

## 09-27-2023 Town Council Meeting Responses to Council Questions

### **ITEM #10: Close the Legislative Hearings and Consider a Conditional Zoning Application for Chapel Hill Crossings at 5500 Old Chapel Hill Road and Huse Street**

**Council Question:**

What is the status of the Clark Lake dam? Whose responsibility is its maintenance and upkeep?

**Staff Response:**

*Clark Lake is a private lake and the responsibility for maintenance lies with the homeowners' association. The applicant states that they do not have knowledge of the condition of the dam other than what the neighbors have shared.*

**Council Question:**

Clarifying that the current plan no longer includes any type of retail/commercial? If so, could the applicant share why it was removed?

**Applicant Response:**

*The redesign with significantly less residential density eliminated the internal support for retail. Additionally, the retail proposal received few positive responses from the community, so we were concerned with the outside support. Most comments we received about our site suggested that this wasn't a good fit for adding retail and needed to be more focused on adding for sale housing. However, we are planning for sufficient space to allow for pop-up retail in the form of kiosks and food trucks in the community green and open air space.*

**Council Question:**

How are the results of the joint planning effort conducted about a year ago reflected in the current proposal?

**Staff Response:**

*Within the northern site, the connection provided on the western boundary and the greenway easement both contribute to implementing the Parkline East Planning Framework. The integrated planning of the northern and southern sites under one application also supports principles of Parkline East. Pedestrian connectivity will extend from Huse Street across Old Chapel Hill Rd., and further to the north and west with future development. The applicant also notes that the location and orientation of multifamily buildings follows the recommendations of Parkline East.*

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**Council Question:**

Why do neither of the applicant's proposals for affordable rental housing yield 15 percent of the total?

**Staff Response:**

*Within the rental portion of the project, the applicant proposes to include 20 affordable rental units (approx. 10% of total) at 65% and 80% AMI or 14 affordable rental units (approx. 7% of total) at 60% AMI. Compared to the HAB's Guiding Principles for Affordable Rental Housing, this Affordable Housing Plan offers a lower percentage of affordable housing units serving households at higher income levels. The applicant's voluntary affordable housing proposal reflects what they say is the maximum amount feasible under current market conditions. The proposal aligns with other recent voluntary affordable housing plans that Council has approved in rental projects (most recently Barbee Chapel Apartments, which included 7% of market rate units affordable at 60% AMI).*

**Council Question:**

As regards stipulation 8, we currently prohibit dedicated STRs in residential zones, not all STRs. Stipulation 8 appears to go beyond the current ordinance. What is the reason for this?

**Staff Response:**

*Unlike the previous proposal before Council, this application only includes residential zoning districts. Condition 8 has been a Council interest for recent residential approvals, but may be removed at Council's request. We do not believe the limitation exceeds the LUMO's current prohibition of dedicated STRs in residential districts, except that the condition includes the HOA as part of enforcement.*

**Council Question:**

Will this development be entirely electric?

**Staff Response:**

*The applicant has agreed to provide only electric appliances.*

**Council Question:**

Why is 70% of the Hughes street recreation requirement being met with sidewalks?

**Staff Response:**

*The applicant has proposed a walking circuit within the site, which is a feasible approach to providing recreation space as defined in LUMO. The applicant will provide further design detail at the Final Plans stage. Staff will work with the applicant to activate any recreation space, including the walking circuit, or otherwise seek a recreation payment to the Town.*

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#### **Council Question:**

I understand that the massing of the apartment building may have changed to move some of the density to that side, but now the apartment building is essentially a Texas donut with the middle serving as a “garden”... not much gonna grow in there and the massing is now not ideal. Has Brian looked at that building to see if there is a way to get the additional density in a way that has the amenity space more public and at the building massing in a better configuration?

#### **Staff Response:**

*The applicant team has incorporated several of the Urban Designer’s comments regarding building orientation, massing, and articulation and he is comfortable with the overall design direction for the building thus far. Specifically, the height steps down along the Old Chapel Hill Rd. frontage, with taller mass toward the back where it is more appropriate. The articulation of the wings with vertical bays, gables, and sloped roofs, suggests “house-like” elements and scale. From conversations with the applicant, they are still exploring how the courtyard will function - the garden might just be a placeholder. The larger plaza-like community gathering space along Old Chapel Hill Road does represent an improvement to the design, providing activation to the street frontage.*

#### **Council Question:**

In terms of stormwater; would the additional runoff potentially be a tipping point for the Clark Lake dam? I was assuming that their HOA was responsible for evaluating their dam, but perhaps I’m wrong? Who is responsible for assessment of the integrity of that dam and how are we evaluating if we are harming them in any way with the additional runoff from this or other properties? Can we have an overall stormwater assessment and overlay as part of our LUMO rewrite? Who is ultimately responsible and what other partners can be brought to the table by the HOA to deal with their potential dam issue?

#### **Staff Response:**

*The Clark Lake homeowners’ association maintains the lake property and the dam. The Chapel Hill Crossings site constitutes a small portion of the Clark Lake drainage basin (the applicant indicates approx. 4%). Town staff have reviewed the calculations to check that they meet LUMO standards. This includes the requirement that the post-development peak flow does not exceed the pre-development peak flow for the 1, 2, and 25-year storms. The 100-year peak flow condition (requested by staff) will further reduce the how quickly the water reaches Clark Lake. To our knowledge, an analysis of the dam in relation to the proposed development has not been performed.*

*Town staff will review and evaluate methods for stormwater impact analysis and mitigation efforts as part of the LUMO Rewrite.*

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**Council Question:**

Is the farm pond on the development site spring fed? If so, how does that impact the ability to use it as stormwater mitigation?

**Applicant Response:**

*The pond is not spring fed, and it does not serve a stormwater management function. We will be building a new pond, which will.*

**Council Question:**

When will DOT evaluate the site line for the Pope road entrance to the site?

**Staff Response:**

*NCDOT will evaluate sight distance triangles and safe intersections at the Final Plans stage and will confirm compliance before issuing a driveway permit. The applicant, Town Traffic Engineer, and NCDOT have held initial conversations on this topic.*

**Council Question:**

How will the sidewalk on Pope Road be accessible and easily identifiable to bike/ped, as its current positioning is 50 feet below the road?

**Staff Response:**

*The sidewalk will be designed and located on the Final Plans drawings in accordance with DOT requirements. The new sidewalk will connect to existing sidewalk on Old Chapel Hill Road.*

**Council Question:**

The South/west side of Huse St. has a very tall wall, what is that for? What will that feel like for neighbors?

**Staff Response:**

*In the southwestern portion of the property there is a 16-foot-tall berm (i.e. an earthen slope) for the stormwater pond and a slope that supports grading for the internal streets. The western property line includes a 10-foot buffer and the south property line will require a 20-30 foot wide buffer in the vicinity of the berm to improve the experience for neighbors.*

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**Council Question:**

What is being done to negotiate for affordable rental, given we cannot require it in our inclusionary zoning?

**Staff Response:**

*Staff conveyed the Housing Advisory Board's Guiding Principles for Affordable Rental Housing to the applicant, which calls for at least 15% of units to be affordable to households earning 60% of the Area Median Income (AMI). Affordable Housing staff then worked closely with the applicant to understand how to apply the HAB's guidelines to their project and formulate a voluntary affordable housing proposal for staff and Council review. In these discussions, staff communicated how voluntary affordable housing commitments align with the Town's Complete Community Framework and Council Goals.*

**Council Question:**

These combined sites have 2 bus stops, the developer is offering \$25k payment in lieu for a bus shelter... will this cover the cost for both bus stops or only one?

**Staff Response:**

*Because of the current D Route configuration with a turnaround at the nearby traffic circle, we only have a stop on the north side of Old Chapel Hill Rd. Instead of boarding or getting off on the south side, riders wait for the bus to turn around and head back in the opposite direction. Chapel Hill Transit does have plans to extend the D Route to Patterson Place in 2026, in coordination with GoTriangle's planned improvements to the 400 and 405 routes. We will use the \$25,000 payment at that time to construct a new stop on the south side of Old Chapel Hill Rd. or to improve the existing stop on the north side of Old Chapel Hill Rd. We are amenable to requesting an increased payment at Council's direction.*

**Council Question:**

Residents of Clark Lake have expressed concern that increased impervious surface upstream may increase stormwater flow to their lake. Has town staff looked to make sure that the project as proposed will not pose a danger to the dam?

**Staff Response:**

*The Town's stormwater regulations work to minimize impacts to adjacent offsite properties. Under those regulations and in combination with the applicant's commitments, the project is not allowed to increase stormwater runoff rates of flow beyond pre-development levels up to a 100-year storm event. That being said, our current stormwater approach does not evaluate impacts as far away as Clark Lake is from this project. To our knowledge, an analysis of the dam in relation to the proposed development has not been performed. The land entitlement process*

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*does not permit off-site improvements on private property, and we cannot provide a guarantee that the Clark Lake dam would or would not fail regardless of this project's approval or denial.*

*Separate from this proposal, Planning staff is available to assist with any follow up action related to the Clark Lake dam.*

### **Council Question:**

Since the south part of the site is for-sale housing, I assume a HOA or other entity will be responsible for maintaining the stormwater system. Do we have a mechanism (such as a maintenance bond) to ensure that there will be sufficient funding for ongoing maintenance and repairs?

### **Staff Response:**

*The Town requires private property owners to post surety and warranty bonds for stormwater control measures. The warranty bond is held for a minimum of one year. Following the release of the bond, the developer or HOA shall continue to have a responsibility to inspect and maintain the stormwater infrastructure as required by the Town's LUMO, State law, and the Stormwater Operations & Maintenance Agreement for the project.*

### **Council Question:**

Does stipulation 8 allow long-term (over 30 days) Airbnb-type dedicated rentals?

### **Staff Response:**

*Condition 8 allows for rental stays over 30 days, as these meet the LUMO definition of residential use rather than short-term rental.*

### **Council Question:**

I'm unclear about the design of the stormwater pond – is it held by a berm? Can we get detailed drawings for what is planned here (sections showing the adjacent single-family homes would be helpful)?

### **Staff Response:**

*The current pond design includes a berm/embankment on its south side. Detailed drawings (including cross sections) will be submitted for review during the Final Plans review. The applicant will share a cross-section of the pond at the Council meeting.*

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### **Council Question:**

On page 146 of the packet, the applicant's statement says that the portion of the north side, north of the stream, will remain forested, counting toward tree coverage requirements, and be available for recreation. Is this a permanent commitment to not developing this land?

### **Staff Response:**

*Under the terms of the Conditional Zoning approval and the associated district-specific plan, the applicant would need to return to Council for allowance to disturb the forested land. They are not providing an additional commitment (e.g. conservation easement) at this time. The applicant notes that when the property to the north of this site is developed, there could be the opportunity to develop additional housing north of the stream and outside of the RCD. The site would still need to meet the required tree canopy coverage or seek Council approval of a modification.*

### **Council Question:**

It appears that there is some disagreement between/among stormwater staff on the Crossings: could we get a definitive and strong staff response/statement on stormwater for this project? Will their current plans be sufficient? Does Clark Lake serve a stormwater retention purpose for the town beyond their own properties or is it more than a farm pond? Will the Crossings impact Clark Lake?

### **Staff Response:**

*Clark Lake is a private lake and is not designed as a stormwater facility. Clark Lake is a perennial water body which is fed by an intermittent stream so there are Town stream buffer protections that apply.*

*On August 13th, 2023, Town Staff from Planning and Stormwater met with Clark Lake residents who had questions concerning the proposed Chapel Hill Crossing development and what impacts it would have on Clark Lake. Staff do not recall any disagreements during the meeting. During the discussion, Stormwater staff informed the residents that the Chapel Hill Crossings developer would be required to follow the stormwater regulations in the Land Use Management Ordinance (LUMO). The LUMO requires that post-development runoff for certain storm events cannot exceed the predevelopment runoff amount. The proposed wet detention facility for the Crossings development will release the detained stormwater runoff and would closely match the predevelopment runoff rate downstream towards Clark Lake as designed.*

*As noted above, our current stormwater approach does not evaluate impacts as far away as Clark Lake is from this project. To our knowledge, an analysis of the dam in relation to the proposed development has not been performed. The land entitlement process does not permit off-site improvements on private property, and we cannot provide a guarantee that the Clark Lake dam would or would not fail regardless of this project's approval or denial.*