

REVISED ORDINANCE A
(Approving the Conditional Zoning Application)

AN ORDINANCE AMENDING THE CHAPEL HILL ZONING ATLAS TO REZONE THE PROPERTIES LOCATED AT 19 E. LAKEVIEW DRIVE FROM RESIDENTIAL-1 (R-1) TO RESIDENTIAL-6-CONDITIONAL ZONING DISTRICT (R-6-CZD) (PROJECT #CZD-23-6) (2023-11-15/O-3)

WHEREAS, the Council of the Town of Chapel Hill has considered the application for Conditional Zoning submitted by Thomas & Hutton, on behalf of developers NorthView Partners and Bryan Properties and property owners JTCIV, LLC, Redwing Joco LLC, and APL Capital LLC, to rezone a 15-acre assemblage of parcels located 19 E. Lakeview Drive, 21 E. Lakeview Drive, 35 E. Lakeview Drive, 78 White Oak Drive, and 79 White Oak Drive on properties identified as Orange County Property Identifier Number(s) 9890-90-4183, 9799-99-4937, 9799-99-4931 and Durham County Property Identifier Number(s) 9890-90-52-6128, 9890-90-50-7784, 9890-90-50-8052, 9890-90-81-4582, 9799-99-88-4004, 9799-99-85-3851, 9799-99-84-3831, 0800-00-12-5860, 0800-00-12-4064, 0800-00-11-3370, 0800-00-10-2025, 0709-09-18-0371, 0709-09-06-9881, 0709-09-05-9350, and 0800-00-41-8958 to allow a multifamily residential development and finds that the amendment to the Zoning Atlas is:

- Consistent with the Town's Comprehensive Plan, per NCGS 160D-605; and
- Reasonable and in the public's interest, per NCGS 160D-605;
- Warranted because of changing conditions and warranted to achieve the purposes of the Comprehensive Plan, per LUMO 4.4

WHEREAS, the application, if rezoned to Residential-6-Conditional Zoning District (R-6-CZD) according to the district-specific plan dated June 8, 2023, last revised October 13, 2023, and the conditions listed below would, per LUMO 4.4.3(f):

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

MODIFICATIONS TO REGULATIONS

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

- 1) LUMO Section 3.6.3(e): Resource Conservation District: Table 3.6.3-2: Permitted uses within Resource Conservation District.** Allow the following uses within the Stream Side Zone:
 - Detention/retention basin and its associated infrastructure
 - Other stormwater conveyance pipes

This finding is based on a determination that the public purposes are satisfied to an equivalent or greater degree because the uses support infrastructure capable of handling the 100-year storm and allow the development to preserve as much of the existing ephemeral stream channel as possible.

2) LUMO Section 3.6.3(f): Resource Conservation District: Dimensional regulations: Table 3.6.6-3: Dimensional Regulations in RCD.

- a. Increase the disturbed area ratio from 20 percent to up to 100 percent in the Stream Side Zone.
- b. Increase the impervious surface ratio from 10 percent to up to 60 percent in the Stream Side Zone.

This finding is based on a determination that the public purposes are satisfied to an equivalent or greater degree because most of the disturbance and impervious surface is related to widening and improving N. White Oak Drive to provide adequate access to the development.

3) LUMO Section 3.8.2: Dimensional Regulations: Table 3.8-1: Dimensional Matrix: Column E Building Height, Setback. Increase the setback height from 39 feet to 55 feet.

This finding is based on a determination that the public purposes are satisfied to an equivalent or greater degree because the height supports the proposed density and urban form while maintaining adequate solar access, privacy, and access to and around buildings.

4) LUMO Section 3.8.2: Dimensional Regulations: Table 3.8-1: Dimensional Matrix: Column G: Street Setback. Reduce the minimum street setback from 20 feet to 5 feet along Street A and a minimum of 10 feet along N. White Oak Drive and Street B. No street setback shall be required along the right-of-way line for the future roundabout on Lakeview Drive.

This finding is based on a determination that the public purposes are satisfied to an equivalent or greater degree because the reduced setback provides flexibility in creating an urban and compact streetscape design and meeting emergency access requirements.

5) 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 of 586,485 square feet.

This finding is based on a determination that the public purposes are satisfied to an equivalent or greater degree because the increased floor area ratio supports density that is consistent with the Future Land Use Map and provision of affordable housing.

6) LUMO Section 5.6.6: Landscaping, Screening, and Buffering: Required Buffers. Modify required buffer widths and planting counts as shown below and with modified buffers not being eligible for an alternative buffer request:

Buffer Location	Required	Proposed
Northeastern (west of I-40)	100 ft. Type 'E'	Minimum 25 ft. width. Modified planting counts as shown on district-specific site plan.

Northern, adjacent to parcels 9890905301 and 9890-90-94-7866 (Red Roof Inn)	20 ft. Type 'C'	Waive required buffer standards. Construct greenway as shown on district-specific site plan. A portion of the greenway will be constructed on site and within an existing 30-ft. public right-of-way.
Western (along E. Lakeview Drive)	15 ft. Type 'B'	Continue 20 ft. Type 'C' buffer provided along Red Roof Inn Drive.
Western (along Street B)	15 ft. Type 'B'	Minimum 5-foot-wide tree planting zone. Plantings to follow street tree standards identified on district-specific site plan and spaced 40 ft. on center.
Eastern (along N. White Oak Drive)	15 ft. Type 'B'	Minimum 5-foot-wide tree planting zone. Plantings to follow street tree requirements identified on district-specific site plan and spaced 40 ft. on center.
Southern, adjacent to parcel 0709-09-48-7453)	10 ft. Type 'B'	Waive required buffer standards.

This finding is based on a determination that the public purposes are satisfied to an equivalent or greater degree because the proposed buffers support the urban design objectives, and the adjacent lots are either undeveloped or adequately screened by existing vegetation.

7) LUMO Section 5.9.6(c): Parking Landscaping Standards: Design Standards.

- Waive the requirement for a 5-foot-wide landscaped foundation buffer strip between the exterior wall of a structure and parking facilities.
- Allow the northeastern parking lot between Interstate 40 and Building 5 to be constructed without a landscaped interior island every 10 spaces. Should the parking lot be reconfigured to accommodate more than 24 vehicular parking spaces, this modification shall be void.
- Allow understory trees in interior islands where needed to accommodate emergency vehicle access.
- Allow parking spaces to be farther than 75 feet from the trunk of a canopy tree where needed to accommodate emergency vehicle access.

This finding is based on a determination that the public purposes are satisfied to an equivalent or greater degree because the modifications support providing adequate emergency vehicle access. The northeastern parking lot is internal to the site and adequate landscaping and screening materials will be provided along the perimeter.

8) LUMO Section 5.9.7: Minimum and Maximum Off-Street Parking Requirements.

Allow on-street parking spaces to be counted towards minimum and maximum off-street parking requirements.

This finding is based on a determination that the public purposes are satisfied to an equivalent or greater degree because it allows for all forms of parking to be considered equally and reduces the amount of impervious surface needed to accommodate parking.

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 Orange County parcel(s) identified by Parcel Identifier Numbers (PIN) 9890-90-4183, 9799-99-4937, 9799-99-4931 and Durham County parcel(s) identified by Parcel Identifier Numbers (PIN) 9890-90-52-6128, 9890-90-50-7784, 9890-90-50-8052, 9890-90-81-4582, 9799-99-88-4004, 9799-99-85-3851, 9799-99-84-3831, 0800-00-12-5860, 0800-00-12-4064, 0800-00-11-3370, 0800-00-10-2025, 0709-09-18-0371, 0709-09-06-9881, 0709-09-05-9350, and 0800-00-41-8958, described below, along with the area extending to the centerline of the adjoining E. Lakeview Drive and N. White Oak Drive right-of-way, shall be rezoned to Residential-6-Conditional Zoning District (R-6-CZD):

BEGINNING at a point on the eastern right-of-way of E. Lakeview Drive and being the northwest property corner of Rand A. Neyland having NC Grid Coordinates of N:799,971.78 and E:1,999,464.49; thence with the right-of way of E. Lakeview Drive N 18°21'25" W a distance of 14.81 feet to a point; thence N 14°40'17" W a distance of 205.16 feet to a point; thence N 14°38'52" E a distance of 46.00 feet to a point; thence with the southern right-of-way of Red Roof Inn Drive and Durham Chapel Hill Blvd with the arc of a curve turning to the left, having an arc length of 141.83 feet, a radius of 398.97 feet, a chord length of 141.09 feet, and a chord bearing N 44°59'17" E; thence N 35°22'31" E a distance of 32.93 feet to a point; thence leaving the right-of way with the property of Chapel Hill Enterprises, LLC N 89°47'31" E a distance of 144.76 feet to a point; thence N 89°42'49" E a distance of 54.86 feet to a point; thence S 00°30'26" E a distance of 30.03 feet to a point; thence S 88°32'05" E a distance of 254.45 feet to a point; thence S 89°01'12" E a distance of 348.39 feet to a point; thence N 12°03'34" E a distance of 46.63 feet to a point; thence N 89°40'19" E a distance of 28.99 feet to a point; thence N 89°40'19" E a distance of 104.93 feet to a point on the southern right-of-way of I-40; thence with the right-of-way of I-40 S 37°32'16" E a distance of 150.28 feet to a point; thence S 45°49'49" E a distance of 148.63 feet to a point; thence leaving the right-of-way of I-40 S 01°56'30" W a distance of 84.59 feet to a point; thence N 88°01'51" W a distance of 363.29 feet to a point on the eastern right-of-way of White Oak Road; thence with the eastern right-of way of White Oak Road S 12°03'34" W a distance of 102.00 feet to a point; thence S 05°53'44" W a distance of 359.60 feet to a point; thence S 03°49'11" W a distance of 50.49 feet to a point; thence S 07°57'34" E a distance of 134.27 feet to a point on the eastern right-of-way of White Oak Road; thence N 89°18'47" W a distance of 32.88 feet to a point on the western right-of-way of White Oak Road; thence leaving the right-of-way of White Oak Road with the property of John L. McKee, Jr. N 89°18'47" W a distance of 258.91 feet to a point; thence N 89°45'12" W a distance of 248.35 feet to a point on the eastern right-of-way of Cowan Blvd.; thence N 89°45'12" W a distance of 61.84 feet to a point on the western right-of-way of Cowan Blvd.; thence with the western right-of-way of Cowan Blvd. N 00°47'06" E a distance of 43.61 feet to a point; thence N 00°30'58" E a distance of 375.89 feet to a point; thence N 00°59'05" E a distance of 108.45 feet to a point; thence leaving the right-of-way of Cowan Blvd. with property of Rand A. Neyland N 86°06'47" W a distance of 213.66 feet to the point of beginning, having an area of 722,810 Square Feet or

16.593 Acres.

SECTION II

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

1. Expiration of Conditional Zoning Atlas Amendment: An application for Zoning Compliance Permit must be filed by a date precisely 2 years from the date of this approval or the land shall revert to its previous zoning designation. [LUMO 4.4.5(f)]
2. Consent to Conditions: This approval is not effective until the property owner(s) provides written consent to the approval. Written consent must be provided within ten (10) business days of enactment by the Town Council.
3. Land Use Intensity: This Conditional Zoning Atlas Amendment authorizes the following:

Land Use Intensity	
Permitted Uses	Dwelling units, multifamily, over 10 units, attached or detached Adult day care facility Child day care facility Permitted accessory uses and customarily incidental uses
Net Land Area (NLA)*	583,048 sq. ft.
Gross Land Area (GLA)*	641,353 sq. ft.
Maximum Floor Area	586,485 sq. ft. (See Modification 5)
Permitted Dwelling Units	300-316 total market-rate units Up to 388 total units (including up to 72 affordable units)
Dimensional Regulations	Per LUMO, except Modifications 3, 4, and 5
Minimum Affordable Units	See Affordable Housing Plan
Minimum and Maximum Vehicular Parking	Per LUMO (See Modification 8)
Minimum Electric Vehicular (EV) Parking	3% of parking spaces served by EV-charging stations 50% of parking spaces designed to be EV-ready
Minimum Bicycle Parking	Per LUMO
Maximum Total Impervious Surface	Per LUMO (70%)
Maximum Land Disturbance	827,974 sq. ft.
Resource Conservation District Permitted Uses	Streets, bridges, and other similar transportation facilities where there is a practical necessity to their location See Modification 1 for other allowed uses and all use as permitted in LUMO

Resource Conservation District Impervious Surface	Per LUMO, except Modification 2
Resource Conservation District Land Disturbance	Per LUMO, except Modification 2
Minimum Tree Canopy Coverage	32% (188,527 sq. ft.)
Minimum Recreation Area	5.6% (36,411 sq. ft.)

*The assemblage of parcels totaled 669,759 square feet at the time of the conditional zoning application. The land areas noted above reflects the reconfigured lots and does not include land to be dedicated as public right-of-way.

4. Impervious Surfaces and Land Disturbance: This approval limits the amount of impervious surface and land disturbance as indicated in the above Land Use Intensity Table. These limits apply to the entire project site, including areas within the Resource Conservation District (RCD) and areas containing steep slopes.
 - a. An increase in the maximum impervious surface area, RCD impervious surface area, RCD land disturbance area, or steep slopes land disturbance area shall constitute a major modification.
 - b. An increase in land disturbance up to 10 percent shall constitute a minor modification. An increase over 10 percent shall constitute a major modification. All increases shall be considered cumulatively.
 - c. Modification procedures as outlined in LUMO 4.4.7(h) shall apply.

Affordable Housing

5. Low-Income Housing Tax Credit (LIHTC) Scenario: The developer shall apply for Nine Percent Low-Income Housing Tax Credits (LIHTC) through the North Carolina Housing Finance Agency for five consecutive years. Should the developer obtain LIHTC funding the following affordable housing conditions shall apply:
 - a. Affordable Housing Plan: The developer shall provide the following:
 - i. Affordable units: 72 affordable units with approval for as low as 48 units contingent on the developer demonstrating that the reduction makes the project more competitive for a LIHTC project.
 - ii. Unit size: The affordable units will include a mix of 1- and 2-bedroom units.
 - iii. Location: The affordable units will be located in a single building on the 1.7-acre parcel of land as shown on the site plan dated June 8, 2023, and last revised October 13, 2023.
 - iv. Pricing: The affordable units will be reserved for households that on average earn 60 percent or less of the area median income (AMI), with a maximum household income of 80 percent of AMI.
 1. Maximum rental prices shall be calculated based on 30 percent of monthly household income at the specified AMI levels, adjusted for household size, minus housing-related costs.
 2. Housing-related costs include rent, utilities (heat, water, sewer, electric, and gas) and other housing-related fees required by the owner or property manager.
 3. 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.
 4. Area Median Income for a given unit size shall be calculated assuming 1.5 persons per bedroom.
 - v. Phasing: The single apartment building may be built separately from the market-rate units.

- vi. **Affordability Period:** The affordable units will be affordable for a period of at least 30 years.
 - vii. **Design:**
 - 1. The affordable units will be designed to comply with the North Carolina Housing Finance Agency's (NCHFA) Qualified Allocation Plan for the Low-Income Housing Tax Credit program, NCHFA's Design Standards, and NCHFA's Construction Field Guide.
 - 2. The affordable units will meet the NCHFA's energy efficiency guidelines.
 - b. **Affordable Housing Performance Agreement:** Prior to 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, and if applicable, the affordable housing provider that will administer the affordable housing units.
6. **Land Donation Scenario:** Should the developer be unsuccessful in obtaining LIHTC funding after five consecutive years, the following affordable housing conditions shall apply:
- a. **Land Donation:** The developer shall donate the 1.7-acre parcel, shown on the site plan dated June 8, 2023, and last revised October 13, 2023, to the Town or an affordable housing provider, subject to agreement between the Town and developer as part of the affordable housing performance agreement. The parcel shall have all necessary infrastructure (including water, sewer, and stormwater retention) to accommodate a multifamily building of up to 72 units.
 - b. **Affordable Housing Plan:** The affordable housing provider shall provide the following:
 - i. **Affordable units:** At least 24 affordable units but no more than 72 units.
 - ii. **Unit Size:** The affordable units will include a mix of bedroom counts.
 - iii. **Location:** The affordable units will be located on the 1.7-acre parcel of land as shown on the site plan dated June 8, 2023, and last revised October 13, 2023.
 - iv. **Pricing:**
 - 1. **For rental affordable units:**
 - a. Affordable rental units shall be reserved for households that on average earn 60 percent or less of the area median income (AMI), with a maximum household income of 80 percent of AMI.
 - b. Maximum rental prices shall be calculated based on 30 percent of monthly household income at the specified AMI levels, adjusted for household size, minus housing-related costs.
 - c. Housing-related costs include rent, utilities (heat, water, sewer, electric, and gas) and other housing-related fees required by the owner or property manager.
 - d. 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.
 - e. Area Median Income for a given unit size shall be calculated assuming 1.5 persons per bedroom.
 - 2. **For for-sale affordable housing units:**
 - a. The affordable units shall be reserved for households that earn on average 80 percent or less of the Area Median Income (AMI).
 - b. 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.
 - c. 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.

- v. Phasing: The affordable units may be built separately from the market-rate units.
- vi. Affordability Period:
 - 1. Rental units: The affordable units will be affordable for a period of at least 30 years.
 - 2. For-sale units: The affordable units will be affordable for a period of at least 99 years from the issuance of Certificate of Occupancy.
- c. 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 affordable housing provider that will administer the affordable housing units.

Environment

- 7. Stormwater Management Plan: Prior to issuance of a Zoning Compliance Permit, the developer shall provide a stormwater impact analysis demonstrating that post-development peak flow rates for 1-year, 2-year, 25-year, and 100-year 24-hour storm events do not exceed pre-development peak flow rates.
- 8. Stormwater Performance Guarantee: A performance and maintenance guarantee in an amount satisfiable to the Town Manager shall be provided to meet the requirements of LUMO 4.9.3 prior to the approval of construction 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 125 percent of the total cost of uncompleted stormwater control measure(s) and conveyances prior to final plat recordation. The total cost of the stormwater control measure(s) and conveyance(s) shall include the value of all materials, piping and other structures, seeding and soil stabilization, design and engineering, grading, excavation, fill, and other work. The developer shall submit unit cost information pertaining to all storm water control measure(s) and/or bids from the grading contractor hired to perform the work and any change orders related thereto as a method to determine the basis for cost of the work. The final cost determination shall be made by the Stormwater Management Division, taking into consideration any additional costs as deemed necessary for completion of the stormwater control measure(s) and conveyance(s).

Upon completion of the stormwater control measures(s) and other improvements and acceptance by the Town after final site inspection, the 125 percent of the performance surety shall be released to the developer and a maintenance bond in an amount of 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

9. Transit Improvements: Prior to Zoning Final Inspection, the developer shall provide a payment of \$25,000 for area transit improvements. If the Town has not constructed transit improvements within 1,000 feet of the property 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.
10. Pedestrian Improvements: The developer shall construct the following:
 - a. Sidewalk along the E. Lakeview Drive frontage
 - b. Sidewalk, curb, and gutter along the property's frontage on N. White Oak Drive
 - c. Sidewalks on the internal access drives
 - d. A pedestrian path in the northeastern corner of the site, east of Street A, and extending east to the adjacent property line. The developer shall coordinate with staff on the width and material for the path during Final Plan review. The developer shall pave the path if requested by the Town Manager at that time.
11. Multiuse Paths: Multiuse paths shall meet Town design standards, except for widths noted below, and shall be incorporated into the Final Plans prior to issuance of a Zoning Compliance Permit. All multiuse paths shall be subject to approval by the Town Manager. Improvements shall be completed prior to Zoning Final inspection. The developer shall construct the following multiuse paths as shown on the district-specific site plan:
 - a. A 10-foot-wide multiuse path along Red Roof Inn Drive that connects to a 14-foot-wide multiuse path along the northern property boundary and partly or fully within the 30-foot public right-of-way.
 - b. A 10-foot-wide multiuse path along the property's frontage on N. White Oak Drive.
 - c. A 10-foot-wide multiuse path along the property's southern boundary and extending through the Street B public right-of-way south to Old Chapel Hill Road.
 - i. Should this multiuse path not extend to Old Chapel Hill Road, the developer shall stripe the segment of N. White Oak Drive south of the site boundary, connecting to Old Chapel Hill Road, to accommodate a pedestrian path. The path and N. White Oak Drive improvements shall comply with Condition 12d.
12. Road Improvements: All plans for road improvements shall be reviewed and approved prior to issuance of a Zoning Compliance Permit. Prior to the Zoning Final Inspection, the developer shall construct the following improvements stipulated by the traffic impact analysis, the Town, and the North Carolina Department of Transportation (NCDOT)
 - a. Extend the exclusive northbound right-turn lane on US 15-501 approaching Lakeview Drive from 300 feet to 450 feet.
 - b. Lakeview Drive and Proposed Site Access #1 Intersection:
 - i. Construct a 100-foot southbound left-turn lane plus taper along Lakeview Drive.
 - ii. Provide one ingress lane and one egress lane along the driveway under stop control.
 - iii. Provide a 100-foot internal protected driveway stem.
 - c. Old Chapel Hill Road and White Oak Drive Intersection:

- i. Provide one ingress lane and one egress lane along the driveway under stop control.
 - ii. Construct an eastbound left-turn lane on Old Chapel Hill Road at N. White Oak Drive with 100 feet of vehicular storage length.
 - d. N. White Oak Drive improvements:
 - i. Upgrade the existing unpaved section of N. White Oak Drive within the site boundary to a local two-lane street with sidewalk standard.
 - ii. For the segment of N. White Oak Drive beyond the site boundary, the developer shall make all necessary subgrade improvements, pave, and stripe the road to a minimum of 20-feet-wide.
 - 1. Should a pedestrian path be required in this segment of N. White Oak Drive per Condition 11c, the following conditions shall apply:
 - a. N. White Oak Drive shall be reserved for emergency vehicle access only and signage posted to this effect. Construction of dwelling units shall be phased according to Condition 13.
 - b. The pavement shall be 20-feet-wide at a minimum, including striping for a 4-foot-wide pedestrian path.
 - c. The developer must construct a valley gutter and roll curb across N. White Oak Drive at the site boundary to allow emergency access.
13. Phasing: Should a multiuse path not extend to Old Chapel Hill Road per Condition 11c, construction of dwelling units shall be phased according to this condition. The developer may construct up to 80 percent of the Permitted Dwelling Units with Lakeview Drive serving as the only full vehicular access point and N. White Oak Drive providing emergency access only per Condition 12d. Prior to issuance of a Zoning Compliance Permit for any of the remaining 20 percent of the Permitted Dwelling Units, one of the following shall occur:
- a. A revised Traffic Impact Analysis (TIA) shall be completed demonstrating that Lakeview Drive can accommodate 100 percent of vehicular traffic entering and exiting the site.
 - b. The developer shall submit plans for improvements to N. White Oak Drive meeting Town standards for a local two-lane street with sidewalk, subject to approval by the Town Manager. Such improvements shall be completed prior to Zoning Final Inspection. In such case, N. White Oak Drive shall no longer be restricted to emergency access only.
 - c. The developer shall submit plans for constructing a roundabout on Lakeview Drive, subject to approval by the Town Manager. Such improvements shall be completed prior to Zoning Final Inspection. The roundabout shall be a requirement if necessary to complete units satisfying the Affordable Housing Plan, and if (a) or (b) has not occurred.
14. Traffic Signs: The developer shall be responsible for placement and maintenance of temporary regulatory signs before approval of a Zoning Final Inspection.
15. Trip Generation: The Traffic Impact Analysis (TIA) for this development was prepared in June 2023. The developer shall request an updated TIA and apply for a Major Modification to this Conditional Zoning if the proposed cumulative total daily vehicle trips exceed a 10 percent increase from the TIA.
16. Street Lighting: The developer shall install street lighting or upgrade existing street lighting along the site frontages prior to Zoning Final Inspection as required by the Town Manager with approval by the NCDOT, if applicable. The design shall be approved by the Town Manager and the NCDOT.

17. 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.
18. 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.
19. Bicycle Parking: Bicycle parking spaces must also comply with the Spring 2015 Association of Pedestrian and Bicycle Professionals Guidelines.
20. Roundabout Land Dedication: The developer shall dedicate land for a future single-lane roundabout with sidewalks and appropriate crosswalks at the site entrance on Lakeview Drive, to be constructed by others.
 - a. For identifying land for dedication, the developer shall dedicate the future 135-foot outer diameter (back of sidewalk to back of sidewalk) single-lane roundabout can be centered on the centerline of existing Lakeview Drive and the centerline of the intended site entrance.
 - b. A temporary STOP sign shall be installed on the site approach to Lakeview Drive until the roundabout can be built.
21. NCDOT Coordination: The developer shall continue coordinating with the Town and NCDOT about providing adequate vehicular storage for the northbound approach on Lakeview Drive to US 15-501. The TIA recommends extending the left-turn lane to accommodate 300 feet of storage.
22. Right-of-Way Dedication: The developer shall dedicate 30 feet of right-of-way east of Street A and to the property line. The land shall be dedicated after the Zoning Final Inspection for the multiuse path (see Condition 10d) is completed.

Sustainability

23. Sustainability: The developer shall provide a finalized Climate Action Plan that addresses, at a minimum, items listed below and that meets or exceeds the latest version of the Climate Action Plan dated October 5, 2023. The plan may be phased but must be approved by Town staff prior to issuance of a Zoning Compliance Permit. After construction of all buildings is completed, an update to the plan may be requested for subsequent changes that require a Zoning Compliance Permit.
 - a. The plan shall demonstrate how the developer will design the project to address the following climate action commitments:
 - i. Buildings and energy:
 1. The developer shall meet the 2020 National Green Building Standard (NGBS) silver level, which meets the energy efficiency standard for wood framed construction from the 2021 International Energy Conservation Code (IECC).
 2. All buildings and the entire site will be powered by electricity, except for the outdoor fire pits and outdoor grills.
 3. All appliances will be electric and will meet Energy Star standards where applicable.
 4. Sustainable building materials will be used where possible.

5. All interior lighting, common area lighting, and outdoor and parking lot lighting will be LED.
6. Lighting will be directed downward wherever feasible to reduce ambient light pollution.
7. All interior plumbing fixtures will be WaterSense certified to reduce water consumption and energy savings for water heating.
8. All appliances will be Energy Star certified.
9. If requested, the developer agrees to provide a report of the actual energy performance of the plan, as implemented, during the period ending one year after issuance of the final Certificate of Occupancy.
- ii. Transportation and land use
 1. The developer will provide interior and exterior bicycle parking spaces.
 2. The developer shall provide EV-charging stations and EV-ready spaces as outlined in the Land Use Intensity Table above. For EV-ready spaces, the developer shall install conduit and ensure the availability of adequate space for all necessary associated electrical infrastructure (e.g., transformers, electrical panels, etc.). The developer shall also provide a plan for how EV infrastructure will be managed over time.
- iii. Water, wastewater, and nature resources
 1. The developer will use native and local plantings for the landscaping.
 2. The developer plans to install a well so the development could utilize groundwater instead of an irrigation meter.
 3. If permanent irrigation is proposed to support landscaping, an irrigation plan shall be submitted which includes the use of smart technologies to conserve water and energy. Smart technologies refer to a smart watering irrigation system with a controller that meets the United States Environmental Protection Agency's WaterSense standards.
- iv. Resiliency
 1. Recreational areas and walkways planned for the property will be partially shaded to provide comfortable and dry places.

Homeowner Association

24. Applicability: The conditions shall apply for development with for-sale dwelling units. Should a development add for-sale units or convert rental units to ownership, the following conditions shall apply.
25. 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 and Durham County Register of Deeds Offices 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.
26. 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.
27. 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 and Durham County Register of Deeds Offices and cross-referenced on the final plat.

28. Solar Collection Devices: The Homeowners' Association, or similar entity, shall not include covenants or other conditions of sale that restrict or prohibit the use, installation, or maintenance of solar collection devices, including clotheslines.

Miscellaneous Conditions

29. Playground: The developer shall build a playground as part of the proposed development. Prior to issuance of a Zoning Compliance Permit, the developer shall provide an updated site plan that includes details for the playground, including its location and equipment.
30. Town Design Manual: The developer shall comply with all standards of the Design Manual, as applicable to the project.
31. 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.
32. Detailed Plans: Prior to the issuance of a Zoning Compliance Permit, final detailed site plans, grading plans, utility/lighting plans, stormwater management plans (with hydrologic calculations), landscape plans, and landscape maintenance plans shall be approved by the Town Manager. Such plans shall conform to the district-specific plan approved by this application and demonstrate compliance with all applicable regulations and the design standards of the Chapel Hill Land Use Management Ordinance and the Design Manual. [LUMO 4.4.7]
33. 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)
34. 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 within the limits of disturbance. Prior to issuance of a Zoning Compliance Permit, the developer shall identify all invasive exotic species of vegetation within limits of disturbance or other areas, as deemed necessary by the Town Manager.

35. 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.
36. 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]
37. 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.
38. 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.
39. 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.
40. Continued Validity: Continued validity and effectiveness of this approval shall be expressly conditioned on the continued compliance with the plans and conditions listed above.
41. Non-Severability: If any of the above conditions is held to be invalid, approval in its entirety shall be void.
42. 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 Gateway at 19 E. Lakeview Drive, 21 E. Lakeview Drive, 35 E. Lakeview Drive, 78 White Oak Drive, and 79 White Oak Drive.

This the 15th day of November, 2023.