

ORDINANCE A

(Approving the Conditional Zoning Application)

AN ORDINANCE AMENDING THE CHAPEL HILL ZONING ATLAS TO REZONE THE PROPERTY LOCATED AT 200 S ELLIOTT ROAD FROM OFFICE/INSTITUTIONAL-2 (OI-2) AND RESIDENTIAL-5 (R-5) TO MIXED-USE-VILLAGE-CONDITIONAL ZONING DISTRICT (MU-V-CZD) (PROJECT #CZD-24-4) (2025-MO-DAY]/O-#)

WHEREAS, the Council of the Town of Chapel Hill has considered the application for Conditional Zoning submitted by McAdams, on behalf of contract purchaser Trinsic Realty and property owner SPIKE LLC, to rezone an 4.01-acre parcel located at 200 South Elliott Road on property identified as Orange County Property Identifier Numbers 9799145239, 9799142352, and 9799140340, to allow development of a mixed-use building and finds that the amendment to the Zoning Atlas is:

- Consistent with the Town’s Comprehensive Plan, per NCGS 160D-605; and
 - Reasonable and in the public’s interest, per NCGS 160D-605;
- Warranted because of changing conditions and warranted to achieve the purposes of the Comprehensive Plan, per LUMO 4.4

WHEREAS, the application, if rezoned according to the district-specific plan dated [date of most recent plan set], and the conditions listed below would, per LUMO 4.4.3(f):

- 1) Conform with the applicable provisions of the Land Use Management Ordinance (LUMO) 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

WHEREAS, the Council of the Town of Chapel Hill 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:

- 1) LUMO Section 5.6 Landscaping, screening and buffering: Subsection 5.6.6 Schedule of required buffers:** Modify required buffer widths and planting counts as shown below, and with no modified buffers being eligible for an alternative buffer request:

Buffer	LUMO Standard	Modification Requirement
S Elliott Road (East)	Type B – 15 ft.	None
KinderCare (South)	Type C – 20 ft.	None
Multifamily (South)	Type A – 15 ft.	None
Bank (West)	Type C – 20 ft.	None

Signature Healthcare (North)	Type C – 20 ft.	Modified – 10 ft.
SECU (North)	Type B – 10 ft.	Modified – 10 ft. -14 ft. variable width

This finding is based on a determination that the public purposes are satisfied to an equivalent or greater degree because a reduction in buffers will increase pedestrian accessibility and aligns with neighborhood character.

2) LUMO Section 3.8 Dimensional Standards: Table 3.8-1: Dimensional Matrix
 Increase allowable Floor Area Ratio (FAR) from 0.500 to 2.500.

This finding is based on a determination that the public purposes are satisfied to an equivalent or greater degree because more intense development encourages multi-modal transportation options and improves the viability of commercial sites near the development.

3) LUMO Section 5.7 Tree Protection: Table 1: Minimum Tree Canopy Coverage Standards: Decrease Minimum Canopy Coverage from 40% to 14%.

This finding is based on a determination that the public purposes are satisfied to an equivalent or greater degree because reduced tree canopy accommodates the benefits of more intense development.

4) LUMO Section 5.3.2 Steep Slopes: Subsection (f) Disturbance Limitations:
 Increase allowed disturbance of onsite steep slopes from 25% to 100%.

This finding is based on a determination that the public purposes are satisfied to an equivalent or greater degree because the existing steep slopes are a small portion of the project area.

5) LUMO Section 3.8 Dimensional Standards: Table 3.8-1: Dimensional Matrix
 Decrease the Solar Setback minimum from 20 ft to 10 ft.

This finding is based on a determination that the public purposes are satisfied to an equivalent or greater degree because the properties to the north of this site are developed in a way that would not result in a negative impact from shadows due to this development.

6) LUMO Section 3.8 Dimensional Standards: Table 3.8-1: Dimensional Matrix
 Increase the building height maximum at the setback from 44 ft. to 70 ft.

This finding is based on a determination that the public purposes are satisfied to an equivalent or greater degree because an increase in the building height at the setback will align the design of this building with those of the Blue Hill District across Elliott Road.

7) LUMO Section 3.6.3 Resource Conservation District: Table 3.6.3-3 Dimensional Regulations in RCD: Modify dimensional regulations as shown below:

Standard	Requirement
Stream Side Zone Floor area ratio	17% (1,959 sq. ft.)
Stream Side Zone Impervious surface ratio	60% (7,008 sq. ft.)
Stream Side Zone Disturbed area	100% (11,769 sq. ft.)

This finding is based on a determination that the public purposes are satisfied to an equivalent or greater degree because there are not practical alternatives to develop the site while meeting RCD Dimensional Regulations.

8) LUMO Section 3.4.6 The Mixed Use Village Conditional Zoning District: Subsection (c) Land use categories: Decrease the required mix of floor area devoted to office/commercial uses from twenty-five (25) to 10,890.

This finding is based on a determination that the public purposes are satisfied to an equivalent or greater degree because there are substantial commercial uses on properties in the near the development.

CONDITIONAL ZONING DISTRICT

NOW, THEREFORE, BE IT ORDAINED by the Council of the Town of Chapel Hill that the Council finds, in this particular case, the proposed rezoning with the following uses, subject to the conditions below, satisfies the intent and purposes of the Mixed-Use-Village-Conditional Zoning District (MU-V-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(s) identified by Parcel Identifier Number (PIN) 9799145239, 9799142352, 9799140340, described below, along with the area extending to the centerline of the adjoining South Elliot Road and Couch Road rights-of-way, shall be rezoned to Mixed-Use-Village-Conditional Zoning District (MU-V-CZD):

BEGINNING at

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 a date precisely 2 years from the date of this approval or the land shall revert to its previous zoning designation. [LUMO 4.4.7(f)]

2. Consent to Conditions: This approval is not effective until the property owner(s) provides written consent to the approval. Written consent must be provided within ten (10) business days of enactment by the Town Council.
3. Land Use Intensity: This Conditional Zoning Atlas Amendment authorizes the following:

Land Use Intensity	
Permitted Uses	Meet LUMO Requirements
Net Land Area (NLA)	Approximately 174,613 sq. ft.
Gross Land Area (GLA)	Approximately 192,074 sq. ft.
Maximum Floor Area	480,185 sq. ft.
Permitted Dwelling Units	320-335 total units
Minimum Affordable Units	See Affordable Housing Plan
Minimum and Maximum Vehicular Parking	Minimum – per LUMO Maximum – see Modifications to Regulations
Minimum Electric Vehicular (EV) Parking	5% of parking spaces served by EV-charging stations 25% of parking spaces designed to be EV-ready
Minimum Bicycle Parking	Per LUMO
Maximum Total Impervious Surface	Per LUMO (70% of GLA)
Maximum Land Disturbance	174,613 sq. ft. on site (197,904 sq. ft. total including work in the Right of Way)
Resource Conservation District Maximum Land Disturbance	11,769 sq. ft. in the Streamside Zone
Steep Slopes Maximum Land Disturbance	See Modifications to Regulations
Minimum Tree Canopy Coverage	See Modifications to Regulations
Minimum Recreation Area	8,835 sq. ft. on-site

4. Modifications to Land Use Intensity: This approval establishes minimums and maximums as indicated in the above Land Use Intensity Table. These amounts apply to the entire project site, including areas within the Resource Conservation District (RCD) and areas containing steep slopes. These amounts may be modified according to the criteria and procedures established in LUMO 4.4.7(h). Additional modifications to amounts in the Land Use Intensity table shall be considered as follows:
 - a. A change in the net land area or gross land area shall constitute a minor modification, provided the land area is established by a survey or legal description, and provided there is no resulting change to the zoning district boundary approved by the Town Council.
 - b. An increase in the RCD maximum impervious surface, RCD maximum land disturbance, maximum total impervious surface, or steep slopes maximum land disturbance shall constitute a major modification.
 - c. An increase in the maximum land disturbance up to 10 percent shall constitute a minor modification. An increase over 10 percent shall constitute a major modification. All increases shall be considered cumulatively.

Affordable Housing

5. Affordable Housing Plan: The developer shall provide the following:
 - a. Affordable Units: The minimum number of affordable units shall be equal to ten (10) percent of the number of market rate units.
 - b. Unit Size: The affordable units will include units of a size and number of bedrooms, in the approximate same proportion as the market rate homes.
 - c. Location: The affordable units will be integrated into the community and located throughout the project.
 - d. Pricing: fifty (50) percent of the affordable units will be reserved for those households earning 65 percent or less of the area median income (AMI). The remainder of the affordable units will be made available to those households earning 80 percent or less of the area median income.
 - i. AMI will be based on income data published annually by the U.S. Department of Housing and Urban Development for the Durham-Chapel Hill Metropolitan Statistical Area and/or the Durham-Chapel Hill, NC HUD Metro Fair Market Rent Area.
 - ii. Maximum pricing for rental units shall be calculated based on 30 percent of monthly household income at the specified AMI levels, minus housing-related utilities (heat, water, sewer, electric, and gas) and fees required by the owner or property manager. AMI shall be calculated assuming 1.5 persons per bedroom.
 - e. Phasing:
 - i. Fifty percent of the affordable units shall be completed prior to the Zoning Final Inspection of 50 percent of the market rate homes.
 - ii. The remaining affordable units shall be completed prior to Zoning Final Inspection of 90 percent of the market rate homes.
 - f. Affordability Period:
 - i. Affordable units offered for sale will be affordable for a period of at least ninety-nine (99) years from the receipt of a Certificate of Occupancy.
 - ii. Affordable units offered for rent will be affordable for a period of at least thirty (30) years from the receipt of a Certificate of Occupancy.
 - g. Design:
 - i. The affordable units will be finished with similar exterior design, trim, materials, and details as the market rate homes.
 - ii. The affordable units will meet the same energy efficiency standards as the market rate homes.
6. Affordable Housing Performance Agreement: Prior to the issuance of a Zoning Compliance Permit for residential construction, a performance agreement that incorporates the approved Affordable Housing Plan (see above) must be executed by the developer, the Town Manager (or designee), and if applicable, the non-profit agency that will administer the affordable units.

Environment

7. Tree Mitigation Payment: The developer shall make a payment equal to the authorized tree mitigation fee in LUMO 5.7.2(3)-(4) for an amount of canopy planting between the authorized 14% and the 40% LUMO requirement (36% canopy).
8. Jordan Riparian Buffer: The developer shall apply for a Jordan Buffer Authorization for

any impacts in the Jordan Riparian Buffer that are not authorized by 401/404 Permits. The developer shall demonstrate that there are no practical alternatives for the proposed impacts and comply with LUMO 5.18. A minor or major variance may be required for uses or activities not allowed per Section 5.18.

9. Stormwater Performance Guarantee: A stormwater performance and maintenance guarantee in an amount satisfiable to the Town Manager shall be provided to meet the requirements of LUMO 4.9.3 prior to the approval of Constructional plans. 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 stormwater 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 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 by this Ordinance. 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.

Following the release of the maintenance bond, the developer and/or Homeowners Association shall continue to have a responsibility and obligation to inspect and maintain the stormwater infrastructure as required by the Town's Land Use Management Ordinance. [LUMO 4.9.3]

Transportation, Access, and Connectivity

10. Multi-Use Path Requirement: The developer shall construct a multi-use path on site that meets town standards. The path must connect Couch Road to South Elliot Road.
11. Multi-Use Path Public Access: The proposed multi-use path must always remain clear and open for public use. A public access shall be guaranteed prior to final zoning inspection through a Public Access Easement or another method suitable to the Town.
12. Transportation Management Plan: Prior to issuance of a Zoning Compliance Permit for

building construction, the developer shall submit a Transportation Management Plan, subject to Town Manager approval.

13. Transit Improvements: Prior to Zoning Final Inspection, the developer shall provide a payment of \$35,000 for area transit improvements. If the Town has not constructed transit improvements within 1,000 feet of the property within five years following the issuance of the final certificate of occupancy, the developer may request and the Town shall then provide a refund of this payment.
14. Prior to Zoning Final Inspection, the developer shall construct a concrete pad on the site frontage to support access for the eastbound Elliott Road at Berkshire Chapel Hill bus stop.
15. Road Improvements: The developer shall construct the following road improvements stipulated by the traffic impact analysis, the Town, and the North Carolina Department of Transportation (NCDOT):
 - a. A crosswalk at intersection of the proposed driveway and Elliott.
 - b. Curb ramps at southern end of site for potential midblock crossing.
16. Traffic Signs: The developer shall be responsible for placement and maintenance of temporary regulatory signs before approval of a Zoning Final Inspection.
17. Trip Generation: The Traffic Impact Analysis (TIA) for this development was prepared on 10/9/2024. The developer shall request an updated TIA and apply for a major modification to this Conditional Zoning if the proposed cumulative total daily vehicle trips exceed a 10 percent increase from the TIA.
18. Street Lighting: The developer shall install street lighting or upgrade existing street lighting along the site frontages as required by the Town Manager with approval by NCDOT, if applicable. The design shall be approved by the Town Manager and NCDOT prior to issuance of a Zoning Compliance Permit for building construction. The developer shall complete installation prior to Zoning Final Inspection.
19. 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 existing on the roadways.
20. 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.
21. Bicycle Parking: Bicycle parking spaces must also comply with the Spring 2015 Association of Pedestrian and Bicycle Professionals Guidelines.

Sustainability

22. Energy Efficient Building Design: For commercial construction (including multifamily), the developer shall design and build a project that meets the New Buildings Institute 40% Stretch Energy Standard or the equivalent percentage better than the latest adopted version of ASHRAE 90.1 in the North Carolina Building Code.

- a. Prior to issuance of a Zoning Compliance Permit for commercial or multifamily construction, the developer shall submit to staff for their review and approval documentation that demonstrates compliance with the selected energy efficiency design standard above (e.g., pre-construction energy model).
- b. For residential construction, the developer commits to a project that meets the certification requirements of the latest North Carolina adopted version of Energy Star Certified Homes. Prior to issuance of a Certificate of Occupancy (CO) for residential construction of a home or low-rise multifamily building, the developer shall submit to staff Energy Star Certified Homes certification.
- c. Development shall achieve ENERGY STAR certification for the multifamily portions of the building prior to the final Zoning Final Inspection.

23. Electric Vehicle Infrastructure: The developer shall ensure that their facilities support the use of current and future levels of electric vehicles by their residents and visitors by supplying the following, consistent with Town Council policy:

- a. For each non-residential building served by 10 or more on-site parking spaces, the developer shall install Level 2 electric vehicle supply equipment (EVSE) at 5% of those spaces (rounded up). A further 25% of the total parking spaces (rounded up) shall be made EVSE ready. EVSE Ready means that a continuous raceway or conduit has been installed connecting a parking space to an electrical panel, there is dedicated capacity within that electrical panel to serve the EVSE, electrical breakers and wires have been installed and have been terminated in a junction box at the parking space designed for future electric vehicle charging.
- b. For each unit with on-site parking that serves a Multi-Family Dwelling (including mixed use) shall be provided with a minimum of 1 EVSE-Capable parking space. EVSE-Capable means that a continuous raceway or conduit has been installed connecting a parking space to an electrical panel or a space reserved for a future electrical panel.
- c. All initial and future EV charging designs should ensure that each EVSE-equipped parking space is capable of providing at least 6.6 kW. Designs must also adhere to U.S. Access Board's most recently updated version of the Design Recommendations for Accessible Electric Vehicle Charging Stations.
- d. Any required EV charging spaces shall be useable prior to the first Certificate of Occupancy.
- e. Prior to the issuance of a Zoning Compliance Permit the developer shall submit an EV Charging Management Plan that describes who is responsible for monitoring demand and managing the installation and maintenance of this infrastructure over time. This shall include planned EV charging infrastructure and pavement markings within plans.

24. Climate Action Plan: Prior to issuance of a Zoning Compliance Permit for building construction, the developer shall submit a Climate Action Plan on the appropriate form prescribed by the Town Manager that includes, at a minimum, the following climate action commitments:

- a. The developer shall provide a solar readiness study prior to the issuance of a Zoning Compliance Permit.
- b. All-electric building and site design
- c. All-electric appliances (no fossil fuel appliances)
- d. Sustainable building materials and resource use equivalent to meeting LEED standard
- e. LED lighting only for interior spaces
- f. LED lighting only for exterior spaces, including street/parking lot lighting (3000 Kelvin or lower)

- g. Meets International Dark-Sky Association's principles for outdoor lighting
- h. WaterSense-rated appliances and equipment only
- i. Energy Star-rated appliances and equipment only
- j. Native and drought-tolerant landscape plantings only
- k. No irrigation with potable water
- l. Duke Energy's Energy Design Assistance Program

Homeowner Association

25. Applicability: The Homeowner Association conditions shall apply for development with individual ownership. Should a development add for-sale units or convert rental units to ownership, the following conditions shall apply.
26. Homeowners' Association: 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 LUMO 4.6.7. The Homeowners' Association covenants shall not exclude home occupation businesses as regulated by the Town of Chapel Hill.
27. Homeowners' Association Responsibilities: 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.
28. Dedication and Maintenance of Common Area to Homeowners' Association: 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. That the Homeowners' Association shall be responsible for the maintenance of the proposed internal subdivision roads until 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.
29. Solar Collection Devices: 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.
30. Short-Term Rentals: The Homeowners' Association covenants or other applicable covenants and restrictions shall prohibit dedicated short-term rentals of 30 days or less.

Miscellaneous

31. Town Design Manual: Except as specified elsewhere in this Ordinance, the developer shall comply with all standards of the Public Works Engineering Design Manual, as applicable to the project.
32. State or Federal Approvals: Any required State or federal approvals, permits, or encroachment agreements, including but not limited to NCDOT approvals and 401/404

permits, 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.

33. 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 the district-specific plan 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 Public Works Engineering Design Manual. [LUMO 4.4.7]
34. Phasing Plan: If phasing of the project is proposed, then the developer shall provide a Phasing Plan as part of the Zoning Compliance Permit. 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 shall not begin until all public improvements in previous phases have been completed, and a note to this effect shall be provided on the final plans.
35. Invasive Exotic Vegetation: The developer shall remove all invasive exotic species of vegetation as identified by the Southeast Exotic Pest Plant Council (SE-EPPC) and in Section 5.7.6 of the Land Use Management Ordinance (LUMO) from all areas located within the limits of disturbance. Prior to issuance of a Zoning Compliance Permit, the developer shall identify all invasive exotic species of vegetation within the limits of disturbance or other areas, as deemed necessary by the Town Manager.
36. Community Design Commission (CDC) Review: The Community Design Commission shall review building elevations, site lighting, and the location and screening of all HVAC equipment prior to issuance of a Zoning Compliance Permit for a particular phase or building. After construction of all buildings is completed, CDC review is not required for subsequent changes to building elevations or site lighting that do not require a Zoning Compliance Permit.
37. Construction Sign Required: Prior to starting any land-disturbing activity, 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. 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]
38. Street Names and Numbers: The development's streets and house/building numbers shall be approved by the Town Manager prior to issuance of a Zoning Compliance Permit for street construction and/or building construction.
39. Vested Right: This Conditional Zoning constitutes a site-specific vesting plan (and is defined as such in the Chapel Hill Land Use Management Ordinance) establishing a vested right as provided by N.C.G.S. Section 160D-108.1 and the Chapel Hill Land Use Management Ordinance. 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.

40. Continued Validity: Continued validity and effectiveness of this approval shall be expressly conditioned on the continued compliance with the plans and conditions listed above.
41. Non-Severability: If any of the above conditions is held to be invalid, approval in its entirety shall be void.
42. Not-Comprehensive: The listing of these specific conditions 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 ORDAINED that the Council hereby approves the application for Conditional Zoning for Aura South Elliot at 200 South Elliot Road.

This the []th day of [month], 2025.