

**09-30-2020 Town Council Meeting
Responses to Council Questions**

ITEM #10: Consider Authorizing an Economic Development Agreement for the East Rosemary Downtown Deck & Redevelopment Project. Special Note: There may be minor changes to the Economic Development Agreement and the Wallace Deck Lease that may be shared early next week with the Council and Public

ITEM #11: Consider Exchanging 150 E. Rosemary for 125 and 135 E. Rosemary to Support the East Rosemary Redevelopment Project and Parking Deck

Council Question:

When minor changes are referred to in the agenda packet that “may be shared early next week with the Council and Public,” does early next week refer to the week of September 28 or to the week of October 5?

Staff Response:

September 29, 2020.

Council Question:

Would the green space at Surface Lot 2 be dedicated to the Town once construction staging is completed? In other words, who would be responsible for maintaining the green space after construction is completed?

Staff Response:

The Town owns and would continue to own all of Lot 2/ Rosemary-Columbia Parking Lot. We are allowing, though a license agreement, the use of the equivalent of 26 spaces for a lay-down site in exchange for Grubb creating a public green space. The Town will be responsible for maintenance once the space is completed and Grubb’s work is done.

Council Question:

Regarding the option price, out of what fund could the town repurchase the property?

Staff Response:

The ideal funding source for the Wallace Deck repurchase would be the Parking Fund, but Parking will not have the necessary funds available for the next few years. The remaining options are the General Fund or the Debt Management Fund. Both of these funds have the cash available but there would be trade-offs with either option. The General Fund would require the Town to use fund balance which would put us below our 22% unassigned fund balance target.

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The Debt Management Fund would require the Town to tap into available debt capacity that would require us to re-evaluate the 5-year capital project plan and push the timeline back on future capital projects (Municipal Services Center, affordable housing projects, streets and sidewalks projects).

Council Question:

Under the Improvements Agreement, will the final Development Budget for the Parking Deck come to Town Council to approval or does the Town Manager approve this?

Staff Response:

The final Rosemary Deck construction budget will come back to Council for approval in the spring when we are ready to begin the financing process for the project.

Council Question:

Does the \$32,900,000 expected to be borrowed for the New Deck include the coverage of the exchange difference of \$1.74 M, once the Town reimburses itself?

Staff Response:

The \$32,900,000 project budget includes all costs associated with the project including design, construction and the land exchange price difference.

Council Question:

When in the process would Grubb secure an anchor tenant for the new office building?

Grubb Response:

The entitlement process must be started and well underway for any preleasing/anchor tenant pursuit as our ability to attract any credible tenant(s) will depend on some level of certainty about the opportunity. This is not to say we won't actively market the project and pursue anchor opportunities, just illustrating that it is much too early in the process to make any substantive progress on that now.

Council Question:

Does Grubb already have debt financing in place for the new office building?

Staff Response:

Debt financing cannot be obtained without approved entitlements and a more complete design for the project. Similar to our progress with the New Deck, we will pursue Design Development and Schematic Design simultaneous with the entitlement process that will allow us to pursue budget pricing and underwriting for feasibility of the project as a whole.

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Council Question:

The Business Street report details several due diligence items the Town should undertake, did we complete them? If so, could we please see the results?

Staff Response:

Staff feels that between the 2018 Parking Study, financial reports in multiple variations, the Council meeting with Walker Parking and the third party review of the proposed deal structure that we have completed a reasonable amount of due diligence to present to Council for consideration.

Council Question:

The most recent TIA incorporates the BRT, correct?

Staff Response:

Yes, the TIA does consider the BRT plans as it passes through downtown.

Council Question:

On page 124, the EDA calls for 250,000 sq. ft. and seems to include 2 levels of parking in that 250,000. Is that correct? If so, how many feet of office/lab space are they committing to? If not, isn't the 250,000 an increase over what we've previously discussed?

Staff Response:

We previously discussed a 200,000SF office building with at least two floors of wet lab space. There have been subsequent conversations and Clay Grubb has shared an interest in looking at the possibility of going to 250,000SF. This question can also be answered as a part of the entitlement of the office building beyond the EDA.

Grubb Response:

The parameters set forth in the EDA are those negotiated in good faith with the Town, project feasibility and the final entitlements will dictate the parameters approved through the Town process.

Council Question:

On page 126 there is a "make whole" price. How was that calculated?

Staff Response:

The "make whole price" is further defined on page 126. This price represents the value of what Grubb is putting into the land swap, plus an agreed-upon annual appreciation figure, plus Grubb's additional expenses of entitling, designing or building the New Office Building. This

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approach is designed to approximate an amount that will “make Grubb whole” for what Grubb has put into the project, if Grubb is being taken out of the project when it is not Grubb’s choice.

Council Question:

On page 144, regarding taxes, do have or can we get an estimate of what the amount of those taxes would be. When would they start having to be paid? Is there any way in which to structure the deal/lease so that taxes would not be paid?

Staff Response:

Grubb would be responsible for paying taxes on the Wallace deck after the land exchange is complete. The taxes would become due in the following budget year after Grubb has owned the deck in early January; we project that to be our 2022-2023 budget year.

Chapel Hill Tax Bill Calculator

FY2020-21

Assessed value of property

\$ 6,360,000

	Rate*	Current Tax	Total
Town Tax	54.40	\$ 34,598.40	\$ 34,598.40
Downtown Service District Tax	7.00	\$ 4,452.00	\$ 4,452.00
County Tax	86.79	55,198.44	55,198.44
Schools Tax	20.18	12,834.48	12,834.48
Total All Jurisdictions	\$ 168.37	\$ 107,083.32	\$ 107,083.32

**Rate: rate is expressed as pennies per \$100 of valuation*

Council Question:

On page 151, regarding the UNC letter of intent, when is that to be executed. If it is not executed by the time the land swap is to occur, would that be grounds for us to terminate or renegotiate the EDA?

Staff Response:

We are in negotiations with UNC for the LOI and are currently awaiting on a response from their legal team. Once the LOI is in its final form, it will return to Council for further consideration and then be moved to a purchase and sale agreement. The price per space will reflect our final construction numbers.

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Bob Jessup Response:

A completed letter of intent from UNC is not a prerequisite to completing the EDA. The failure to reach an agreement with UNC would not be grounds to terminate the EDA, nor to downsize the deck from the agreed-upon size of 1100 spaces.

Council Question:

What options do we have to address the traffic and bike/ped concerns of the North Street neighbors? What improvements are possible and what would be the additional cost?

Council Question:

The traffic report recommends improvements at North Street, including a right turn lane at the intersection with Columbia, signalization, and realignment of the Columbia Street/MLK entrance. Do we have an estimate of what these improvements would cost? Have they been included in the project costs?

Staff Response:

Town staff would undertake a study in conjunction with HNTB and Town Engineering staff to evaluate on-street parking, bike and pedestrian safety on North Street as a next step to understanding how the street might respond to any increase in traffic. A recommendation would be presented to Council for further consideration of how to improve these conditions. (HNTB -Assuming there are no right-of-way or constructability issues along North Street, the widening of North Street and construction of a short right-turn lane and taper along with installation of a traffic signal and other pavement marking/signage improvements needed at this intersection may be in the \$200,000 range total (as a very general estimate)..

Council Question:

I understand we may not be able to determine the exact size of the green space at Henderson & Rosemary at this early stage, but can we designate a minimum size for it?

Staff Response:

A rough measurement for the area including the drive is approximately 25' wide (along Rosemary) and 90' deep including some parking. The redesign of this area may allow a park of similar measurement as long as it does not impede delivery to the Post Office or circulation around the new building.

Council Question:

When were the green screen walls removed from the deck design?

Staff Response:

The North and East walls remain green as earlier discussed with Council.

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Council Question:

Are there other changes that have been made to the parking deck design or the EDA since our last review that haven't yet been communicated to Council, and if so, could you please provide a list of what changed and why?

Staff Response:

There have not been any design related changes to the deck over the last few months.

Bob Jessup Response:

Here is a summary of the key changes made since the drafts considered at the September 9 meeting:

To the Economic Development Agreement

- *The “due diligence” period for investigating the condition of the properties to be exchanged is made mutual for Grubb and the Town.*
- *“Last look” at the project price -- If at the time we’re ready to begin construction the project budget exceeds \$32.9 million, then the Town agrees to work with Grubb and the contractor to create a budget that the Town accepts. If it can’t, then the Town need not proceed with constructing the New Deck. BUT, the Town is still obligated to proceed with the land exchange.*
- *Clarify that the Lot 2 restoration requires an 8-foot paved walkway, and retaining walls that match the remaining walls*
- *Acceleration of the Town’s repurchase option:*
 - *By Grubb: if Grubb does not receive approval of its desired entitlements by November 30, 2021, Grubb at its option can accelerate the Town’s repurchase option period.*
 - *By the Town: if on November 30, 2022 Grubb has no approved building it commits to build, no active building permit and no pending applications for entitlements, then the Town at its option can accelerate the repurchase period.*
 - *[Otherwise, the option period runs from January 1, 2024, to December 31, 2025]*
- *Changes and additional agreements – several changes throughout the agreement to provide that when it becomes appropriate to sign other related agreements (such as the final form of the staging agreement, and the final agreement with Grubb for project management), the Town Manager can approve and sign the final forms of those agreements so long as they are in substantially the same forms of the drafts available on September 30. Additionally, the Town Manager can approve and sign any additional agreements that might become necessary. This leaves it to the Town Manager’s discretion as what additional changes or documents must come back to Council.*

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To the Wallace Deck Agreement

- *Clarify the terms for terminating the agreement. The agreement comes into effect when we complete the land swap next spring. The agreement then runs for five years, unless it's terminated earlier. Grubb can terminate the agreement at any time, but must then terminate public parking in the deck within 30 days (unless the parking continues as part of the Town's integrated parking system). The Town can terminate the agreement at any time after the New Deck has been in service for one year.*

In both agreements

- *A variety of changes to coordinate all the timing provisions*
- *A variety of minor changes to fill in blanks, clarify provisions, and to make technical improvements to the style and structure of the drafting.*

Council Question:

Can you please confirm that UNC's LOI will be updated based on current deck cost estimates?

Staff Response:

We are in negotiations with UNC for the LOI and are currently awaiting on a response from their legal team. Once the LOI is in its final form, it will return to Council for further consideration and then be moved to a purchase and sale agreement. The price per space in the LOI will reflect our final construction numbers.

Council Question:

Could you please have the materials reflect the fact that a decision has not been made about the specific use of the office space (police substation or other) to be included in the deck?

Staff Response:

Yes, we have been instructed to only include the parking office and storage at this point in time.

Council Question:

I am concerned that we are listing solar panels and public art in the budget but not actually planning for those expenses, even though they represent important community values. Why would we not include those in the budget now when we can factor the costs into our long-term planning rather than kicking it to a future, identified funding source?

Staff Response:

We allowed them to remain in the budget until we arrive at the final consideration of the construction budget. We are planning for all the infrastructure to support solar in the actual

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construction budget and will await the final budget and cost estimate to recommend its inclusion or not. We have also discussed public art with staff and feel there are options we might look at including some form of matching funds to help make the art happen. The plan was for it to remain in the budget until the final construction budget is finalized.

The original project budget was \$27.3 million. We are currently at \$32.9 million. The difference results from exterior building modifications, price differential on the land exchange and other costs that have been identified related to the design and construction of the new deck. We have provided numerous cash flow analysis to show the projected outlook of the deck. We have tried to be as conservative as possible with all projections to ensure the sustainability of the Parking Fund. The interest here being for the Parking Fund to be able to pay back the debt service for the new deck. Until we have a better sense of the actual construction budget, we are hesitant to recommend adding anything else to the project budget

Council Question:

The staff memo for consideration of conditional zoning lists a recommendation from the TIA for a pedestrian overpass. Since we decided we did not want to take that approach, what are we doing to ensure pedestrian safety crossing Rosemary to and from the deck and also a general sense of ped-friendliness on Rosemary? When would these improvements be constructed/installed?

Council Question:

The traffic engineer is recommending an overpass from the new deck to the office building, but our urban designers say this is undesirable. Did the traffic engineer take pedestrian crossings mid-block on Rosemary into consideration when studying traffic flow in the area? Also, if we omit the overpass, do we have sufficient stairs/elevators to handle 1000+ spaces?

Staff Response:

The Town's Urban Designer has developed a potential crosswalk treatment for E Rosemary Street that would meet fire code and provide a pedestrian friendly way to cross the street. A rendering of the proposal is in the Draft Staff Presentation in the packet. The improvements would be considered part of the Conditional Zoning approval. The design will be shared in the presentation on Wednesday night.

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Council Question:

The parking reports we reviewed show that our town has currently 778 spaces in the area. After the construction of the new deck, we will have 1487 or 1378 spaces with or without the new office building being build, a net gain of 709 (91%) or 600 (77%) increase from the current supply level.

Staff Response:

This chart shows the numbers we have shared throughout the consideration of this project. It reflects parking spaces that we are affecting in one form or another and does not include private spaces.

Existing Town spaces:		
•Lot 2 (Reduction of spaces)		26
•Wallace Deck		309
Total Town spaces		335
Existing Other spaces:		
•Replace spaces from 137 Deck (CVS)		285
•Replace spaces at 139 E. Rosemary (Inv. Title)		91
Total Other spaces		376
TOTAL EXISTING SPACES		711
New Deck:		1,100
Less: UNC spaces		(100)
TOTAL SPACES IN NEW DECK		1,000
TOTAL NET NEW SPACES		289

Council Question:

The Transit Partners Committee also discussed how the New Deck with or without the office building will impact our standing in the federal BRT grant scoring system. Can you please share that as well?

Staff Response:

Good Afternoon - Based on what we know about the Rosemary Deck and NSBRT projects today: Downtown and campus are currently among the strongest sectors for NSBRT when it comes to density, jobs and parking ratios, due to strong parking controls that support transit and bike/walk. If the jobs that are proposed as part of the project are created along with the parking spots, the likely impact will be neutral. If the parking is created and the jobs are not created, there is a possibility this will reduce the parking to jobs ratio and could impact scores on some of the ratings in the Project Justification categories for FTA's Small Starts process.

Council Question:

Do you know what is the largest capital project that the Town has taken on in its history, and how much did it cost?

Staff Response:

The largest capital project that I can find based on a review of the Town's capital asset records is the construction of the Town Operations Center at a total cost of \$27,086,613 which was complete in FY 2009. The next largest project is the construction of the Town's Transit facility at a total cost of \$16,087,940 which was also complete in FY 2009. The third largest project was the library renovation at a total cost of \$15,007,551 which was complete in FY 2013.

One point to mention, staff did not include inflation into the calculations. If they had, the response most certainly would have been different.

PREVIOUS Council Question:

On page 126 there is a "make whole" price. How was that calculated?

PREVIOUS Staff Response:

The "make whole price" is further defined on page 126. This price represents the value of what Grubb is putting into the land swap, plus an agreed-upon annual appreciation figure, plus Grubb's additional expenses of entitling, designing or building the New Office Building. This approach is designed to approximate an amount that will "make Grubb whole" for what Grubb has put into the project, if Grubb is being taken out of the project when it is not Grubb's choice. "

NEW COUNCIL QUESTION:

I would appreciate some additional information regarding the Q&A below. What I was looking for were the specific cost elements that comprise the \$6,760,000.

Staff Response:

This is a combination of the appraised value proposed exchange value of \$6,360,000 plus the contribution that Grubb Properties is making toward the Fine property \$400,000 for a total of \$6,760,000.

“PREVIOUS Council Question:

On page 144, regarding taxes, do we have or can we get an estimate of what the amount of those taxes would be. When would they start having to be paid? Is there any way in which to structure the deal/lease so that taxes would not be paid?

Staff Response: Grubb would be responsible for paying taxes on the Wallace deck after the land exchange is complete. The taxes would become due in the following budget year after Grubb has owned the deck in early January; we project that to be our 2022-2023 budget year.”

NEW COUNCIL QUESTION: As regards the Q&A below, the lease specifically says that the Town is responsible for taxes once the lease commences, yet the response says that Grubb will pay the taxes. Can this be clarified, please?

Staff Response: With apologies, the Town would be responsible for the taxes during the lease period for Wallace Deck however it is deducted from expenses before any net revenue is determined. Thank you for calling this to our attention.

Council Question:

According to the MOU we agreed in March, the Town "must have a guaranteed maximum price construction contract for the New Deck approved" in order to obtain the necessary approval from the NC Local Government Commission for financing.

Do we have the Maximum Price Construction Contract at this time as part of the economic development agreement process?

Staff Response:

Based on our conversation with our contractor and projections of other expenses we are comfortable that our Maximum Price is \$32.9 for the total project including the construction.

Council Question:

Can you explain what the following statement means?

“If Grubb does not receive approval of its desired entitlements by November 30, 2021, Grubb at its option can accelerate the Town’s repurchase option period.”

Does this mean that if Grubb has not received entitlement by November next year, it can have the Town to purchase it back, or sell the Wallace Deck property to the market?

Bob Jessup: Not exactly. It means that if Grubb has not received entitlements by that date, Grubb can accelerate the time period during which the Town has the option, but not the obligation, to repurchase the property. The Town never has the obligation to repurchase, and the Town always has the power to assign the repurchase option to a 3d party.

This particular provision goes along with the provision that follows, which gives the Town the option of accelerating the repurchase option period if there are no entitlements in hand, or applications pending, as of November 30, 2022. This is an option to accelerate the option to repurchase.

Council Question:

The manager discretion clause below allows the Manager to sign Changes and additional agreements without going through the Council "so long as they are substantially the same". There are significantly number of blank fields and key information remain missing in the current

documents, and most dates are outdated, Given the significant financial impact of this agreement, I'm uncomfortable with the open-ended framing of the clause. Can you give specifics as what the criteria and boundaries for the Manager discretion?

Bob Jessup: I do not agree that there is a significant amount of key information missing from the current documents, and I believe that the dates in the draft EDA are correct dates. But be that as it may – the Manager's discretion is just that, his discretion to determine when proposed completions or changes are significant enough to warrant further, formal Council consideration.

The Council is free to attach additional conditions to this discretion in connection with its approval of the EDA, but the current phrasing will allow the transaction to proceed in an efficient manner consistent with the Council's expressed interests. I do not recommend further limitations

Council Question:

Why Does the Town need to continue renting the Wallace Deck for another year after the new deck is completed?

Staff Response:

This was an issue that we discussed in May and June meetings as we knew the deck needed to operate during construction and Grubb desired to operate it as a parking facility after the new deck was complete for income for their private property. We arrived at a place that said the Wallace Deck can continue to operate but be managed by the Town and share in any income. We agreed to pay a flat rent during construction and share revenues after expenses 60/40 after the new deck opened. We are hopeful that this would be a short period before Grubb begins construction of the new office building.

Council Question:

Are we leasing the Wallace Deck back for five years, no matter when the new deck is completed? If so, why? Are we also paying for maintenance, property tax and insurance during that time and also giving them a percentage of revenues (60%)?

Staff Response:

This was an issue that we discussed in May and June meetings as we knew the deck needed to operate during construction and Grubb desired to operate it as a parking facility after the new deck was complete. We arrived at a place that said the Wallace Deck can continue to operate but be managed by the Town and share in any income. We agreed to pay a flat rent during construction and share revenues after expenses 60/40 after the new deck opened. It is hopeful that this would be a short period before Grubb begins construction of the new office building. We are paying maintenance, property tax and insurance during the lease and those item come out of the gross income before the split in net revenue.

Council Question:

How are the increased parking revenue projections calculated? Is the drastic increase in revenues attributed to a better mix in parking management and leases along with increasing hourly and monthly rates? It seems like a drastic increase in projected revenues, so just wondering what the rationale is for assuming that once we increase the number of spaces no less, that our parking

revenues will be so much higher with CVS and Wallace Decks still online? I'm sure we have the demand for parking downtown, but it seems like the Wallace Deck generating twice the revenue with the new deck open is overly optimistic?

Staff Response:

We only receive a small portion of the income from CVS, so any parkers that move from there to Wallace Deck would be new income. We receive no income from the Fine lot so those 91 space would present additional income potential for the Deck. So that is new demand from the 285 spaces at the CVS Deck, 91 from the Fine property and moving 26 from Lot 2 to other location.

Council Response:

Space Replacement:

Wallace, CVS and Rosemary/MLK(26) are town's own lots, the construction only move the spaces around, they don't generate new revenue. The only increase in demand will be the 99 spaces of the Fine's lot. That amounts to $(285+309+26+99)/(285+309+26)=116\%$, or a 16% increase in total revenue.

Staff Response:

Wallace Deck is 309 spaces, CVS is 285 spaces, the Fine lot if 91 spaces. We will have a demand for the 285 plus the 91 to absorb into our occupancy at the Wallace Deck. We feel the first year projections are reasonable and perhaps low if we return to a pre COVID economy. The years of operation during the split of income is a reasonable estimate.

Council Response:

Fee change:

9% increase for lease and 50% increase for hourly. However, based on the town commissioned garage study, "every one percent increase in parking rates, hourly occupancies would fall by .16 to .20 percent". That will lead to 8-10% decrease in demand. The net effect will depend on the composition of lease/hourly spaces, but an increase of 20% in revenue might be a reasonable estimate.

Staff Response:

We do not feel we are increasing the fees disproportionately to demand and feel the fees will not affect occupancy in a typical economic climate.

Council Response:

Other factors that may impact demand: pandemic (significant but uncertain), disruption caused by the construction (uncertain).

Combining the 3 factors above, we may expect a similar or moderate increase from the current total revenue from Wallace+CVS decks. I still don't see how the numbers support your 250% increase (700K to 2M) from the current total revenue during construction, or 150% increase for the Wallace Deck post the new deck construction.

Staff Response:

The Town's 2019 income from Wallace was \$531,000 and the CVS deck income was \$206,000. Based on the fee changes, demand for parking and a lease up period for the new deck we believe

our first year projections are reasonable and the balance of the lease period (during the income split) is an estimate.

Council Question:

I have another question. In table ES-1, the calculation of daily estimate used proposed lot growth ratio - proposed lot growth ratio=1100/804.

Can you explain how you get the 804? The new CVS deck replaces 285 spaces from its own, 80 from Investors Title Lot, 26 from the Rosemary/Columbia Lot, and 109 from the Wallace Deck for a total of 500 spaces before the new deck, that will make proposed lot growth ratio=1100/500=220%, or an increase of 120% from the current level.

HNTB Response:

We looked at total replacement spaces (and the current trip activity from each lot) in calculating that growth value - and assuming that when the parking deck was opened, the Wallace Deck, adjacent private lot, and Lot 2 would be completely closed.

So, from our calculations we have:

Existing Rosemary Deck - 285 spaces

Existing Adjacent Private Lot - 109 spaces

Existing Wallace Deck - 306 spaces

Existing Columbia/Rosemary Lot 2 - 104 spaces

That is 804 spaces of parking that would have to be accommodated in the new deck (or park elsewhere). We have either all the count data at these locations or usage rate comparisons to estimate peak hour trips for the 804 total spaces. Then, we apply the 1100 new/804 existing to get the growth ratio and do our calculations.

It is also important to note the office building trip generation and trip assignments for parking were calculated separately. Once ITE trip generation was done for the office building, the trips were distributed to either the new 200 space underground garage for the building OR the new parking deck. The ones assigned to the garage are a proportion of 250 spaces assigned to Grubb in the deck (minus 67 CVS spaces in the deck) compared to the 200 spaces available in the office building. So 52% of the office building parking was assigned to the underground on-site garage and 48% was assigned to the deck - and already accounted for in that growth calculation above.