



# TOWN OF CHAPEL HILL

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

## Town Council

### Meeting Minutes - Final

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

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**Wednesday, May 5, 2021**

**7:00 PM**

**Virtual Meeting**

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#### **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/webinar/register/WN\\_bVyXXoHTT7mPpyZfisuM5A](https://us02web.zoom.us/webinar/register/WN_bVyXXoHTT7mPpyZfisuM5A) After registering, you will receive a confirmation email containing information about joining the webinar in listen-only mode. Phone: 301-715-8592, Meeting ID: 889 5069 1249

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#### **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 Florentine Miller, Town Attorney Ann Anderson, Assistant Planning Director Judy Johnson, Planning Director Colleen Willger, Community Resilience Officer John Richardson, Business Management Director Amy Oland, Assistant Business Management Director Matt Brinkley, Assistant to the Town Manager for Administrative and Program Management Ross Tompkins, Senior Engineer Sue Burke, Public Works Director Lance Norris, Manager of Engineering and Infrastructure Chris Roberts, Communications and Public Affairs Director/Town Clerk Sabrina Oliver, and Deputy Town Clerk Amy Harvey.

#### **OPENING**

Mayor Hemminger opened the virtual meeting at 7:00 p.m. and reviewed 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 Coal Plant Permit Letter Update.

[\[21-0401\]](#)

Mayor Hemminger said that the Council had submitted a letter to the NC Division of Air Quality requesting that future permits or plans for The University of North Carolina's (UNC) co-generation plant reflect the strongest possible public safety and environmental standards. The letter specifically asked that existing caps and protections be kept in place and highlighted the Town's interest in seeing UNC transition to clean energy as soon as possible, she said.

### 0.02 Mayor Hemminger Regarding Bike Month in May.

[\[21-0402\]](#)

Mayor Hemminger said that the Town would postpone the annual bicycle gathering event until later in the season due to the COVID-19 precautions. However, a number of related activities and resources were posted on the Town website, she said.

### 0.03 Mayor Hemminger Regarding Upcoming Meetings.

[\[21-0403\]](#)

Mayor Hemminger announced that the Council Committee on Economic Sustainability would meet at 8 a.m. on May 10th to discuss: a revised economic recovery plan; a new proposal for South Creek (formerly Obey Creek); and a potential property swap on Rosemary Street. A public information meeting about the East Rosemary Street Parking Deck would also be held, virtually, on May 10th, she said.

### 0.04 Council Member Anderson Regarding Teacher Appreciation Week.

[\[21-0404\]](#)

Council Member Anderson praised teachers for their extraordinary work during the COVID-19 pandemic and encouraged all to let them know how much they were appreciated.

### 0.05 Mayor Hemminger Regarding COVID-19 Update.

[\[21-0405\]](#)

Mayor Hemminger said that Orange County's rate of COVID-19 infection had been low. The OC Health Department had been working hard to reach vulnerable communities, she said, adding that more specific information was in Council Members' packets.

### 0.06 Christine Carlson Regarding the Coal Plant Permit at UNC.

[\[21-0406\]](#)

Christine Carlson, a Chapel Hill resident, commented on the Department of Air Quality decision to weaken UNC's coal-burning permit. She said that UNC was one of the few public universities in the country still burning coal and the only one in North Carolina doing so. She was glad to see that the Town had begun to do something about that, she said, and she encouraged Council Members to keep up the good work.

## **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.

1. C.F. Smith Property Group Request to Allow Limited Scope (CZD) Conditional Zoning District Review for Construction Start and Construction Completion Timeline Extension Requests for Special Use Permit (Project #14-070), Tri-City Medical Building, 5002 Barbee Chapel Road.

[\[21-0375\]](#)

Developer Dan Jewell, of Coulter Jewell Thames, PA, pointed out that Council had a written petition regarding the request to make a limited application to convert the SUP to a CZ so the applicant could ask for an extension.

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

- 1.01 Mayor pro tem Parker, Council Member Buansi, and Council Member Stegman Request Regarding Chapel Hill Increasing its Minority and Women Business Enterprise/Disadvantaged Business Enterprise (MWBE/DBE) Contracting Targets.

[\[21-0407\]](#)

Council Members Parker, Buansi and Stegman said that the Town proposed raising the Town's 10 percent target for hiring minority and women contractors to 15 percent. Ten percent was significantly lower than many neighboring jurisdictions, they said.

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

## **CONSENT**

Items of a routine nature will be placed on the Consent Agenda to be voted on in a block. Any item may be removed from the Consent Agenda by request of the Mayor or any Council Member.

### *Approval of the Consent Agenda*

A motion was made by Council Member Anderson, seconded by Mayor pro tem Parker, that R-1 be adopted, which approved the Consent Agenda. The motion carried by a unanimous vote.

2. Approve all Consent Agenda Items. [\[21-0376\]](#)  
This resolution(s) and/or ordinance(s) was adopted and/or enacted.
3. Adopt the Recommended 2021-2022 Community Development Block Grant Program Plan. [\[21-0377\]](#)  
This resolution(s) and/or ordinance(s) was adopted and/or enacted.
4. Approve the 2021-2022 HOME Investment Partnership Program Annual Plan. [\[21-0378\]](#)  
This resolution(s) and/or ordinance(s) was adopted and/or enacted.
5. Adopt the Recommended 2021-2022 Capital Fund Program for Public Housing Renovations. [\[21-0379\]](#)  
This resolution(s) and/or ordinance(s) was adopted and/or enacted.
6. Extend and Provide Option to Expand Territory of the Encroachment and Lease Agreement for Town Right-of-Way along Cleland Drive for Continued Use as a Cellular Tower Site. [\[21-0380\]](#)  
This resolution(s) and/or ordinance(s) was adopted and/or enacted.
7. Amend the Soil Erosion and Sedimentation (SE&S) Control Agreement between the Town of Chapel Hill and Orange County. [\[21-0381\]](#)  
This resolution(s) and/or ordinance(s) was adopted and/or enacted.
8. Call a Public Hearing to Consider Closing an Unimproved and Unpaved Portion of Mitchell Lane Public Right-of-Way on June 9, 2021. [\[21-0382\]](#)

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

9. Call a Public Hearing for a Land Use Management Ordinance [\[21-0383\]](#)  
Text Amendment to Section 3.11, Blue Hill Form District  
Pertaining to Non-Residential Use Requirements on May 26,  
2021.

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

## INFORMATION

10. Receive Upcoming Public Hearing Items and Petition Status [\[21-0384\]](#)  
List.

This item was received as presented.

11. Update on Town Efforts to Respond to the COVID-19 Crisis. [\[21-0385\]](#)

This item was received as presented.

## DISCUSSION

12. Presentation: Recommended Budget for FY 2021-22. [\[21-0386\]](#)

Town Manager Maurice Jones gave a PowerPoint presentation on his proposed \$117 million Town budget for FY 2021-22. The budget included a property tax rate of 52.4 cents per \$100 of assessed value, which would be a compromise between the Town's current property tax rate of 54.4 cents and a revenue neutral rate of 49.4 cents, he said.

Mr. Jones reported that the Town's sales tax revenue had grown by 10.9 percent in FY 2021, despite the COVID-19 pandemic. Prior to 2021, the average sales tax growth had been 5.2 percent per year and staff had anticipated a significant drop for FY 2021, he said. However, the opposite had happened and sales tax revenue would likely finish the year nearly 11 percent higher than it was in FY 2020, he said.

Mr. Jones said that his proposed budget assumed a partial return in occupancy tax revenues and a small decline in utility sales tax revenue. Revenue for service charges was down by about \$1.8 million in FY 2021 and he did not expect to regain all of that in FY 2022, he said.

Mr. Jones discussed the recent Real Estate tax revaluation, which had resulted in significant increases in property values for Town properties located in Orange County. The resulting growth in the tax base (typically about 1.5 percent per year) would be more than 13 percent in FY 2021-22 due to the revaluation, he said.

Mr. Jones said that the proposed budget would provide a significant

investment in Council and community priorities. He recommended a 3 percent market rate increase in employee pay, and noted the need for new staff positions. He discussed the status of all Town funds and services and outlined budget recommendations for each of those.

Mr. Jones said that the budget would help lay the framework for a five-year Town strategy for investing in key Town initiatives. However, future financial investments would be required to accomplish Council goals, he said. He listed next steps in the budget process, which included a Council work session on May 12; possible additional work sessions on May 19, May 26, and June 2; and expected adoption of the FY 2021-22 budget on June 9, 2021. All budget information was at [www.townofchapelhill.org/budget](http://www.townofchapelhill.org/budget), he said.

Mayor Hemminger said that her colleagues at the US Conference of Mayors and other groups were strongly recommending to wait for federal guidelines before spending American Rescue Plan funds. That federal funding would come in two installments and could be spent over three years, she pointed out. She stressed the importance of tracking and accounting for every dollar and ensuring that federal guidelines were met.

Council Members confirmed with Mr. Jones that the Town might be able to use American Rescue Plan funds for some infrastructure projects. They also confirmed that a mix of Human Service applications for funding had been submitted to the Town and that he would provide more information about the Human Service Advisory Board's work regarding that. Council Member Gu requested that the Human Service Advisory Board give special consideration to requests from minorities and women who had not been funded in the first round of recommendations.

Mr. Jones said that the goal would be to use American Rescue Plan funds for one-time expenditures, such as closing the parking fund gap, rather than any ongoing operational costs. He pointed out that those funds could help kick-start initiatives that the Town had been talking about for quite some time.

Council Member Gu confirmed with Business Management Director Amy Oland that the Parking Fund needed \$1.1 million to make up a gap between its expenditures and its total amount of available revenue. Ms. Oland clarified that the loss had been due to revenue from meters and leased parking spaces being much lower than normal during the pandemic year.

Council Member Gu pointed out that \$1.1 million in American Rescue Plan funds would otherwise be used to address other community needs, and she expressed concern about a scenario in which the parking situation did not significantly improve.

Mr. Jones pointed out that American Rescue Plan funds would come in two installments. He expected to see an increase in parking revenue following the pandemic and did not anticipate using those funds on parking next year, he said.

Council Members discussed using federal funds to help businesses and residents recover from COVID-19 but also for investing in the future as well.

Mayor Hemminger asked staff to bring back a history of Town revenues to the Human Services Board over the last 10 years. She also asked for information on what a 3 cent tax increase would mean for houses valued from \$250,000 up to \$5 million. She expressed concern about the effect of the revaluation on the Northside and Pine Knolls neighborhoods, as well as the business community, which had struggled tremendously during the pandemic.

Katie Loovis, representing the Chapel Hill-Carrboro Chamber of Commerce, stressed how difficult it would be for local businesses to face a tax increase when they were just beginning to see a ray of hope after the pandemic. She pointed out that property owners typically pass tax increases on to their tenants. The Chamber would follow up with a letter describing the potential effects, she said.

In response to written questions from community members, Mayor Hemminger explained that all budget information and proposals for expenditures would be openly discussed at public meetings. She explained a funding proposal for the Town's Climate Action Plan. She said that American Rescue Plan funding would be part of the budget process once the Town had more information about it.

A motion was made by Council Member Ryan and seconded by Council Member Huynh to excuse Council Member Anderson, who needed to leave the meeting due to a family emergency. The motion carried by a unanimous vote.

This item was received as presented.

**13. Receive the Draft Long-Term Recovery and Transformation Plan.**

[\[21-0387\]](#)

Community Resilience Officer John Richardson gave a PowerPoint presentation on a draft plan for recovering from COVID-19 impacts. He described a plan that would quantify impacts, establish a series of stakeholder groups to design strategies and initiatives, develop a way to address impacts, and monitor efforts. He said that working groups would

address the economy, housing, health and human services, natural and cultural resources, community planning, intergovernmental affairs, and communication.

Mr. Richardson said that the plan's guiding vision was focused on advancing social and racial equity, improving access to resources, and improving economic sustainability. He said that its five main goals were: to address fundamental needs of all residents, to continue creating affordable housing solutions, to promote and foster an equitable and sustainable economic recovery, to streamline access to community resources, and to combat the negative effects of social distancing.

Mr. Richardson asked for Council feedback on the plan, and he pointed out that a similar version would be presented to elected officials in Carrboro, Hillsborough and Orange County over the next couple of weeks.

In response to Council questions, Mr. Richardson pointed out that the plan included an appendix that listed possible funding sources. He outlined how a project management team would review comments from elected officials, make revisions, and return with a final plan. He said that the working groups would address the near-term initiatives that would typically move forward during the first two years.

Council Member Huynh confirmed with Mr. Richardson that feedback from communities of color had been weighted based on a technical formula. He asked for more specific information regarding that process and on the rate of meeting attendance by communities of color.

Council Member Huynh said that a county in Ohio had committed to investing \$5 million in partnership with a local venture fund in local start-up businesses. The primary investment criterion for that was the potential for creating local jobs, he said. He recommended that the project team explore implementing something similar in Chapel Hill. Perhaps some American Rescue Plan funds could be used for that, he said.

The Mayor and Council emphasized the importance of having actual steps and funding sources associated with the plan when it returned to them for comments. Council Member Buansi noted the link between the plan and the petition that he and other Council Members had introduced (Agenda Item 1.01) for increasing the number of minority- and women-owned businesses.

Council Member Gu said she hoped there would be more effort and resources dedicated to short-term workforce training, such as computer coding and data analytics.

Council Member Ryan asked for more information on how Chapel Hill would coordinate efforts with Orange County, Carrboro and Hillsboro.



This item was received as presented.

14. Consider an Application for Modification to Conditional Zoning at 1751 Dobbins Drive Office/Institutional-2-Conditional Zoning District (OI-2-CZD) (Project # 21-023). [\[21-0388\]](#)

Mayor Hemminger pointed out that the Council had seen this item many times before and had indicated support for the modification.

A motion was made by Council Member Ryan, seconded by Mayor pro tem Parker, that this Discussion Item R-9 be adopted. The motion carried by the following vote:

**Aye:** 7 - Mayor Hemminger, Mayor pro tem Parker, Council Member Buansi, Council Member Gu, Council Member Stegman, Council Member Huynh, and Council Member Ryan

**Excused:** 1 - Council Member Anderson

A motion was made by Council Member Ryan, seconded by Mayor pro tem Parker, that this Discussion Item O-3 be enacted. The motion carried by the following vote:

**Aye:** 7 - Mayor Hemminger, Mayor pro tem Parker, Council Member Buansi, Council Member Gu, Council Member Stegman, Council Member Huynh, and Council Member Ryan

**Excused:** 1 - Council Member Anderson

15. Open a Public Hearing to Consider Closing a Portion of Public Right-of-Way of Maxwell Road within the Glen Lennox Development. [\[21-0389\]](#)

Manager of Engineering and Infrastructure Chris Roberts presented a request to partially close a public right-of-way (ROW) to support a realignment of Maxwell Road within the Glen Lennox development. He showed current and proposed ROWs on a map and explained that the request was to merely move the ROW over, which required closing one and dedicating the other.

Mr. Roberts said that the Council's decision should be based on whether the closing would be detrimental to the public interest or any individual property rights. He pointed out that there were no adjacent property owners and that staff had not received any opposition to the request.

A motion was made by Mayor pro tem Parker, seconded by Council Member Huynh, to close the public hearing 24-hours after discussing this item to allow

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additional comments in the record per recent legislation. The motion carried by the following vote:

**Aye:** 7 - Mayor Hemminger, Mayor pro tem Parker, Council Member Buansi, Council Member Gu, Council Member Stegman, Council Member Huynh, and Council Member Ryan

**Excused:** 1 - Council Member Anderson

**16. Open a Public Hearing for Downtown Municipal Service District Services.**

[\[21-0390\]](#)

Assistant to the Town Manager Ross Tompkins explained that a portion of the Downtown Service District tax revenue paid for an outside agency to provide services for the downtown area. The current contract for those services would expire at end of June 2021 so staff had sent out a request for proposals (RFP), as dictated by state law, he said.

Mr. Tompkins said that the Town had received one response to its RFP and that was from the Chapel Hill Downtown Partnership, which had been performing services for the Town since 2004. He said that the proposed new contract, effective July 1, 2021, would be a one-year performance agreement that would be renewable, annually, for up to four years. Staff expected up to \$220,000 to be available for those services in FY 2021-2022, he said.

Mr. Tompkins recommended that the Council open the public hearing, receive comments, and offer feedback on the Downtown Partnership's proposal for services.

Mayor Hemminger said that the Council had been very pleased with the Downtown Partnership's work.

Matt Gladdek, executive director of the Chapel Hill Downtown Partnership, thanked the Mayor and Council for all their help during COVID-19. He said that the Partnership had taken a significant amount of money from its rainy day fund during 2021 and would need to cut services, unless its funding could be increased beyond the proposed additional \$10,000.

Mayor pro tem Parker confirmed with Mr. Gladdek that an additional \$20,000 would help improve and restore the downtown area.

Mr. Gladdek said that the Partnership had some large fund-raising and sponsorship goals and had applied for its first NC Arts Commission grant. He said that increasing the sidewalk space during the pandemic had transformed the area and that the Partnership had found ways to surprise and delight visitors. The Partnership had been talking with UNC about

possible projects when restrictions were lifted, and he was expecting proposals from top downtown planning organizations, he said.

Mayor Hemminger encouraged Mr. Gladdek to put in a request for American Recovery Plan funds to address some of the one-time Downtown needs.

A motion was made by Council Member Huynh, seconded by Council Member Buansi, to close the public hearing 24-hours after discussing this item to allow additional comments in the record per recent legislation. The motion carried by the following vote:

**Aye:** 7 - Mayor Hemminger, Mayor pro tem Parker, Council Member Buansi, Council Member Gu, Council Member Stegman, Council Member Huynh, and Council Member Ryan

**Excused:** 1 - Council Member Anderson

**17. Consider Approving the Eastwood Lake Subwatershed Study Report and Recommendations.**

[\[21-0391\]](#)

Senior Stormwater Engineer Sue Burke presented the Eastwood Lake Subwatershed Study report and a recommended list of priority projects for Council consideration. She discussed the Town's master planning process for watershed studies and its 2014 Stormwater Master Plan, which linked the Council's mission statement and 10 strategic goals to stormwater program activities. Continuing to do sub-watershed studies was a key component of that plan, she said.

Ms. Burke displayed a map showing where the Town's watersheds and sub-watersheds were located. She said that the Council had approved a Lower Booker Creek Subwatershed study and a priority list of projects in 2017. Eastwood Lake sub-watershed study would be the next one completed, and staff anticipated bringing a report on the Cedar Fork Subwatershed study to Council in fall 2021, she said.

Tom Murray, a consultant with WK Dickson, described the Town's watersheds and sub-watersheds in detail and outlined how a watershed study was performed. He said that the study's goal was to understand worst case scenarios in order to start building resilient solutions. He described public outreach efforts in Town and said that much feedback had come from those who reside around the Eastwood Lake Subwatershed.

Mr. Murray explained that the Eastwood Lake Subwatershed comprised approximately one square mile within the Booker Creek Watershed. He described that area and cautioned against increasing impervious surface as development and redevelopment occur there. He emphasized the importance of considering downstream impacts when reviewing development and redevelopment applications.

Mr. Murray discussed ways to stabilize streams in order to slow water down and showed slides of what stream erosion looks like. He said that approaches to reducing runoff included adding green infrastructure and retrofitting existing projects. He recommended that the Town encourage green infrastructure and low-impact design.

Ms. Burke returned to explain that some projects had been prioritized using criteria that had been established in the Lower Booker Creek study. Those had been merged into a priority list that had been established in 2017, she said, and she showed where some of those new insertions were. The Eastwood Lake secondary system projects had been merged into a Secondary System Project priority list, she pointed out.

Ms. Burke said that the Town's Climate Action and Response Plan recommended implementing the top three sub-watershed study projects by 2025. She said that funding sources included some money that remained in the Stormwater budget, some remaining 2015 Stormwater Bond Funds, and a potential Building Resilient Infrastructure and Communities grant from FEMA that would fund the design and construction of up to five projects.

Ms. Burke recommended that the Council adopt Resolution 11, which would adopt the Eastwood Lake Subwatershed Study and approve the merged primary and secondary projects lists. She said that the Stormwater Management Utility Advisory Board had approved those recommendations on April 27, 2021.

The Council confirmed that staff was proposing a pilot stream restoration project that would require neighborhood cooperation. They verified that some homes still had downspouts, but Ms. Burke pointed out that a LUMO modification that required diffusers on downspouts had led to significant improvements.

Mayor Hemminger said that a "Project Disconnect" in Durham had offered water spreaders to residents and persuaded them to disconnect their downspouts, and Council Member Ryan proposed that staff consider such an approach as part of any sub-watershed plan.

The Council and Mr. Murray talked about how approaches, such as lowering lake levels, were effective but had been challenging to pursue with communities throughout the state. Ms. Burke said that flood storage had been prioritized because it provided the most benefit to residents.

Council Members spoke in favor of coordinating efforts with the Planning Department and incorporating the information being presented into the LUMO rewrite discussion.

Jeanette Bench, a Chapel Hill resident, asked the Council to remove the Red Bud, Daley, and Piney Mountain Road storage projects from the

merged priority list. She implored the Town to not spend money on an engineering study for those projects. Destroying 11 acres of one of the few Town-owned forests would not be in keeping with the Town's climate change and environmental goals, she said.

Neal Bench, a Chapel Hill resident, said that the three storage projects Ms. Bench had mentioned could be called massive deforestation projects. He agreed with the Mayor and Council Member Ryan that disconnecting drain pipes from homes should be moved much higher up on the priority list, he said, adding that such efforts would reduce the need for flood mitigation.

The Council confirmed with Ms. Burke that staff was not proposing mass tree clearings with any of the projects. Mayor Hemminger confirmed that storage projects varied in size but were typically several acres.

Council Member Ryan emphasized the importance of proceeding in a sensitive manner and recommended having biologists involved in the process as well. She expressed interest in exploring what district overlays would look like for particularly problematic areas.

Several Council Members spoke in favor of instituting a program such as Durham's Project Disconnect, but Mayor pro tem Parker recommended finding out how much that would cost before putting it on the priority list. The Council requested more concrete information about the extent of tree removal as well.

Mr. Murray said that he and Ms. Burke had talked about identifying a neighborhood for a pilot project where the Town could implement features such as Project Disconnect and other green infrastructure efforts.

Mayor Hemminger proposed the idea of passing the overall plan but requiring staff to return with a preview of what storage areas would look like before actually moving forward on it. In response, Ms. Burke raised concerns about spending stormwater funds to reach that point in design without having a clear expectation that the program would be implemented.

After discussion, the Council agreed to proceed with the recommendations but with the caveat that more information was needed before moving ahead with the proposed prioritization. Mayor Hemminger suggested that any Council motion include a request to staff to include disconnect and retrofit information in its next report. She asked staff to look at the issues regarding environmental impacts as well.

A motion was made by Mayor pro tem Parker, seconded by Council Member Ryan, that this Discussion Item R-11 be adopted as amended. The motion

carried by the following vote:

**Aye:** 7 - Mayor Hemminger, Mayor pro tem Parker, Council Member Buansi, Council Member Gu, Council Member Stegman, Council Member Huynh, and Council Member Ryan

**Excused:** 1 - Council Member Anderson

### *SPECIAL USE PERMIT(S)*

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

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

**18. Evidentiary Hearing Continued: Special Use Permit Modification for University Place, 201 S. Estes Drive.**

[\[21-0356\]](#)

Assistant Planning Director Judy Johnson gave a brief overview of a proposal to redevelop University Mall, a 43-acre site zoned Community Commercial at the corner of Fordham Boulevard, Estes Drive, and Willow Drive. She said that the zoning would remain the same, but the applicant was requesting a Special Use Permit (SUP) modification in order to redevelop according to a block plan that included separate pods with various land uses. She noted that a significant portion of the property was in a floodplain.

Ms. Johnson said that the proposed redevelopment would be done in three phases, and she briefly described each of those. She said that the applicant was proposing modifications to regulations regarding height, setbacks, impervious surface, buffers, tree canopy, parking standards, signs, and Resource Conservation District (RCD) standards. The applicant had included design standards regarding several aspects of the plan, she pointed out.

Ms. Johnson reported that Town advisory boards had reviewed the application and most had approved it with conditions. She said that the current public hearing, which had begun in April, would continue to May 19, 2021. In order to be approved, the SUP modification request needed to meet the four findings of fact that were outlined in the Town's Land Use Management Ordinance (LUMO), she said.

Council Member Ryan clarified with Ms. Johnson that the Community Design Commission (CDC) had not looked at the building footprint. Ms. Johnson said that staff had been working with the CDC regarding the design standards and that a Stipulation 7 related to that would be refined over the next couple of weeks and then brought to the Council.

LeAnn Nease Brown, attorney for the applicant, stated that the Council was allowed to make modifications from existing regulations when the LUMO's public purposes were satisfied to an equivalent or greater degree. She pointed out that the current SUP was nearly 50 years old, and she emphasized that many of the things currently being viewed as modifications had not been required when the project was originally built or previously modified. The proposed redevelopment would bring the project closer to existing development standards, she said.

Ashley Saulpaugh, project manager with RAM Realty Advisers, gave a PowerPoint update on the proposal. He said that Phase 1 would include approximately 350,000 square feet of retail and 250 multi-family units. At full build-out, there would be a maximum of 450,000 square feet of retail, 150,000 square feet of office space, 300 multi-family units, and 150 hotel rooms on the site, he said.

Mr. Saulpaugh provided estimates of what Real Estate tax revenue to the Town would be. He said that the net impact would be about \$1.1 million added to the Town's tax base from Phase 1 and that sales tax revenue was projected to be at least another \$1.1 million, probably higher. In addition, Phase 1 was projected to create close to 400 new jobs, he said.

Mr. Saulpaugh addressed some of the Council's prior comments and concerns regarding residential versus commercial use, the number of apartments, the plan's flexibility, height, and massing, and flooding and stormwater issues. He outlined changes to RAM's application since the last meeting with Council. He described a proposal to designate 4.25 acres as mixed use requiring a minimum two-story height, which would mean changing an area that had been proposed as single-story retail to multi-story.

Council Members asked about the legality of requiring an existing project to meet regulations that had not been in effect at the time it was built.

Town Attorney Ann Anderson said that current regulations would apply to a new request. She assumed that was why the applicant was seeking a variance to RCD regulations that had not been in place when the original SUP was approved, she said.

Attorney Brown said that the current SUP, as previously modified, would continue in the absence of any new modification. However, the applicant's proposed plan would bring the development closer to what the LUMO required than having a dead mall at that location would, she pointed out. She said that the Council was allowed to do less than its current ordinance required if that meant meeting the LUMO's purpose and intent.

Council Member Ryan confirmed with the applicant that elements of the

proposed plan had been taken from Blue Hill District, Glen Lennox, and Carraway Village. She asked to see where changes had been made in order to understand what sort of variance from standards for other developments were being requesting.

Attorney Brown asked what form that should take, and Mayor Hemminger replied that an itemized list comparing developments would most clearly show the differences.

Mayor pro tem Parker asked the applicant numerous questions about the plan and confirmed with Mr. Saulpaugh that the proposed phasing dates (years 2023, 2025 and 2027) were estimates but the first phase was quite certain. He also confirmed with Mr. Saulpaugh that topographical changes and the planned service and trash collection location prevented having a public access point in Pod A.

Mayor pro tem Parker asked about the possibility of breaking the long apartment complex into two separate buildings, but the applicant replied that doing so would create challenges due to the floodplain.

Mayor pro tem Parker asked how the Town would verify that the building size was in compliance if the SUP modification were granted and the conversion took place.

Ms. Johnson replied that Zoning Compliance Permits were typically based on the number of units, but Mayor pro tem Parker pointed out that the number could be substantially larger than the applicant was currently proposing. He asked if design standards would become a legally binding part of the SUP, and Attorney Anderson replied that staff was in the process of refining that standard so that the Council would know exactly what it was approving.

Council Member Gu raised concerns about building on the floodplain, but Mr. Saulpaugh said that having the multi-family building proposed for Pod A elevated would address that.

Council Member Gu asked what the applicant meant when they said that the development would meet current LUMO environmental standards by bringing it closer to those standards.

Ms. Brown replied that the LUMO allows the Council to modify a provision if it finds that public purposes are satisfied to an equivalent or greater degree. She said that there would be 55,000 fewer square feet of impervious surface than was currently allowed under the existing SUP. Therefore, the Town had engineering evidence that the proposed plan would improve the current stormwater situation, she said.

Council Member Buansi confirmed with Mr. Saulpaugh that RAM had been working with neighboring Binkley Baptist Church regarding parking and



connectivity improvements and a potential, interconnected, mixed-use environment in the future. He asked for more information on those connectivity plans, and Mr. Saulpaugh described a multi-use trail that would go across the property and also discussed plans to improve access from Fordham Boulevard.

Council Member Stegman asked about a board suggestion to increase tree canopy and green space as current leases expire, and Mr. Saulpaugh replied that the way that language was crafted would be very important. There were many overlapping tenant rights, and he did not want to create a situation where adhering to an SUP requirement would violate any leases, he explained.

Council Member Stegman confirmed with the applicant that RAM and the Farmers Market were not completely in tune regarding RAM's desire to have the Market be in a multi-functional space.

Council Member Huynh established that the applicant would consider a shorter lease for the incubator spaces and might be open to a lower area median income for the affordable housing if the required percentage of units was lowered.

Mayor Hemminger confirmed that 1 percent of the mature trees along Willow and Estes would need to be removed. She verified that there were proscribed setbacks and frontages for each street and asked the applicant to chart those so the Council could see what they were.

Mayor Hemminger pointed out that the Council had ongoing concerns about block lengths in Town, and she expressed concern about having an extremely long five-story building on one side of Willow Drive. She confirmed with the applicant that some of the improvements along that road would require an additional right-of-way.

Attorneys Anderson and Brown concurred that the Council should provide comments following its next meeting, but Mayor Hemminger pointed out that hearing from Council Members would give the applicant time to address any concerns.

Council Member Ryan said there were already many new apartments in the area and she hated to not take advantage of the redevelopment opportunity to produce more commercial. She would prefer to see a set project because the design guidelines and block approach made it difficult to decide whether or not the project met the LUMO's four findings, she said. She requested more information from the applicant about how the plan aligned with other design guidelines and more from stormwater staff about whether sufficient controls were included. She said that the proposed 24-foot sign did not align with the Town's sign ordinance.

All Council Members expressed discomfort with the size of the proposed apartment building. Some said they could imagine taller buildings in the center of the site. Several were reluctant to allow conversion from commercial to residential without requiring some notice to Council. Council Member Gu said that the Council should aggressively try to reduce the footprint and increase permeable spaces, green spaces, and tree canopy on the property.

Mayor Hemminger said she agreed that the residential building was too big and too onerous along Willow Drive. She wondered if there could be a path through it, as the Town required in Blue Hill District buildings, she said. She agreed with others that the apartments would work better on Pod C.

Mayor Hemminger said that the Council supported the idea of enhancing and making University Mall a better place but was concerned about how that is done. She said that people were very excited about components of the plan, such as the mall centerpiece and the new green space. If the applicant could work on the things that give the Council concern, then she thought there could be a path forward, she said.

A motion was made by Mayor pro tem Parker, seconded by Council Member Huynh, that this item be continued to May 19, 2021. The motion carried by the following vote:

**Aye:** 7 - Mayor Hemminger, Mayor pro tem Parker, Council Member Buansi, Council Member Gu, Council Member Stegman, Council Member Huynh, and Council Member Ryan

**Excused:** 1 - Council Member Anderson

### *CONCEPT PLAN REVIEW(S)*

Concept Plans: Presentations for Concept Plans will be limited to 15 minutes.

Concept Plan review affords Council members the opportunity to provide individual reactions to the overall concept of the development which is being contemplated for future application. Nothing stated by individual Council members this evening can be construed as an official position or commitment on the part of a Council member with respect to the position they may take when and if a formal application for development is subsequently submitted and comes before the Council for formal consideration.

As a courtesy to others, people speaking on an agenda item are normally limited to three minutes. Persons who are organizing a group presentation and who wish to speak beyond the three minute limit are requested to make prior arrangements

through the Mayor's Office by calling 968-2714.

- 19.** Concept Plan Review: Aspen Chapel Hill, 701 Martin Luther King Jr. Blvd. [\[21-0392\]](#)

Mayor Hemminger said that the applicant had asked to move this item to the following week.

## **APPOINTMENTS**

- 20.** Appointments to the Environmental Stewardship Advisory Board. [\[21-0393\]](#)

The Council reappointed Thomas Henkel, Mary Metcalf, and Julie McClintock to the Environmental Stewardship Advisory Board.

- 21.** Appointments to the Grievance Hearing Board. [\[21-0394\]](#)

The Council reappointed Lily Farel and appointed Kellie Mannelle and Tristan Millsap to the Grievance Hearing Board.

- 22.** Appointments to the Historic District Commission. [\[21-0395\]](#)

The Council reappointed Nancy McCormick and David Schwartz and appointed Christine Berndt and Brian Daniels to the Historic District Commission.

- 23.** Appointments to the Orange Water and Sewer Authority Board of Directors. [\[21-0396\]](#)

The Council appointed Todd Bendor to the Chapel Hill seat on the Orange Water and Sewer Authority Board of Directors.

## **ADJOURNMENT**

This meeting was adjourned at 12:16 a.m.