

REVISED ORDINANCE A
(Approving the Conditional Zoning Application)

AN ORDINANCE AMENDING THE CHAPEL HILL ZONING ATLAS TO REZONE THE BARBEE CHAPEL APARTMENTS TO RESIDENTIAL-6-CONDITIONAL ZONING DISTRICT (R-6-CZD) (PROJECT CZD-22-3) (2023-05-24/O-3)

WHEREAS, the Council of the Town of Chapel Hill has considered the application for Conditional Zoning submitted by McAdams, on behalf of contract purchaser Toll Brothers Apartment Living and owners Don W Pendergraft, Frank Herlant, Stephen D Pendergraft, Sandy L Pendergraft, Square Wheel Ventures LLC, Quentin Todd Krantz, Donna Roberson Sayers, Roderick Lane Roberson, and Elmdale and Pearl Lane LLC to rezone a 10.46-acre collection of parcels located at 5101 Barbee Chapel Road on properties identified as Durham County Property Identifier Number 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 to Residential-6-Conditional Zoning District (R-6-CZD), to allow a multifamily and townhome development 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; and
- Warranted because of changing conditions and warranted to achieve the purposes of the Comprehensive Plan, per LUMO 4.4

WHEREAS, the application, if rezoned according to the district-specific plan dated May 18, 2023, and the conditions listed below would, per LUMO 4.4.3(f):

- 1) Conform with the applicable provisions of the Land Use Management Ordinance 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 modification to regulations satisfies public purposes to an equivalent or greater degree:

- 1) Section 3.8.2 Dimensional Regulations - Density:** Increase the maximum allowable residential density from 15 dwelling units per acre to 31 dwelling units per acre (31 du/ac).

This finding is based on a determination that the public purposes are satisfied to an equivalent or greater degree as the proposed density is consistent with the Town’s Future Land Use Map.

- 2) Section 3.8.2 Dimensional Regulations – Floor Area Ratio:** Increase the maximum allowable floor area ratio from 0.303 to 0.840.

This finding is based on a determination that the public purposes are satisfied to an equivalent or greater degree as the proposed floor area ratio enables development that is consistent with the Town’s Future Land Use Map.

- 3) Section 3.8.2 Dimensional Regulations – Building Height:** Increase the maximum setback height from 39 ft. to 65 ft.

This finding is based on a determination that the public purposes are satisfied to an equivalent or greater degree as the proposed setback height enables development that is consistent with the Town’s Future Land Use Map.

- 4) Section 3.8.2 Dimensional Regulations – Building Height:** Increase the maximum core height from 60 ft. to 65 ft.

This finding is based on a determination that the public purposes are satisfied to an equivalent or greater degree as the proposed core height enables development that is consistent with the Town’s Future Land Use Map.

- 5) Section 3.8.2 Dimensional Regulations – Setback:** Decrease the solar setback from 8 ft. to 6 ft.

This finding is based on a determination that the public purposes are satisfied to an equivalent or greater degree as the proposed modification allows for more productive use of the project site and results in only minimal encroachments into the regulatory setback.

- 6) Section 5.6.6 Schedule of Required Buffers:** Modify the buffer width and planting requirements as shown below:

Buffer	Width and Plantings
North	6 ft. Modified Buffer 2 large trees, 2 small trees, and 40 shrubs per 100 linear feet
South	4 ft. – 10 ft. Modified Buffer 2 large trees, 2 small trees, and 40 shrubs per 100 linear feet
East	8 ft. – 10 ft. Modified Buffer 3 large trees, 4 small trees, and 40 shrubs per 100 linear feet
West	10 ft. – 15 ft. Modified Buffer 3 large trees, 6 small trees, and 50 shrubs per 100 linear feet

This finding is based on a determination that the public purposes are satisfied to an equivalent or greater degree as the modified buffers will provide an adequate level of separation and privacy while also enabling a streetscape and development pattern that is consistent with the Town’s Future Land Use Map.

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, subject to the conditions below, satisfies the purposes of 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 parcels, identified by Durham County Property 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, and described below, shall be rezoned to Residential-6-Conditional Zoning District (R-6-CZD):

BEGINNING at an iron stake in the eastern property line of Barbee Chapel Road at the northwest corner of Elmer Pendergraft' as shown on plat hereinafter referred to, and running thence with his line North 87 degrees East 200 feet to an iron stake; thence North 5 degrees East 288 feet to an iron stake; thence north 86 degrees West 200 feet to Barbee Chapel Road; thence with said street South 5 degrees West 290 feet to the beginning as shown on the plat of property of Dallas H. Roberson and wife, recorded in Plat Book 35 at Page 34, to which plat reference is hereby expressly made for a more particular description of same. Reference is expressly made to Deed Book 235, at Page 279, and to Deed Book 169, at page 176.

BEGINNING at an iron stake in the east property line of the said road, which point is 30 feet from the center line thereof and in Dallas H. Roberson's line; running thence with said Roberson's and Pearl Sparrow's line North 87 degrees East 400 feet to a stake and pointers; running thence South 32 degrees West 332 feet to an iron stake, Murray Sparrow's corner; running thence with the said Sparrow's line North 80 degrees West 240 feet to an iron stake in the east property line of the said road 30 feet from the center line thereof; running thence along the east property line of the said road North 3 degrees East 224 feet to the beginning, containing 2 acres, more or less.

BEGINNING at a stake in the line of the property of Elmer O. Pendergraft and wife, Dallas Roberson's southeast corner; running thence with the said Roberson line North 5 degrees East 132 feet to an iron stake and North 87 degrees East 200 feet to an iron stake; running thence a new line South 5 degrees West 132 feet to an stake; thence South 87 degrees West 17 feet to a stake, the northeast corner of property of Elmer O. Pendergraft and wife, running thence with their line South 87 degrees West 183 feet to the beginning, as per plat by F.M. Carlisle, recorded in Plat Book Page Durham County Registry. See Deed Bok 135, at Page 238. See Deed Book 210, at Page 323, Office of Register of Deeds of Durham County, for location of property lines and corners of Elmer O. Pendergraft and wife, referred to herein.

BEGINNING at a stake the Northeast corner of other property of Dallas Roberson which beginning point is 8 feet South of a 30 foot road and 200 feet East of Barbee's Chapel Road; running thence North 87 degrees East 200 feet to a stake in the line of Pearl Sparrow (which stake is South 182 feet from the DuBose); running thence with the Pearl Sparrow line South 5 degrees 0 minutes West 118 feet to an iron the Northeast corner of Elmer Pendergraft; running thence with his line South 87 degrees West 200 feet to an iron in the line of Dallas Roberson; running thence with his line North 5 degrees East 118 feet to the

BEGINNING, being part of the land conveyed to Dallas Roberson and wife by deed recorded in Book 235, Page 279.

BEGINNING at a stake on the east side of said Barbee Chapel Road, sometimes known as the Old Chapel Hill to Raleigh Road or the C.C. Camp Road, said beginning point being the southwest corner of the Dubose Filling Station Lot; running thence along and with the said Dubose lot North 87 degrees East 374 feet to an iron stake in the west property line of the Sparrow Land; running thence along and with the said Sparrow land South 5 degrees West 182 feet to an iron stake in the middle of a 25-foot driveway leading from the Barbee Chapel Road eastward into the Sparrow land and between this property herein conveyed and the remaining property of Dallas Roberson; running thence along and with the center line of said 25-foot driveway North 83 degrees West 414 feet to an iron stake in the east property line of Barbee Chapel Road; running thence with the said Barbee Chapel Road North 19 degrees East 75 feet and North 25 degrees East 70 feet to an iron stake, the point and place of BEGINNING.

BEGINNING at an iron stake locate in the Eastern margin of the right-of-way of Barbee Chapel Road at the southwestern corner of the Dubose Filling Station lot known as "Tripp's Grocery", running thence from said beginning point along the southern margin of the Dubose Filling Station lot North 87 degrees 47 minutes 02 seconds East 371.90 feet to an iron stake; running thence with the Western margin of property of the North Carolina State Highway Commission South 01 degree 14 minutes 46 seconds West 188.16 feet to a stake located in the centerline of a private road known as Pearl Lane; running thence with the centerline of Pear Lane North 85 degrees 00 minutes 27 seconds West 414 feet to a stake located in the Eastern margin of the right-of-way of Barbee Chapel Road running thence with the Eastern margin of the right-of-way of Barbee Chapel Road the following courses and distances: North 15 degrees 43 minutes 13 seconds East 75 feet to a stake and North 20 degrees 33 minutes 25 seconds East 70 feet to the point and place of BEGINNING, containing 1.48 acres according to the unrecorded plat and survey thereof prepared by Freehold Land Surveys, Inc. dated October 22, 1981.

BEING all of that 0.278 acre, more or less, tract of land lying between the lands of Pendergraft (5101 Barbee Chapel Road, Parcel No. 141880), Square Wheel Ventures, LLC (105 Pearl Lane, Parcel No 141875), Krantz (110 and 111 Pearl Lane, Parcel Nos. 141877 and 141896), Roberson (115 Pearl Lane, Parcel No. 141894), Sayers (114 Pearl Lane, Parcel No. 141895), Herlant (102 Pearl Lane, Parcel No. 141881, and 6 Elmdale, Parcel No. 141878), NR Hillmont Property Owner LP (Deed Book 9533, Page 198, Parcel No. 141876), Pendergraft (24 Elmdale, Parcel no. 141879), and being portions of the lands conveyed to D.W. Sparrow and wife, Pearl Sparrow by Deed recorded June 11, 1940, in Book 135, Page 238, Durham County Registry, never subsequently re-conveyed. Said Parcel has a Durham County Parcel ID# 216988.

BEGINNING at an iron stake in the East side of a dead end street running between this property and the property, now or formerly, of Elmer Pendergraft, and which said lot is more properly described as BEGINNING at a stake in the East property line of said Street and which point is 30 feet East of Elmer Pendergraft's Northeast corner, now or formerly, of the property conveyed to him by Pearl Sparrow the following courses and distances: South 83 degrees East 165 feet; South 5 degrees West 132 feet; North 85 degrees West 165 feet to a stake in the East property line of said street, and which point is 30 feet East of Elmer Pendergraft's Southeast corner, now or formerly; running thence along the East side of said street North 5 degrees East 132 feet to the point and place of BEGINNING; as surveyed and platted by F.M. Carlisle Registered Engineer, on November 18, 1958.

All that certain lot or parcel of land situated, lying and being at the Southeastern intersection of Pearl Lane and an unnamed 30-foot street, as surveyed by F.M. Carlisle on April 1, 1961, and more particularly described as BEGINNING at the said intersection (which said intersection is South 85 degrees East 30 feet from the Northeast corner of the Dallas Roberson property, now or formerly); running thence with the South property line of Pearl Lane South 85 degrees East 165 feet to an iron; running thence South 5 degrees West 103 feet with the line of Pearl Sparrow, now or formerly, to an iron, the Northeast corner of the S.W. Wilburn property, also now or formerly; running thence with that line North 85 degrees West 165 feet to an iron in the East property line of said 30-foot unnamed street, which iron is opposite and 30 feet from the Northeast corner of the Elmer Pendergraft property, now or formerly; running thence with said street North 5 degrees East 103 feet to the point and place of BEGINNING, and BEING the same land conveyed to G.H. Moseley and wife, Mae Omie H. Mosely, by Pearl Sparrow (widow) by deed dated April 12, 1961, and recorded in Deed Book 275, Page 5, Durham County Registry.

LYING and being in Triangle Township, Durham County, on the north side of Pearl Lane and East of Barbee Chapel Road, and BEGINNING at an iron set in or near the centerline of Pearl Lane, a private road extending east from Barbee Chapel Road, said iron being located South 85 degrees 00 minutes 2.6 seconds East 414.0 feet from the intersection of Pearl Lane and the east margin of Barbee Chapel Road; and running thence with the east line of Harwell North 01 degree 14 minutes 46 seconds East 188.16 feet to an iron found, a corner with the Tripp Grocery land; thence along and with the Tripp Grocery line North 87 degrees 12 minutes 18 seconds East 230.94 feet to an iron found in the northwest corner of Roberson's land; thence with Roberson's line South 00 degrees 44 minutes 12 seconds West 219.65 feet to an iron set in or near the centerline of Pearl Lane; thence North 83 degrees 00 minutes 26 seconds West 232.81 feet to the point and place of BEGINNING and containing 1.08 acres, more or less.

BEGINNING at an iron pipe in the Western line of the property of Roderick Lane Roberson (formerly property of Dallas H. Roberson); said point of beginning also being in the southern line of the private road known as Pearl Lane where said road intersects with the property of Roderick Lane Roberson, and proceeding with the wester line of Roberson South 00 degrees 39 minutes 13 seconds West 67.80 feet to an iron; thence with the southern line of Roberson North 88 degrees 00 minutes 03 seconds East 152.01 feet to an iron; thence South 00 degrees 16 minutes 35 seconds West 270.66 feet to an iron; thence North 89 degrees 46 minutes 52 seconds West 232.30 feet to an iron; thence North 05 degrees 12 minutes 37 seconds East 103.61 feet to an iron; thence North 05 degrees 18 minutes 27 seconds East 132.11 feet to an iron; thence North 05 degrees 10 minutes 58 seconds East 102.49 feet to an iron in the southern line of Pearl Lane; thence to the point of beginning, containing 1.44 acres, more or less; as surveyed by Fred P. Johnston RLS and shown on an unrecorded map dated October 26, 1981.

BEGINNING at an iron stake which is located in the south line of the property which is now or formerly that of David St. Pierre Dubose, being the northwest corner of the property now or formerly belonging to Herman B. Lloyd, being the northeast corner of the property herein conveyed as shown on the survey referred to below, running thence South 00 degrees 50' 01" West 300.22 feet to a point located approximately 2 feet west of an iron stake; running thence South 88 degrees 00' 00" West 150 feet to an iron stake, this line being a common line with the property of Esther S. Roberson Tripp described in Deed Book 303, page 436, Durham County Registry; running thence North 00 degrees 43' 01" East 299.98 feet to an iron stake; running thence North 87 degrees 54' 11" East 149.98 feet to an iron stake, the point and place of BEGINNING as shown on the surveys of Freehold Land Surveys, Inc., dated July 30, 1981 and October 20, 1982, both entitled "Property of Roderick L. Roberson

and Donna Brown Roberson,” to which reference is hereby made, and being the same property conveyed to Esther S. Roberson Tripp and her late husband Dallas H. Roberson by a deed recorded in Deed Book 292, Page 499, Durham County Registry, to which reference is hereby made for a further description.

IN ADDITION TO THE PARCELS DESCRIBED ABOVE, the portion of Barbee Chapel Road that fronts the subject properties shall be rezoned up to its midpoint to Residential-6-Conditional Zoning District (R-6-CZD).

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 a Zoning Compliance Permit must be filed by a date precisely two 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 thirty (30) 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, over 7 units; Dwelling units, multifamily, 3 to 7 units; Dwelling units, single-family; Customary accessory uses
Gross Land Area (GLA)	501,425 sq. ft. (11.51 acres)
Permitted Floor Area	315,000 sq. ft. - 420,000 sq. ft.
Permitted Dwelling Units	262 units - 350 units
Minimum Affordable Units	See Condition #6
Maximum Total Impervious Surface	Per LUMO, 70% of GLA
Maximum Land Disturbance	480,000 sq. ft.
Maximum Land Disturbance in Resource Conservation District	3,500 sq. ft.
Maximum Land Disturbance in Jordan Buffer	3,500 sq. ft.
Minimum Tree Canopy Coverage	114,025 sq. ft.
Minimum Recreation Area	25,071 sq. ft.
Maximum Vehicular Parking	446 spaces or 1.3 spaces per unit
Minimum Bicycle Parking	88 spaces

4. Sustainability: Prior to issuance of the first Zoning Compliance Permit for building construction, the developer shall update the most recent version of the Energy Management Plan (EMP) to address the zoning conditions listed below and to provide certainty around expected performance/specification details for those items that are only generally described in this Conditional Zoning ordinance.

- a. Energy Management Plan: The final EMP shall include the following commitments for all construction, as applicable:
 - i. All-electric interior design
 - ii. Achieve National Green Building Standard Bronze Level or better
 - iii. All LED interior and exterior lighting
 - iv. Solar-ready construction
 - v. Only native or locally adapted species that are non-invasive and drought-tolerant
 - vi. Irrigation system with controller that meets EPA WaterSense standards
 - vii. Lighter-colored roof materials to reduce heat
 - viii. LED streetlights
 - ix. Low VOC finishes, formaldehyde free insulation and carpet pads, MERV 13 air filters
 - x. Programmable thermostats
 - b. Energy Efficiency: The Final Plans shall exceed 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.
5. Electric Appliances: The developer shall install all-electric appliances in all dwelling units. No gas appliances shall be installed.

Housing

6. Affordable Housing Plan: The developer shall provide the following:
- a. Affordable Units: The lesser of 31 affordable units or 10 percent of market rate units.
 - b. Unit Size: The affordable units will include studio, 1-bedroom, 2-bedroom, and 3-bedroom units in ratios approximately equivalent to the ratios of unit types among market rate units.
 - c. Location: The affordable units shall be evenly distributed throughout the development. No more than twelve (12) affordable units shall be located in any single building.
 - d. Pricing: At least forty-five percent (45%) of the affordable units will be reserved for those making 65% or less of the area median income (AMI) and the remaining affordable units will be reserved for those making 80% or less of AMI.
 - i. Maximum rental prices shall be calculated based on 30% of monthly household income at the specified AMI levels, adjusted for household size, minus housing-related costs.
 - ii. Housing-related costs include rent, utilities (heat, water, sewer, electric, and gas) and other fees required by the owner or property manager.
 - iii. Maximum housing costs are based on the Area Median Income for the Durham-Chapel Hill, NC HUD Metro Fair Market Rent Area published annually by the U.S. Department of Housing and Urban Development, found at https://www.huduser.gov/portal/datasets/il/il2022/select_Geography.odn.
 - iv. Area median income for a given unit size shall be calculated assuming 1.5 persons per bedroom for non-studio units. Area median income for a studio units shall be calculated assuming 1 person per unit.
 - e. Phasing: At least fifty percent of the affordable housing shall be completed prior to the Zoning Final Inspection of the first half of the market rate dwelling units. The remaining affordable dwelling units shall be completed prior to Zoning Final Inspection of 90 percent of the market rate dwelling units.

- f. Affordability Period: The affordable units will be affordable for a period of at least thirty (30) years.
 - 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.
7. Housing Vouchers: The developer shall accept Housing Choice Vouchers from the renters of the affordable units for the 30-year period of affordability for the project.
8. Affordable Housing Performance Agreement: Prior to the issuance of a Zoning Compliance Permit, a performance agreement that incorporates the approved Affordable Housing Plan must be executed by the developer, the Town Manager (or designee), and if applicable, the non-profit agency that will administer the affordable housing units.

Transportation, Access, & Connectivity

9. Electric Vehicle Charging: The developer shall support the use of electric vehicles by providing the following:
 - a. The developer shall provide 220-volt outlets in each townhome unit.
 - b. At least 5 percent of parking spaces shall be served by electric vehicle chargers.
 - c. All installed electric vehicle chargers shall be "Level 2" or higher as defined by the Society of Automotive Engineers.
 - d. At least 20 percent of all parking spaces shall be made "EV ready" by installing conduit and ensuring the availability of space for necessary infrastructure.
10. Fire Access Road: The fire code official shall have the authority to require or permit modifications to the required access widths where they are inadequate for fire or rescue operations or where necessary to meet the public safety objectives of the jurisdiction. [2018 NCFC Section 503]
11. Access: The developer shall secure all necessary access rights for construction traffic as well as all future ingress and egress to this development.
12. Multiuse Path: The developer shall provide a 10-foot-wide multiuse path that meets or exceeds Town standards along the full Barbee Chapel Road frontage of the development. Final design must be approved by the Town Manager and the North Carolina Department of Transportation (NCDOT) prior to issuance of a Zoning Compliance Permit.
13. Multiuse Path Extension: Subject to approval from NCDOT, the developer shall provide an extension of the multiuse path from its northern property line to the existing multiuse path located adjacent to NC Highway 54. The developer shall not be required to construct the multiuse path extension if the acquisition of right-of-way from a private party is necessary for doing so. Final design must meet or exceed Town standards and must be approved by the Town Manager and NCDOT prior to issuance of a Zoning Compliance Permit.

If, for any reason, the developer does not provide the multiuse path extension prior to completion of the Zoning Final Inspection, the developer shall either (1) construct a sidewalk on the west side of Barbee Chapel Road connecting the existing sidewalk to the crosswalk required under condition #16 or (2) provide a payment equivalent to 25 percent of the recreation space requirement for the development.

14. NCDOT-Mandated Roadway Improvements: Approval by the Town and NCDOT of all roadway construction details shall be required prior to issuance of a Zoning Compliance Permit. Prior to issuance of a Zoning Final Inspection, the developer shall provide all roadway improvements and limit driveway access as mandated by NCDOT.
15. Barbee Chapel Road and NC Highway 54: Prior to issuance of a Zoning Final Inspection, the developer shall lengthen the northbound left-turn lane at the NC 54/Barbee Chapel Road intersection to approximately 450 feet and appropriate taper, using the existing pavement section in the vicinity of Pearl Lane. Prior to issuance of a Zoning Final Inspection, the developer shall provide a \$5,000 payment for revising signal timing.
16. Pedestrian Crosswalk and Refuge: Prior to issuance of a Zoning Final Inspection, the developer shall provide a high visibility pedestrian crosswalk and median refuge across the southern leg of the Barbee Chapel Road/southern site driveway intersection. If required by the Town Manager, the crosswalk shall include a Rectangular Rapid-Flashing Beacon or similar device.
17. Stormwater Management Plan: Prior to issuance of a Zoning Compliance Permit, the developer shall provide a stormwater impact analysis demonstrating that post-development peak flows for the 50-year storm events do not exceed the pre-development peak flows for the site at each point of analysis.

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.

Transportation

18. Driveway Permit: The developer must obtain an approved driveway permit and/or encroachment agreement(s) prior to beginning any proposed work within NCDOT or Town of Chapel Hill 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 and Town of Chapel Hill requirements. An approved permit will be issued upon receipt of approved plans, inspection fees, and any necessary performance and indemnity bonds.
19. Repairs in Public Right-of-Way: Prior to issuance of a Zoning Final Inspection, the developer shall repair all damage for work in existing Town of Chapel Hill 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/or NCDOT prior to issuance of a Zoning Final Inspection. [Town Code 17-40]
20. 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 NCDOT. Lighting shall be installed prior to issuance of a Zoning Final Inspection.
21. 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. 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]

22. 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]
23. 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]
24. 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 existed on the roadways.
25. 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]
26. 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]
27. Low Vision Design Features: Any proposed pedestrian facilities should incorporate low vision design features as feasible. [LUMO 4.4.5]
28. 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/or 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

29. 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]
30. 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]
31. 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 4.4.5]
32. 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]

33. 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.
34. 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).
35. 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]

Environment

36. Stormwater Management Plan: Development projects must comply with *Section 5.4 Stormwater Management* of the Chapel Hill Land Use Management Ordinance. [LUMO 5.4]
37. Phasing Plan: If phasing of the project is proposed, then the applicant 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. [LUMO 4.5.3]
38. 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]
39. 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 once per seven calendar days if no rain. The developer shall make any necessary repairs or adjustments to the devices and maintain inspection logs documenting inspections and any necessary repairs in accordance with NCG01 Self Inspection Guidelines.
40. Erosion Control: The developer shall provide the Town a copy of the approved erosion and sediment control permit from Durham County Erosion Control Division. 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]

41. Sediment Control: The developer shall take appropriate measures to prevent and remove the deposit of wet or dry sediments on adjacent roadways. [Town Code 5-86]
42. 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]
43. 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]
44. 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]
45. 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]
46. Performance Guarantee: A performance and maintenance guarantee in an amount 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 a Final Plat. 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 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 final 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]

Water, Sewer, and Other Utilities

47. Utility/Lighting Plan Approval: The final utility/lighting plan shall be approved by Orange Water and Sewer Authority (OWASA), Duke Energy Company, other applicable local utility service providers, and the Town Manager 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 4.4.5]
48. 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]
49. 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]
50. 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.

Fire Safety

51. Fire Sprinklers: The developer shall install NFPA 13 fire sprinklers under the North Carolina Fire Protection Code (NC FPC) prior to issuance of a Certificate of Occupancy. [TOWN CODE 7-56]
52. 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]
53. 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]
54. 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.

55. 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]
56. 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 NCDOT approval]
57. 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.
58. 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 NCDOT approval]
59. Fire Access: Prior to issuance of a Certificate of Occupancy, fire access shall be reviewed and approved by the Town of Chapel Hill.
60. 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]
61. 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]
62. 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]

63. 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]
64. 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]
65. Automatic Fire Sprinkler System Required: An automatic fire sprinkler system meeting the requirements of NFPA Standard #13D and Town Code 7-56 is required to be installed in residential construction.
66. 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.
67. 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 the 20 psi 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]
68. 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]

Solid Waste Management and Recycling

69. 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]
70. Construction Waste: Clean wood waste, scrap metal and corrugated cardboard (Regulated Recyclable Materials), all present in construction waste, must be recycled. 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]

71. 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

72. 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]
73. 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

74. 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]
75. 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]
76. 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]
77. Open Burning: The open burning of trees, limbs, stumps, and construction debris associated with site development is prohibited. [Town Code 7-7]

78. 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 4.4.5]
79. Certificates of Occupancy: No Certificates of Occupancy shall be issued until all required public improvements are complete or have been bonded. 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.
80. Traffic Signs: The developer shall be responsible for placement and maintenance of temporary regulatory signs before issuance of any Certificates of Occupancy.
81. 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.
82. As-Built Plans: Prior to the issuance of the last 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]
83. 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.
84. Continued Validity: Continued validity and effectiveness of this approval shall be expressly conditioned on the continued compliance with the plans and conditions listed above.
85. Non-Severability: If any of the above conditions is held to be invalid, approval in its entirety shall be void.
86. Not Comprehensive: The listing of these standard conditions, 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 the Barbee Chapel Apartments at 5101 Barbee Chapel Road.

This the 24th day of May 2023.