

ORDINANCE A

(Approving the Conditional Zoning Application)

AN ORDINANCE AMENDING THE CHAPEL HILL ZONING ATLAS TO REZONE THE ASPEN CHAPEL HILL PROPERTY LOCATED AT 701 MARTIN LUTHER KING JR BLVD TO RESIDENTIAL-6-CONDITIONAL ZONING DISTRICT (R-6-CZD) (PROJECT #21-060) (2023-01-25/O-2)

WHEREAS, the Council of the Town of Chapel Hill has considered the application for Conditional Zoning submitted by McAdams, on behalf of contract purchaser York Acquisitions, LLC and property owners Capkov Ventures, Inc., Lukri Investments LLC, and Faye A. Johnson, to rezone a 2.03-acre parcel located at 701 Martin Luther King Jr. Blvd. on property identified as Orange County Property Identifier Numbers 9789-30-2139 and 9789-30-2349, to allow a multifamily building with structured parking, 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 to Residential-6-Conditional Zoning District (R-6-CZD) according to the district-specific plan dated November 16, 2022 and the conditions listed below would, per LUMO 4.4.3(f):

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

- a. Modify the Permitted Uses in the RCD to allow all uses and activities shown on the district-specific plan within the RCD boundary.
- b. Modify the maximum Disturbed Area Ratio within the Stream side zone to allow up to 7,716 sq. ft. or 28.2 percent of the area to be disturbed.

This finding is based on a determination that the public purposes are satisfied to an equivalent or greater degree because the modifications accommodate measures to activate the Martin Luther King Jr. Blvd. frontage that are consistent with the Comprehensive Plan.

2) LUMO Section 3.8.2: Dimensional Regulations.

- a. Modify the Maximum Residential Density by increasing it from 15 units per acre to 61 units per acre
- b. Modify the Maximum Setback height by increasing it from 39 ft. to 81 ft.
- c. Modify the Maximum Core Height by increasing it from 60 ft. to 81 ft.
- d. Modify the Minimum Street Setback along E. Longview St. to allow a minimum of 15 ft.
- e. Modify the Floor Area Ratio by increasing it from .303 to 1.204, which in combination with the floor area bonus for affordable dwelling units allows 168,152 sq. ft. of floor area.

This finding is based on a determination that the public purposes are satisfied to an equivalent or greater degree because the intensity of proposed development is consistent with the Comprehensive Plan. Specifically for Maximum Setback Height, consistency is achieved by providing a larger street setback along Martin Luther King Jr. Blvd. in lieu of stepping in height.

3) LUMO Section 5.6.2: Landscape Buffers. Modify the required 15 ft. Type A landscape buffer along the southern property line to allow a variable width buffer with modified planting requirements, as generally shown in the district-specific plan.

This finding is based on a determination that the public purposes are satisfied to an equivalent or greater degree because the landscape buffer will support a streetscape environment that is consistent with the Comprehensive Plan and will accommodate amenities for residents.

4) LUMO Section 5.9.7: Vehicular Parking. Modify the minimum requirements for vehicular parking to allow the following parking ratios:

Unit Size	Modified Parking Ratio
Studio / 1 Bedroom Unit	0.35 spaces/unit
2 Bedroom Unit	0.55 spaces/unit
3 Bedroom Unit	0.7 spaces/unit
4 Bedroom Unit	0.8 spaces/unit

This finding is based on a determination that the public purposes are satisfied to an equivalent or greater degree because the reduction in parking encourages the use of multimodal transportation facilities and reduces reliance on single-occupancy vehicles.

5) LUMO Section 5.3.2 Critical Areas: Steep Slopes Land Disturbance. Modify the amount of steep slope land disturbance to a maximum of 15,943 sq. ft. or 60% of the total combined area containing natural slopes 4:1 or greater.

This finding is based on a determination that the public purposes are satisfied to an equivalent or greater degree because the modification enables development of the site to be feasible.

CONDITIONAL ZONING DISTRICT

WHEREAS the Council of the Town of Chapel Hill 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).

NOW, THEREFORE, BE IT 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 parcels identified by Parcel Identifier Numbers (PINs) 9789-30-2139 and 9789-30-2349, described below, shall be rezoned to Residential-6-Conditional Zoning District (R-6-CZD), including to the centerlines of the adjoining Martin Luther King Jr. Blvd. and Longview Street rights-of-way:

BEGINNING at an iron pipe at the corner with lands owned now or formerly by Columbia Place Homeowners Association, Inc. (Deed Book 1316, Page 455, Orange County Registry) and lands owned now or formerly by Board of Trustees of the Endowment Fund of the University of North Carolina at Chapel Hill (Deed Book 859, Page 347, Orange County Registry), said iron pipe being North 40 Degrees 44 Minutes 25 Seconds West a distance of 168.14 feet from NCGS "BIKE"; thence with the Board of Trustees of the Endowment Fund of the University of North Carolina at Chapel Hill line South 10 Degrees 49 Minutes 00 Seconds East a distance of 267.04 feet to a point, a corner with lands owned now or formerly by Faye A. Johnson & Lukri Investments, LLC (Deed Book 1253, Page 100, Orange County Registry); thence with the Johnson/Lukri line South 82 Degrees 02 Minutes 56 Seconds West a distance of 276.87 feet to an axle found at the corner with lands owned now or formerly by TFM Troutman, LLC (Deed Book 6048, Page 302, Orange County Registry), and Columbia Place Homeowners Association, Inc.; thence with the Columbia Place Homeowners Association, Inc. line North 36 Degrees 42 Minutes 18 Seconds East a distance of 374.93 feet to an iron pipe; which is the point of BEGINNING, having an area of 36,921 square feet, 0.848 acres more or less, as shown on an ALTA/NSPS Land Title Survey titled "Chapel Hill Student Housing" prepared by The John R. McAdams Company, Inc. dated December 3rd, 2020, signed and sealed by E. Matthew Cash, PLS L-5045.

BEGINNING at an existing iron pipe, the southwest corner of the Johnson Tract, said iron pipe lying on the north right of way of Longview Street, a variable width public right of way, said iron pipe being a common corner with lands owned now or formerly by Wendolyn Thompson, said iron pipe shown as the southeast corner of Lot 2B in a plat titled "MINOR SUBDIVISION A TOWNHOUSE SUBDIVISION OF LOTS 1 AND 2 COLUMBIA PLACE II A CLUSTER SUBDIVISION" prepared by Riley Surveying, P.A. and recorded in Plat Book 82, page 90 of the Orange County Registry; thence leaving the right of way North 12 Degrees 08 Minutes 42 Seconds West a distance of 193.44 feet to an existing axle, said axle being a common corner with lands owned now or formerly by TFM Troutman, LLC (Lot 1A Columbia Place II), Columbia Place Homeowners Association, Inc., and Capkov, Inc.; thence with the Capkov line North 82 Degrees 02 Minutes 56 Seconds East a distance of 276.87 feet to a point on the east right of way of MLK, Jr. Boulevard, a 100-foot width public right of way; thence with the right of way with a curve turning to the left with an arc length of 204.16 feet, with a radius of 3,403.04 feet, with a chord bearing of South 15 Degrees 01 Minutes 20 Seconds West, and with a chord length of 204.13 feet to a point on the north right of way of Longview Street; thence with the right of way of Longview Street South 80 Degrees 29 Minutes 16 Seconds West a distance of 183.12 feet to an existing iron pipe; which is the point of BEGINNING, having an area of 43,502 square feet, 0.999 acres more or less.

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) provide written consent to the approval. Written consent must be provided within ten (10) days of enactment by the Town Council.
3. Land Use Intensity: This Conditional Zoning Atlas Amendment authorizes the following:

Land Use Intensity	
Permitted Uses	Dwelling units, multifamily, over 7 units Customary accessory uses
Gross Land Area (GLA)	88,501 sf
Maximum Floor Area	168,152 sf
Permitted Dwelling Units	82-112 total units
Dimensional Regulations	per LUMO / as modified above
Minimum Affordable Units	14
Minimum and Maximum Vehicular Parking	per LUMO / as modified above
Minimum Bicycle Parking	60 spaces
Maximum Total Impervious Surface	42,250 sq. ft. (50% of GLA)
Maximum Land Disturbance	87,555 sq. ft.
Resource Conservation District Maximum Land Disturbance	7,716 sq. ft.
Resource Conservation District Maximum Impervious Surface	2,483 sq. ft.
Steep Slopes Maximum Land Disturbance	15,943 sq. ft. of area containing natural slopes 4:1 or greater
Minimum Tree Canopy Coverage	per LUMO
Minimum Recreation Area	8,000 sq. ft. on-site

4. Affordable Housing Plan: The developer shall provide the following:
 - a. Affordable Units: The project will provide 14 units of the project’s total units as affordable, resulting in 14.3% of the market rate units being affordable.
 - b. Unit Size: The affordable units will be a mix of 6 studio units, 4 one-bedroom, and 4 two-bedroom units.
 - c. Location: The affordable units will be located together on the first two floors of the project facing Martin Luther King Jr. Blvd. and in general accordance with the locations noted on Exhibit A of the developer’s Affordable Housing Proposal last updated September 8, 2022 and on file with the Chapel Hill Planning Department.
 - d. Pricing: 10 of the affordable units will be available to households earning 65 percent or less of the Area Median Income (AMI) and 4 of the affordable units will be available to households earning 80 percent or less of the AMI. Pricing of units shall comply with the following:

- i. Maximum rental prices shall be calculated on the basis of 30 percent of household income at the specified AMI levels, adjusted for household size, minus the Utility Allowance and other housing-related fees required by the owner or property manager.
 - ii. AMI for a given unit size shall be calculated assuming 1.5 persons per bedroom: 1 person for the studio units, 1.5 persons for the one-bedroom units, and 3 persons for the two-bedroom units.
 - iii. Maximum housing costs are based on the AMI for the Durham-Chapel Hill, NC HUD Metro Fair Market Rent Area published annually by the U.S. Department of Housing and Urban Development.
 - iv. The Utility Allowance is based on annual estimates by housing type and bedroom size published by Orange County, or an alternative approach proposed by the developer and approved by the Town Manager, to be determined as part of the Performance Agreement (see 5. below).
 - e. Phasing: Half of the affordable units shall be completed prior to Zoning Final Inspection of half of the market rate units. The remaining affordable units shall be completed prior to Zoning Final Inspection of 90 percent of the market rate units.
 - f. Affordability Period: The rental affordability term shall be at least thirty (30) years from the receipt of a Certificate of Occupancy.
 - g. Design:
 - i. The affordable units will be finished with the same exterior design, trim, materials, and details as the market-rate units.
 - ii. The affordable units will meet the same energy efficiency standards as the market-rate units.
5. Performance Agreement: Prior to the issuance of a Zoning Compliance Permit, the developer must work with Town staff to incorporate the approved Affordable Housing Plan (see 4. above) into an Affordable Housing Performance Agreement to be executed by the developer and the Town Manager (or designee) which shall be in substantially the form of such agreement which has previously been provided to the developer. In the event of a conflict between the terms of the Land Use Management Ordinance (LUMO) and the Affordable Housing Performance Agreement then the terms of the LUMO shall control as to the terms of the approved Affordable Housing Plan as outlined herein. All terms set forth in the Affordable Housing Performance Agreement shall be commercially reasonable for like-kind agreements in the Durham-Chapel Hill, NC HUD Metro Fair Market Rent Area published annually by the U.S. Department of Housing and Urban Development.
6. Housing Vouchers: The developer agrees to accept Housing Choice Vouchers from the renters of the affordable rental units for the 30-year period of affordability for the project.
7. Age Restriction: The property owner shall limit tenancy in the building or premises to persons who have reached the age of 21 at the time of occupancy of any unit within the building or premises, provided that nothing herein shall be construed to limit or prevent the owner from (i) leasing or renting a unit to any person who will reach the age of 21 prior to the first anniversary of the effective date of their lease, and (ii) leasing to any other person who otherwise may be unlawfully excluded as a tenant from being allowed to own or rent a unit at the building or premises in accordance with the federal Fair Housing Act and/or the North Carolina Fair Housing Act (for instance unlawful discrimination based on pregnancy and/or protected familial status, etc.). Nothing in this condition is intended to be construed to prevent minors, or the children of a lessee who are between 18-21 years of age, from residing in the units with their parent(s)

and/or legal guardians who are a lessee under a valid lease agreement.

8. BRT Improvements: Prior to Zoning Final Inspection, the developer shall provide a payment of \$100,000 for construction of Bus Rapid Transit infrastructure and associated bicycle and pedestrian improvements. If the Town has not constructed Bus Rapid Transit infrastructure and associated improvements within 1,000 feet of the property within five years following the issuance of the final certificate of occupancy, the developer may request a refund of this payment.
9. Transportation Management Plan: Prior to issuance of a Zoning Compliance Permit, the developer shall submit a Transportation Management Plan which complies with the terms of the LUMO, to be reviewed and approved by the Town Manager. The Transportation Management Plan shall include monitoring of electric vehicle parking spaces usage. [LUMO 4.5.2]
10. Bicycle Parking: Prior to issuance of a Zoning Compliance Permit, the developer shall provide dimensioned details that comply with the Town parking standards for required and/or proposed bicycle parking spaces. Bicycle parking spaces should be placed near building ingress/egress points, including elevator access, to the extent feasible and in reasonable conformance with the district-specific plan. The spaces must comply with the Spring 2010 Association of Pedestrian and Bicycle Professionals Guidelines and the Class I and Class II bicycle parking standards required by the Town Design Manual. [LUMO 5.9.7]
11. Impervious Surfaces and Land Disturbance: This approval limits the amount of impervious area to a net total as indicated in the Land Use Intensity Table. Total areas of Land Disturbance for the site as a whole and within the Resource Conservation District are limited as indicated in the Land Use Intensity table and in accordance with the approved plans.
12. Steep Slopes: The developer proposes to exceed disturbance of 25 percent of the area containing 25 percent or greater slopes. The total area of disturbed natural slopes 25 percent or greater shall not exceed the amount indicated in the Land Use Intensity table. Prior to issuance of a Zoning Compliance Permit, the developer shall indicate how development and construction will comply with the steep slopes regulations in the Land Use Management Ordinance, subject to reasonable review and approval of the Town Manager.
13. Stream Remediation: Any work in the stream channel shall be done in accordance with approved plans and shall minimize any obstruction to stormwater flow. To ensure upstream flooding does not occur, the stream flow capacity shall not be adversely altered. Invasive plant removal shall meet the requirements stipulated on Resource Conservation Remediation Plan sheet C3.10 of the district-specific plan.
14. Sediment Control: The developer shall take appropriate measures to prevent and, if caused by the developer or its contractor, remove the deposit of wet or dry sediments on adjacent roadways. [Town Code 5-86]
15. Sustainability: Prior to issuance of a Zoning Compliance Permit, the developer must update the most recent version of the Energy Management Plan to address the zoning conditions listed below and to provide certainty around (1) any items that are currently being evaluated and (2) expected performance/specification details for those items that are only generally described at the Conditional Zoning stage.

- a. Energy Management Plan: The Final Plans application shall include an Energy Management Plan (EMP) for approval by the Town Manager prior to issuance of a Zoning Compliance Permit. The plan shall: a) consider utilizing sustainable energy, currently defined as solar, wind, geothermal, biofuels, hydroelectric power; b) consider purchase of carbon offset credits and green power production through coordination with the NC GreenPower program; c) provide for 20 percent more efficiency that also ensures indoor air quality and adequate access to natural lighting, and allows for the proposed utilization of sustainable energy in the project; and (d) that, if requested, the property owner reports to the Town of Chapel Hill the actual energy performance of the plan, as implemented, during the period ending one year after occupancy.
 - b. Energy Efficiency: The Final Plans shall incorporate a "20 percent more energy efficient" feature relative to the energy efficiency standard of the American Society of Heating, Refrigeration, and Air Conditioning Engineers (ASHRAE), as amended and in effect at the time of Conditional Zoning issuance (e.g., ASHRAE 90.1 2019). Comparable standards generally recognized as applicable to building energy consumption, as amended and in effect at the time of building permit issuance, may be used by the developer when incorporating the "20 percent more energy efficient" feature into the final plans.
16. Homeowners' Association: If the project, or any portion thereof, is developed as a condominium or converted to condominium governed by the provisions of Chapter 47C of the North Carolina General Statutes, or as a planned community governed by the provisions of Chapter 47F of the North Carolina General Statutes, 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. If no part or section of the project is developed as a condominium or converted to a condominium governed by the provisions of Chapter 47C of the North Carolina General Statutes, or as a planned community governed by the provisions of Chapter 47F of the North Carolina General Statutes, then no Homeowners' Association shall be required.
17. Community Memberships: The property owner shall make a limited number of memberships available to the members of the public that shall provide the right for up to no more than twenty-five (25) full-time residents of the town of Chapel Hill, each of whom must be at least 21 years of age, to use the (i) fitness area, and (ii) pool associated with the building and/or premises that are to be constructed on the property. A full-time resident of the town of Chapel Hill shall be deemed to include a person who has lived in the Town of Chapel Hill for no less than the past four (4) years with no sustained break in residing within the town of Chapel Hill for more than 30 consecutive days during said 4-year period. Nothing herein shall be construed to offer or provide to any other member of the public with any right or permission to use any portion of the property for any reason. Any and all full-time residents of the town of Chapel Hill who may receive a membership to use the pool and/or fitness area on the property shall be obligated to acknowledge and agree to abide by all rules and regulations applicable to their use of the fitness area and/or pool, and any failure to so abide by such rules and/or regulations can result in any membership being terminated by the owner at their sole and absolute discretion.

TOWN OF CHAPEL HILL – CONDITIONAL ZONING STANDARD CONDITIONS

The following standard conditions are supplemental to site-specific conditions as set by Town Council-approved ordinance. Unless modified by the site-specific conditions noted above, these standards apply to all development permitted by Conditional Zoning.

Access

18. Accessibility Requirements: Prior to issuance of a Certificate of Occupancy, the developer shall provide the minimum required handicapped infrastructure according to the Americans with Disabilities Act and associated codes and standards.

Transportation

19. Parking Lot: Any newly proposed parking lots, including additions to existing parking lots, shall be constructed to Town standards for dimensions and pavement design. [LUMO 5.9.5]
20. Parking Lot Landscape and Screening: The parking lot landscape design shall adhere to the standards of the Chapel Hill Land Use Management Ordinance. [LUMO 5.9.6]
21. Lighting: Prior to issuance of a Zoning Compliance Permit, the developer shall design street lighting along the site frontage. Design and construction details must be approved by the Town Manager and the North Carolina Department of Transportation (NCDOT). Lighting shall be installed prior to issuance of a Zoning Final Inspection.
22. Driveway Permit: As may be required by the NCDOT, the developer must obtain an approved driveway permit and/or encroachment agreement(s) prior to beginning any proposed work within the NCDOT right-of-way. As a condition of the permit, the permittee shall be responsible for the design and construction of stipulated improvements in accordance with NCDOT requirements. An approved permit will be issued upon receipt of approved roadway and signal construction plans, inspection fees, and any necessary performance and indemnity bonds.
23. Pavement Markings: Unless otherwise required by the NCDOT, any pavement markings proposed within the public street rights-of-way shall be long life thermoplastic. Pavement markers shall be installed if they previously existed on the roadways.
24. Off-Site Construction Easements: Prior to any development associated land disturbance on abutting properties, the developer shall provide documentation of approval from the affected property owner(s). [LUMO 5.8.1]
25. Sight Distance Triangles: Prior to issuance of a Certificate of Occupancy, the developer shall provide the Town of Chapel Hill with standard sight distance triangles at the proposed driveway locations. [Town Design Manual]
26. Low Vision Design Features: Any proposed pedestrian facilities should incorporate low vision design features as feasible.
27. Repairs in Public Right-of-Way: Prior to issuance of a Certificate of Occupancy, the developer shall repair all damage for work in the public right-of-way related to the construction of this project, which may include pavement milling and overlay. The

design of such repairs must be reviewed and approved by the Town Manager and NCDOT prior to issuance of a Zoning Final Inspection. [Town Code 17-40]

28. Street Closure Plan: Prior to issuance of a Zoning Compliance Permit, the developer shall provide a street closure plan, subject to Town Manager and NCDOT approval, for any work requiring street, sidewalk, or lane closure(s). [Town Code 21-7.1]
29. Work Zone Traffic Control Plan: Prior to issuance of a Zoning Compliance Permit, the developer shall provide a Work Zone Traffic Control Plan and a Construction Management Plan for approval by the Town Manager and as required by the NCDOT. The Work Zone Traffic Control Plan shall comply with the U.S. Department of Transportation Manual on Uniform Traffic Control Devices. The Construction Management Plan shall provide staging, construction worker parking, construction vehicle routes, and hours of construction. [Town Code 17-47]

Landscaping and Building Elevations

30. Invasive Exotic Vegetation: Prior to issuance of a Zoning Compliance Permit, the developer shall identify on the planting plan any known invasive exotic species of vegetation, as defined by the Southeast Exotic Pest Plant Council (SE-EPPC), and provide notes indicating removal of these species from the landscape buffer areas prior to planting. [Town Design Manual]
31. Alternate Buffer: Prior to issuance of a Zoning Compliance Permit, review shall be required from the Community Design Commission for any proposed alternate buffer. [LUMO 5.6.8]
32. Landscape Protection: Prior to issuance of a Zoning Compliance Permit, a detailed Landscape Protection Plan shall be approved. The plan shall include a complete and currently updated tree survey showing critical root zones of all rare and specimen trees and labeled according to size and species. The plan shall also indicate which trees will be removed and which will remain. The plan shall also include standard notes, fencing details, and location of fencing. [LUMO 5.7.3]
33. Tree Protection Fencing: Prior to issuance of a Zoning Compliance Permit, the developer shall provide a detail of a tree protection fence and a note on the Final Plans indicating that tree protection fencing will be installed prior to land-disturbing activity on the site. The plans shall include continuous tree protection fencing around construction limits and indicated construction parking and materials staging/storage areas, and Town standard landscaping protection notes, subject to Town Manager approval. [LUMO 5.7.3]
34. Landscape Planting Plan: Prior to issuance of a Zoning Compliance Permit, the developer shall provide a detailed Landscape Planting Plan with a detailed planting list, subject to Town Manager approval. [LUMO 4.5.3]
35. Tree Canopy: A minimum of tree canopy coverage shall be provided through a combination of retained and replanted trees, unless a modification to regulations is approved. Calculations demonstrating compliance with Chapel Hill Land Use Management Ordinance Section 5.7.2 shall be included. [LUMO 5.7.2]

36. Retaining Wall Construction: If applicable, the final design and location of all retaining walls shall be approved by the Town Manager prior to issuance of a Zoning Compliance Permit.
37. Demolition Plan: Prior to beginning any proposed demolition activity, the developer must obtain demolition permits from both the Planning and Inspections departments. While the demolition component may be submitted to Planning in tandem with the Zoning Compliance Permit for new construction, a separate stand-alone demolition permit shall be issued prior to an Inspection's Demolition permit. Further, prior to the issuance of a demolition permit for all existing structures 500 square feet or larger, Orange County Solid Waste staff shall conduct a deconstruction assessment pursuant to the County's Regulated Recyclable Materials Ordinance (RRMO).
38. Lighting Plan Approval: Prior to issuance of a Zoning Compliance Permit, the Community Design Commission shall review a lighting plan and shall take additional care during review to ensure that the proposed lighting plan will minimize upward light pollution and off-site spillage of light. [LUMO 8.5.5]
39. Community Design Commission Review: The Community Design Commission shall review the building elevations, including the location and screening of all HVAC/Air Handling Units for the site, prior to issuance of a Zoning Compliance Permit. [LUMO 8.5.5] Within the Town's historic districts, the Historic District Commission will act in place of the Community Design Commission. [LUMO 8.4.6]

Environment

40. Stormwater Management Plan: Development projects must comply with *Section 5.4 Stormwater Management* of the Chapel Hill Land Use Management Ordinance. [LUMO 5.4]
41. 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. Nothing herein shall be interpreted to prohibit the developer from being permitted to phase occupancy of any building which is part of the project. [LUMO 4.5.3]
42. Erosion Control Bond: If one acre or more is to be uncovered by land-disturbing activities for the project, then a performance guarantee in accordance with *Section 5-97.1 Bonds* of the Town Code of Ordinances shall be required prior to final authorization to begin land-disturbing activities. [Town Code 5-98]
43. Erosion Control Inspections: In addition to the requirement during construction for inspection after every rainfall, the developer shall inspect the erosion and sediment control devices daily, make any necessary repairs or adjustments to the devices, and maintain inspection logs documenting the daily inspections and any necessary repairs. [Orange County Erosion Control]
44. Erosion Control: The developer shall provide a copy of the approved erosion and sediment control permit from Orange County Erosion Control Division prior to receiving a Zoning Compliance Permit. During the construction phase, additional erosion and

sediment controls may be required if the proposed measures do not contain the sediment. Sediment leaving the property is a violation of the Town's Erosion and Sediment Control Ordinance. [Town Code 5-98]

45. Stormwater Control Measure: The proposed stormwater control measures for the site shall be designed to meet the current North Carolina Division of Environmental Quality Design Manual and Town of Chapel Hill Public Works Engineering Design Manual. [LUMO 5.4.3]
46. Storm Drain Inlets: The developer shall provide pre-cast inlet hoods and covers stating, "Dump No Waste! Drains to Jordan Lake", in accordance with the specifications of the Town Standard Detail SD-4A, SD-5A, SD-5C include all applicable details*, for all new inlets for private, Town and State rights-of-way. [Town of Chapel Hill Design Manual]
47. On-Site/Adjacent Stormwater Features: The final plans shall locate and identify existing site conditions, including all on-site and adjacent stormwater drainage features, prior to issuance of a Zoning Compliance Permit. The final plans must provide proper inlet protection for the stormwater drainage inlets on or adjacent to the site to ensure the stormwater drainage system will not be obstructed with construction debris. [Town of Chapel Hill Design Manual]
48. Repair/Replacement of Damaged Stormwater Infrastructure: Existing stormwater infrastructure that is damaged as a result of the project demolition or construction must be repaired or replaced, as specified by the Stormwater Management Engineer, prior to requesting a Certificate of Occupancy. [Town of Chapel Hill Design Manual]
49. Performance Guarantee: A performance and maintenance guarantee in an amount which shall be reasonably satisfiable to the Town Manager shall be provided to meet the requirement of Section 4.9.3 of the Land Use Management Ordinance 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 storm water 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. [LUMO 4.9.3]

Recreation

50. Recreation Space (Multi-Family): A minimum of 25 percent of the required Recreation Space for the project shall be provided in the form of a payment in lieu. The payment in lieu shall be paid prior to the issuance of a Zoning Compliance Permit.

Water, Sewer, and Other Utilities

51. Utility/Lighting Plan Approval: The final utility plan shall be approved by Orange Water and Sewer Authority (OWASA), and the final lighting plan shall be approved by Duke Energy Company. Both the final utility plan and the final lighting plan shall be approved by the Town Manager and any other applicable local utility service providers before issuance of a Zoning Compliance Permit. The developer shall be responsible for assuring that these utilities can continue to serve the development. In addition, detailed construction drawings shall be submitted to OWASA for review/approval prior to issuance of a Zoning Compliance Permit. [LUMO 4.5.3]
52. Lighting Plan: Prior to issuance of a Zoning Compliance Permit, the developer shall submit site plans, sealed by a Professional Engineer, for Town Manager approval, as well as other required documents to satisfy the lighting requirements of Section 5.11 of the Land Use Management Ordinance including: submission of a lighting plan; providing for adequate lighting on public sidewalks, including driveway crossings; and demonstrating compliance with Town standards. [LUMO 5.11]
53. Water/Sewer Line Construction: All public water and sewer plans shall be approved by and constructed according to OWASA standards. Where sewer lines are located beneath drive aisles and parking areas, construction methods approved by OWASA shall be employed to ensure that sewer lines will not be damaged by heavy service vehicles. [LUMO 5.12.1]
54. OWASA Approval: Prior to issuance of a Zoning Compliance Permit, any easement plats and documentation as required by OWASA and the Town Manager shall be recorded. [LUMO 5.12]
55. 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.

Homeowner Association (if applicable)

56. 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.

57. 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. 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.
58. 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.

Fire Safety

59. Fire Sprinklers: The developer shall install sprinklers under the North Carolina Fire Protection Code (NC FPC) prior to issuance of a Certificate of Occupancy. Prior to issuance of a Zoning Compliance Permit, the plans shall show all proposed fire department connections to such systems. [TOWN CODE 7-56]
60. Gates and Barricades: Where required or authorized by the fire code official and permanent or temporary (construction), any gates across fire apparatus access roads shall be a minimum width of 20 feet, be of swinging or sliding type, have an emergency means of operation, shall be openable by either forcible entry or keyed, capable of being operated by one person, and shall be installed and maintained according to UL 325 and ASTM F 2200. [NC FPC 2018, 503.5, 503.6, D103.5]
61. Grade and Approach: Fire apparatus access roads shall not exceed 10 percent in grade unless approved by the fire chief, and all approach and departure angles shall be within the limits established based on the Fire Department's apparatus. [NC FPC 2018, 503.2.7, 503.2.8 and D103.2]
62. Fire Protection and Utility Plan: A fire flow report for hydrants within 500 feet of each building shall be provided and demonstrate the calculated gallons per minute with a residual pressure of 20 pounds per square inch. The calculations should be sealed by a professional engineer licensed in the State of North Carolina and accompanied by a water supply flow test conducted within one year of the submittal. Refer to the Town Design Manual for required gallons per minute.
63. Fire Department Connections and Standpipes: When the building being constructed requires standpipes, a temporary standpipe connection will be constructed with ready Fire Department Access when the building is not more than 40 feet in height. Such standpipes shall provide usable connections adjacent to the stairs and shall continue with building progression always being not more than one floor below the highest floor of the building. [NC FPC 912 & NC FPC 2018 3313]
64. Fire Command Center: Where required in the North Carolina Fire Protection Code and in all high rise buildings, a fire command center must be constructed in accordance with Section 508, NC FPC 2018.
65. Aerials: Where a building exceeds 30 feet in height OR 3 stories above the lowest level of Fire Department Access, overhead power and utility lines shall not be allowed within

the aerial apparatus access roadway and the roadway shall have an unobstructed width of 26 feet exclusive of the shoulders. At least one of the apparatus access roadways shall be located within a minimum of 15 feet and maximum of 30 feet from one complete side of the building. [NC FPC 2018 D105.1, D105.2, D105.3, D105.4]

66. Fire Apparatus Access Road: Any fire apparatus access roads (any public/private street, parking lot access, fire lanes and access roadways) used for fire department access shall be all-weather and designed to carry the imposed load of fire apparatus weighing at least 80,000 lbs. Fire apparatus access roads shall have a minimum width of 20 feet exclusive of shoulders with an overhead clearance of at least 13 feet 6 inches for structures not exceeding 30 feet in height and shall provide access to within 150 feet of all exterior portions of the building. Structures exceeding 30 feet in height shall be provided with an aerial apparatus access road 26 feet in width in the immediate vicinity of the building or portion thereof and shall provide at least one of the required access roads to be located not less than 15 feet and not more than 30 feet from the structure parallel to one entire side of the structure. [NC FPC 2018 502.1, 503.1.1, 503.2.1, D102.1 SECOND ACCESS DEPENDENT UPON NORTH CAROLINA DEPARTMENT OF TRANSPORTATION APPROVAL]
67. Dead End Access Roads: Dead end fire apparatus access roads exceeding 150 feet shall have a designated turn around. The turnaround shall meet one of the design standards of NC FPC 2018, Appendix D table D 103.4.
68. Building Height: Buildings exceeding 30 feet or three stories in height must have at least two means of fire apparatus access separated by at least one half the diagonal distance of the building. [NC FPC 2018, D104.1, D104.3 DEPENDENT UPON NORTH CAROLINA DEPARTMENT OF TRANSPORTATION APPROVAL]
69. Fire Access: Prior to issuance of a Certificate of Occupancy, fire access shall be reviewed and approved by the Town of Chapel Hill.
70. Fire Apparatus Access Road Authority: The fire code official shall have the authority to increase the minimum access widths where they are deemed inadequate for fire and rescue operations. [NC FPC 2018 503.2.2]
71. Hydrants Active: The developer shall provide active fire hydrant coverage, acceptable to the Fire Department, for any areas where combustible construction materials will be stored or installed, prior to having such materials delivered to the site. All required fire hydrants must be installed, active, and accessible for the Fire Department use prior to the arrival of combustible materials on site. Fire protection systems shall be installed according to Town Ordinance, the NC Fire Protection Code, and National Fire Protection Association Standard #13. [NC Fire Protection Code 2018 Section 501.1 & 3312]
72. Fire Hydrant and FDC Locations: The Final Plans shall indicate the locations of existing and proposed fire hydrants and Fire Department Connections (FDC). Fire Department Connections shall be located on the street side of the building within 100 feet of a hydrant. Hydrant spacing shall comply with the Town Design Manual. Design shall be reviewed and approved by the Town Manager prior to issuance of a Zoning Compliance Permit. [NC FPC 2018 Section 501.5.1.1]
73. Firefighting Access During Construction: Vehicle access for firefighting shall be provided to all construction or demolition sites including vehicle access to within 100 feet of temporary or permanent fire department connections and hydrants. Vehicle

access shall be provided by either temporary or permanent roads capable of supporting vehicle loading under all weather conditions. [NC FPC 2018, Section 3310.1]

74. Premise Identification: Approved building address numbers, placed in a position acceptable to the fire code official, shall be required on all new buildings. [NC FPC 2018, 505.1]
75. Key Boxes: Where required by the fire code official, a secure key box, mounted on the address side of the building, near the main entrance, shall be provided to ensure adequate access to the building based on life safety and/or fire protection needs. [NC FPC 2018, 506]
76. Automatic Fire Sprinkler System Required: An automatic fire sprinkler system meeting the requirements of NFPA Standard #13 and Town Code 7-56 is required to be installed in non-residential construction.
77. Fire Department Connections, Locations: Any required FDCs for any buildings shall meet the design and installation requirements for the current, approved edition of NFPA 13, 13D, 13R, or 14 of the NC FPC 2018 and Town Code 7-38 for location. FDCs shall be installed within 100 feet of a hydrant or unless otherwise approved by the fire code official and shall not be obstructed or hindered by parking or landscaping. FDCs shall be equipped with National Standard Thread (NST) and be a 2.5" siamese.
78. Fire Department Connections, Installation: A working space of not less than 36 inches in width and depth and a working space of 78 inches in height shall be provided on all sides with the exception of wall mounted FDCs unless otherwise approved by the fire code official. The FDCs where required must be physically protected from impacts by an approved barrier. [NC FPC 2018, 912.1, 912.2 912.2.1, 312]
79. 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.
80. Fire Flow Report: The Final Plan application shall include a fire flow report sealed by an Engineer registered in the State of North Carolina. An OWASA flow test must be provided with the report. Fire flow shall meet or exceed the requirements set forth in the Town Design Manual. The Fire Flow Report shall be reviewed and approved by the Town Manager prior to issuance of a Zoning Compliance Permit. [Town Design Manual]
81. Fire Lane: Prior to issuance of a Certificate of Occupancy, any fire lane shall be marked and signed in accordance with Town standards, with the associated plans approved by the Town Manager prior to issuance of a Zoning Compliance Permit. [NC FPC, Sections 2018 503.3, D103.6, D103.6.1, D103.2]
82. Emergency Responder Radio Coverage in New Buildings: All new buildings shall have approved radio coverage for emergency responders within the building based upon the existing coverage levels of the public safety communication systems of the jurisdiction at the exterior of the building. This section shall not require improvement of the existing public safety communication systems. [NC FPC 2018 Section 510.1]

Solid Waste Management and Recycling

83. Solid Waste Management Plan: Prior to issuance of a Zoning Compliance Permit, a detailed Solid Waste Management Plan, including a recycling plan and a plan for managing and minimizing construction debris, shall be approved by the Town Manager and Orange County Solid Waste (OCSW). The plan shall include dimensioned, scaled details of any proposed refuse/recycling collection areas, associated screening, and protective bollards, if applicable. Each bulk waste container shall be labeled as to type of material to be collected. If a refuse compactor is proposed or if the collection enclosure is not accessible by Town vehicles, the developer shall provide documentation of an agreement for solid waste collection by a private provider prior to issuance of a Zoning Compliance Permit. [Orange County Solid Waste]
84. Construction Waste: Clean wood waste, scrap metal and corrugated cardboard (Regulated Recyclable Materials), all present in construction waste, must be salvaged, recycled, or disposed of in an approved landfill. All haulers of construction waste containing Regulated Recyclable Materials must be properly licensed with Orange County Solid Waste. The developer shall provide the name of the permitted waste disposal facility to which any land clearing or demolition waste will be delivered. [Orange County Solid Waste]
85. Deconstruction Assessment: For any existing structure 500 square feet or larger a deconstruction assessment shall be conducted by OCSW staff prior to the issuance of a demolition permit pursuant to the County's Regulated Recyclable Materials Ordinance (RRMO). Prior to any demolition or construction activity on the site, the developer shall hold a pre-demolition/pre-construction conference with Solid Waste staff. This may be held at the same pre-construction meeting held with other development/enforcement officials.

State and Federal Approvals

86. State or Federal Approvals: Any required State or federal permits or encroachment agreements (e.g., 401 water quality certification, 404 permit) 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. [NC State; Federal Permits]
87. North Carolina Department of Transportation Approvals: Prior to issuance of a Zoning Compliance Permit, plans for any improvements to State-maintained roads or in associated rights-of-way shall be approved by NCDOT. [NC Department of Transportation]

Miscellaneous

88. Construction Management Plan: A Construction Management Plan shall be approved by the Town Manager prior to issuance of a Zoning Compliance Permit. The construction management plan shall: 1) indicate how construction vehicle traffic will be managed, 2) identify parking areas for on-site construction workers including plans to prohibit parking in residential neighborhoods, 3) indicate construction staging and material storage areas, 4) identify construction trailers and other associated temporary construction management structures, and 5) indicate how the project construction will comply with the Town's Noise Ordinance. [Town Design Manual Chapter 10]

89. Traffic and Pedestrian Control Plan: The developer shall provide a Work Zone Traffic Control Plan for movement of motorized and non-motorized vehicles on any public street that will be disrupted during construction. The plan must include a pedestrian management plan indicating how pedestrian movements will be safely maintained. The plan must be reviewed and approved by the Town Manager prior to the issuance of a Zoning Compliance Permit. At least 5 working days prior to any proposed lane or street closure the developer must apply to the Town Manager for a lane or street closure permit. [Town Code 17-42]
90. Construction Sign Required: 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 for regulatory information at the time of issuance of a Building Permit, prior to the commencement of any land disturbing activities. 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]
91. Schools Adequate Public Facilities Ordinance: If applicable, the developer shall provide the necessary Certificates of Adequacy of Public Schools or an exemption prior to issuance of a Zoning Compliance Permit. [LUMO 5.16]
92. Open Burning: The open burning of trees, limbs, stumps, and construction debris associated with site development is prohibited. [Town Code 7-7]
93. 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 plans 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 4.5.3]
94. Certificates of Occupancy: No Certificates of Occupancy shall be issued until all required public improvements are complete. A note to this effect shall be placed on the final plats.

If the Town Manager approves a phasing plan, no Certificates of Occupancy shall be issued for a phase until all required public improvements for that phase are complete, and no Building Permits for any phase shall be issued until all public improvements required in previous phases are completed to a point adjacent to the new phase. A note to this effect shall be placed on the final plats.
95. Traffic Signs: The developer shall be responsible for placement and maintenance of temporary regulatory signs before issuance of any Certificates of Occupancy.
96. New Street Names and Numbers: The name of the development and its streets and house/building numbers shall be approved by the Town Manager prior to issuance of a Zoning Compliance Permit.
97. As-Built Plans: Prior to the issuance of a Certificate of Occupancy, the developer shall provide certified as-built plans for building footprints, parking lots, street

improvements, storm drainage systems and stormwater management structures, and all other impervious surfaces, and a tally of the constructed impervious area. The as-built plans should be in DXF binary format using State plane coordinates and NAVD 88. [Town Design Manual Chapter 10]

98. Vested Right: This Conditional Zoning or Conditional Zoning modification 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.
99. Continued Validity: Continued validity and effectiveness of this approval shall be expressly conditioned on the continued compliance with the plans and conditions listed above.
100. Non-Severability: If any of the above conditions is held to be invalid, approval in its entirety shall be void.
101. Not-Comprehensive: The listing of these standard stipulations, and the specific stipulations 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 Aspen Heights at 701 Martin Luther King Jr. Blvd.

This the 25th day of January, 2023.