

ORDINANCE A

(Approving the Conditional Zoning Application)

AN ORDINANCE AMENDING THE CHAPEL HILL ZONING ATLAS TO REZONE THE PROPERTY LOCATED AT 5640 OLD CHAPEL HILL ROAD FROM R-1 TO R-6-CONDITIONAL ZONING DISTRICT (R-6-CZD) (PROJECT #CZD-24-7) (2025-XX-X/O-#)

WHEREAS, the Council of the Town of Chapel Hill has considered the application for Conditional Zoning submitted by Kadre Engineering, on behalf of contract purchaser EB Capital Partners and property owners Peng Xu and Dan-Hong Lu, to rezone a 4.02-acre assemblage located at 5640 Old Chapel Hill Road on property identified as Durham County Property Identifier Numbers 9799995053, 9799985902, 9799997097, 9799999029, 9799999079, 9799986945, 9799985983, 979995146, and 979995048, to allow development of a townhome community and finds that the amendment to the Zoning Atlas is:

- Consistent with the Town's Comprehensive Plan, per NCGS 160D-605;
- Reasonable and in the public's interest, per NCGS 160D-605;

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

- 1) Conform with the applicable provisions of the Land Use Management Ordinance (LUMO) and Town Code
- 2) Conform with the Comprehensive Plan
- 3) Be compatible with adjoining uses
- 4) Mitigate impacts on surrounding properties and the Town as a whole
- 5) Be harmonious with existing and proposed built systems including utility infrastructure, transportation facilities, police and fire coverage, and other public services and facilities
- 6) Be harmonious with natural systems such as hydrology, topography, and other environmental constraints

MODIFICATIONS TO REGULATIONS

WHEREAS, the Council of the Town of Chapel Hill finds, in this particular case, that the proposed development with the following requested modifications to regulations satisfies public purposes to an equivalent or greater degree:

1) LUMO Section 3.8.2: Dimensional Regulations: Table 3.8-1 Dimensional Matrix Column E Building Height, Setback (max feet)

Increase the maximum allowable height at the setback line to 60 feet.

This finding is based on a determination that the public purposes are satisfied to an equivalent or greater degree because greater height supports increased density while maintaining open space.

2) LUMO Section 3.8.2: Dimensional Regulations: Table 3.8-1 Dimensional Matrix Column K Floor Area Ratio

Eliminate the maximum floor area ratio and establish a maximum floor area limit stated in the Land Use Intensity Table.

This finding is based on a determination that the public purposes are satisfied to an equivalent or greater degree to support denser development and additional housing units.

3) LUMO Section 5.6.6: Schedule of required buffers

Reduce the required width of the Type B buffer from 10 feet to 5 feet, with no modified buffer being eligible for an alternative buffer request.

This finding is based on a determination that the public purposes are satisfied to an equivalent or greater degree to encourage greater engagement between multifamily communities and other properties within the Focus Area.

4) LUMO Section 5.7.2: Tree Canopy Coverage Standards

Decrease the minimum tree canopy coverage standard from to 20 percent.

This finding is based on a determination that the public purposes are satisfied to an equivalent or greater degree because reduced tree canopy allows the project to provide dense housing and connectivity from the site to the public right-of-way.

5) LUMO Section 5.9.7: Minimum and Maximum Parking Requirements

Increase the maximum number of vehicular parking spaces to allow for up to 3 parking spaces for 3-bedroom units, and up to 2 parking spaces for 2-bedroom units.

This finding is based on a determination that the public purposes are satisfied to an equivalent or greater degree because parking spaces are located within garages to reduce land disturbance and visual impact.

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 Numbers (PIN) 9799995053, 9799985902, 9799997097, 9799999029, 9799999097, 9799986945, 9799985983, and 97999859 described below, along with the area extending to the centerline of the adjoining Old Chapel Hill Road and East Lakeview Drive rights-of-way, shall be rezoned to Residential-6-Conditional Zoning District (R-6-CZD):

BEGINNING at

SECTION II

BE IT FURTHER ORDAINED by the Council of the Town of Chapel Hill that the following conditions are hereby incorporated by reference:

1. Expiration of Conditional Zoning Atlas Amendment: An application for Zoning Compliance Permit must be filed by a date precisely 2 years from the date of this approval or the land shall revert to its previous zoning designation. [LUMO 4.4.7(f)]
2. Consent to Conditions: This approval is not effective until the property owner(s) provides written consent to the approval. Written consent must be provided within ten (10) business days of enactment by the Town Council.
3. Land Use Intensity: This Conditional Zoning Atlas Amendment authorizes the following:

Land Use Intensity	
Permitted Uses	Dwelling units, Multifamily
Net Land Area (NLA)	174,881 sq. ft.
Gross Land Area (GLA)	192,639 sq. ft.
Maximum Floor Area	129,040 sq. ft.
Permitted Dwelling Units	Up to 76 total units
Dimensional Regulations	Setback Height and Floor Area Ratio per Modifications to Regulations above, otherwise per LUMO
Minimum Affordable Units	See Affordable Housing Plan
Minimum and Maximum Vehicular Parking	Minimum Parking per LUMO Maximum Parking per Modifications to Regulations above
Minimum Bicycle Parking	Per LUMO
Maximum Total Impervious Surface	Per LUMO (70% of GLA)
Maximum Land Disturbance	190,652 sq. ft.
Minimum Tree Canopy Coverage	20%
Minimum Recreation Area	21,892 sq. ft. on-site

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

Affordable Housing

5. Affordable Housing Plan: The developer shall provide the following:
 - a. Affordable Units: 15 percent of the market rate homes will be affordable units.
 - b. Unit Size:
 - i. The affordable units will include [2-bedroom and 3-bedroom] units.
 - c. Location: The affordable units will be integrated into the community.
 - d. Pricing: The affordable units will be reserved for those households earning 80 percent 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 homes. The remaining affordable dwelling units shall be completed prior to Zoning Final Inspection of 90 percent of the market rate homes.
 - f. Affordability Period: The affordable units will be affordable for a period of at least ninety-nine (99) years from the receipt of a Certificate of Occupancy.
 - g. Design:
 - i. The affordable units will be finished with similar exterior design, trim, materials, and details as the market-rate homes.
 - ii. The affordable units will meet the same energy efficiency standards as the market-rate homes.
6. Affordable Housing Performance Agreement: Prior to the issuance of a Zoning Compliance Permit, a performance agreement that incorporates the approved Affordable Housing Plan (see above) must be executed by the developer, the Town Manager (or designee), and if applicable, the non-profit agency that will administer the affordable units.

Environment

7. Stormwater Performance Guarantee: A stormwater performance and maintenance guarantee in an amount satisfiable to the Town Manager shall be provided to meet the requirements of LUMO 4.9.3 prior to the approval of Constructional plans. The performance guarantees and maintenance guarantees shall be satisfactory as to their form and manner of execution, and as to the sufficiency of their amount in securing the satisfactory construction, installation, or maintenance of the required stormwater control measure. The performance surety shall be an amount equal to one hundred and twenty-five percent (125%) of the total cost of uncompleted stormwater control measure(s) and conveyances prior to final plat recordation. The total cost of the storm water control measure(s) and conveyance(s) shall include the value of all materials, piping and other structures, seeding and soil stabilization, design and engineering, grading, excavation, fill, and other work. The 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]

Transportation, Access, and Connectivity

8. Transit Improvements: The developer shall coordinate with Chapel Hill Transit and the North Carolina Department of Transportation (NCDOT) on the placement of a bus stop on the north side of Old Chapel Hill Road, along the frontage of the proposed development. The stop improvements shall comply with the Town's Design Guidelines for transit stops and all federal ADA requirements, including installation of a 9' x 7' shelter structure meeting or exceeding the current model used by Chapel Hill Transit, construction of a concrete shelter pad and landing pad, bench, waste receptacles, and lighting. Real time transit tracking can be installed, at cost to the developer. Once complete, the existing transit stop at Old Durham Road at East Lakeview Drive (Westbound) Stop ID: 3734 will be relocated to the newly constructed stop.

Developer may provide a \$65,000 payment-in-lieu of transit stop improvements prior to Zoning Final Inspection. If the Town has not constructed the described transit improvements within five years following the issuance of the final certificate of occupancy, the developer may request and the Town shall then provide a refund of this payment

9. Road Improvements: The developer shall construct the following road improvements stipulated by the traffic impact analysis, the Town, and the North Carolina Department of Transportation (NCDOT):
 - a. The developer shall provide a vehicular connection with a public access easement to the property's eastern boundary in coordination with neighboring properties.
 - b. The developer shall provide a connection from the eastern property line to East Lakeview Drive.
 - c. Optimize signal timings for study intersections
 - d. Drive connection to Old Chapel Hill Road still under discussion
10. Traffic Signs: The developer shall be responsible for placement and maintenance of temporary regulatory signs before approval of a Zoning Final Inspection.

11. Trip Generation: The Traffic Impact Analysis (TIA) for this development was prepared on March 24, 2025. 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.
12. Street Lighting: The developer shall install street lighting or upgrade existing street lighting along the site frontages as required by the Town Manager with approval by NCDOT, if applicable. The design shall be approved by the Town Manager and NCDOT prior to issuance of a Zoning Compliance Permit for building construction. The developer shall complete installation prior to Zoning Final Inspection.
13. 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.
14. 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.
15. Bicycle Parking: Bicycle parking spaces must also comply with the Spring 2015 Association of Pedestrian and Bicycle Professionals Guidelines.

Sustainability

16. Energy Efficient Building Design: For commercial construction (including multifamily), the developer shall design and build a project that meets the New Buildings Institute 40% Stretch Energy Standard or the equivalent percentage better than the latest adopted version of ASHRAE 90.1 in the North Carolina Building Code.
 - a. Prior to issuance of a Zoning Compliance Permit (ZCP) for commercial construction, the developer shall submit to staff for their review and approval documentation that demonstrates compliance with the selected energy efficiency design standard above (e.g., pre-construction energy model).
 - b. For residential construction, the developer commits to a project that meets the certification requirements of the latest North Carolina adopted version of Energy Star Certified Homes. Prior to issuance of a Certificate of Occupancy (CO) for residential construction of a home or low-rise multifamily building, the developer shall submit to staff Energy Star Certified Homes certification.
17. Electric Vehicle Infrastructure: The developer shall ensure that their facilities support the use of current and future levels of electric vehicles by their residents and visitors by supplying the following, consistent with Town Council policy:
 - a. Each unit with on-site parking (e.g., garage or surface parking space) will have a minimum of 1 electric vehicle supply equipment (EVSE)-capable space. EV charging will meet US Access Board guidance for accessible charging. "EV-capable" means a designated parking space provides continuous conduit/raceway from a panel that supports future charging stations by providing at least 6.6 kW of power. These spaces do not require wiring or receptacles. For exterior surface lots, the conduit should be run underground to the parking location. The developer is not responsible for installing and maintaining the charging infrastructure.
18. Climate Action Plan: Prior to issuance of a Zoning Compliance Permit for building

construction, the developer shall submit a Climate Action Plan on the appropriate form prescribed by the Town Manager that includes, at a minimum, the following climate action commitments:

- All-electric building and site design (except outdoor grills)
- Solar-ready building design
- LED lighting only for interior spaces
- LED lighting only for exterior spaces, including street/parking lot lighting (3000 Kelvin or lower)
- Utilizes International Dark-Sky Association's principles for outdoor lighting
- WaterSense-rated appliances and equipment only
- Energy Star-rated appliances and equipment only
- Served by Chapel Hill Transit (bus stop on-site or within ¼ mile)
- Supports the Town's planned bicycle/pedestrian infrastructure with improvements and connections
- Exceeds the Town's standards for on-site bicycle parking
- Supports environmental equity through access to greenways and parks
- Exceeds the Town's standard for tree canopy coverage and adds shading
- Native plantings only for buffer areas
- Meets 100-year storm event design standard for stormwater management to address increased risk of nuisance flooding
- Shaded outdoor structures, walkways, and sitting areas to reduce extreme heat impacts

Homeowner Association

19. Applicability: The Homeowner Association conditions shall apply for development with individual ownership. Should a development add for-sale units or convert rental units to ownership, the following conditions shall apply.
20. 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.
21. 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.
22. 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.

23. 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

24. Town Design Manual: Except as specified elsewhere in this Ordinance, the developer shall comply with all standards of the Public Works Engineering Design Manual, as applicable to the project.
25. 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.
26. Detailed Plans: Prior to the issuance of a Zoning Compliance Permit, final detailed site plans, grading plans, utility/lighting plans, stormwater management plans (with hydrologic calculations), landscape plans, and landscape maintenance plans shall be approved by the Town Manager. Such plans shall conform to the district-specific plan approved by this application and demonstrate compliance with all applicable regulations and the design standards of the Chapel Hill Land Use Management Ordinance and the Public Works Engineering Design Manual. [LUMO 4.4.7]
27. 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.
28. 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)
29. Invasive Exotic Vegetation: The developer shall remove all invasive exotic species of vegetation as identified by the Southeast Exotic Pest Plant Council (SE-EPPC) and in Section 5.7.6 of the Land Use Management Ordinance (LUMO) from all areas located within the limits of disturbance. Prior to issuance of a Zoning Compliance Permit, the developer shall identify all invasive exotic species of vegetation within the limits of disturbance or other areas, as deemed necessary by the Town Manager.
30. Community Design Commission (CDC) Review: The Community Design Commission shall review 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.

31. Recreation Payment: XX 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.
32. 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]
33. Street Names and Numbers: The development's streets and house/building numbers shall be approved by the Town Manager prior to issuance of a Zoning Compliance Permit for street construction and/or building construction.
34. 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.
35. Continued Validity: Continued validity and effectiveness of this approval shall be expressly conditioned on the continued compliance with the plans and conditions listed above.
36. Non-Severability: If any of the above conditions is held to be invalid, approval in its entirety shall be void.
37. 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 East Lakeview Townhomes at 5640 Old Chapel Hill Road.

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