



REOPEN THE LEGISLATIVE HEARING FOR A CONDITIONAL ZONING APPLICATION FOR 101 E. ROSEMARY STREET FROM TOWN CENTER-2 (TC-2) TO TOWN CENTER-3-CONDITIONAL ZONING DISTRICT (TC-3-CONDITIONAL ZONING DISTRICT)

SUMMARY REPORT

TOWN OF CHAPEL HILL PLANNING DEPARTMENT
 Britany Waddell, Director
 Judy Johnson, Assistant Director

<p>PROPERTY ADDRESS 101 E. Rosemary Street</p>	<p>MEETING DATE March 8, 2023</p>	<p>APPLICANT George Retschle, Ballentine Associates on behalf Rosemary Chapel Hill Apartments LLC</p>
<p>STAFF RECOMMENDATION</p> <p>That the Council reopen the legislative hearing, receive comments on the Conditional Zoning Ordinance, and continue the hearing to April 19, 2023. Please see the attached revisions and technical report describing updates on the application.</p>		
<p>UPDATES SINCE THE JUNE 15, 2022 LEGISLATIVE HEARING</p> <p>At the June 15, 2022 hearing, several key discussion items were addressed: street activation, affordable housing and/or commercial spaces, tenant age restriction, building height, and parking strategy plan. We anticipate the applicant will provide additional information as part of their presentation this evening.</p>		
<p>ZONING</p> <p>Existing: Town Center-2 (TC-2) Proposed: Town Center-3-Conditional Zoning District (TC-3-CZD)</p>	<p>DECISION POINTS</p> <p>The applicant requests the following modification to regulations:</p> <ul style="list-style-type: none"> • Increase the maximum setback height from 44 feet to 90 feet. <p>Conditions have been included in Revised Ordinance A for a parking strategy plan as well as requiring tenants to be a minimum of 22 years old.</p>	
<p>PROCESS</p> <p>Conditional zoning is a legislative process that allows Town Council to review the rezoning application for consistency with the Land Use Plan in the Comprehensive Plan and establish standards that address any impacts on surrounding properties.</p>	<p>PROJECT LOCATION</p>	
<p>PROJECT OVERVIEW</p> <p>This project proposes to demolish the existing vacant former PNC Bank building located at the intersection of Columbia Street and Rosemary Street, and construct a new, seven-story apartment building with approximately 150 dwelling units. The building will also include resident amenities and a commercial space on the ground floor.</p> <p>The applicant proposes providing no parking on site as part of this application. The applicant proposes to meet the parking need by entering into contractual parking arrangements with other owners in the downtown area, which could include the Town of Chapel Hill. A limited scope Transportation Impact Analysis was completed for the project and included the following recommendations:</p> <ul style="list-style-type: none"> • Reverse the internal driveway one-way pattern to allow ingress on N. Columbia Street and egress on E. Rosemary Street. • Move the service vehicle loading zone further east along the northern building frontage. 		
<p>ATTACHMENTS</p>	<ol style="list-style-type: none"> 1. Technical Report/Project Fact Sheet 2. Draft Staff Presentation 3. Resolution A, Resolution of Reasonableness and Consistency 4. Revised Ordinance A (Approving the Application) 5. Resolution B (Denying the Application) 6. Applicant Materials 7. Applicant's Draft Presentation 	



TECHNICAL REPORT

KEY CONSIDERATIONS

Updates since the April 27, 2022 and June 15, 2022 Hearings:

At the hearings, Council members raised several topics for additional consideration including:

- Street activation,
- Affordable housing and commercial spaces,
- Tenant age restriction,
- Building height,
- Parking strategy plan.

Street Activation:

The Downtown Focus Area within the Council-adopted [Future Land Use Map \(FLUM\)](#)¹ defines activated street frontages as the following:

"Activated street frontages are frontages where there is an active visual engagement between those in the street and those on the ground floors of buildings or in civic spaces, with no off-street parking between the street frontage and the building/civic space, and lively internal uses visible and accessible from the activated space. In some cases, active street frontages may mean that retail and services should be allowed on the first floor within residential character types. Active frontages may also be encouraged along future connections including multi-modal ones, which includes pedestrian/bicycle facilities as well as greenways. When creating active frontages, it must be recognized that appropriate activation will differ by place and circumstance." (page 52)

The developer is proposing new options to further activate the street frontage in addition to the building's siting and will provide more information at the Council meeting. In their draft presentation, the developer indicates the following adjustments to their internal programming to facilitate an active street frontage:

- Relocating the cycle center from E. Rosemary Street to N. Columbia Street to be adjacent to the planned Bus Rapid Transit (BRT) stop;
- Placing the leasing and amenity space on the corner of N. Columbia and E. Rosemary Streets;
- Relocating the club house and fitness amenities to front on the internal courtyard;
- Locating bike and scooter parking off of E. Rosemary Street;
- Applying a consistent sidewalk width along E. Rosemary Street similar to the current sidewalk width; and
- Redesigning the ground floor frontage on Rosemary Street to encompass the lobby/leasing lounge integrated with ground floor commercial space. This will be designed to be activated and open to the public either as an integrated use or with a viable retail tenant as a stand-alone space.

¹ <https://online.flippingbook.com/view/26191/>

Affordable Housing and Commercial Spaces:

Council members expressed interest in including affordable units and/or affordable commercial spaces on site and extending the period of affordability to a minimum of 30 years. The developer will provide additional information this evening. As a rental residential development, the Town’s Inclusionary Zoning Ordinance is not applicable, and any proposed residential units or affordable commercial spaces are a voluntary offer from the applicant.

Restrict Occupancy to Renters Over 21 Years of Age:

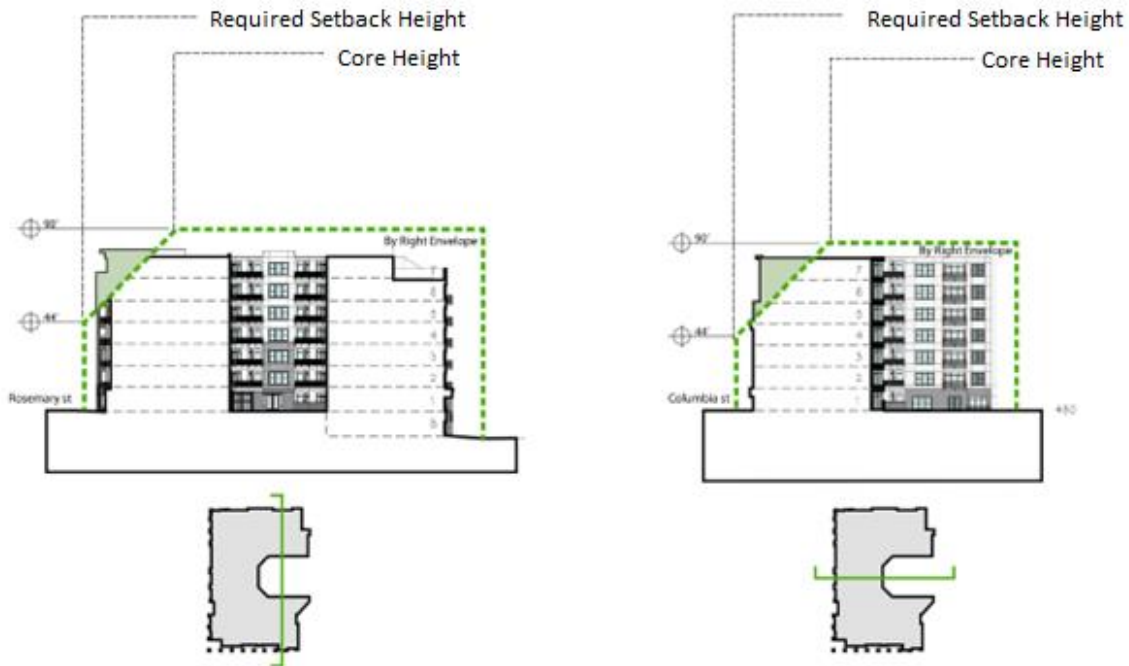
The following condition has been added to Revised Ordinance A:

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.

Height of Building:

The developer is requesting a modification to regulations for the setback height of the building. The green dashed lines indicate the required building setback heights, and the green triangles indicate the areas requested for modification to this regulation:

SETBACK HEIGHT VS CORE HEIGHT



Parking Strategy Plan:

Town staff and the developer have discussed opportunities to address the parking needs incident to the uses allowed by this rezoning. The following condition has been included in Revised Ordinance A:

Parking Strategy Plan: Prior to issuance of a Zoning Compliance Permit, the developer 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.

Additional information can be found in the Modifications to Regulations section of this report.

PROJECT OVERVIEW

The application proposes applying a Town Center-3-Conditional Zoning District (TC-3-CZD) to the site to accommodate a seven-story apartment building with approximately 150 dwelling units. Currently on-site are a vacant two-story building, formerly occupied by PNC Bank, and a surface parking lot. More details about the proposed development can be found in the applicant's narrative and statement of justification in the Applicant Materials.

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 that staff has identified, and an analysis of the project's consistency with the Comprehensive Plan and relevant Findings of Fact.

SITE CONTEXT

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

- The site consists of a 0.7-acre site with the existing two-story building and surface parking lot.
- The subject site fronts on and has access to E. Rosemary Street, which is a collector street maintained by the Town, and N. Columbia Street, which is an arterial street maintained by North Carolina Department of Transportation (NCDOT).
- The properties to the west and on the opposite side of E. Rosemary Street to the south are zoned Town Center-2 (TC-2).

- The property to the east is zoned Town Center-2-CZD and is the site of the Town’s municipal parking deck currently under construction.
- Property to the north is zoned Office/Institutional-1 (OI-1) and consists of office uses.
- There is no Resource Conservation District or floodplain on the site. The site slopes downward from south to north 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, and which allows site-specific standards to be formulated and applied as conditions through a legislative process. The Conditional Zoning application provides an opportunity to establish conditions that modify use, intensity, and development standards 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-3-Conditional Zoning District (TC-3-CZD) district for the site.

The intent of the Town Center-3 (TC-3) 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.”²

The applicant has proposed modifications as summarized in the Modifications to Regulations section below.

PROPOSED MODIFICATIONS TO REGULATIONS

Section 3.8.2(g)(2): Dimensional Regulations: The dimensional regulations in Town Center-3 (TC-3) zoning districts limit building height at the setback line to 44 feet. The proposed modification request is to increase the 44 feet setback height limit up to a maximum of 90 feet on all four elevations.

Staff Comment: The FLUM calls for 4 stories at the street setback and up to 8 stories allowed on the south side of E. Rosemary Street. The applicant states that the increase in height would allow for additional residential units to meet the housing needs of downtown.







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.

² LUMO Section 3.3.1

CONSISTENCY WITH THE COMPREHENSIVE PLAN AND OTHER DOCUMENTS

Town staff has reviewed this application for compliance with the themes from the [2020 Comprehensive Plan](#)³, the standards of the [Land Use Management Ordinance](#)⁴, and the [Town of Chapel Hill, NC : Design Manual and Standard Details](#)⁵ and believes the 101 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 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 type="checkbox"/>		Nurture Our Community
<input checked="" type="checkbox"/>		Facilitate Getting Around	<input checked="" type="checkbox"/>		Grow Town and Gown Collaboration

Future Land Use Map: The Future Land Use Map (FLUM) envisions the Downtown Focus Area as the social and cultural center of Chapel Hill, where infill and redevelopment can encourage sufficient density to absorb growth and limit impacts to other areas of town. The FLUM indicates a range of appropriate Primary and Secondary uses for the Sub-Area where this site is located, and Multifamily is one of the appropriate Primary uses. The proposed rezoning aligns with the character envisioned by the FLUM. The FLUM also calls for:

- **ACTIVATED STREET FRONTAGE.** Activated street frontage is encouraged in order to create vibrancy and ensure pedestrian activity over time. Sub Area E of the FLUM's Downtown Focus Area calls for active visual engagement between the street and ground floor uses, with an environment between streets and buildings that provides pedestrian connections and excludes off-street parking.
- **BUILDING HEIGHT.** The FLUM calls for 4 stories at the street setback and up to 8 stories allowed on the south side of E. Rosemary Street. (The FLUM suggests a story height of approximately 12 feet.)
- **ENVIRONMENTAL.** The Downtown Focus Area also suggests creating urban pocket parks adjacent to the sidewalk zones, specifically in areas prime for public events and festivals.

Mobility Plan: The Mobility and Connectivity Plan shows bicycle facilities for the site's frontages on E. Rosemary Street. There are existing sidewalks on both sides of the street. A future Bus Rapid Transit station is located adjacent to the site on N. Columbia Street.

Staff Evaluation: North Carolina General Statute Section 160D-605(a) requires the Council to approve a statement describing whether its action is consistent with an adopted comprehensive plan and any other applicable officially adopted plan when adopting or rejecting any zoning amendment.

Staff provides the following evaluation of this application's consistency with the 2020 Comprehensive Plan and other adopted plans:

- The proposed rezoning aligns with the character envisioned by the FLUM. The Town

³ <http://www.townofchapelhill.org/home/showdocument?id=15001>

⁴ https://www.municode.com/library/#!/nc/chapel_hill/codes/code_of_ordinances?nodeId=CO_APXALAU5MA

⁵ <http://www.townofchapelhill.org/town-hall/departments-services/public-works/engineering/design-manual-and-standard-details>

Center-3-Conditional Zoning District (TC-3-CZD) district would allow all of the uses that the FLUM indicates are appropriate. The Conditional Zoning application proposal falls within the 'Multifamily' category.

- The presence of Activated Street Frontages suggests urban design that is compatible with more intense, pedestrian-oriented development. Zoning conditions would be useful to ensure that street activation is achieved.
- Zoning conditions would be useful to ensure that Building Height follows FLUM guidance. Current proposal indicates a 7-story building.

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.

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 legislative hearing process. All information submitted at the legislative 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 addresses the need for housing in downtown in addition to the office and lab space planned as part of the East Rosemary Redevelopment project.

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:

- 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)*

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 necessary to achieve the purposes of the Comprehensive Plan.























PROJECT FACT SHEET

Project Details


Site Description	
Project Name	101 E. Rosemary – Link Apartments
Address	101 E. Rosemary Street
Property Size (GLA)	30,628 sq. ft. (0.7 acres)
Existing	Parking lot and vacant one-story building
Orange County Parcel Identifier Numbers	9788-37-2791
Existing Zoning	Town Center-2 (TC-2)
Proposed Zoning	Town Center-3-Conditional Zoning District (TC-3-CZD)

Site Development Standards

Topic	Comment	Status
Development Intensity		
Use/Density (Sec. 3.7)	Existing Use: 25 space parking lot and vacant one-story building (formerly PNC Bank) Proposed Use: Seven-story multifamily apartments	
Dimensional Standards (Sec. 3.8)	Primary height: 44 ft. (modification requested for 90 ft.) Core height: 120 ft. Setbacks: 0 ft. in Town Center zoning districts	M
Floor area (Sec. 3.8)	Maximum: 122,512 sq. ft. Proposed: 119,471 sq. ft.	
Landscape		
Buffers (Sec. 5.6.2)	N/A in Town Center zoning districts	
Tree Canopy (Sec. 5.7)	N/A in Town Center zoning districts	
Landscape Standards (Sec. 5.9.6)	N/A in Town Center zoning districts	
Environment		
Resource Conservation District (Sec. 3.6)	N/A	
Erosion Control (Sec. 5.3.1)	Orange County Erosion Control permit required	
Steep Slopes (Sec. 5.3.2)	N/A	
Stormwater Management (Sec. 5.4)	Meet or exceed LUMO 5.4 standards	

Land Disturbance	32,500 sq. ft.	
Impervious Surface	N/A in Town Center zoning districts	
Solid Waste & Recycling	Private trash and recycling pickup proposed	
Jordan Riparian Buffer (Sec. 5.18)	N/A	
Access & Circulation		
Road Improvements (Sec. 5.8)	Improvements to be completed in accordance with TIA findings, including: <ul style="list-style-type: none"> - Reverse the internal driveway one-way pattern to allow ingress on N. Columbia Street and egress on E. Rosemary Street. - Move the service vehicle loading zone further east along the northern building frontage. 	
Vehicular Access (Sec. 5.8)	One-way driveway entrance on N. Columbia Street and one exit-only driveway on E. Rosemary Street	
Bicycle Improvements (Sec. 5.8)	N/A	
Pedestrian Improvements (Sec. 5.8)	Streetscape improvements along E. Rosemary Street frontage including brick pavers and street trees	
Traffic Impact Analysis (Sec. 5.9)	TIA completed	
Vehicular Parking (Sec. 5.9)	N/A	
Transit (Sec. 5.8)	N/A	
Bicycle Parking (Sec. 5.9)	<i>Required: 38 spaces</i> <i>Proposed: 38 spaces</i>	
Electric Vehicle Parking	N/A	
Parking Lot Standards (Sec. 5.9)	N/A	
Technical		
Fire	Built to Town Standards	
Schools Adequate Public Facilities (Sec. 5.16)	N/A	
Inclusionary Zoning Ordinance (Sec. 3.10)	N/A	
Recreation Area (Sec. 5.5)	N/A	
Lighting Plan (Sec. 5.11)	Built to Town Standards; not to exceed 0.3 footcandles at property line	
Homeowners Association (Sec. 4.6)	N/A	

Project Summary Legend

Symbol	Meaning
	Meets Requirements
M	Seeking Modification
FP	Required at Final Plan
NA	Not Applicable