

**DRAFT ORDINANCE A**  
(Approving the Conditional Zoning Application)

**AN ORDINANCE AMENDING THE CHAPEL HILL ZONING ATLAS TO REZONE THE PROPERTY LOCATED AT 130 STANCELL DRIVE, 138 STANCELL DRIVE, 146 STANCELL DRIVE, 150 STANCELL DRIVE, 5103 BARBEE CHAPEL ROAD, 5111 BARBEE CHAPEL ROAD, 5115 BARBEE CHAPEL ROAD, AND 5119 BARBEE CHAPEL ROAD FROM MIXED USE VILLAGE (MU-V) TO RESIDENTIAL 6-CONDITIONAL ZONING DISTRICT (R-6-CZD) (PROJECT #CZD-23-3) (2023-[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 property owner NR Hillmont Property Owner LP, to rezone an 38.33-acre assemblage of parcels located at 130 Stancell Drive, 138 Stancell Drive, 146 Stancell Drive, 150 Stancell Drive, 5103 Barbee Chapel Road, 5111 Barbee Chapel Road, and 5115 Barbee Chapel Road on property identified as Durham County Property Identifier Number(s) 9798-71-87-2809, 9798-81-18-1601, 9798-82-60-8392, 9798-82-21-3916, 9798-82-65-2259, 9798-82-94-9975, 9798-92-08-3946, 9798-93-20-2596, to allow development of a multi-family residential community 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 September 5, 2023, 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 3.6.3 Resource Conservation District (RCD), Permitted Uses:** The Resource Conservation District regulation prohibits certain uses in stream buffer zones to mitigate erosion, protect water quality, and prevent flooding.

Permit detention/retention basin infrastructure outfalls as a use within the stream side zone of the Resource Conservation District. A modification to the permitted uses in the Resource Conservation District accommodates the grade of the site and mitigates erosion of the riparian buffer by locating pipe outfalls at the stream bank in specific

locations shows on the district-specific plan within the stream side zone.

This finding is based on a determination that the public purposes are satisfied to an equivalent or greater degree because locating detention and retention basin infrastructure outfalls in the stream side zone preserves the riparian buffer.

- 2) LUMO Section 3.8: Dimensional Standards: Building Height, Setback** is the maximum allowable height of a structure measured at the perimeter setback line of a zoning lot.

Increase the setback height from a maximum of 39 feet to 60 feet. The modification to the maximum building height allows the developer to place buildings closer to the street and reduce the amount of surface parking on site by providing parking underneath the building.

This finding is based on a determination that the public purposes are satisfied to an equivalent or greater degree because providing parking underneath structures reduces impervious surfaces, which supports the Town's Climate Action Plan goals. Additionally, the building will not exceed a height of 6 stories that is called for in the Future Land Use Map NC-54 Focus Area, Sub-Area A.

- 3) LUMO Section 3.8: Dimensional Standards, Floor Area Ratio (FAR)** is the maximum floor area allowed in the development in square feet, derived by multiplying gross land area by the applicable floor area ratio (FAR).

Increase the maximum floor area ratio from 0.303 to 0.403. The modification to the floor area ratio allows the developer greater flexibility on the site for increased housing density while still preserving open space.

This finding is based on a determination that the public purposes are satisfied to an equivalent or greater degree because high-density multi-family housing is a primary use in the Future Land Use Map NC-54 Focus Area, Sub-Area A.

- 4) LUMO Section 5.3.2 Steep Slopes:** The disturbance of steep slopes is to be minimized to protect water bodies from the effects of erosion on water quality, to protect plant and animal habitat, and to preserve the natural beauty and economic value of the Town's wooded hillsides.

Allow disturbance of all (100 percent of) steep slopes, equivalent to 24,998 square feet, exceeding the stated disturbance limit of 25 percent of existing steep slopes on site. The modification to the steep slopes regulation allows the developer to grade the site for infrastructure and building pads.

This finding is based on a determination that the public purposes are satisfied to an equivalent or greater degree because a majority of the steep slopes are a result of a man-made pond on the site. In addition, steep slopes in the stream buffer will not be disturbed and erosion control measures will meet or exceed requirements.

- 5) LUMO Section 5.6.6 Landscaping, screening, and buffering:** Modify all required buffers either through the number of plantings or width, as listed in the table below. No modified buffers are eligible for an alternative buffer request.

|   | Required   | Proposed  |
|---|--|---|
| North<br>(Stancell Drive)                         | 20 feet Type C<br>Per 100 linear feet<br>Large Trees: 5<br>Small Trees: 10<br>Shrubs: 36 | Modified 20 feet<br>Per 100 linear feet<br>Large Trees: 4<br>Small Trees: 7<br>Shrubs: 36   |
| South<br>(Multi-family, Durham County)            | 10 feet Type B<br>Per 100 linear feet<br>Large Trees: 4<br>Small Trees: 7<br>Shrubs: 12  | Variable width buffer per<br>Durham County Register of<br>Deeds Book 5959, Page<br>963  |
| East<br>(Current R-2 Zoning)                      | 10 feet Type B<br>Per 100 linear feet<br>Large Trees: 4<br>Small Trees: 7<br>Shrubs: 12  | Modified 15 feet- 30 feet<br>Per 100 linear feet<br>Large Trees: 4<br>Small Trees: 7<br>Shrubs: 15 – 40, as<br>illustrated on the district<br>specific plan |
| West<br>(R-6- CZD, "Barbee Chapel<br>Apartments") | 10 feet Type B<br>Per 100 linear feet<br>Large Trees: 4<br>Small Trees: 7<br>Shrubs: 12  | Modified 15 feet<br>Per 100 linear feet<br>Large Trees: 4<br>Small Trees: 7<br>Shrubs: 15   |
| West<br>(Current R-2 Zoning)                      | 10 feet Type B<br>Per 100 linear feet<br>Large Trees: 4<br>Small Trees: 7<br>Shrubs: 12  | Modified 20 feet<br>Per 100 linear feet<br>Large Trees: 4<br>Small Trees: 7<br>Shrubs: 36   |
| West<br>(Barbee Chapel Road)                      | 20 feet Type C<br>Per 100 linear feet<br>Large Trees: 5<br>Small Trees: 10<br>Shrubs: 36 | Modified 20 feet<br>Per 100 linear feet<br>Large Trees: 4<br>Small Trees: 7<br>Shrubs: 36   |
| Northwest<br>(NC-CZD)                             | 20 feet Type C<br>Per 100 linear feet<br>Large Trees: 5<br>Small Trees: 10<br>Shrubs: 36 | Modified 20 feet<br>Per 100 linear feet<br>Large Trees: 4<br>Small Trees: 7<br>Shrubs: 36   |

The modification to the landscape buffer regulation allows the trees and shrubs to survive and remain healthy while meeting the intent of the Design Manual requirements.

This finding is based on a determination that the public purposes are satisfied to an equivalent or greater degree because landscape buffers will adequately separate the development from adjacent major streets and different adjacent zoning designations.

- 6) **Appendix A "District-Specific Plan"**: Amend the definition of a "district-specific plan" accompanying this ordinance as follows:

A plan, to scale, showing the approximate location of uses and structures proposed for a parcel of land as required by the applicable application and regulations, including but not limited to lot lines, streets, building sites envelopes, reserved open space, buildings, major landscape features - both natural and manmade-and, depending on requirements, the location of proposed utility lines.

A modification to the definition of "district-specific plan" allows the development flexibility for Block A, B, and C, as illustrated on accompanying plans, due to a title commitment.

This finding is based on a determination that the public purposes are satisfied to an equivalent or greater degree because the modified district-specific plan, in conjunction with the conditions of this ordinance, provide sufficient certainty and control over the nature of the proposed 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 Residential-6-Conditional Zoning District (R-6-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 Durham County parcel(s) identified by Parcel Identifier Number (PIN) 9798-71-87-2809, 9798-81-18-1601, 9798-82-60-8392, 9798-82-21-3916, 9798-82-65-2259, 9798-82-94-9975, 9798-92-08-3946, 9798-93-20-2596, described below, along with the area extending to the centerline of the adjoining Barbee Chapel Road and Stancell Drive rights-of-way, shall be rezoned to Residential-6 Conditional Zoning District (R-6-CZD):

BEGINNING at

**[Applicant to provide]**

#### **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 4.4.5(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:

| <b>Land Use Intensity</b>                                    |  |
|--|--|
| Permitted Uses   | Dwelling units, two-family, attached; Dwelling units, two-family, detached; Dwelling units, multifamily, 3 to 7 dwelling units; Dwelling units, multifamily, over 7 dwelling units; Public use facility; Customary associated uses |
| Gross Land Area (GLA)  | 1,669,561 sq. ft.  |
| Maximum Floor Area   | 500,000 - 730,000 sq. ft.  |
| Permitted Dwelling Units                                     | 390 - 500 total units  |
| Floor Area Ratio   | 0.403  |
| Maximum Building Height, Setback                             | 60 feet  |
| Maximum Building Height, Core                                | 60 feet  |
| Other Dimensional Regulations                                | Per LUMO   |
| Minimum Affordable Units                                     | [ <b>OPTION 1</b> : 10 percent of the market rate homes will be affordable units.]<br><br>[ <b>OPTION 2</b> : 7 percent of the market rate homes will be affordable units.]<br>See Affordable Housing Plan                         |
| Maximum Vehicular Parking                                    | 452 - 567  |
| Minimum Electric Vehicular (EV) Parking                      | 3% of parking spaces served by EV-charging stations<br>20% of parking spaces designed to be EV-ready   |
| Minimum Bicycle Parking                                      | 125 spaces   |
| Maximum Total Impervious Surface                             | 70% of GLA   |
| Maximum Land Disturbance                                     | 1,168,000 sq. ft.  |
| Resource Conservation District Maximum Land Disturbance      | 11,800 sq. ft. (20% of RCD)  |
| Maximum Impervious Surface in Resource Conservation District | 5,900 sq. ft. (10% of RCD)   |
| Permitted Uses in Resource Conservation District             | Detention infrastructure (pipe outlets)<br>Additional uses per LUMO  |
| Steep Slopes Maximum Land Disturbance                        | 24,998 sq. ft. of area containing natural slopes 25% or greater  |
| Minimum Tree Canopy Coverage                                 | 30% of GLA   |
| Minimum Recreation Area                                      | 83,478 sq. ft. on-site   |

4. Impervious Surfaces and Land Disturbance: This approval limits the amount of impervious surface and land disturbance as indicated in the above Land Use Intensity Table. These limits apply to the entire project site, including areas within the Resource

Conservation District and areas containing steep slopes.

- a. An increase in the maximum impervious surface area, RCD impervious surface area, RCD land disturbance area, or steep slopes land disturbance area shall constitute a major modification.
- b. An increase in 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.
- c. Modifications procedures as outlined in LUMO 4.4.7(h) shall apply.

#### Affordable Housing

4. Affordable Housing Plan: The developer shall provide the following:

a. Affordable Units:

[**OPTION 1**: 10 percent of the market rate homes will be affordable units.]

[**OPTION 2**: 7 percent of the market rate homes will be affordable units.]

b. Unit Size:

- i. The affordable units will include studio, 1-bedroom, 2-bedroom, and 3-bedroom units.
- ii. Size of the affordable units will meet or exceed the size of the market rate units.

c. Location: The affordable units will be integrated into the community as shown on the site plans dated September 5, 2023. The affordable units will be provided initially in Block E and, when developed, Blocks A, B, and C.

d. Pricing:

[**OPTION 1**: 50 percent of the affordable units will be reserved for those households earning 60% or less of the area median income (AMI) and 50 percent will be made available to those households earning 80% or less of the area median income].

[**OPTION 2**: 100 percent of the affordable units will be reserved for those households earning 60% or less of the area median income (AMI).]

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. Pricing will consider the total cost of mortgage principal and interest, property taxes, homeowners and condo association fees, any mandatory maintenance fees, and homeowner's insurance such that a household's total housing costs do not exceed 30 percent of their household income.

e. Phasing: Fifty percent of the affordable housing units shall be completed prior to the Zoning Final Inspection of 50 percent of the market rate dwelling units. The remaining affordable dwelling units shall be completed prior to Zoning Final Inspection of 90 percent of the market rate dwelling units.

f. Affordability Period: The affordable units will be affordable for a period of at least 30 (30) years.

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.

5. Affordable Housing Performance Agreement: Prior to the issuance of a Zoning Compliance Permit, a performance agreement that incorporates the approved Affordable Housing Plan (See 4. above) must be executed by the developer and the Town Manager (or designee).
6. Conversion of Residential Rental Units to Ownership Condominium Units: If the rental development is converted to an ownership condominium development, the current or future developer/owner may request approval from the Council to provide either 1) for sale affordable housing units; or 2) a payment-in-lieu as follows:
  - a. For Sale Affordable Condominium Units:
    - i. A revised Affordable Housing Plan shall be approved by the Town Manager prior to recordation of the condominium plat.
    - ii. The required number of affordable on-site units shall be 15 percent of the total amount of net new market rate dwelling units constructed in Hillmont and the fractional amount provided as a payment-in-lieu.
  - b. Payment-in-lieu at time of conversion:
    - i. If a payment-in-lieu of providing affordable ownership units is proposed, the payment shall be calculated based on the payment-in-lieu, as established by the Town Council, at such time as the development converts to condominium ownership.
    - ii. The payment-in-lieu shall be provided to the Town's Affordable Housing Fund prior to recordation of the condominium plat.
    - iii. The total payment shall be equal to the funding rate which is 15 percent of the total new market rate dwelling units constructed in Hillmont.

#### Environment

7. Stream Restoration: Prior to issuance of a Zoning Compliance Permit, the developer shall provide an analysis of the current stream conditions and identify necessary improvements and repairs to create a stable and healthy stream. The analysis shall be prepared by a civil engineer with stream restoration experience. At a minimum, the stream restoration shall include the following:
  - a. Removal of fill material (i.e., sediment and trash) along the entire length of the stream within the boundaries of the property
  - b. Removal of non-native invasive vegetation from the stream buffer
  - c. Restoration of the stream banks to typical channel dimension and stabilization using bioengineering techniques that incorporate seeding, staking, and planting of native woody species.
  - d. All stream improvements shall be completed prior to approval of the Zoning Final Inspection.
8. Stream Crossings: All stream crossings shall be constructed perpendicular to the stream. The developer shall consult with Town Stormwater staff prior to bringing in any mechanical equipment into the Stream side Zone / Jordan Riparian Buffer.
9. Annual Inspection Reports: The developer shall provide annual inspection reports of the stream restoration to the Town for five years following completion. These reports are in addition to the annual inspection reports for any stormwater control measures on site.
10. Operation and Maintenance Agreement: The Operation and Maintenance Agreement

shall include a condition for ongoing maintenance of the stream. The owner shall provide a warranty bond to the Town for future maintenance and repair for five years following the approval of the last Zoning Final Inspection for the project. The warranty bond shall be 25 percent of the construction cost of the stream restoration.

11. 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.
12. Performance Guarantee: A 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 applicant 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 be 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]

13. Stormwater Management Plan: Prior to issuance of a Zoning Compliance Permit, the developer shall provide a stormwater impact analysis demonstrating that post-development peak flows for 1-year, 2-year, 25-year, and 100-year 24-hour storm



events do not exceed pre-development peak flows for the site at each point of analysis.

14. OWASA: An OWASA approved water pump station, not currently identified on the site plan, may be constructed at a later date.
15. Staff Design Review of Landscape Buffer Quantities: prior to issuance of a Zoning Compliance Permit, the developer shall submit landscape buffer quantities and designs to prevent the 100 ft section being duplicated for the length of the property line.

#### Transportation, Access, and Connectivity

16. Road Improvements: Prior to first Certificate of Occupancy, 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. These road improvements are subject to NCDOT approval and construction within the existing right-of-way.
    - i. NC 54 (Raleigh Road) and Barbee Chapel Road:
      1. Construct a northbound right-turn lane on Barbee Chapel Road with 75 feet of full width storage and appropriate deceleration and taper.
      2. A payment of \$15,000 for traffic signal improvements at the intersection of Barbee Chapel Road and NC 54.
    - ii. NC 54 (Raleigh Road) and Little John Road:
      1. Extend the westbound left-turn lane on NC 54 to provide 250 feet of full width storage and appropriate deceleration and taper.
      2. Restripe Little John Road between N 54 and Stancell Drive to provide separate left and right-turn lanes.
    - iii. Barbee Chapel Road and Finley Forest Drive/Proposed Site Driveway:
      1. Restripe the eastbound approach to provide separate left and right-turn lanes east of Springberry Lane.
      2. Construct a southbound left-turn lane on Barbee Chapel Road to provide 100 feet of full width storage and appropriate deceleration and taper.
      3. Construct a northbound left-turn lane on Barbee Chapel Road to provide 100' of full width storage and appropriate deceleration and taper.
  - b. A high visibility pedestrian crosswalk and median refuge shall be constructed across Barbee Chapel Road. This crosswalk shall be coordinated between the developer and neighboring property on Barbee Chapel Road. The crosswalk shall include a Rectangular Rapid-Flashing Beacon or similar device.
  - c. The developer shall provide sidewalks and crosswalks on internal streets consistent with the Chapel Hill Design Manual.
  - d. The developer shall construct a 10-foot multiuse path along the property's frontage along Barbee Chapel Road and along the property's frontage on Stancell Drive. Improvements should be completed prior to Certificate of Occupancy for the corresponding phase of development.
  - e. Prior to issuance of a Zoning Compliance Permit, the developer shall demonstrate good faith effort to coordinate with neighboring properties on Stancell Drive and

Barbee Chapel Road to connect the sidewalk on the applicant's frontage to the existing sidewalk network.

17. Accessible Open Space: The developer shall provide members of the public adequate access to the open space area of the site in Block D. The developer may achieve this through site improvements and/or wayfinding. The developer shall demonstrate a commitment to accessible open space prior to issuance of a Zoning Compliance Permit.
18. Traffic Signs: The developer shall be responsible for placement and maintenance of temporary regulatory signs before approval of a Zoning Final Inspection.
19. Trip Generation: The Traffic Impact Analysis (TIA) for this development was prepared on June 1, 2023. 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.
20. 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 the NCDOT, if applicable. The design shall be approved by the Town Manager and the NCDOT.
21. 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.
22. 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.
23. Fire Access: The developer shall provide two full vehicular access points for fire department access to the site. One shall be located on Stancell Drive; the second shall be located on Barbee Chapel Road.

#### Sustainability

24. Sustainability: The developer shall provide a finalized Energy Management Plan that addresses items listed below. The plan may be provided per phase, if applicable. The Energy Management Plan may be phased but must be approved prior to issuance of a Zoning Compliance Permit. After construction of all buildings is completed, an update to the plan may be requested for subsequent changes that require a Zoning Compliance Permit.
  - a. The plan shall:
    - i. Demonstrate how the developer utilizes sustainable energy, currently defined as solar, wind, geothermal, biofuels, and hydroelectric power.
    - ii. State that the developer will consider the purchase of carbon offset credits and green power production through coordination with the NC GreenPower program.
    - iii. Demonstrate how the developer will make a good faith effort to incorporate a "20% more energy efficient" feature relative to the energy efficient standard of the American Society of Heating, Refrigeration, and Air Conditioning Engineers

- (ASHRAE), as amended and in effect at the time of this Conditional Zoning approval (e.g., ASHRAE 90.1 2019). The developer may use comparable standards generally recognized as applicable to building energy consumption, as amended and in effect at the time of building permit issuance.
- b. If requested, the developer agrees to provide a report of the actual energy performance of the plan, as implemented, during the period ending one year after issuance of the final Certificate of Occupancy.
25. Irrigation: If permanent irrigation is proposed to support landscaping, an irrigation plan shall be submitted which includes the use of smart technologies to conserve water and energy. Smart technologies refer to a smart watering irrigation system with a controller that meets the United States Environmental Protection Agency's WaterSense standards.
  26. Electric Vehicle (EV) Parking: The developer shall provide EV-charging stations and EV-ready spaces as outlined in the Land Use Intensity Table above. For EV-ready spaces, the developer shall install conduit and ensure the availability of adequate space for all necessary associated electrical infrastructure (e.g., transformers, electrical panels, etc.).

#### Homeowner Association

27. Applicability: The Homeowner Association conditions shall apply for development with ownership. Should a development add for-sale units or convert rental units to ownership, the following conditions shall apply.
28. 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 Section 4.6.7 of the Land Use Management Ordinance. The Homeowners' Association covenants shall not exclude home occupation businesses as regulated by the Town of Chapel Hill.
29. 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. This applies to the open space in Block D as indicated in the approved plans.
30. 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 the 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.

31. 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.

#### Miscellaneous Conditions

32. Criteria for Modification: A reduction or reconfiguration of vehicular parking spaces is a minor modification that does not require approval by the Town Council and can be administratively approved.
33. Site Design Guidelines: Prior to issuance of a Zoning Compliance Permit, the developer shall develop Site Design Guidelines. The Guidelines shall be applicable to Block A, Block B, and Block C as illustrated on the district-specific plan. Design Guidelines shall be reviewed Community Design Commission and shall be reviewed and approved by the Town Manager.
34. Community Design Commission (CDC) Review: The Community Design Commission shall review Site Design Guidelines, building elevations, site lighting, and the location and screening of all HVAC equipment before the issuance of a Zoning Compliance Permit for a particular phase or building. After construction of all buildings is completed, Commission review is not required for subsequent changes to building elevations or site lighting that do not require a Zoning Compliance Permit.
35. Town Design Manual: The developer shall comply with all standards of the Design Manual, as applicable to the project.
36. 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.
37. 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 Design Manual. [LUMO 4.4.7]
38. Cumulative Tracking: Each Final Plan Zoning Compliance Permit application shall include a cumulative tally of the existing and proposed:
  - a. Floor area
  - b. Unit counts (by housing type and including affordable units)
  - c. Trip generation (including total daily vehicle trips)
  - d. Tree canopy
  - e. Impervious surface
  - f. Land disturbance
  - g. Resource Conservation District (RCD) disturbance
  - h. Bicycle parking spaces

- i. Vehicular parking spaces (including electric vehicle parking space)
39. Bicycle Parking: Bicycle parking spaces must also comply with the Spring 2015 Associated of Pedestrian and Bicycle Professionals Guidelines.
  40. 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). Prior to issuance of a Zoning Compliance Permit, the developer shall identify all invasive exotic species of vegetation contained in any undisturbed areas including but not limited to areas outside of limits of disturbances, areas designated for tree protection, areas containing required buffers, or other areas as deemed necessary by the Town Manager.
  41. 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]
  42. 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.
  43. 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.
  44. 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.
  45. Continued Validity: Continued validity and effectiveness of this approval shall be expressly conditioned on the continued compliance with the plans and conditions listed above.
  46. Non-Severability: If any of the above conditions is held to be invalid, approval in its entirety shall be void.
  47. 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 RESOLVED that the Council hereby approves the application for Conditional Zoning for Hillmont at 138 Stancell Drive.

This the []th day of [month], 20[[]].