

**Statement of Justification  
Conditional Use Rezoning Request  
Rosemary Street Mixed Used Development**

This is a request for a conditional use rezoning from R-3 to TC-2, conditional for a portion of a lot located along West Rosemary Street. This request will enable the construction of parking and associated buffers on a portion of the Rosemary Street Mixed Use site that is now zoned R-3. This Conditional Use Permit is being requested to limit the possible uses on the rezoned portion of this site to those specified under this permit.

Thomas Tucker, the property owner of the subject parcels, currently has a development proposal for a Special Use Permit for 5 lots along Mitchell Lane and West Rosemary Street (TM references 7.85.A 5,6,7,8,9). The location of these lots is shown on the site map that accompanies this request. Presently, structures in use occupy TM parcels 6, 7 and 8. The portion of the lot (TM parcel 9) for which this request is being made is now vacant. Thomas Tucker is requesting this conditional use rezoning request. A complete description of the proposed Rosemary Street Mixed Use project is included with the accompanying Special Use Permit submitted with this conditional use rezoning request.

This portion of lot 9 that is zoned R-3 has no access to or frontage on any streets with other R-3 zoned properties. It is accessed only through frontage on Rosemary Street that is currently zoned Town Center TC-2. As a condition of the accompanying Special Use Permit Request, this portion of this lot would be recombined within the land area already within the TC-2 zone and would be used exclusively for the purposes established under this request.

The Comprehensive Plan encourages a mix of uses in the Town Center zone. The Rosemary Street Mixed Use project has been designed with the Comprehensive Plan in mind to accommodate living and working in the same neighborhood. (Reference Statement of Justification for the Rosemary Street Mixed Use Special Use Permit request). The rezoning request for the portion of lot 9 is for the construction of a 13 space parking lot to serve the residential units as indicated on the site plan. The rezoning will enable the creation of higher density residential uses in the TC-2 zone. The rezoning will also control this space adjacent to the R-3 residential areas on which no building will be allowed.

The required 10' landscape buffers are being provided with the proposed layout. In addition, through the consent and support of the adjoining property owners, an additional

10' of landscaping is being provided around the parking area that is directly adjacent to residential structures. These include duplexes to the North and a residence to the east. The property directly to the west of the proposed parking lot is the Hargraves Center tennis courts, where the 10' landscape buffer is also provided..

The limited use of this parking area to residents of the development will be compatible with the surrounding properties within the district it is located and with the overall conditions of the Comprehensive Plan. The portion of this lot will not now or for the life of this use permit, have any buildings located on it. By recognizing the orientation of this property to West Rosemary Street and the existing TC-2 and by limiting the uses, which may occur on this property, the purposes of the Comprehensive Plan are met through this rezoning.

The proposed project will meet the following three findings as listed in Section 20 of the Development Ordinance and as described below. In addition, reference Addendum #1 to the to the Statement of Justification for the Special Use Permit.

- A. *A rezoning is necessary to correct a manifest error.*
  - This request is not based on the correction of a manifest error.
  
- B. *A rezoning is necessary because of changed or changing conditions in a generally particular area or in the jurisdiction.*
  - A new draft of the Development Ordinance promotes a mixed-use style of development in the downtown and immediately surrounding area.
  - The proposal will further the revitalization of the West Rosemary Street Community as is envisioned in the Comprehensive Plan. Recently approved successful developments near this project site have enhanced the downtown area. Some of these projects include:
    - Midway business Center – 11/10/98
    - Mama Dip’s Restaurant – 11/18/97
    - The Warehouse Apartments – 11/24/97
    - The Fountains – 7/5/95
  - This parcel is part of a larger land assemblage that is associated with this development project. The immediately adjacent parcels (part of the land assemblage) are part of the Downtown Small Area Concept Plan Map. This portion of the Small Area Plan is classified as Office/Residential with small-scale retail. As supported by other recent projects in the area and by the Small Area Plan, this area is changing to in line with the Small Area Plan.

C. *A rezoning is necessary to achieve the purposes of the Comprehensive Plan.*

- The use complies with the Comprehensive Plan and is attached to a land assemblage that complies with the Downtown Small Area Plan.
- The project would allow the encouragement of mixed-use development in this area
- This development will continue to develop the downtown as a pedestrian-oriented for commercial and retail needs as well as providing living area.
- This development will provide a living and working neighborhood.
- This development will utilize this land in an economically optimal fashion.
- Through the use of streetscape elements and architecturally interesting building facades and proportions, a human scale will be provided along both Rosemary Street and Mitchell Lane.
- The proposed development will not add undo impacts to the existing public facilities.
- The design of the structures with residential above first floor commercial is similar to other Chapel Hill districts
- The preservation of significant trees and the step back of buildings will allow a transition to the Northside Community and other neighboring commercial areas, thus protecting the surrounding residential neighborhood and commercial areas.
- An additional remote parking area is provided with this project to alleviate additional parking in the immediate neighborhood.
- Additional buffering around the perimeter of the rear of the project, exceeds the ordinance requirements and drastically improves the existing screening to dumpsters and parking.

In addition, this project will also meet a number of new Use Patterns that are being established in the New Development Ordinance. These patterns include New Development in Older Areas and Vertical Mixed Use. Both of these patterns are attempting to provide a built environment that encourages a mix of residential and commercial. The development will also be established as a Live-Work Unit