

**ORDINANCE A**

(Approving the Conditional Zoning Modification Application)

**AN ORDINANCE MODIFYING THE CONDITIONAL ZONING ORDINANCE FOR THE PROPERTY LOCATED AT 5002 BARBEE CHAPEL ROAD (PROJECT #21-023)**

WHEREAS, the Council of the Town of Chapel Hill has considered an application submitted by CJT PA, on behalf of C. F. Smith Property Group for a modification to a Conditional Zoning Ordinance approved on November 23, 2015 for a 2.3-acre parcel located at 5002 Barbee Chapel Road on property identified as Durham County Property Identifier Number 9798-04-72-5824 to allow up to 60,000 square feet of medical office use and located in the Residential-5-Conditional (R-5-C) zoning district within the Meadowmont Master Land Use Plan, if developed according to the Site Plan dated October 31, 2014 and revised March 27, 2015, the conditions listed below would:

1. Be consistent with the Meadowmont Master Land Use Plan; and
2. Conform with the general plans for the physical development of the Town as embodied in the Land Use Management Ordinance and in the 2020 Comprehensive Plan.

WHEREAS, the application, if modified according to the plan dated March 27, 2015, and the conditions listed below would:

- 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

**CONDITIONAL USES**

BE IT ORDAINED by the Council of the Town of Chapel Hill that it finds, in this particular case, the proposed rezoning with the following uses, subject to the conditions below, satisfies the purposes of Residential-5-Conditional Zoning District (R-5-CZD).

BE IT FURTHER ORDAINED by the Council of the Town of Chapel Hill that the Chapel Hill Zoning Atlas be amended as follows:

**SECTION I**

The following Durham County parcel identified by Parcel Identifier Number (PIN) 9798-04-72-5824, described below, shall be rezoned to Residential-5-Conditional Zoning District (R-5-CZD):

*Metes and Bounds description to be inserted*

**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. Land Use Intensity: This Special Use Permit authorizes the following:

<b>Use: Business, Office-type, Clinic</b>	
Gross Land Area	101,800 square feet
Total Floor Area Allowed	60,000 square feet
Maximum Vehicular Parking Spaces	240 spaces
Minimum Bicycle Parking Spaces	52 spaces
Impervious Surface	43,560 square feet
Land Disturbance	87,100 square feet

2. Detailed Plan Review and Approval: Prior to 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. Such plans shall conform to plans approved by the Council and demonstrate compliance with all applicable regulations and standards of the Land Use Management Ordinance and Design Manual.

Plans, plats, and associated detailed requirements as set forth in the stipulations of this resolution and incorporated into the Special Use Permit shall be reviewed and approved by the Town Manager, or his designee, as well as outside agencies, such as NCDOT, OWASA, and Duke Energy, where indicated.

3. Performance Bond: Prior to commencing construction activity for required improvements in the public right-of-way, a performance bond shall be provided to the Town to ensure that improvements are in accordance with Town standards.

#### Access

4. Cross-Access Easement: That a vehicular and pedestrian cross-access easement for ingress and egress to and through the site from the adjoining property to the west shall be recorded with Durham County prior to issuance of a Certificate of Occupancy. The proposed easement documents shall be reviewed and approved by the Town Manager prior to recordation.
5. Low Vision Design Features: Pedestrian facilities incorporating low vision design features are encouraged.

#### Transportation

6. Public Right-of-Way Dedication Plat: That prior to issuance of a Certificate of Occupancy, the developer shall submit a recorded right-of-way dedication plat for all required road improvements, associated with the development. That the plat shall be reviewed and approved by the Town Manager and NCDOT prior to recordation.
7. Barbee Chapel Road Improvements: Prior to issuance of a Certificate of Occupancy, the developer shall provide the following improvements to site's Barbee Chapel Road frontage:
  - a. Five-foot wide concrete sidewalk;
  - b. Five-foot wide paved and striped bicycle lane;
  - c. Curb and gutter;

- d. Three-foot utility easement;
  - e. Construct a four-foot wide concrete median from NC 54 to just north of the existing service station driveway;
  - f. Construct an exclusive northbound left turn lane into the site, with a minimum of 125 feet of full wide storage and appropriate taper on Barbee Chapel Road.
8. Traffic Signal Payment-in-Lieu: Prior to issuance of a Zoning Compliance Permit, the developer shall provide a \$2,000 payment to the Town for retiming traffic signals in proximity to the site.
  9. Repairs in Public Right-of-Way: Prior to issuance of a Certificate of Occupancy, it will be necessary to repair all damage for work in the public right-of-way related to the construction of this project, which may include pavement milling and overlay. The design must be reviewed and approved by the Town Manager prior to a Zoning Compliance Permit.
  10. Street Closure Plan: That prior to the issuance of a Zoning Compliance Permit, the developer shall provide a street closure plan, subject to Town Manager approval, for any work requiring street, sidewalk, or lane closures.
  11. Work Zone Traffic Control Plan: Prior to issuance of a Zoning Compliance Permit, it will be necessary to provide a Work Zone Traffic Control Plan and a Construction Management Plan for approval by the Town Manager. The Work Zone Traffic Control Plan shall comply with the Manual on Uniform Traffic Control Devices. The Construction Management Plan shall provide staging, construction worker parking, construction vehicle routes, and hours of construction.
  12. Heavy Duty Structural Support: Prior to issuance of a Zoning Compliance Permit, the developer shall provide documentation that, if underground stormwater detention is proposed beneath parking areas or drive aisles, the pavement is designed to structurally support the live loads of fire trucks and garbage trucks.
  13. Bicycle Parking: That prior to the issuance of a Zoning Compliance Permit, the developer shall provide dimensioned details for the bicycle parking spaces that comply with Town parking standards. The bicycle parking design 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.
  14. Parking Lot Standards: Prior to issuance of a Certificate of Occupancy, the developer shall construct the parking lot and drive aisles to Town standards for pavement design and dimensions.
  15. Transportation Management Plan: Prior to issuance of a Zoning Compliance Permit, it will be necessary to submit a Transportation Management Plan, subject to Town Manager approval.
  16. NC 54/I-40 Corridor Study and Durham-Orange Light Rail Project: That the owner shall acknowledge that this property may be the site of future transportation related improvements as described, now or in the future, in the NC 54/I-40 Corridor Study and the Durham-Orange Light Rail Project.

- 17. Future Transit Corridor: Prior to issuance of a Zoning Compliance Permit, a final plat shall include dedication of a 50 foot wide easement reserved for a future transit corridor encompassing the C2 Option, as identified by the Durham-Orange Light Rail Corridor project.
- 18. Low Vision Design Features: Pedestrian facilities should incorporate low vision design features.

Landscape and Architecture

- 19. Landscape Bufferyards: That the developer shall provide the following bufferyards:

Location	Required Buffer
East – Barbee Chapel Road	50 foot
North – NC 54	75 foot with selective thinning (as modified by the Master Land Use Plan)
West – Marriott Hotel	10 foot Type B
South – Single-family and Finley Forest Complex	8 foot Alternative

- 20. Landscape Protection: Prior to issuance of a Zoning Compliance Permit, a detailed Landscape Protection Plan shall be approved. The plan shall include which trees will be removed and which will be preserved, critical root zones of all rare and specimen trees, and clearly indicate names and species.
- 21. Tree Protection Fencing Prior to Construction: Prior to issuance of a Zoning Compliance Permit, the developer shall provide a note on the Final Plans indicating that tree protection fencing will be installed prior to land-disturbing activity on the site. Tree protection fencing shall be provided around construction limits and indicated construction parking and materials staging/storage areas, and Town standard landscaping protection notes, subject to Town Manager approval.
- 22. 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. The Plan shall include canopy trees that are proposed to shade any surface parking areas.
- 23. Lighting Plan Approval: Prior to issuance of a Zoning Compliance Permit, the Community Design Commission shall approve a lighting plan for this site and shall take additional care during review to ensure that the proposed lighting plan will minimize 1) upward light pollution and 2) off-site spillage of light.
- 24. Community Design Commission Approval: That the developer obtain Community Design Commission approval of building elevations and lighting, including the location and screening of all HVAC/Air Handling Units for this project, prior to issuance of a Zoning Compliance Permit. That prior to issuance of a Zoning Compliance Permit the Commission shall approve a lighting plan for this site and shall take additional care during review to ensure that the proposed lighting plan will minimize 1) upward light pollution and 2) off-site spillage of light.
- 25. NC 54 Buffer: That prior to the issuance of a Zoning Compliance Permit, the Community Design Commission shall approve the proposed NC 54 landscape buffer.

26. Alternative Buffer: That prior to the issuance of Zoning Compliance Permit, the Community Design Commission approve any proposed alternate buffer. The approval shall determine that any alternate buffer will provide the same degree of visual and noise obstruction as the required buffer.

#### Environment

27. Energy Management Plan: That prior to issuance of a Zoning Compliance Permit, the developer shall provide an Energy Management Plan (EMP) for Town approval. The plan shall incorporate a "20 percent more energy efficient" feature to outperform the American Society of Heating, Refrigeration, and Air Conditioning Engineers (ASHRAE) energy efficiency standard in place at the time of approval. The property owner shall provide, by the Certificate of Occupancy date, a letter sealed by a licensed professional engineer showing the anticipated energy performance of the buildings, as designed and built, satisfies the "20 percent more energy efficient" expectation.

#### Stormwater Management

28. Stormwater Management Plan: That this project must comply with the Section 5.4 Stormwater Management of the Land Use Management Ordinance.
29. Jordan Watershed Stormwater Management for New Development: That if the total disturbed area exceeds 0.5 acres, this project must comply with Section 5.19 Jordan Watershed Stormwater Management for New Development of the Land Use Management Ordinance to provide the required reductions in nitrogen and phosphorus loads for new development and redevelopment projects.
30. Silt Control: That the developer takes appropriate measures to prevent and remove the deposit of wet or dry silt on adjacent paved roadways.
31. Jordan Surety: That if the total disturbed area exceeds 0.5 acres, prior to issuance of a Certificate of Occupancy, the owner shall post a maintenance bond or other surety instrument satisfactory to the Town Manager, in an amount equal to one hundred twenty-five (125) percent of the construction cost of each stormwater management facility to assure maintenance, repair, or reconstruction necessary for adequate performance of the stormwater management facility, or establish a stormwater maintenance (sinking fund) budget and escrow account in accordance with the requirements of Section 5.19 of the Land Use Management Ordinance.
32. Erosion Control Bond: If one (1) acre or more is uncovered by land-disturbing activities for this 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. This financial guarantee is intended to cover the costs of restoration of failed or failing soil erosion and sedimentation controls, and/or to remedy damages resulting from land-disturbing activities, should the responsible party or parties fail to provide prompt and effective remedies acceptable to the Town.
33. Erosion Control: The developer shall provide a copy of the approved erosion and sediment control permit from Durham County Erosion Control Division prior to receiving a Zoning Compliance Permit. During the construction phase, additional erosion and sediment controls may be required if the proposed measures do not contain the

sediment. Sediment leaving the property is a violation of the Town's Erosion and Sediment Control Ordinance.

34. Erosion Control Inspections: That, in addition to the requirement during construction for inspection after every rainfall, the developer shall inspect the erosion and sediment control devices daily, make any necessary repairs or adjustments to the devices, and maintain inspection logs documenting the daily inspections and any necessary repairs.
35. Curb Inlets: The developer shall provide pre-cast curb inlet hoods and covers stating, "Dump No Waste! Drains to Jordan Lake", in accordance with the specifications of the Town Standard Detail SD-5A, for all new curb inlets for private, Town and State rights-of-way.
36. As-Built Plans: That prior to the issuance of a Certificate of Occupancy, the developer shall provide certified as-built plans for building footprints, parking lots, street improvements, storm drainage systems and stormwater management structures, and all other impervious surfaces, and a tally of the constructed impervious area. The as-built plans should be in DXF binary format using State plane coordinates and NAVD 88.
37. Phasing Plan: That prior to issuance of a Zoning Compliance Permit, the developer shall obtain approval of a Phasing Plan that provides details of which improvements are to be constructed during each phase. The phasing plan shall detail public improvements and stormwater management structures will be completed in each phase prior to requesting a Certificate of Occupancy. Construction for any phase may not begin until all public improvements in previous phases are complete, with a note to this effect on the final plans and plats.
38. On-Site/Adjacent Stormwater Features: That the final plans locate and identify existing site conditions including all on-site and adjacent stormwater drainage features on the plans 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.
39. P.E. Certification: That prior to the issuance of a Certificate of Occupancy for any phase, the developer shall provide a certification, signed and sealed by a North Carolina-licensed Professional Engineer, that the stormwater management facilities are constructed in accordance with the approved plans and specifications.
40. Repair/Replacement of Damaged Stormwater Infrastructure: Existing stormwater infrastructure that is damaged as a result the project demolition or construction must be repaired or replaced, as specified by the Stormwater Management Engineer, prior to requesting a Certificate of Occupancy.
41. Potential Light Rail Conflict: The developer will demonstrate where an alternate stormwater treatment facility might be provided if future transportation improvement projects reduce or eliminate the capacity of the approved stormwater treatment system to meet the stormwater management requirements. It is also understood that in this eventuality there might also be a possibility of a shared Stormwater treatment facility with adjacent property owner(s).

#### Water, Sewer, and Other Utilities

42. Utility/Lighting Plan Approval: That the final utility/lighting plan shall be approved by Orange Water and Sewer Authority, Duke Energy Company, and other local utility service providers, and the Town Manager before issuance of a Zoning Compliance Permit. The property owner 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.
43. Lighting Plan: That prior to issuance of a Zoning Compliance Permit, the developer shall submit site plans and 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 beneath awnings, demonstrating compliance with Town standards, sealed by a Professional Engineer, for Town Manager approval.
44. Street Lighting: That the developer work with the Duke Energy to design and install AASHTO standard street lighting along all public streets on the side of the development. The design and construction details are subject to approval by the Town Manager and N.C. Department of Transportation. The developer is responsible for the design and initial construction cost of the street lighting. The Town is responsible for future operating cost of the street lighting.
45. Relocation of Overhead Utilities Underground: Prior to issuance of a Certificate of Occupancy, it will be necessary to provide for the underground installation of all public utilities as specified by Section 5.12.2 in the Land Use Management Ordinance.
46. Water/Sewer Line Construction: That all public water and sewer plans be approved by OWASA and constructed according to their 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. That prior to issuance of a Zoning Compliance Permit, final plans shall be approved by OWASA and the Town Manager.
47. OWASA Approval: That prior to issuance of a Zoning Compliance Permit, easement plats and documentation as required by OWASA and the Town Manager shall be recorded if necessary.

#### Fire Safety

48. Fire Sprinklers: That the developer shall install sprinklers under the North Carolina Fire Code prior to a Certificate of Occupancy. Prior to issuance of a Zoning Compliance Permit, the plans shall show all proposed fire department connections to such systems.
49. Hydrants Active: That 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. That fire protection systems shall be installed according to Town Ordinance, the NC Fire Code, and NFPA 13.
50. Fire Hydrant and FDC Locations: That 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.

51. Firefighting Access during Construction: That as required by NC Fire Code (Section 1410.1 Required Access), 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.
52. Fire Flow Report: That 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.
53. Heavy-Duty Paving: That prior to issuance of a Certificate of Occupancy the developer shall provide heavy duty paving designed and built to withstand fire apparatus weighing at least 75,000 pounds.
54. Fire Lane: Prior to issuance of a Certificate of Occupancy, the 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.

#### Solid Waste Management and Recycling

55. Solid Waste Management Plan: That 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. 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. Prior to issuance of a Zoning Compliance Permit, the developer shall provide documentation of an agreement for solid waste collection by a private provider.
56. Construction Waste: Clean wood waste, scrap metal and corrugated cardboard, all present in construction waste, must be recycled. All haulers of construction waste must be properly licensed. The developer shall provide the name of the permitted waste disposal facility to which any land clearing or demolition waste will be delivered.

#### State and Federal Approvals

57. State or Federal Approvals: That 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.
58. 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.

#### Miscellaneous

59. Temporary Construction Access Agreements: Prior to issuance of a Zoning Compliance Permit, the developer shall provide construction agreements with adjacent property owners, where necessary, subject to Town Manager approval. If the abutting property is to be used as part of construction access, provide documentation of permission from the owner of said property.
60. Construction Management Plan: That a Construction Management Plan 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.
61. Traffic and Pedestrian Control Plan: That 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.
62. Construction Sign Required: That 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. (§5.14.3(g) of Land Use Management Ordinance). The sign shall be non-illuminated, and shall consist of light letters on a dark background. That prior to the issuance of a Zoning Compliance Permit, a detail of the sign shall be reviewed and approved by the Town Manager.
63. Open Burning: That the open burning of trees, limbs, stumps, and construction debris associated with this development is prohibited.
64. Detailed Plans: That 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 Land Use Management Ordinance and the Design Manual.
65. As-Built Plans: That prior to issuance of a Certificate of Occupancy, the developer shall provide certified as-built plans for building footprints, parking lots, street improvements, storm drainage systems and stormwater management structures, and all other impervious surfaces. The as-built plans should be in DXF binary format using State plane coordinates and NAVD 88. The developer shall also contact the Town's Engineering and Design Services Division for address assignment of each unit.

66. Vested Right: Approval of a Conditional Zoning District and the associated district-specific plan constitutes a site-specific development plan establishing a vested right. 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.
67. Continued Validity: Continued validity and effectiveness of this approval shall be expressly conditioned on the continued compliance with the plans and conditions listed above.
68. Non-Severability: If any of the above conditions is held to be invalid, approval in its entirety shall be void.
69. Non-Comprehensive: The listing of these standard stipulations and the specific stipulations applicable to this Permit, are not intended to be comprehensive and do not exclude other state and local laws and regulations which may be applicable to this Permit and development project.

BE IT FURTHER ORDAINED that the Council hereby approves the application for a Conditional Zoning for Tri-City Medical Office Building at 5002 Barbee Chapel Road.

This the \_\_\_\_\_ day of \_\_\_\_\_, 2021.