



# **CONSIDER AN APPLICATION FOR A SPECIAL USE PERMIT MODIFICATION FOR 137 E FRANKLIN ST INNOVATION HUB (PROJECT #20-027)**

## **STAFF REPORT**

TOWN OF CHAPEL HILL PLANNING DEPARTMENT  
Judy Johnson, Interim Planning Director  
Michael Sudol, Planner II  
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<b>PROPERTY ADDRESS</b> 136 E Rosemary St & 137 E Franklin St	<b>DATES</b> Community Design Commission: April 27, 2020 Planning Commission: May 5, 2020	<b>APPLICANT</b> George Retschle, Ballentine Associates
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## **STAFF RECOMMENDATION**

That the Community Design Commission and Planning Commission review and make a recommendation on the application to the Town Council.

## **STAFF ANALYSIS**

An accompanying application to rezone the property from Town Center – 1 (TC-1) and Town Center – 2 (TC-2) to Town Center – 3 – Conditional (TC-3-C) is also proposed, and this application proposes to meet standards in the TC-3-C zoning district.

## **PROCESS**

The application will be presented to Council for approval of a Special Use Permit modification. The Council must consider the **four findings** for approval of a Special Use Permit, 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. would comply 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.

## **PROJECT OVERVIEW**

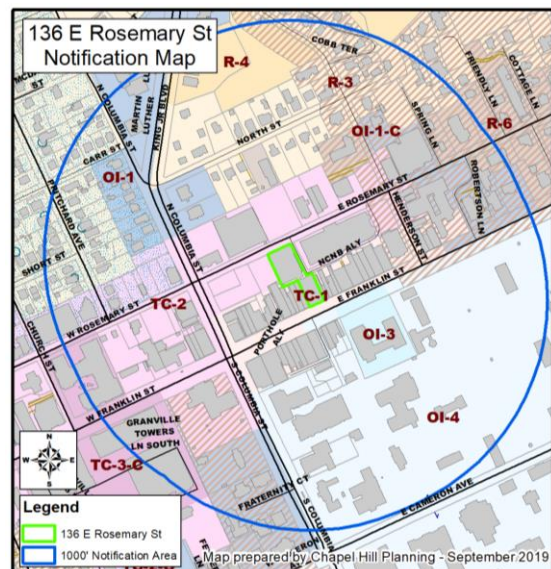
The applicant proposes a comprehensive renovation of the two commercial office buildings at 137 E Franklin St and 136 E Rosemary St. These buildings share a single 0.66-acre lot that is split-zoned between TC-1 and TC-2, which are connected by a shared elevator and stair core.

The proposed renovations include replacing the elevator and stair core with an atrium space, recladding both buildings, creating new storefront space on the Rosemary St ground floor, adding accessibility features, installing new fire suppression systems and HVAC systems, and replacing the roofing. These changes will result in an addition of approximately 1000 square feet of floor area. The accompanying rezoning to TC-3-C is proposed to allow for the increase in floor area and bring the existing structures into compliance with the Land Use Management Ordinance.

## **DECISION POINTS**

- The applicant is requesting a Special Use Permit modification along with the accompanying rezoning application.
- On October 2, 2019, Town Council passed a resolution limiting the scope of review of the Special Use Permit modification to approval of the planned exterior renovations to the property, specifically a new curtainwall glass and panel system mainly encompassing the 136 E. Rosemary building as well as a new glass and panel cladding on the 137 E. Franklin Street building (facing 136 E. Rosemary Street).

## **PROJECT LOCATION**



## **ATTACHMENTS**

1. Project Summary Form
2. Resolution A
3. Resolution B
4. Application Form & Materials
5. Submitted Plans



# TECHNICAL REPORT

## PROJECT OVERVIEW

The application proposes a Special Use Permit (SUP) modification along with a rezoning to Town Center – 3 – Conditional (TC-3-C) for the site in order to accommodate renovations to two existing buildings that are non-compliant with the floor area ratio (FAR) allowed in the existing Town Center – 1 (TC-1) and Town Center – 2 (TC-2) zoning districts. The site currently consists of a single parcel that fronts on both East Rosemary Street and East Franklin Street. The project narrative explains that the existing buildings were built over 40 years ago, before the current zoning classifications of TC-1 and TC-2 were applied to the site, and do not meet modern standards. The proposed renovations will result in an increase in floor area from 125,600 SF to approximately 126,600 SF, but the FAR will remain in compliance with the requested TC-3-C rezoning. More details about the proposed development can be found in the applicant's narrative and statement of justification.

Information about the site and proposed zoning district can be found below, as well as a proposed Modification 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 Special Use Permit and Zoning Atlas Amendment:

- The 0.66 acre subject site fronts on and has access to both East Rosemary Street and East Franklin Street.
- The property is currently split-zoned between TC-1 on the Franklin Street side and TC-2 on the Rosemary Street side. The existing FAR exceeds what would be permitted under either zoning district.
- Adjacent properties to the north, northeast, and northwest are zoned TC-2. Adjacent properties to the south, southeast, and southwest are zoned TC-1.
- The current building height exceeds the permitted primary height of 44 feet at the setback line. The Town Center zoning districts have a 0' setback.

## PROPOSED MODIFICATIONS TO REGULATIONS

- 1) Section 3.8 Dimensional Standards:** LUMO Table 3.8-1 specifies dimensional standards for the Town Center – 3 (TC-3), including a maximum primary height of 44 feet at the setback line. The applicant is requesting a modification to increase the maximum primary height to 93 feet.

*Staff Comment:* The applicant requests to reduce dimensional requirements in order to bring the existing structure on East Rosemary Street into compliance with the current code. Staff believes that Council could find a public purpose for the altered dimensional

standards as the modification will bring the building into compliance and facilitate renovation of the structure.

**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.

For additional information on the proposed modifications and other considerations on timing and flexibility, please refer to the applicant's attached materials.







## OTHER CONSIDERATIONS

- On October 2, 2019, Town Council passed a resolution limiting the scope of Advisory Board review for the Special Use Permit modification to the Community Design Commission and Planning Commission. The resolution also limited review to the following:
  - Approval of the planned exterior renovations to the property, specifically a new curtainwall glass and panel system mainly encompassing the 136 E. Rosemary building as well as a new glass and panel cladding on the 137 E. Franklin Street building (facing 136 E. Rosemary Street)

## 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>1</sup>, the standards of the [Land Use Management Ordinance](#)<sup>2</sup>, and the [Town of Chapel Hill, NC : Design Manual and Standard Details](#)<sup>3</sup> and believes the 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

**Land Use Plan:** The [2020 Land Use Plan](#)<sup>4</sup>, a component of the 2020 Comprehensive Plan, designates this site for Town/Village Center.

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

<sup>2</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>3</sup> <http://www.townofchapelhill.org/town-hall/departments-services/public-works/engineering/design-manual-and-standard-details>

<sup>4</sup> <http://www.townofchapelhill.org/home/showdocument?id=1215>

**Staff Evaluation:** North Carolina General Statute Section 160A-383 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 Town Center districts encourage the development of a commercial, service, and social center for Chapel Hill, which is consistent with the 2020 Land Use Plan. Similarly, these districts emphasize designing and locating buildings so that they provide visual interest.
- The proposed rezoning is also consistent in intensity with the Land Use Plan. The Town/Village Center land use designation currently encompasses all the Town Center zoning districts.
- Finding #4 in the next section notes additional purposes of the 2020 Comprehensive Plan which may be achieved through this application.

## FINDINGS OF FACT

No Special Use Permit modification shall be recommended by the Town Manager or Planning Commission for approval and no Special Use Permit modification shall be approved by the Town Council unless each of the following findings is made concerning the proposed special use or planned development:

- 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) 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) 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) 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.

Staff provides below an evaluation of this application based on the four 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.

- 5) 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;

*Arguments in Support:* The proposed development will be designed and operated to maintain and promote public health, safety, and general welfare. Currently the property is an aging, Class C office property. The renovations will bring the building into compliance with current building codes, including for energy, sustainability and accessibility.

*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 this finding.

- 6) 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;

*Arguments in Support:* The proposed development will be designed to comply with all required regulations and standards of the Land Use Management Ordinance, including all applicable provisions of articles 3 and 5, and applicable specific standards contained in the supplemental use regulations (article 6), and all other applicable regulations. Several examples of compliance are as follows:

Compliance with Article 3:

- The existing office, retail, and restaurant uses are permitted uses within the TC-3 zoning district sought under the rezoning application.
- The total existing and expanded floor area will be in compliance with the TC-3 zoning district.
- The renovated building expansion will be in compliance with required building setbacks for TC-3 zoning.

*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 this finding.

- 7) 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;

*Arguments in Support:* The existing facility is located where it helps to enhance the value of contiguous property, as it is surrounded by businesses on three sides, and therefore employees and visitors will help to boost patronage in the area. Likewise, the proposed improvements to the site are designed to maintain and enhance the value of contiguous property, because the project will improve the appearance and attractiveness of the property to new businesses.

*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 this finding.

- 8) 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.

*Arguments in Support:* The development modifications conform with the general plans for the physical development of the Town as embodied in the LUMO, Town Design Guidelines, and in the Comprehensive Plan:

Compliance with Town Design Guidelines:

The existing facility is located in downtown Chapel Hill on the 100 block of East Franklin and East Rosemary Streets with highly visible frontages on both streets. As the tallest

building on this block the property has a significant impact on the visual character of this part of downtown. With this in mind, the building renovations have been designed to enhance the architectural character of the property.

Compliance with the Comprehensive Plan:

The development supports the goals of the Comprehensive Plan in the following respects:

Theme 1: A Place for Everyone

- A creative place to live, work and play because of Chapel Hill's arts and culture (PFE.2).

Theme 2: Community Prosperity and Engagement

- Balance and sustain finances by increasing revenues and decreasing expenses (CPE.1).
- Foster success of local businesses (CPE.2).

Theme 3: Getting Around

- A connected community that links neighborhoods, businesses and schools through the provision of greenways, sidewalks, bike facilities and public transportation (GA.2).

Theme 4: Good Places, New Spaces

- A vibrant, diverse, pedestrian-friendly, and accessible downtown with opportunities for growing office, retail, residential and cultural development and activity (GPNS.2).
- A community that welcomes and supports change and creativity (GPNS.6).

Theme 6: Town and Gown Collaboration

- Take full advantage of ideas and resources to create a thriving economy and incorporate the utilize the intellectual capital that the University and Town create (TGC.1).

Compliance with the Downtown Chapel Hill Small Area Plan:

- This project will once again place downtown at the center of business activity in Chapel Hill and will be catalytic in attracting and retaining businesses, helping to reverse the trend of businesses leaving downtown and moving to downtown Durham, Raleigh and the Research Triangle Park. This project will expand the employment base and significantly increase the daytime population of pedestrian and business activity in downtown.

*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 this finding.



















# PROJECT FACT SHEET

## Project Details



Site Description	
<b>Project Name</b>	137 E Franklin St Innovation Hub
<b>Address</b>	136 E Rosemary St & 137 E Franklin St
<b>Property Size (NLA)</b>	28,836 SF (.66 acres)
<b>Existing</b>	Office, retail, and restaurant
<b>Orange County Parcel Identifier Numbers</b>	9788-37-7517
<b>Existing Zoning</b>	Town Center – 1 (TC-1) and Town Center – 2 (TC-2)
<b>Proposed Zoning</b>	Town Center – 3 – Conditional (TC-3-C)

## Site Development Standards


Topic	Comment	Status
<b>Development Intensity</b>		
<b>Use/Density (Sec. 3.7)</b>	Office, retail, and restaurant	✓
<b>Dimensional Standards (Sec. 3.8)</b>	Alternative dimensional standards proposed: Building Height, Setback – 93 feet	M
<b>Floor area (Sec. 3.8)</b>	Maximum of 126,880 sq. ft.; Proposed 126,600 sq. ft.	✓
<b>Landscape</b>		
<b>Buffer – North (Sec. 5.6.2)</b>	<i>Required: None</i>	✓
<b>Buffer – East (Sec. 5.6.2)</b>	<i>Required: None</i>	✓
<b>Buffer – South (Sec. 5.6.2)</b>	<i>Required: None</i>	✓
<b>Buffer – West (Sec. 5.6.2)</b>	<i>Required: None</i>	✓
<b>Tree Canopy (Sec. 5.7)</b>	<i>Required: None</i>	✓
<b>Landscape Standards (Sec. 5.9.6)</b>	<i>Required: None</i>	✓
<b>Environment</b>		
<b>Resource Conservation District (Sec. 3.6)</b>	<i>Required: None</i>	✓

<b>Erosion Control (Sec. 5.3.1)</b>	<i>Required: None</i>	
<b>Steep Slopes (Sec. 5.3.2)</b>	<i>Required: None</i>	
<b>Stormwater Management (Sec. 5.4)</b>	<i>Required: None</i>	
<b>Land Disturbance</b>	N/A	<b>NA</b>
<b>Impervious Surface</b>	31,720 sq. ft. (100% of gross land area)	
<b>Solid Waste &amp; Recycling</b>	Required at Final Plan	<b>FP</b>
<b>Jordan Riparian Buffer (Sec. 5.18)</b>	<i>Required: None</i>	
<b>Access &amp; Circulation</b>		
<b>Road Improvements (Sec. 5.8)</b>	No improvements proposed	
<b>Vehicular Access (Sec. 5.8)</b>	Existing access maintained	
<b>Bicycle Improvements (Sec. 5.8)</b>	No improvements proposed	
<b>Pedestrian Improvements (Sec. 5.8)</b>	No improvements proposed	
<b>Traffic Impact Analysis (Sec. 5.9)</b>	N/A	<b>NA</b>
<b>Vehicular Parking (Sec. 5.9)</b>	<i>Required: None</i>	
<b>Transit (Sec. 5.8)</b>	<i>Required: None</i>	
<b>Bicycle Parking (Sec. 5.9)</b>	<i>Required: None</i>	
<b>Electric Vehicle Parking</b>	<i>Required: None</i>	
<b>Parking Lot Standards (Sec. 5.9)</b>	<i>Required: None</i>	
<b>Technical</b>		
<b>Fire</b>	Meets Town Standards	
<b>Site Improvements</b>	Façade renovations and 1000 SF increase in floor area	
<b>Schools Adequate Public Facilities (Sec. 5.16)</b>	N/A	<b>NA</b>



<b>Inclusionary Zoning Ordinance (Sec. 3.10)</b>	N/A	<b>NA</b>
<b>Recreation Area (Sec. 5.5)</b>	<i>Required:</i> None	
<b>Lighting Plan (Sec. 5.11)</b>	Maximum of 0.3 foot-candles at property line or no increase in existing light levels	
<b>Homeowners Association (Sec. 4.6)</b>	N/A	<b>NA</b>

## Project Summary Legend

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