



TOWN OF CHAPEL HILL

Town Council Meeting Minutes - Draft

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

Mayor Pam Hemminger
Mayor pro tem Michael Parker
Council Member Jessica Anderson
Council Member Allen Buansi

Council Member Hongbin Gu
Council Member Tai Huynh
Council Member Amy Ryan
Council Member Karen Stegman

Monday, June 28, 2021 **7:00 PM** **Virtual Meeting**

Virtual Meeting Notification

Town Council members will attend and participate in this meeting remotely, through internet access, and will not physically attend. The Town will not provide a physical location for viewing the meeting.

The public is invited to attend the Zoom webinar directly online or by phone.

Register for this webinar:

<https://us02web.zoom.us/join/91012020000> After registering, you will receive a confirmation email containing information about joining the webinar in listen-only mode. Phone: 301-715-8592, Meeting ID: 882 4801 6670

View Council meetings live at <https://chapelhill.legistar.com/Calendar.aspx> – and on Chapel Hill Gov-TV (townofchapelhill.org/GovTV).

Roll Call

Present: 8 - Mayor Pam Hemminger, Mayor pro tem Michael Parker, Council Member Jessica Anderson, Council Member Allen Buansi, Council Member Hongbin Gu, Council Member Karen Stegman, Council Member Tai Huynh, and Council Member Amy Ryan

Other Attendees

Town Manager Maurice Jones, Deputy Town Manager Mary Jane Nirdlinger, Deputy Town Manager Loryn Clark, Town Attorney Ann Anderson, Planning Director Colleen Willger, Assistant Planning Director Judy Johnson, Transportation Planning Manager Bergen Watterson, Traffic Engineering Manager Kumar Neppalli, Economic Development Officer Dwight Bassett, Stormwater Engineer III Alisha Goldstein, Stormwater Engineer III Mary Beth Meumann, Urban Designer Brian Peterson, Senior Engineer Sue Burke, Communications and Public Affairs Director and Town Clerk Sabrina Oliver, and Deputy Town Clerk Amy Harvey.

OPENING

Mayor Hemminger opened the virtual meeting at 7:00 p.m. She pointed out

that Item 2 had been postponed to September and that the second reading for the Aura project would be first on the agenda.

Mayor Hemminger called the roll and all Council Members replied that they were present.

ANNOUNCEMENTS BY COUNCIL MEMBERS

0.01 Mayor Hemminger Regarding the Reimagining Safety Task Force Report. [\[21-0627\]](#)

Mayor Hemminger said that the Re-imagining Safety Task Force had presented its final report and that staff would bring a related work plan to the Council in the fall. The Council would be issuing a Mayor's Salute in appreciation of the Task Force's work, she said.

0.02 Mayor Hemminger Regarding Fourth of July Fireworks. [\[21-0628\]](#)

Mayor Hemminger pointed out that the upcoming Fourth of July fireworks at Southern Community Park would be a smaller event this year due to COVID-19. The Town had been working hard to create a safe celebration, she said.

0.03 Mayor Hemminger Regarding Council Summer Break. [\[21-0629\]](#)

Mayor Hemminger said that this would be the Council's last meeting before its summer break. She thanked everyone for working so hard through another difficult pandemic year. Even though the Council would not meet regularly over the summer, the Town would continue to function and Council Members would have small retreat in late August, she said. She expressed pride in the work that the Council had done and said she hoped to be able to meet in person on September 1, 2021.

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.

0.04 Scott Harrison Request to Allow Comments on Aura Public [\[21-0630\]](#)

Hearing.

Scott Harrison, a Chapel Hill resident, asked to speak about the Aura Development, but Mayor Hemminger pointed out that the public comment period for that item had ended.

0.05 Council Member Ryan on Behalf of Mayor Hemminger, Council Member Stegman, and Council Member Gu Request Regarding Stormwater Storage Basin Projects. [\[21-0631\]](#)

Council Member Ryan presented a petition regarding the Town's Stormwater Storage Basin Project. She said that the petition was on behalf of herself, Mayor Hemminger and Council Members Stegman and Gu. The petition asked the Town Manager to delay soliciting quotations for the design and construction of new flood storage basins on the Lower Booker Creek and Eastwood Lake projects until the Town could re-evaluate and explore alternatives, she explained. She pointed out that Council and community members had raised concerns at a May 5, 2021 meeting about the deforestation and disruption of bottom land ecosystems that accompanied the construction of large stormwater basins.

Council Member Ryan said that the petition also asked staff to revise the goals and criteria for future watershed studies and improvement planning to include preservation of forest, habitat, and natural hydrology as issues to be considered during project design.

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

0.06 Council Member Gu Regarding School Group Planting Milkweed for Butterflies. [\[21-0632\]](#)

Council Member Gu announced a Planting Milkweeds for Monarch Butterflies event to be held on July 3. The East Chapel Hill High School Monarch Butterfly Club had initiated the event, she said.

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.

1. Approve all Consent Agenda Items. [\[21-0618\]](#)
2. Authorize the Stormwater Management Utility Advisory Board to Review Qualifying Concept Plans. [\[21-0619\]](#)

This item was removed from the agenda.

DISCUSSION

4. Second Reading to Consider an Application for Conditional Zoning - Aura Development, 1000 Martin Luther King, Jr. Blvd. [\[21-0621\]](#)

Assistant Planning Director Judy Johnson said that the proposed Aura Development, on a 16-acre site at the northeast corner of Martin Luther King Jr. Boulevard and Estes Drive, had been through two public hearings and was currently before the Council for a second reading. She pointed out that a revised stipulation included a condition regarding enhanced tree plantings. She recommended that the Council consider enacting revised Ordinance 1, which would begin a technical phase that would ensure that the Aura development complied with the Town's Land Use Management Ordinance (LUMO).

Developer Dan Jewell, of Coulter Jewell Thames LLC, said that the applicant, Trinsic Residential Group, agreed to all stipulations including the additional one regarding tree plantings.

Mayor Hemminger explained that the second reading would require only five affirmative votes to pass. She pointed out that the application had failed to receive a super-majority on the first reading.

Council Member Gu asked what "fully manage" stormwater meant. Hunter Freeman, with McAdams Company, provided a detailed explanation regarding peak flow in the post-development condition being equal to or below pre-development levels at every point of discharge for up to the 100-year storm. Additionally, Mr. Jewell pointed out that the applicant had agreed to a performance standard that would need to be met during the Zoning Compliance Permit stage of the process.

Mayor Hemminger commented on how decisions regarding developments were often difficult when the information was highly technical and there were competing goals and interests involved. It had been deeply disturbing that some Council Members had received threatening and hateful emails from the public and frustrating to see misinformation being disseminated, she said. She said that such behavior eroded trust and did not lead to better decisions and that the Council deserved respect for working hard to reach the best outcome. She hoped that all could agree to disagree respectfully and move forward together, she said.

A motion was made by Mayor pro tem Parker, seconded by Council Member Huynh, that O-1 be enacted as amended. The motion carried by the following vote:

- Aye:** 5 - Mayor pro tem Parker, Council Member Anderson, Council Member Stegman, Council Member Huynh, and Council Member Ryan
- Nay:** 3 - Mayor Hemminger, Council Member Buansi, and Council Member Gu

3. Consider Funding the ReVive Recovery Plan with Dollars from the American Rescue Plan. [\[21-0620\]](#)

Economic Development Officer Dwight Bassett proposed using some American Rescue Plan funds for a ReVive Recovery Plan that would target \$200,000 in business grants; \$150,000 in marketing funds for Chapel Hill, specifically Downtown, \$120,000 in Opportunity Grants; \$110,000 for a Downtown Together Initiative; and \$70,000 for Workforce Development.

Mr. Bassett provided details and examples of each plan recommendation and explained how the funds would be dispersed. He commented on activities that staff had been working on as part of the ReVive Recovery Plan and recommended that the Council adopt Resolution 15, which would fund the Plan with American Rescue Plan dollars.

The Council confirmed with Mr. Bassett that \$31,000 had been included for the Downtown Partnership and that the Partnership's director felt comfortable with that amount in addition to other Town funding. The Council verified that business grants would be open for applications once staff had initiated the guidelines.

Mr. Bassett said that opportunity grants tended to be community- and interest-driven and that successfully implementing the proposed two projects, working with Andrea Reusing on vendor opportunities for the parking lot behind the Lantern and Basnight Lane, and improving a temporary structure for the Farmers Market at University Place, probably would take most of the remaining \$90,000. He characterized those projects as good, impactful ones that could benefit downtown as well as the area around University Place.

Council Member Gu asked if opportunity grants would be closed until the Town could determine whether those two projects could work. Mr. Bassett replied that staff was willing to listen to any ideas, and he pointed out that additional American Rescue Plan funds would be available in the future.

Mayor Hemminger said that the Council would be discussing additional American Rescue Plan funds in the fall and would be asking for community input, ideas and initiatives regarding that funding. The ReVive Recovery Plan was just a small piece that needed to be enacted before September,

she explained.

Council Member Huynh asked about the legality of stipulating that a certain percentage of business and opportunity grants must go to women- or minority-owned businesses. Town Attorney Ann Anderson said that she would research that and bring back an answer. Council Member Huynh proposed including such language throughout the materials and setting targets, if doing so was legal.

Michelle Laws, speaking on behalf of the Chapel Hill-Carrboro NAACP Economic Committee, recommended strengthening the resolution's language to say "invest in" women- and minority-owned businesses rather than "embrace" them. She emphasized specifically directing much of the funding to people of color and asked the Council to consider supporting native, non-college-educated residents who work in service and low-wage jobs.

Council Member Huynh proposed changing the language to "invest" rather than "embrace" and amending the plan to include specific targets for opportunity and business grants for minority- and women-owned businesses, if the Town Attorney finds that it would be legal to do so.

Council Member Gu questioned setting percentages, stating that American Rescue Plan funding should go to those who were suffering the most. Council Member Huynh replied that he was proposing a target, not a restriction, and Mr. Bassett commented that 20 percent was reasonable and that the goal could be 50 percent for micro and entrepreneur grants.

A motion was made by Council Member Huynh, seconded by Council Member Buansi that R-3 be adopted as amended. The motion carried by a unanimous vote.

A motion was made by Council Member Ryan, seconded by Council Member Huynh, that Council Member Anderson be excused from the meeting due to technical difficulties. The motion carried by a unanimous vote.

5. Consider Enacting Changes to the Town Noise and Garbage, Trash, and Refuse Ordinances to Remove Criminal Penalties and Clarify the Civil Enforcement Remedies. [\[21-0622\]](#)

Town Manager Maurice Jones said that enactment of the proposal before the Council would remove criminal penalties from noise and garbage ordinances and replace them with civil penalties. It would streamline and clarify civil enforcement of code, add penalties to areas of the ordinances that did not have them, and establish a pathway for addressing repeat offenders, he said. He proposed instituting an escalating fine that would

begin at \$25 and increase up to \$500.

Mr. Jones said that staff had made some clarifying changes and corrected gender specific sections of the ordinances. He provided specifics on each change and said that staff would continue to look at other ordinances where penalties could be converted from criminal to civil and report back to Council in the fall.

Mayor Hemminger said that the changes were a first step and would create a pathway for decriminalizing other Town ordinances as well. She confirmed with the Attorney Anderson that a person, such as a landlord, who allows the noise or trash issue to continue would be held responsible as well. She said that such efforts had been effective in other cities and that she was looking forward to seeing additional similar changes in Town as well.

Mayor pro tem Parker asked how motorcycles and other loud vehicles on Franklin and Rosemary Streets might be included. Attorney Anderson offered to talk with the Police Chief to see if changes were needed in other parts of the code to address street noise. For the most part, the Noise Ordinance related to noise originating in parcels, she said.

Council Members confirmed with Mr. Jones that enforcement would be a combination of actively watching previous violators and responding to citizens' complaints. Council Member Buansi thanked the Town Attorney and Town Manager for diving deeply into the issue, which he and Council Member Stegman had raised in 2018.

Ms. Anderson clarified that "decriminalizing" meant taking a certain aspect away from the court system. However, if a series of fines did not alter the behavior of an egregious offender, the Town would still be able to go to court on a civil basis and get an injunction or order to make the offender stop, she pointed out.

A motion was made by Mayor pro tem Parker, seconded by Council Member Stegman, that O-2 be enacted. The motion carried by a unanimous vote.

SPECIAL USE PERMIT

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.

6. Consider an Application for Special Use Permit Modification for [\[21-0623\]](#)

University Place, 201 S. Estes Drive.

Ms. Johnson pointed out that this was the sixth hearing on a Special-Use Permit (SUP) modification request regarding University Place, a 43-acre site at the northwest corner of Fordham Boulevard and Estes Drive. She showed the area on a map and said that the applicant, RRPV University Chapel Hill Ltd. Partnership, was asking to expand some permitted uses but was not requesting a zoning change.

Ms. Johnson presented several revised stipulations and said that the applicant and Town staff had met with representatives from the adjacent Binkley Baptist Church. The group had decided not to limit University Place to one access because doing so would have a detrimental impact on the church, she said. In addition, a multi-use path in that area would be designed in consultation with the church and any landscape materials that were removed from church property would be replaced with similar types in consultation with the church, she explained.

Ms. Johnson said that additional stipulations included maintaining access to the church at all times during construction and that the applicant would discuss scheduling with them. The applicant would also be required to preserve a 10-foot buffer and keep new structures close to the church at a maximum of 34 feet tall and at least 100 feet from the property line, she said. She said that the parties had also agreed to formalize a pedestrian cross-access easement at the Harris Teeter driveway.

In addition to stipulations pertaining to Binkley Baptist Church, several quantifiers had been added regarding stormwater, Ms. Johnson said. Moreover, staff had recommended that 10 percent of the units be affordable at 65 percent of the area median income, she said. She noted that the applicant and the Farmer's Market had agreed to negotiate a lease.

Ms. Johnson said that staff had reviewed the applicant's Design Standards, and she explained the differences between those and the Blue Hill District's code. She recommended that Council Members consider closing the public hearing and adopting Resolution 6 if they could determine that the application met the following four findings required by the Town's Comprehensive Plan.

1. Be located, designed, and proposed to be operated so as to maintain or promote the public health, safety, and general welfare;
2. Comply with all required regulations and standards of the Land-Use Management Ordinance;
3. Be located, designed, and operated so as to maintain or enhance the

value of contiguous property;

4. Conform to the general plans for the physical development of the Town as embodied in the Land-Use Management Ordinance and in the 2020 Comprehensive Plan.

Attorney for the applicant, LeAnn Brown, said that the applicant agreed with all of the stipulations.

In response to questions from Council, Traffic Engineering Manager Kumar Neppalli reported that a traffic impact analysis had indicated a level of service E-F for the Willow Drive approach to Fordham Boulevard. He said that Willow Drive was not wide enough to build another left-turn lane there and that the Town and NC Department of Transportation (NC-DOT) would need to address that problem. He recommended that the applicant provide a payment in lieu (PIL) for signal timing at the intersection.

The Council confirmed with Urban Designer Brian Peterson that he had suggested some changes to the applicant's Design Standards (DSs), which would be further refined in the future. Council Members verified with Ms. Johnson and Attorney Anderson that the DSs were a condition of SUP approval and that the applicant would need a compelling reason to make them less stringent. Ms. Johnson agreed to provide additional information on how any variances would be handled.

Council Member Ryan asked to strengthen the wording "where possible" regarding tree preservation. She confirmed with stormwater engineer Mary Beth Muemann that the multi-family building would be elevated. She asked Mr. Neppalli if the mitigations he mentioned would address potential 750-foot queues along Willow Drive. He repeated what he had said earlier about plans to improve signal timing and making other changes to the area. Council Member Ryan pointed out that planting trees so close to the road had been an issue with another project, and Ms. Johnson said she would look into that.

Council Member Stegman clarified with Ms. Johnson that the LUMO did not specify how a payment in lieu for trees would work and said she would like to see an agreement on some minimum. She confirmed with Ms. Johnson that other projects in the applicant's plan would meet tree requirements as closely as possible as they unfold.

In response to questions from Council Member Gu, Ashley Saulpaugh, of RAM Realty, described the proposed phasing process and said that full diagrams would be submitted at the Zoning Compliance Permit stage of the process. She commented on a large area of impervious surface, and he replied that overall impervious surface would be reduced by 1.2 acres.

Council Member Gu confirmed with stormwater engineer Mary Beth Muemann that staff's analyses were not able to count stormwater because the site received and discharged it to multiple points. However, the Town did require developers to remove impervious surface and build stormwater control measures based on their approved designs, Ms. Muemann said.

Council Member Gu spoke extensively on the difficulty of judging whether the stormwater system would work and on the lack of a guarantee, such as a bond, in case it failed. Ms. Muemann pointed out that the applicant must meet Town standards. If it turned out that they needed to remove more pervious surface, provide more stormwater management, or do something else in order to meet that standard, then they would have to do that, she said.

Council Member Gu continued to express concerns. Ms. Muemann pointed out that the applicant would be required to use FEMA verified models for flood elevations. She said that staff would review the design to ensure that it was in compliance with Town and other requirements. The Town's Flood Damage Prevention Ordinance required that the applicant show no increase in flood elevations, she said.

Mayor Hemminger clarified with Ms. Johnson and Mr. Saulpaugh that no setback was proposed from Fordham Boulevard because there would be an average 50-foot right-of-way from the edge of that road to the property line. He said that there would be a hedge, planting strip, and a 10-foot multi-use trail there, however.

Mayor Hemminger confirmed that electric vehicle charging stations and pre-wiring in the parking deck would meet Town standards. She expressed support for a combination of tree canopy and payment in lieu, and verified that the applicant had discussed enhancing the existing 10-foot buffer with the Binkley Baptist Church.

In response to a request from Mayor Hemminger for further description of what the proposed apartment building on Willow Drive would look like, the applicant described a three-section building that would have setbacks to break up its mass and length. She confirmed that the building would be 59 feet above street level on the northern end and a maximum of 72 feet near Estes Drive.

Attorney Robert Hornik, speaking on behalf of Binkley Baptist Church, said that the amended stipulations had gone a long way toward addressing his client's concerns. There would be consultations and site visits, and the church would help plan where the 10-foot wide path would go before work on it began, he said. He pointed out that a planned building next to the church had been reduced from 75 to a maximum of 34 feet and that it must be at least 100-feet away from the property line.

Virginia Gray, a Chapel Hill resident, expressed concern about a provision to convert unused commercial space to residential space, and said she hoped the Town would prevent the developer from making that swap. She also characterized the agreement to accept a payment in lieu for part of the tree canopy as disappointing, pointing out that the LUMO required 30 percent and that various Town boards had specified that 30 percent should be the standard. Similarly, the developer was being praised for reducing impervious surface from 78 to 75 percent when various boards and commissions had said that the 70 percent standard should be upheld, she said.

Janet O'Neal, a Binkley Baptist Church member, described why the proposed modifications were so important to the church. She said that interior and exterior sanctuaries were equally important and that greenspace and landscaping were essential to the church's mission.

Julie McClintock, a Chapel Hill resident, asked the Council to deny the application. She said that the cumulative effect of a number of approved upstream projects could make University Place more prone to flooding. The public needed to know what was in the plan and it was difficult to determine whether or not the project met the four findings based on so little information, she said.

Michelle Laws, representing the Chapel Hill-Carrboro NAACP, urged the applicant to reach out to the public housing community located on Fordham Boulevard across from University Place. She said that many who lived there represented some of the Town's most vulnerable, lower income residents. The NAACP could help the applicant engage with that community, she said.

Linda Brown, a Chapel Hill resident, spoke in favor of including affordable retail and dining spaces that would be available to small businesses. She said that the multi-family units should not tower above the surrounding community and that there should be "for sale" affordable units and townhouses. Chapel Hill did not need any more luxury apartments, she said.

Attorney Brown said that the evidence had shown that the proposed SUP modification met the four findings of fact required for approval. The applicant had presented evidence to support those findings through expert testimony, and stipulations had been added to address Town concerns, she said. She said that the burden was on the Council to present any evidence to the contrary.

Ms. Brown pointed out that the applicant had agreed to 137 stipulations and that its Design Standards would become another after it had been

finalized in consultation with Town staff. She said that the LUMO included a provision that allowed modifications to regulations if the Council found that public purposes would be satisfied to an equivalent or greater degree.

Ms. Brown said that the applicant had offered expert testimony regarding its stormwater plan and that competent Town staff could monitor and ensure that proposed stipulations were being followed. The evidence presented indicated that the plan would not affect existing floodplain elevations and that it would reduce some nutrient runoff, she said. She said that the Town had not required any other developer to install a program to monitor water coming off its site and that she was not sure the state would even allow that.

Ms. Brown stated that the several of the proposed modifications would reduce building footprints and create density in a way that would decrease and substantially improve the impervious surface ratio. She said that an un-refuted appraisal had found that the development would maintain or enhance the value of contiguous properties. The applicant's commitment to a 20 percent tree canopy, and a payment in lieu if it could not reach 30 percent, was 7 percent higher than the current requirement, she pointed out.

Council Member Gu asked the Town Attorney how far the applicant could deviate from LUMO expectations. Ms. Anderson replied that it was for the Council to determine that based on finding 2 and the evidence in the record. She said that "public purposes satisfied to an equivalent or greater degree" was the LUMO standard for modifications to regulations and that the Council could not alter that standard with its own analysis.

Council Member Ryan said that she could not approve a development that would cause traffic problems in the area, and she asked if the applicant would agree to have an evaluation of the Willow Drive intersection after Phase 1. She said that she did not think the current iteration complied with two of the four findings. She argued that a public purpose would not be met by allowing a modification to impervious surface regulations and Resource Conservation District standards in a historically flood-prone location. In addition, the streetscape plan did not meet Future Land Use Map (FLUM) principles and did not hold its future large buildings to those Town standards, she said.

Council Member Gu said she had serious concerns about potential health and safety issues due to climate change and runoff from upland developments. It was too risky to allow the Aura project to deviate from tree canopy and impervious surface regulations, she said, emphasizing that stormwater and flooding should be the Town's primary concern.

Mayor pro tem Parker said that the proposed development would improve existing conditions by reducing impervious surface, putting stormwater management in place, reducing parking, flood-proofing many of the facilities there, and increasing tree canopy. He was concerned about the length of the building along Willow Drive but did not feel that rose to a level where the four findings were not met, he said.

Council Member Buansi expressed appreciation for the applicant's efforts to reach a solution with the Binkley Baptist Church. According to staff, the project would come closer to LUMO stormwater standards by reducing impervious surface and improving runoff with no increase in flood elevations, he pointed out. He said that the proposal seemed to meet the four findings but that he probably would see it differently in a Conditional Zoning process.

Mayor Hemminger and Council Members Huynh and Stegman agreed with what Council Members Parker and Buansi had said. Council Member Stegman commented that the plan included many positives such as a reduction in impervious surface, a space for the Farmers Market, affordable rentals, and green space.

Mayor Hemminger pointed out that University Place did need to be redeveloped, and she said that the proposed plan provided an opportunity to get more commercial and incubator space for groups that needed support. Flooding issues would be improved and having more walking and bike lanes was a plus, she said. However, she was concerned about traffic stacking up and the building's mass along Willow Drive, she said.

Ms. Johnson summarized the additional proposed stipulations: A requirement for a follow-up study after completion of Phase 1 to confirm that the Willow/Fordham intersection was performing adequately; and a minimum of 30 percent tree canopy coverage with 20 percent of that being vegetation on site and the remaining being a payment in lieu.

Council Members proposed broadening the follow-up traffic study to include "acceptable queue lengths" and the Binkley Baptist Church in those conversations. Council Member Gu asked for a stipulation to include a 70 percent impervious surface goal or a payment in lieu to improve stormwater if the applicant could not implement that but there was no Council support for that.

Attorney Brown accepted the tree canopy stipulation, but said she was not comfortable with the follow-up traffic study because the applicant was not able to obtain right-of-way to add another lane. Attorney Anderson agreed, noting that having a condition that required an applicant to do something that might not be possible could pose potential future problems for the Town.

After some discussion, the Council and attorneys agreed to stipulate that the developer and Town would work with the Binkley Baptist Church, Willow Terrace Homeowners Association, NC-DOT and other contiguous and adjacent properties to formulate a plan for achieving an acceptable level of service, if that was needed.

The Council voted (6-1) to close the hearing, with Council Member Gu voting nay. Council Member Huynh moved to approve revised Resolution A, and he did not accept a friendly amendment from Council Member Gu to change the impervious surface goal to 80 percent. Council Member Gu moved to include that change but there was no second. The Council voted (5-2) to accept the revised resolution and stipulations, with Council Members Gu and Ryan voting nay.

A motion was made by Mayor pro tem Parker, seconded by Council Member Stegman, to close the evidentiary hearing. The motion carried by the following vote:

Aye: 6 - Mayor Hemminger, Mayor pro tem Parker, Council Member Buansi, Council Member Stegman, Council Member Huynh, and Council Member Ryan

Nay: 1 - Council Member Gu

Excused: 1 - Council Member Anderson

A motion was made by Mayor pro tem Parker, seconded by Council Member Huynh, that R-6 adopted as amended. The motion carried by the following vote:

Aye: 5 - Mayor Hemminger, Mayor pro tem Parker, Council Member Buansi, Council Member Stegman, and Council Member Huynh

Nay: 2 - Council Member Gu, and Council Member Ryan

Excused: 1 - Council Member Anderson

ADJOURNMENT

Mayor Hemminger pointed out that the Council was beginning its summer recess and would return in late August.

This meeting was adjourned at 10:35 p.m.