

**DRAFT SUMMARY MINUTES OF A PUBLIC HEARING
OF THE CHAPEL HILL TOWN COUNCIL
WEDNESDAY, NOVEMBER 15, 2017, AT 7:00 PM**

Council Members Present: Mayor Pam Hemminger, Mayor pro tem Donna Bell, Council Member Jessica Anderson, Council Member George Cianciolo, Council Member Sally Greene, Council Member Ed Harrison, Council Member Nancy E. Oates, Council Member Maria T. Palmer, and Council Member Michael Parker.

Staff members present: Town Manager Roger L. Stancil, Deputy Town Manager Florentine Miller, Town Attorney Ralph Karpinos, Senior Planner Aaron Frank, Senior Planner Kay Pearlstein, Director of Planning and Development Services Ben Hitchings, Fire Inspector Greg Peeler, Interim Operations Manager for Current Development Judy Johnson, Communications Specialist Mark Losey, Police Officer Rick Fahrer, and Deputy Town Clerk Amy Harvey.

[AGENDA ITEMS](#)

0.1 [Proclamation: Small Business Saturday.](#)

Mayor Hemminger opened the meeting at 7:00 p.m., and Council Member Cianciolo read a proclamation declaring November 25, 2017 to be Small Business Saturday in Chapel Hill. He urged residents to support small businesses throughout the year, and presented the proclamation to Esteban McMahan.

Mr. McMahan accepted the proclamation on behalf of Top of the Hill Restaurant and Distillery, the Chapel Hill-Carrboro Chamber of Commerce, and all other small, locally-owned businesses. He noted that spending locally multiplied dollars, and led to a more vibrant and unique community.

Bridget Pemberton-Smith, representing Cameron's in Carrboro, thanked the Mayor and Council for promoting Small Business Saturday, and encouraging citizens to shop locally every day of the year. She agreed with what Mr. McMahan had said, and noted the "multiplier effect" of money spent at Cameron's going to its employees and ultimately to local shops and restaurants.

Mayor Hemminger expressed appreciation to all small businesses throughout the county.

Mayor Hemminger reported that Mr. Stancil had announced plans to retire the following year. The news had been a shock to some, she said, and pointed out that Mr. Stancil had devoted more than 45 years to public service. Mayor Hemminger commended him for that service, and said he had done much good work during the 12 years that he had served as Chapel Hill's Town Manager.

1. [Consider Adopting a Resolution to Support Extension of Temporary Protected Status and to Support Immigrants and Refugees Coming to Chapel Hill to Escape War, Natural Disasters and Crime. \(R-1\)](#)

Council Member Palmer read an amended resolution on extending temporary protective status (TPS) for refugees who could not return to their countries of origin due to armed conflict, environmental disaster, or other life-threatening conditions. In North Carolina, that included 13,000 people from Honduras, El Salvador, Haiti, and 11,000 of their U.S. born children, she said. Council Member Palmer noted that those protections had been in place for about 20 years, and that people with TPS had contributed millions of dollars to North Carolina's economy.

Standing with a group of local TPS holders and their families, Council Member Palmer described local efforts to organize. She said that the Council was calling on the U.S. Department of Homeland Security to renew TPS protections. Council Member Palmer explained that the resolution called on the U. S. Congress to find a permanent solution that would grant residency to TPS holders.

Council Member Harrison recommended that the resolution also be sent to U. S. Congressman G. K. Butterfield, who represented part of Chapel Hill.

COUNCIL MEMBER MARIA T. PALMER MOVED, SECONDED BY COUNCIL MEMBER ED HARRISON, TO ADOPT R-1 AS AMENDED. THE MOTION WAS ADOPTED UNANIMOUSLY (9-0) .

[A RESOLUTION IN SUPPORT OF EXTENDING TEMPORARY PROTECTED STATUS AND SUPPORTING IMMIGRANTS AND REFUGEES COMING TO NORTH CAROLINA AND CHAPEL HILL TO ESCAPE WAR, NATURAL DISASTERS AND CRIME \(2017-11-15/R-1\) as Amended](#)

Mayor Hemminger made the following announcements: A recent Jordan Lake One Water Association meeting of regional elected officials had been very successful, and those present had agreed to move forward. More than 80 people would be coming to Town for a technical meeting the following day. A Learn at Lunch meeting regarding the value of permits would be held at noon the following day at the Chamber of Commerce building; an Assembly of Governments meeting had been postponed until January or February 2018. The Arbor Day celebration would be held at Town Hall on Friday, and the next Council meeting would be on November 12, 2017, and Mayor Hemminger wished all a joyful Thanksgiving Day.

Mayor Hemminger acknowledged two attendees who wished to comment on the TPS item.

Eliazer Posade, community engagement and advocacy manager at El Centro Hispano, said she had been working with Council Member Palmer, Carrboro aldermen, and Durham council members to build support from local law enforcement and local governments. She thanked the Council on behalf of TPS holders whom she said had given more than \$570 million per year to North Carolina's Gross Domestic Product (GDP).

Icela Henriquez, a senior at Southern High School in Durham, explained that both of her parents were TPS holders, and that her dream of going to college would be destroyed if that was

ended. Ms. Henriquez thanked the Council on behalf of herself, her parents, and the national TPS Alliance.

1.1 [PETITIONS FROM THE PUBLIC](#)

a. [Whit Rummel Request to Reconsider Land Use of Certain Properties along Estes Drive.](#)

Whit Rummel, also speaking for Kristen Campbell and Katherine Butler, explained that they owned properties along the northern side of Estes Drive that the bicycle/pedestrian project would abut. He requested that the Council direct the planning staff to explore changing the land use to one that would be consistent with what was stated in the Central West Small Area Plan.

COUNCIL MEMBER MICHAEL PARKER MOVED, SECONDED BY COUNCIL MEMBER SALLY GREENE, TO RECEIVE AND REFER TO THE MAYOR AND TOWN MANAGER. THE MOTION WAS ADOPTED UNANIMOUSLY (9-0) .

b. [Darryl Neal II Regarding We Love U Organization.](#)

Darryl Neal II, representing the We Love U Foundation, explained that it had been founded in 2001 to promote unity and friendship among all people of the global village, regardless of nationality, race, religion or sub-economic status. He said that We Love U was a non-profit organization that had carried out blood drives, provided clean water, rebuilt homes, and educated youth on the importance of maintaining a clean environment in more than 50 countries. Mr. Neal said that foundation members looked forward to working with Chapel Hill's local government to improve the lives of community members.

2. [Consider Adopting a Calendar of Council Meetings through June 2018. \(R-2\)](#)

Mayor Hemminger explained that the Council had been holding its meetings on Wednesday evenings rather than Mondays, and that the proposed resolution would continue that.

Council Member Palmer commented that a trial change should include measuring how well it works. She acknowledged that the change had helped staff, but said that some faith organizations had been unable to attend on Wednesdays due to long-standing, prior commitments. Although she had personally enjoyed the mid-week meetings, she would vote against the resolution because the Town had not determined how the change was affecting others in the community, she said.

Council Member Greene confirmed with Mr. Stancil that staff had not reached out to community members regarding the impact.

Mayor Hemminger said that the Town had received many positive comments from citizens, but not from everyone. She pointed out that there were other ways to engage with the Council, such as phone calls, emails and personal meetings. Any night that the Council chose to hold meetings would be difficult for some groups, she said. Mayor Hemminger explained that the change to

Wednesday had provided everyone with more time to review materials, which had allowed the process to run more smoothly.

COUNCIL MEMBER JESSICA ANDERSON MOVED, SECONDED BY COUNCIL MEMBER MICHAEL PARKER, TO ADOPT R-2. THE MOTION WAS ADOPTED BY A VOTE OF 8-1, WITH MAYOR PAM HEMMINGER, MAYOR PRO TEM DONNA BELL, COUNCIL MEMBER JESSICA ANDERSON, COUNCIL MEMBER GEORGE CIANCIOLO, COUNCIL MEMBER SALLY GREENE, COUNCIL MEMBER ED HARRISON, COUNCIL MEMBER NANCY E. OATES, AND COUNCIL MEMBER MICHAEL PARKER VOTING AYE AND WITH COUNCIL MEMBER MARIA T. PALMER VOTING NAY .

[A RESOLUTION ADOPTING A CALENDAR OF COUNCIL MEETINGS THROUGH JUNE 2018 \(2017-11-15/R-2\)](#)

SUPs

3. [Open the Public Hearing: Application for Special Use Permit Modification - Montessori School, 4512 Pope Road \(Project #17-017\).](#)

Council Member Harrison asked to be recused for Item 3. As the nearest neighbor, he would not have an unbiased opinion, and wanted to speak on the item, he explained. The Council unanimously voted to recuse him.

COUNCIL MEMBER GEORGE CIANCIOLO MOVED, SECONDED BY COUNCIL MEMBER MICHAEL PARKER, TO APPROVE COUNCIL MEMBER HARRISON'S REQUEST TO BE RECUSED FROM THIS PUBLIC HEARING. THE MOTION WAS ADOPTED BY A VOTE OF 8-0, WITH MAYOR PAM HEMMINGER, MAYOR PRO TEM DONNA BELL, COUNCIL MEMBER JESSICA ANDERSON, COUNCIL MEMBER GEORGE CIANCIOLO, COUNCIL MEMBER SALLY GREENE, COUNCIL MEMBER NANCY E. OATES, COUNCIL MEMBER MARIA T. PALMER, AND COUNCIL MEMBER MICHAEL PARKER VOTING AYE AND WITH COUNCIL MEMBER ED HARRISON VOTING ABSTAINED .

Senior Planner Aaron Frank gave a PowerPoint presentation, providing background on the Special Use Permit (SUP) application for a 13.2-acre site zoned O-I, O-2 and R-2, and located in the Durham County portion of Chapel Hill. The proposal was for a 24,000 square-foot expansion that would have a new access point off Pope Road, he said. Mr. Frank reviewed a phasing plan for the addition, and noted a proposal to increase parking from 84 to 122 vehicles and to add 30 new bicycle spaces. He discussed adding a pedestrian crossing on Pope Road, and said that staff supported a modification to the eastern landscape buffer.

Mr. Frank said that Town advisory boards and commissions had recommended approval with additional recommendations, which he reviewed. Key considerations included an enrollment increase of 25 students, a modified buffer along Pope Road, and a modified parking requirement, he said. Mr. Frank recommended that the Council hear comments, and recess the public hearing

to January 17, 2018.

Council Member Cianciolo confirmed with Mr. Frank that the proposed ingress/egress would not conflict with the entrance of a new development across the street.

Council Member Parker ascertained from Mr. Frank that the Transportation and Connectivity Board had not supported the increase in parking because it preferred bicycle, pedestrian, and other multi-modal school services.

Council Member Parker confirmed with Mr. Frank that the number of students had been specified because the application was also being reviewed by the NC Department of Transportation (NCDOT), which evaluated stacking, as well as parking demand for schools.

Council Member Palmer clarified that the idea behind the Transportation and Connectivity Board's recommendation was to weigh benefits against the environmental costs of having more parking, which would incentivize people to drive rather than find creative solutions. The board was encouraging projects to think about multi-modal transportation, she said.

Council Member Palmer asked about the reasoning behind postponing the Council's vote to January, when the new Council would be seated.

Mayor Hemminger replied that two public hearings were required and there was not enough time on the agenda to hold the second one in November 2017. She pointed out that most of the new Council members were present and listening to the discussion.

Developer Josh Gurlitz provided specifics about the Montessori School's objectives. They wanted to use the green area, make dropping children off easier, and to do both in an environmentally sensitive manner, he said. He explained that the school's sustainability objectives included maximizing buffers and water retention, especially in the area between the school and its northern neighbors. Mr. Gurlitz described the site plan, and said that there was no intent to have a rolling development process. That was why the school had decided in 2007 to cap its population at 300, and to average the two densities rather than try to rezone all of the property, he said.

Andrew Porter, a landscape architect with Coulter Jewell Thames, outlined the proposal to enhance the existing stormwater management facilities. He explained a goal to turn the northern pond into a wonderful teaching tool for the school. He discussed the plan to add new infrastructure, water and sewer, and fire prevention. There would be outdoor trails, walking areas, playgrounds, additional parking, and some reconfiguration of ADA and pedestrian movement zones, he said. Mr. Porter discussed landscaping, buffering, and tree coverage. He said that the requested modification was consistent with the prior approval.

Council Member Oates confirmed with Mr. Porter that a pond would be expanded during the first phase.

Mr. Gurlitz provided additional information about architectural objectives, building elevations,

sustainable features, and light monitors that would minimize leakage from the building. He showed design renderings, and compared how the proposed expansion would be similar to the existing building. Mr. Gurlitz said that the applicant agreed to Stipulation A, and also with the hours of construction that had been described in the 2005 SUP.

Council Member Harrison, speaking as a nearby resident, said that circumstances justified the applicant's request for more parking. He questioned the applicant's decision to not build the last 30 feet of sidewalk on Pope Road, however. Town staff seemed to think that some future project would finish the sidewalk, he said, and gave several reasons why that was unlikely to happen before 2045. He wished the lighting stipulation applied to the entire campus, Council Member Harrison said, but added that he liked everything else about the project.

Mayor Hemminger asked for more information about the sidewalk plan.

Mr. Porter explained that the request pertained to the applicant's idea to leave 30 feet at the northern end along Pope Road as it was in order to have a smoother transition when the sidewalk from the north was built. He agreed that there was no guarantee about when that northern section would be constructed, since Pope Road was a state road located in Durham County. Therefore, the applicant had proposed a payment in lieu with the idea of constructing that 30-foot portion later, Mr. Porter explained.

Mayor Hemminger noted the importance of connectivity and safety, and asked the applicant to take another look at that. She then recommended that the applicant consider splitting the electric charging stations between lots, or putting one in the employee lot where people would remain much longer than they would at the drop-off area. Mayor Hemminger mentioned that the Town had been asking developers to consider putting in solar conduits for later use with solar panels.

Council Member Oates asked if the parking lot lights would be on a timer.

Mr. Porter replied that Duke Energy was proposing Sanibel fixtures, which were LED fixtures with a better cut off and diodes that would be less visible from adjacent properties. New parking and pedestrian areas would be lighted with those and the school intended to convert other lights to Sanibel fixtures as funding allowed, he said.

Council Member Oates said that she had heard that Sanibel lights dispersed more light and were disruptive to neighbors. The applicant might consider putting them on a timer, or putting some type of shield on them, she said. Council Member Oates also strongly recommended that the applicant build the extra 30 feet of sidewalk. In addition, she asked if there would be a crossing guard at the proposed crosswalk on Pope Road.

Mr. Porter replied that there would be high visibility striping, as well as a pedestrian refuge island. The applicant was doing everything it could to make the area as safe as possible, he said.

Council Member Oates told the Montessori School representatives who were in the audience that they probably would want to have a crossing guard there as well.

COUNCIL MEMBER MICHAEL PARKER MOVED, SECONDED BY COUNCIL MEMBER JESSICA ANDERSON, TO RECESS THE PUBLIC HEARING TO JANUARY 17, 2018. THE MOTION WAS ADOPTED BY A VOTE OF 8-0, WITH MAYOR PAM HEMMINGER, MAYOR PRO TEM DONNA BELL, COUNCIL MEMBER JESSICA ANDERSON, COUNCIL MEMBER GEORGE CIANCIOLO, COUNCIL MEMBER SALLY GREENE, COUNCIL MEMBER NANCY E. OATES, COUNCIL MEMBER MARIA T. PALMER, AND COUNCIL MEMBER MICHAEL PARKER VOTING AYE AND WITH COUNCIL MEMBER ED HARRISON VOTING RECUSED .

4. [Open the Public Hearing: Application for Special Use Permit Modification - State Employees Credit Union \(SECU\) Family House Expansion, Residential Support Facility, 123 Old Mason Farm Road \(Project #17-012\).](#)

Senior Planner Kay Pearlstein gave a PowerPoint presentation on the proposed modification to the Family House that would allow a 28,000 square-foot addition, a 3.5-acre lease line extension, and changes to buffers to provide parking for an additional 52 vehicles and 12 bicycles. She said that the State Employees Credit Union (SECU) was proposing to extend a sidewalk along Old Mason Farm Road to the end of their lease line. She pointed out a proposal to modify the buffer along the northern property line, and said that the applicant had been working with adjacent property owners on a landscape plan that would provide evergreen shade trees rather than canopy trees.

Ms. Pearlstein explained that the applicant was proposing to augment an existing buffer in the northern portion to provide screening to the Highland Woods Neighborhood. Proposed modifications pertained to all four landscape buffers, and included a reduction in the parking requirement, she said. Ms. Pearlstein noted that advisory boards had recommended conditions, and said that staff supported the applicant's requests. She recommended that the Council hear comments and recess the public hearing to January 17, 2018.

Mayor Hemminger confirmed with Ms. Pearlstein that the applicant planned to install a bus pad on the other side of Old Mason Farm Road, as well as a pedestrian crosswalk.

Bruce Ballentine, chair of the SECU Family House Building Committee, began the applicant's PowerPoint presentation and introduced the other presenters.

Janice McAdams, executive director of SECU Family House, explained the mission to provide housing for UNC Hospitals patients and their families. SECU's goal was to take in more people and the addition would provide 35 new rooms, she said.

Dan Jewell, a landscape architect with Coulter Jewell Thames, presented the site and landscape plans, and showed how SECU intended to add a fourth side to a currently three-sided courtyard. He said that they were requesting additional parking spaces, but not as many as the ordinance would allow. He expanded upon Ms. Pearlstein's presentation and clarified that the proposed modifications included a reduction in the number of additional bicycle parking spaces. Mr. Jewel said that neighbors had been involved with designing a modified planting

scheme, and would continue to help locate some of the taller evergreen shrubs in the buffers. The plan included relocating a portion of trail, but it would not be moved closer to neighbors, Mr. Jewell said.

Brian Maxwell, an architect with MHA Works, showed renderings of how the expanded building would be integrated into the existing facility and how materials would match and make the addition look as though it had always been there. He noted that the roof line of the three-story building would be only about 18 inches higher than the existing main building. Mr. Maxwell showed the building in relation to the neighbors' yards.

Mr. Ballentine stated that SECU had no issues with the conditions in Resolution A. He asked, however, for an extension of the project's start and completion dates, from two and four years to six and eight years, respectively. The dates were within the program, but SECU wished to extend them a little further out in case something unforeseen were to happen, he explained. Mr. Ballentine also pointed out that a portico would not be built in Phase 1, and would be a separate, fund-raiser project.

Gary Richman, representing the Highland Woods Neighborhood, expressed support for Family House's mission, and said he was grateful for the applicant's cooperation and accommodation regarding the process. However, neighbors still had concerns with some of the details, such as car headlights and the parking lot lights shining into people's houses, he said. He also stated that the relocated path was, in fact, closer to their houses, and said he was surprised to learn that it would be asphalt. Mr. Richman expressed concern about noise from HVAC units, and asked that those be either invisible or shielded. He stressed the need for a construction plan that would be specified and enforced. Mr. Richman said that he could not find Chart L100, which had been referenced in the document, and that he wanted that to be part of the SUP.

Mayor Hemminger requested that the applicant meet with its neighbors again regarding their concerns.

Mr. Ballentine replied that they planned to meet continuously with neighbors, and that he would forward Chart L100 to Mr. Richman. The grade change would help with the headlights, which would shine into a retaining wall or a landscaping bank, he said. He explained that a portion of the path would be relocated closer to the neighbors, but not any closer than the portion that was not being relocated. Mr. Ballentine noted that the existing path was asphalt.

With regard to the HVAC system, SECU was looking at options to minimize the number of condensers in the back, Mr. Ballentine said. He explained that landscaping would screen those from view, and that the units being considered would produce less noise. Mr. Ballentine said that a construction plan would address hours of parking and construction.

Mayor Hemminger confirmed with Mr. Ballentine that the applicant agreed to meet again with its neighbors.

Council Member Palmer asked about the request for fewer bicycle parking spaces, and Mayor Hemminger pointed out that the applicant had said that no one had ever parked in the four

existing bike spaces.

Council Member Palmer mentioned the value of connecting to the greenway, but Ms. McAdams replied that Old Mason Farm Road was dangerous. She said that visitors use the bus that serves the area and/or a shuttle that runs to and from the hospital. Family House patients were mostly sick, and not mobile, and volunteers try to conserve and carpool, Ms. McAdams said.

Council Member Oates confirmed with Mr. Ballentine that the path would be open to the public. She said again that the Sanibel lights that Duke Energy was using actually emitted more light. "So that might be something to plan ahead for," she remarked.

Mayor pro tem Bell asked why the applicant was requesting so much additional time.

Mr. Ballentine replied that they were trying to avoid being caught with an expired SUP if something should cause a delay. Extra time would also allow them to raise funds for the protective portico at the drop-off area where patients enter the building, he explained.

Mayor Hemminger confirmed with Ms. Pearlstein that a change to access and circulation could be a minor SUP modification, and could also be administrative.

MAYOR PRO TEM DONNA BELL MOVED, SECONDED BY COUNCIL MEMBER MARIA T. PALMER, TO RECESS THE PUBLIC HEARING TO JANUARY 17, 2018. THE MOTION WAS ADOPTED UNANIMOUSLY (9-0) .

5. [Open the Public Hearing: Land Use Management Ordinance Text Amendment - Proposed Changes to Articles 3 and 4 Related to Conditional Zoning.](#)

Mr. Stancil began the PowerPoint presentation with a summary of the discussion regarding conditional zoning (CZ) thus far. He said that the item had been before the Planning Commission (PC), and he recommended that the Council open the public hearing, receive comments, and then recess the public hearing to November 29, 2017.

Mr. Stancil reviewed the reasons why the Town was considering a CZ tool, and explained that it was used with site-specific conditions. It would provide all the authority of an SUP, would allow more engagement with stakeholders, and could be tailored to community interests, he said. He noted that CZ would only be available in particular areas, and that it would allow discussion with neighbors. Mr. Stancil pointed out that some changes had been made since a prior Council meeting. He said that application requirements would be similar to those for SUPs, and that the process would include advisory board review, and a detailed site plan.

Director of Planning and Development Services Ben Hitchings continued the PowerPoint presentation, and addressed several topics that the Council would need to consider to amend the Town's Land Use Management Ordinance (LUMO) to include a CZ tool. He displayed a chart that compared CZs with SUPs, and development agreement (DAs), and showed zoning districts where CZs might apply. Mr. Hitchings discussed a proposed application process, the level of required detail in plans, applicable development standards and conditions, advisory board

review, period of applicability, appeals and legal challenges, and the threshold for Council review of modifications.

Council Member Parker confirmed with Mr. Hitchings that SUPs and CZs were more structured, and required a more predictable demand on staff than did DAs.

Council Member Harrison asked if staff envisioned having a public information meeting before a rezoning application could be submitted.

Mr. Hitchings replied that that was standard practice, but had not been written into the text amendment.

Council Member Harrison and Mr. Hitchings agreed that such meetings helped create a smoother relationship, and Council Member Harrison confirmed that they would occur after the rezoning application.

Mayor Hemminger said she assumed an applicant would want to present a concept plan to find out if the Council was interested in considering CZ, but she did not see that step listed on the chart.

Mr. Hitchings replied that the CZ process was similar to a general use rezoning, where staff reviewed an applicant's request and took it to the Council. However, it sounded as though the Mayor was interested in a single, early conversation, he said, and he offered to look at structuring the process in that manner.

Council Member Palmer said she assumed that the reason for having step-by-step, specific information was to avoid a long discussion about process. She had been hoping that having clear guidelines for each approach would avoid the Council having to make decisions for applicants about which to choose, she said.

Council Member Oates said that it sounded as though Mr. Hitchings was saying that someone could ask that a parcel be rezoned using CZ without providing the project details. She asked if it would be possible for the Town to rezone land to CZ without knowing what the applicant planned to do with it.

Mr. Hitchings replied that he was just about to address the level of detail, such as a detailed site plan, that would be included with the application. He said that a number of questions needed to be addressed, such as whether or not the proposed zoning districts were where the Council want to allow CZ. Mr. Hitchings displayed a list of zoning districts, and discussed where the current proposal would apply. He showed where applicable zoning districts existed in Town, and noted that they conformed with the future focus areas in the Town's Land Use Map. He said there was no proposal to rezone any parcel, but only to create a district where someone could propose a rezoning.

Council Member Oates expressed concern about areas on the map that abut single-family neighborhoods. Noting that the Town had received push-back from residents in those areas, she

asked if they could be left out of the first phase and added back in if CZ seemed to be working.

Mr. Hitchings pointed out that Southern Village, for example, had an existing SUP, which would have to be abandoned before anyone could propose another use. He did not think the Council would be interested in seeing a proposed rezoning of established neighborhoods, he said. Mr. Hitchings stressed that the Council would have the broad discretion of a legislative decision on whether or not a proposal was good for the community.

Council Member Oates commented that staff had previously said that a SUP could be abandoned, and an entire property could be redeveloped. That was why she was concerned about rushing to include some areas, and was recommending starting small, she said.

Council Member Parker said that there seemed to be a tacit assumption that CZ would be more permissive than the SUP/zoning approach. He asked if the process would be as rigorous, and if a developer would have to provide the same level of detail with CZ.

Mr. Hitchings replied that the rigor of the CZ process would depend on how the Town structured it. Staff had constructed it to be very similar to the current SUP process, and to provide the same protection, he said. Mr. Hitchings pointed out that applicants would not be able to do anything without the Council's permission. He said that the Council's authority would be enhanced. With CZ, the Council would not be constrained to the four findings, Mr. Hitchings pointed out, adding that whether or not a project was good for the community would be a policy decision.

Council Member Anderson asked why the Council would not want to use CZ town-wide.

Mr. Hitchings replied that staff was proposing a modest expansion that would start where it would most likely be used. The Town could absolutely limit or expand the number of districts, he said.

In response to a question from Council Member Parker, Mr. Hitchings explained that an applicant would only bring a SUP forward if the existing zoning designation allowed for the kind of activity they wanted to do. With the authorization of the CZ tool, that applicant could propose a CZ if the property were correctly zoned, and the applicant did not want to go through the SUP process, he said. Mr. Hitchings explained that Council approval of that would potentially create a new district.

Mr. Hitchings asked if the Council was interested in using the application process that staff was proposing. He said that the PC had recommended requiring more information up front, so staff had revised the proposal to incorporate a site plan and a 10-page checklist. That was similar to what the Town currently required for a SUP, he said.

Council Member Anderson replied that there was much that the Council did not know about sites even when there was a concept plan. Would there be a way to find out about hydrology and traffic impact, for example, before deciding whether a proposal made sense, she asked.

Mr. Hitchings replied that a TIA would be available when the rezoning came forward to the

Council, if a project triggered that threshold. Beyond the extensive information provided with the original application, staff was proposing that the applicant provide information on existing conditions, landscape information, a detailed site plan, topography, and more, he said.

Council Member Anderson asked why that information could not be provided earlier in the process.

Mr. Hitchings replied that the Council would have all of the information that would be on the 10-page checklist.

Council Member Parker explained that Council Member Anderson was referring to the level of information that would be provided when the Council made a decision on whether or not to move ahead with a CZ. He requested that staff provide the Council with a checklist to help the Council decide whether or not to proceed with a CZ or some other process.

Mr. Hitchings pointed out that there was tension between speed of process and thoroughness of review, and said that staff had revised the proposal to emphasize thoroughness of review. Staff was proposing that an applicant that wanted a rezoning would complete the 10-page application, and the same additional attached information that would be required with a SUP, he said.

Council Member Parker explained that the Council was trying to determine if there could be a subset or overview of that information that would be adequate to know whether to proceed with a CZ process. He proposed that staff think about that and return with a response.

Mr. Hitchings said that it would be helpful to get the Council's guidance regarding that.

Mayor Hemminger said that she liked the concept plan process because it allowed Council members to see what an applicant was proposing, and indicate whether or not they were interested in having the applicant proceed.

Council Member Palmer agreed, and said that everyone needed an opportunity to present a concept plan, regardless of what a developer chose to do later on.

Mr. Hitchings replied that the Town could have a gatekeeper meeting with a concept plan, and a conversation about which of the three tools might be appropriate.

Council Member Harrison pointed out that it was applicants who had originally wanted concept plans because such meetings provided them with feedback before making a large investment. It helped to have them provide a land use map for context, he said, and stressed the importance of having a detailed site plan as well.

Council Member Cianciolo asked about the Council's basis for rejecting an application under CZ, and Mr. Hitchings explained that would be a policy decision based on the Town's best interest.

Council Member Cianciolo said that an applicant would not be wise to bring something forth without a sense that it might get a reasonable reception. If he were an applicant, he would worry about taking the CZ route because he would not know what the Council was going to decide, and could not argue that the plan met the four findings, he said.

Mr. Hitchings said, in summary, that he was hearing some Council agreement regarding a two-step process, with a concept plan and then a CZ, DA, or SUP application. When an applicant submitted a full CZ application, the Town would request the same level of detailed information as with a SUP and the Council would have that level of detail when the proposal came forward for consideration, he said.

Council Member Anderson confirmed with Mr. Hitchings that the discussion of which process to use would occur during the concept plan phase. She said that she was trying to figure out if there was any way, without additional expense, to include more information at that stage.

Mr. Hitchings said that the process could be adjusted, if the Council wanted more information at that stage than it was currently receiving.

Council Member Anderson asked what else could be included.

Mr. Hitchings replied that it would depend on what would be useful to the Council. He noted that current information included the level of proposed activity, types of uses, major access points, and environmental features of a site. He said that some elements of the application could be attached to the concept plan level. However, what currently existed seemed reasonable as an early sketch that gave the applicant some feedback and a better sense of whether to proceed with a full application, Mr. Hitchings said.

Mayor Hemminger proposed that staff bring what a revised concept plan process might look like to a Council work session.

Council Member Oates confirmed with Mr. Hitchings that he would provide information regarding what staff wished it had known ahead of time regarding the Enterprise Zone. For example, what were the surprises, she asked.

Mr. Hitchings confirmed with Mayor Hemminger that the Council was comfortable with the staff's proposal to maintain the existing LUMO requirements, with the caveat that an applicant could request a deviation from existing standards. He discussed how conditions could be added in a CZ process. Mr. Hitchings also noted the staff proposal to use the same joint advisory board review that was being used for SUPs.

Council Member Anderson verified with Mr. Hitchings that staff was looking at the issue of holding joint meetings, initially.

With respect to the period of applicability, Mr. Hitchings proposed that the applicant be given 24 months to submit final plans, with one 12-month extension by the Town Manager, and possible further extensions by the Council.

Council Member Parker confirmed with Mr. Hitchings that a completion date could be added if the Council felt it would be helpful, and that an extension could be given within 24 months, or within such further time stipulated in the approval. Mr. Hitchings clarified the framework for appeals and legal challenges. He explained that the staff proposal had been revised due to a PC proposal regarding the threshold for increasing floor area or parking spaces.

Mr. Hitchings described Morrisville's use of CZs during the 10 years that he had been its planning director. He had found it to be efficient and helpful in building agreements between Morrisville's town council and the community, he said. He said that outlined a proposed process: He said that the item would return to the PC on November 21 and come back to the Council on 11/29. Mr. Hitchings recommended that the Council open the public hearing and then recess it to November 29, 2017.

Mr. Jewell said that the CZ tool would allow an ongoing dialog with neighbors, and give the Council an opportunity to participate in neighborhood meetings, which would lead to better outcomes. He had not seen a better outcome with a quasi-judicial process, he said, and spoke in support of including the concept plan process.

Developer Phil Post, speaking as a community member, agreed with Mr. Jewell, and recommended approving CZ as an additional tool. It would allow broader and more complete feedback from the entire community, and free the Council from the four findings, and the quasi-judicial process, he pointed out. Mr. Post noted that the development community had originally requested the concept plan phase, which he thought was one of the Town's most valuable development tools.

Council Member Palmer left the meeting at 10:12 p.m.

Del Snow, representing CHALT (Chapel Hill Alliance for a Livable Town), said that there had not yet been an opportunity to learn from the Enterprise Zone. She endorsed staff and PC recommendations for a detailed site plan, full advisory board review, and a limited administrative review. She spoke in support of maintaining the concept review step, and noted the need for a final land use map. Ms. Snow urged the Council to restrict the number of CZs at the start in order to avoid having to tweak them later on. She recommended having strong environmental standards as part of CZ, and proposed requiring a meeting between the developer and neighbors early in the process.

Julie McClintock, speaking as a Stormwater Advisory Board (SWAB) member but not for the board, praised the CZ tool, which would allow conditions to be site-specific and address predicted impacts. She pointed out that SWAB did not actually review projects, and that stormwater was reviewed after a permit was granted. Ms. McClintock said that process made sense, in some ways, but she listed some stormwater-related factors that could be determined up front. She pointed out that the PC had raised concerns about traffic impacts, and said that CZ would be most valuable if there were enough details up front to include necessary conditions.

Council Member Oates proposed that the Town test CZ out in some of the 10 to 12 areas where it could. If it worked well there, and the Town decided to add density, then it could go back and do so, she said, noting that it was always easier to add something than to take it away.

Mayor Hemminger and Mayor pro tem Bell pointed out that the PC would also comment on the proposed areas.

COUNCIL MEMBER MICHAEL PARKER MOVED, SECONDED BY MAYOR PRO TEM DONNA BELL, TO RECESS THE PUBLIC HEARING TO NOVEMBER 29, 2017. THE MOTION WAS ADOPTED UNANIMOUSLY (9-0) .

6. [Call a Public Hearing to Adjust the Voting Requirements for when the Planning Commission, the Community Design Commission and the Historic District Commission Makes Decisions. \(R-3\)](#)

Town Attorney Ralph Karpinos gave a PowerPoint presentation on a proposal to call a public hearing to amend the LUMO's voting requirements for the Planning Commission (PC), Community Design Commission (CDC), and Historic District Commission (HDC). He explained that this was in response to the Council's concern regarding a CDC decision to approve a Certificate of Appropriateness for a project in the Ephesus Fordham District following its 3-2 vote. The three boards' decisions on development projects were considered final, but were subject to an appeal to the Board of Adjustment, he said.

Mr. Karpinos reviewed the quorum and membership of the three boards (PC 10/5, HDC 10/5, CDC 9/5). Under the LUMO, a majority of a quorum was sufficient to make a decision if attendance was low, he said, noting that this could result in a 4-1 or 3-2 vote. The recent case had raised some concerns about that rule, he explained.

Mr. Karpinos presented the following options for the Council to consider: majority of membership (excluding vacant seats) for all decisions; majority of members (excluding vacant seats) for all decisions that are considered final; or, a minimum of at least four votes for a final decision. He said that the potential consequences of taking such an action were that decisions could be delayed or approved by default. Mr. Karpinos proposed that the Council call a public hearing, and refer the proposed options to all three boards and staff for recommendations.

Council Member Greene verified with Mr. Karpinos that an application would be deemed approved if a board missed a voting deadline.

COUNCIL MEMBER JESSICA ANDERSON MOVED, SECONDED BY COUNCIL MEMBER MICHAEL PARKER, TO ADOPT R-3. THE MOTION WAS ADOPTED UNANIMOUSLY (9-0) .

[A RESOLUTION CALLING A PUBLIC HEARING TO AMEND THE LAND USE MANAGEMENT ORDINANCE TO CHANGE THE VOTE REQUIRED FOR THE PLANNING COMMISSION, COMMUNITY DESIGN COMMISSION AND HISTORIC DISTRICT COMMISSION TO MAKE DECISIONS ON APPLICATIONS \(2017-11-15/R-3\)](#)

CONCEPT PLAN REVIEWS

7. Concept Plan: Columbia Street Annex, Mixed-Use Development, 1150 S. Columbia Street (Project # 17-075). (R-4)

Ms. Pearlstein provided a PowerPoint overview of a concept plan for a mixed use development at the intersection of South Columbia Street and Highway 54. She described the proposed 58,870 square-foot, five-story building, which included a 68-space underground parking area and retail/office/residential space. There would be 39 dwelling units, including six affordable units, in a three-parcel assemblage, she said.

Ms. Pearlstein pointed out that the area's low density residential designation was likely to change because the site was near a future bus line. She showed the site plan, which included one access off South Columbia Street. Ms. Pearlstein pointed out that the site was located along the Town's north-west corridor, which was being studied for future bus rapid transit, and that a 15-501/NC 54 interchange study was underway. She reviewed public comments regarding traffic, and scale, and said that the CDC had liked the design, but had expressed concern about traffic, and wanted to see the building in the context of adjacent properties. If the project were to move forward, development options would include an SUP/Rezoning, a DA, or perhaps a CZ in the future, said Ms. Pearlstein.

Phil Szostak, representing White Oak Properties, explained that he had first presented the concept in 2008, at the start of the economic downturn, and had then submitted an SUP application in April 2014. The Council had asked the NC Department of Transportation (NC DOT) to study the Highway 15/501/NC 54 intersection after the Obey Creek development was approved, but NC DOT had not reached a resolution, he said. White Oak Properties had then withdrawn its application after spending about \$40,000 in permit fees, \$15,000 for a Transportation Impact Analysis (TIA), and additional funds on design and engineering, he said. He noted that the designation for a stream on the property had changed from perennial to intermittent during that time.

Mr. Szostak showed a revised site plan for a living/working residential development, with one- and two-bedroom units, including six affordable units, located on a transit route. He described proposed landscaping, buffers, stone walls, and a restored stream, and said that the building would be on top of parking that would not be seen from Columbia Street. Two of the affordable units would be priced at 100 percent AMI, and four would be at 85 percent, he said. Alternatively, the applicant was proposing a \$700,000 payment in lieu, he said.

Mr. Szostak argued that condemning the project because of traffic should mean that every project in Town that is approached from that direction be condemned, as well, because they all contribute to traffic. He said that the TIA had shown that the intersection was bad at certain times of the day. Although he did not believe in "paving our way out of congestion," crosswalks were shown on his plan, he said.

Mr. Szostak explained that NC DOT had reviewed the project twice, but had not provided sufficient answers. He showed a solution from his and Obey Creek's TIAs, and noted that such a "double diamond" could keep traffic moving. However, the least expensive approach would be for the state to build a cloverleaf with an exit ramp through his property, he remarked, pointing out that the property would no longer be develop-able. Mr. Szostak said he was not sure what to do with the property. The Town needed to come to some resolution, rather than wait until NCDOT got around to addressing it, Mr. Szostak said.

Council Member Anderson asked why the applicant seemed to be guiding staff on the traffic issue when it should be the other way around.

Mr. Szostak replied that he had been unable to get any guidance, and Mayor Hemminger pointed out that NC DOT had not been willing to commit to anything regarding that state road.

Council Member Oates asked Mr. Szostak if he was asking the Council to "lean on" NC DOT, and he replied that he was asking what he should do. Going to a public hearing would mean going without a staff recommendation, since the Council had not approved a traffic plan for the intersection and NC DOT did not have a plan, Mr. Szostak said.

Council Member Anderson confirmed with Mayor Hemminger that there could be a public process in which the Town would make a recommendation to NC DOT.

Council Member Parker asked what would happen if the plan was approved, and then NC DOT decided on one "that runs through somebody's living room."

Mr. Karpinos replied that the state would either acquire the property to improve the road, or not improve the road. It would have to pay for the property, and would acquire it by negotiating a purchase price or filing eminent domain proceedings, and deciding it in a court of law, he said.

Mr. Szostak said that NC DOT had mentioned three alternatives, only one of which would actually take the property. The only reason the state would do that would be to save the bridge, he said.

Council Member Harrison asked if NC DOT was willing to give an answer regarding a break-in access on South Columbia Street somewhere above the ramp.

Mr. Szostak replied that there could be access facing Purefoy Road, and that he and NC DOT had discussed the need for a light there, and who might pay for it.

Mayor pro tem Bell praised the project and expressed frustration over trying to make a development decision without Town control over connecting roads. She asked staff how to proceed, since the Town could not simply develop property because it was waiting for NC DOT to devise a solution. The Council needed to answer that policy question before it could consider developing near that intersection without NC DOT support, she said.

Council Member Parker pointed out that the applicant needed approval for at least one driveway

entrance and asked if there had been any indication from NC DOT one way or the other.

Mr. Szostak replied that Chuck Edwards, of NC DOT, had told him there was no reason to deny it because there was no plan for the area.

Council Member Greene said she agreed with Mayor pro tem Bell that the Council should decide what it thinks about the applicant's equity rights. She recalled that there had been enthusiasm for the applicant's earlier proposal because the project would improve the area.

Council Member Anderson asked staff what could be done to resolve the intersection question in order to help the applicant, and the neighborhood.

Ms. Pearlstein replied that staff had met several times with many different divisions of NC DOT, which had been uncommitted on everything. She suggested asking NC DOT representatives to come to the Town's pre-application development review meetings, where a driveway would be discussed. Those representatives could then return to NC DOT, and try to move it forward, she said. Ms. Pearlstein noted that NC DOT stopping the process would mean that it would have to buy the land.

Nina East, who resides at the intersection of South Columbia Street and Purefoy Road, said that the TIA had not revealed the many times that neighbors had heard squealing brakes at that hazardous intersection. It was already so dangerous that neighbors called crossing it on foot "the dash of death," she said. Ms. East asked for a solution that considered reality, as well as statistics.

Kimberly Brewer, a Purefoy Road resident, expressed opposition to the project for three reasons: traffic and safety impacts; incompatibility with the existing neighborhood; and incompatibility with the Chapel Hill 2020 Comprehensive Plan. She displayed photos of the neighborhood's older homes, and said that the proposed design would not be compatible. She said that the Comprehensive Plan specified six focus areas where such developments belonged, and that area was not one of them. Ms. Brewer asked the Council to clearly state that the proposed plan was not the right concept for the area.

Claire Horne, a Westwood Drive resident, opposed the development because the building was too large, and granting the SUP would set a precedent that would lead to tall buildings all the way up to Mason Farm Road. She said that Mixed Use Village did not seem like the appropriate designation for the site, given the neighborhood, and "the insanity" of trying to wedge an intersection into a highly congested stretch of road. Ms. Horne said that the Town could not understand the impact of the proposed building until it understood NCDOT's plans.

Joe Capowski, a Coolidge Street resident, said that the entire complex of roads in the area had evolved into a mess that would be exacerbated by the proposed development. He gave a PowerPoint presentation that showed congested traffic on South Columbia Street at rush hours. He suggested that Mr. Szostak research the amount that NC DOT had paid to landowners when the NC 54 bypass was widened in the late 1980s. Mr. Capowski asked the Council to deny the project. However, if constructed, he asked that it be done in a way that would prohibit use of

Dawes and Coolidge Streets for vehicular access to South Columbia Street.

Martin Feinstein, a Coolidge Street resident, agreed with what previous speakers had said, particularly with regard to the building's scale and how it did not fit in with the neighborhood. He said that traffic had been a growing problem, and he was concerned about the Purefoy Road intersection. Mr. Feinstein said that he sympathized with the applicant regarding the considerable number of unresolved problems.

Christy Parrish, a Dawes Street resident, expressed opposition to what she saw as over-development of a small space. The proposed building would be too tall, too large, too full for a small space, and it did not fit the appearance or feel of the neighborhood, she said.

Council Member Greene explained that the Housing Advisory Board liked the opportunity to have six affordable condos that would be attractive to hospital workers. The units 85 and 100 percent AMI would be bought down to 65 and 90 percent, respectively, through Town subsidies, she said. Council Member Greene pointed out that the project would be on a future mass rapid transit corridor, where the Council had said it wanted density. She had heard the neighbors' concerns, but she liked the architecture, she said. She pointed out that there already was great diversity, including contemporary architecture, in Town.

Council Member Cianciolo said that he also liked the architecture, but the building might be a little larger than he would like at that location. He pointed out that the concept was more attractive than what currently existed there, and that it could be a great entryway to Town. The Council's decision should not be tied to what NC DOT might or might not do, said Council Member Cianciolo, adding that the state was not likely to do anything in the near future. The Council should consider the application, and, if the Town were to approve the project, the applicant could go to NC DOT for an opinion, he said.

Council Member Anderson said that the project seemed too big and the building's architecture did not appeal to her for the area. The Town should not continue to make "one-off" decisions without doing something about the cumulative effect of traffic, she said.

Council Member Oates praised the affordable housing plan, but said that the building seemed too big, and traffic was a problem. She had lived in that area of Town, and the "dash of death" was real, she said. Council Member Oates expressed concern about traffic trying to get in and out of the area, and recommended that the applicant think about a smaller project.

Council Member Parker said that the Town should not hold the project up if NC DOT was willing to give a driveway permit. He said that he liked the design, the live/work concept, and the affordable housing component. However, he did understand the neighbors' concerns regarding scale, and would love to see the same project somewhere else, he said. Council Member Parker said he needed more time to decide if the project was right for the area. He argued that the building's scale would not have the level of impact on traffic that some feared because it would be primarily residential.

Mayor pro tem Bell said she liked the project, and that the numbers being proposed did not cause

her to feel concerned about traffic at the intersection. Those who work in offices there would probably arrange their hours to miss rush hour traffic, she said. Mayor pro tem Bell asked for a clearer sense of how the building's scale would relate to the neighborhood, to University development, and to bus rapid transit. She agreed with Council Member Parker that there was not yet enough information to know if the building was the right size.

Council Member Harrison noted that four of the residents who had spoken had been talking about South Columbia Street for 25 years. A developer could not ignore the character of that street, or the interchange, he said. He wished something could work on the site, but it was not in a Town focus area, Council Member Harrison said, adding that the Town might have to determine whether it was still an available tract. Council Member Harrison proposed seeing if the neighbors would like a scaled back project, and emphasized the need to come up with traffic control around the "dash of death" area.

Mayor Hemminger recommended that the applicant ask NC DOT if a traffic light would be possible at the driveway. That needed to be resolved in order to move forward on the project, she said. She liked the idea of more diverse housing stock, such as townhomes or condos, she said, and pointed out that there had been positive feedback from the Council regarding the affordable housing plan. Mayor Hemminger said she liked the proximity to the University and future transit, but the driveway question needed to be answered before anything could move forward.

Mayor Hemminger recommended that NC DOT's traffic engineers look at the corridor, and return with realistic expectations and a time-frame for the area. She pointed out that the applicant had heard various responses regarding density, and what a scaled-back project would look like. Traffic and scale were the applicant's biggest hurdles, she said.

Mr. Szostak replied that any project in Town would generate traffic at the intersection. The goal was to have residents who would walk and ride bikes, and that was why a bike path and pedestrian crosswalks were part of the plan, he said. Mr. Szostak noted that he had had five meetings with NC DOT, and had not gotten a different response.

Mayor Hemminger replied that getting an answer about whether a light would be allowed at the intersection would be pertinent to the Council's discussion.

COUNCIL MEMBER JESSICA ANDERSON MOVED, SECONDED BY COUNCIL MEMBER MICHAEL PARKER, TO ADOPT R-4. THE MOTION WAS ADOPTED UNANIMOUSLY (9-0) .

[A RESOLUTION TRANSMITTING COUNCIL COMMENTS ON A CONCEPT PLAN FOR COLUMBIA STREET ANNEX, MIXED-USE DEVELOPMENT, 1105 S. COLUMBIA STREET \(2017-11-15/R-4\)](#)

[REQUEST FOR CLOSED SESSION TO DISCUSS ECONOMIC DEVELOPMENT, PROPERTY ACQUISITION, PERSONNEL, AND/OR LITIGATION MATTERS](#)

COUNCIL MEMBER MICHAEL PARKER MOVED, SECONDED BY COUNCIL MEMBER SALLY GREENE, TO ENTER INTO CLOSED SESSION AS AUTHORIZED BY GENERAL STATUTE SECTION 143-318.11 (A)(3), TO CONSIDER A POSSIBLE ADMINISTRATIVE PROCEEDING INVOLVING THE TOWN. THE MOTION WAS ADOPTED UNANIMOUSLY (9-0) .

The meeting was adjourned and the Council went into closed session a 11:43 p.m.