

**Amy Harvey**

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**From:** Roger Stancil  
**Sent:** Tuesday, May 08, 2018 7:30 PM  
**To:** Allen Buansi; Donna Bell; Hongbin Gu; Jeanne Brown; Jess Anderson; Karen Stegman; Town Council; Michael Parker; Nancy Oates; Pam Hemminger; Rachel Schaevitz; Roger Stancil; Ross Tompkins  
**Cc:** Loryn Clark; Ben Hitchings; Aaron Frank; Amy Harvey; Beth Vazquez; Carolyn Worsley; Catherine Lazorko; Christina Strauch; Dwight Bassett; Flo Miller; Mary Jane Nirdlinger; Rae Buckley; Ralph Karpinos; Ran Northam; Roger Stancil; Sabrina Oliver  
**Subject:** Council Questions: Item 6: Development Agreement Town and UNC

**Council Question:** What is the process that accompanies an application for a major modification to a development agreement?

**Staff Response:** *Section 4.10 of the Development Agreement (Draft) says: A modification of this Agreement that is considered a Major Modification (as hereinafter defined) of the terms of this Agreement shall follow the same procedures as required by North Carolina law for the adoption of a development agreement.*

*NC G.S. 160A-40024 requires "Before entering into a development agreement, a local government shall conduct a public hearing on the proposed agreement following the procedures set forth in G.S. 160A-364."*

**Council Question:** If I recall correctly, a resident at the work session on April 4th had expressed strong interest in creating future opportunities for the public to participate in the process for considering the future Univ. building. Was this discussed in the negotiations surrounding this development agreement?

**Staff Response:** *This was discussed at the Community work shop on April 12<sup>th</sup> and the results are in section 5.22 (see also next question).*

**Council Question:** Was there discussion about other future community engagement with this joint project?

**Staff Response:** *Section 5.22 was added in response to the interest in continued community engagement.*

*5.22 Public Notification & Participation*

- a) The Developer shall conduct a meeting with opportunity for citizen participation and attendance by a Town staff representative; for the purpose of discussing possible design features of new facilities prior to submission of each individual site development permit application. The University shall distribute notice of the meeting to all property owners within 1,000 feet of the Property.*
- b) This notice shall specify the date, time, location and purpose of the meeting. This notice shall be mailed or otherwise distributed no later than two weeks prior to the meeting. Minutes of the meeting and the meeting attendance list shall be made publicly available before presentation of individual site development permit applications to the Town for approval. The public meeting shall provide an opportunity to discuss the presence of outdoor activities, if any are held, and whether mitigations are needed.*
- c) Town and University staff shall be identified to serve as a liaison to interested residents before and during construction efforts.*
- d) Prior to submittal of the first Site Development Permit, the Town shall contact adjacent residents to form a committee consisting of residents and Town staff to allow dialogue before and during construction efforts.*

**Council Question:** I believe that the last meeting I attended re: the MSC had deleted mention of a fire station at the site. Info in our packets this weekend include the "possible fire station" on a concept plan and lists "fire" as one of the departments housed at MSC. It makes a big difference to the community members at Elkins Hills if there is a fire station there or not and I just don't want to send mixed messages. Can you please confirm what the plan is? Thank you!

**Staff Response:** *The Municipal Services Center does include space for our Fire Administration staff (the department listed on the MSC program).*

*The Development Agreement does not currently authorize a future fire station and Section 4.10 of the Agreement specifically requires a Major Modification to the Development Agreement if and when the Town wishes to pursue a station on this property.*

*The thinking behind this approach was to note the Town's interest in this location as a potential replacement for the station at Town Hall or on Elliot Drive, if they could not be redeveloped in their current or other locations. Staff did not have enough information today about the need to fully develop conditions for this use on the site today. A Major Modification would require full public review and a public hearing about that use. (see also questions above)*

**Council Question:** While the triggers for a major modification are specified for building stories and square footage (among other things), there does not appear to be a trigger for parking spaces. Shouldn't an increase in parking spaces beyond a certain percentage also trigger a major modification?

**Staff Response:** *It is Town policy that a 5% change in the number of parking spaces constitutes a major modification, consistent with the 5% threshold that constitutes a change for building square footage or land area. This suggestion can be incorporated into the final draft for the Business Meeting in June.*

**Council Question:** Section 5.4 allows walking trails within the 100-foot buffer. Should there be a maximum width for these trails?

**Staff Response:** *Staff can solicit recommendations from Parks and Recreation staff and the community and this suggestion can be incorporated into the final draft for the Business Meeting in June.*

**Council Question:** Section 5.5 requires that stormwater run-off from up to 50-year storms be no worse after construction than before construction. Will this be adequate to ensure that the surrounding Elkin Hills neighborhoods that are currently experience stormwater problems see an improvement in their situation?

**Staff Response:** *The reason for utilizing the 50-year storm for designing the detention system is to ensure minimal impact from the development of the property. Downstream property owners may see some improvement compared to current conditions during normal or smaller rain events due to the more robust design. Additionally, during the period when the stormwater control measures are installed for the full build-out of the site but only a portion of build-out is constructed, there may also be some noticeable improvement from current conditions. Due to the modifications and channelization of flow during development of the downstream properties, and the reality that there is also contributing drainage areas that are not part of the Municipal Services Center site and that those areas do not have any storm water controls, the Town is limited on how much stormwater controls on the Municipal Services Center site can mitigate existing downstream conditions.*

**Council Question:** Section 5.5q seems vague. Can we not provide the neighbors a stronger assurance?

**Staff Response:** *Town staff is still developing the scope for the downstream evaluation of stormwater conditions and opportunities for improvement. Prior to the issuance of the site development permit for construction of the SDP, the Town shall initiate an engineering analysis of the downstream stormwater conveyance conditions in order to identify opportunities for improvement and a report on potential projects will be presented to Council for consideration of further action.*

**Council Question:** Section 5.9, e, ii mentions Estes Dr. Is that correct or should it be Estes Dr. Ext.?

**Staff Response:** *All references should be to Estes Drive Extension in Section 5.9.*

**Council Question:** For Section 5.9h, might it be possible to have periodic reviews to ensure that there are adequate bicycle spaces? Many of our Downtown developments have turned out to have insufficient bicycle parking even though regulations were followed.

**Staff Response:** *This suggestion can be incorporated into the final draft for the Business Meeting in June.*

**Council Question:** Section 5.9i, is there only one shelter being constructed. Shouldn't there be shelters on both sides of the road?

**Staff Response:** *Transit staff anticipate that most bus traffic to the Municipal Services Center site will be coming from the Martin Luther King Jr. Blvd area and the stop on the opposite side of the street of the Municipal Services Center is designed to be a location where customers are getting off the bus prior to the buses stop/layover at the UNC parking lot. Those transit users would then cross the street to the Municipal Services Center. At the current time it is not expected that many customers would wait and board the bus at that location, instead they would use the stop located on the Municipal Services Center side of Estes Drive Extension. A concrete pad for future installation of a shelter, or additional of a shelter on the north side of Estes Drive Extension may be added to the plans with Council direction.*

**Council Question:** Section 5.11c: Shouldn't it be the Cultural Arts Commission?

**Staff Response:** *That is correct, it is the Cultural Arts Commission rather than the Public Arts Commission.*

**Council Question:** Section 5.18h specifies a preference for LEDs. Given the possibility of technological changes, might it be better to allow for upgrades to better technologies over time? Similar language may be necessary elsewhere in the document.

**Staff Response:** *This suggestion can be incorporated into the final draft for the Business Meeting in June.*

**Council Question:** Under permitted land uses, I would suggest that a drive-thru not be allowed, even with Council approval. I would also suggest that more clarity be given to permitting clinic uses, as I don't we don't want the University's building to become a medical office building, while recognizing that the Town may wish to house a wellness facility there. And would this be an appropriate location for an Independent Senior Living Facility? Finally, basic functions such as offices are not mentioned.

**Staff Response:** *Each of the land uses proposed are permitted by-right within the University-1 zoning district and the types of land uses have been further reduced for appropriateness with this project. The types of permitted land uses may be reduced further at Council's direction.*

*The administrative or office type of land use proposed with the Municipal Services Building is classified as a Public use facility and is permitted on-site. A key characteristic of a Public use facility is that it must be used by a "municipal or other governmental agency", so a private office user could not operate on this site. This is why the land use Business, office-type is not proposed. The administrative uses proposed by the University would be classified as a College or University. (All words in italics refer to LUMO land use classifications.)*

**Council Question:** Also, an article 6 is referenced, but I don't know to what that refers.

**Staff Response:** *There is no Article 6, this reference will be replaced.*

## Amy Harvey

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**From:** Roger Stancil  
**Sent:** Wednesday, May 09, 2018 1:45 PM  
**To:** Allen Buansi; Donna Bell; Hongbin Gu; Jeanne Brown; Jess Anderson; Karen Stegman; Town Council; Michael Parker; Nancy Oates; Pam Hemminger; Rachel Schaevitz; Roger Stancil; Ross Tompkins  
**Cc:** Loryn Clark; Ben Hitchings; Aaron Frank; Amy Harvey; Beth Vazquez; Carolyn Worsley; Catherine Lazorko; Christina Strauch; Dwight Bassett; Flo Miller; Mary Jane Nirdlinger; Rae Buckley; Ralph Karpinos; Ran Northam; Roger Stancil; Sabrina Oliver  
**Subject:** FW: Community Questions and responses re: Agenda Item #6 Municipal Services Development Agreement  
**Attachments:** community question responses.docx  
**Importance:** High

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**From:** Mary Jane Nirdlinger  
**Sent:** Wednesday, May 09, 2018 12:28 PM  
**To:** Roger Stancil <rstancil@townofchapelhill.org>  
**Cc:** Aaron Frank <afrank@townofchapelhill.org>; JABE HUNTER <JHUNTER@townofchapelhill.org>; Curtis Brooks <cbrooks@townofchapelhill.org>; Lance Norris <lnorris@townofchapelhill.org>; CHRIS BLUE <CBLUE@townofchapelhill.org>; (maryallisonbeck@gmail.com) <maryallisonbeck@gmail.com>  
**Subject:** Community Questions and responses re: Agenda Item #6 Municipal Services Development Agreement  
**Importance:** High

Roger,

We received a series of questions from community members on the Development Agreement and provided some initial responses to them today.

Council Members may also be interested in this information.

Mary Jane

**Mary Jane Nirdlinger**  
**Assistant Town Manager**  
c: 919-619-4956  
w: 919-968-2739

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**From:** Mary Jane Nirdlinger  
**Sent:** Wednesday, May 09, 2018 12:26 PM  
**To:** Fred Stang <fstang@mossandross.com>; Maria de Bruyn <jonahay@att.net>; 'Tim Williams' <twilliams12@nc.rr.com>; Carmen Elliott <carmenelliott.arts@gmail.com>; 'asnavely@bellsouth.net' <asnavely@bellsouth.net>  
**Cc:** Aaron Frank <afrank@townofchapelhill.org>; JABE HUNTER <JHUNTER@townofchapelhill.org>  
**Subject:** Responses to your questions

Fred, Tim, Maria, Alan & Carmen,

We've tried to get this put together early enough today so they'd be useful as you prepare for this evening. Some of the questions were pretty straightforward and for others we tried to provide any clarification or missing information. If something here isn't clear, please don't hesitate to grab one of us before the public hearing.

As always, we appreciate you sharing these with us so we can be thoughtful going into the next month's work.

Mary Jane, Aaron & Jabe

## **Questions to be addressed in the UNC-Town of Chapel Hill development agreement (DA) for the lease of the parcel of land bordering Elkin Hills and Estes Drive Extension**

Below pertinent paragraphs/sections of the draft DA presented to Council are enumerated with outstanding questions/concerns from some Elkin Hills residents below each one.

### **Article 3.6: guiding principles**

"The principles have served as design drivers for the site layout, and have been broadly incorporated into the program for development. Specific incorporation of Guiding Principles are in the following sections of this Agreement: 5.4, 5.5, 5.7, 5.8, 5.10, 5.17, 5.18, and 5.22."

**Question: The guiding principles have not been included in the body of the DA as such and it is unclear if they are actually part of the DA if they are only an "exhibit".**

**It is unclear how they have been incorporated in sections 5.4 and 5.5 (other than use of gray water and rainwater). Town staff needs to explain explicitly how the Guiding Principles were incorporated into these sections.**

**The DA should indicate how the Guiding Principles will inform future decisions if there are amendments or changes to the site plan as discussed with neighborhood residents.**

**Response: The Development Agreement and each of its accompanying exhibits will be a part of the document that is recorded and memorialized.**

### **5.4 Guiding Principle D. 3**

**a) Situate buildings away from the neighborhood and by preference along Estes Drive Extension with minimum setbacks from the street.**

**The site plan has been modified in different iterations to locate the buildings towards Estes Drive.**

**b) Extend the 100-foot required buffer to at least 200 feet.**

**A 100' natural buffer is provided, and the site plan has been adjusted to expand naturalized areas to ~200' from the southern property line.**

### **5.5 Guiding Principle F. is to Exceed Stormwater Requirements.**

**a) Exceed stormwater management regulations...**

**Development agreement 5.5.f requires stormwater control for the 50-year storm, exceeding Town requirements that the 25-year storm be controlled.**

*b) Reclaim and re-use rain and storm water (e.g., flushing within buildings, watering of vegetation, etc.).*

5.5.n, 5.5.o both address reuse of water.

*c) Take prudent and reasonable steps, including improvement of stream channels in the Elkin Hills neighborhood and other neighborhoods downstream from the site, to improve management of run-off and to limit impact on Bolin Creek.*

The Development Agreement 5.5.q requires that Town staff evaluate downstream stormwater conditions and opportunities for improvement, and monitor pre- and post-development stormwater performance.

### **Article 3.11 Benefits to the University**

**Question:** What kind of “Flexibility and alternatives to Town ordinances, standards, policies and guidelines to achieve the Development” will be granted to the university when they construct on the property?

**Response:** The Development Agreement is the tool that provides the “Flexibility and alternatives to Town ordinances, standards, policies and guidelines to achieve the Development”. The standards within the Agreement are “locked in” with future development of the property. The Development Agreement is a tool that allows for tailored standards that may differ from LUMO standards. These standards in the Development Agreement include but aren’t limited to maximum building height, total floor area, parking ratio and spaces, stormwater management, tree canopy, landscape buffer, etc.

**Question:** What kinds of University activities would the town services support? Are there plans for a shared emergency response coordination team and, if so, what facilities would they require? Could the site include a headquarters for the UNC police?

**Response:** The Town provides fire support to UNC and the Town and University coordinate on a variety of Town-Gown activities such as special events and safety coordination. We anticipate these types of support would continue with the future growth of Carolina North. The University does not have a building program at this time. Their activities on the site would have to fit the parameters of the Development Agreement. A UNC public safety headquarters would be a University use.

### **Article 3.15**

“The terms and conditions of this Agreement have undergone extensive review by the Town’s staff and the Town Council”

**Question:** How will the Town Council demonstrate that it has extensively reviewed the DA and taken into account the questions raised by the Elkin Hills neighborhood residents in this document and during the public hearing sessions?

**Response:** Some Council members have attended community work shops and the Town Council has received periodic updates on the project from staff and the design team. The Council has the opportunity to review and provide input on the Development Agreement in response to the public hearing input and the community’s comments.

### **Article 3.16**

**Question:** Does this article mean that newly elected Town Councils can make no changes to this DA once approved?

**Response:** Changes to the Development Agreement may only be made in accordance with the provisions of 4.10, Amendment and Modification.

### **Article 3.18**

“The initial draft of this Agreement was posted on the Town website on March 28, 2018 and was available for public inspection at Town offices and online at that time. Updates to the draft of this Agreement were posted for the May 9, 2018 public hearing.”

**Question:** The initial draft of 28 March was just an outline of possible paragraphs in the agreement; the actual text was not posted until 4 May 2018, giving Town Council members, Elkin Hills neighborhood residents and the public only 5 days to read thoroughly the 27-page legal document (as well as the 282 pages of attached exhibits).

**Response:** The draft Agreement posted on March 28 contained the outline and standards contained within the Development Agreement that has been prepared for the May 9<sup>th</sup> public hearing. An updated draft outline was reviewed section by section at the April 12<sup>th</sup> community meeting.

**Question:** Is the Town Council willing to make amendments to this text pursuant to questions and concerns from the Elkin Hills neighborhood? Or is the desire to approve this in your next meeting on 27 June 2018 such that the public hearing and public input will have no substantial influence on the DA?

**Response:** The Council has the opportunity to hear public input and consider negotiating changes to the Development Agreement with the University prior to considering a final version in June.

#### Article 4: Terms

##### Article 4.6 and 4.7

**Question:** What is the difference between applying to the Municipality (i.e., Town staff) or Town Council for a Major Modification or a special use permit (SUP)? Who decides whether Article 4.6 or 4.7 is being applied? An SUP includes public input through a public hearing for Town Council; what scope is there for public input with a Major Modification?

**Response:** The Municipality refers to the Town of Chapel Hill in its role as the governing municipality for this Development Agreement. For the purposes of 4.6 and 4.7 it will be deleted and no longer applicable. A Major Modification requires a Public Hearing by Town Council. I suspect that when we edited the Development Agreement and identified the different Town entities (“Town” v. “Municipality”) this section was an inadvertent duplication and mis-identification that was not identified. Thanks for pointing this out.

##### Article 4.9b

**Question:** In Article 4.9.b5, it is stated that the Municipality (staff) will provide feedback to the developer within 15 days; if there is no scheduled CDC meeting within that time period, how will the CDC be given a chance to review and comment on the Site Development Permit?

**Response:** The applicant shall be expected to submit the SDP so that a CDC meeting falls within the review time frame. 4.9.b notes 15 working days, or 3 weeks.

**Question:** Also – how were comments from various Town Commissions and Boards incorporated into this DA and will they have a chance to comment on this text, which they had not seen when their input was requested?

**Response:** Many Board and Commission comments were responded to with insertion either into the Development Agreement text or into the site plan design. A comment response has not been prepared for the Board & Commission comment memos. Town staff will circulate the draft Agreement to the advisory boards for their information.

##### Article 4.9c Construction management plan

**Question:** If any damage occurs to neighboring properties during the construction phases of this DA, how will the property owners be compensated and reimbursed for such damages?

**Response: Contractors must be bonded and insured, as required for all development within Chapel Hill.**

#### **Article 4.10 Amendment and modification**

“A modification of this Agreement that is considered a Major Modification (as hereinafter defined) of the terms of this Agreement shall follow the same procedures as required by North Carolina law for the adoption of a development agreement.”

**Question: Please ask for an explanation of these procedures and in what way adjacent property owners and Elkin Hills residents can present their concerns regarding Major Modifications. Only being able to make a 3-minute presentation to a Town Advisory Board or Commission or at a Town Council public hearing does not present a truly meaningful avenue for voicing such concerns. This would especially be important if a Major Modification were to decrease the 100’ buffer to adjacent properties.**

**Response: Please see the Development Agreement information for how Development Agreements are processed in Chapel Hill: <http://www.townofchapelhill.org/town-hall/departments-services/economic-development/development-agreements>**

**The Town has consistently included community stakeholders and advisory boards in the preparation of Development Agreements prior to a Public Hearing.**

“All other amendments or modifications to this Agreement are considered Minor Modifications and therefore would not require the procedures for adoption of a development agreement.”

**Question: If the developers decide to place a series of walking trails or to construct a stage in the open space between buildings for festivals or performances, this apparently would not constitute a Major modification, although adjacent neighbors have expressed opposition to these uses. In addition, in the January 15, 2018 community meeting notes it was stated: “How can citizens interact with the site? Determining the location, function, and type of publicly accessible spaces is part of the design process.” This should apply to all designs, including amendments and modifications to the DA.**

**Response: An annual meeting is proposed so that minor amendments, or concerns with operations and maintenance, may be discussed with appropriate representatives.**

“All proposed adjustments to this Agreement shall be publicly posted in such a manner that citizens of Chapel Hill will have the opportunity to express any concerns to the Town Council and/or the Town Manager.”

**Question: Does this include Minor Modifications? Will public posting include postcards to the property owners of Elkin Hills since not all owners access the town website or have access to a neighborhood listserv?**

**How will Elkin Hills residents be given the opportunity for input for future construction in the same manner as was done for the MSC building? Stating that residents can give 3-minute statements when the Planning Commission or CDC consider future buildings is not remotely similar to the process used for community engagement with the MSC.**

**Response: Yes. Public posting includes on the Town’s website, a sign outside the property, and legal ad. Communication may include notice to interested residents.**

#### **4.12 Annual report**

**Question: Since the annual report will include “the projected schedule for Development of the Property in the forthcoming year”, will this be made available to the residents of the Elkin Hills neighborhood upon its submission?**

**Response: Yes. Annual reports are posted online and presented publicly.**

#### 4.3.3. Transparency and public involvement

“The Developers shall take efforts to form a committee consisting of interested residents, Town, and University staff to allow for future dialogue before and during construction efforts. Adjacent residents shall be notified of upcoming construction, in accordance with 5.22, and the Town and the University shall take reasonable steps to form a committee to discuss construction issues during periods of construction. The matters of such a committee may be continued during operations of the site.”

**Question: Residents of the adjacent Elkin Hills neighborhood appreciate the formation of a committee for the duration of the development on this site and ask that the committee not only include “interested residents” of the town but specifically Elkin Hills property owners who live adjacent to the site.**

**Response: Okay.**

#### Article 5: Specific standards and mitigation measures

##### **5.1b. Permitted Land Uses are listed as an exhibit.**

**Question: Neighborhood residents would like to see specific uses prohibited such as a fueling station, garbage or hazardous waste facilities, etc. It was explained by town staff that if something is not listed as “permitted”, it cannot be built. However, the Exhibit Permitted Land Uses includes non-specific uses such as “Essential services”, “College or University”, etc. We do not know what such vague terms encompass and whether this would prohibit, for example, construction of a fueling station or facility using hazardous materials if the university wishes to construct this. This would be in direct contradiction to the demands of the neighborhood as formulated in the guiding principles.**

**Response: A fueling station, and garbage or hazardous waste facility is prohibited as proposed. Each of the terms/uses are defined in the LUMO.**

**Question: Why would the permitted land uses include items never discussed with the neighborhood at all such as drive-up automated teller machines, day care facilities, senior living arrangements, and public cultural facilities which could increase the amount of traffic on the site considerably?**

**Response: Each of the land uses proposed are permitted by-right within the University-1 zoning district and the types of land uses have been further reduced for appropriateness with this project. The types of permitted land uses may be reduced further at Council’s direction.**

**The administrative or office type of land use proposed with the Municipal Services Building is classified as a Public use facility and is permitted on-site. A key characteristic of a Public use facility is that it must be used by a “municipal or other governmental agency”, so a private office user could not operate on this site. This is why the land use Business, office-type is not proposed. The administrative uses proposed by the University would be classified as a College or University. (All words in italics refer to LUMO land use classifications.)**

**These land uses were presented at the Planning Commission meeting.**

##### **Article 5.1c. The Town may build and/or occupy a maximum of 100,000 s.f. of building area on the Property.**

**Question: Elkin Hills neighborhood residents asked that a maximum of 50% of the site to be razed for development. If the town will agree to have only one town building on the site, the construction footprint can be reduced. In addition, the costs could be reduced and this could help lower the envisioned tax increase on Chapel Hill residents as part of that is supposed to cover the costs of this DA.**

**Response: The Town is striving towards 50% land conservation, and the proposal is currently at approximately 45%.**

##### **Article 5.3a: Phasing**

**“Land disturbance shall be limited to the extent possible to allow earthwork where necessary for development of the building and supporting infrastructure in Exhibit X.”**

**Question:** Recently, all vegetation was razed from a property on Estes Drive Extension for the construction of a senior citizens living facility; this was done precisely during the time when birds and other animals are nesting. The razing of vegetation and trees in this development should not be done from end-February through end-April so as not to destroy wildlife nests.

**Response:** The Developer will work to integrate methods to mitigate ecological disruption during construction.

#### **Article 5.4. Open space and natural areas.**

**Question:** Why would the 100' buffer now include walking trails and forest education and other passive uses when this was not discussed with the Elkin Hills neighborhood?

**Response:** The use of buffered areas was discussed during the community meeting that focused on landscaping and buffering. No walking trails or other activities are planned with the development, although the Development Agreement does not preclude this in case future residents desire these functions.

#### **Article 5.5. Stormwater management**

**Question:** What are Elkin Hills property owners' options if control measures fail during or after construction? What kind of remediation/reimbursement for damages would be guaranteed? This issue should be addressed in the DA.

**Response:** Contractors must be bonded and insured, as required for all development within Chapel Hill. If this event were to occur it would be handled in the same manner as it is for development elsewhere in Town.

5.5f: "...post-development runoff peak discharge rate at all locations where stormwater runoff exits in the Project (or at other points designated in the conceptual plan), shall not exceed the pre-development (existing conditions), stormwater runoff peak discharge rate..."

5.5q: "The Town shall evaluate downstream stormwater conditions and opportunities for improvement."

**Question:** During various community meetings, town staff reiterated that the Municipality would discuss finding ways to mitigate the stormwater problems that are already occurring, including measures in the Elkin Hills neighborhood to decrease downhill flooding. This DA only states that the situation would need to remain the same as it is now and that the Town will evaluate opportunities for improvement. This is not consistent with what was discussed with the neighboring property owners.

**Response:** The Development Agreement 5.5.q requires that Town staff evaluate downstream stormwater conditions and opportunities for improvement, and monitor pre- and post-development stormwater performance.

#### **Article 5.7. Tree canopy and landscaping**

**Question:** The DA should state specifically that new vegetation should comprise only native plants, not that native plants should be "preferred" (e.g., examples of appropriate native plants were suggested in a list provided by neighborhood resident after consulting with NCBG staff and native plant websites). Some neighborhood residents would like to be included in discussions on plant and tree choice.

**Response:** The word choice expresses a preference for native plants, but does not exclude non-native, non-invasive plants in the case that they may better support other interests such as aural and visual buffering. This language was supported by the design team.

#### **Article 5.9g: Vehicular parking and Article 5.10g**

**Question:** In its Guiding Principles and numerous meetings with Town staff and the site design team, the Elkin Hills neighbors asked that consideration be given to ways to make parking more environmentally conscious, e.g., using

permeable surfaces, solar-paneled canopies or roofs over surface parking, etc. This DA should specify efforts to incorporate such elements into the site design.

**Response:** Permeable pavers are being considered and final site elements such as those listed above will be determined with final building and site design.

#### **Article 5.9l: Greenway**

**Question:** The Elkin Hills property owners asked repeatedly during meetings with the Town staff and site design team that the connection to Hartig Street be a natural surface pathway. Paving is not needed to make this usable for bicycles (Brumley Nature Preserve provides an example of natural surface bike trails that are also used by pedestrians). This greenway is for a sewer easement and not intended to be a general entrance to the property (the two entrances are on Estes Drive Ext), so it does not need to be handicapped accessible either. This site is a services center not a town park.

**Response:** The Transportation and Connectivity Board and Town staff recommend a hard surface so that this connection may best support a bicycle connection and the greenway connection that is proposed with the Mobility & Connectivity Plan. An ADA accessible path can be constructed from a compacted natural surface.

#### **Article 5.9m: Sidewalks**

**Question:** The sidewalk along the perimeter of the loop road should use permeable surface covering.

**Response:** This can be evaluated for feasibility and integration into the overall stormwater management plan.

#### **Article 5.13B: fire station**

“The site plan as shown in Exhibit x includes the location for a future fire station. Review and approval of any additional conditions associated with that future use shall require a major modification of the Development Agreement at the time a station is needed.”

**Question:** If a fire station were considered and a Special Use Permit were required (Articles 4.6 and 4.7 of this DA!), the general public, including adjacent property owners, would be guaranteed a chance to provide meaningful input and concerns. With only a Major Modification procedure, there is no real scope for adjacent property owners to voice concerns. It is not necessary to mention a potential fire station in this DA now. If the town wants to place a fire station there in the future, it could invoke the process for a Special Use Permit which would then include public input. There are various potential problems associated with the placement of a fire station on this site.

**Response:** Please see the Development Agreement information for how Development Agreements are processed within Chapel Hill: <http://www.townofchapelhill.org/town-hall/departments-services/economic-development/development-agreements>

#### **Article 5.18f: Lighting**

“All lighting, including that used in and around buildings, active recreation areas, parking areas, walkways, roadways, and signs, shall be designed to minimize spillover light onto property adjacent to the Property.”

**Question:** This site is supposed to be a service center, so why is there now a mention of “active recreation areas”? This is not supposed to be a Town park.

**Response:** The term “Active Recreation Area” will be removed.

#### **Article 5.22 Public notification and participation**

**Question:** Elkin Hills residents appreciate the opportunity to have some minimal input at least in future construction on the site after the MSC is completed. One meeting is not equivalent to the process used for this DA and the MSC but

it is at least some chance for input. However, given that notice of a meeting might come during holiday or vacation periods, we ask that notification be sent a month in advance and not 2 weeks.

**Response:** This change can be made.

**Article 5.23 Duty to Comply with Regulations and Mitigate Environmental Releases**

**Question:** Why does this article not also require the University to “be responsible for all costs associated with clean up, investigation and remediation of chemical releases from University operations” as they will be able to have 50% of the development which could also affect the environment and adjacent neighborhood?

**Response:** This suggestion will be discussed with the Town Attorney and University.

**Question:** I have a question, about Exhibit X, Permitted Land Uses in the DA.

This chart includes uses we have never heard of as possible uses on the property:

Automated Teller Machine (Drive-up) (would this be for employees on the site or a public ATM?)

Child Day Care Facility

Clinic

Independent Senior Living Facility.

Also, the item College or University seems very broad – could this include actual teaching, classrooms etc? I thought the University was looking at the site for administrative purposes, not teaching.

**Response:** This list of proposed land uses derives from land uses that are permitted “by-right” within the University-1 zoning district which were then further reduced for appropriateness on the site. The plan for the project site remains for administrative/office-type uses, and the below uses aren’t proposed for the first phase of development. However, they remain in the Development Agreement as they could be potential uses for the site if the opportunity arises. It’s difficult to predict the future, although we want to prepare ourselves the best we can and establish predictability about what would be appropriate and what wouldn’t be. For example, it’s plausible that a future work environment could include child and senior care components, or that an ATM may be an appropriate accessory use. A clinic is currently proposed with the Town’s wellness center as a small portion of the building.

From the draft DA:

4.6 and 4.7:

**Question:** There does not seem to be a trigger point for which route to go. How is the decision made to go with 4.6 or 4.7?

**Response:** 4.7 is the correct section; 4.6 will be deleted.

**Question:** We assume that "Municipality" in essence is the staff. Is that correct?

**Response:** The Municipality refers to the Town of Chapel Hill in its role as the governing municipality for this Development Agreement. For the purposes of 4.6 and 4.7 it will be deleted and no longer applicable.

**Question:** Our concern here is that a Major Modification can be identified and that it could be town staff or Council making the decision on making the change with no public input. You have always said that if there is a major modification than the DA process begins again.

**Response:** Correct. Our intention has also consistently been that a Major Modification requires Council input.. I suspect that when we edited the Development Agreement and identified the different Town entities (“Town” v. “Municipality”) this section was an inadvertent duplication and mis-identification that was not identified. Thanks for pointing this out.

4.10:

**Question:** Is this section different from 4.6 and 4.7 in that 4.10 is about the Agreement itself and not individual buildings whereas 4.6 and 4.7 are about individual buildings?

**Response:** 4.10 provides specificity about the constitution of a major modification. Both sections could apply to individual buildings.

5.18, f), i:

**Question:** What does "active recreation area" mean in this context? An active recreation area has never been discussed.

**Response:** We don't have any objection to removing "active recreation area", as none have been discussed or are proposed.

5.22:

**Question:** In a) the Developer shall conduct a meeting for citizen participation and a town rep prior to submission of each individual site development permit application. Does this include any building being proposed by the University? It makes it appear that the universities only role in to distribute the notice. If it does include university buildings than we think it should be clearly stated here. If it does not, than we would recommend a change.

**Response:** The "Developer" includes either the Town or the University, and 5.22 applies to future development by either entity. We can modify the language so that the "Developer" rather than the "University" distribute the notice, so that it clearly applies to both parties.

**Question:** Can the land-clearing of the property be fine-tuned to avoid the peak of bird nesting season to protect the fledglings and young birds still in the nests?

**Response:** We will communicate this interest to the design team and construction manager at risk. The construction schedule will be determined later in the process and other factors (cost, mobilization, schedules) will determine whether the timing aligns.

**Question:** Will the trees removed during the land-clearing be recycled / mulched?

**Response:** We will evaluate this with the construction manager at risk and the contractor in the context of our LEED Silver goal.

**Question:** The current DA references the archaeological survey of the property --  
5.14 Historic and Cultural Features

a) An archaeological study was performed and no significant features were found. No further archaeological study is required with Site Development Permit submittals.

As I mentioned at the last public meeting at Phillips, the archaeological survey failed to identify a minor prehistoric site -- and I have informed the UNC Archaeology Labs of this situation.

What is the appropriate formal procedure for further engaging this issue?

**Response:** We hope the contact we provided with Dr. Stevens at UNC is helpful in meeting this interest.



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