



**CONSIDER AN APPLICATION FOR CONDITIONAL ZONING:
Barbee Chapel Apartments (PROJECT #CZD-22-3)**

SUMMARY REPORT

TOWN OF CHAPEL HILL PLANNING DEPARTMENT
Britany Waddell, Director
Judy Johnson, Assistant Director
Anya Grahn-Federmack, Principal Planner
Tas Lagoo, Senior Planner

PROPERTY ADDRESS	MEETING DATE(S)	APPLICANT
5101 Barbee Chapel Road	December 13, 2022 Transportation & Connectivity Advisory Board Environmental Stewardship Advisory Board Housing Advisory Board December 15, 2022 Community Design Commission April 4, 2023 Planning Commission	McAdams on behalf of Toll Brothers Apartment Living (contract purchaser) and Don Pendergraft et. al. (property owners)

STAFF RECOMMENDATION

That the Planning Commission review and make comments on the application and submit a recommendation to the Town Council in preparation for its April 19, 2023, meeting.

ZONING

Existing: Residential-2 (R-2)

Proposed: Residential-6-Conditional Zoning District (R-6-CZD)

PROCESS

Conditional Zoning is a legislative process that allows Town Council to review the rezoning application for consistency with Comprehensive Plan and establish standards that address impacts on surrounding properties.

DECISION POINTS

Modifications to Regulations: The applicant is requesting modifications for the following:

- Increase the maximum density;
- Increase the maximum floor area ratio;
- Increase the maximum setback and core building heights;
- Decrease the solar setback;
- Modify buffer widths and types.

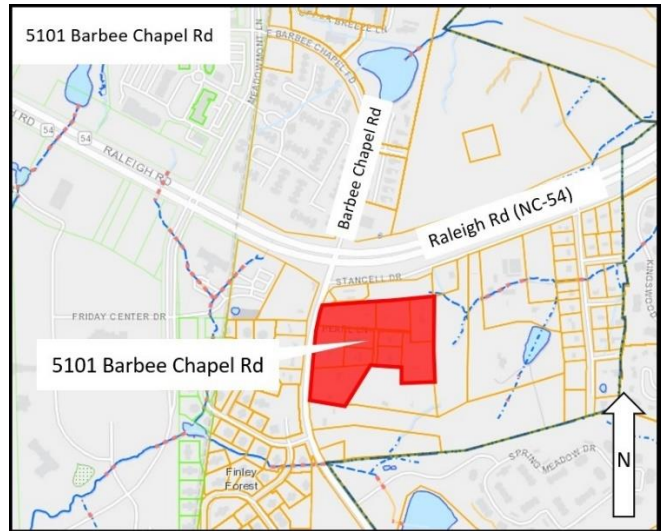
PROJECT OVERVIEW

This proposal includes a multifamily development on approximately 10.5 acres of land consisting of:

- Approximately 350 residential units (three buildings of multifamily flats and four buildings of townhomes)
- 420,000 sq. ft. of floor area
- Parking in surface lots and townhome garages

The Transportation Impact Analysis describes necessary improvements for one limited access driveway and one full access driveway on Barbee Chapel Road.

PROJECT LOCATION



ATTACHMENTS

1. Technical Report & Project Fact Sheet
2. Draft Resolution A, Resolution of Consistency and Reasonableness
3. Draft Ordinance A (Approving the Application)
4. Advisory Board Recommendations
5. Modifications to Regulations (Applicant Request)
6. Applicant Materials
7. Traffic Impact Analysis Executive Summary



TECHNICAL REPORT

PROPOSED ZONING

The application proposes applying a Residential-6-Conditional Zoning District (R-6-CZD) to the project site.

The intent of R-6-CZD is "to provide for residential development of appropriate intensities consonant with the suitability of land, availability of public services, accessibility to major activity centers and transportation systems, and compatibility with surrounding development." (LUMO Section 3.3.9)

The applicant has submitted a Conditional Zoning application, which allows review of the development proposal in conjunction with the rezoning, and which allows site-specific standards to be applied as conditions through a legislative process.

Conditions are typically used to:

- Address conformance of the development with Town regulations and adopted plans.
- Modify use, intensity, and development standards to be more restrictive when addressing impacts reasonably expected to be generated by development.
- Modify intensity and development standards to be less restrictive when accommodating the applicant's proposed site plan (Modifications to Regulations).

SITE CONTEXT

Staff has identified the following physical and regulatory characteristics of the land which are relevant to consideration of a Zoning Atlas Amendment:

- The site consists of ten single-family lots and two private streets totaling roughly 10.5 acres.
- The site fronts on Barbee Chapel Road, a NCDOT-maintained collector road and major travel corridor in southeast Chapel Hill.
- The site is roughly a ½ mile walk from the Friday Center and associated park & ride.
- The site is adjacent to the following zoning districts and uses:
 - North: A gas station and car wash in a Neighborhood Commercial (NC) Zoning District.
 - East and South: Several single-family homes and commercial properties in a Mixed-Use Village Conditional Zoning District (MU-V-CZD). All adjacent properties to the east and south are owned by NR Hillmont Property Owner LP and are subject to an active conditional zoning application for a multifamily and townhome development.
 - West: Several single-family homes in a Residential-2 (R-2) zoning district and the Finley Forest Condominiums in a Residential-4 (R-4) zoning district.
- The site contains no hydrological features. An intermittent stream is located off-site

to the northeast.

- The site is in the Jordan Lake Watershed Protection District.
- The site is mostly flat.

PROPOSED MODIFICATIONS TO REGULATIONS

1) Section 3.8.2: Dimensional Regulations. The applicant proposes modifications to the following dimensional regulations:

Dimensional Regulation	Required	Proposed
Maximum Density	15 dwelling units per acre	31 dwelling units per acre
Maximum Floor Area Ratio	0.303	0.840
Maximum Building Setback Height	39 feet	65 feet
Maximum Building Core Height	60 feet	65 feet
Minimum Solar Setback	8 feet	6 feet

Staff Comment: In general, it is preferable to propose zoning districts that have a defined intent that is consistent with the proposed development. Dimensional regulations can then be modified to allow development that is consistent with the guidance of the Future Land Use Map (FLUM). The proposed residential development is consistent with the FLUM, but the Land Use Management Ordinance (LUMO) does not include any residential zoning districts with dimensional regulations that fully implement the FLUM's guidance for this portion of the NC-54 Focus Area.

Staff has therefore advised the applicant to propose a residential zoning district and request modified dimensional regulations that will allow the proposed development to implement the FLUM. Additional justification is provided in the applicant's statement on Modifications to Regulations.

2) Section 5.6: Landscaping, screening, and buffering: Required buffers. The table below shows the buffer required and proposed buffers for this development.

Location	Required	Proposed (Buffer Types TBD)
North	Type C – 20 ft. Internal	6 ft. Modified Buffer
South	Type B – 10 ft. Internal	4 ft. – 10 ft. Modified Buffer
East	Type B – 10 ft. Internal	8 ft. – 10 ft. Modified Buffer
West	Type B – 15 ft. External	10 ft. – 15 ft. Modified Buffer

Staff Comment: Landscape buffers are intended to separate a proposed development from adjacent major streets and different adjacent land uses or zoning designations to minimize potential nuisances like noise, dust, odor, litter, and glare of lights. Buffers are also intended to reduce the visual impact of unsightly aspects of adjacent development, provide for the separation of spaces, and to establish a sense of privacy.

Justification is provided in the applicant's statement on Modifications to Regulations.

Council Findings and Public Purpose: The Council has the ability to modify the regulations according to Section 4.4.7 of the Land Use Management Ordinance. Staff

believes that the Council could modify the regulations if it makes a finding in this particular case that public purposes are satisfied to an equivalent or greater degree. If the Council chooses to deny a request for modifications to regulations, the developer’s alternative is to revise the proposal to comply with the regulations.

CONSISTENCY WITH THE COMPREHENSIVE PLAN AND OTHER DOCUMENTS

North Carolina General Statute 160D-605 requires the Town Council to consider a statement of Plan consistency when reviewing any Zoning Atlas Amendment. Town staff has reviewed this application for compliance with the themes from the [2020 Comprehensive Plan](#)¹, the standards of the [Land Use Management Ordinance](#)², and the [Town of Chapel Hill, NC : Design Manual and Standard Details](#)³ and provides the following evaluation of consistency for the Barbee Chapel Apartments:

	Description of Plan Element	Staff Evaluation
Future Land Use Map (FLUM)	<ul style="list-style-type: none"> • Focus Area: NC-54, Sub-Area A • Designates the site for multi-story, mixed-use buildings with smaller multi-family buildings near residential frontages. • Encourages greater pedestrian and cyclist-friendly routes along tree-lined activated street frontages and discourages parking along streetscapes. • Encourages multimodal connections and cross-connectivity between sites to accommodate pedestrians, bicycles, and transit where appropriate. • Seeks mixed-income housing near transit, height and density transitions between new and existing development, and buffered protections between new development and lower intensity development and single-family neighborhoods. 	<p>The proposed rezoning is generally consistent with the character envisioned by the FLUM as the proposal emphasizes providing multifamily residential.</p> <p>The applicant has proposed two apartment buildings along Barbee Chapel Road, locating most of the parking areas away from the road.</p> <p>The façade design of the new multifamily buildings will need to engage with the street and encourage activity along the street frontage to comply with the FLUM. The significant amount of surface parking surrounding the multifamily buildings may make it difficult to activate street frontages.</p> <p>Adding density to this area will support future transit stops and routes, along with pedestrian and bicycle travel.</p>
Building Height	Up to 6 stories in Sub-Area A, each story measuring approximately 12 feet in height (About 72 ft. tall building)	Applicant proposes buildings measuring 3, 5, and 6 stories in height, with a maximum height of 55 ft.

¹ <http://www.townofchapelhill.org/home/showdocument?id=15001>

² https://www.municode.com/library/#!/nc/chapel_hill/codes/code_of_ordinances?nodeId=CO_APXALOUSMA

³ <http://www.townofchapelhill.org/town-hall/departments-services/public-works/engineering/design-manual-and-standard-details>

<p>Mobility And Connectivity</p>	<ul style="list-style-type: none"> • A Bike/Ped Intersection Improvement is recommended at the intersection of NC 54 and Barbee Chapel Road • New multi-modal paths on both sides of NC 54 are emphasized. 	<p>The application proposes a multi-modal path along its Barbee Chapel Road frontage that may extend north to NC 54 and connect with improvements proposed in the plan.</p>
<p>Climate Action and Response</p>	<p>To reduce greenhouse gas (GHG) emissions and Vehicle Miles Traveled (VMT), the plan recommends:</p> <ul style="list-style-type: none"> • Walkable, bikeable, transit-served neighborhoods. • Higher density development and connectivity. • Better connectivity for all transportation modes. • Expanded transit availability and connectivity, wherever possible. 	<p>The site offers an opportunity for infill development next to an existing neighborhood, with access to transit stops within walking distance along NC 54 and at the Friday Center.</p> <p>The developer also proposes a new multi-modal path that could connect to future adjacent developments and multimodal routes along NC 54.</p>
<p>Chapel Hill 2020 Goals</p>	<p>Opportunities for this application to support goals of Chapel Hill 2020 include:</p> <ul style="list-style-type: none"> • Providing a range of housing options—apartments and townhouse rentals - for current and future residents (<i>A Place for Everyone.3</i>) • Promoting a safe, vibrant, and connected community by offering a segment of multimodal path (<i>Community Prosperity and Engagement.3</i>). Further, the site is within walking distance to existing bus stops at the Finley Forest Condominiums and Friday Center, as well as regional routes along NC 54 (<i>Getting Around.3</i>). Connections to existing transit lines as well the proposed multi-modal path supports a transportation system that accommodates transportation needs and demands while mitigating congestion and promoting air quality, sustainability, and energy conservation (<i>Getting Around.6</i>) • The project is adjacent to existing single- and multi-family development, contributing to a range of neighborhood types that addresses residential, commercial, social, and cultural needs and uses while building and evolving Chapel Hill’s character for residents, visitors, and students (<i>Good Places New Spaces.5</i>). Further, the proposal provides higher density housing development that brings opportunity to strengthen the community, social equity, economic prosperity, and natural environment by providing a range of housing options for different income levels and life stages. (<i>Good Places New Spaces.8</i>). • The proposal seeks to reduce vehicular dependency by incorporating a multimodal path along its street frontage. When connected with future development on adjacent properties this segment could provide residents greater pedestrian and bike access to destinations along NC 54. This supports the Parks Comprehensive Plan and the Greenways Master Plan by providing recreation opportunities and ensuring safe pedestrian and bicycle connections (<i>Nurturing Our Community.4</i>) • The site offers access to the S and G routes that provide direct connections to UNC via transit. This supports the Town’s goal of housing for Town, University, and the Health Care System employees 	

	that encourages them to reside in the community (<i>Town and Gown Collaboration.4</i>)
NC 54 East Entrance-way (1995)	<p>Though retired, the plan calls for:</p> <ul style="list-style-type: none"> • A variety of housing types within each neighborhood that address different income levels and life stages • Office and retail that respond to neighborhood needs • Clustered development that preserves green space while providing for community gathering spaces • Pedestrian- and bike-friendly environments and connected street patterns that encourage the use of transit as well as reduce vehicle dependency • Preservation of natural vistas and development that limits impacts to environmentally sensitive areas

REASONABLENESS OF THE ZONING ATLAS AMENDMENT

Reasonableness is determined by comparing the scale of permissible development under the proposed zoning district to the scale permitted under existing zoning, and by considering characteristics of the site and its surroundings. North Carolina General Statute 160D-605 requires the Town Council to consider a statement of reasonableness when reviewing any Zoning Atlas Amendment.

The factors listed below the applicant’s proposed zoning district and overall proposed use program. Specific characteristics of the development proposal, compliance with regulations, and appropriate conditions to address potential impacts of the development are evaluated elsewhere.

Supporting Factors

- The proposed zoning is consistent with the Future Land Use Map character for the Focus Area, provided that zoning conditions are applied to ensure a compatible density.
- Rezoning to accommodate redevelopment may be considered reasonable.
- The proposed zoning allows only residential uses, which is consistent with other existing residential uses in the surrounding area.
- Provision of affordable housing in this location aligns with multiple themes of Chapel Hill 2020.
- Zoning conditions provide an opportunity to limit intensity and to establish standards that address any impacts on surrounding properties.

Other Considerations

- The proposed change in zoning district, including floor area proposed in the application, would allow roughly 9 times the amount of currently permissible development.
- The FLUM anticipates future transit service connecting existing development at Glen Lennox and Meadowmont as well as future transit-oriented, higher density

development. Transit has not yet been improved along NC 54. This development proposes to increase the number of residents along this road and increase demand for transit.

- Further analysis and/or zoning conditions may be needed to determine whether adequate pedestrian connectivity, vehicular access, and transit service are in place to support the proposed zoning.

FINDINGS OF FACT

Staff provides the following evaluation of the application under the three Findings of Fact identified in LUMO Section 4.4. LUMO states that the Zoning Atlas shall not be amended unless at least one of the Findings are made.

FINDING #1: The proposed zoning amendment is necessary to correct a manifest error.	
Arguments	To date, no arguments in support or in opposition have been submitted or identified by staff.
Staff Evaluation	There appears to be no manifest error in the Town’s Zoning Atlas.
FINDING #2: The proposed zoning amendment is necessary because of changed or changing conditions in a particular area or in the jurisdiction generally.	
Arguments	Staff notes that the adjacent property is under consideration for a multi-family housing development. To date, no arguments in opposition have been submitted or identified by staff.
Staff Evaluation	The Council could make the finding that the proposed zoning amendment is necessary because of changing conditions along the NC 54 corridor.
FINDING #3: The proposed zoning amendment is necessary to achieve the purposes of the comprehensive plan.	
Arguments	Staff notes that the Conditional Zoning application could contribute to the purposes of the Comprehensive Plan through the following: <ul style="list-style-type: none"> • Promoting the Focus Area Character for the NC 54 Focus Area as described in the Future Land Use Map. • Facilitating development that implements FLUM guidance for use and height in the Focus Area. • Supporting goals of Chapel Hill 2020 including <i>A Place for Everyone, Community Prosperity and Engagement, Getting Around, Good Places-New Spaces, Getting Around, and Town & Gown Collaboration.</i> To date, no arguments in opposition have been submitted or identified by staff.
Staff Evaluation	The Council could make the finding that the proposed zoning amendment is necessary to achieve the purposes of the Comprehensive Plan.

Further information may be presented for the Council's consideration as part of the legislative hearing process. All information submitted at the legislative hearing will be included in the record of the hearing.









PROJECT FACT SHEET


Project Details

Site Description	
Project Name	Barbee Chapel Apartments
Address	5101 Barbee Chapel Road
Property Size (NLA)	455,841 sq. ft. (10.5 acres)
Gross Land Area (GLA)	501,425 sq. ft. (11.5 acres)
Durham County Parcel Identifier Numbers	9798-72-75-8083; 9798-72-95-9660; 9798-72-97-2169; 9798-82-25-0578; 9798-82-27-2292; 9798-82-34-8161; 9798-82-46-2809; 9798-72-82-2595; 9798-82-24-0401; 9798-72-94-8347; and 9798-82-15-1550
Existing Zoning	Residential-2 (R-2)
Proposed Zoning	Residential-6 CZD (R-6-CZD)


Site Development Standards

Topic	Comment	Status			
Development Intensity					
Use (Sec. 3.7)	<i>Proposed Use:</i> Multifamily dwelling units, over 7 units; Single-family dwelling units (townhomes)				
Inclusionary Zoning Ordinance (Sec. 3.10)	Voluntary – Rental housing proposed <i>Proposed:</i> 31 affordable apartments (9.7% of market-rate units)	NA			
Density (Sec. 3.8)	<i>Permitted:</i> 15 units per acre maximum <i>Proposed:</i> 31 units per acre	M			
Dimensional Standards (Sec. 3.8)	<i>Setback height:</i> 39 ft. maximum <i>Proposed:</i> 65 ft. maximum <i>Core height:</i> 60 ft. maximum <i>Proposed:</i> 65 ft. maximum <i>Setbacks:</i> 8 ft. solar, 20 ft. street, 6 ft. interior – all minimums <i>Proposed:</i> 6 ft. solar, other setbacks comply	M			
Floor area (Sec. 3.8)	<i>Maximum allowed:</i> 151,931 sq. ft. <i>Proposed:</i> 420,000 sq. ft.	M			
Landscape					
Buffers (Sec. 5.6.2)		<u>Adjacent Use/Zoning</u>	<u>Required</u>	<u>Proposed</u>	M
	North	Gas station; car wash	20 ft. Type C	6 ft. Modified	
	South	Single Family	10 ft. Type B	4 ft. - 10 ft. Modified	
	East	Single Family	10 ft. Type B	8 ft. - 10 ft. Modified	
	West	Barbee Chapel Road	15 ft. Type B	10 ft. - 15 ft. Modified	

Tree Canopy (Sec. 5.7)	<i>Minimum required:</i> 114,025 sq. ft. (30% of NLA) <i>Proposed:</i> Application will comply	FP
Parking Landscape Standards (Sec. 5.9.6)	Final Plans application must comply	FP
Environment		
RCD Dimensional Standards (Sec. 3.6.3)	<i>Impervious surfaces:</i> <i>Required:</i> 10% of Stream Side zone area, maximum <i>Proposed:</i> None <i>Land disturbance:</i> <i>Required:</i> 20% of Stream side zone area, maximum <i>Proposed:</i> Stream Side Zone: 3,500 sq. ft. (<20%)	
Erosion Control (Sec. 5.3.1)	Orange County Erosion Control permit required	FP
Steep Slopes Land Disturbance (Sec. 5.3.2)	No steep slopes land disturbance proposed	
Stormwater Management (Sec. 5.4)	Meet or exceed LUMO standards	FP
Land Disturbance	<i>Proposed:</i> 480,000 sq. ft.	
Impervious Surface	<i>Existing:</i> 1.69 acres (14.7%) <i>Maximum allowed:</i> 8.06 acres (70%) <i>Proposed:</i> 8.06 acres (70%)	
Solid Waste & Recycling (Sec. 5.13)	Application must comply	FP
Jordan Riparian Buffer (Sec. 5.18)	Application must comply	FP
Access & Circulation		
Traffic Impact Analysis (Sec. 5.8)	TIA completed	
Road Improvements (Sec. 5.8)	The developer proposes improvements to Barbee Chapel Road to accommodate additional vehicular access points.	FP
Vehicular Access (Sec. 5.8)	Two vehicular access points are proposed along Barbee Chapel Road: <ul style="list-style-type: none"> The northern access point will be limited to right-in/right-out traffic. The southern access point will be full-access. Several stub-outs on the site will facilitate future connections to adjacent development to the east and south.	FP
Bicycle and Pedestrian Improvements (Sec. 5.8)	The developer proposes a multi-modal trail along Barbee Chapel Road.	

Transit Improvements (Sec. 5.8)	None requested	NA
Off-street Vehicular Parking (Sec. 5.9)	<i>Minimum required:</i> 408 spaces <i>Maximum allowed:</i> 513 spaces <i>Total Proposed:</i> 495 spaces <ul style="list-style-type: none"> • Surface Parking: 431 spaces • Garages: 16 spaces • Townhouse Parking: 48 spaces 	
Bicycle Parking (Sec. 5.9)	<i>Minimum required:</i> 88 spaces <i>Proposed:</i> Application must comply	FP
Electric Vehicle Parking	The developer proposes EV chargers to serve at least 5% of surface parking spaces. All townhome garages will include 220-volt outlets.	C
Parking Design Standards (Sec. 5.9)	Application must comply	FP
Loading (Sec 5.9)	Application must comply	FP
Technical		
Fire	Built to Town Standards	FP
Recreation Area (Sec. 5.5)	<i>Minimum required:</i> 25,071 sq. ft. <i>Proposed:</i> 25,750 sq. ft. on-site and potential off-site extension of multiuse path. A payment based on 25% of the required recreation space will be provided if the off-site multiuse path extension is not constructed.	C
Lighting Plan (Sec. 5.11)	Built to Town Standards; not to exceed 0.3 footcandles at property line	FP
Signage (Sec. 5.14)	Built to Town Standards	FP
Schools Adequate Public Facilities (Sec. 5.16)	Application must comply	FP

Project Summary Legend

Symbol	Meaning
	Meets Requirements
M	Seeking Modification
C	Requires Council Endorsement
FP	Required at Final Plans
NA	Not Applicable