

ORDINANCE A

(Approving the Conditional Zoning Application)

AN ORDINANCE AMENDING THE CHAPEL HILL ZONING ATLAS TO REZONE THE PROPERTIES LOCATED AT 125 AND 135 E. ROSEMARY STREET TO TOWN CENTER-2-CONDITIONAL ZONING DISTRICT (TC-2-CZD) (PROJECT #20-025) (2020-10-28/O-9)

WHEREAS, the Council of the Town of Chapel Hill has considered the application for Conditional Zoning submitted by Ballentine Associates, on behalf of Grubb Management LLC and Investors Title Company, to rezone a 1.68-acre site located at 125 and 135 E. Rosemary Street on property identified as Orange County Property Identifier Numbers 9788-37-4748 and 9788-37-6817, to allow a parking garage, 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:

- 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*)
- A connected community that links neighborhoods, businesses, and schools through the provision of greenways, sidewalks, bike facilities, and public transportation (*Goal: Getting Around.2*)
- 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 community that welcomes and supports change and creativity (*Goal: Good Places, New Spaces.6*)
- 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*)

WHEREAS, the application, if rezoned to Town Center-2-Conditional Zoning District (TC-2-CZD) according to the site-specific development plan dated March 2, 2020, and last updated June 1, 2020, 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

BE IT ORDAINED by the Council of the Town of Chapel Hill that it finds, in this particular case, that the proposed development with the following requested modifications to regulations satisfies public purposes to an equivalent or greater degree:

Section 3.8.2(g)(2): Dimensional Regulations: Modify the allowed building height at the setback line to 73 feet on all four elevations, and modify the slope of the core height increase from the solar setback line from a 1:1.7 slope to a 1:1 slope.

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 levels of parking to meet the economic needs of downtown.

Section 3.8.3(b)(3): Transitional Control Intensity: Modify and reduce the setback along residentially zoned land from 11 feet to 5 feet.

This finding is based on a determination that the public purposes are satisfied to an equivalent or greater degree as the reduced setback will allow a larger building footprint to accommodate the necessary amount of parking spaces to support a vibrant downtown. The developer will also incorporate additional screening and buffering as required in the Land Use Management Ordinance to further reduce the visual impact on neighboring residential properties.

Section 5.6.8: Alternative Buffers and Screening: Modification for the Town Council to approve an alternative buffer along northern property line per Stipulation 11, as permitted by Section 5.9.6(c)(2)(H) Parking Adjacent to Residential Zoning.

This finding is based on a determination that the public purposes are satisfied to an equivalent or greater degree as the alternate buffer proposed by the applicant will provide screening for the adjacent residential properties.

CONDITIONAL USES

BE IT FURTHER 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-2-Conditional Zoning District (TC-2-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) 9788-37-6817, described below, shall be rezoned to Town Center-2-Conditional Zoning District (TC-2-CZD):

BEGINNING at an iron stake, said stake being located North 64° 26' 26" East 331.2 feet from the Northeast corner of the intersection of Rosemary Street and Columbia Street, said iron stake also being the Southeast corner of the property of Franklin Street Plaza Limited; running thence from said BEGINNING with the North margin of Rosemary Street North 64° 26' 26" East 80.0 feet to an iron stake, Southwest corner of Investors Title Company property (See Deed recorded in Book 308, page 608); thence continuing with the North margin of Rosemary Street North 64° 35' East 83.35 feet to an existing iron stake, Harold H. Harville's Southwest corner; running thence in a Northern direction with Harville's line, North 26° 51' W 214.44' to an existing iron stake in the South property line of the property formerly belonging to the Orange County Building and Loan Association; running thence with said line in a Western direction and parallel with Rosemary Street South 63° 59' 1" W

84.3 feet to an existing iron stake, Bush's Northeast corner; running thence North 26° 24' 15" West 1.46' to an existing iron stake; running thence South 65° 32' 48" West 17.04 feet to an existing iron stake; running thence South 64° 08' 15" West 63.39 feet to an existing iron stake; running thence South 26° 31' 00" East 215.02 feet to an existing iron stake, the point and place of BEGINNING, and being that property conveyed to Investors Title Company by Deed recorded in Book 308, page 608, and by Deed recorded in Book 484, page 42, Orange County Registry. Together with all right, title and interest of the Grantor, if any, in and to a strip of land approximately 10 feet in width and lying along the northern boundary line of the property above described.

Also, the following Orange County parcel identified by Parcel Identifier Number (PIN) 9788-37-4748, described below, shall be rezoned to Town Center-2-Conditional Zoning District (TC-2-CZD) including to the midpoint of the adjoining East Rosemary Street right-of-way:

To locate the point and place of beginning commence at the intersection of the eastern margin of the right-of-way of North Columbia street with the southern margin of the sixty foot (60') wide paved public right-of-way of East Rosemary Street and run N64°32'00" E 298.67' to an iron pin marking the point and place of beginning; and running thence with the southern margin of the right-of-way of East Rosemary Street N64°31'51" E 116.02' to an iron pin in the western boundary of the land conveyed to Town of Chapel Hill by instrument recorded in Deed Book 1269, Page 442, Orange County Public Registry; thence with the western boundary of the Town of Chapel Hill property (now or formerly) S25°28'00" E 160.25 to a nail in an alley described in instrument recorded in Deed Book 278, page 1632, Orange County Public Registry; thence with the said alley two (2) courses and distances as follows: (1) N64°32'00" E 4.00' to a nail and (2) S25°28'00" E 5.95' to a nail in the southern margin of the said alley; thence with the southern margin of the said alley N64°32'44" E 27.30' to new iron spike in the western boundary of the land conveyed to Steve Kutay by instrument recorded in Deed Book 886, page 360, Orange County Public Registry; thence with the western boundary of the Kutay property (now or formerly) S24°07'40" E 130.07' to a point on the northern margin of the one hundred foot' (100') wide paved public right-of-way of East Franklin Street; thence with the northern margin of the right-of-way of East Franklin Street S64°28'00" W 74.72' to a point in the eastern boundary of the land conveyed to Rabbits Crossing Properties by instrument recorded in Deed Book 1506, page 251, Orange County Public Registry; thence with the eastern boundary of the Rabbits Crossing Properties (now or formerly) N25°22'52" W 136.07' to a nail in the aforesaid alley; thence S64°32'00" W 70.03' to another nail in the alley; and thence crossing the alley and continuing with the eastern boundary of the Town of Chapel Hill property, N25°22'20" W 160.25' to the point and place of beginning, containing 28,817 square feet, more or less, all as shown on survey entitled "Franklin Street Plaza LLC", prepared by Mary E. Ayers, North Carolina Professional Land Surveyor L-3260, dated April 22, 2005, reference to said survey being made in said of description.

SECTION II

BE IT FURTHER ORDAINED by the Council of the Town of Chapel Hill that 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 October 28, 2022 (2 years from the date of this approval) or the land shall revert to its previous zoning designation. [LUMO 4.4.5(f)]
2. Consent to Conditions: This approval is not effective until the petitioner provides written consent to the approval. Written consent must be provided within 10 days of enactment by the Town Council.

3. Land Use Intensity: This Conditional Zoning Atlas Amendment authorizes the following:

Land Use: Parking, Off-Street	
Gross Land Area	80,407 sq. ft. (1.85 acres)
Maximum Floor Area	6,000 sq. ft.
Maximum Land Disturbance	79,000 sq. ft. (including off-site)
Maximum Parking Spaces	1,160 spaces
Minimum Bicycle Parking Spaces	40 spaces

4. Electric Vehicle Charging Stations: A minimum of 20 electric vehicle charging stations will be installed providing charging for a minimum of 40 parking spaces. The spaces may be located throughout the garage. Conduit for a minimum of 20 additional charging stations shall be installed.
5. Bicycle Parking: Bicycle parking spaces shall be distributed throughout the parking garage at the different entrance points. The property owner shall monitor the need for additional bicycle parking spaces.
6. Solar Readiness: Prior to issuance of a Zoning Final Inspection, conduit infrastructure will be run to the roof of the parking garage to support solar photovoltaics on at least 80 percent of the unshaded, available top surface of the garage.
7. Ridesharing Spaces: A minimum of four (4) vehicle parking spaces within the garage shall be designated as ridesharing spaces.
8. Streetscape Improvements: Prior to issuance of a Zoning Final Inspection, the E. Rosemary Street frontage shall be improved as indicated in the streetscape plan, including brick pavers and street trees.
9. 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:
- Provide two garage access points on E. Rosemary Street with the western entrance to be used for non-peak hour access. The parking garage operator shall monitor the impacts on E. Rosemary Street traffic and access operations.
 - Provide adequate internal queue storage for left and right turning exiting garage traffic by providing separate left-turn and right-turn exit lanes.
 - Provide adequate internal queue storage for entry flows.
 - Optimize traffic signal timings at the E. Rosemary Street and N. Columbia Street intersection to allow adequate green time to reduce westbound queuing during all peak hours.
 - Provide an access point to North Street.
 - Improvements to North Street and Martin Luther King Jr. Blvd. including a 50-foot right-turn lane for westbound traffic and realignment of N. Columbia Street.
 - Evaluate need for additional traffic calming measures to reduce cut-through traffic on North Street.
 - Include additional wayfinding signage on external roadways and internal to the parking garage to identify routes to E. Franklin Street, US 15-501, and NC 54 making a left turn from garage, and NC 86 South, Carrboro, and Pittsboro making a right turn from garage.
10. Traffic Management: Prior to issuance of a Zoning Compliance Permit, the Town shall initiate traffic calming discussion with interested stakeholders. Discussions should

include pedestrian crossing of E. Rosemary Street, potential bicycle improvements, traffic impacts and improvements on North Street, and other streetscape improvements. Necessary improvements shall be installed prior to Zoning Final Inspection for the parking garage. Final design and construction details must be approved by the Town Manager.

11. Screening Adjacent to Residential Zoning: A three-foot tall, continuous evergreen hedge, that will reach a height of four feet within three years of planting, or a screening fence between four feet and six feet in height, shall be placed along the northern property line adjacent to the Residential-3 (R-3) zoning district.
12. 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] As the property is near the Town's historic district, the Historic District Commission may offer a courtesy review.
13. Stormwater Control Measure: Any proposed Stormwater Control Measures shall be designed in conformance with the North Carolina Division of Environmental Quality Stormwater Design Manual.
14. Connection to Existing Storm Drainage: This project shall not increase the hydraulic grade line in upstream storm drainage infrastructure during the 10-year, 24-hour storm event and 25-year, 24-hour storm event.
15. Stormwater Management Structures: No stormwater management structures are permitted in the rights-of-way or building setbacks. This includes the outlet structure and stabilization, any underdrains, side slopes, and the downgradient toe of french drains. Overland discharge from the property must be in a sheet flow condition. [LUMO 3.8.3]
16. Removal of Impervious Area: Any area that is being converted from impervious to pervious shall be properly prepared for revegetation. Compacted soil shall be ripped and aerated to an appropriate depth based on site conditions. Plans shall clearly identify impervious areas to be removed and provide methodology for preparing the revegetated area, addressing the depth of treatment, removal of any underlying base materials as needed, and replacement material specifications.
17. 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]
18. Performance Bond: Prior to commencing construction activity for improvements in public right of way, a performance bond shall be provided to the Town to ensure that improvements are in accordance to Town's standards. [TOWN CODE 17]
19. Landscape Bufferyards: The landscape bufferyards shall be provided as shown in the following table:

Buffer	Required
Northern Property Line	20' Type C Buffer or Alternate Buffer (Modification to Regulations Section 5.6.8 Alternative Buffers and Screening)

20. OWASA Approval: Prior to final zoning inspection, any easement plats and documentation as required by OWASA and the Town Manager shall be recorded. [LUMO 5.12]

TOWN OF CHAPEL HILL – CONDITIONAL ZONING STANDARD STIPULATIONS

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

21. 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

22. 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]

23. 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 required by the Town Design Manual. [LUMO 4.5.2]

24. 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]

25. 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]

26. 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).

27. 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.

28. 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.
29. 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]
30. 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]
31. Low Vision Design Features: Any proposed pedestrian facilities should incorporate low vision design features as feasible. [LUMO 4.5.2]
32. 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]
33. 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]
34. 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

35. 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]
36. 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]
37. 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]

38. 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]
39. 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]
40. 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]
41. 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.
42. 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).
43. Lighting Plan Approval: 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]
44. 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

45. Stormwater Management Plan: Development projects must comply with *Section 5.4 Stormwater Management* of the Chapel Hill Land Use Management Ordinance.
46. 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]

47. 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]
48. 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]
49. Erosion Control: The developer shall provide a copy of the approved erosion and sediment control permit from Orange County Erosion Control Division prior to receiving a Zoning Compliance Permit. During the construction phase, additional erosion and sediment controls may be required if the proposed measures do not contain the sediment. Sediment leaving the property is a violation of the Town's Erosion and Sediment Control Ordinance. [Town Code 5-98]
50. 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]
51. Stormwater Control Measure: The proposed stormwater control measures for the site shall be designed to meet the current North Carolina Division of Environmental Quality Design Manual and Town of Chapel Hill Public Works Engineering Design Manual. [LUMO 5.4.3]
52. Storm Drain Inlets: The developer shall provide pre-cast inlet hoods and covers stating, "Dump No Waste! Drains to Jordan Lake", in accordance with the specifications of the Town Standard Detail SD-4A, SD-5A, SD-5C include all applicable details, for all new inlets for private, Town and State rights-of-way. [Town of Chapel Hill Design Manual]
53. 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]
54. 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]
55. Performance Guarantee: A performance and maintenance guarantee in an amount satisfactory to the Town Manager shall be provided to meet the requirement of *Section 4.9.3, Performance and Maintenance Guarantees* of the Land Use Management Ordinance prior to the approval of final plat recordation. The performance guarantees and maintenance guarantees shall be satisfactory as to their form and manner of execution, and as to the sufficiency of their amount in securing the satisfactory

construction, installation, or maintenance of the required stormwater control measure. The performance surety shall be an amount equal to one hundred and twenty-five percent (125%) of the total cost of uncompleted stormwater control measure(s) and conveyances prior to final plat recordation. The total cost of the storm water control measure(s) and conveyance(s) shall include the value of all materials, piping and other structures, seeding and soil stabilization, design and engineering, grading, excavation, fill, and other work. The developer shall submit unit cost information pertaining to all storm water control measure(s) and/or bids from the grading contractor hired to perform the work and any change orders related thereto as a method to determine the basis for cost of the work. The final cost determination shall be made by the Stormwater Management Division, taking into consideration any additional costs as deemed necessary for completion of the stormwater control measure(s) and conveyance(s).

Upon completion of the storm water control measures(s) and other improvements and acceptance by the Town after final site inspection, the one hundred and twenty-five percent (125%) of the performance surety shall be released to the developer and a maintenance bond in an amount of twenty-five (25) percent of the construction cost estimate shall be submitted by the developer prior to the issuance of certificate of occupancy. No sooner than one year after the recording date of the deed(s), easements and maintenance agreement, the owner may request release of the remainder of the maintenance bond. Upon request by the owner, the Stormwater Management Division shall inspect the storm water control structure(s) to determine that the storm water measure(s) are performing as required. The Stormwater Management Division, upon determining that the storm water control(s) are performing as required by this Ordinance, and after any repairs to the storm water control structure(s) are made by the owner, shall release the remaining maintenance bond. [LUMO 4.9.3]

56. 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 Conditional Zoning 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]

57. 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

58. Recreation Space (Multi-Family): If applicable, 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.

59. Recreation Area (Subdivision): If applicable, a minimum of 25 percent of the required Recreation Area 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

60. 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]
61. 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]
62. 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]
63. 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.

Homeowner Association

64. Homeowners' Association: If applicable, a Homeowners' Association shall be created that has the capacity to place a lien on the property of a member who does not pay the annual charges for maintenance of all common areas, however designated. The Homeowners' Association documents shall be approved by the Town Manager prior to recordation at the Orange County Register of Deeds Office and shall be cross-referenced on the final plat. The Homeowners' Association documents shall comply with *Section 4.6.7 Neighborhood or Homeowners' Associations* of the Land Use Management Ordinance. The Homeowners' Association covenants shall not exclude home occupation businesses as regulated by the Town of Chapel Hill.
65. Homeowners' Association Responsibilities: If applicable, the Homeowners' Association shall be responsible for the maintenance, repair, and operation of required bufferyard(s), open space, recreation areas, paths, community garden, and shared stormwater management facilities.
66. Dedication and Maintenance of Common Area to Homeowners' Association: If applicable, the developer shall provide for Town Manager review and approval, a deed conveying to the Homeowners' Association all common areas, however designated, including the

community garden; recreation space; open space and common areas; the bufferyards; and stormwater management facilities. The Homeowners' Association shall be responsible for the maintenance of the proposed internal subdivision roads until the NCDOT or the Town assumes ownership of the internal streets. These documents shall be reviewed and approved by the Town Manager prior to recordation at the Orange County Register of Deeds Office and cross-referenced on the final plat.

67. Solar Collection Devices: If applicable, the Homeowners' Association, or similar entity, shall not include covenants or other conditions of sale that restrict or prohibit the use, installation, or maintenance of solar collection devices, including clotheslines.

Fire Safety

68. 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]
69. 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]
70. 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]
71. 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.
72. 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]
73. 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.
74. 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]

75. 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 APPROVAL]
76. 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.
77. 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 APPROVAL]
78. Fire Access: Prior to issuance of a Certificate of Occupancy, fire access shall be reviewed and approved by the Town of Chapel Hill.
79. 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]
80. 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]
81. 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]
82. 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]

83. 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]
84. 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]
85. 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.
86. 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.
87. 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]
88. 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.
89. 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]
90. 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]
91. 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

92. 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]
93. 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]
94. 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

95. 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]
96. 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

97. 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]
98. 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]

99. 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]
100. 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]
101. Open Burning: The open burning of trees, limbs, stumps, and construction debris associated with site development is prohibited. [Town Code 7-7]
102. 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]
103. 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.
104. Traffic Signs: The developer shall be responsible for placement and maintenance of temporary regulatory signs before issuance of any Certificates of Occupancy.
105. 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.
106. 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]

107. Vested Right: Approval of a Conditional Zoning District and the associated district-specific plan constitutes a site specific development plan establishing a vested right. 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.
108. Continued Validity: Continued validity and effectiveness of this approval shall be expressly conditioned on the continued compliance with the plans and conditions listed above.
109. Non-Severability: If any of the above conditions is held to be invalid, approval in its entirety shall be void.
110. 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 RESOLVED that the Council hereby approves the application for Conditional Zoning for 125 and 135 E. Rosemary Street.

This the 28th day of October, 2020.