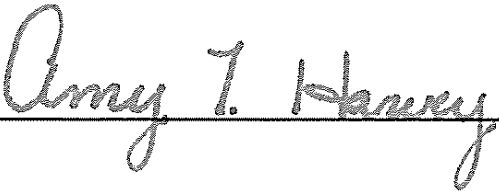


**I, Amy T. Harvey, Deputy Town Clerk of the Town of Chapel Hill, North Carolina, hereby certify that the attached is a true and correct copy of (2019-04-10/O-7) enacted by the Chapel Hill Town Council on April 10, 2019.**

**This the 11<sup>th</sup> day of April, 2019.**

  
\_\_\_\_\_

**Amy T. Harvey  
Deputy Town Clerk**



## **ORDINANCE A (APPROVING THE REZONING)**

(Rezoning from Residential-2 (R-2) to Residential-5-Conditional (R-5-C))

### **AN ORDINANCE AMENDING THE CHAPEL HILL ZONING ATLAS TO REZONE PROPERTY AT 2217 HOMESTEAD ROAD FROM RESIDENTIAL-2 (R-2) TO RESIDENTIAL-5-CONDITIONAL (R-5-C)(2019-04-10/O-7)**

WHEREAS, the Council of the Town of Chapel Hill has considered the application from Gurlitz Architectural Group, PA, to rezone property, located at 2217 Homestead Road, from Residential-2 (R-2) to Residential-5-Conditional (R-5-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:

- A range of housing options for current and future residents (Goal-Place for Everyone.3)
- Promote a safe, vibrant, and connected (physical and person) community (Goal-Community Prosperity and Engagement.3)
- A connected community that links neighborhoods, businesses, and schools through the provision of greenways, sidewalks, bike facilities, and public transportation (Goal-Getting Around.2)
- A range of neighborhood types that addresses residential, commercial, social, and cultural needs and uses while building and evolving Chapel Hill's character for residents, visitors, and students (Goal-Good Places, New Spaces.5)
- Future land use, form, and density that strengthen the community, social equity, economic prosperity, and natural environment (Goal-Good Places, New Spaces.8)
- Protect neighborhoods from the impact of development such as stormwater runoff, light and noise pollution, and traffic (Goal-Nurturing Our Community.8)
- Take full advantage of ideas and resources to create a thriving economy and incorporate and utilize the intellectual capital that the University and Town create (Goal-Town and Gown Collaboration.1)
- Promote access for all residents to health-care centers, public services, and active lifestyle opportunities (Goal-Town and Gown Collaboration.6)

WHEREAS, the Charter of the Town of Chapel Hill allows the Town to grant a density bonus to a developer of housing within the Town if the developer agrees to construct a percentage, as set out in the Charter, of a proposed housing development for persons of low or moderate income; and

WHEREAS, the Town of Chapel Hill Town Council has an adopted policy (See Resolution 2000-03-06/R-4, as modified by Resolution 2009-01-26/R-7) (the Policy) which provides that when an application for rezoning is submitted the Council has an expectation that the applicant will provide a percentage of affordable housing in the increased density allowed by the rezoning; and

WHEREAS, the developer and property owner have agreed, as a condition of this rezoning, to an Agreement Regarding Conditions Pertaining to the Provision of Affordable Housing in Connection with a Proposed Conditional Use District Rezoning that, among other things provides ten (10) percent (twenty (20) dwelling units) of the dwelling units as affordable to households earning no more than 60 percent of the Area Median Income for a period of thirty (30) years; and

WHEREAS, the Council finds that the Agreement Regarding Conditions Pertaining to the Provision of Affordable Housing in Connection with a Proposed Conditional Use District Rezoning is sufficient to meet the Town's Policy and warrant the rezoning of the property requested in this case.

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

### **SECTION 1**

The Orange County parcel identified by Parcel Identification Number 9870-90-7548 along with one-half of the abutting right-of-way of Homestead Road on the north side of the parcel are being rezoned from Residential-2 (R-2) to Residential-5-Conditional (R-5-C).

The following metes and bounds describes the boundaries on PIN 9870-90-7548:

All that certain tract or parcel of land situated, lying and being on the south side of Homestead Road, near the Town of Chapel Hill, N.C. and being part of the Frank C. Maddry farm and adjoining said road, C.Y. Tilson's property, C.F. Lloyd's property and other property of Frank C. Maddry and wife and more particularly described as BEGINNING at an iron stake in the South side of said Homestead Road, the Northeast corner of the Tilson land; running thence from said beginning point and with the said Tilson's Eastern line South  $1^{\circ} 12' 30''$  East 1,310.93 feet to an iron stake in the Northern property line of the property of the University of North Carolina; running thence with the said University's Northern property line, South  $89^{\circ} 44' 33''$  East 382.30 feet to the corner of the C.F. Lloyd property; running thence with the Western property line of said C.F. Lloyd property, North  $2^{\circ} 25' 30''$  West 791.34 feet to a corner of the Lloyd property in the Maddry line; running thence with the said Frank C. Maddry's line South  $85^{\circ} 34' 30''$  West 149.30 feet to an iron and North  $1^{\circ} 58' 30''$  West 521.23 feet to an iron stake in the Southern right-of-way line of said Homestead Road; running thence with the Southern right-of-way line of said Homestead Road North  $86^{\circ} 38'$  West 210.00 feet to an iron, the place and point of BEGINNING.

### **SECTION II**

This rezoning is conditioned on the approval of a Special Use Permit which includes the affordable housing components agreed to by the Developer and the Property Owner and acceptance by the recipient of the Special Use Permit for the development of this Property.

### **SECTION III**

All ordinances and portions of ordinances in conflict are hereby repealed.

This the 20<sup>th</sup> day of March, 2019 (First Reading).

This the 10<sup>th</sup> day of April, 2019 (Second Reading).

**PIN # 9870907548**

**Drafted by/Return to: Ralph D. Karpinos  
Town of Chapel Hill  
405 Martin Luther King Jr. Blvd.  
Chapel Hill, NC 27514**

**NORTH CAROLINA**

**ORANGE COUNTY**

**AGREEMENT REGARDING**

**CONDITIONS PERTAINING TO THE PROVISION OF AFFORDABLE HOUSING**

**IN CONNECTION WITH A PROPOSED CONDITIONAL USE DISTRICT REZONING**

This Agreement is made and entered into between William Bainster Wood and Virginia Wood (“Owner”), GLMH-2, LLC (“Developer”) and the Town of Chapel Hill, a North Carolina Municipal Corporation (“Town”). Developer is the contract purchaser of the property identified as Orange County Parcel Identifier Number 9870907548 (“Property”). Owner, the owner of the Property, at the request of Developer, has joined in an application to the Town for conditional use rezoning of the Property. This Agreement is executed for the purpose of documenting that the parties hereto, for themselves, their successors and assigns, agree that the commitments made herein represent a voluntary exchange of sufficient consideration to bind the parties and their successors, heirs and assigns and are in agreement with respect to the inclusion of the conditions set forth below in an ordinance proposed to rezone the Property.

**WITNESSETH:**

WHEREAS, the Charter of the Town of Chapel Hill allows the Town to grant a density bonus to a developer of housing within the Town if the developer agrees to construct a percentage, as set out in the Charter, of a proposed housing development for persons of low or moderate income; and

WHEREAS, the Town of Chapel Hill Town Council has an adopted policy (see Resolution 2000-03-06/R-4, as modified by Resolution 2009-01-26/R-7) (the “Policy”) which provides that when an application for

rezoning is submitted the Council has an expectation that the applicant will provide a percentage of affordable housing in the increased density allowed by rezoning; and

WHEREAS, the Parties agree that the Policy was adopted pursuant to valid legislative authority granted by the North Carolina General Assembly and constitutes a part of the Town's Comprehensive Plan; and

WHEREAS, the Owner and Developer have submitted an application to the Town of Chapel Hill for conditional use rezoning of the Property (the "Application") which, if granted by the Town Council, will increase the permitted density of residential development on the Property and enhance its fair market value; and

WHEREAS, pursuant to N.C.G. S. Sec. 160A-382(b), conditions may be proposed and agreed to by the Town and the property owner in conditional use rezonings which address the conformance of a development and use of property to an officially adopted comprehensive plan; and

WHEREAS, the Owner and Developer acknowledge and accept that they are receiving a density bonus by way of the rezoning of their property in exchange for their agreement to provide the affordable housing in accordance with the terms and provisions of this Agreement; and

WHEREAS, the Council has determined that the offer of the Owner and Developer to provide affordable housing on site fairly and reasonably helps to achieve the Town's affordable housing goals, as reflected in the Town's Comprehensive Plan; and

WHEREAS, the Parties agree that the provision of affordable housing in accordance with the terms of this Agreement and conditions set forth below is consistent with the Policy; and meets the requirements for which the Town may grant a density bonus by rezoning this property from R-2 to R-5 Conditional; and

WHEREAS, the proposed rezoning of the Property is accompanied by an application for a Special Use Permit to develop 198 dwelling units designed to be provided for senior adult rental housing (the "Project").

NOW THEREFORE the Owner, Developer and the Town mutually approve and agree to the following terms and conditions:

1. The Town's Policy on proposed residential rezonings includes an expectation of the Town, when considering a rezoning request to increase residential density, that an affordable housing component will be included.
2. This rezoning application seeks rezoning from R-2 to R-5 Conditional, which increases the allowable density of residential units which may be built.
3. The Developer, with the consent of the Owners, does for itself and its successors, heirs and assigns hereby voluntarily offer and agree to the following conditions to be included in the ordinance rezoning the Property, if it is enacted:
  - a. The Project will provide 10% (20) of the dwelling units as affordable for a period of 30 years, based on a final approval of a special use permit authorizing 198 dwelling units.
  - b. The affordable units will be priced so that they are affordable to renters at 60% area median income (AMI).

- c. The affordable units will be 12 one-bedroom and 8 two-bedroom units (a total of 20 units.)
4. The parties understand that the provision will have a financial impact on the overall Project. In order to partially mitigate this impact, the Parties to this Agreement further agree to the following conditions to be included in the rezoning and/or in the special use permit, if enacted and approved :
  - a. On-site recreation space and facilities will be provided and there will be no partial payment in lieu for recreation.
  - b. No roof solar units will be required as a condition of this rezoning or the accompanying special use permit. Conduit will be installed to allow for the option of installing roof solar units in the future. Appropriate locations will be identified and provided for solar unit batteries to be placed.
  - c. Town Building Permit fees for the Project will be capped at \$10,000.
5. The Town finds that the units provided on site by the owner in this specific case and based on the specific circumstances involved in the application for this Project addresses the objectives and intent of the Policy and would be supportive of a decision by the Council to exercise its legislative discretion and authority to rezone the property.
6. A copy of this Agreement shall be recorded as an attachment to the Special Use Permit accompanying the rezoning application and incorporated as a part thereof and shall run with the land and be binding along with the other terms and conditions of the Special Use Permit.
7. Prior to issuance of a Zoning Compliance Permit to begin development of the Project, the holder of the Special Use Permit shall submit an Affordable Housing Plan to be incorporated into an Affordable Housing Performance Agreement to be executed by the holder of the Special Use Permit and the Town Manager demonstrating compliance with this Agreement.

IN WITNESS WHEREOF, the Town of Chapel Hill, William Bainster Wood and Virginia Wood, and GLMH-2, LLC have executed this Agreement Regarding Conditions Pertaining to the Provision of Affordable Housing in Connection with a Proposed Conditional Use District Rezoning this the 30 day of JAN, 2019.

Owners:

William Bainster Wood (SEAL)  
William Bainster Wood

Virginia Wood (SEAL)  
Virginia Wood

STATE OF NORTH CAROLINA

Orange COUNTY

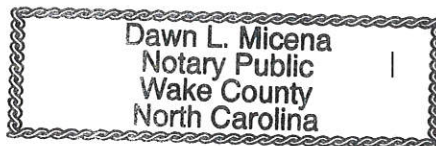
Dawn L. Micena, a Notary Public of the County of Wake, State of North Carolina, do hereby certify that William Bainster Wood and Virginia Wood personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this the 30 day of JANUARY, 2019.

Dawn L. Micena

Notary Public

Place Seal within lines → |



My Commission expires: 2/3/20

Developer:

GLMH-2, LLC

BY: Richard Gubitz

Title: MANAGER

STATE OF NC

COUNTY OF Orange

I, a Notary Public of the State of NC and County of Wake, certify that Richard Gubitz personally came before me the day and acknowledged that he/she is the MANAGER of GLMH-2 LLC, and that he/she as Manager of GLMH-2 LLC, being authorized to do so, executed the foregoing on behalf of GLMH-2 LLC.

WITNESS my hand and official stamp (or seal) the 30 day of January, 2019.

[NOTARIAL SEAL]

Dawn L. Micena (Seal)  
Notary Public



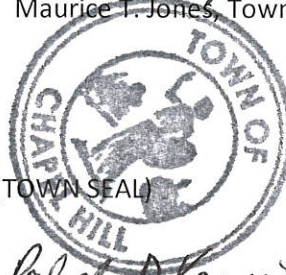
Dawn L. Micena  
Notary's Name, Printed or Typed

My commission expires: 2/3/20



TOWN OF CHAPEL HILL

BY: Maurice Jones  
Maurice T. Jones, Town Manager



ATTEST

[Signature]  
Town Clerk

(TOWN SEAL)

Approved as to form and authorization: Ralph D. Kayeinos  
Town Attorney

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

Amy Oland  
Finance Director

April 11, 2019  
Date

NORTH CAROLINA

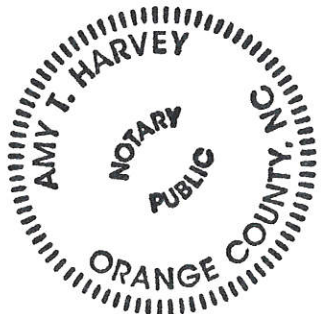
ORANGE COUNTY

I, Amy T. Harvey, a Notary Public of Orange County, North Carolina, certify that Sabrina M. Oliver personally came before me the day and acknowledged that she is the (~~acting~~) Town Clerk of the Town of Chapel Hill, a North Carolina municipal corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by Maurice Jones, its Town Manager, sealed with its corporate seal and attested by her as its (~~acting~~) Town Clerk.

WITNESS my hand and official stamp (or seal), the 17 day of April, 2019.

[NOTARIAL SEAL]

Amy T. Harvey (Seal)  
Notary Public



Amy T. Harvey  
Notary's Name, Printed or Typed

My commission expires: May 15, 2020