

**DECISION ON SPECIAL USE PERMIT-A**

**South Green Mixed Use Project, 101 Two Hills Drive, 100 & 110 Two Hills Drive, and 120 Two Hills Drive**

On January 21, 2025, the Town Council held a quasi-judicial hearing on the application of Ballentine Associates, PA for a Special Use Permit-A to allow for construction of a mixed use project consisting of multiple non-residential uses and up to 63 multifamily residential dwelling units (land use categories: 1.310, 1.322, 1.331, 1.332, 2.110, 2.120, 2.130, 2.210, 2.220, 2.230, 3.110, 3.120, 3.130, 3.150, 3.220, 3.250, 4.100, 5.120, 5.130, 5.200, 5.400, 6.110, 6.121, 6.140, 8.100, 8.200, 8.500, 8.600, 8.700, 12.100, 13.100, 15.100, 16.200, 19.200, 27.000), along with associated infrastructure on three lots currently addressed as 101 Two Hills Drive, 100 and 100 Two Hills Drive, and 120 Two Hills Drive. Based on the evidence submitted at the hearing, the Council makes the following Findings of Fact, Conclusions, and Decision:

**Findings of Fact**

1. The properties that are the subject of the application, located at 101 Two Hills Drive, 100 and 100 Two Hills Drive, and 120 Two Hills Drive, PIN Nos. 9778-83-7930, 9778-83-7669, and 9778-93-1738, are 5.73 acres in size and are zoned M-3 Conditional Zoning, M-3 CZ.
2. The surrounding land uses are: to the North, single-family homes; to the South, self-storage facility; to the West, South Greensboro Street right of way; and to the East, educational facility.
3. The applicant proposes to build multiple non-residential uses and up to 63 multifamily residential dwelling units (land use categories: 1.310, 1.322, 1.331, 1.332, 2.110, 2.120, 2.130, 2.210, 2.220, 2.230, 3.110, 3.120, 3.130, 3.150, 3.220, 3.250, 4.100, 5.120, 5.130, 5.200, 5.400, 6.110, 6.121, 6.140, 8.100, 8.200, 8.500, 8.600, 8.700, 12.100, 13.100, 15.100, 16.200, 19.200, 27.000), along with associated infrastructure on the properties, which are permitted uses with a Special Use Permit-A in the M-3 conditional zoning district under use classifications listed in the Table of Permissible Uses.
4. According to the Staff Report, the Application is complete and the proposed uses satisfy all of the Land Use Ordinance requirements regarding traffic, parking, bike parking, tree protection, screening, shading of the parking lot,

tree canopy, drainage and grading, and requirements pertaining to utilities and refuse collection.

5. Mr. Richard C Kirkland, Jr. a N.C. Certified Appraiser, rendered the opinion that the proposed uses will have no negative impact on the nearby property values.

## Conclusions

1. The Application is complete.
2. The Application complies with all applicable requirements for the Land Use Ordinance.
3. The proposed use will not materially endanger the public health or safety.
4. The proposed use will not substantially injure the value of adjoining or abutting property.
5. The proposed use will be in harmony with the area in which its is to be located.
6. The proposed use will be in general conformity with the Land Use Plan and Thoroughfare Plan.

## Decision

Based on the foregoing findings of fact and conclusions, the Council grants the requested Special Use Permit-A to Ballentine Associates, PA, subject to the following statements and conditions:

1. The applicant shall complete the development strictly in accordance with the plans submitted to and approved by this Council, a copy of which is filed in the Carrboro Town Hall. Any deviations from or changes in these plans must be submitted to the Development Review Administrator in writing and specific written approval obtained as provided in Section 15-64 of the Land Use Ordinance.
2. If any of the conditions affixed hereto or any part thereof shall be held invalid or void, then this permit shall be void and of no effect.

3. That prior to approval of the construction plans authorizing installation of the project's infrastructure internal to the site, if all necessary additional street right-of-way needed for the construction of the roundabout is not obtained by the developer and recorded in a final plat, that the location of the roundabout be shifted as needed so as to not require this additional property. Should the roundabout location be shifted, the construction plans will be re-reviewed as necessary to assure they remain in compliance with the permit. If the shift causes substantial changes to the plans it will require approval by the Town Council.
4. That prior to approval of the construction plans authorizing installation of the project's infrastructure internal to the site, the applicant pursue relocating the Purple Leaf Place sidewalk extension onto the eastern side of the road instead of the western side as shown in the SUP-A plans and that this revised connection will include the corresponding revisions to the crosswalks and HC ramps on the plans in the vicinity of these changes.
5. That prior to construction plan approval for grading and soil work, all necessary encroachment agreements be obtained to allow work within the existing Rand Road public right-of-way. Further, that the existing Rand Road right-of-way shall be formally abandoned per Town procedure prior to issuance of a certificate of occupancy.
6. That, regardless of the status of the right-of-way abandonment or dedication, the applicant will provide emergency access (meeting Town Fire Department standards) through the property to Purple Leaf Place throughout the construction process.
7. That prior to approval of the construction plans authorizing installation of the project's infrastructure internal to the site, the applicant receive a driveway permit from NCDOT in accordance with any conditions imposed by such agency including but not limited to encroachment/maintenance agreements for lighting and sidewalks.
8. That an appropriately sized public easement be provided for the sections of the proposed 10' bicycle path/greenway facility that are not located within the public street right-of-way.
9. That, in the construction plans the multi-use path be designed to meet or exceed the specifications identified in the AASHTO Guide for the Development of Bicycle Facilities and the applicable design recommendations in the Town of Carrboro Comprehensive Bicycle Plan.

10. That at least one accessible parking space be provided in close proximity to the main entrance of Building 3 in the option A site plan proposal.
11. That the applicant must obtain approval from the Town (either at a staff or Council level as determined by the LUO), if changes to the allocation of uses in the commercial buildings or the hours of operation of the businesses result in parking requirements that exceed the parking amount approved by the permit.
12. That the Town Council hereby finds that 181 parking spaces are sufficient to serve the proposed development based on the applicant's justification statement regarding joint use of the proposed parking spaces and the site's proximity to residential neighborhoods, bus lines, bicycle lanes and existing pedestrian facilities.
13. Should the installation of HC spaces to serve Building 3 in the Option A site plan be required, that these parking total numbers be allowed to be reduced by one or two spaces if necessary to allow the installation of the HC spaces.
14. That the Town Council hereby finds that that the loading and unloading areas shown on the plans are sufficient to accommodate delivery operations in a safe and convenient manner based on information provided by the applicant.
15. That the construction plans demonstrate compliance with the tree canopy coverage standards of Section 15-319 prior to construction plan approval.
16. That the proposed NCDOT drainage improvements for S. Greensboro Street be coordinated and installed in advance-of or concurrent-with the installation of the South Green drainage improvements.
17. That the applicant shall provide to the Zoning Division, prior to the recordation of the final plat for the project or before the release of a bond if some features are not yet in place at the time of the recording of the final plat, Mylar and digital as-builts for the stormwater features of the project. Digital as-builts shall be in PDF format and shall include a base map of the whole project and all separate plan sheets. As-built PDF files shall include all layers or tables containing storm drainage features. Storm drainage features will be clearly delineated in a data table. The data will be tied to horizontal controls.
18. Per Section 15-263.1, that the developer shall include a detailed stormwater system maintenance plan, specifying responsible entity and schedule. The plan shall include scheduled maintenance activities for each stormwater BMP in the development, performance evaluation protocol, and frequency of

self-reporting requirements (including a proposed self-reporting form) on maintenance and performance. The plan and supporting documentation shall be submitted to Town engineer and Stormwater Utility staff for approval prior to construction plan approval.

19. That, prior to issuance of a CO for the first building on lot 2, the applicant must submit a performance security related to any stormwater related items not yet completed. And then prior to the certification of a stormwater BMP, the applicant shall submit a performance security to be posted and held by the Town for a period of two years per the provisions of Section 15-263(i).
20. That any necessary temporary or permanent easements be obtained prior to the approval of construction plans for each stage of the development. Easements shall also be shown on the final plat when it is recorded.
21. That the developer provide a written statement from the electrical utility stating that electric service can be provided to all locations shown on the construction plans prior to the approval of the construction plans.
22. Prior to construction plan approval, all proposed lighting within public rights-of-way must satisfy the Public Works street lighting policy.
23. That fire flow calculations and building-sprinkler design (as required) must be submitted and approved by the Town Engineer and Town Fire Department prior to construction plan approval.
24. That the Town Council hereby finds acceptable the deviations from the architectural requirements of Section 15-178 of the LUO per the elevations and information presented at the public hearing.
25. That prior to construction plan approval, the applicant submit materials to satisfy the Construction Management Plan provisions of Section 15-49(c1).
26. That prior to issuance of a certificate of occupancy, a final plat will be recorded including the three new lots and the newly established Rand Road public right-of-way. This plat will show all necessary easements.
27. The applicant shall include striped crosswalks on all four sides of the roundabout subject to NCDOT approval.
28. The applicant shall paint sharrows in the roundabout subject to NCDOT approval.
29. The applicant shall show sharrows on the construction plan along Rand Road.
30. That, if allowed under the related provisions of the Americans with Disability Act, the construction plans shall show the multi-use path splitting

into two paths so as to serve both sidewalk ramps on the southeast quadrant of the roundabout.

31. That the construction plans shall show painted crosswalks at all sidewalk and multiuse path crossings.
32. That the construction plans show raised crosswalks or an alternative crosswalk treatment wherever practicable particularly where the multiuse path crosses the entrance to the parking lot for Building 2.
33. That the construction plans shall install stop signs where all of the driveways enter Rand Road subject to Public Works approval.
34. That the construction plans shall include adequate lighting along the multiuse path behind Buildings 3, 4 & 5.
35. That the construction management plan include wayfinding signs for re-routing cyclists during construction.
36. That the construction plans shall not include any plants recognized as invasive plants by North Carolina Invasive Plant Council in the piedmont of North Carolina and that the applicant's Landscape Architect shall provide written justification for the use of non-native species.
37. That the construction plans shall include LEDs lights for all of the outdoor parking area light poles and provide for the option of LED lighting, indoors.
38. That the applicant consider establishment of terracing of the steep slope to allow for uses as an alternative to a steep, continuous vegetated slope.
39. That the applicant consider other cost effective energy efficiency measures such as heat recovery units and geothermal systems to the extent feasible.
40. That the owner shall to strive to abide by Fair Trade standards as defined by the Local Living Economy Task Force Recommendation number 6 and seek to recruit locally owned businesses.
41. The developer shall comply with the following nine M-3-CZ performance measures as identified below and therefore is granted 40% restaurant use and residential use for the property:
  - a. Flooding mitigation (satisfies performance measure 1);
  - b. Permeable paving (satisfies performance measures 2& 3) construction of the roundabout (satisfies performance measures 4 & 5);
  - c. LED parking lot lights (satisfies performance measure 13);
  - d. Use of devices that shade at least 30% of the south and west facing building elevations (satisfies performance measure 9);
  - e. Use of Low Emissivity (low-e2) windows along south and west facing building elevations (satisfies performance measure 10);

- f. Installation of attic insulation that exceeds the current building code R-value rating by 35% or greater (satisfies performance measure 11).
42. That electrical service conduit is provided within the buildings for the purpose of facilitating convenient future installation of rooftop solar photovoltaic arrays.
43. That the developer include the possibility of Commercial Organic Waste Collection in their solid waste management plan. Said service shall be operated insofar that it does not create an odor nuisance to the surrounding community and shall be subject to the additional condition regarding solid waste.
44. That an offer be made by the applicant to the owner(s) of the property located at 436 S. Greensboro St (PIN 9778834808) to mitigate the impacts of the installation of the roundabout through the provision of additional landscaping and site work and the extension of curb and gutter north on South Greensboro Street to the extent allowed by NCDOT. The developer will rebuild the dry stack wall to the west of the property located at 436 S. Greensboro St. and offer to relocate the driveway and build another rock wall to the east side of the driveway following the curb and gutter. Additional landscaping costs will be provided between a budget of \$3,000 and \$4,500.
45. That an offer be made by the applicant to the owner(s) of the property located at 212 Purple Leaf Place (PIN 9778848092) to mitigate the visual impacts of the project in their vicinity through the provision of additional landscaping and site work. Plantings will occur within the street right-of-way and the HOA common space if circumstances allow and the correct permissions are obtained. The developer agrees to offer up to \$4,500 in additional screening budget.
46. That solid waste and recycling pickup occur between the hours of 7:30 am and 5:00 pm Monday through Saturday.
47. That the owner and/or property manager will mitigate the nuisance impacts associated with all prospective South Green tenants. Nuisance impacts include but are not limited to, truck deliveries, idling engines, leaf blowing and mowing, and the emptying of trash and recycling containers. Mitigation efforts shall be tailored to fit each particular business as needed and will include, but not be limited to, controlling the location and hours of delivery. Deliveries shall occur between 7:30 am and 7:30 pm, leaf blowing and mowing shall occur between 9 am and 5 pm. Deliveries occurring outside of

these hours shall load and unload internal to the site. Refuse disposal outside of enclosed buildings shall occur between 7:30 am and 10:00 pm, and not after 9:00 pm whenever possible. Furthermore, the property owner is required to present a written report to the Town every six months for the first two years of operation and annually for the following eight years thereafter. Furthermore, annually for ten years, the owner will poll neighbors within 1000' of the property to receive their comments regarding the development whereupon the applicant will provide a written report of the results to the Town. The applicant shall add restrictive covenants that reflect this condition.

48. That the applicant must submit a payment in lieu equivalent to providing 15% of the units as affordable units, in accordance with the Land Use Ordinance formula prior to issuance of a building permit for the first building on Lot 2. The amount to be paid will be in accordance with the amount identified in the town's fee schedule for an affordable housing payment-in-lieu at the time the payment is submitted. If an alternative plan for providing the equivalent of 15% affordable housing units within the development is realized before the payment is made, then such proposal will be reviewed and considered in accordance with LUO Section 15-64, Modifications to Permits.
49. That Town Council finds that 181 parking spaces is sufficient to serve the proposed development based on the applicant's justification statement regarding joint use of the proposed parking spaces and the site's proximity to residential neighborhoods, bus lines, bicycle lanes and existing pedestrian facilities. This finding acknowledges that cross access and shared use of parking amongst the lots 1 and 3 is allowed, and that parking on lot 2 is exclusive to uses on lot 2 only.
50. That the applicant must provide evidence of the availability of all applicable utilities serving the site by way of submitting service availability letters from all respective utility companies before the construction plans can be approved.
51. That the applicant must construct the DLA in compliance with the testimony and information shared during the public hearing showing where the DLA is located. Furthermore, Town Council finds that the provision of DLA is acceptable in lieu of 40% open space and that 10% DLA is acceptable in accordance with LUO Section 15-204(d)(1), and the graphic representation



provided through testimony must be incorporated into the plans prior to construction plan approval.

52. That Town Council finds the alternative design provided by the applicant acceptable, in accordance with LUO Section 15-178.
53. That the applicant receive(s) CAPS from the Chapel Hill-Carrboro City Schools district pursuant to Article IV, Part 4 of the Carrboro Land Use Ordinance prior to construction plan approval.
54. That, prior to issuance of the first building permit for lot 2, the owner's declarations and covenants shall satisfy the applicable provisions of the Land Use Ordinance subject to review and approval of the Town Attorney.

Signed, this the \_\_\_\_ day of February 2025.

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Barbara Foushee, Mayor, Town of Carrboro