

## DRAFT MEMORANDUM

TO: Roger L. Stancil, Town Manager

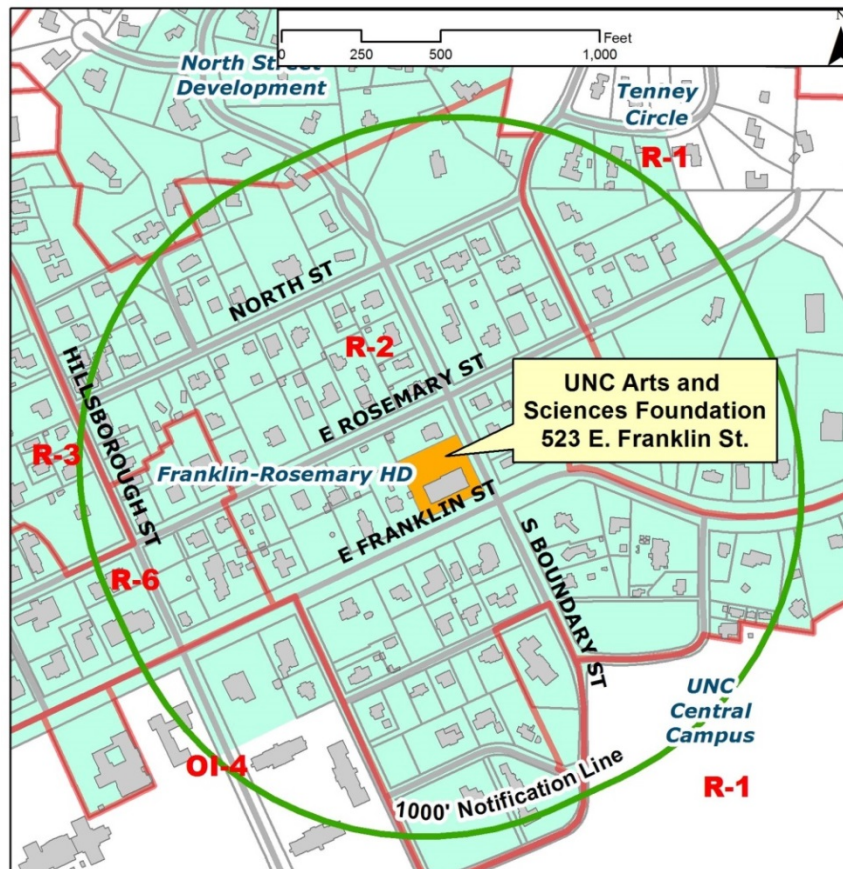
FROM: Mary Jane Nirdlinger, Planning and Sustainability  
Gene Poveromo, Development Manager  
Kay Pearlstein, Senior Planner

SUBJECT: Public Hearing: Application for Zoning Atlas Amendment – The Arts and Science Foundation University of North Carolina at Chapel Hill, 523 E. Franklin Street (Project #14-071)

DATE: March 16, 2015

### INTRODUCTION

Attached for your consideration is a Zoning Atlas Amendment application, submitted by Weinstein Friedlein Architects, PA which proposes to rezone property located at 523 E. Franklin Street from Residential-2 (R-2) zoning district to Office/Institutional-1-Conditional (OI-1-C) zoning district. The one acre site is located at the northwest corner of the intersection with N. Boundary Street. The parcel identifier numbers are Orange County 9788-68-1663 and 9788-68-1722.



There is an accompanying Special Use Permit application that proposes a change of use from a Public Cultural Facility (library and museum) to business, office-type space for the UNC Chapel Hill Arts and Science Foundation. Site improvements for emergency and handicapped access are also proposed. No change is proposed to the outside structure other than routine maintenance. Please refer to the accompanying Special Use Permit staff report for detailed information about the application.

The Zoning Atlas Amendment application would effect a change to the current zoning and permitted types and intensities of land uses. The current Residential-2 zoning district does not allow the current floor area on the site or the proposed use. The proposed rezoning to Office/Institutional-1-Conditional (OI-1-C) zoning district will accommodate the proposed use.

Proposed Development Intensity – Zoning Districts			
		Existing R-2 Zoning District	Proposed OI-1-C Zoning District
Floor Area	Maximum Allowed	4,101 sq. ft.	11,641 sq. ft.
	Proposed Development	NA	12,255 sq. ft.
Primary Height	Maximum Allowed	29 feet	29 feet
	Proposed Development	19 feet	No Change
Secondary Height	Maximum Allowed	50 feet	60 feet
	Proposed Development	NA	29 feet

The current zoning of Residential-2 allows a maximum of 4,101 sq. ft. of floor area on the 44,096 sq. ft. lot. The existing building contains 12,255 sq. ft. of floor area. The building exceeds the maximum amount of allowable floor area by 8,154 sq. ft. This makes the current building’s floor area a nonconforming feature. The proposal for business offices for The Arts and Science Foundation is not an allowable use in the Residential-2 zoning district and therefore the property needs to be rezoned to a zoning district that allows an office-type business. No residential zoning districts allow office-type businesses. The proposed use will be related to the University, and the main campus and nearby University offices are zoned Office/Institutional. The Office/Institutional –1 allows office-type businesses and has a floor area ratio of .264 or allows 11,641 sq. ft. of floor area in this case. The floor area on the site would continue to be nonconforming by 614 sq. ft. but would be less nonconforming.

The surrounding uses and zoning districts are as follows:

Surrounding Development Patterns	
General Development Pattern	Residential and University
North	Residential-2, Single-family homes in the Franklin-Rosemary Historic district
East	Residential-2, Single-family homes in the Franklin-Rosemary Historic District
South	University uses (Love House) and Residential-2, Single-family homes in the Franklin-Rosemary Historic District

West	Single-family homes in the Franklin-Rosemary Historic District; fraternities and multi-family development
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## BACKGROUND

The [2020 Land Use Plan](#),<sup>1</sup> a component of the [2020 Comprehensive Plan](#),<sup>2</sup> designates this site as Institutional.

The following are themes from the 2020 Comprehensive Plan, adopted in June 25, 2012:

Conforms	No.	2020 Comprehensive Plan Themes
	1.	A Place for Everybody
√	2.	Community Prosperity and Engagement
	3.	Getting Around
√	4.	Good Places, New Spaces
√	5.	Nurturing Our Community
√	6.	Town and Gown Collaboration

We believe the proposed zoning atlas amendment complies with the themes of the 2020 Comprehensive Plan. For information on how this proposed development addresses these themes and goals of the Comprehensive Plan, please refer to the Analysis of the Rezoning Application section below and the attached applicant’s Statement of Justification.

## CONDITIONAL USE REZONING REQUEST

In Chapel Hill, a rezoning may be requested as either a general use rezoning or a conditional rezoning request. A general use rezoning request is to change the zoning to a different zoning district in which any of several kinds of developments and uses are permitted. A conditional use rezoning request is to allow development and uses only with approval of a Special Use Permit or Special Use Permit Modification. This rezoning request is a conditional use rezoning request and it is accompanied by a Special Use Permit application.

The Council has the discretionary authority to approve or deny a rezoning request. The specific proposal in the accompanying Special Use Permit application is related to the rezoning request. We believe it is appropriate for the Council to consider a specific Special Use Permit proposal on that application in tandem with a rezoning hearing. If the Council does not find the Special Use permit proposal to be an acceptable use of the property, we would recommend that the Council not approve the rezoning request.

## PROTEST PETITION

Opportunity for a protest petition to a proposed amendment to the Zoning Atlas is provided for under North Carolina Statutes. If a sufficient protest petition is filed with the Town Clerk at least 2 business days prior to the date of the public hearing, the proposed rezoning shall not become effective except by favorable vote of not less than three-fourths of the Town Council. Copies of

<sup>1</sup> <http://www.townofchapelhill.org/home/showdocument?id=1215>

<sup>2</sup> <http://www.townofchapelhill.org/home/showdocument?id=15001>

protest petition forms and additional information are available from Planning and Sustainability or the Town Clerk.

We will report at tonight's Public Hearing regarding any valid protest petition that have been submitted.

### **ANALYSIS OF THE REZONING APPLICATION**

The zoning designation of a property determines the range of land uses and development intensities permitted on the property. Article 4.4 of the Land Use Management Ordinance establishes the intent of Zoning Atlas Amendments by stating that, "In order to establish and maintain sound, stable, and desirable development within the planning jurisdiction of the Town it is intended that this chapter shall not be amended except:

- a) to correct a manifest error in this chapter; or
- b) because of changed or changing conditions in a particular area or in the jurisdiction generally; or
- c) to achieve the purposes of the Comprehensive Plan."

Each of the findings, with respect to this proposed rezoning application, is discussed below:

**A. An amendment to the Land Use Management Ordinance (rezoning) is warranted to correct a manifest error in the chapter (zoning atlas).**

*Staff Comment:* We believe the information in the record to date can be summarized as follows:

- Argument in Support: The applicant has not offered arguments to support this circumstance. We were unable to identify any arguments in support of a manifest error.
- Argument in Opposition: To date no arguments in opposition have been submitted or identified by staff.

**B. An amendment to the Land Use Management Ordinance (rezoning) is warranted because of changed or changing conditions in a particular area or in the jurisdiction generally.**

*Staff Comment:* We believe the information in the record to date can be summarized as follows:

- Argument in Support: Arguments in support of this finding are offered in the applicant's Statement of Justification (please see attached Statement). Excerpts of the applicant's Statement of Justification follow:

"The building was constructed in 1967 and operated as the community public library until new quarters off Estes Drive opened in 1994. The old library became home to the Chapel Hill Museum which closed in 2010 and the Chapel Hill Historical Society, which continues temporarily to use the lower level." *[excerpt from Applicant's Statement]*

“The requested rezoning for this property is OI-1-C. Per LUMO, the Office/Institutional-3 district “is intended to provide the low- intensity office and institutional development and, where appropriate, to serve as a transition between residential zoning districts and high-intensity nonresidential zoning districts.”

- Argument in Opposition: To date no arguments in opposition have been submitted or identified by staff.

C. An amendment to the Land Use Management Ordinance (rezoning) is warranted to achieve the purposes of the Comprehensive Plan.

*Staff Comment*: We believe the information in the record to date can be summarized as follows:

- Argument in Support: Arguments in support of this finding are offered in the applicant’s Statement of Justification (please see attached Statement) and in the Background section of this memorandum above. The rezoning could be justified based on Finding C because objectives of the Comprehensive Plan are being achieved as described below and in greater detail in the applicant’s materials:

“The Arts and Science Foundation will put a contemporary, low-intensity office use into a historic building no longer suitable for its original use. The rezoning gives the building new purpose and avoids disruption of the surrounding neighborhood.”

“The proposed development preserves and existing mature landscape on E. Franklin Street, maintaining tree coverage and adding no stormwater, traffic, light or noise impacts.”

“There is no better example of town and gown collaboration than a university-affiliated program’s acquisition, occupancy and maintenance of a former civic building, continuing its active use in harmony with the surrounding neighborhood.” *[excerpt from Applicant’s Statement]*

- Argument in Opposition: To date no arguments in opposition have been submitted or identified by staff.

## RECOMMENDATIONS

Planning Commission Recommendation: The Planning Commission will consider the Special Use Permit and rezoning applications at their meeting on February 17, 2015.

Staff Recommendation: We recommend that the Town Council open the public hearing, receive comments, and consider the attachments associated with this application. The attached resolution of consistency provides for consistency of the proposed rezoning with the Comprehensive Plan. The attached ordinance would approve the rezoning. The attached resolution would deny the rezoning request.

**RESOLUTION A**

(Rezoning From Residential-2 (R-2) to Office/Institutional-1-Conditional (OI-1-C))

**A RESOLUTION REGARDING THE CHAPEL HILL ZONING ATLAS AMENDMENT FOR 523 E. FRANKLIN STREET AND CONSISTENCY WITH THE COMPREHENSIVE PLAN (PINs 9788-68-1663 and 9788-68-1722, PROJECT #14-071)**

WHEREAS, the Council of the Town of Chapel Hill has considered the application from Weinstein Friedlein Architects, PA to amend the Zoning Atlas to rezone property described in the accompanying rezoning application from Residential-2 (R-2) to Office/Institutional-1-Conditional (OI-1-C) and finds that the amendment, if enacted, is in the public's interest and is warranted, to achieve the purposes of the Comprehensive Plan including, but not limited to:

- Increase in commercial tax base;
- Makes use of a historic building no longer suitable for its original use;
- Preserves surrounding residential neighborhood;
- Unites Arts and Science Foundation staff under one roof reducing inter-office vehicular trips;
- Town/Gown collaboration using a former civic building for a University affiliated program; and
- Preservation of mature landscape on E. Franklin Street in a historic district.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby finds the proposed ordinance to be reasonable and consistent with the Town Comprehensive Plan.

This the \_\_\_\_ day of \_\_\_\_\_, 2015.

## **ORDINANCE A**

Rezoning From Residential-2 (R-2) to Office/Institutional-1-Conditional (OI-1-C)

### **AN ORDINANCE AMENDING THE CHAPEL HILL ZONING ATLAS FOR THE ARTS AND SCIENCE FOUNDATION AT UNC CHAPEL HILL, 523 E. FRANKLIN STREET PINs 9788-68-1663 and 9788-68-1722, PROJECT #14-071)**

WHEREAS, the Council of the Town of Chapel Hill has considered the application for The Arts and Science Foundation at UNC Chapel Hill, 523 E. Franklin Street, to amend the Zoning Atlas to rezone property described below from Residential-2 (R-2) to Office/Institutional-1Conditional (OI-1C) zoning district and finds that the amendment is warranted, because of changed or changing conditions in the area or in the jurisdiction generally, and in order to achieve the purposes of the Comprehensive Plan;

- Increase in commercial tax base;
- Makes use of a historic building no longer suitable for its original use;
- Preserves surrounding residential neighborhood;
- Unites Arts and Science Foundation staff under one roof reducing inter-office vehicular trips;
- Town/Gown collaboration using a former civic building for a University affiliated program; and
- Preservation of mature landscape on E. Franklin Street in a historic district.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Town of Chapel Hill that the Chapel Hill Zoning Atlas be amended as follows:

The Orange County parcels identified by Parcel Identification Numbers (PIN) 9788-68-1663 and 9788-68-1722, as shown on the attached rezoning boundary map, along with one-half of the abutting rights-of-way of E. Franklin Street on the southern side of the parcel and N. Boundary Street on the eastern side of the parcel are to be rezoned to Office/Institutional-1-Conditional (OI-1-C), further described by the below description.

Beginning at a point in the northwest corner of Franklin and Boundary Streets; running thence South 64 degrees 19 minutes 29 seconds West 205.23 feet to a point; thence North 25 degrees 35 minutes 42 seconds West 124.03 feet; thence North 26 degrees 30 minutes 00 seconds West 72.39 feet; thence North 64 degrees 19 minutes 29 seconds East 206.56 feet to a point; thence South 25 degrees 32 minutes 25 seconds East 196.41 feet to the point and place of beginning. Being all the same land that was conveyed to the Town of Chapel Hill by deed from Library Associates recorded in the Office of Register of Deeds of Orange County in Deed Book 205, Page 201; and conveyed to the Town of Chapel Hill by deed from Keener C. Frazer recorded in the Office of Register of Deeds of Orange County in Deed Book 317, Page 380. Said property is shown on an unrecorded survey of the Chapel Hill Museum dated September 11, 2006 by Thomas F. Bick, PLS, on file with the Town of Chapel Hill Department of Engineering, 405 Martin Luther King Jr. Blvd., Chapel Hill, NC 27514.

That all ordinances and portions of ordinances in conflict herewith are hereby repealed.

This the \_\_\_\_ day of \_\_\_\_, 2015.



**RESOLUTION B**  
(Denying the Special Use Permit Application)

**A RESOLUTION DENYING AN APPLICATION FOR SPECIAL USE PERMIT FOR THE ARTS AND SCIENCE FOUNDATION AT UNC CHAPEL HILL (PROJECT #14-071)**

BE IT RESOLVED by the Council of the Town of Chapel Hill that it finds that a Special Use Permit application proposed by Weinstein Friedlein Architects, for The Arts and Science Foundation at UNC Chapel Hill, located at 523 E. Franklin Street on property identified as Orange County Property Identifier Numbers 9788-68-1663 and 9788-68-1722 if developed according to the Site Plan dated December 15, 2014 and revised January 5, 2015 the conditions listed below would not:

1. Be located, designed, and proposed to be operated so as to maintain or promote the public health, safety, and general welfare;
2. Comply with all required regulations and standards of the Land Use Management Ordinance;
3. Be located, designed, and operated so as to maintain or enhance the value of contiguous property; and
4. Conform with the general plans for the physical development of the Town as embodied in the Land Use Management Ordinance and in the 2020 Comprehensive Plan.

BE IT FURTHER RESOLVED that the Town Council hereby denies the application for a Special Use Permit for The Arts and Science Foundation at UNC Chapel Hill, 523 E. Franklin Street.

This the \_\_\_\_ day of \_\_\_\_\_.