



**CONSIDER AN APPLICATION FOR CONDITIONAL ZONING FOR EAST ROSEMARY STREET PARKING GARAGE, 125 AND 135 EAST ROSEMARY STREET, FROM TOWN CENTER-2 (TC-2) TO TOWN CENTER-2-CONDITIONAL ZONING DISTRICT (TC-2-CZD)**

**SUMMARY REPORT**

TOWN OF CHAPEL HILL PLANNING DEPARTMENT  
 Judy Johnson, Interim Director  
 Becky McDonnell, Planner II

PROPERTY	DATE	APPLICANT
East Rosemary Street Parking Garage, 125 and 135 E. Rosemary St.	October 28, 2020	George Retschle, Ballentine Associates, on behalf of Grubb Management LLC and Investors Title Company

**TOWN MANAGER RECOMMENDATION**

That the Council adopt the Resolution of Consistency and enact Revised Ordinance A, approving the rezoning.

**UPDATES SINCE THE PUBLIC HEARING**

Minor updates have been made to Ordinance A and this Staff Report, including:

- Inclusion of an additional modification to regulations to allow the Town Council to approve an alternate buffer as opposed to the Community Design Commission
- Correction to Stipulation #9 to specify two access points on E. Rosemary Street
- Requirement for OWASA easement plats to be recorded prior to final inspection, as opposed to prior to issuance of Zoning Compliance Permit
- Clarification regarding the budget for the garage, which now includes funding for a green wall

**ZONING**

*Current:* Town Center-2 (TC-2)  
*Proposed:* Town Center-2-Conditional Zoning District (TC-2-CZD)

**PROJECT OVERVIEW**

The application is part of a redevelopment proposal for East Rosemary Street to create new office, wet-lab, and innovation space downtown. This 1.6-acre portion of the project proposes to:

- demolish existing 276-space "CVS" parking deck, and
- construct a six- to seven-story, 1,160-space parking deck with up to 6,000 sq. ft. of office space and will:
  - include a "retail porch" on the Rosemary Street frontage to provide space for small businesses and vendors
  - Replace all of the existing CVS deck and Wallace deck spaces
  - Add a net increase of approximately 200-300 parking spaces

The transportation improvements include:

- Provide adequate internal queue storage for left and right turning exiting deck traffic
- Provide adequate internal queue storage for entry flows
- Optimize traffic signal timings at the E. Rosemary Street and N. Columbia Street intersection
- Include an inbound access from North Street and outbound exit (right-turn only) to N. Columbia St.
- Include additional wayfinding signage
- Include a pedestrian overpass and mid-block pedestrian crosswalk

**ATTACHMENTS**

1. Technical Report and Project Fact Sheet
2. Draft Staff Presentation
3. Resolution A (Resolution of Consistency)
4. Ordinance A (Approving the Application)
5. Resolution B (Denying the Application)
6. Application Materials

**DECISION POINTS**

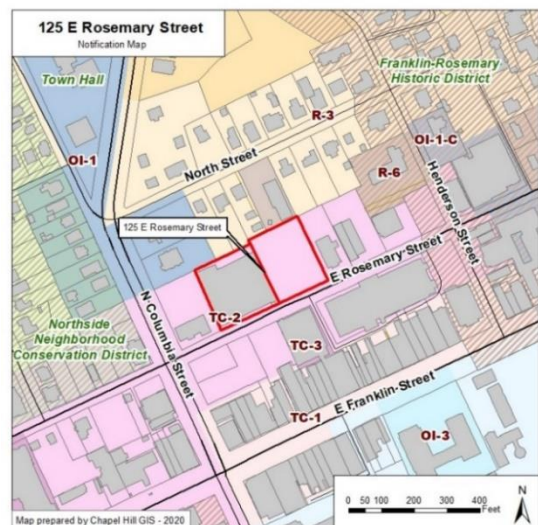
The applicant requests the following modifications to regulations:

- Modify the solar (north property line) setback adjacent to residential property and approve an alternate buffer
- Exceed the building envelope on all sides (increasing the allowable height from 44 feet to 73 feet)

**PROCESS**

Conditional Zoning is a legislative process that allows the Council to review the rezoning application for consistency with the Land Use Plan in the Comprehensive Plan and to establish standards that address any impacts on surrounding properties.

**PROJECT LOCATION**





# TECHNICAL REPORT

## KEY CONSIDERATIONS

Planning Commission: At the [June 2, 2020 meeting](#), the Planning Commission recommended approval with the following modifications to Ordinance A:

- That the approval be contingent upon successful acquisition of the two access easements to the north and west.

*Staff Response*: Since the Planning Commission meeting, staff received a final transportation impact analysis. The TIA identifies additional access points to the parking garage to the west and north. Staff included Stipulation #8 regarding the access to the parking garage.

- That approval is tied to a favorable Economic Development Agreement (EDA)

*Staff Response*: Entitlement of the parking garage is only permitted as part of an Economic Development Agreement.

- That Council consider the impact on the fire station by southbound traffic turning left from Martin Luther King Jr. Boulevard onto North Street

*Staff Response*: The Transportation Impact Analysis recommends monitoring the intersection to determine if signalization is required after the garage is in operation.

- That more conduit and electric vehicle charging stations be provided

*Staff Response*: The following stipulation is included in Ordinance A: Electric Vehicle Charging Stations: A minimum of 20 electric vehicle charging stations will be installed providing charging for a minimum of 40 parking spaces. The spaces may be located throughout the garage. Conduit for a minimum of 20 additional charging stations shall be installed.

Transportation and Connectivity Advisory Board: At the [May 26, 2020 meeting](#), the Transportation and Connectivity Advisory Board recommended denial unless the following conditions could be met:

- Prioritize pedestrian safety along East Rosemary Street

*Staff Response*: The applicant is proposing streetscape improvements along East Rosemary Street with additional sidewalk width.

- Provide 20% of all total parking spaces as electric vehicle "ready", which includes the installation of dedicated electrical conduits and underground conduits

*Staff Response*: Staff included the following stipulation in Ordinance A: Electric Vehicle Charging Stations: A minimum of 20 electric vehicle charging stations will be installed

providing charging for a minimum of 40 parking spaces. The spaces may be located throughout the garage. Conduit for a minimum of 20 additional charging stations shall be installed.

- Conduct a comprehensive traffic impact analysis that include the entire East Rosemary Street redevelopment project

*Staff Response:* Since the Transportation and Connectivity Advisory Board meeting, staff received a revised transportation impact analysis that includes redevelopment of East Rosemary Street.

- Incorporate the North-South Bus Rapid Transit project into the transportation impact analysis

*Staff Response:* The revised transportation impact analysis includes the North-South BRT project.

- Provide ridesharing spaces

*Staff Response:* Staff included the following stipulation in Ordinance A: Ridesharing Spaces: A minimum of four (4) vehicle parking spaces within the garage shall be designated as ridesharing spaces.

Environmental Stewardship Advisory Board: At the [May 12, 2020 meeting](#), the Environmental Stewardship Advisory Board recommended approval with the following modifications to Ordinance A:

- Provide green walls on the north and east sides of the structure

*Staff Response:* Since the original response, the budget for the garage has been refined and the green walls have been included.

- Provide the proposed solar photovoltaic (PV) canopy

*Staff Response:* The following stipulation has been included in Ordinance A: Solar Readiness: Prior to issuance of a Certificate of Occupancy, conduit infrastructure will be run to the roof of the parking garage to support solar photovoltaics on at least 80% of the unshaded, available top surface of the garage.

Community Design Commission: At the [May 18, 2020 meeting](#), the Community Design Commission recommended approval with the following modifications to Ordinance A:

- That green screen walls be required for two facades as shown in the presentation

*Staff Response* Since the original response, the budget for the garage has been refined and the green walls have been included.

- That the current pedestrian bridge be eliminated

*Staff Response:* In the proposal before the Council this evening, the pedestrian bridge has been eliminated.

## **PROJECT OVERVIEW**

The application proposes applying a Town Center-2-Conditional Zoning District (TC-2-CZD) district to the site to accommodate a six to seven-story parking deck with up to 1,160 parking spaces. There is a three-story parking deck with 276 parking spaces and a surface gravel parking lot on the site today. The existing deck is over forty years old and is deteriorating. More details about the proposed development can be found in the application materials (Attachment 7).

Information about the site and proposed zoning districts can be found below, as well as a list of proposed Modifications to Regulations, other important considerations identified by staff, and an analysis of the project's consistency with the Comprehensive Plan and relevant Findings of Fact.

## **SITE CONTEXT**

Staff identified the following physical and regulatory characteristics of the land which are relevant to consideration of a Zoning Atlas Amendment:

- The site is 0.87 acre with the existing parking deck that will be recombined with an adjacent parcel, a surface gravel parking lot, to the east to create an approximately 1.68-acre parcel.
- The site has access to E. Rosemary Street, a collector street maintained by the Town.
- The property on the opposite side of E. Rosemary Street is zoned Town Center-2 (TC-2) and is part of the overall redevelopment project described above.
- Property to the north of the subject site, fronting on North Street, is zoned Residential-3 (R-3), Residential-6 (R-6), and Office/Institutional-1 (OI-1) and consists of single-family dwellings, a sorority house, and office-type uses.
- An OWASA sanitary sewer line runs through the property and is proposed to be relocated within a 30-foot easement along the eastern edge of the property.
- There is no Resource Conservation District or floodplain on the site, which is relatively flat and contains minimal vegetation.

## **PROPOSED ZONING**

The applicant has submitted a Conditional Zoning application, which allows review of the development proposal in conjunction with the rezoning. This also allows the Town to formulate and apply site-specific standards as conditions through a legislative process. The Conditional Zoning application provides an opportunity to establish conditions that modify use, intensity, and development standards in order to address impacts reasonably expected to be generated by development. Conditions can also address conformance of the development with town regulations and adopted plans. A -CZD suffix would be added to the zoning district designation to incorporate the approved conditions. The applicant has proposed a Town Center-2-Conditional Zoning District (TC-2-CZD) district for the site.

The intent of the Town Center-2 (TC-2) zoning district is "to provide for the development of the commercial, service, and social center of Chapel Hill while maintaining its character, its pedestrian-oriented scale, and its nature as a concentration of business, administrative,

financial, governmental, and support functions serving the community; and to encourage further residential development in the central area of Chapel Hill.”<sup>1</sup>

The applicant has proposed modifications to permitted uses and dimensional standards for the proposed zoning district, among other requested modifications, as summarized in the Proposed Modifications to Regulations section below.

## PROPOSED MODIFICATIONS TO REGULATIONS

- 1) Section 3.8.2(g)(2) Dimensional Regulations:** The dimensional regulations in Town Center zoning districts limit building height at the setback line to 44 feet, with the allowable core height increasing at the following rates:
  - a. Street and interior setback: one (1) foot in height for every one (1) foot in distance interior to the lot (measured from the street and interior setbacks (1:1 rise/run)
  - b. Solar setbacks: one (1) foot in height for every one and seven-tenths (1.7 feet) of distance interior to the lot (1:1.7 rise/run)

The proposed modification would increase the 44-foot height limit up to a maximum of 73 feet on all four elevations. Additionally, the applicant is requesting to modify the slope of the core height increase from the solar setback line from a 1:1.7 slope to a 1:1 slope.

*Staff Comment:* Staff believes that the Council could find a public purpose for the increased height, as this will accommodate the necessary amount of parking spaces to meet the economic needs of downtown.

- 2) Section 3.8.3(b)(3) Transitional Control Intensity Modification:** The Land Use Management Ordinance (LUMO) states for Town Center zoning districts the solar setback adjacent to residentially zoned land shall be equal to the solar setback applicable in the adjacent residential district. Properties to the north are zoned Residential-3 (R-3) and have a solar setback of 11 feet.

The proposed modification request is to reduce the required 11-foot setback along residentially zoned land to 5 feet.

*Staff Comment:* Staff believes that the Council could find a public purpose for the reduced setback, as the modification is necessary due to the irregular north property line and the increased building footprint will accommodate the necessary amount of parking spaces to support a vibrant downtown. Additionally, a stipulation requiring an evergreen hedge or a fence to mitigate the visual impact on the adjacent residential district has been included in Ordinance A.

- 3) Section 5.6.8 Alternative Buffers and Screening:** The Land Use Management Ordinance Modification allows the opportunity to applicants to provide alternate buffers in lieu of landscaping with the approval of the Community Design Commission as long as the screening provides an equivalent or greater degree of screening. The proposed modification is to provide an alternate buffer (fence) along the northern property line and requests that the Council approve the alternate buffer in lieu of the Community Design Commission per Stipulation 11, as permitted by Section 5.9.6(c)(2)(H) Parking

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<sup>1</sup>[https://library.municode.com/nc/chapel\\_hill/codes/code\\_of\\_ordinances?nodeId=CO\\_APXALOUSMA\\_ART3ZODIUSD\\_IST\\_3.3GEUSD](https://library.municode.com/nc/chapel_hill/codes/code_of_ordinances?nodeId=CO_APXALOUSMA_ART3ZODIUSD_IST_3.3GEUSD)

Adjacent to Residential Zoning.







*Staff Comment:* Staff believes that the Council could find a public purpose for the Council to authorize the alternate buffer, as part of the Conditional Zoning authorization. The proposed modification requiring an evergreen hedge or a fence to mitigate the visual impact on the adjacent residential district has been included in Ordinance A.

**Council Findings and Public Purpose:** The Council has the ability to modify the regulations according to Section 4.5.6 of the Land Use Management Ordinance. Staff believes that the Council could modify the regulations if it makes a finding in this particular case that public purposes are satisfied to an equivalent or greater degree. If the Council chooses to deny a request for modifications to regulations, the developer's alternative is to revise the proposal to comply with the regulations.

## CONSISTENCY WITH THE COMPREHENSIVE PLAN AND OTHER DOCUMENTS

Town staff has reviewed this application for compliance with the themes from the [2020 Comprehensive Plan](#)<sup>2</sup>, the standards of the [Land Use Management Ordinance](#)<sup>3</sup>, and the [Town of Chapel Hill, NC: Design Manual and Standard Details](#)<sup>4</sup>. We believe that the E. Rosemary Street proposal complies with several themes of the 2020 Comprehensive Plan:

**Comprehensive Plan Themes:** The following are themes from the 2020 Comprehensive Plan, adopted June 25, 2012:

<input type="checkbox"/>		Create a Place for Everyone	<input checked="" type="checkbox"/>		Develop Good Places, New Spaces
<input checked="" type="checkbox"/>		Support Community Prosperity	<input type="checkbox"/>		Nurture Our Community
<input checked="" type="checkbox"/>		Facilitate Getting Around	<input checked="" type="checkbox"/>		Grow Town and Gown Collaboration

**Land Use Plan:** The [2020 Land Use Plan](#)<sup>5</sup>, a component of the 2020 Comprehensive Plan, designates this site for Town/Village Center.

## FINDINGS OF FACT

In order to establish and maintain sound, stable, and desirable development within the planning jurisdiction of the Town, it is intended that the Land Use Management Ordinance (as stated in Section 4.4) shall not be amended except:

- 1) To correct a manifest error in the chapter; or
- 2) Because of changed or changing conditions in a particular area or in the jurisdiction generally; or
- 3) To achieve the purposes of the Comprehensive Plan.

<sup>2</sup> <http://www.townofchapelhill.org/home/showdocument?id=15001>

<sup>3</sup> [https://www.municode.com/library/#!/nc/chapel\\_hill/codes/code\\_of\\_ordinances?nodeId=CO\\_APXALAUSMA](https://www.municode.com/library/#!/nc/chapel_hill/codes/code_of_ordinances?nodeId=CO_APXALAUSMA)

<sup>4</sup> <http://www.townofchapelhill.org/town-hall/departments-services/public-works/engineering/design-manual-and-standard-details>

<sup>5</sup> <http://www.townofchapelhill.org/home/showdocument?id=1215>

Staff provides below an evaluation of this application based on the three findings. Further information may be presented for the Council's consideration as part of the public hearing process. All information submitted at the public hearing will be included in the record of the hearing.

**1) Finding #1:** The proposed zoning amendment is necessary to correct a manifest error.

*Arguments in Support:* To date, no arguments in support have been submitted or identified by staff.

*Arguments in Opposition:* To date, no arguments in opposition have been submitted or identified by staff.

*Staff Response:* We believe, based on the information entered into the record to date, that there is no manifest error in the Town's Zoning Atlas Amendment related to the project site.

**2) Finding #2:** The proposed zoning amendment is necessary because of changed or changing conditions in a particular area or in the jurisdiction generally.

*Arguments in Support:* The applicant's statement of justification states that the proposal will fill a need in downtown for centralized public parking in order to reverse the loss of jobs and businesses in recent years.

*Arguments in Opposition:* To date, no arguments in opposition have been submitted or identified by staff.

*Staff Response:* We believe, based on the information entered into the record to date, that the Council could make the finding that the proposed zoning amendment is in response to changing conditions in downtown Chapel Hill area and in the jurisdiction generally.

**3) Finding #3:** The proposed zoning amendment is necessary to achieve the purposes of the comprehensive plan.

*Arguments in Support:* The applicant's Statement of Consistency states that the proposed rezoning would contribute to the following elements of the Comprehensive Plan:

- Balance and sustain finances by increasing revenues and decreasing expenses (*Goal: Community Prosperity and Engagement.1*)
- Foster success of local businesses (*Goal: Community Prosperity and Engagement.2*)
- A connected community that links neighborhoods, businesses, and schools through the provision of greenways, sidewalks, bike facilities, and public transportation (*Goal: Getting Around.2*)
- A vibrant, diverse, pedestrian-friendly, and accessible downtown with opportunities for growing office, retail, residential and cultural development and activity (*Goal: Good Places, New Spaces.2*)
- A community that welcomes and supports change and creativity (*Goal: Good Places, New Spaces.6*)
- Take full advantage of ideas and resources to create a thriving economy and incorporate and utilize the intellectual capital that the University and Town create (*Goal: Town and Gown Collaboration.1*)

*Arguments in Opposition:* Members of the public have identified concerns related to traffic.

*Staff Response:* We believe, based on the information entered into the record to date, that the Council could make the finding that the proposed zoning amendment is necessary to achieve the purposes of the Comprehensive Plan.



# PROJECT FACT SHEET

















## Project Details










Site Description	
<b>Project Name</b>	E. Rosemary Street Redevelopment Project
<b>Address</b>	125 and 135 E. Rosemary Street
<b>Property Size (NLA)</b>	73,097 SF (1.68 acres)
<b>Existing</b>	Parking deck and surface parking lot
<b>Orange County Parcel Identifier Numbers</b>	9788-37-4748 and 9788-37-6817
<b>Existing Zoning</b>	Town Center-2 (TC-2)
<b>Proposed Zoning</b>	Town Center-2-Conditional Zoning District (TC-2-CZD)

## Site Development Standards


Topic	Comment	Status
<b>Development Intensity</b>		
<b>Use/Density (Sec. 3.7)</b>	Existing Use: 276 vehicle space parking garage and surface parking lot Proposed Use: up to 1,160 vehicle space parking garage	
<b>Dimensional Standards (Sec. 3.8)</b>	Primary height: 44 ft. (modification requested for up to 73 feet) Core height: 90 ft. Setbacks: 0 ft. in Town Center zoning districts except for Transitional Control Intensity standard (modification requested)	<b>M</b>
<b>Floor area (Sec. 3.8)</b>	Maximum: 158,401 sq. ft. Proposed: 6,000 sq. ft. (parking garage does not meet Town's definition of floor area)	
<b>Landscape</b>		
<b>Buffer – North (Sec. 5.6.2)</b>	<i>Required:</i> Type "C" 20' buffer (adjacent to single-family dwelling unit) <i>Proposed:</i> Alternate buffer (to be approved as a Modification to Regulations)	<b>M</b>
<b>Other Buffers (Sec. 5.6.2)</b>	N/A in Town Center zoning districts	
<b>Tree Canopy (Sec. 5.7)</b>	N/A in Town Center zoning districts	
<b>Landscape Standards (Sec. 5.9.6)</b>	Parking adjacent to Residential Zoning: either 4' continuous evergreen hedge or screening fence	



Environment		
<b>Resource Conservation District (Sec. 3.6)</b>	N/A	
<b>Erosion Control (Sec. 5.3.1)</b>	Orange County Erosion Control permit required	
<b>Steep Slopes (Sec. 5.3.2)</b>	N/A	
<b>Stormwater Management (Sec. 5.4)</b>	Meet or exceed LUMO 5.4 standards	
<b>Land Disturbance</b>	79,000 sq. ft. (including off-site)	
<b>Impervious Surface</b>	N/A in Town Center zoning districts	
<b>Solid Waste &amp; Recycling</b>	N/A	
<b>Jordan Riparian Buffer (Sec. 5.18)</b>	N/A	
Access & Circulation		
<b>Road Improvements (Sec. 5.8)</b>	Improvements to be completed in accordance with TIA findings, including: <ul style="list-style-type: none"> <li>- Provide adequate internal queue storage for left and right turning exiting deck traffic</li> <li>- Provide adequate internal queue storage for entry flows.</li> <li>- Optimize traffic signal timings at the E. Rosemary Street and N. Columbia Street intersection</li> <li>- Include an inbound access from North Street and outbound exit (right-turn only) to N. Columbia Street</li> <li>- Include additional wayfinding signage</li> <li>- Include a mid-block pedestrian crosswalk</li> </ul>	
<b>Vehicular Access (Sec. 5.8)</b>	Two points of access from E. Rosemary Street and one point of access to North Street	
<b>Bicycle Improvements (Sec. 5.8)</b>	Bike lanes along E. Rosemary Street will be included as part of the future office building proposed to replace the Wallace Deck.	
<b>Pedestrian Improvements (Sec. 5.8)</b>	Streetscape improvements along E. Rosemary Street frontage including brick pavers and street trees	
<b>Transportation Impact Analysis (Sec. 5.9)</b>	TIA completed	
<b>Vehicular Parking (Sec. 5.9)</b>	<i>Proposed:</i> Up to 1,160 vehicle parking spaces	
<b>Transit (Sec. 5.8)</b>	N/A	
<b>Bicycle Parking (Sec. 5.9)</b>	<i>Required:</i> 6 spaces <i>Proposed:</i> 40 spaces	

<b>Electric Vehicle Parking</b>	<i>Proposed:</i> Minimum of 20 stations with conduit installed for an additional future 20 stations	
<b>Parking Lot Standards (Sec. 5.9)</b>	Built to Town Standards	
<b>Technical</b>		
<b>Fire</b>	Built to Town Standards	
<b>Site Improvements</b>	Parking garage with up to 1,160 parking spaces; Up to 7 parking levels.	
<b>Schools Adequate Public Facilities (Sec. 5.16)</b>	N/A	
<b>Inclusionary Zoning Ordinance (Sec. 3.10)</b>	N/A	
<b>Recreation Area (Sec. 5.5)</b>	N/A	
<b>Lighting Plan (Sec. 5.11)</b>	Built to Town Standards; not to exceed 0.3 foot-candles at property line	
<b>Homeowners Association (Sec. 4.6)</b>	N/A	

### Project Summary Legend

Symbol	Meaning
	Meets Requirements
<b>M</b>	Seeking Modification
<b>FP</b>	Required at Final Plan
<b>NA</b>	Not Applicable