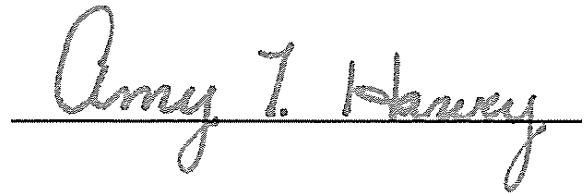


I, Amy T. Harvey, Deputy Town Clerk of the Town of Chapel Hill, North Carolina, hereby certify that the attached is a true and correct copy of (2023-04-26/O-2) enacted as amended by the Chapel Hill Town Council on April 26, 2023.

This the 28th day of April, 2023.



**Amy T. Harvey
Deputy Town Clerk**



REVISED ORDINANCE A
(Approving the Conditional Zoning Application)

AN ORDINANCE AMENDING THE CHAPEL HILL ZONING ATLAS TO REZONE THE PROPERTY LOCATED AT 101 E. ROSEMARY STREET TO TOWN CENTER-3-CONDITIONAL ZONING DISTRICT (TC-3-CZD) (PROJECT #21-056) (2023-04-26/O-2)

WHEREAS, the Council of the Town of Chapel Hill has considered the application for Conditional Zoning submitted by Ballentine Associates, on behalf of Rosemary Chapel Hill Apartments LLC to rezone a 0.7-acre parcel located at 101 E. Rosemary Street on property identified as Orange County Property Identifier Number 9788-37-2791, to allow a multifamily development, and finds that the amendment if enacted, is reasonable and in the public's interest and is warranted to achieve the purposes of the Comprehensive Plan, as explained by, but not limited to, the following goals of the Comprehensive Plan:

- A creative place to live, work, and play because of Chapel Hill's arts and culture (*Goal: A Place for Everyone.2*)
- A range of housing options for current and future residents (*Goal: A Place for Everyone.3*)
- A welcoming and friendly community that provides people with access to opportunities (*Goal: A Place for Everyone.4*)
- A community of high civic engagement and participation (*Goal: A Place for Everyone.5*)
- 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*)
- Promote a safe, vibrant, and connected (physical and person) community (*Goal: Community Prosperity and Engagement.3*)
- A well-conceived and planned, carefully thought-out, integrated, and balanced transportation system that recognizes the importance of automobiles, but encourages and facilitates the growth and use of other means of transportation such as bicycle, pedestrian, and public transportation options (*Goal: Getting Around.1*)
- A connected community that links neighborhoods, businesses and schools through the provision of greenways, sidewalks, bike facilities and public transportation (*Goal: Getting Around.2*)
- Connect to a comprehensive regional transportation system (*Goal: Getting Around.3*)
- Make an adaptable transportation system to support both dense and suburban development (*Goal: Getting Around.4*)
- A transportation system that accommodates transportation needs and demands while mitigating congestion and promoting air quality, sustainability, and energy conservation (*Goal: Getting Around.6*)
- A community that has a parking system based on strategies that support the overall goals of a holistic transportation system (*Goal: Getting Around.8*)
- 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 development decision-making process that provides clarity and consistency with the goals of the Chapel Hill 2020 comprehensive plan (*Goal: Good Places, New Spaces.3*)
- A joint Town/University development strategy that aligns initiatives for transportation, housing, environmental protection, and entrepreneurial programs (*Goal: Good Places, New Spaces.4*)

- A range of neighborhood types that addresses residential, commercial, social, and cultural needs and uses while building and evolving Chapel Hill’s character for residents, visitors, and students (*Goal: Good Places, New Spaces.5*)
- A community that welcomes and supports change and creativity (*Goal: Good Places, New Spaces.6*)
- Open and accessible common spaces for community gathering, cultural uses, and community development (*Goal: Good Places, New Spaces.7*)
- Future land use, form, and density that strengthen the community, social equity, economic prosperity, and natural environment (*Goal: Good Places, New Spaces.8*)
- 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*)
- The University and Town will collaborate to improve downtown parking options that support business, cultural, and academic purposes (*Goal: Town and Gown Collaboration.3*)

WHEREAS, the application, if rezoned to Town Center–3–Conditional Zoning District (TC-3-CZD) according to the rezoning plan dated February 15, 2022, and the conditions listed below would:

- 1) Conform with the applicable provisions of the Land Use Management Ordinance and Town Code
- 2) Conform with the Comprehensive Plan
- 3) Be compatible with adjoining uses
- 4) Mitigate impacts on surrounding properties and the Town as a whole
- 5) Be harmonious with existing and proposed built systems including utility infrastructure, transportation facilities, police and fire coverage, and other public services and facilities
- 6) Be harmonious with natural systems such as hydrology, topography, and other environmental constraints

MODIFICATIONS TO REGULATIONS

WHEREAS, the Council of the Town of Chapel Hill finds, in this particular case, that the proposed development with the following requested modification to regulations satisfies public purposes to an equivalent or greater degree:

Section 3.8.2(g)(2): Dimensional Regulations: Modify the allowed setback building height to 90 feet maximum.

This finding is based on a determination that the public purposes are satisfied to an equivalent or greater degree as the increased height will allow additional residential units to meet the housing needs of downtown.

CONDITIONAL USES

NOW, THEREFORE, BE IT ORDAINED by the Council of the Town of Chapel Hill that it finds, in this particular case, the proposed rezoning with the following uses, subject to the conditions below, satisfies the purposes of Town Center–3–Conditional Zoning (TC-3-CZD).

BE IT FURTHER ORDAINED by the Council of the Town of Chapel Hill that the Chapel Hill Zoning Atlas be amended as follows:

SECTION I

The following Orange County parcel identified by Parcel Identifier Number (PIN) 9788-37-2791, described below, shall be rezoned to Town Center–3–Conditional Zoning District (TC-3-CZD):

BEGINNING at a Set Nail at the northeastern intersection of the right of ways of East Rosemary Street, and North Columbia Street, said Nail having North Carolina State Plane Coordinates (NAD83/2011) of Northing: 787,660.74' Easting: 1,983,361.24': thence with the R/W of North Columbia Street (a 100' wide public R/W) North 24°56'27" West a distance of 198.79 feet to an Existing Iron Pipe on the southwest corner of the property now or formerly owned by Bell Family Properties LLC (PIN# 9788-37-2875 / Book 1950, Page 204); thence with the line of Bell Family Properties LLC North 64°34'23" East a distance of 139.63 feet to an Existing Iron Pipe at the northwest corner of the property now or formerly owned by Franklin Office Chapel Hill LLC (PIN# 9788-37-4748 / Book 6603, Page 282), also see Plat Book 14, Page 141; thence with the line of Franklin Office Chapel Hill LLC South 25°02'56" East a distance of 199.52 feet to a Set Nail on the northern R/W of East Rosemary Street (a 45' wide public right-of-way); thence with the right of way of East Rosemary Street South 64°52'19" West a distance of 140.00 feet to the BEGINNING, containing an area of 27,844 square feet, or 0.64 acres, more or less including to a midpoint on the rights-of-way for East Rosemary Street and North Columbia Street.

SECTION II

The following conditions are hereby incorporated by reference:

1. Expiration of Conditional Zoning Atlas Amendment: An application for Zoning Compliance Permit must be filed by April 26, 2025 (2 years from the date of this approval) or the land shall revert to its previous zoning designation. [LUMO 4.4.7(f)]
2. Consent to Conditions: This approval is not effective until property owner provides written consent to the approval. Written consent must be provided within 10 business days of enactment by the Town Council.
3. Land Use Intensity: This Conditional Zoning Atlas Amendment authorizes the following:

Land Use: Dwelling Units, multifamily over 7 dwelling units Business, Convenience and Business, General	
Gross Land Area	30,628 sq. ft. (0.70 acres)
Maximum Floor Area	119,471 sq. ft.
Maximum Residential Floor Area	117,471 sq. ft.
Minimum Business Use Floor Area	2,000 sq. ft.
Minimum Affordable Dwelling Units	5
Maximum Land Disturbance	32,500 sq. ft. (including off-site)
Minimum Parking Spaces	0 spaces
Minimum Bicycle Parking Spaces	38 spaces

4. Resident Age Restriction: The property owner shall limit tenancy in the building or premises to persons who have reached the age of 22 at the time of occupancy of any unit within the building or premises, provided that nothing herein shall be construed to limit or prevent the owner from (i) leasing or renting a unit to any person who will reach the age of 22 prior to the first anniversary of the effective date of their lease, and (ii) leasing to any other person who otherwise may be unlawfully excluded as a tenant from

being allowed to own or rent a unit at the building or premises in accordance with the federal Fair Housing Act and/or the North Carolina Fair Housing Act (for instance, unlawful discrimination based on pregnancy and/or protected familial status, etc.). Nothing in this condition is intended to be construed to prevent minors, children, or wards between 18-21 years of age of a lessee, from residing in the units with their parent(s) and/or legal guardian(s) who are lessees under a valid lease agreement. The developer will provide an annual report to the Town Manager verifying the ages of tenants.

5. Streetscape Improvements: Prior to issuance of a Zoning Final Inspection, the E. Rosemary Street frontage shall be improved to include brick pavers and street trees.
6. Parking Strategy Plan: Prior to issuance of a Zoning Compliance Permit, the developer and/or owner shall provide a parking plan satisfactory to the Town Manager and that is subject to the Town Manager's approval ("Parking Strategy Plan" or "Plan"). The Parking Strategy Plan shall identify in detail how the parking needs related to the project, including those of the residents, employees, and guests, will be met upon project occupancy and for at least the first ten years thereafter. Among other relevant considerations, the Plan must show how the owner will secure sufficient parking for up to 130 resident vehicles as close in proximity as possible to the project, such as through a long-term parking use agreement between developer/owner and a downtown parking provider, and how the accommodations will not impose undue strain on parking resources in the downtown Chapel Hill area. The Manager may allow or require updates to the Plan at reasonable intervals and may require future parking plans that address project needs beyond the first ten years. It is understood, at the time of approval of this Conditional Zoning, that the owner intends to negotiate with the Town for a multi-year agreement for use of parking spaces in the adjacent municipal parking lot on Rosemary Street. Such an agreement, if approved by the Manager, may serve as part of the approved Parking Strategy Plan if the Manager deems appropriate.
7. Road Improvements: Prior to issuance of a Zoning Final Inspection, road improvements and changes to the proposed plans shall be made in accordance with the Transportation Impact Analysis, including:
 - a) Reverse the internal driveway one-way pattern to allow ingress on N. Columbia Street and egress on E. Rosemary Street.
 - b) Move the service vehicle loading zone further east along the northern building frontage.
8. Affordable Housing Plan/Performance Agreement: The developer shall provide the following:
 - a. Affordable Units: The project will provide 5 units of the project's total units as affordable, resulting in 3.5% of the market rate units being affordable.
 - b. Unit Size: The affordable units will include studio units.
 - c. Location: The affordable units shall be evenly distributed throughout the development.
 - d. Pricing: The affordable units will be reserved for those making 80% or less of the Area Median Income (AMI).
 - i. Maximum rental prices shall be calculated based on 30% of monthly household income at the specified AMI levels, adjusted for household size, minus housing-related costs.
 - ii. Housing-related costs include rent, utilities (heat, water, sewer, electric, and gas) and other fees required by the owner or property manager.

- iii. Maximum housing costs are based on the Area Median Income for the Durham-Chapel Hill, NC HUD Metro Fair Market Rent Area published annually by the U.S. Department of Housing and Urban Development, found at https://www.huduser.gov/portal/datasets/il/il2022/select_Geography.odn.
 - iv. Area median income for a given unit size shall be calculated assuming 1.5 persons per bedroom.
 - e. Phasing: At least fifty percent of the affordable housing shall be completed prior to the Zoning Final Inspection of the first half of the market rate dwelling units. The remaining affordable dwelling units shall be completed prior to Zoning Final Inspection of 90 percent of the market rate dwelling units.
 - f. Affordability Period: The affordable units will be affordable for a period of at least thirty (30) years.
 - g. Design:
 - i. The affordable units will be finished with the same exterior design, trim, materials, and details as the market-rate units.
 - ii. The affordable units will meet the same energy efficiency standards as the market-rate units.
- 9. Affordable Housing Performance Agreement: An affordable housing performance agreement shall be executed between the developer and the Town Manager prior to issuance of a Zoning Compliance Permit for any residential construction.
- 10. Affordable Retail Space: Owner will provide a program satisfactory to the Town manager to provide at least 1500 square feet of retail space at a rental rate between 50 and 65 percent of the market rate of retail property in the downtown Chapel Hill area (off Franklin Street) for a period of 10 years from date of building occupancy.
- 11. Erosion Control Permit: The developer shall provide a copy of the approved erosion and sediment control permit from Orange County prior to receiving Zoning Compliance Permit. During construction phase, additional erosion and sediment controls will be required if the proposed measures do not contain the sediment. Sediments leaving the site is a violation of Town's Erosion and Sediment Control Ordinance. [TOWN CODE CHAPTER 5]
- 12. Performance Bond: Prior to commencing construction activity for improvements in public right-of-way, the developer shall provide a performance bond to the Town to ensure that improvements are in accordance to Town's standards. [TOWN CODE CHAPTER 17]
- 13. Encroachment Agreement: Prior to issuance of a Zoning Compliance Permit, the developer shall provide an encroachment agreement for the connection to a storm drain in the North Carolina Department of Transportation public right-of-way along Columbia Street.

TOWN OF CHAPEL HILL – CONDITIONAL ZONING STANDARD CONDITIONS

Unless modified by the site-specific conditions noted above, these standards apply to all development permitted by a Conditional Zoning Atlas Amendment. The following standard stipulations are supplemental to site-specific conditions as set by Town Council.

Access

14. Accessibility Requirements: Prior to issuance of a Certificate of Occupancy, the developer shall provide the minimum required handicapped infrastructure according to the Americans with Disabilities Act and associated codes and standards.

Transportation

15. Transportation Management Plan: Prior to issuance of a Zoning Compliance Permit, the developer shall submit a Transportation Management Plan, subject to Town Manager approval. The Transportation Management Plan shall include monitoring of electric vehicle parking spaces usage. [LUMO 4.5.2]
16. Bicycle Parking: Prior to issuance of a Zoning Compliance Permit, the developer shall provide dimensioned details that comply with the Town parking standards for required and/or proposed bicycle parking spaces. Bicycle parking spaces should be placed near building entrances. The spaces must comply with the Spring 2010 Association of Pedestrian and Bicycle Professionals Guidelines and the Class I and Class II bicycle parking standards described in the Town Design Manual. [LUMO 4.5.2]
17. Parking Lot: Any newly proposed parking lots, including additions to existing parking lots, shall be constructed to Town standards for dimensions and pavement design. [LUMO 5.9.5]
18. Parking Lot Landscape and Screening: The parking lot landscape design shall adhere to the standards of the Chapel Hill Land Use Management Ordinance. [LUMO 5.9.6]
19. Lighting: Prior to issuance of a Zoning Compliance Permit, the developer shall design and install street lighting along the site frontage. Design and construction details must be approved by the Town Manager and the North Carolina Department of Transportation (NCDOT).
20. Driveway Permit: The developer must obtain an approved driveway permit and/or encroachment agreement(s) prior to beginning any proposed work within the NCDOT right-of-way. As a condition of the permit, the permittee shall be responsible for the design and construction of stipulated improvements in accordance with NCDOT requirements. An approved permit will be issued upon receipt of approved roadway and signal construction plans, inspection fees, and any necessary performance and indemnity bonds.
21. Pavement Markings: Any pavement markings proposed within the public street rights-of-way shall be long life thermoplastic. Pavement markers shall be installed if they previously existed on the roadways.
22. Off-Site Construction Easements: Prior to any development associated land disturbance on abutting properties, the developer shall provide documentation of approval from the affected property owner(s). [LUMO 5.8.1]
23. Sight Distance Triangles: Prior to issuance of a Certificate of Occupancy, the developer shall provide the Town of Chapel Hill with standard sight distance triangles at the proposed driveway locations. [Town Design Manual]
24. Low Vision Design Features: Any proposed pedestrian facilities should incorporate low vision design features as feasible. [LUMO 4.5.2]

25. Repairs in Public Right-of-Way: Prior to issuance of a Certificate of Occupancy, the developer shall repair all damage for work in the public right-of-way related to the construction of this project, which may include pavement milling and overlay. The design of such repairs must be reviewed and approved by the Town Manager and NCDOT prior to issuance of a Zoning Compliance Permit. [Town Code 17-40]
26. Street Closure Plan: Prior to issuance of a Zoning Compliance Permit, the developer shall provide a street closure plan, subject to Town Manager and NCDOT approval, for any work requiring street, sidewalk, or lane closure(s). [Town Code 21-7.1]
27. Work Zone Traffic Control Plan: Prior to issuance of a Zoning Compliance Permit, the developer shall provide a Work Zone Traffic Control Plan and a Construction Management Plan for approval by the Town Manager and NCDOT. The Work Zone Traffic Control Plan shall comply with the U.S. Department of Transportation Manual on Uniform Traffic Control Devices. The Construction Management Plan shall provide staging, construction worker parking, construction vehicle routes, and hours of construction. [Town Code 17-47]

Landscaping and Building Elevations

28. Invasive Exotic Vegetation: Prior to issuance of a Zoning Compliance Permit, the developer shall identify on the planting plan any known invasive exotic species of vegetation, as defined by the Southeast Exotic Pest Plant Council (SE-EPPC), and provide notes indicating removal of these species from the landscape buffer areas prior to planting. [Town Design Manual]
29. Alternate Buffer: Prior to issuance of a Zoning Compliance Permit, review shall be required from the Community Design Commission for any proposed alternate buffer. [LUMO 5.6.8]
30. Landscape Protection: Prior to issuance of a Zoning Compliance Permit, a detailed Landscape Protection Plan shall be approved. The plan shall include a complete and currently updated tree survey showing critical root zones of all rare and specimen trees and labeled according to size and species. The plan shall also indicate which trees will be removed and which will remain. The plan shall also include standard notes, fencing details, and location of fencing. [LUMO 5.7.3]
31. Tree Protection Fencing: Prior to issuance of a Zoning Compliance Permit, the developer shall provide a detail of a tree protection fence and a note on the Final Plans indicating that tree protection fencing will be installed prior to land-disturbing activity on the site. The plans shall include continuous tree protection fencing around construction limits and indicated construction parking and materials staging/storage areas, and Town standard landscaping protection notes, subject to Town Manager approval. [LUMO 5.7.3]
32. Landscape Planting Plan: Prior to issuance of a Zoning Compliance Permit, the developer shall provide a detailed Landscape Planting Plan with a detailed planting list, subject to Town Manager approval. [LUMO 4.5.3]
33. Tree Canopy: A minimum of tree canopy coverage shall be provided through a combination of retained and replanted trees, unless a modification to regulations is approved. Calculations demonstrating compliance with Chapel Hill Land Use Management Ordinance Section 5.7.2 shall be included. [LUMO 5.7.2]

34. Retaining Wall Construction: If applicable, the final design and location of all retaining walls shall be approved by the Town Manager prior to issuance of a Zoning Compliance Permit.
35. Demolition Plan: Prior to beginning any proposed demolition activity, the developer must obtain demolition permits from both the Planning and Inspections departments. While the demolition component may be submitted to Planning in tandem with the Zoning Compliance Permit for new construction, a separate stand-alone demolition permit shall be issued prior to an Inspection's Demolition permit. Further, prior to the issuance of a demolition permit for all existing structures 500 square feet or larger, Orange County Solid Waste staff shall conduct a deconstruction assessment pursuant to the County's Regulated Recyclable Materials Ordinance (RRMO).
36. Lighting Plan Review: Prior to issuance of a Zoning Compliance Permit, the Community Design Commission shall review a lighting plan and shall take additional care during review to ensure that the proposed lighting plan will minimize upward light pollution and off-site spillage of light. [LUMO 8.5.5]
37. Community Design Commission Review: The Community Design Commission shall review the building elevations, including the location and screening of all HVAC/Air Handling Units for the site, prior to issuance of a Zoning Compliance Permit. [LUMO 8.5.5] Within the Town's historic districts, the Historic District Commission will act in place of the Community Design Commission. [LUMO 8.4.6]

Environment

38. Stormwater Management Plan: Development projects must comply with *Section 5.4 Stormwater Management* of the Chapel Hill Land Use Management Ordinance.
39. Phasing Plan: If phasing of the project is proposed, then, prior to issuance of a Zoning Compliance Permit, the developer shall obtain approval of a Phasing Plan that provides details of which improvements are to be constructed during each phase. The Phasing Plan also shall detail which public improvements and stormwater management structures will be completed in each phase prior to requesting a Certificate of Occupancy. Construction for any phase may not begin until all public improvements in previous phases have been completed, with a note to this effect on the final plans and plats. [LUMO 4.5.3]
40. Erosion Control Bond: If one acre or more is to be uncovered by land-disturbing activities for the project, then a performance guarantee in accordance with *Section 5-97.1 Bonds* of the Town Code of Ordinances shall be required prior to final authorization to begin land-disturbing activities. [Town Code 5-98]
41. Silt Control: The developer shall take appropriate measures to prevent and remove the deposit of wet or dry silt on adjacent roadways. [Town Code 5-86]
42. Erosion Control Inspections: In addition to the requirement during construction for inspection after every rainfall, the developer shall inspect the erosion and sediment control devices daily, make any necessary repairs or adjustments to the devices, and maintain inspection logs documenting the daily inspections and any necessary repairs. [Orange County Erosion Control]

43. Curb Inlets: The developer shall provide pre-cast curb inlet hoods and covers stating, "Dump No Waste! Drains to Jordan Lake", in accordance with the specifications of the Town Standard Detail SD-5A, for all new curb inlets for private, Town and State rights-of-way. [Town of Chapel Hill Design Manual]
44. On-Site/Adjacent Stormwater Features: The final plans shall locate and identify existing site conditions, including all on-site and adjacent stormwater drainage features, prior to issuance of a Zoning Compliance Permit. The final plans must provide proper inlet protection for the stormwater drainage inlets on or adjacent to the site to ensure the stormwater drainage system will not be obstructed with construction debris. [Town of Chapel Hill Design Manual]
45. Repair/Replacement of Damaged Stormwater Infrastructure: Existing stormwater infrastructure that is damaged as a result of the project demolition or construction must be repaired or replaced, as specified by the Stormwater Management Engineer, prior to requesting a Certificate of Occupancy. [Town Design Manual Chapter 10]
46. Energy Efficiency: Prior to issuance of a Zoning Compliance Permit, an energy efficiency plan shall incorporate a "20 percent more energy efficient" feature relative to the 90.1 energy efficiency standard of the American Society of Heating, Refrigeration, and Air Conditioning Engineers (ASHRAE), as amended and in effect at the time of Special Use Permit issuance. Comparable standards generally recognized as applicable to building energy consumption, as amended and in effect at the time of building permit issuance, may be used by the developer when incorporating the "20 percent more energy efficient" feature into the final plans. An energy model should be used to demonstrate that the design will meet the aforementioned energy performance target. [Town Policy April 2007]
47. Energy Management Plan: Prior to issuance of a Zoning Compliance Permit, the developer shall submit an Energy Management Plan (EMP) for Town approval. The plan shall: a) consider utilizing sustainable energy, currently defined as solar, wind, geothermal, biofuels, hydroelectric power; b) consider purchase of carbon offset credits and green power production through coordination with the NC GreenPower program; c) provide for 20 percent more efficiency that also ensures indoor air quality and adequate access to natural lighting, and allows for the proposed utilization of sustainable energy in the project; and (d) if requested, provide for the property owner to report to the Town of Chapel Hill the actual energy performance of the plan, as implemented, during the period ending one year after occupancy. [Town Policy April 2007]

Recreation

48. Recreation Space (Multi-Family): A minimum of 25 percent of the required Recreation Space for the project shall be provided in the form of a payment in lieu. The payment in lieu shall be paid prior to the issuance of a Zoning Compliance Permit.

Water, Sewer, and Other Utilities

49. Utility/Lighting Plan Approval: The final utility/lighting plan shall be approved by Orange Water and Sewer Authority (OWASA), Duke Energy Company, other applicable local utility service providers, and the Town Manager before issuance of a Zoning Compliance Permit. The developer shall be responsible for assuring that these utilities can continue to serve the development. In addition, detailed construction drawings shall be submitted

to OWASA for review/approval prior to issuance of a Zoning Compliance Permit. [LUMO 4.5.3]

50. Lighting Plan: Prior to issuance of a Zoning Compliance Permit, the developer shall submit site plans, sealed by a Professional Engineer, for Town Manager approval, as well as other required documents to satisfy the lighting requirements of Section 5.11 of the Land Use Management Ordinance including: submission of a lighting plan; providing for adequate lighting on public sidewalks, including driveway crossings; and demonstrating compliance with Town standards. [LUMO 5.11]
51. Relocation of Overhead Utilities Underground: Prior to issuance of a Certificate of Occupancy, the developer will install underground all public utilities that are currently located overhead on the site except for 3 phase or greater electric lines. [LUMO 5.12.2]
52. Water/Sewer Line Construction: All public water and sewer plans shall be approved by and constructed according to OWASA standards. Where sewer lines are located beneath drive aisles and parking areas, construction methods approved by OWASA shall be employed to ensure that sewer lines will not be damaged by heavy service vehicles. [LUMO 5.12.1]
53. OWASA Approval: Prior to issuance of a Zoning Compliance Permit, any easement plats and documentation as required by OWASA and the Town Manager shall be recorded. [LUMO 5.12]
54. Irrigation: If permanent irrigation is proposed to support landscaping, an irrigation plan shall be submitted which includes the use of smart technologies to conserve water and energy.

Fire Safety

55. Fire Sprinklers: The developer shall install sprinklers under the North Carolina Fire Protection Code (NC FPC) prior to issuance of a Certificate of Occupancy. Prior to issuance of a Zoning Compliance Permit, the plans shall show all proposed fire department connections to such systems. [TOWN CODE 7-56]
56. Gates and Barricades: Where required or authorized by the fire code official and permanent or temporary (construction), any gates across fire apparatus access roads shall be a minimum width of 20 feet, be of swinging or sliding type, have an emergency means of operation, shall be openable by either forcible entry or keyed, capable of being operated by one person, and shall be installed and maintained according to UL 325 and ASTM F 2200. [NC FPC 2018, 503.5, 503.6, D103.5]
57. Grade and Approach: Fire apparatus access roads shall not exceed 10 percent in grade unless approved by the fire chief, and all approach and departure angles shall be within the limits established based on the Fire Department's apparatus. [NC FPC -2018, 503.2.7, 503.2.8 and D103.2]
58. Fire Protection and Utility Plan: A fire flow report for hydrants within 500 feet of each building shall be provided and demonstrate the calculated gallons per minute with a residual pressure of 20 pounds per square inch. The calculations should be sealed by a professional engineer licensed in the State of North Carolina and accompanied by a water supply flow test conducted within one year of the submittal. Refer to the Town Design Manual for required gallons per minute.

59. Fire Department Connections and Standpipes: When the building being constructed requires standpipes, a temporary standpipe connection will be constructed with ready Fire Department Access when the building is not more than 40 feet in height. Such standpipes shall provide usable connections adjacent to the stairs and shall continue with building progression always being not more than one floor below the highest floor of the building. [NC FPC 912 & NC FPC 2018 3313]
60. Fire Command Center: Where required in the North Carolina Fire Protection Code and in all high rise buildings, a fire command center must be constructed in accordance with Section 508, NC FPC 2018.
61. Aerials: Where a building exceeds 30 feet in height OR 3 stories above the lowest level of Fire Department Access, overhead power and utility lines shall not be allowed within the aerial apparatus access roadway and the roadway shall have an unobstructed width of 26 feet exclusive of the shoulders. At least one of the apparatus access roadways shall be located within a minimum of 15 feet and maximum of 30 feet from one complete side of the building. [NC FPC 2018 D105.1, D105.2, D105.3, D105.4]
62. Fire Apparatus Access Road: Any fire apparatus access roads (any public/private street, parking lot access, fire lanes and access roadways) used for fire department access shall be all-weather and designed to carry the imposed load of fire apparatus weighing at least 80,000 lbs. Fire apparatus access roads shall have a minimum width of 20 feet exclusive of shoulders with an overhead clearance of at least 13 feet 6 inches for structures not exceeding 30 feet in height and shall provide access to within 150 feet of all exterior portions of the building. Structures exceeding 30 feet in height shall be provided with an aerial apparatus access road 26 feet in width in the immediate vicinity of the building or portion thereof and shall provide at least one of the required access roads to be located not less than 15 feet and not more than 30 feet from the structure parallel to one entire side of the structure. [NC FPC 2018 502.1, 503.1.1, 503.2.1, D102.1 SECOND ACCESS DEPENDENT UPON NORTH CAROLINA DEPARTMENT OF TRANSPORTATION DOT APPROVAL]
63. Dead End Access Roads: Dead end fire apparatus access roads exceeding 150 feet shall have a designated turn around. The turnaround shall meet one of the design standards of NC FPC 2018, Appendix D table D 103.4.
64. Building Height: Buildings exceeding 30 feet or three stories in height must have at least two means of fire apparatus access separated by at least one half the diagonal distance of the building. [NC FPC 2018, D104.1, D104.3 DEPENDENT UPON NORTH CAROLINA DEPARTMENT OF TRANSPORTATION DOT APPROVAL]
65. Fire Access: Prior to issuance of a Certificate of Occupancy, fire access shall be reviewed and approved by the Town of Chapel Hill.
66. Fire Apparatus Access Road Authority: The fire code official shall have the authority to increase the minimum access widths where they are deemed inadequate for fire and rescue operations. [NC FPC 2018 503.2.2]
67. Hydrants Active: The developer shall provide active fire hydrant coverage, acceptable to the Fire Department, for any areas where combustible construction materials will be stored or installed, prior to having such materials delivered to the site. All required fire hydrants must be installed, active, and accessible for the Fire Department use prior to

the arrival of combustible materials on site. Fire protection systems shall be installed according to Town Ordinance, the NC Fire Protection Code, and National Fire Protection Association Standard #13. [NC Fire Protection Code 2018 Section 501.1 & 3312]

68. Fire Hydrant and FDC Locations: The Final Plans shall indicate the locations of existing and proposed fire hydrants and Fire Department Connections (FDC). Fire Department Connections shall be located on the street side of the building within 100 feet of a hydrant. Hydrant spacing shall comply with the Town Design Manual. Design shall be reviewed and approved by the Town Manager prior to issuance of a Zoning Compliance Permit. [NC FPC 2018 Section 501.5.1.1]
69. Firefighting Access During Construction: Vehicle access for firefighting shall be provided to all construction or demolition sites including vehicle access to within 100 feet of temporary or permanent fire department connections and hydrants. Vehicle access shall be provided by either temporary or permanent roads capable of supporting vehicle loading under all weather conditions. [NC FPC 2018, Section 3310.1]
70. Premise Identification: Approved building address numbers, placed in a position acceptable to the fire code official, shall be required on all new buildings. [NC FPC 2018, 505.1]
71. Key Boxes: Where required by the fire code official, a secure key box, mounted on the address side of the building, near the main entrance, shall be provided to ensure adequate access to the building based on life safety and/or fire protection needs. [NC FPC 2018, 506]
72. Automatic Fire Sprinkler System Required: An automatic fire sprinkler system meeting the requirements of NFPA Standard #13 and Town Code 7-56 is required to be installed in non-residential construction.
73. Fire Department Connections, Locations: Any required FDCs for any buildings shall meet the design and installation requirements for the current, approved edition of NFPA 13, 13D, 13R, or 14 of the NC FPC 2018 and Town Code 7-38 for location. FDCs shall be installed within 100 feet of a hydrant or unless otherwise approved by the fire code official and shall not be obstructed or hindered by parking or landscaping. FDCs shall be equipped with National Standard Thread (NST) and be a 2.5" siamese.
74. Fire Department Connections, Installation: A working space of not less than 36 inches in width and depth and a working space of 78 inches in height shall be provided on all sides with the exception of wall mounted FDCs unless otherwise approved by the fire code official. The FDCs where required must be physically protected from impacts by an approved barrier. [NC FPC 2018, 912.1, 912.2 912.2.1, 312]
75. Fire Apparatus Access for Chapel Hill Fire Department: All fire department access determinations shall be based upon Chapel Hill Fire Department apparatus specifications (data specifications provided by Office of the Fire Marshal/Life Safety Division) and field verification. All proposed fire department access designs shall be reviewed and shall also pass field inspection.
76. Fire Flow Report: The Final Plan application shall include a fire flow report sealed by an Engineer registered in the State of North Carolina. An OWASA flow test must be provided with the report. Fire flow shall meet the 20 psi or exceed the requirements set forth in the Town Design Manual. The Fire Flow Report shall be reviewed and approved

by the Town Manager prior to issuance of a Zoning Compliance Permit. [Town Design Manual]

77. Fire Lane: Prior to issuance of a Certificate of Occupancy, any fire lane shall be marked and signed in accordance with Town standards, with the associated plans approved by the Town Manager prior to issuance of a Zoning Compliance Permit. [NC FPC, Sections 2018 503.3, D103.6, D103.6.1, D103.2]
78. Emergency Responder Radio Coverage in New Buildings: All new buildings shall have approved radio coverage for emergency responders within the building based upon the existing coverage levels of the public safety communication systems of the jurisdiction at the exterior of the building. This section shall not require improvement of the existing public safety communication systems. [NC FPC 2018 Section 510.1]

Solid Waste Management and Recycling

79. Solid Waste Management Plan: Prior to issuance of a Zoning Compliance Permit, a detailed Solid Waste Management Plan, including a recycling plan and a plan for managing and minimizing construction debris, shall be approved by the Town Manager and Orange County Solid Waste (OCSW). The plan shall include dimensioned, scaled details of any proposed refuse/recycling collection areas, associated screening, and protective bollards, if applicable. Each bulk waste container shall be labeled as to type of material to be collected. If a refuse compactor is proposed or if the collection enclosure is not accessible by Town vehicles, the developer shall provide documentation of an agreement for solid waste collection by a private provider prior to issuance of a Zoning Compliance Permit. [Orange County Solid Waste]
80. Construction Waste: Clean wood waste, scrap metal and corrugated cardboard (Regulated Recyclable Materials), all present in construction waste, must be recycled. All haulers of construction waste containing Regulated Recyclable Materials must be properly licensed with Orange County Solid Waste. The developer shall provide the name of the permitted waste disposal facility to which any land clearing or demolition waste will be delivered. [Orange County Solid Waste]
81. Deconstruction Assessment: For any existing structure 500 square feet or larger a deconstruction assessment shall be conducted by OCSW staff prior to the issuance of a demolition permit pursuant to the County's Regulated Recyclable Materials Ordinance (RRMO). Prior to any demolition or construction activity on the site, the developer shall hold a pre-demolition/pre-construction conference with Solid Waste staff. This may be held at the same pre-construction meeting held with other development/enforcement officials.

State and Federal Approvals

82. State or Federal Approvals: Any required State or federal permits or encroachment agreements (e.g., 401 water quality certification, 404 permit) shall be approved and copies of the approved permits and agreements be submitted to the Town of Chapel Hill prior to the issuance of a Zoning Compliance Permit. [NC State; Federal Permits]
83. North Carolina Department of Transportation Approvals: Prior to issuance of a Zoning Compliance Permit, plans for any improvements to State-maintained roads or in associated rights-of-way shall be approved by NCDOT. [NC Department of Transportation]

Miscellaneous

84. Construction Management Plan: A Construction Management Plan shall be approved by the Town Manager prior to issuance of a Zoning Compliance Permit. The construction management plan shall: 1) indicate how construction vehicle traffic will be managed, 2) identify parking areas for on-site construction workers including plans to prohibit parking in residential neighborhoods, 3) indicate construction staging and material storage areas, 4) identify construction trailers and other associated temporary construction management structures, and 5) indicate how the project construction will comply with the Town's Noise Ordinance. [Town Design Manual Chapter 10]
85. Traffic and Pedestrian Control Plan: The developer shall provide a Work Zone Traffic Control Plan for movement of motorized and non-motorized vehicles on any public street that will be disrupted during construction. The plan must include a pedestrian management plan indicating how pedestrian movements will be safely maintained. The plan must be reviewed and approved by the Town Manager prior to the issuance of a Zoning Compliance Permit. At least 5 working days prior to any proposed lane or street closure the developer must apply to the Town Manager for a lane or street closure permit. [Town Code 17-42]
86. Construction Sign Required: The developer shall post a construction sign at the development site that lists the property owner's representative and telephone number, the contractor's representative and telephone number, and a telephone number for regulatory information at the time of issuance of a Building Permit, prior to the commencement of any land disturbing activities. The construction sign may have a maximum of 32 square feet of display area and maximum height of 8 feet. The sign shall be non-illuminated, and shall consist of light letters on a dark background. Prior to the issuance of a Zoning Compliance Permit, a detail of the sign shall be reviewed and approved by the Town Manager. [LUMO 5.14.4]
87. Schools Adequate Public Facilities Ordinance: If applicable, the developer shall provide the necessary Certificates of Adequacy of Public Schools or an exemption prior to issuance of a Zoning Compliance Permit. [LUMO 5.16]
88. Open Burning: The open burning of trees, limbs, stumps, and construction debris associated with site development is prohibited. [Town Code 7-7]
89. Detailed Plans: Prior to the issuance of a Zoning Compliance Permit, final detailed site plans, grading plans, utility/lighting plans, stormwater management plans (with hydrologic calculations), landscape plans, and landscape maintenance plans shall be approved by the Town Manager. Such plans shall conform to plans approved by this application and demonstrate compliance with all applicable regulations and the design standards of the Chapel Hill Land Use Management Ordinance and the Design Manual. [LUMO 4.5.3]
90. Certificates of Occupancy: No Certificates of Occupancy shall be issued until all required public improvements are complete. A note to this effect shall be placed on the final plats.

If the Town Manager approves a phasing plan, no Certificates of Occupancy shall be issued for a phase until all required public improvements for that phase are complete, and no Building Permits for any phase shall be issued until all public improvements

required in previous phases are completed to a point adjacent to the new phase. A note to this effect shall be placed on the final plats.

91. Traffic Signs: The developer shall be responsible for placement and maintenance of temporary regulatory signs before issuance of any Certificates of Occupancy.
92. New Street Names and Numbers: The name of the development and its streets and house/building numbers shall be approved by the Town Manager prior to issuance of a Zoning Compliance Permit.
93. As-Built Plans: Prior to the issuance of a Certificate of Occupancy, the developer shall provide certified as-built plans for building footprints, parking lots, street improvements, storm drainage systems and stormwater management structures, and all other impervious surfaces, and a tally of the constructed impervious area. The as-built plans should be in DXF binary format using State plane coordinates and NAVD 88. [Town Design Manual Chapter 10]
94. Vested Right: This Special Use Permit or Special Use Permit Modification constitutes a site specific development plan (and is defined as such in the Chapel Hill Land Use Management Ordinance) establishing a vested right as provided by N.C.G.S. Section 160D-108.1 and the Chapel Hill Land Use Management Ordinance. During the period of vesting this permit may be subject to subsequent changes to Town regulations to the extent such regulations have been enacted under authority other than the Town's zoning authority.
95. Continued Validity: Continued validity and effectiveness of this approval shall be expressly conditioned on the continued compliance with the plans and conditions listed above.
96. Non-Severability: If any of the above conditions is held to be invalid, approval in its entirety shall be void.
97. Not-Comprehensive: The listing of these standard stipulations, and the specific stipulations applicable to this Permit, is not intended to be comprehensive and does not exclude other state and local laws and regulations which may be applicable to this Permit and development project.

BE IT FURTHER ORDAINED that the Council hereby approves the application for an amendment of the Chapel Hill Zoning Atlas to rezone the property located at 101 E. Rosemary Street to Town Center-3-Conditional Zoning District (TC-3-CZD).

This the 26th day of April, 2023.



April 28, 2023

Ms. Judy Johnson
Planning Department
Town of Chapel Hill
405 Martin Luther King Jr. Boulevard
Chapel Hill, North Carolina 27514

Re: 101 E. Rosemary – Consent to Conditions

Dear Ms. Johnson,

Please accept this letter as a formal consent to the conditions listed in the Revised Ordinance A for the rezoning of property located at 101 E. Rosemary dated April 26, 2023. We hereby accept the conditions as written.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Megan Slocum', with a long horizontal flourish extending to the right.

Megan Slocum
Executive Managing Director
Rosemary Chapel Hill Apartments, LLC

By: Grubb Fund Management, LLC, a North Carolina limited liability company, its Manager

By: Grubb Management, LLC, a North Carolina limited liability company, its Manager

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CARY 117 Edinburgh S Drive, Cary, NC 27511 T. 919 461 3950 F. 919 461 3939

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