



Staff Report – Town Council Quasi-Judicial Public Hearing

Meeting Date	January 21, 2025	Project Name	South Green, SUP-A		
Applicant	Ballentine Associates, PA	Request:	Special Use Permit-A for Mixed Use Project, Commercial and Residential Uses		
Zoning District	Manufacturing-3 Conditional Zoning	Existing Land Use:	Lots 1 and 3, fully developed, Lot 2 vacant		
Site Address:	101 Two Hills Drive 100 & 110 Two Hills Drive 120 Two Hills Drive	PIN:	9778837930, 9778837669, 9778931738	Project Area:	5.73 Acres
Adjacent Zoning Districts:	N/A (Chapel Hill jurisdiction), East M-1, South R-3 and R-7.5, North and West	Adjacent Land Uses:	Residential – North and West Educational – East Office and Storage – South		

Background, Concept Plan Review, and Project Summary

The Zoning Division has received an application for a Special Use Permit-A (SUP-A), from Ballentine Associates, PA, requesting a permit to build up to 63 dwelling units and up to 5,300 square feet of commercial building space, along with associated infrastructure on Lot 2 of the South Green development. The applicant is asking that all aspects of the project associated with the existing buildings on Lot 1 and Lot 3 remain the same. The subject properties are identified as 101 Two Hills Drive (PIN: 9778837930), 100 & 110 Two Hills Drive (PIN: 9778837669), and 120 Two Hills Drive (PIN: 9778931738) and are all zoned M-3 Conditional Zoning.

Following approval of the rezoning and original SUP-A, construction commenced and was completed for Lots 1 and 3 in accordance with the SUP-A. Lot 2 remained vacant for several years until a new project was identified involving adding residential uses on Lot 2. The rezoning was taken back before Town Council and approved in May 2023 along with a LUO text amendment allowing for residential uses within the M-3 conditional zoning district.

Subsequent to the approval of the rezoning and text amendment, the applicant presented a concept plan for a new SUP-A to the advisory boards in November 2023. The change is

considered substantial enough from what was originally approved to constitute requiring a new SUP-A.

If approved as designed, the existing use of lots 1 and 3 will remain the same. Now proposed for lot 2 is construction of up to 63 dwelling units (apartments / flats) along with up to 5,300 square feet of commercial space on the ground floor of the building facing Two Hills Drive, along with necessary infrastructure to serve the new homes and other facilities meeting Land Use Ordinance (LUO) requirements. Project plans are included as Attachment C. Additional details regarding the project are included below.

The original staff report presented to Town Council during the approval of the first SUP-A is being included for reference as Attachment D. Additional details regarding the overall development and specific details about lots 1 and 3 are included in the report. The remainder of this report primarily focuses on land use ordinance compliance for what is newly proposed for lot 2.

At the applicant's request the plans have been reviewed at the construction plan level. Assuming they are approved and excepting any adjustments imposed by permit conditions that require changes to the plans, they are essentially considered ready to be fully approved, thereby allowing for construction to begin soon after Town Council acts on the request.

The final list of recommended conditions incorporates and includes the original SUP-A conditions from the original approval. Conditions from the original list have been left intact as originally adopted and recorded, with new conditions added at the end of the list. Exceptions to this are as follows:

- References throughout to the Board of Aldermen have been changed to Town Council.
- The overall total number of parking spaces approved, in condition 12, has been changed to 181 spaces, in accordance with the current plans. Reference to the potential to use the rear of Lot 2 as outdoor storage for inventory has also been removed in accordance with the newly proposed use for Lot 2 does not accommodate such storage.
- Edited versions of 17-19 related to new stormwater recording process, etc.
- Edited version of 41 to add residential use to the finding related to incorporation of performance measures.

Note as well that references to Conditional Use Permit (CUP) have been changed to the new term Special Use Permit-A (SUP-A) and references to Conditional Use Rezoning (CU) have been changed to Conditional Rezoning (CZ) related to changes to State of North Carolina Law. Exceptions to this are the original CUP document, included as Attachment E (recorded document at Orange County Register of Deeds, unable to modify) and the original staff report, included as Attachment D (left intact, as written).

Density & Permissible Uses, Affordable Housing, Size-Restricted Units

Density & Permissible Uses

The approved conditional rezoning established a maximum number of dwelling units of 63, comprised of multifamily type units outlined in the land use ordinance. The SUP-A plans propose a total of 63 multifamily units and include the previously approved list of uses for lots 1 and 3.

The applicant must also provide testimony during the quasi-judicial public hearing about the measures being included to allow restaurant spaces and residential uses. Town Council originally made a finding related to this about up to 40% restaurant uses being permissible. Town Council must make a similar finding since this is considered a new SUP-A, which potentially allows both up to 40% restaurant uses and residential use of the property. Condition 41 has been edited to incorporate residential use as well. The rewritten condition now reads as follows, should Council choose to make this finding:

- 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).

Affordable Housing

In accordance with rezoning condition number 4, the applicant has indicated that they intend to include at least 15% affordable dwelling units within the development and / or submit a payment in lieu for such units if they are unable to provide them by way of constructing the units as a part of the development. The letter provided as Attachment G speaks to this matter, and the following condition is recommended:

- 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.

For clarity, the applicant has agreed to pay the fee if no other satisfactory way of providing 15% affordable units is identified.

Size-Restricted Units

Section 15-188 of the LUO includes provisions that require that the developer build a percentage of “size-limited” units between 1,350 and 1,100 square feet as a strategy to provide some lower priced market housing based on the small size of the units. The specific units showing compliance with this provision are identified on the cover sheet of the plans do need to be disclosed. Because of this, the following condition is recommended.

Staff Conclusion: The project plans comply with all applicable LUO standards, and the applicant has agreed to submit a payment-in-lieu for the equivalent of 15% affordable units within the project before a building permit may be issued for Lot 2.

Streets & Sidewalks, Connectivity, Traffic Analysis, Traffic Calming, Greenways Transit, Parking:

Streets & Sidewalks

The newly proposed use of lot 2 complies with what was originally approved with respect to the overall development’s street and sidewalk network, including the pedestrian greenway feature traversing the site. No changes are proposed with respect to features outside of the scope of Lot 2.

NCDOT Review

No additional review is required by NCDOT as lot 2 fronts only on a town street.

Connectivity

In accordance with the original SUP-A for the project, bollards were included and installed where the existing street terminates at the south end of the existing Roberson Place subdivision. This matter may be revisited if Town Council chooses to do so, but should be considered separately from this permit as the streets in question are now controlled and owned by the town.

Parking and Private Road Serving Parking Area

Per the maximum parking standard established by LUO Section 15-291, the applicant is proposing a total of 181 spaces. This number also complies with the rezoning condition establishing a range of allowable parking spaces within the development. Staff has been working with the applicant to clarify what was approved in the original SUP-A compared to the current information included in the application regarding shared use of parking spaces amongst the three lots. Specifically, the original SUP-A noted that cross access use of parking between the three lots would be a part of the development. The applicant has noted that such access did not actually occur. As a part of the new SUP-A application, the applicant is now asking that cross-access parking be permitted between lots 1 and 3, and that parking for lot 2 be exclusive to the uses on lot 2. The letter included as Attachment G speaks to this matter.

Town Council ultimately must find, similar to what was done in 2015, that the proposed number of spaces (181) is sufficient to serve the development as designed and based on the final package of information from the applicant regarding how parking is allocated and used throughout the three lots. A condition is noted below, setting in place a finding for Town Council to consider about parking:

- 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.

Bicycle Parking

Bicycle parking on lots 1 and 3 will remain as developed, already in accordance with the LUO requirements. For lot 2, the number of required spaces is fulfilled by locating multiple bike parking areas (30, 20, 20, 20, and 8).

EV parking

On lot 2, the applicant is providing three charging stations and eighteen additional charging capable parking spaces in compliance with LUO requirements. A detail drawing for the EV charging device is included on plan sheet C5002.

Staff conclusion

The project plans only comply with all applicable LUO standards regarding streets and connectivity and parking if the above conditions are fully complied with.

Tree Protection, Street Trees, Tree Canopy, Screening, and Vehicle Accommodation Area Shading

Tree Protection

Any existing trees were largely cleared from the entire site for construction on lots 1 and 3, as well as on lot 2 when rough grading was done to flatten the site during the soils sub-compaction stage that occurred in the past to create a buildable development site. Trees were then planted on lots 1 and 3 in accordance with the original landscaping plan to comply with the LUO standards for vehicle accommodation area and tree canopy requirements. No additional / remaining trees of any significant size or rare species remain at this time where development is taking place.

Tree Canopy

As originally approved, the applicant has included data on the current plans showing how the project comply with the 40% canopy coverage requirement, newly increased and imposed by the addition of residential uses on the site.

Screening

Per Section 15-308, screening is required variously between the components in this project and the surrounding street right-of-way and lots. Screening is already provided and in place for lots 1 and 3. For lot 2, since multifamily residential is proposed adjacent to single-family residential (Roberson Place subdivision), a Type C screen is required. A Type C screen is also required adjacent to the street. The proposed plantings shown on the landscape plan are numerous and exceed the required amount to create a Type C screen where needed.

Vehicle Accomodation Area Shading

The applicant has included data on the plans indicating that all three lots have or will have a sufficient number of trees to comply with the 35% shading requirement of the LUO. The trees currently exist on lots 1 and 3, and 24 trees are proposed on lot 2 to meet / slightly exceed the required amount of shading.

Staff conclusion

The project plans comply with all applicable LUO standards regarding trees and tree canopy coverage.

Drainage and Water Quality, Stormwater Bonding, Grading, and Erosion Control

Drainage and Water Quality

Section 15-263 of the LUO establishes stormwater management criteria that must be met for the project. In particular, the applicant must meet stormwater runoff standards with respect to water quality, quantity, and volume. The plans have been reviewed by the town engineer and found acceptable for purposes of receiving a SUP-A. What is proposed is consistent with what was originally approved including a permeable pavement system in parking lot areas along with other pipe network features.

Related to OWASA as a utility provider for water and sewer on the site, discussion took place during the review process related to infrastructure being located beneath the areas covered by permeable pavement. A mutually agreeable decision was made between the developer and OWASA regarding how much of their infrastructure will be in the areas topped by permeable pavement. Essentially, the developer has redesigned where possible to minimize as much as possible this situation. OWASA will need to do a final sign off the plans prior to construction plans being approved, but the design has been found as acceptable.

Relative to the Town satisfying state requirements pertaining to the National Pollutant Discharge Elimination System (NPDES) Phase II permit, the following conditions are required:

- That the applicant shall provide to the Zoning Division, prior to the approval of a 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.
- 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.

Much of the associated documents have already been completed for the infrastructure associated with lots 1 and 3, so the aforementioned conditions primarily relate to what will be built on lot 2.

Stormwater Bonding and Conversion to Owner's Association (HOA) Responsibility

Section 15-263 (i) enables the Town to require the developer post a security to the Town to assure that the stormwater SCMs perform as designed; because of this, the following condition is recommended.

- 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).

Additionally, the town wants to ensure that all relevant parties are aware of responsibilities associated with the SCMs. Staff and the applicant are continuing discussions about this matter related to a SCM located at the north end of lot 2. Maintenance of the area is an existing responsibility imposed by the original SUP-A. Improvements to and a modification of the design may be approved by way of a SUP-A Insignificant Deviation once a final design is agreed upon.

Erosion Control

In June 2024, town staff and Orange County Erosion Control worked with the developer to separate and process an application for a Minor Modification to the existing SUP-A that made changes to the proposed grading and erosion control plan so that the work could begin ahead of the full new SUP-A approval. Doing so allows for grading and erosion control work, along with construction of retaining walls on the site, to begin ahead of receiving building permits to construct the newly proposed buildings. The developer entered into this arrangement knowing that the right to build the new project had not yet been established, but it created a pathway to allow for what is hoped to be a seamless transition between doing the necessary site work before starting the buildings, followed by a more or less immediate start to the buildings themselves. Town Council approved the permit modification in June 2023, and OCEC has now approved a land disturbance permit for site work. The actual work is set to begin at any time.

Staff conclusion

Drainage, stormwater, grading, and erosion control comply with the LUO, subject to the conditions noted above.

Utilities, Fire Safety, Lighting, Refuse Collection

Utilities



The water and sewer plans have been reviewed by OWASA and they have indicated that they are able to serve the development. As described above, review is ongoing and all details must be provided to OWASA before the construction plans are approved.

Regarding electric and gas utilities, the applicant is currently collecting service availability. Because of this, the following condition is recommended:

- That the applicant must provide testimony during the public hearing about the availability of all applicable utilities serving the site, and that all service availability letters from all respective utility companies must be submitted to the town before the construction plans can be approved.

Per Section 15-246 of the LUO, all new utilities (electric, gas, telephone, and cable television lines) must be located underground in accordance with the specifications and policies of the respective utility companies.

Fire Safety and Police Review

The plans have been reviewed and provisionally approved by the Fire Department and the Police Department.

Lighting

In accordance with how the project was originally approved, the lights will be LED and create an even light spread across the site and diminish to a maximum footcandle measurement of 0.2 at each respective property line.

Refuse Collection

The project's waste arrangements have been reviewed by both Public Works and Orange County and found acceptable.

Waste management during construction requires from the County an approved Solid Waste Management Plan as well as a permit. The Solid Waste Management Plans and permit must be obtained prior to construction.

Existing conditions regarding hours when refuse can be emptied and collected remain in place in accordance with the originally issued SUP-A.

Staff conclusion

The project plans comply with the applicable LUO standards, subject to the condition noted above.



Downtown Livability Areas and Urban Amenities & Open Space and Recreation Facilities

Downtown Livability Areas (DLAs) in lieu of Open Space

The LUO allows for DLA to be provided in lieu of the 40% open space requirement otherwise associated with a residential development. In this case the applicant has included data on the plans showing compliance with the DLA part of the ordinance at ten percent (10%) of the land area, which is acceptable based on a finding related to LUO Section 15-204(d)(1). During the hearing, the applicant will provide a graphic representation showing the DLA, and will ask that Council make the finding noted below in the recommended condition:

- That the applicant must provide testimony during the public hearing about graphic representation of compliance, showing where the DLA is located, and must request that Town Council find 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). If Town Council finds that the provision of DLA compliance is acceptable in lieu of 40% open space, and approves of the graphic representation provided through testimony, then the graphic representation must be incorporated into the plans prior to construction plan approval.

Urban Amenities (UA)

The plans include a list of urban amenities on the cover sheet along with amounts of money associated with each component showing compliance with the UA requirements of the LUO.

Recreation

Though the LUO does allow for the UA mentioned above to substitute for recreation facilities requirements, the applicant has chosen to include a clubhouse facility as well which, as the data on the cover sheet indicates, qualifies for 609 recreation points, more than the otherwise required 543 points.

Staff conclusion

The project plans only comply with all applicable LUO standards regarding recreation, open space, downtown livability area, and urban amenities if the above conditions are fully complied with.

Miscellaneous

Construction Management

The original approval was followed by a community meeting and ultimately approval of a construction management plan for the project, in accordance with LUO Section 15-49 (c-1). Development of lot 2 will take place in accordance with the approved plans; no changes are proposed at this time.

Burden of Proof requirement for Tall Buildings in Commercial areas and Real Estate Appraisal

Per Section 15-55.1, since the residential portion of this project is taller than two stories, the 'burden of proof' related to impacts resulting from the development is shifted to the applicant. That is to say the applicant bears the burden of showing the permit-issuing authority that the project will not negatively impact surrounding properties. To this end, the applicant has provided information from a North Carolina certified appraiser, included as Attachment F. The appraiser intends to provide testimony during the public hearing as well.

Downtown Architectural Standards

The downtown architectural standards of Section 15-178 of the LUO apply to this project based on the zoning district designation (M-1 district regulations apply to the M-3 CZ designation). Architectural plans provided exhibit compliance with all aspect of the standards with the exception of two matters:

- Parking in front of the building
- Percentage of glazing and transparency

The applicant noted in their response to staff regarding the matter that the development site is not in the downtown proper and that the architectural design was already approved for lots 1 and 3 during the original SUP-A process. If the Planning Board would like to discuss this matter further with the applicant regarding lot 2, in accordance with LUO Section 15-178(b), then it may do so and make a recommendation to Town Council about the matter. Ultimately, Town Council must find that the alternative design is acceptable, in accordance with the following condition offered as a draft for now:

- That Town Council finds the alternative design provided by the applicant acceptable, in accordance with LUO Section 15-178.

CAPS

Per Article IV, Part 4 of the LUO, the applicant must receive the required Certificate(s) of Adequacy of Public School Facilities (CAPS) from the Chapel Hill Carrboro City Schools District prior to construction plan approval. Because of this the following condition is recommended.

- 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.

Neighborhood Information Meeting

The applicant conducted a neighborhood information meeting during the conditional rezoning portion of the project. Because of this, they chose to not hold an additional meeting as the project had not substantially changed from what was shared during the earlier meeting.

Owner's Association Documents

Prior to the issuance of the first building permit, the applicant must submit for Owner's Associations Declarations and Covenants for review and approval by the Town Attorney. Because of this the following condition is recommended:

- 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.

Staff conclusion

The project plans comply with the applicable LUO standards, subject to the conditions noted above.

Staff Recommendation:

Staff Recommends that the Town Council open and conduct a quasi-judicial public hearing and consider whether to approve the SUP-A request. The list of recommended conditions from staff are provided below:

(1 through 47 repeated as written from original SUP-A with some modifications and edits, and 48 through 54 newly added):

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 R/W.
 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.

New / Revised in 2025:

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 testimony during the public hearing about the availability of all applicable utilities serving the site, and that all service availability letters from all respective utility companies must be submitted to the town before the construction plans can be approved.

51. That the applicant must provide testimony during the public hearing about graphic representation of compliance, showing where the DLA is located, and must request that Town Council find 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). If Town Council finds that the provision of DLA compliance is acceptable in lieu of 40% open space, and approves of the graphic representation provided through testimony, then the graphic representation 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.