



# TOWN OF CHAPEL HILL

## Town Council

### Meeting Minutes - Final

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

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, February 22, 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](http://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 Hemminger called the meeting to order and reviewed the agenda. All Council Members were present.

**Present:** 9 - Mayor Pam Hemminger, Mayor pro tem Karen Stegman, Council Member Jessica Anderson, Council Member Camille Berry, Council Member Paris Miller-Foushee, Council Member Tai Huynh, Council Member Michael Parker, Council Member Amy Ryan, and Council Member Adam Searing

## OTHER ATTENDEES

Interim Town Manager Chris Blue, Deputy Town Manager Mary Jane Nirdlinger, Deputy Town Manager Loryn Clark, Town Attorney Ann Anderson, Planning Director Britany Waddell, Planning Manager Corey Liles, Affordable Housing and Community Connections Director Sarah Viñas, Police Officer Steven Bradley, Transit Director Brian Litchfield, Affordable Housing and Community Connections Assistant Director Nate Broman-Fulks, Principal Planner Diedra McEntyre, Police Chief Celisa Lehew, Transit Development Manager Matt Cecil, Senior Planner Tas Lagoo, Public Housing Director Faith Brodie, Public Housing Maintenance Supervisor Julian Gerner, Management Analyst Stacey Todd, Transit Planning Manager Caroline Dwyer, Communications Manager Ran Northam, and Deputy Town Clerk Amy Harvey.

## OPENING

0.01 Town Council Recognizes Former Police Officer Rick Fahrer.

[\[23-0173\]](#)

The Mayor and Council recognized recently retired Chapel Hill Police Officer Rick Fahrer, who had provided security at more than 417 Council meetings and 51 advisory board meetings over many years. They thanked him for his service and wished him well on his next adventure.

Officer Fahrer said that it had been an honor to serve. He pointed out that he had taken the position in 2008 after an incident during which several Council members and staff had been shot in Kirkland, MO.

Council Member Anderson said that Officer Fahrer was one of the first people she met when she joined the Council and that he had gone far beyond what the job entailed. Mayor Hemminger agreed that Officer Fahrer had put his heart into his work and thanked him for caring so much.

0.02 Council Statement of Solidarity with Turkish and Syrian

[\[23-0174\]](#)

## Communities in the Wake of Recent Earthquakes.

Council Member Berry read a statement expressing the Council's profound sadness for those affected by recent devastating earthquakes in Turkey and Syria. The Council was standing in solidarity with those in Chapel Hill who had loved ones in those areas, she said, adding that anyone who wished to help could learn more on the Sancar Community Center's webpage.

## **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.

### 0.03 Downtown Partnership Requests Reduction of Board Appointments.

[\[23-0175\]](#)

Mayor Hemminger explained that the Downtown Partnership was asking the Council to reduce its number of board appointments from four to two members.

This matter was received and referred. This petition is a part of the February 15, 2023 Council Meeting agenda.

### 0.04 Orange County Affordable Housing Coalition Request for Bond Referendum and Increased Property Tax Towards Affordable Housing.

[\[23-0176\]](#)

Donna Carrington, Community Empowerment Fund executive director, petitioned the Council to hold a new bond referendum for affordable housing (AH). She provided information supporting the view that more than \$30 million was needed. The petition requested that the Town dedicate two cents on the property tax and issue a 2023 bond referendum for \$50 million for creating and preserving AH, she said.

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

## **ANNOUNCEMENTS BY COUNCIL MEMBERS**

0.05 Mayor Hemminger Regarding Everywhere to Everywhere Greenways.

[\[23-0177\]](#)

Mayor Hemminger said that the Town had been moving forward with its Everywhere to Everywhere Greenways Plan. She thanked members of an interdepartmental team for their hard work and said that the Transportation Department had been working on a federal grant application to fund a feasibility study.

0.06 Mayor Hemminger Regarding Black History Month.

[\[23-0178\]](#)

Mayor Hemminger noted that February was Black History Month in Chapel Hill. She said that staff has been sharing related information on social media and at the Public Library and she encouraged everyone to join the celebration.

0.07 Mayor Hemminger Regarding Let's Talk Town.

[\[23-0179\]](#)

Mayor Hemminger said that the Let's Talk Town team would be at the Public Library on February 24th at 9:45 am and would also host virtual office hours at noon on February 27th. She said that more information was available on the Town's website.

0.08 Mayor Hemminger on Future Council Meetings.

[\[23-0180\]](#)

Mayor Hemminger pointed out that the Council had added a March 1, 2023, work session and cancelled a March 3rd Council Committee on Economic Sustainability meeting. The next regular Town Council meeting would be on March 8, 2023, she said.

0.09 Mayor Hemminger Regarding Early Birthday Wishes for Council Member Berry.

[\[23-0181\]](#)

The Mayor and Council wished Council Member Berry an early Happy Birthday.

## 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 Parker, that R-1 be adopted, which approved the Consent Agenda. The motion carried by a unanimous vote.

1. Approve all Consent Agenda Items.

[\[23-0142\]](#)

This resolution(s) and/or ordinance(s) was adopted and/or enacted.

2. Authorize a Town of Chapel Hill Community Arts & Culture Award Program. [\[23-0143\]](#)

This resolution(s) and/or ordinance(s) was adopted and/or enacted.

3. Approve the 2022-23 Independent Audit Contract. [\[23-0144\]](#)

This resolution(s) and/or ordinance(s) was adopted and/or enacted.

4. Award a Bid for Street Patching, Milling, Resurfacing, and Re-Striping on Town-Maintained Streets. [\[23-0145\]](#)

This resolution(s) and/or ordinance(s) was adopted and/or enacted.

5. Support a RAISE Grant Application for a Feasibility Study for Everywhere to Everywhere Greenways. [\[23-0146\]](#)

This resolution(s) and/or ordinance(s) was adopted and/or enacted.

6. Authorize the Mayor to Execute a Memorandum of Understanding Creating the Intergovernmental Climate Council of Orange County. [\[23-0147\]](#)

This resolution(s) and/or ordinance(s) was adopted and/or enacted.

7. Close the Legislative Hearing for Land Use Management Ordinance Text Amendments - Proposed Changes to Articles 1, 3, 4, 5, 6, and 7 and Appendix A Regarding Housing Choices for a Complete Community. [\[23-0148\]](#)

This resolution(s) and/or ordinance(s) was adopted and/or enacted.

8. Amend the 2022-23 Council Calendar. [\[23-0149\]](#)

This resolution(s) and/or ordinance(s) was adopted and/or enacted.

## **INFORMATION**

9. Receive Upcoming Public Hearing Items and Petition Status List. [\[23-0150\]](#)

This item was received as presented.

10. Receive Quarterly Update on Climate Action Implementation. [\[23-0151\]](#)

This item was received as presented.

11. Re-Imagining Community Safety Task Force Update. [\[23-0152\]](#)

This item was received as presented.

## DISCUSSION

### 12. Receive the Public Housing Quarterly Report.

[\[23-0153\]](#)

Public Housing Director Faith Brodie began a PowerPoint presentation on the department's activities, properties, outreach efforts and continuing efforts to remove the "troubled" status designation that the US Department of Housing and Urban Development (HUD) had given it. Her staff would discuss steps they had taken to address building deficiencies, she said, adding that she hoped that the Council would be able to complete the HUD training that was required to address governance deficiencies.

Maintenance Program Supervisor Julian Gerner presented a list of steps that the Public Housing Department (PH) had taken to remediate deficiencies in landscaping, access, appliances and safety that a HUD inspection had identified.

Management Analyst Stacey Todd pointed out that the cost of materials, services and salaries had increased. However, the Department had absorbed those costs in the operating funds that it received from HUD, she said. She then shared demographic information on residents and said that there were 306 applicants on the waiting list.

Ms. Todd said that a 2022 bi-annual survey regarding how residents feel about the quality of their home, Town staff and available resources, had yielded a 9 percent, mostly favorable, response. Staff was currently brainstorming how to increase that response rate, she said. She reported that a joint program with the Orange County Health Department had been providing cleaning supplies and related information to new tenants. She said that elements of third-quarter goals would directly improve the physical condition of properties.

Mayor pro tem Stegman asked Ms. Brodie for her thoughts on how the Town could proactively address its troubled status, and Ms. Brodie replied that Chapel Hill would not be able to meet the 96 percent occupancy rate that HUD required until the Trinity Court development contract was approved.

Mayor pro tem Stegman asked about maintenance issues that HUD had identified, and Ms. Brodie said that the Department had addressed all of those but that new ones kept being reported. She said that funding was not a problem but that attracting contractors to do the work was.

In response to a question from the Council, Ms. Brodie said that her staff

did not always have a place to relocate residents while rehabilitating units, since HUD did not consider a hotel a relocation. Council Member Miller-Foushee requested that staff put more thought into addressing those barriers and having a plan in place.

Council Member Ryan asked if there was a limit on the number of HUD-supported units that the Town could have, and Ms. Brodie offered to find out. Council Member Ryan commented on the importance of knowing if the Town was allowed to have more density as it rehabilitated aging units.

Council Member Parker pointed out that some municipalities had public authorities that oversee public housing. He asked Ms. Brodie if she thought that having the Council serve in that role was an appropriate governance model, or if a dedicated board focused on public housing might be better.

Ms. Brodie replied that she felt good with the existing model but did not know enough about others to say if it was the best one. She pointed out that Chapel Hill's public housing governance came from the Town Manager and Deputy Town Manager, even though HUD recognized the Council as the governing board.

Council Member Anderson said that it would be wise to get the Council out of the mix, if possible, and Council Member Parker said that he did not feel as though he was providing the required oversight. The Council talked about looking at other models, and Mayor Hemminger said that such a consideration was already underway.

Mayor Hemminger thanked Ms. Brodie and her "incredible team" for all that they do and for how much they care.

This item was received as presented.

**13. Receive the Second Quarter Fiscal Year (FY) 2023 Affordable Housing Report.**

[\[23-0154\]](#)

Director of Affordable Housing and Community Connections Sarah Vinas gave a PowerPoint presentation on staff's implementation of AH goals from July 1, 2022, to December 31, 2022. She discussed how staff had advanced several key initiatives reached many Town milestones. However, the Town was at a critical point where the need for AH had substantially increased but major resources had been exhausted, she said.

Ms. Vinas summarized the main pillars of the Town's current AH Plan. She pointed out that the Council had allocated more than \$10 million in the first half of FY 2023 to develop more than 300 AH units and had leveraging more than \$70 million from a variety of sources. She said that

staff had been looking at new approaches -- such as mixed-income projects and public/private partnerships -- and was creating an investment strategy to resource AH work going forward.

Ms. Vinas discussed the Town's continuing support for the Northside Neighborhood Initiative and other projects that AH partners, such as Casa and Habitat for Humanity, had undertaken. She said that a Trinity Court public housing development had been awarded a 9 percent low-income housing tax credit (LIHTC) and that another project on Jay Street had submitted a new 9 percent LIHTC application. Homestead Gardens on Town-owned land would soon be moving forward, and the Council had approved land for AH on Legion Road, she said. She presented a graph to illustrate that more than 500 AH units were already expected to come online over the next five years.

Assistant Director of Affordable Housing and Community Connections Nate Broman-Fulks discussed the ways in which staff had been initiating policies to support AH, such as collaborating with the Planning Department to receive project approvals faster. He pointed out that a new expedited review process for projects with at least 25 percent AH units would cut review time in half and likely attract AH developers to Chapel Hill.

Mr. Broman-Fulks said that Town efforts had continued to yield AH units in market-rate projects, with 18 new affordable townhomes having been approved in the first half of the current fiscal year. Six other projects were under review, which would yield more than 165 new affordable homes, if approved, he said.

Mr. Broman-Fulks said that there had been increasing interest in the Town's Employee Housing Incentive Program. He pointed out that an improved AH Dashboard was available at [chapelhillaffordablehousing.org](http://chapelhillaffordablehousing.org). He said that staff had begun working with a consultant on an AH Plan that would guide its efforts over the next five years. Staff would return to the Council regarding that in the spring and they hoped to present the plan itself by end of FY 2023, he said.

Council Member Miller-Foushee confirmed that the income cap for the Employee Housing Program was 115 percent of the area median income (AMI) for homeownership and 80 percent of AMI for rental assistance. She and staff agreed that it was time to update that cap to allow more employees to take advantage of the program. She confirmed with Ms. Vinas that some communities did not have a cap and that staff could look at that as well, if the Council wished.

Council Member Huynh said he concurred with the idea of eliminating the Employee Housing Program's income cap, and Mayor Hemminger noted



that several Council Members had been shaking their heads in agreement.

Mayor pro tem Stegman ascertained from Mr. Broman-Fulks that the Jay Street project had received a high LIHTC score in the current year. However, Trinity Court's score had been slightly higher, and the Town was limited to having only one project approved in a given year, he explained. Staff felt optimistic about Jay Street being even more competitive in 2023, said Mr. Broman-Fulks.

Council Member Parker confirmed with staff that Carraway Village had been looking at financing models other than LIHTC for a portion of its land and that the Town would be able to purchase that land for \$1 in a few years if it had not been developed for AH.

In response to Council comments, Ms. Vinas agreed that AH and homelessness were linked. The Town supported The Partnership to End Homelessness and had many development projects that served those who were transitioning out of homelessness, she said. She pointed out that the greatest need was for those living at 30 percent of AMI, and below.

The Mayor and Council expressed appreciation to staff for their extremely hard but successful work and Mayor Hemminger thanked them for presenting information in such a clear manner. She praised the new dashboard and said that staff was not only doing incredible work but was showing it in ways that people could understand.

This item was received as presented.

14. Consider a Resolution Endorsing Shaping Our Future: A Transportation and Land Use Initiative and Call a Legislative Hearing to Consider Updating the Town's Comprehensive Plan to Include Shaping Our Future: A Transportation and Land Use Initiative on April 19, 2023.

[\[23-0155\]](#)

Transit Planning Manager Caroline Dwyer asked the Council to adopt two resolutions: Resolution 9, which would accept Shaping Our Future: An Integrated Transportation and Land Use Initiative; and Resolution 10, which would call a legislative hearing for April 19, 2023, to consider updating the Chapel Hill 2020 Comprehensive Plan to include some or all of that initiative.

Ms. Dwyer discussed how the Town's North-South Transit Oriented Development (NSTOD) Plan strongly supported its Complete Community (CC) goals and strategy. Staff was enthusiastic about bringing the two together, she said. She pointed out that the Council had already reviewed the Shaping Our Future Plan, which addressed topics such as community engagement, market analysis, access analysis, station area concepts, and implementation recommendations.

Council Member Searing commented on a page in the Council's packet regarding how adopting the initiative would identify the recommendations as Town objectives, and Ms. Dwyer replied that the initiative would be viewed as guidance. Council Member Searing said that including the word "objectives" implied otherwise and that adopting Resolution 9 would mean adopting the recommendations as a policy direction.

Council Member Searing asked about another section regarding implementation strategy that referred to "by right general density in neighborhoods". He said that Council approval would mean adopting the policy objective of eliminating single-family zoning requirements and allowing duplexes, triplexes or small multi-family buildings in single-family neighborhoods in the NSTOD area.

Ms. Dwyer said that adopting Resolutions 9 and 10 would not mean accepting a regulation. Council Member Searing replied that it would mean adopting a policy objective, and Ms. Dwyer pointed out that the policy objective only pertained to areas within a 1/4-mile radius of TOD stations.

Council Member Ryan verified with Town Attorney Ann Anderson that the document would become guidance for Town policy related to land use once it had been adopted into the Comprehensive Plan. Ms. Anderson pointed out that the Town did not implement regulations without passing ordinance amendments.

In response to a question from Council about the initiative being part of the Land Use Management Ordinance (LUMO) rewrite, Senior Planner Diedra McEntyre said that the rewriting process would include looking at recommendations in the NSTOD implementation strategy and determining which should be codified. Staff would return to discuss that with the Council in the fall of 2023, she said.

Council Member Ryan asked about pulling out a section in the LUMO on stormwater regulations in order to progress with that more quickly, and Planning Director Britany Waddell replied that the Council would, of course, have the option to request that. However, staff hoped to minimize the number of projects that were separated out in that way, she said.

Council Member Ryan recommended that staff confer the school system regarding its Schools Adequate Public Facilities Ordinance's density requirements. After confirming with Ms. McEntyre that boundaries would be explicitly defined during the LUMO rewrite, she said that such decisions should be made sooner than that. She asked staff to consider that before returning for Comprehensive Plan discussions.

Council Member Parker wondered if R-9 and R-10 were redundant, but Ms.

Dwyer explained that approving R-9 would mean accepting the initiative and that approving R-10 would mean moving forward with the legislative component. Council Member Parker confirmed with Assistant Town Manager Mary Jane Nirdlinger that staff planned to propose updates to the Comprehensive Plan in April 2023. Staff would do a major revamp when the Council was ready, but that would require resources and that staff was assuming that the Council would want to finish the LUMO rewrite before revamping the Comprehensive Plan, Ms. Nirdlinger said.

Mayor Hemminger confirmed with Ms. Dwyer that she thought of the Town's Complete Community framework as the big umbrella that was overall. The NSTOD corridor had a lot of components that contribute to that Framework, Ms. Dwyer said.

Sally Shoebring Russell, a Chapel Hill resident, expressed concern about adopting a resolution that includes gentle density. She proposed removing the paragraph that seemed to imply that it had been approved. In addition, she pointed out that the half-mile around the NSTOD did include historic districts, such as McCauley Cameron and Franklin-Rosemary.

At the Mayor's request, Ms. Dwyer repeated her earlier comments about how the resolution was not regulatory and would not have any impact on any zoning district along that corridor. Those issues would be addressed during later Council discussions about station area boundaries, and staff would make sure that there was no conflict with existing historic districts, she said.

Council Member Ryan emphasized the importance of planning to mitigate the displacement of people in several vulnerable communities along the NS corridor. She also emphasized the need for a very clear vision moving forward in order to avoid the kinds of "Texas donut" apartment complexes that the market wanted to bring.

Council Member Searing said that he supported TOD development but remained concerned about the clause about a by right increase in density. He would vote for the resolution in a second if that paragraph were excluded, he said. Council Member Berry spoke in favor of retaining the paragraph and said that she wanted to hear from residents who were for and against it.

A motion was made by Council Member Anderson, seconded by Council Member Parker, that the Council adopted R-9 with attachment. The motion carried by the following vote:

**Aye:** 8 - Mayor Hemminger, Mayor pro tem Stegman, Council Member Anderson, Council Member Berry, Council Member Miller-Foushee, Council Member Huynh, Council Member Parker, and Council Member Ryan

**Nay:** 1 - Council Member Searing

A motion was made by Council Member Huynh, seconded by Mayor pro tem Stegman, that the Council adopted R-10 to call a legislative hearing for April 19, 2023. The motion carried by the following vote:

**Aye:** 8 - Mayor Hemminger, Mayor pro tem Stegman, Council Member Anderson, Council Member Berry, Council Member Miller-Foushee, Council Member Huynh, Council Member Parker, and Council Member Ryan

**Nay:** 1 - Council Member Searing

**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.

- 15. Close the Legislative Hearing and Consider a Conditional Zoning Application for Tri Pointe Townhomes at 2217 Homestead Road.

[\[23-0156\]](#)

Senior Planner Tas Lagoo gave an overview of the Tri Pointe Townhomes project. Since the Council first saw the concept plan in January 2023, the number of units had increased from 108 to 118 and staff had recommended that a connection to the adjacent Courtyards at Homestead be for emergency access only, he said. He said that the site was currently zoned Residential-5-Conditional Zoning District (R-5-CZD) and that the applicant had requested a new R-5-CZD designation.

Mr. Lagoo said that the applicant had also requested a modification to the Town's Inclusionary Zoning Ordinance, since the increased number of total units had caused the 16 affordable units to be 13.7 percent of the total, rather the 15 percent that it had been before. He recommended that the Council open and then close the legislative hearing and consider adopting Resolution 1 and enacting Ordinance 1, for approval.

Applicant Richard Gurlitz explained that there had been an 18 percent increase in the number of total units since he first brought the application before Council in October 2022. He indicated where a block of houses had

recently been added and pointed out that they would replace a small, wooded area that had been shown on previous plans.

Mr. Gurlitz said that the project's density had increased to 9.61 units per acre. That level of density would maintain the townhome neighborhood character, would not exceed impervious surface requirements, would allow sufficient space for stormwater management, and would allow a major wooded area to remain, he said. He said that he did not want to densify the site any further and lose any more of its natural characteristics.

Amanda Hoyle, representing Tri Pointe Homes, said that two different townhome types being proposed would be 22 feet and 26 feet wide, respectively, and would have one- or two-car garages. Six different plans would provide options, but those plans were similar enough to allow consistency and construction efficiency, she said.

Council Member Parker confirmed with Mr. Lagoo that the Town's AH requirement for 15 percent of total units would yield 17.7 affordable, with the 0.7 being a payment in lieu. He asked why the applicant was proposing 16, and Mr. Gurlitz replied that increasing the overall density had resulted in a reduced number of two-car garages, which had diminished the project's overall value.

Council Member Parker verified with Mr. Gurlitz that the affordable units were all 22 feet, with a mix of two- and three-bedroom units. Their exteriors would be indistinguishable from the market rate units and would be for those at 80 and 60 percent AMI, Mr. Gurlitz said.

Council Member Ryan pointed out that the Council had not asked the applicant to return with more density. It had asked for a mix of units that would lead to smaller, less expensive housing, and she was surprised to see that the unit mix had shifted in the other direction, she said. She expressed disappointment over the proposal for 13 more large units and 3 fewer small units when the Council's requested had been in the other direction. She commented on how adding 10 units on what had been non-productive greenspace would be more profitable.

Council Member Huynh asked the applicant how the profit margin would remain the same if the applicant were able to build fewer small units and 13 more larger ones.

Mr. Gurlitz replied that it depended on what the comparison was. He said that the initial proposal had been for 100 units that were all 26-foot wide with two-car garages. In the months since then, the project had changed while development costs had increased. They were trying to include as many affordable units as possible while still having a successful project, he said.

Council Member Miller-Foushee emphasized that meeting the Town's

Inclusionary Zoning Ordinance was a Council priority. Council Member Berry asked why the applicant had opted for more density when the Council's priorities for AH had been clear.

Mr. Gurlitz replied that they had opted for making a buildable project while providing 16 AH units, which was a heavy lift for them in the current climate. Ms. Hoyle said that AH was a goal but that the project's overall target had been median income. Tri Point Properties was a publicly-traded homebuilder that had to show its investors that projects would be financially viable, she said.

Council Member Anderson said that she would not be as concerned about the AH ratio if the applicant proposed a lot of great middle-income units. Council Member Parker said that a \$17,000 AH payment in lieu of the 0.7 percent seemed low and recommended that staff recheck that number.

Courtyards at Homestead residents Dianne Martin, Bill Crittenden, Derek Ross and Jeff Charles explained that their neighborhood was an "aging in place" community design for those who were older than 55. They described how various disabilities made Courtyards residents highly vulnerable to street traffic. They expressed support for staff's recommendation to restrict the connection with Tri Pointe Townhomes to bicyclists, pedestrians and emergency use only.

Mr. Ross asked that the conditions of approval include; implementing boundary plantings and a stormwater berm, protecting mature trees within or on the boundary with The Courtyards, and adding a stormwater monitoring plan. Mr. Charles emphasized the need for a sign at the connection and asked for a requirement that would protect tree-root systems.

Council Member Ryan confirmed with Mr. Lagoo that the items Mr. Ross had noted were already included as either ordinance requirements or conditions of approval.

Several Council Members expressed a desire to see more smaller units. Council Member Ryan said that she remained troubled by the proposed remix of units that had wiped out the greenspace and trees. Council Member Searing said that he preferred that previous iteration but did support the current project. Mayor pro tem Stegman said she hoped the applicant would return with something more aligned with what the Council had requested. Council Member Berry wondered if the project might be more feasible with fewer than six housing options, and Council Members Parker and Huynh questioned the proposed price points. The only way to lower prices would be to make the units smaller, Council Member Parker said.

Mayor Hemminger confirmed with the applicants that they did want to continue the hearing. Mr. Gurlitz said that he hoped the Council

understood that there was "only so much blood you could squeeze from a turnip". They had listened to the Council, and had returned with 10 additional units, which meant that other aspects of the plan had to be adjusted, he said.

A motion was made by Council Member Anderson, seconded by Council Member Berry, that the Council continued the Legislative Hearing to March 22, 2023. The motion carried by a unanimous vote.

### *SPECIAL USE PERMIT(S)*

Special Use Permit: The Application for a Special Use Permit is Quasi-Judicial. Persons wishing to speak are required to take an oath before providing factual evidence relevant to the proposed application.

Witnesses wishing to provide an opinion about technical or other specialized subjects should first establish that at the beginning of their testimony.

**16. Open an Evidentiary Hearing for an Application for a Special Use Permit Modification for 1507 & 1509 E. Franklin Street.**

[\[23-0157\]](#)

Mayor Hemminger read a statement that outlined the rules for a quasi-judicial hearing. She explained that proceedings would be similar to a court hearing in which the Council would act as impartial judges. She confirmed that no Council member had a fixed opinion, financial interest in the matter, or close relationship with a materially affected person, and that there had been no *ex parte* communication.

Mr. Lago introduced the SUP modification request for Dunkin Donuts, located at 1507 and 1509 East Franklin Street, which was zoned Community Commercial. The applicant was asking to add a drive-through window, reorient traffic on the site, and reduce the minimum on-site parking spaces from 43 to 37, he said. He reviewed the four findings of fact that the applicant had to achieve for approval and recommended that the Council open the hearing, receive evidence, and recess the hearing until March 22, 2023.

LeAnn Brown, a local attorney who was representing 1507 East Franklin Street LLC, introduced herself and said that she would present four witnesses. She said that one of her witnesses would testify to how traffic stacking would comply with the Town's ordinance. The amount of stacking proposed had been approved by the NC Department of Transportation (NCDOT), she pointed out.

In response to a question from Council, Attorney Brown and Town Attorney Anderson concurred that the applicant was requesting to modify an existing SUP to allow a drive-through window and to modify a parking

requirement to allow adequate stacking space for that drive-through feature.

Applicant Peter Turner gave a brief overview of the project. He said that the drive-through and a slight reduction in parking spaces were in accordance with DOT requirements. Customers -- especially those with toddlers and people with disabilities -- had been asking for faster and easier service, he said. He pointed out that the recent pandemic had revealed the need for germ-free methods of hand-off.

In response to a question from the Council, Mr. Turner said that a study of other Dunkin Donuts stores in the Triangle had found that cars did not spill out onto the street 99.5 percent of the time. He agreed to provide signage to prohibit that.

The Council asked about vehicle emissions, and Mr. Turner replied that the trend was shifting toward electric and hybrid vehicles and/or technology that could temporarily shut the engine off. There would be signage asking people not to idle, but the typical wait time was close to that of the average stop light, he said

Phil Koch, president of EarthCentric Engineering, pointed out that the Town had originally required angled parking in that Dunkin Donuts lot in order to enhance traffic flow around the building. Having ten stacking spaces would more than offset the loss of one parking space, he said.

Sean Brennan, with Ramey Kemp and Associates, reported that typical queue lengths of three Dunkin Donuts drive-throughs that he had observed in the Triangle Area had been seven, which was one less than the NCDOT required.

Nick Kirkland, an NC-certified general appraiser and expert witness regarding property value impacts, said that the requested modifications would have no impact on adjoining property values.

David Tuttle, an area resident, said that his concerns had been addressed. However, he had noticed that large Sherwin Williams tractor trailers sometimes blocked the parking, he said.

Mr. Koch stated that his firm's study had verified that a large WB50 trailer truck would be able to get in and out of the site without any problems. Mayor Hemminger confirmed with him that blocking the drive-through would only occur when a truck was unloading but that additional space on the lane would allow a truck to avoid that. Council Member Ryan confirmed with him that the drive-through itself would never be blocked by an unloading tuck.



Aaron Nelson, a nearby property-owner and former Chamber of Commerce CEO, said that the drive-through would improve and strengthen Dunkin Donuts' business. He pointed out that 162 Orange County restaurants had closed in 2020-21 during the pandemic. Those that had survivors had been the ones who figured out how to efficiently utilize methods such as drive-throughs, he said.

Attorney Brown said that the applicant had presented evidence that had made the case that the project, as proposed, met the four LUMO standards.

A motion was made by Council Member Ryan, seconded by Council Member Berry, that the Council continued the Evidentiary Hearing to March 22, 2023. The motion carried by a unanimous vote.

### **APPOINTMENTS**

18. Appointments to the Stormwater Management Utility Advisory Board. [\[23-0159\]](#)

The Council Appointed Rachel Willis, Neal Bench, and Evan Kirk to the Stormwater Management Utility Advisory Board.

17. Appointments to the Board of Adjustment. [\[23-0158\]](#)

Mayor Hemminger pointed out that Town needed more applicants to its boards, especially the Board of Adjustment.

The Council appointed Judith Miller to the Board of Adjustment.

### **ADJOURNMENT**

The meeting was adjourned at 10:20 p.m.