



OPEN THE EVIDENTIARY HEARING FOR AN APPLICATION FOR SPECIAL USE PERMIT MODIFICATION FOR 1507 & 1509 E. FRANKLIN STREET (PROJECT 18-104)

SUMMARY REPORT

TOWN OF CHAPEL HILL PLANNING DEPARTMENT
 Britany Waddell, Director
 Judy Johnson, Assistant Director
 Tas Lago, Senior Planner

PROPERTY ADDRESS	MEETING DATE	APPLICANT
1509 E. Franklin Street	February 22, 2023	Peter Turner, on behalf of owner 1507 E. Franklin St LLC

STAFF RECOMMENDATION

That the Council 1) open the evidentiary hearing; 2) receive evidence; 3) recess the evidentiary hearing to March 22, 2023.

Following the implementation of NCGS Chapter 160D, advisory boards conducted preliminary forums and transmitted comments and recommendation to the applicant. No comments or recommendations from advisory boards may be shared with Council as part of a quasi-judicial proceeding.

PROCESS

A Special Use Permit (SUP) is a quasi-judicial development decision. It requires an evidentiary hearing during which Council gathers evidence and establishes facts of the project.

Council must make **four findings** to approve a SUP, which indicate that the use or development:

1. is located, designed, and proposed to be operated so as to maintain or promote the public health, safety, and general welfare;
2. complies with all required regulations and standards of the Land Use Management Ordinance;
3. is located, designed, and proposed to be operated so as to maintain or enhance the value of contiguous property, or that the use or development is a public necessity; and
4. conforms to the general plans for the physical development of the Town as embodied in the Land Use Management Ordinance and in the Comprehensive Plan.

Prior to Council review of an SUP application, advisory boards held informal **preliminary forums** to review and discuss the project with the applicant. No comments or recommendations from advisory boards, including the planning commission, may be made part of the evidentiary record. (see North Carolina General Statutes § 160D-301(b), § 160D-406).

ATTACHMENTS

1. Technical Report and Project Fact Sheet
2. Draft Staff Presentation
3. Resolution A (Approving the SUP Application)
4. Resolution B (Denying the Request)
5. Applicant Materials
6. Submitted Plans
7. Applicant Draft Presentation
8. Prior SUP Documents

DECISION POINTS

The proposed development requests the following modifications to the existing SUP:

1. Allow the addition of a drive-in window to the existing restaurant as a special use;
2. As part of the approval of the new special use, reduce the minimum parking requirement from 43 spaces (per the existing SUP) to 37 spaces.

PROJECT OVERVIEW

The applicant proposes to add a drive-through window and associated traffic management features to the existing restaurant on E. Franklin Street. A drive-in window is permitted as a special use in properties zoned Community Commercial (CC) according to [Section 3.7](#) of the Land Use Management Ordinance (LUMO). The property is zoned Community Commercial (CC).

The property is subject to a SUP that was originally granted in 1975 and modified by Council action in 1983. A minor modification to the SUP was subsequently approved by staff in 2015. This approval would modify the SUP to include a drive-in window as an allowed use and lower the required number of off-street parking spaces for the site.

PROJECT LOCATION





TECHNICAL REPORT

Project Overview

The applicant proposes modifying the current Special Use Permit for the site to add a drive-in window and associated traffic management features to the existing restaurant. More details about the proposed development are in the applicant's narrative and statement of justification in the Application Materials.

SITE CONTEXT

Staff have identified the following physical and regulatory characteristics of the land which are relevant to consideration of a Special Use Permit Application:

- The property is zoned Community Commercial (CC). The Community Commercial (CC) zoning district is intended to provide for the development of high-intensity commercial and service centers that service community-wide or regional commercial and service needs.
- A restaurant has operated on the site since 2017. The site is also shared by a Sherwin Williams store.
- As identified in the Future Land Use Map (FLUM), the site is in the North 15-501 Corridor Focus Area (Sub-Area E).
- The site does not appear to have any hydrological features.
- The site is comprised of mostly impervious area, and the proposed development would slightly reduce the amount of impervious surface.
- The site has street frontage on E. Franklin Street, an arterial road maintained by the NC Department of Transportation (NCDOT).

PROPOSED MODIFICATIONS TO REGULATIONS

Section 5.9.7 Minimum and Maximum Off-Street Parking Requirements (Vehicular Parking): The applicant proposes to modify the minimum vehicular parking requirement as follows:

Use	Minimum Vehicular Parking
Business Convenience Restaurant (2,408 SF)	22 spaces required (1 per 110 SF)
Business, general (8,420 SF)	28 spaces required (1 per 300 SF)
Total Required Spaces per LUMO	50 spaces
Total Current Spaces*	43 spaces
Total Proposed Spaces	37 spaces






*In compliance with terms of existing Special Use Permit

Staff Comment: Staff believes Council can find a public purpose in reducing the minimum parking requirement because the addition of a drive-through window is expected to reduce demand for off-street parking on the site.

CONSISTENCY WITH THE COMPREHENSIVE PLAN AND OTHER DOCUMENTS

Town staff have reviewed this application for compliance with the themes from the [2020 Comprehensive Plan](#)¹, the standards of the [Land Use Management Ordinance](#)², and the [Town of Chapel Hill, NC : Design Manual and Standard Details](#)³.

Comprehensive Plan Themes:

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

The applicant asserts that the proposed project is consistent with the Comprehensive Plan themes indicated above.

FLUM

- The project is in the North 15-501 Corridor, Sub-Area E (transitional area).
- Primary uses noted as applicable for this area are multifamily, shops and offices; commercial/office; and parks and green/gathering space.
- Typical Height in the transitional area of Sub-Area E is up to 4 stories.

¹ <http://www.townofchapelhill.org/home/showdocument?id=15001>

² https://www.municode.com/library/#!/nc/chapel_hill/codes/code_of_ordinances?nodeId=CO_APXALAUSMA

³ <http://www.townofchapelhill.org/town-hall/departments-services/public-works/engineering/design-manual-and-standard-details>

Mobility and Connectivity Plan

- A multi-use has been installed along the frontage of this property.

Parks Comprehensive Plan

- No opportunities were noted for this site.

Greenways Master Plan

- No opportunities were noted for this site.

Chapel Hill Bike Plan

- Mapping of future bike facilities in the Bike Plan is superseded by the Mobility and Connectivity Plan. The Bike Plan provides some additional detail on facility design.

Stormwater Management Master Plan

- The site is in the Lower Booker Creek Subwatershed. The applicant should coordinate with Chapel Hill's Stormwater Management Division to understand relevant stormwater considerations.

FINDINGS OF FACT

To establish and maintain sound, stable, and desirable development within the planning jurisdiction of the Town and ensure that Special Use Permits (SUP) demonstrate a high quality of overall site and building design, the Council must make the following findings of fact (as stated in LUMO Section 4.5) prior to approving a SUP:

- 1) Finding #1:** That the use or development is located, designed, and proposed to be operated so as to maintain or promote the public health, safety, and general welfare;
- 2) Finding #2:** That the use or development complies with all required regulations and standards of this chapter, including all applicable provisions of articles 3 and 5, the applicable specific standards contained in the supplemental use regulations (article 6), and with all other applicable regulations;
- 3) Finding #3:** That the use or development is located, designed, and proposed to be operated so as to maintain or enhance the value of contiguous property, or that the use or development is a public necessity; and
- 4) Finding #4:** That the use or development conforms with the general plans for the physical development of the town as embodied in this appendix and in the comprehensive plan.

All information submitted at the public evidentiary hearing will be included in the record of the hearing.



PROJECT FACT SHEET


Project Details

Site Description	
Project Name	1507 & 1509 E. Rosemary Street
Address	1509 E. Franklin Street
Property Size (GLA)	73,825 SF (1.69 acres)
Existing Uses	Business-general and business-convenience restaurant
Orange County Parcel Identifier Numbers	9789-93-9745
Existing Zoning	Community Commercial (CC)


Site Development Standards

Topic	Comment	Status
Use/Density (Sec 3.7)	Drive-in window for existing business-convenience restaurant	
Dimensional Standards (Sec. 3.8)	Complies with LUMO Section 3.8; Dimensional standards (setbacks) only apply to exterior property lines; Building Height complies	
Floor area (Sec. 3.8)	<i>Maximum:</i> 31,670 sq. ft. <i>Current:</i> 10,828 sq. ft. (no new floor area is proposed)	
Inclusionary Zoning (Sec. 3.10)	Not applicable	NA
Landscape		
Buffer – North (Sec. 5.6.2)	<i>Required:</i> 20 ft. Type C <i>Existing:</i> 20 ft. Type C Alternate No changes to existing buffers are proposed.	
Buffer – East (Sec. 5.6.2)	<i>Required:</i> 10 ft. Landscaped Planting Strip (Per existing SUP) <i>Existing:</i> 20 ft. Type C Alternate No changes to existing buffers are proposed.	
Buffer – South (Sec. 5.6.2)	<i>Required:</i> 10 ft. Type B <i>Existing:</i> 10 ft. Type B No changes to existing buffers are proposed.	
Buffer - West (Sec. 5.6.2)	<i>Required:</i> 20 ft. Type C <i>Existing:</i> 20 ft. Type C Alternate No changes to existing buffers are proposed.	
Tree Canopy (Sec. 5.7)	<i>Required:</i> 13,467 SF (30% of NLA) <i>Proposed:</i> 20,020 SF	
Parking Landscape Standards (Sec. 5.9.6)	Application must comply at final plans	

Environment		
Resource Conservation District (Sec. 3.6)	No Resource Conservation District on-site	N/A
Erosion Control (Sec. 5.3.1)	Required prior to issuance of Zoning Compliance Permit	FP
Steep Slopes (Sec. 5.3.2)	No disturbance of steep slopes is proposed	
Stormwater Management (Sec. 5.4)	Application will comply with LUMO Sec. 5.4	
Land Disturbance	8,253 sq. ft. (0.19 acres)	
Impervious Surface (Sec. 3.8)	<i>Maximum:</i> 51,678 sq. ft. (70%) <i>Proposed:</i> 38,987 sq. ft. (53%)	
Solid Waste & Recycling	Application must comply at final plans	FP
Jordan Riparian Buffer (Sec. 5.18)	No Jordan Buffer on-site	
Access and Circulation		
Traffic Impact Analysis (Sec. 5.9)	TIA Exemption granted	
Road Improvements (Sec. 5.8)	No roadway improvements are required.	
Vehicular Access (Sec. 5.8)	Vehicles will access the drive-in window via the northern driveway and exit via the southern driveway. Applicant will coordinate with NCDOT and Town to install appropriate signage to discourage vehicles from queueing on E. Franklin Street.	
Bicycle Improvements (Sec. 5.8)	No bicycle improvements are required.	
Pedestrian Improvements (Sec. 5.8)	No pedestrian improvements are required.	
Transit (Sec. 5.8)	No transit improvements proposed.	
Vehicular Parking (Sec. 5.9)	<i>Minimum required:</i> 50 spaces <i>Maximum allowed:</i> 74 spaces <i>Existing:</i> 43 spaces Proposed: 37 spaces	M
Bicycle Parking (Sec. 5.9)	<i>Minimum required:</i> 20 spaces <i>Proposed:</i> 20 spaces (9 existing and 11 new)	
Parking Design Standards (Sec. 5.9.5)	Project must comply at final plans .	

Loading Space Requirements (Sec. 5.9)	Project must comply at final plans .	
Technical		
Fire	Project must comply at final plans.	FP
Recreation Area (Sec. 5.5)	Not applicable	NA
Lighting Plan (Sec. 5.11)	Project must comply at final plans.	FP
Homeowners Association (Sec. 4.6)	Not applicable	NA
Adequate Public Schools (Sec. 5.16)	Not applicable	NA

Project Summary Legend

Symbol	Meaning
	Meets Requirements
M	Seeking Modification
C	Requires Council Endorsement
FP	Required at Final Plan
NA	Not applicable