mayor Hemminger Regarding Advisory Boards.

[\[23-0213\]](#)

Mayor Hemminger said that the Council would be making advisory board appointments later in the spring. She encouraged people to check the Town's website for vacancies and apply.

0.09 Mayor Hemminger Regarding Future Council Meeting.

[\[23-0214\]](#)

Mayor Hemminger said that a Council Work Session on the Town Budget and the Eastowne Medical Campus proposal would be held at the Chapel Hill Public Library on March 15th at 6:30 p.m.

PUBLIC COMMENT FOR ITEMS NOT ON PRINTED AGENDA AND PETITIONS FROM THE PUBLIC AND COUNCIL MEMBERS

Petitions and other similar requests submitted by the public, whether written or oral, are heard at the beginning of each regular meeting. Except in the case of urgency and unanimous vote of the Council members present, petitions will not be acted upon at the time presented. After receiving a petition, the Council shall, by simple motion, dispose of it as follows: consideration at a future regular Council meeting; referral to another board or committee for study and report; referral to the Town Manager for investigation and report; receive for information. See the Status of Petitions to Council webpage to track the petition. Receiving or referring of a petition does not constitute approval, agreement, or consent.

0.10 Eugene Farrar Requests Speed Tables Near Hargraves Center.

[\[23-0215\]](#)

Eugene Farrar, a Chapel Hill resident, said that streets around the

Hargraves Center needed speed tables due their proximity to an elementary school and school bus stop. He described speeding incidents and said that writing tickets was only a temporary fix. He understands that there was a waiting list for speed tables but thought that speeding near a school was a matter that the Town should prioritize, he said.

Mayor Hemminger told Mr. Farrar that the Council would take his request as a petition and refer it to her and the Town Manager.

A motion was made by Council Member Anderson, seconded by Council Member Parker, that the Council received and referred the petition to the Mayor and Manager. The motion carried by a unanimous vote.

CONSENT

Items of a routine nature will be placed on the Consent Agenda to be voted on in a block. Any item may be removed from the Consent Agenda by request of the Mayor or any Council Member.

Approval of the Consent Agenda

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

1. Approve all Consent Agenda Items. [\[23-0184\]](#)
This resolution(s) and/or ordinance(s) was adopted and/or enacted.
2. Approve the \$8.25 Million Installment Purchase Contract for the Replacement of Transit Buses. [\[23-0185\]](#)
This resolution(s) and/or ordinance(s) was adopted and/or enacted.
3. Support a Funding Request of the North Carolina Department of Transportation (NCDOT) to Install a Protected High-Visibility Crosswalk on Martin Luther King Jr. Blvd. at Critz Dr. [\[23-0186\]](#)
This resolution(s) and/or ordinance(s) was adopted and/or enacted.
4. Amend the Town Code of Ordinance Section 3-5 to Change the Town Public Locations Permitted to Allow Alcoholic Beverages at Special Events. [\[23-0187\]](#)
This resolution(s) and/or ordinance(s) was adopted and/or enacted.

INFORMATION

5. Receive Upcoming Public Hearing Items and Petition Status List. [\[23-0188\]](#)

This item was received as presented.

6. Greene Tract Update

[\[23-0189\]](#)

This item was received as presented.

DISCUSSION

7. Orange County Partnership to End Homelessness Update.

[\[23-0190\]](#)

Director of Affordable Housing and Community Connections Sarah Vinas pointed out that Chapel Hill had been a founding member of the Orange County Partnership to End Homelessness, which had been established in 2008 to implement a 10-year plan to end chronic homelessness. In 2022, a memo of understanding with the Partnership had been amended to add representatives from the Council and Town staff to the leadership team and to jointly fund three positions, she said.

Ms. Vinas reviewed the Town's long-standing commitment to address homelessness and put resources towards it. In the current year's budget, the Town had committed \$7.75 million to support homelessness services and development, she said. She explained that \$7.2 million of that had gone towards development and \$544,000 went towards homelessness services, including those offered by the Partnership. She outlined key challenges that still needed to be addressed, such as obtaining funding to develop units for people transitioning out of homelessness and more fully meeting the need for emergency shelter.

Rachel Waltz, Orange County Partnership to End Homelessness manager, presented the Partnership's 2022 annual report, discussed the status of homelessness, and provided an update on efforts to close system gaps. She thanked the Town for its ongoing support and its significant investment in affordable housing and homelessness. However, part of her goal would be to explain what happens when systems and safety nets are not enough, she said.

Ms. Waltz described various kinds of housing crisis and discussed the various tools that were available to help people find and/or keep stable housing. These included referral to the Street Outreach Harm Reduction and Deflection (SOHRAD) team, she said. She emphasized that the goal was to move as quickly as possible from a housing crisis back into permanent housing.

Ms. Waltz told the Council that 312 people had been served through shelters and transitional housing between October 2021 and September 2022 and that 69 had been served through the Rapid Rehousing Program. She pointed out that Black and African American community members, which were 12 percent of the population, made up 55 percent of those experiencing homelessness in Orange County.

Ms. Waltz said that more than 8,000 people who were either homeless or teetering on the edge had contacted Orange County's Housing Helpline during calendar year 2022. She said that 524 of those households had come into the coordinated entry system. There was no same-day shelter access, but 141 people had been connected with either temporary or permanent housing and 378 had been added to the shelter referral list, she said.

Ms. Waltz outlined changes that the Partnership had been making to increase access and resources. She said that the number of households that had found housing in the current calendar year had increased. However, gaps in the current system around actual housing, services and support persisted, she said, and she discussed a list of short-term services that were lacking as well.

Mayor pro tem Stegman and Ms. Waltz talked about hurdles in the application process, such as deadlines and differences regarding criminal and/or illegal involvement. Ms. Waltz said that there had been conversations about taking referrals directly from Coordinated Entry but that progress on that had been mixed. When asked by the Council, Ms. Vinas pointed out that tax credits were very prescriptive. However, developers who receive local funding could potentially serve some the people facing the hurdles being discussed, Ms. Vinas said.

Council Member Stegman pointed out that the Council often talked about the Interfaith Council's (IFC) shelter not being a best practice or evidence-based model. With people "literally dying in the cold on our Town streets", it was past time to address that, she said. She and Ms. Waltz discussed potential revisions that might lead to the IFC serving more people. Ms. Waltz said that making such a change would likely reduce the length of time that people experience homelessness. She pointed out that it could enable the IFC to apply for Emergency Solutions Grant funding.

Council Member Anderson confirmed with Ms. Waltz that a request for crisis diversion facility design proposals had gone out but that a site had not yet been chosen. She also confirmed that the Partnership had been talking with UNC Health, which was exploring options for a community-based setting. Council Member Anderson noted a connection between having stable housing and spending less time in the emergency room, and Ms. Waltz agreed that the healthcare system was the biggest winner when access to affordable housing was increased.

Council Member Parker and Ms. Vinas talked about the possibility of the Town using money and/or land that it gives to AH development partners as leverage by establishing explicit conditions for approval.

Mayor Hemminger confirmed that the Council supported asking Town staff to work with the IFC and the Partnership and then return with a list of recommendations that would help make the shelter more available for more people.

This item was received as presented.

8. Update on the Municipal Service Center Project and Affirm Next Steps.

[\[23-0191\]](#)

Interim Town Manager Chris Blue gave an update on the Municipal Services Center (MSC) project and asked the Council to adopt Resolution-4, which would affirm next steps and reimburse early project costs with bond funds. He pointed out that the new MSC would house the Police and other Town departments. The Town had looked at various sites since 2008 and had concluded that 828 Martin Luther King Jr. Boulevard (MLK) made the most sense, due to its prominent and accessible location, he said.

Mr. Blue pointed out that the Town had removed a housing component from the site plan. Due to the presence of coal ash and construction debris at the site, the Town had enrolled in the NC Department of Environmental Quality (DEQ) Brownfields Remediation Program, he said. He reviewed remediation options and recommended letting the DEQ guide the Town's next steps.

Deputy Town Manager Mary Jane Nirdlinger provided background on efforts to manage the coal ash since it was first discovered at 828 MLK in 2013. She pointed out that substantial mitigation had been done and that the Town had conducted extensive studies and responded to many questions and requests over the years. The project had been accepted into the Brownfields program in 2019, she said.

In order to be ready to move ahead after the DEQ review, staff had selected Evoke Architects to design the MSC and would be considering how Belmont Sayre could provide construction management support and Brownfield application services, she said. She said that staff would return to the Council with a concept plan application for the MSC. Resolution-4 was to pay for project costs from the General Fund and then reimburse those funds from future bond borrowing for the MSC, she said.

Council Member Searing asked if housing would be considered for the site in the future, and Ms. Nirdlinger replied that DEQ would draft a Brownfields agreement based on the Town's concept plan, which would not include housing. If a future Council wanted to pursue putting housing there, it would have to go back through the Brownfields Program and ask for an amendment to the agreement, she said.

Council Member Searing confirmed with Ms. Nirdlinger that an estimated

\$45 million for the MSC was \$11 million more than a previous estimate. He asked if that amount of debt would affect the Town's borrowing capacity, and Ms. Nirdlinger pointed out that Director of Business Management Amy Oland had told the Council that the MSC was a planned project that had been included in her projections.

Council Member Searing referred to several other Town projects that needed funding, and Ms. Nirdlinger offered to clarify which of those would not be related to bond borrowing. Council Member Anderson confirmed with Ms. Nirdlinger that staff was not suggesting sacrificing the projects that Council Member Searing had mentioned.

Council Member Anderson verified with Mr. Blue that staff would never recommend not doing the MSC. That project had been on hold for more than a decade and was a critical need, Mr. Blue said. She confirmed with him that staff had spent much time with the Council prioritizing the other needs that Council Member Searing had listed. Those would have different financial levers, said Mr. Blue, and she emphasized that the Council was not choosing one project over another.

In response to a question from the Council about urgency, Mr. Blue said that the Police Department building at 828 MLK was in disrepair and that the need for new facilities for several Town departments was long overdue. Mayor Hemminger pointed out that a new MSC had been part of a 2015 bond referendum. She explained that the Town normally had seven years to spend bond money but had received a three-year extension. The MSC would have to be underway by 2025 or it would forfeit those bonds, she said. She confirmed with staff that Ms. Oland had raised the amount to \$45 million in projections that she had already presented to Council.

Council Member Miller-Foushee asked if remediation would make the site safer, and Ms. Nirdlinger replied that the DEQ would guide the Town on how to reduce the current risk. The remediation and the development go hand in hand, she said.

Several Chapel Hill residents said that the Town should remove all the coal ash before pursuing any development at the site. Isabel Geffner said that there was not sufficient information to move forward, and Felicia Wang said that developing the site without first removing the coal ash would be "reprehensible". Brownfields remediation programs were less environmentally rigorous than traditional clean-up programs and the Town should push for stronger clean-up measures from the DEQ, said Ms. Wang.

Ember Penny, an undergraduate at UNC, and Lib Abernathy, a Chapel Hill resident, raised similar concerns. Ms. Penny said that toxins would eventually leach into ground water if not completely removed. Ms. Abernathy said she felt concerned and frustrated that the Council would consider constructing a building at the site without getting rid of the coal ash.

Nora Westan, Caley Tucker, Sunrise Movement members, expressed concern about the plan as well. Ms. Tucker said that the Town should share more information about the Brownfields plan with the public before agreeing to it. Ms. Westan asked several questions, and Mayor Hemminger pointed out that all information was available on the Town's website.

Harmonie Ramsden, a Sunrise Movement member, read a statement from Dr. Edward Marshall, of Safe Housing for Chapel Hill, which said that the Council had refused to listen to "real" scientists, such as Dr. Abner Vengosh a professor of Environmental Quality at Duke University's Nicholas School of the Environment, who had analyzed soil samples from the site.

John Wagner, Steve Fleck and Brent Lorce also said that the Council had not been willing to listen to Dr. Vengosh, who had found 19 different toxic materials in the soil samples he had taken from the site. Mr. Fleck raised concerns about the health of people who would be working at the MSC and asked the Council to pressure the DEQ to do more than just a Brownfield agreement. Mr. Lorce said that merely capping and containing the site rather than removing all the coal ash would pose an unnecessary risk to the health and safety of Chapel Hill residents and workers.

Nick Torrey, an attorney with the Southern Environmental Law Center who was representing Friends of Bolin Creek, said that the Town should not move forward with any building on the site without having a better remediation plan than the DEQ's bare minimum Brownfields approach. It was not true that cleaning up the coal ash would be unsafe, he said, noting that Duke Energy had been safely doing that throughout the state. He emphasized that the Town must remove the coal ash that was currently eroding on land above Bolin Creek and any other areas on the site that were above a one-in-a-million cancer risk threshold. Any coal ash left on the site needed to be monitored in perpetuity, as did Bolin Creek, he said.

Several Council Members emphasized that they were merely being asked to vote on submitting a plan to the DEQ, which would let the Town know what the proposed Brownfields plan would be. Several commented on dangers and ethical issues involved with removing coal ash and shipping it to another Town. They emphasized that the process had been transparent and pointed out that the community had been involved every step of the way. The Town had invested well over \$1 million in studying the land, had followed the science, and every shred of data that it had received was on the Town website, Council Member Parker said.

Council Member Anderson said that Council Members agreed with Dr. Marshall and with other environmental experts who had told them that

some places on the steep slope would have to be removed. Coal ash would need to be removed in any area where it could not be capped, she said.

Mayor pro tem Stegman said that some of the public speakers' comments had reflected misunderstandings and misinformation. The Brownfields Program required submission of a development plan in order to get a remediation plan, and then Council would be able to discuss what, for her, was still an open question, she said.

Several Council Members emphasized that safety was everyone's top priority. Council Member Ryan said that the Town had not ignored Dr. Vangosh's opinion and had sent information from him to environmental experts as well as the DEQ. Council Member Parker said that every Council Member understood the hazards presented by coal ash and that the Town had already sent tons of it to a lined landfill in Mt. Gilead, NC. The goal was to have no exposure to coal ash to anyone anywhere near that site, he said.

Council Member Searing said that 828 MLK was not a safe place to store coal ash, regardless of what the Town built on top of it. Without total removal, there would be a risk of leaching into Bolin Creek and downstream into Jordan Lake, he said.

A motion was made by Council Member Anderson, seconded by Council Member Miller-Foushee, that the Council adopted R-4. The motion carried by the following vote:

Aye: 7 - Mayor Hemminger, Mayor pro tem Stegman, Council Member Anderson, Council Member Berry, Council Member Miller-Foushee, Council Member Parker, and Council Member Ryan

Nay: 1 - Council Member Searing

Absent: 1 - Council Member Huynh

ZONING ATLAS AMENDMENT(S)

Zoning Atlas Amendment: The Zoning Atlas Amendment, to change the zoning designation on this property, is Legislative. The Council receives and considers public comment on the merits of the proposed rezoning, including opinions, when making Legislative decisions.

9. Consider a Conditional Zoning Application for Aspen Chapel Hill at 701 Martin Luther King Jr Blvd. from Neighborhood Commercial (NC) and Residential-3 (R-3) to

[\[23-0192\]](#)

Residential-6-Conditional Zoning District (R-6-CZD).

Planning Manager Corey Liles presented an application to rezone property at the corner of MLK and Longview Street from Residential-3 to Residential-6-Conditional Zoning District. The purpose was to construct approximately 112 multi-family units on the site, which currently contained an auto shop and residences, he said. He said that the application process had begun in October 2019 and that recent changes included a 21+ age restriction and a \$100,000 payment for nearby greenways.

Mr. Liles explained that the applicant had increased the number of bicycle parking spaces and had included recreation space that met Town regulations. The project was not subject to the Town's Inclusionary Zoning Ordinance (IZO), but the applicant had volunteered to provide 14 affordable units on site, he said. He showed a list of proposed modifications to regulations and recommended that the Council close the legislative hearing and consider adopting Resolution-5 and enacting Ordinance-2, for approval.

Jessica Hardesty, a planner with McAdams Company, reviewed recent revisions regarding the Resource Conservation District (RCD), affordable housing (AH), age restrictions, and overall community benefits that McAdams had made based on Council feedback. She said that 10 of the 14 on-site, affordable units would be for people making 10 percent of the area median income (AMI) and 4 would be for those making 80 percent of AMI. She said that the project would vastly improve the RCD area and that Town advisory boards had given positive feedback.

Ms. Hardesty reviewed additional changes that the applicant had made in response to the Council's comments and questions. She said that the apartments would be open to anyone, including students, but would not be restricted to students. She said that renters would need to be at least 20-year-old (turning 21 during their lease period) and that the applicant was committing to accept housing vouchers for all units, not just the affordable ones. Since the RCD limited the opportunity for outdoor space, the applicant was offering \$100,000 for offsite bike and pedestrian improvements, she said.

David Helfrich, president at Aspen Heights Partners, read a statement about the long application process, which had included new Council Members being elected after the concept plan had received positive feedback. He outlined what he viewed as confusion regarding a housing report that the Council had referenced during a prior hearing. He said that Aspen Heights Partners had run a feasibility analysis and concluded that market-rate, non-student rents would not support the cost of construction, especially given the RCD constraints.

In response to a question from Council, Attorney Anderson said that she

would need to do more research but thought it was possible to include a restriction that would ensure that the 14 affordable units would not be filled with students. She pointed out that the performance agreement between the applicant and Town could incorporate as much of that as was legally permissible. She agreed to determine if there was a way to not base need on an individual's income alone, since some students were housing insecure, but others had no income but were supported by their parents.

Council Member Anderson confirmed with Mayor Hemminger that conversations between the Town and UNC were ongoing, but that UNC was awaiting the results of a survey it had done before working with the Town on joint solutions. In response to a question from Council about setting a precedent by building in the RCD, Mr. Liles pointed out that the Council had discretion with each application. A statement about why encroachment was particularly appropriate in the Aspen Heights case would be part of the record, he said.

Council Member Parker confirmed that the applicant was willing to accept a stipulation prohibiting them from starting shuttle services.

Melisa Johnson Langford, whose family had owned the land for generations, pointed out that her grandparents had rented rooms to students there. She hoped the site would continue to support students as well as other community members and that Aspen Chapel Hill would be the kind of transit-oriented development that everyone wanted to see in that area, she said.

Steve Tyler, a Chapel Hill resident who lives behind the site, expressed full support for the project, which he said would upgrade the area and enhance the value of his property.

Aaron Nelson, Chamber for Greater Chapel Hill and Carrboro president, said that the Chamber was very interested in increasing the supply of affordable and workforce housing and believed that the project could bring both. He pointed out that the Town had wanted student housing on the MLK corridor for years and said he thought the proposed location was the right place for it.

Mayor Hemminger noted that only eight Council Members were present and pointed out that a tie vote would defeat any motion. She gave the applicant the option of postponing the vote to a later Council meeting, but Mr. Helfrich chose to proceed.

Council Member Ryan said that a standalone, suburban building did not fit within the Town's vision for a Complete Community. As configured, it was not an outward-facing community asset and it only addressed one housing demographic, she said. She said that workforce housing would make more sense at that location and that she doubted that many non-students

would want to live in what would primarily be a student residence.

Council Member Anderson said that she did not recall the concept plan getting a warm reception from the previous Council, of which she was a member. And it still did not address the issues that had been brought up at that time, she said. She stated that the requested RCD and other modifications were not acceptable. She emphasized the importance of holding UNC accountable to its agreement to figure student housing out with the Town.

Council Members Parker, Berry Miller-Foushee and Stegman said that the project was not all that they wanted but that providing 14 affordable units was significant. Mayor pro tem Stegman commented that the Council could not say no to students in neighborhoods while also saying no to student housing in a college town.

Mayor Hemminger said that she was struggling with the decision. The applicant had offered a lot of benefits, but the project was not the workforce housing that the Town wanted, and she was concerned about setting a precedent regarding the RCD and steep slopes, she said.

A motion was made by Council Member Parker, seconded by Council Member Berry, that the Council closed the legislative hearing. The motion carried by the following vote:

Aye: 7 - Mayor Hemminger, Mayor pro tem Stegman, Council Member Anderson, Council Member Berry, Council Member Miller-Foushee, Council Member Parker, and Council Member Ryan

Nay: 1 - Council Member Searing

Absent: 1 - Council Member Huynh

A motion was made by Council Member Parker, seconded by Council Member Berry, that the Council adopted R-5. The motion carried by the following vote:

Aye: 5 - Mayor Hemminger, Mayor pro tem Stegman, Council Member Berry, Council Member Miller-Foushee, and Council Member Parker

Nay: 3 - Council Member Anderson, Council Member Ryan, and Council Member Searing

Absent: 1 - Council Member Huynh

A motion was made by Council Member Parker, seconded by Council Member Berry, that the Council enacted as amended O-2. The motion failed by the

following vote:

Aye: 4 - Mayor pro tem Stegman, Council Member Berry, Council Member Miller-Foushee, and Council Member Parker

Nay: 4 - Mayor Hemminger, Council Member Anderson, Council Member Ryan, and Council Member Searing

Absent: 1 - Council Member Huynh

10. Reopen the Legislative Hearing for a Conditional Zoning Application - 101 E. Rosemary Street from Town Center-2 (TC-2) to Town Center-3-Conditional Zoning District (TC-3-CZD).

[\[23-0193\]](#)

Planning Director Judy Johnson gave a brief overview of a conditional zoning application for a 0.64-acre site at the corner of Columbia and East Rosemary Streets that was currently zoned Town Center-2. The applicant was requesting a rezoning to Town Center-3-Conditional Zoning District in order to construct a 7-story building with 150 apartment units, she said. She noted that the applicant was not proposing any on-site parking.

Ms. Johnson reviewed changes that had been made since the last hearing. She said that the applicant was requesting a modification to the 44-foot setback height regulations and was proposing 90-foot setbacks on all four sides. She recommended that the Council reopen the legislative hearing, receive comments, and continue the hearing to April 19, 2023.

Whitney St. Charles, of Grubb Properties, pointed out that her firm was engaged in other Downtown development projects that would result in the need for more workforce housing. She described the proposal for 101 E. Rosemary and pointed out that the site had a number of challenges, including small size and a significant grade change.

With regard to prior requests from the Council for affordable retail, Ms. St. Charles showed approximately 2,400 square feet of retail space on Rosemary Street and 1,000 square feet on Columbia Street. However, Grubb Properties had serious concerns about the viability of that space and wanted the ability to revert to housing if the retail leasing did not succeed, she said.

Ms. St. Charles presented a visual that showed unobstructed sidewalks along Columbia and Rosemary Streets. She presented renderings of the streetscape and scale and indicated where the affordable retail areas would be. Some of that retail would need to be located in the basement along Columbia Street due to grade changes, she pointed out.

Ms. St. Charles said that the affordable retail would be offered at half the market rate, which would be equivalent to 10.5 affordable housing units.

Grubb Properties was also proposing to provide a \$425,000 payment in lieu, which would be equivalent to five \$85,000 affordable units, she said.

Council Member Parker ascertained from Ms. St. Charles that Town staff had proposed the AH numbers. Deputy Town Manager Loryn Clark explained that \$85,000 was based on the Town's 2010 Inclusionary Zoning Ordinance. Attorney Anderson commented that the total payment would be better characterized as a voluntary payment of \$425,000 that the applicant was basing on what a payment in lieu would be.

Council Member Parker asked Ms. St. Charles to send the Council all her calculations for the proposed affordability standard. He confirmed with her that Grubb Properties was proposing a 10-year affordability term on the commercial component.

Several Council Members said that the project had come a long way and was almost where they wanted it to be. They praised the activation at the corner and the addition of affordable retail. Mayor pro tem Stegman asked for more information from staff on who the retail would help and if it would really make a difference.

Mayor Hemminger said that she wanted to see some affordable units, not just a payment in lieu, because the Town needed such spaces for people who work downtown. Mayor pro tem Stegman said that she, too, wanted to see affordable units but did not want to drive the prices of the other units up. She pointed out that a payment in lieu would help the Town replenish its AH reserve fund.

Council Member Parker asked the applicant to return with a more attractive AH package that included a more generous payment in lieu or a longer term. The Mayor and others also said that a 10-year term was too short.

Council Member Ryan said that she felt troubled by the lack of a building set-back, which the Town normally required. Going straight up was not ideal, but other pieces of the project, such as the retail activation, could make up for that, she said. She and Council Member Anderson asked the applicant to not put grass and plants in the sidewalks, but Mayor Hemminger said that more green space was needed downtown, and that the area had some stormwater issues.

Mayor Hemminger confirmed with staff that requirements regarding the Manager approving parking and residents being 21 and older had been included as stipulations. She thought that the project was the right fit for the location, she said.

A motion was made by Council Member Parker, seconded by Council Member Anderson, that the Council continued the Legislative Hearing to April 19, 2023. The motion carried by a unanimous vote.

CONCEPT PLAN REVIEW(S)

Concept Plans: Presentations for Concept Plans will be limited to 15 minutes.

Concept Plan review affords Council members the opportunity to provide individual reactions to the overall concept of the development which is being contemplated for future application. Nothing stated by individual Council members this evening can be construed as an official position or commitment on the part of a Council member with respect to the position they may take when and if a formal application for development is subsequently submitted and comes before the Council for formal consideration.

As a courtesy to others, people speaking on an agenda item are normally limited to three minutes. Persons who are organizing a group presentation and who wish to speak beyond the three minute limit are requested to make prior arrangements through the Mayor's Office by calling 968-2714.

11. Concept Plan Review: Aura South Elliott, 200 S. Elliott Road.

[\[23-0194\]](#)

The Council agreed to continue this item to March 22, 2023.

ADJOURNMENT

This meeting was adjourned at 11:03 p.m.