103 New Parkside Drive Summary Record of Staff Decision

October 7, 2021

Prepared by: Becky McDonnell, Planner II

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Correspondence and Request for Zoning Opinion Letter

Becky McDonnell

From: Anya Grahn

Sent: Wednesday, September 1, 2021 4:54 PM

To: Joe Valentine
Cc: Colleen Willger

Subject: RE: Zoning opinion letter

Attachments: Exhibit 3 - Parkside Cluster Subdivision - Phase V 2.18.1999.pdf; Exhibit 2 - DO Article 2.doc; Exhibit 2

- DO 12.3 Schedule of Uses.doc; 103 New Parkside Drive - Zoning Opinion Letter -9.1.2021.pdf;

Exhibit 1 - Zoning opinion request.pdf

Joe,

Please find attached staff's zoning opinion letter for your property at 103 New Parkside.

Thank you for your consideration,

Anya

From: Joe Valentine <joeevalentine@gmail.com>
Sent: Wednesday, August 4, 2021 3:52 PM
To: Anya Grahn <agrahn@townofchapelhill.org>
Cc: Colleen Willger <cwillger@townofchapelhill.org>

Subject: Re: Zoning opinion letter

External email: Don't click links or attachments from unknown senders. To check or report forward to reportspam@townofchapelhill.org

You're welcome! Please find attached a document outlining the grounds for my request for a Zoning Opinion. Kindly use the attached document in your process for the issue of Zoning Opinion.

Best regards, Joe Valentine

Phone: (919) 923 4280

On Tue, Aug 3, 2021 at 3:12 PM Anya Grahn agrahn@townofchapelhill.org wrote:

Thank you for letting us know!

Anya

From: Joe Valentine < joeevalentine@gmail.com >

Sent: Tuesday, August 3, 2021 3:00 PM

To: Anya Grahn <agrahn@townofchapelhill.org>

External email: Don't click links or attachments from unknown senders. To check or report forward to reportspam@townofchapelhill.org
Anya,
The fee of \$65 has been paid by credit card over the phone today August 3, 2021 at approximately 3 PM EST. Kindly process the zoning opinion request.
Best regards,
Joe
On Tue, Aug 3, 2021 at 2:24 PM Anya Grahn agrahn@townofchapelhill.org wrote: Thank you, Joe, for your zoning opinion letter request. I have entered it into our system as Permit #202127766. Please call our Revenue Department at 919.968.2759 to pay the \$65 application fee. Please let us know once it has been paid and we will begin processing your request.
Thanks, Anya
From: Joe Valentine < <u>ioeevalentine@gmail.com</u> > Sent: Tuesday, August 3, 2021 12:10 PM To: Anya Grahn < <u>agrahn@townofchapelhill.org</u> > Subject: Re: Zoning opinion letter
External email: Don't click links or attachments from unknown senders. To check or report forward to reportspam@townofchapelhill.org
In your zoning oninion letter kindly address the following issues:

Cc: Colleen Willger < cwillger@townofchapelhill.org **Subject:** Re: Zoning opinion letter

i. In the first instance, kindly confirm if the continued use of my nome as an STR is permissible or not.
ii. If the use is deemed not permissible under the ordinance, kindly grant non conforming use approval.
Best regards,
Joe Valentine
On Tue, Aug 3, 2021 at 12:06 PM Joe Valentine < <u>ioeevalentine@gmail.com</u> > wrote:
Good morning Anya,
As per our Zoom conference discussion with you and Ms. Colleen Willger, Director of Planning, I would like to reques a zoning opinion letter for my property in Chapel Hill the details of which are as follows:
Address: 103 New Parkside Dr., Chapel Hill, NC 27516
Type of property: Single family home
Zone: R2 Residential
Type of use: Short term rental
Since when: November 2016
Is the STR use continuing: Yes
The ordinance recently passed by the Chapel Hill Town appears to ban "dedicated" short term rentals in residential zones. If it is determined that the ordinance will ban my use of my home in Chapel Hill as a short term rental, I would
seek approval of non conforming use on the following grounds.
I purchased my single family home in residential zone R2 in Chapel Hill on or around July 2004 and have owned it
since then for nearly 17 years. I paid my property and other taxes on this property regularly during this time. I used this home as my primary single family residence for 12 years from 2004 till 2016 and as a second home after 2016 till
now. I have used it as a "dedicated" STR for the past five years and continue to use it as such, while I lived outside North Carolina to pursue my employment.

The applicable definitions in the ordinance are as follows: $\ensuremath{^{5}}$

Primary residence: A dwelling unit, a single-family dwelling unit with accessory apartment, or a dwelling unit with an attached duplex unit owned by the same property owner, in which the host resides a majority of the year (183 days per year or 50 percent or more of the time).

Short-term rental (STR), dedicated: A residential dwelling unit(s) located on a property not used as a primary residence in which the dwelling unit is rented in whole or in part for fewer than thirty (30) consecutive days for a fee or other valuable consideration, or a lodging unit contained in a building that primarily contains dwelling units.

These definitions are outside the powers of the Town as the Town cannot require a homeowner to stay in any particular home for any length of time. Further, the Town can only regulate land use, not the type of ownership nor can it discriminate between homeowners based on the length of the lease. Further, there was previously no ordinance forbidding STR and so it was not illegal for a homeowner to rent his or her home to a tenant. Land uses are presumptively legal unless clearly forbidden.

North Carolina is a Dillon's Rule state. There is strong legal precedent from various courts in North Carolina which applies to this matter. The North Carolina Supreme Court has stated, "It is a well-established principle that municipalities, as creatures of statute, can exercise only that power which the legislature has conferred upon them." *Bowers v. City of High Point*, 339 N.C. 413, 417, 451 S.E.2d 284, 287 (1994).

It is impermissible for the Town to regulate home ownership or length of stay or discriminate between short and long term rentals.

For these reasons, if the ordinance is interpreted to prohibit the use of my home in Chapel Hill as a short term rental, then a non conforming use approval may please be granted.

Best regards,

Joe Valentine, J.D., LL.M., M.B.A.

Licensed Attorney (NC, DC, FL) & Licensed Customs Broker

Phone: (919) 923 4280

Town Staff's Zoning Opinion Letter dated September 1, 2021



TOWN OF CHAPEL HILL Planning Department

405 Martin Luther King Jr. Blvd. Chapel Hill, NC 27514-5705 phone (919) 969.2728 www.townofchapelhill.org

September 1, 2021

Joe Valentine 103 New Parkside Drive Chapel Hill, NC 27516

Subject: Zoning Opinion Letter – 103 New Parkside Drive (PIN: 9880226448)

Dear Mr. Valentine,

I have received your request for non-conforming use determination or zoning opinion for 103 New Parkside Drive. This property is currently zoned Residential-2 (R-2)¹, with permitted uses as delineated in the Chapel Hill Land Use Management Ordinance (LUMO) Section 3.7².

The lot was created in 1999 as part of the Parkside Cluster Subdivision – Phase V. According to Orange County records, the house was built in 1999. At the time of its construction, single family dwelling units were a permitted use in the R-2 zoning district.

Per the applicant's testimony, he began to rent the house out as a short-term rental in 2016. At that time, the Land Use Management Ordinance (LUMO) did not recognize short-term rentals as a defined use. Further, LUMO 3.7.1 Permitted, Special and Accessory Uses states:

Uses of land or structures which are not expressly listed in section 3.7.2 as permitted principal uses, permitted accessory uses, permitted uses in a conditional zoning district, or permitted special uses in a zoning district or planned development are prohibited uses and shall not be established in that district or planned development. Bona fide farms in areas outside of Chapel Hill's municipal boundaries, but within Chapel Hill's transition and extra territorial jurisdiction area as defined in the joint planning agreement with Orange County, shall not be subject to these use regulations, as provided by N.C. General Statutes 160D-903(c).

On June 23, 2021, the Town of Chapel Hill adopted Ordinance-9 (2021-06-23/O-9)³ allowing for primary residence and dedicated short-term rentals (STRs) in specified zoning districts. These are defined as:

Short-term rental (STR), dedicated: A residential dwelling unit(s) located on a property not used as a primary residence in which the dwelling unit is rented in whole or in part for fewer than thirty (30) consecutive days for a fee or other valuable consideration, or a lodging unit contained in a building that primarily contains dwelling units.

Short-term rental (STR), primary residence: A primary residence rented in whole or in part for fewer than thirty (30) consecutive days for a fee or other valuable consideration.

¹https://library.municode.com/nc/chapel hill/codes/code of ordinances?nodeId=CO APXALAUSMA ART3ZODIUSDIST 3.2ZOAT

²https://library.municode.com/nc/chapel_hill/codes/code_of_ordinances?nodeId=CO_APXALAUSMA_ART3ZODIUSDIST_3.7USRE

https://chapelhill.legistar.com/View.ashx?M=F&ID=9550819&GUID=8B1B14B2-E9B3-4400-A3D9-4BE28BA68C03

A primary residence is defined as one in which the owner or STR host resides a majority of the year (183 days per year or 50% or more of the time).

The ordinance was effective immediately and permits only primary residence STRs in the Residential-2 (R-2) zoning district. The ordinance also states, "Any existing STR that is not a permitted use under section 3.7 shall nevertheless be allowed to continue operating as a short-term rental for eighteen months after the effective date of this ordinance, provided its continued operation on or after December 23, 2022, shall be in violation of the LUMO."

Per <u>Land Use Management Ordinance</u> (<u>LUMO</u>) 7.3.1, "A nonconforming use is a use of land, buildings, or structures that was lawfully established (or for which a vested right had been established) on a property prior to the effective date of current use regulations, but does not conform to use regulations of article 3 for the zoning district in which it is located." Staff finds that the use of the house at 103 New Park Side Drive as dedicated STRs is not a legal nonconforming use as the short-term rental use was not expressly listed in the LUMO and was thus prohibited by the LUMO prior to the short-term rental ordinance of June 23, 2021.

Staff determinations may be appealed to the Board of Adjustment following the procedures outlined in $\underline{\text{LUMO } 4.10^5}$.

Please feel free to contact me at 969-5059 if you have further questions.

Sincerely,

Anya Grahn Senior Planner

CC: Colleen Willger, Chapel Hill Planning Director

Attachments:

- 1. Joe Valentine Zoning Opinion Letter Request
- 2. 1998 Development Ordinance Article 2 and Schedule of Uses
- 3. Parkside Cluster Subdivision

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⁴ https://library.municode.com/nc/chapel hill/codes/code of ordinances?nodeId=CO APXALAUSMA ART7NO 7.4NOFE

⁵ https://library.municode.com/nc/chapel_hill/codes/code_of_ordinances?nodeId=CO_APXALAUSMA_ART4PR_4.10AP

Application for Zoning opinion

1. Brief details of long term use as STR

Name of applicant: Joe Valentine

Address: 103 New Parkside Dr., Chapel Hill, NC 27516

Type of property: Single family home

Zone: R2 Residential

Type of use for which zoning opinion is sought: Short term rental of second home

Use since when: November 2016 Is the STR use continuing: Yes

I purchased my single family home in residential zone R2 in Chapel Hill on or around July 2004 and have owned it since then for nearly 17 years. I paid my property and other taxes on this property regularly during this time. I used this home as my primary single family residence for 12 years from 2004 till 2016 and as a second home after 2016 till now.

I have used it as a "dedicated" STR for the past five years (since 2016) and continue to use it as such, while I live outside North Carolina (currently in Florida where I own my primary home) to pursue my employment.

The ordinance amending the Chapel Hill Land Use Management Ordinance Articles 3, 4, 6, and Appendix A to regulate SHORT-TERM RENTALS (2021-06-23/O-16) passed by the Chapel Hill Town on June 23, 2021, appears to ban "dedicated" short term rentals in certain residential zones. I would like to seek your zoning opinion on the implications of this ordinance for my continued use of my home in Chapel Hill as a STR.

2. Grounds for continued use as STR

The applicable definitions in the ordinance are as follows:

Primary residence: A dwelling unit, a single-family dwelling unit with accessory apartment, or a dwelling unit with an attached duplex unit owned by the same property owner, in which the host resides a majority of the year (183 days per year or 50 percent or more of the time).

Short-term rental (STR), dedicated: A residential dwelling unit(s) located on a property not used as a primary residence in which the dwelling unit is rented in whole or in part for fewer than thirty (30) consecutive days for a fee or other valuable consideration, or a lodging unit contained in a building that primarily contains dwelling units.

These definitions are outside the powers of the Town as the Town cannot require a homeowner to stay in any particular home for any length of time. Further, the Town can only regulate land use, not the type of ownership nor can it discriminate between homeowners based on the length of the lease. Further, there was previously no ordinance forbidding STR or any type of rentals by a homeowner and so it was not illegal for a homeowner to rent his or her home to a tenant. Land

uses are presumptively legal unless clearly forbidden. The rental of a home by the homeowner was not clearly forbidden under any applicable ordinance, prior to this one.

North Carolina is a Dillon's Rule state. North Carolina local governments are created by the state and derive all their powers by delegation from it.¹ The North Carolina Supreme Court has stated, "It is a well-established principle that municipalities, as creatures of statute, can exercise only that power which the legislature has conferred upon them.". *Bowers v. City of High Point*, 339 N.C. 413, 417, 451 S.E.2d 284, 287 (1994). More recently, in *Smith Chapel Baptist Church v. City of Durham*, the Supreme Court ruled that imposition of fees for stormwater programs exceeded the authority granted to local governments to charge fees for utility systems. *Smith Chapel Baptist Church v. City of Durham*, 350 N.C. 805, 517 S.E.2d 874 (1999).

In *Graham Court Assoc. v. Town of Chapel Hill*, 53 N.C. App. 543, 546 (N.C. Ct. App. 1981), the NC Appellate Court held as follows:

[Z]oning is the regulation by a municipality of the use of land within that municipality, and of the buildings and structures thereon — not regulation of the ownership of the land or structures. See 1 *Rathkopf, The Law of Zoning and Planning*, 1.01 (4th ed. 1981); 82 Am. Jur.2d, Zoning and Planning, 5 and 13; *Blades v. City of Raleigh*, 280 N.C. 531, 546, 187 S.E.2d 35, 43 (1972), (wherein Justice Lake said: "The whole concept of zoning implies a restriction upon the owner's right to use a specific tract for a use profitable to him but detrimental to the value of other properties in the area, thus promoting the most appropriate use of land throughout the municipality, considered as a whole." (emphasis added)); *O'Connor v. City of Moscow*, 69 *Idaho* 37, 43, 202 P.2d 401, 404 (1949), (where the Court said: "A zoning ordinance deals basically with the use, not ownership, of property.") *Elizabeth City v. Aydlett*, 201 N.C. 602, 161 S.E. 78 (1931); 1 *Rathkopf, The Law of Zoning and Planning*, 1.04 (4th ed. 1981).

The NC Appellate Court also noted with approval the holding in *O'Connor v. City of Moscow*, 69 Idaho 37, 202 P.2d 401 (1949) observing as follows:

A zoning ordinance deals basically with the use, not ownership, of property. The provision in question declaring a change in ownership to be a new business is an arbitrary and unreasonable exercise of the police power and violates the constitutional protection given by the due process clauses.

The Court further noted:

Defendants do not even suggest, nor do we believe they properly could, that owner-occupation of a dwelling is a different use of the property in a zoning sense from tenant-occupation, the actual occupancy of the residence in either case being by a single family ...

Graham Court Assoc. v. Town of Chapel Hill, 53 N.C. App. 543, 548 (N.C. Ct. App. 1981) quoting 75 N.J. Super. at 316-17, 183 A.2d at 136-37.

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¹ https://www.sog.unc.edu/sites/www.sog.unc.edu/files/article2_5.pdf

In concluding that the attempted regulation of ownership of property under the guise of the zoning power is beyond the power of the municipality, the Court said:

Defendant attempts to characterize condominium ownership as a "use" of land — i.e., since the property in question is to be "used" as a condominium, the municipality may regulate or prohibit such "use". It is apparent, however, that after change of ownership as planned, the same buildings will be on the premises in question and the use to which they are put will also remain the same. We conclude that the word "use", as contained in the statute above, does not refer to ownership but to physical use of lands and buildings. A building is not "used" as a condominium for purposes of zoning.

113 N.J. Super. at 222, <u>273 A.2d at 398-99</u>.

The NC Appellate court also noted with approval the holding in *City of Miami Beach v*. *Arlen King Cole Con. Ass'n.*, *Inc.*, supra, as "a case on 'all fours' with the one before us." The Court of Appeals said:

A nonconforming use relates to the property and not to the type of ownership of the property. *Beers v. Board of Adjustment of Township of Wayne*, 75 N.J. Super. 305, 183 A.2d 130; *Bridge Park Co. v. Borough of Highland Park*, 113 N.J. Super. 219, 273 A.2d 397; *Maplewood Village Tenants Ass'n v. Maplewood Village*, 116 N.J. Super. 372, 282 A.2d 428. Changing the type of ownership of real estate upon which a nonconforming use is located will not destroy a valid existing nonconforming use. This is the only significant change in the real property and improvements involved in the instant litigation. Such structural changes as the owners determine to make in the hotel-apartment to convert to condominiums were minor in nature and not of a structural quality. Therefore, there was no abandonment of the nonconforming use under the zoning ordinances of the City of Miami Beach.

302 So.2d at 779.

The NC Court of Appeals ordered that "[w]e think the cases from these jurisdictions are well reasoned and answer the question posed. We, therefore, follow their reasoning and hold that the petitioner here is not required to apply for or receive a special use permit in order to convert its tenant occupied apartments to owner occupied apartments."

Graham Court Assoc. v. Town of Chapel Hill, 53 N.C. App. 543, 551 (N.C. Ct. App. 1981)

In *City of Wilmington v. Hill*, 657 S.E.2d 670, 672 (N.C. Ct. App. 2008), the NC Appellate Court observed as follows:

This Court held that the landowner was not required to apply for or receive a special use permit in order to convert the formerly tenant-occupied apartments to owner-occupied condominiums. "If a use is permitted, as here, it is beyond the power of the municipality to regulate the manner of ownership of the legal estate." Id. at 551, 281 S.E.2d at 422-23 (citations omitted).

. . .

In Graham Court Associates, this Court also quoted with approval the New Jersey case of *Beers v. Bd. of Adjust. of Wayne Tp.*, 75 N.J.Super. 305, 183 A.2d 130 (1962). The Beers court stated that the municipal [d]efendants do not even

suggest, nor do we believe they properly could, that owner-occupation of a dwelling is a different use of the property in a zoning sense from tenant-occupation, the actual occupancy of the residence in either case being by a single family.

. . .

"it is "beyond the power of the municipality to regulate the manner of ownership of the legal estate." *Graham Court Associates*, 53 N.C.App. at 551, 281 S.E.2d at 422-23 (citations omitted)."

City of Wilmington v. Hill, 657 S.E.2d 670, 673 (N.C. Ct. App. 2008)

There is a more recent case *Schroeder v. City of Wilmington*, 19-CVS-4028) where the Plaintiffs had purchased a property as a second home, with the purpose to use it as a short-term rental. They completed various renovations to the property and listed it as a short term rental through VRBO, before the passage of City Code § 18-331, which capped the number of vacation rentals in Wilmington, imposed 400-foot proximity requirements under that cap, and created a lottery system to determine which properties would be permitted to offer vacation rentals. Following the passage of City Code § 18-331, the Plaintiffs lost the ability to rent their property and filed suit to challenge the ordinance.

The Superior Court of New Hanover County ruled in favor of the Plaintiffs in this case, granting their Motion for Summary Judgment, and finding that City Code § 18-331 was preempted by state law. The Court observed that the city's annual registration requirement was in contravention of N.C. Gen. Stat. § 160D-1207. That section of North Carolina statute includes:

In no event may a local government do any of the following: (i) adopt or enforce any ordinance that would require any owner or manager of rental property to obtain any permit or permission under Article 11 or Article 12 of this Chapter from the local government to lease or rent residential real property or to register rental property with the local government[.]

Two points are clear from the legal precedent established by courts in North Carolina.

- (i) Any local government regulation of STRs is preempted by state law laid down under N.C. Gen. Stat. § 160D-1207and therefore, local government regulation of STRs would contravene state law.
- (ii) It is beyond the power of the municipality to regulate the manner of ownership of the legal estate. Zoning can only determine the type of use. So long as single family homes are used for accommodating single families, the zoning requirement is satisfied. Requiring the owners to live there is prescribing the type of ownership which would be over reach on the part of local government, and such regulation will be struck down by NC courts.

Courts in North Carolina have held that while local government can regulate the type of land use through zoning ordinances, it is impermissible to regulate the type of ownership. Requiring second home owners to reside in their homes in Chapel Hill and banning them from leasing to short term tenants is impermissible regulation of type of ownership.

Having a tenant stay in a single family home which is zoned residential is permissible under the zoning regulation. The home is still used as a single family residence. It has not been converted to any other use such as an office or factory or retail store. Discriminating between short term tenants and long term tenants has no basis.

Ordinances that seek to regulate STRs are preempted by state law and a local government cannot adopt or enforce any ordinance that would require any owner or manager of rental property to obtain any permit or permission under Article 11 or Article 12 of this Chapter from the local government to lease or rent residential real property or to register rental property with the local government.

3. Continuing lawful use of short term rentals

My property was rented to short term renters, mostly families visiting Chapel Hill, through two short term rental platforms viz. Airbnb and VRBO since November 2016. Such rental use was not clearly forbidden under any applicable law or regulation.

4. STR use is in the public interest

Almost all my short term tenants have been families visiting Chapel Hill to meet relatives or attend graduations, weddings, or for family reunions etc. Some of the tenants were families whose loved ones were receiving medical treatment at UNC or Duke Hospitals. Hotels provide single room accommodation and do not allow pets in most cases besides which the cost of food and beverages is quite high for a family. STR homes provide adequate space for families, accommodate pets and enable families to economize by cooking their own food.

For instance, I received this booking enquiry in July this year:

I was hoping you may be able to assist me in finding temporary lodging for a family from Wilmington whose 10 year old is at UNC due to a terrible car accident over the weekend. There are 4 kids and 2 adults. They are looking for a home close to Chapel Hill as they have been informed their child will be there for a few weeks to a month.

A family who stayed at our property in August 2017 left this review:

My nephew was in a critical condition in Chapel Hill ICU therefore my family had to stay in the city to care for the child and the parents. Joe was very kind to let us stay at his place. He has a beautiful house. We loved his sun room and the pond in the back yard. In the midst of our difficult times this house was our little escape and get away. Check in and check out was very easy. Joe was very responsive. I highly recommend.

Another family from Charlotte who rented our home in May 2019 left this review:

I rented this home so my family (plus two dogs) could be together during a medical emergency. Joe was kind and responsive and the house suited our needs perfectly. The large fenced in backyard was beautiful and a big plus. Would certainly stay again.

Not only was my use of my second home as a STR legal and continuing for over 5 years prior to this ordinance, it is also in the public interest as evidenced by the number of families who could use it for accommodation while their loved ones were receiving medical treatment.

5. Hotels are STRs and have been unjustifiably excluded from the ordinance

Our booking rules require short term tenants to stay for a minimum period of two nights. Hotels in Chapel Hill do not have this restriction and a guest may stay for as short a period as one night in a hotel. However, the ordinance, inexplicably and with no logical rationale declares that hotels are not to be treated as STRs while homes like ours which prescribe a minimum rental period of at least 2 nights fall under the definition of short term rentals. This exclusion of hotels from the definition of short term rentals is illogical and capricious and is an arbitrary misuse of legislative powers.

6. Operation of my STR does not conflict with the objectives of the ordinance

Para 6.27.2 of the ordinance states that the purpose of this Ordinance is to establish general requirements for the operation of short-term rentals. The purposes and intent of this Ordinance are to:

- (a) Promote the health, safety, and general welfare of the public by establishing minimum operational standards for the use of residential dwelling units as primary residence and dedicated short-term rentals.
- (b) Preserve the character and stability of the historic districts immediately surrounding the downtown and campus areas around the University.
- (c) Maintain the economic stability and neighborhood character of low-density residential zoning districts.
- (d) Maintain housing opportunities for full-time residents by preventing the conversion of residential units into dedicated short-term rentals.
- (e) Reduce nuisances to full-time residents by prohibiting dedicated short-term rentals in residential neighborhoods and the historic districts.
- (f) Provide opportunities for the operation of dedicated short-term rentals in mixed-use and commercial zoning districts where there is greater availability of public services and access to major activity centers supporting tourists.

Our short term rental agreement already includes provisions promoting the health, safety, and general welfare of the public by establishing minimum operational standards for the use of residential dwelling units as primary residence and dedicated short-term rentals. For instance we have capacity limits, we prohibit smoking or using any narcotics substances or using the premises for any illegal activity. We provide adequate parking space on our property. Access is controlled by a unique code that is required to be entered in the front door lock. Parties are not

allowed and there are numerous other requirements to avoid nuisance to neighbors. There have been zero complaints against our STR.

We are not located in a historic district. Our tenants are not leasing our property to be near public services or major tourism activity centers. They need a comfortable home with ample home to provide a friendly, convenient setting for them to relax, house their relatives, friends, pets, cook their own food and spend time with each other or visit various nearby places. The nearness to public services and tourism activity centers is irrelevant for them.

There is no interference with economic stability and neighborhood character nor does my possession of my home or its use as an STR impact the availability of homes on the market as my home has been owned by me for nearly 17 continuous years. I visit NC often and continue to stay at my home.

7. Zoning Opinion Request

For all the above reasons, it is requested that you may issue a Zoning Opinion confirming that the operation of a Short Term Rental at my property in Chapel Hill is not prohibited or restricted in any way under the Ordinance of June 23, 2021.

In the alternative, if the ordinance is interpreted to prohibit the use of my home in Chapel Hill as a "dedicated" short term rental, then a non-conforming use approval or variance may be granted to enable me to continue using my home as a "dedicated" short term rental, as has been done since 2016.

The application fee of \$65 has been paid to Chapel Hill Town under Permit #202127766.

ARTICLE 2. DEFINITIONS

- 2.1 <u>Interpretation of Terms or Words</u>: For the purpose of this chapter, certain terms or words used herein shall be interpreted as follows:
 - 1. The word "shall" is always mandatory and the word "may" is permissive.
 - 2. The words "used" or "occupied" include the words "intended, designed, or arranged to be used or occupied".

Terms not herein defined shall have the meanings customarily assigned to them.

- 2.1.1 <u>Above Average Rainfall</u>: The hydrologic condition that exists when rainfall for the preceding 30 days is greater than 120% of the average rainfall for the same period, as recorded by the National Weather Service.
- 2.2 <u>Adult Day Care Facility</u>: A use of land and buildings that provides care on a regular basis to aging, disabled or handicapped adults away from their homes, and by persons other than family members, guardians, or custodians, and where a payment, fee or grant is made for such care. The term Adult Day Care Facility shall not be construed to include a Group Care Facility.
- 2.2.1 <u>Area of shallow flooding</u>: A designated AO or VO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity may be evident.
- 2.2.2 <u>Area of special flood hazard</u>: The land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year.
- 2.3 <u>Agriculture, Non-Livestock</u>: The use of land for the production of cash grains, field crops, vegetables, fruits, and nuts, and for horticulture and floriculture.
- 2.4 <u>Agriculture, Livestock</u>: The use of land for the keeping, grazing, feeding, or breeding of livestock, including cattle, hogs, sheep, goats, and poultry, and also animal specialties such as horses, breeding of livestock, including cattle, hogs, sheep, goats, and poultry, and also animal specialties such as horses, rabbits, bees, and fish and fur-bearing animals in captivity.
- 2.5 <u>Alley</u>: A publicly dedicated and maintained right-of-way twenty (20) feet or less in width that provides only a secondary means of access to abutting property and is not intended for general traffic circulation.
- 2.6 <u>Automotive Repair</u>: The repair, rebuilding, or reconditioning of motor vehicles or parts thereof, including collision service, painting, and steam cleaning of vehicles.

2.7 Automotive, Trailer, Farm Implement Sales or Rental: The sale or rental of new and used motor vehicles, travel trailers, or farm implements to be displayed and sold on the premises, but not including repair work except incidental warranty repair of the above. 2.8 Bank: Financial institution engaged in deposit banking and closely related functions such as the extension of credit by means of loans and investments, and fiduciary activities. 2.9 Barber Shop/Beauty Salon: An establishment that provides services generally involving the cutting and styling of hair, and including customary accessory uses such as shoe polishing, manicure work, facial treatment, the sale and fitting of wigs, and the sale of hair treatment products. 2.9.1 Base Flood: The flood having a one percent chance of being equaled or exceeded in any given year (the 100 year flood). 2.9.2 Basement: That portion of a building between floor and ceiling, that is wholly or partly below grade. 2.9.3 Best Management Practice (BMP): A structural or nonstructural management-based practice used singularly or in combination to reduce non-point source pollution inputs to receiving waters in order to achieve water quality protection goals. 2.10 Building: Any structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, chattels, or property. 2.11 Building, Accessory: A subordinate building detached from, but located on the same lot as the principal building, the use of which is incidental and accessory to that of the principal building. 2.12 Building, Principal: A building or, where the context so indicates, a group of buildings in which is conducted the principal use of the lot on which such building is located. 2.13 Building envelope: The three-dimensional space within which a structure is permitted to be built on a zoning lot, and which is defined by setback and height regulations. 2.13.1 Built-upon area: That portion of a development project that is covered by impervious or partially impervious surfaces including buildings, pavement, gravel roads, recreation facilities (e.g. tennis courts), etc. (Note: Wooden slatted decks and the water area of a swimming pool are considered pervious.)

- 2.14 <u>Bonus Level</u>: A higher level of land use intensity ratios for which development may qualify if it provides specified public benefits. Bonus intensity ratios are designed to provide an incentive for the achievement of specified public objectives.
- 2.15 <u>Business, Convenience</u>: Commercial establishments that generally serve day-to-day commercial needs of a residential neighborhood, including drugstores, tobacco shops, newsstands, bakeries, confectioneries, delicatessens, meat and produce markets, food stores with less than ten thousand (10,000) square feet in floor area, and eating and drinking establishments.
- 2.16 <u>Business, General</u>: Commercial establishments that, in addition to serving day-to-day commercial needs of a community, also supply the more durable and permanent needs of a whole community, including supermarkets, department stores, discount stores, variety stores, hardware and garden supply stores, apparel and footwear stores, florists, gift shops, jewelry stores, book and stationery stores, specialty shops, sporting goods stores, furniture and home furnishing stores, automotive supply stores, and appliance stores.
- 2.17 <u>Business, Office-Type</u>: Quasi-commercial uses that generally accommodate occupations such as administrative, executive, legal, accounting, writing, clerical, stenographic, and drafting occupations, and including institutional offices of a charitable, philanthropic, religious, or educational nature.
- 2.18 <u>Business, Wholesale</u>: Commercial establishments that generally sell commodities in large quantities or by the piece to retailers, jobbers, other wholesale establishments, or manufacturing establishments, basically for use in the fabrication of a product or for use by a business service.
- 2.19 <u>Business Services</u>: Any profit-making activity that renders services primarily to other commercial or industrial enterprises, or which services and repairs appliances and machines used in homes and businesses.
- 2.19.1 <u>Car Wash</u>: A facility for the washing, cleaning, vacuuming and polishing of automobiles, pick up trucks and other light trucks, but not construction equipment or semi tractor trailer trucks, and for the sale of automotive washing, cleaning and polishing supplies.
- 2.20 <u>Cemetery</u>: Land used or intended to be used for the burial of the human dead and dedicated for cemetery purposes, including crematories, mausoleums, and mortuaries if operated in connection with and within the boundaries of such cemetery.
- 2.21 <u>Certificate of Appropriateness</u>: A document issued by the Historic District Commission or Appearance Commission certifying compliance with the provisions of Article 6 or Article 7, respectively.

- 2.22 <u>Certificate of Occupancy</u>: A document issued by the Building Inspector certifying compliance with all applicable state and local laws, including all terms of an approved Zoning Compliance Permit, and authorizing occupancy of a building or structure.
- 2.22.1 <u>Channel</u>: The defined course (eg. bed, ditch, or depression) where a natural or man-made stream of water is transmitted.
- 2.23 <u>Child Day Care Facility</u>: A use of land and buildings that provides care to preschool children away from their homes, and by persons other than family members, guardians, or custodians, and where a payment, fee, or grant is made for such care.
- 2.24 (<u>Church</u> definition changed 3/11/92 to <u>Place of Worship</u>, 2.92.1)
- 2.25 <u>Clinic</u>: An establishment used for the care, diagnosis, therapy, or counseling of sick, ailing, infirm, or injured persons or non-medical therapy and counseling on an outpatient basis.
- 2.26 <u>Club</u>: An establishment operated by a corporation or association of persons for social, literary, political, educational, fraternal, or charitable purposes, but which is not operated for profit or to render a service which is customarily conducted as a business.
- 2.27 <u>Cluster Development</u>: A subdivision in which building lots are grouped together through a transfer of allowable density within the subdivided tract. Cluster development permits more efficient development by creating lots with gross land areas smaller than those required for conventional lot-by-lot development, yet maintains application of normal lot density standards to the subdivided tract as a whole by requiring that land area saved by lot size reductions be reserved as permanent recreation area.
- 2.28 <u>College, University, or Professional School</u>: A degree-granting establishment, and its associated programs, centers, and functions, providing formal academic education and generally requiring for admission at least a high school diploma or equivalent academic training, including colleges, junior colleges, universities, technical institutes, seminaries, and professional schools (architectural, dental, engineering, law, medical, etc.)
- 2.28.1 Commercial Subdivision: The subdivision of a development on a zoning lot that consists of uses from Use Group B and/or Use Group C of the Schedule of Use Regulations. Such a subdivision would create two (2) or more individual lots plus land developed and designated for the common use and benefit of the occupants/owners of the individual commercial subdivision lots, provided:

- 1) That an entity is designated to be legally responsible for maintenance and control of the common land areas;
- 2) That the Special Use Permit Approval or Site Plan Approval which encumbers the entire zoning lot be recorded at the Orange or Durham County Register of Deeds Office, whichever is appropriate;
- 3) That an application for any change to a Special Use Permit Approval or Site Plan Approval shall require that the application be signed by all property owners of the zoning lot for which the Special Use Permit Approval or Site Plan Approval applies;
- 4) That a Zoning Compliance Permit shall be issued and valid for the development prior to application for commercial subdivision;
 - 5) That all parking area, drive aisles, and required Outdoor Space shall be the common land area; and
 - 6) The individual lots within a commercial subdivision shall not be required to meet the lot design standards of Article 17 or the intensity regulations of Article 13, provided the zoning lot containing the commercial subdivision meets such standards.
- 2.29 <u>Comprehensive Plan</u>: A plan, or any portion thereof, adopted by the Chapel Hill Planning Board and Council, establishing goals, objectives, and policies designed to manage the quantity, type, cost, location, timing, and quality of development and redevelopment in the Chapel Hill community.
- 2.30 <u>Council</u>: The governing body of the Town of Chapel Hill, consisting of a mayor and eight (8) council members, as established in Chapter III of the Charter of the Town of Chapel Hill.
- 2.30.1 Critical Root Zone: A circular area surrounding a tree, of which the center is the center of the tree trunk and the radius is the distance from the outside of the trunk to any point twelve (12) times the diameter at breast height (DBH), which points constitute the circumference of the critical root zone. The critical root zone shall extend to a depth of five (5) feet below surface ground level.
- 2.30.2 <u>DBH Diameter at Breast Height</u>: The total cross-sectional diameter of the trunk(s) of a tree measured 41/2 feet from the ground at the center of the tree.
- 2.31 <u>Density</u>: The average number of families, persons, or housing units per acre of land.
- 2.31.1 <u>Developing Land</u>: A zoning lot on which surveying for development is currently taking place or for which an application is currently being reviewed for development by the Town Planning staff or for which development activities are

approved

2.32

<u>Development</u>: Any man-made change to improved or unimproved real estate, including, but not limited to: the construction, erection, structural alteration, enlargement, or rehabilitation of any buildings or other structures, including farm buildings; mining; dredging; filling; grading; paving; excavation or drilling operations; clearing of vegetation; any division of a parcel of land into two (2) or more parcels and any use or change in use of any structures or land. Development shall also include any land disturbing activity on improved or unimproved real estate that changes the amount of impervious or partially impervious surfaces on a parcel, or that otherwise decreases the natural infiltration of precipitation into the soil.

2.33

<u>Drive-In Window</u>: A window or other opening in the wall of a principal building through which goods or services are provided directly to customers in motor vehicles by means that eliminate the need for such customers to exit their motor vehicles.

2.34

<u>Driveway</u>: A vehicular way, other than a street or alley, that provides vehicular access from a street to or through off-street parking and/or loading areas.

2.34.1

<u>Drought</u>: The hydrologic condition that exists when rainfall for the proceeding 30 days is less than 80% of the average rainfall for the same period, as recorded by the National Weather Service.

2.35

<u>Dwelling</u>: Any building or structure (except a mobile home) that is wholly or partly used or intended to be used for living or sleeping by one or more human occupants.

2.36

<u>Dwelling</u>, <u>Single-Family</u>: A detached dwelling consisting of a single dwelling unit only. A single family structure with more than five (5) bedrooms shall be classified as a Rooming House unless the structure is occupied by persons related by blood, adoption, marriage, or domestic partnership, with not more than two unrelated persons.

2.37

<u>Dwelling, Two-Family</u>: A dwelling or combination of dwellings on a single lot consisting of two (2) dwelling units.

2.38

Dwelling, Two-Family -- Including Accessory Apartment: A dwelling or combination of dwellings on a single zoning lot consisting of two (2) dwelling units, provided the floor area of one of the dwelling units does not exceed fifty percent (50%) of the floor area of the other dwelling unit, nor is greater than 750 square feet and further provided the dwelling's exterior design and entry locations give the dwelling the appearance of a single-family dwelling. A two-family dwelling that includes an accessory apartment, as described above, with more than six (6) bedrooms within the two-family dwelling shall be classified as a Rooming

House unless each dwelling unit is occupied by persons related by blood, adoption, or marriage, with not more than two unrelated persons.

2.39

<u>Dwelling, Two-Family -- Duplex</u>: A single dwelling consisting of two (2) dwelling units (other than a two-family dwelling - including accessory apartment - see Section 2.38 above), provided the two dwelling units are connected by or share a common floor-to-ceiling wall, or, if the two units are arranged vertically, that they share a common floor/ceiling and not simply by an unenclosed passageway (e.g., covered walkway) and provided that each dwelling unit contains no more than three (3) bedrooms per unit. A duplex structure with more than three (3) bedrooms within either dwelling unit shall be classified as a Rooming House unless each dwelling unit is occupied by persons related by blood, adoption, marriage, or domestic partnership, with not more than two unrelated persons.

2.40

<u>Dwelling</u>, <u>Multi-Family</u>: A dwelling or combination or dwellings on a single lot consisting of three (3) or more dwelling units.

2.41

<u>Dwelling Unit</u>: A room or group of rooms within a dwelling forming a single independent habitable unit used or intended to be used for living, sleeping, sanitation, cooking, and eating purposes by one family only; for owner occupancy or for rental, lease, or other occupancy on a weekly or longer basis; and containing independent kitchen, sanitary, and sleeping facilities; and provided such dwelling unit complies with Chapel Hill's Minimum Housing Code.

2.42

<u>Efficiency Dwelling Unit</u>: A dwelling unit in which living and sleeping activities are conducted or intended to be conducted within a single room.

2.42.1

<u>Engineered Stormwater Controls</u>: A structural best management practice (BMP) used to reduce non-point source pollution to receiving waters in order to achieve water quality protection.

2.43

Essential Services: The erection, construction, alteration, or maintenance by public utilities or governmental agencies of traffic distribution systems; water, sewage, steam, gas, electrical, or communication transmission or distribution systems; and storm water collection and distribution systems; including streets, sidewalks, street lights, bus passenger shelters, traffic signals, pipes, hydrants, pumping stations, wires, curb-and-gutter, catch basin, drains, or other similar equipment and accessories reasonably necessary for the provision of adequate service by such public utilities or governmental agencies, but not including buildings or other substantial above-ground structures (see Public Service Facility and Radio or Television Transmitting and/or Receiving/Facility).

2.44

<u>Extraction of Earth Products</u>: The process of removal of natural deposits of mineral ores, soils, or other solid matter from their original location, not including any processing of such material beyond incidental mechanical consolidation or sorting to facilitate transportation off-site.

2.45

<u>Family</u>: An individual living alone or two (2) or more persons living together as a single housekeeping unit, using a single facility in a dwelling unit for culinary purposes. The term "family" shall include an establishment with support and supervisory personnel that provides room and board, personal care and habitation services in a family environment for not more than 6 residents who are handicapped, aged, disabled, or who are runaway, disturbed or emotionally deprived children and who are undergoing rehabilitation or extended care. The term "family" shall not be construed to include a fraternity or sorority, club, rooming house, institutional group or the like.

2.45.1

<u>Fine Arts Educational Institution</u>: Private entities that provide instruction and facilities for training and education in the fine arts, such as ballet schools, music conservatories, and visual arts schools. These uses may include performances and exhibits as accessory activities associated with the principal use.

2.46

<u>Flag Lot</u>: An irregularly shaped lot where the buildable portion of the lot is, connected to its street frontage by an arm of the lot, that does not meet the minimum lot width and street frontage standards specified in Section 13.11 for the zoning district in which the lot is located (see Figures 17-1 to 17-3).

2.46.1

<u>Flood or flooding</u>: A general and temporary condition of partial or complete inundation of normally dry land areas from:

- 1) the overflow of inland or tidal waters;
- 2) the unusual and rapid accumulation of runoff of surface waters from any sources.

2.46.2

<u>Flood Hazard Boundary Map (FHBM)</u>: The official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to Chapel Hill.

2.46.3

<u>Flood Insurance Study</u>: The official report provided by the Federal Emergency Management Agency (FEMA) containing flood profiles as well as the Flood Boundary-Floodway Map and the water surface elevation of the base flood.

2.46.4

<u>Floor</u>: The top surface of an enclosed area in a building (including basement), i.e. top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

2.47

<u>Floor Area:</u> The sum of enclosed areas on all floors of a building or buildings measured from the outside faces of the exterior walls, including halls, lobbies, arcades, stairways, elevator shafts, enclosed porches and balconies, and any below-grade floor areas used for access and storage. Not countable as floor area are open terraces, patios, atriums, balconies, carport garages, and breezeways.

2.48

<u>Floor Area Ratio (FAR)</u>: A decimal fraction that, when multiplied by the gross land area of a zoning lot, determines the maximum floor area permitted within the zoning lot. The Floor Area Ratios for the various zoning districts and use groups are in the Schedule of Intensity Regulations.

2.48.1

Footprint: The area bounded by the external walls of any structure.

2.49

<u>Fraternity or Sorority Dwelling</u>: A dwelling or combination of dwellings on a single lot occupied by and maintained exclusively for college, university, or professional school students who are affiliated with a social, honorary, or professional organization recognized by the college, university, or professional school.

2.50

<u>Funeral Home</u>: An establishment primarily engaged in preparing the dead for burial, conducting funerals, and cremating the human dead.

2.51

Gross Land Area: All area within the boundaries of a zoning lot (net land area) plus half of the adjoining 1) publicly-owned or otherwise permanently dedicated open space, such as parks, recreation areas, water bodies, cemeteries and the like, and 2) public streets, provided: a) the width of such credited open space and streets shall be limited to a number of feet equal to the Land Use Intensity (LUI) rating applying to the lot: and b) the total amount of credited open space and public streets shall not exceed ten percent (10%) of the net land area of the zoning lot, except that such limit shall not apply to open space dedicated to the Town between May 12, 1981 and December 5, 1983 and open space in the Town Center-1 and Town Center-2 districts.

2.52

Group Care Facility: An establishment qualified for a license by the State of North Carolina for the provision of resident services to seven (7) or more individuals of whom one or more are unrelated, and who are handicapped, aged, disabled, or who are runaway, disturbed, or emotionally deprived children and who are undergoing rehabilitation or extended care, and who are provided services to meet their needs. Included are group homes for all ages, halfway houses, boarding homes for children, and convalescent and nursing homes.

2.52.1

<u>Hazardous Materials</u>: Those materials listed in the most current Consolidated List of Chemicals covered by Superfund Amendments and Reauthorization Act of 1986 (SARA), Title III.

- 2.52.2
- <u>Healthy Living Tree</u>: A tree that is relatively free of disease or rotten wood and that has prospects for longtime survival.
- 2.53

<u>Height (of a Structure or Part thereof)</u>: The vertical distance from the mean natural grade at the foundation to the highest portion of the structure, or part thereof.

- 2.54 <u>Height Limitation, Primary</u>: The maximum height allowed for any structure located at the minimum setback required for such structure, as shown in Section 13.11.
- 2.55 <u>Height Limitation, Secondary</u>: The absolute maximum height allowed for any structure, as shown in Section 13.11.
- 2.55.1 <u>High Density Option</u>: One of two approaches available for development in watershed overlay districts. Generally, the high density option relies on density limits and engineered stormwater controls to minimize the risk of water pollution.
- 2.55.2 <u>Highest Adjacent Grade</u>: The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.
- 2.56 <u>Home Occupation</u>: An occupation conducted as an accessory use of a dwelling unit, provided that:
 - a) Home occupations shall have a limit of one full-time equivalent employee who is not a member of the family residing in the home with the home occupation; "Full-time equivalent employee" refers to one or more employees who work a total of no more than 40 combined hours onsite per week;
 - b) The use of the dwelling unit or accessory buildings for the home occupation shall be clearly incidental and subordinate to the use of the property for residential purposes, and not more than thirty-five percent (35%) nor more than 750 square feet of the floor area of the dwelling unit and any accessory buildings combined shall be used in the conduct of the home occupation; provided, that the floor area defined as used in the home occupation is the area dedicated to or primarily used for the home occupation, and does not include areas incidentally used for the home occupation
 - c) No external evidence of the conduct of the home occupation, including commercial signs, shall be visible;
 - d) Traffic and Parking Regulations
 - (1) The home occupation shall not generate traffic volumes or parking area needs greater than would normally be expected in the residential neighborhood;
 - (2) In addition, normally there shall be no more than 3 vehicles parked at a given time on- or off-street for non-residential purposes including but not limited to parking by non-resident employees, customers, delivery services, etc.; but excluding drop-offs and pick-ups. Home occupations for arts

education or similar educational purposes are exempt from any parking restrictions.

- (3) There shall be no regular pick-up and delivery by vehicles other than those of a size normally used for household deliveries.
- e) No equipment or process shall be employed that will cause noise, vibration, odor, glare, or electrical or communication interference detectable to the normal senses off the lot; in the case of detached dwelling units, or outside the dwelling unit, in the case of attached dwelling units;
- f) The on-premises sale and delivery of goods which are not the products of the home occupation are prohibited, except that the sale of goods which are incidental to a service of the home occupation is permitted;
- g) A zoning compliance permit is issued for the home occupation(s). The permit shall describe the nature of the business and include the applicant's certification that the home occupation will be conducted in accord with the Development Ordinance and other applicable laws and ordinances. Once a home occupation permit has been granted, it shall remain in effect until: (1) it is revoked by the Town, (2) the home occupation is terminated by the resident or residents for 180 or more days, or (3) the holder of the permit moves from the residence.
- 2.57 <u>Hospital</u>: An institution providing physical and mental health services primarily for human in-patient medical or surgical care for the sick or injured, including related facilities such as laboratories, out-patient services, training facilities, central service facilities, and staff offices.
- 2.58 <u>Hotel or Motel</u>: A building or group of buildings containing in combination ten (10) or more lodging units intended primarily for rental or lease to transients by the day or week, as distinguished from residence halls, in which occupancy is generally by residents rather than transients.
- 2.58.1 <u>Impervious Surface</u>: A surface composed of any material that impedes or prevents natural infiltration of water into the soil.
- 2.59 <u>Intensity</u>: The degree to which land is used, generally measured by a combination of the type of land use and the amount of land or floor area devoted to that use.
- 2.60 <u>Kennel</u>: Any lot or premises on which four (4) or more domesticated animals more than four (4) months of age are housed, groomed, bred, boarded, trained, or sold.
- 2.61 <u>Landfill</u>: Any lot or premises on which is deposited solid waste material,

including trash, construction debris, stumps, branches and limbs, garbage, and industrial waste.

- 2.61.1 <u>Landscape Protection Certificate</u>: A certificate granted by the Town Manager to any individual who completes the Landscape Protection Seminar.
- 2.61.2 <u>Landscape Protection Plan</u>: A plan identifying existing landscape elements, proposed changes, and protection measures to be used to aid the survival of such landscape elements as defined in Section 4.2 of Article 11 of this document.
- 2.61.3 <u>Landscape Protection Seminar</u>: A presentation administered by the Town to all persons seeking certification as a Landscape Protection Supervisor.
- 2.61.4 <u>Landscape Protection Supervisor</u>: A person who has attended the Landscape Protection Seminar, and acquired a Landscape Protection Certificate.
- 2.62 <u>Land Use Intensity (LUI) Ratios</u>: A scale of established ratios that are applied to the gross land area of a zoning lot to determine maximum floor area, minimum outdoor space, minimum livability space, and minimum recreation space requirements for development within the zoning lot. Each LUI scale is identified by a LUI rating.
- 2.62.1 <u>Life of the Design</u>: The total number of years in which single planting maintains its intended purpose.
- 2.63 <u>Livability Space</u>: That part of total outdoor space appropriately improved and, if necessary, located as outdoor living space and for aesthetic appeal, including natural areas, lawns and other landscaped areas, walkways, paved terraces and sitting areas, outdoor recreational areas, and landscaped portions of street rights-of-way, but not including outdoor space used for motorized vehicles, except for incidental service, maintenance, or emergency actions.
- 2.64 <u>Livability Space Ratio (LSR)</u>: A decimal fraction that, when multiplied by the gross land area of a zoning lot, determines the minimum livability space required within the gross land area of the zoning lot. The Livability Space Ratios for the various zoning districts and use groups are in the Schedule of Intensity Regulations.
- 2.65 <u>Loading, Off-Street</u>: Space located outside of any street right-of-way or easement and designed to accommodate the temporary parking of vehicles used for bulk pickups and deliveries.
- 2.66 <u>Lodging Unit</u>: A room or group of rooms forming a separate habitable unit used or intended to be used for living and sleeping purposes by one family only, without independent kitchen facilities; or a separate habitable unit, with or without independent kitchen facilities, occupied or intended to be occupied by transients on

a rental or lease basis for periods of less than one week.

2.67	<u>Lot</u> : Land bounded by lines legally established for the purpose of property division. As used in this chapter, unless the context indicates otherwise, the term refers to a zoning lot.
2.68	<u>Lot Line</u> : A line that marks the boundary of a lot.
2.69	<u>Lot Line, Interior</u> : Any lot line that is not a street lot line; a lot line separating a lot from another lot.
2.70	<u>Lot Line, North</u> : Any portion of a lot line that has an alignment within forty-five degrees of an East/West axis.
2.71	<u>Lot Line, Street</u> : Any lot line separating a lot from a street right-of-way or easement. Where a lot line is located within such street right-of-way or easement, the right-of-way or easement boundary adjacent to the lot shall be considered the street lot line.
2.72	<u>Lot Line, Zero</u> : Any interior or north lot line along which a structure is allowed with no setback in accord with the zero lot line development standards of Subsections 13.9.9 and 17.7.7.
2.73	<u>Lot Width</u> : The horizontal distance measured along a straight line connecting the points at which a line demarcating the minimum street setback required from a street lot line intersects with interior lot lines and/or other street lot lines (See Figure 13-2).
2.74	<u>Low Density Option</u> : One of two approaches available for development in watershed overlay districts. Generally, the low density option relies on non-structural means, specifically density limits, to minimize risk of water pollution.
2.75	<u>Maintenance and or Storage Facility</u> : Land, building, or structure devoted primarily to the maintenance and/or storage of equipment and materials.
2.75.1	<u>Manufactured Home</u> : A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site.
2.75.	2 <u>Manufactured Home Park or Subdivision</u> : A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
2.75.3	Mean Sea Level: The average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the flood plain. For

purposes of this chapter, the term is synonymous with National Geodetic Vertical Datum (NGVD). For purposes of national flood insurance programs, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

2.76

<u>Manufacturing</u>, <u>Light</u>: Manufacturing, processing, creating, renovating, painting, cleaning, assembly of goods, merchandise, and equipment, or other industrial uses which have all operations and storage within enclosed structures.

2.77

Mobile Home: A single portable manufactured housing unit, or a combination of two (2) or more such units connected on-site, that is a) designed to be used for living, sleeping, sanitation, cooking, and eating purposes by one family only and containing independent kitchen, sanitary, and sleeping facilities; b) designed so that each housing unit can be transported on its own chassis; c) placed on a temporary or semi-permanent foundation; and d), is over thirty-two (32) feet in length and over eight (8) feet in width.

2.78

Mobile Home, Class A: A mobile home that meets the U.S. Department of Housing and Urban Development Mobile Home Construction and Safety Standards and which is certified by the Town Manager as meeting the following appearance performance criteria:

- a) The mobile home shall have a length not exceeding four (4) times its width;
- b) The pitch of the mobile home's roof shall have a minimum vertical rise of one foot for each five (5) feet of horizontal run;
- c) The exterior materials shall be of a color, material, and scale compatible with those existing in the immediate vicinity, and in no case shall the degree of reflectivity of exterior finishes exceed that of gloss white paint;
- d) A continuous permanent masonry foundation, unpierced except for required ventilation, shall be installed under the mobile home; and
- e) The tongue and undercarriage chassis shall be removed subsequent to final placement.

2.79

Mobile Home, Class B: A mobile home that meets the U.S. Department of Housing and Urban Development Mobile Home Construction and Safety Standards or, after inspection by the Building Inspector, is found to be in good condition and fit and safe for human occupancy, but which is not certified as meeting the appearance performance criteria contained in Section 2.78 above.

2.80

<u>Mobile Home Park</u>: A combination of two (2) or more mobile homes on a single zoning lot.

2.81

Reserved

- 2.81.1 National Geodetic Vertical Datum (NGVD): A vertical control, as corrected in 1929, used as a reference for establishing varying elevations within the flood plain.
- Nonconforming Feature: A physical feature or characteristic or a use, building, structure, or other development of land that was lawfully established prior to the effective date of this chapter or a subsequent chapter thereto, but does not conform to the Intensity Regulations of Article 13 or the Design Standards of Article 14 applicable to such use, building, structure, or development of land, including, but not limited to, nonconforming structures, nonconforming signs, nonconforming parking facilities, and nonconforming lighting.
- 2.83 Nonconforming Lot: A lot that was lawfully created prior to the effective date of this chapter or a subsequent amendment thereto, but does not conform to the minimum gross land area or minimum lot width requirements established in Article 13 for the zoning district in which it is located.
- 2.84 <u>Nonconforming Use</u>: A use of land, buildings, or structures that was lawfully established prior to the effective date of this chapter or a subsequent amendment thereto, but does not conform to the Use Regulations of Article 12 for the zoning district in which it is located.
- 2.84.1 Non-point Source Pollution: Pollution that enters waters mainly as a result of precipitation and subsequent collective runoff from lands that have been disturbed by man's development activities and includes all sources of water pollution which are not required to have a permit in accordance with G.S. 142-215.1(c).
- 2.84.2 <u>Normal Flow</u>: The volume of water carried by a steam in times other than droughts or above average rainfall.
- 2.84.3 Open Space: Land devoted to uses characterized by vegetative cover or water bodies, such as agricultural uses, pastures, meadows, parks, recreational areas, lawns, gardens, cemeteries, ponds, streams and the like.
- 2.85 <u>Outdoor Space</u>: The total horizontal area of uncovered outdoor space plus half the total horizontal area of covered outdoor space.
- 2.86 Outdoor Space, Covered: Usable outdoor space closed to the sky but having two (2) clear unobstructed open or partially open sides. Partially open is construed as fifty percent (50%) open or more. The horizontal area countable as covered outdoor space shall not exceed the number of square feet equal to the vertical areas of the open sides. Examples of covered outdoor space are covered balconies, covered portions of improved roof areas, or spaces under buildings supported on columns or posts, or cantilevered.

2.87 Outdoor Space, Uncovered: The total gross land area not covered by buildings, plus open exterior balconies, and roof areas improved as livability space. 2.88 Outdoor Space Ratio (OSR): A decimal fraction that, when multiplied by the gross land area of a zoning lot, determines the minimum outdoor space required within the gross land area of the zoning lot. The Outdoor Space Ratios for the various zoning districts and use groups are in the Schedule of Intensity Regulations. 2.88.1 Outdoor Skateboard Ramp: A ramp or other similar type of structure used for skateboarding or similar or related purposes which is between four (4) feet and ten (10) feet in height, and between twelve (12) feet and thirty (30) feet in length. Ramps smaller than four (4) feet in height and twelve (12) feet in length are not subject to the regulations in this Chapter. Ramps greater than ten (10) feet in height or thirty (30) feet in length are prohibited. 2.89 Parking, Off-Street: Space located outside of any street right-of-way or easement and designed to accommodate the parking of motor vehicles. 2.90 Park/Ride Terminal: An off-street parking facility designed or intended to provide peripheral collection and storage of vehicles to accommodate commuter traffic into or out from the Chapel Hill community, including accessory structures such as bus passenger shelters. 2.90.1 Perennial Stream: Those areas shown as streams on the Town's Aerial Topographic Maps, subject to field verification, in addition to streams confirmed to be perennial after on-site inspection by the Town Engineering Department. The presence of a perennial stream shall be confirmed by the presence of two (2) or more of the following: - water: - aquatic and/or water-loving vegetation; - aquatic craniate vertebrates (fish), and/or aquatic arthropods having a chitinous (or calcareous and chitinous) exoskeleton (crayfish), or evidence of such recent presence. 2.90.2 Person: Any person, firm, partnership, association, corporation, company, or organization of any kind. 2.91 Personal Services: An establishment that primarily provides services generally involving the care of a person or his apparel, such as seamstress shops, shoe repair shops, dry cleaning and laundry pickup facilities, and coin-operated

salons.

2.92

laundry and dry cleaning facilities, but not including barber shops and beauty

Place of Assembly: A place designed to accommodate the assembly of

persons attending athletic events, musical performances, dramatic or terpsichorean performances, speeches or ceremonies, motion picture presentations, and other entertainment events, including stadiums, coliseums, athletic centers, theaters, concert halls, night clubs, amphitheaters, and arenas.

2.92.1

<u>Place of Worship</u>: A structure in which persons regularly assemble for religions worship and which is maintained and controlled by a religious body organized to sustain public worship.

2.93

Planned Development: Land that is under unified control and planned and developed as a whole in a single development operation or a definitely programmed series of development operations. A Planned development includes principal and accessory structures and uses substantially related to the character and purposes of the planned development. A planned development is constructed according to comprehensive and detailed plans which include not only streets, utilities, lots or building sites, and the like, but also site plans and floor plans for all buildings as intended to be located, constructed, used, and related to each other, and detailed plans for other uses and improvements on the land as related to the buildings. A planned development includes a program for the provision, operation, and maintenance of such areas, facilities, and improvements as will be for common use by some or all of the occupants of the planned development district, but which will not be provided, operated, or maintained at general public expense.

2.94

Reserved

2.95

<u>Public Cultural Facility</u>: The use of land, buildings, or structures by a municipal or other governmental agency to provide cultural services directly to the general public, including public libraries and museums.

2.95.1

Public Hazard:

- a) Any tree, plant, shrub or vegetation which so overhangs any sidewalk or public street either dedicated or proposed to be dedicated, or which is growing thereon (or adjacent thereto), in such a manner as to obstruct or impair the free and full use of the sidewalk or public street by the public as determined by the Town Manager; or
 - b) Any tree, plant, shrub or vegetation in the vicinity of utility lines which has the potential to interfere with the provisions of reliable utility service as determined by the Town Manager.

2.95.2

<u>Public Land</u>: Land owned by the Town of Chapel Hill, or any other governmental entity or agency thereof.

2.96

<u>Public Service Facility</u>: The use of land, buildings, or structures by a public utility, railroad, or governmental agency, including water treatment plants or

pumping stations, sewage treatment plants or pumping stations, non-nuclear power plants and substations, telephone exchanges, bus and railroad terminals, and other similar public service structures, but not including land, buildings, or structures devoted solely to the storage and maintenance of equipment and materials.

2.97

<u>Public Use Facility</u>: The use of land, buildings, or structures by a municipal or other governmental agency to provide protective, administrative, social, and recreational services directly to the general public, including police and fire stations, municipal buildings, community centers, public parks, and any other public facility providing the above services, but not including public land or buildings devoted solely to the storage and maintenance of equipment and materials and not including public cultural facilities or public service facilities.

2.98

<u>Publishing and Printing</u>: An establishment primarily engaged in preparing, publishing, and printing newspapers, periodicals, books, and pamphlets.

2.99

Radio or Television Transmitting and/or Receiving Antenna, Accessory: An antenna designed for the above-ground transmission and/or reception of airborne radio or television signals, customarily incidental to a permitted principal use, provided that any antenna located on a zoning lot containing a single-family or two-family dwelling shall serve only the needs of the occupants of such dwellings.

2.100

Radio or Television Transmitting and/or Receiving Facility: The use of land, buildings, or structures for the above-ground transmission and/or reception of airborne radio or television signals, including all transmitting and receiving towers, dishes and antennas except accessory radio or television transmitting and/or receiving antennas.

2.101

<u>Recreation Facility, Non-Profit</u>: A non-profit facility providing recreational activities, including private country clubs, golf courses, riding stables, tennis clubs, and athletic fields.

2.102

<u>Recreation Facility, Commercial</u>: A private profit-making facility providing recreational activities enclosed within buildings, including commercially operated indoor swimming pools and tennis courts, health clubs, gymnasiums, amusement arcades, bowling alleys, indoor skating rinks, and pool halls.

2.102.1

Recreation Facility, Outdoor Commercial: A private profit-making facility providing recreational activities outdoors, including commercially operated outdoor swimming pools and tennis courts, outdoor miniature golf, driving ranges, golf courses, and outdoor batting cages.

2.103

<u>Recreation Space</u>: That part of exterior livability space, plus enclosed floor area, which is appropriately improved for the common recreational use of residents of multifamily developments and planned developments.

- 2.104 <u>Recreation Space Ratio (RSR)</u>: A decimal fraction that, when multiplied by the gross land area of a zoning lot, determines the minimum recreation space required within the zoning lot. The Recreation Space Ratios for the various zoning districts and use groups are in the Schedule of Intensity Regulations.
- 2.104.1 <u>Regulatory Flood Plain</u>: Areas of inundation during the base flood discharge as delineated on the Flood Hazard Boundary Maps and Flood Insurance Study for the Town of Chapel Hill, North Carolina, Orange, Durham, and Chatham Counties, latest revisions, as defined by the Associate Director of the Federal Emergency Management Agency.
- 2.104.2 Regulatory Floodway: The channel of a river or other watercourse and the adjacent land areas as delineated on the Flood Hazard Boundary Maps and Flood Insurance Study for the Town of Chapel Hill, North Carolina, Orange, Durham, and Chatham Counties, latest revisions, as defined by the Associate Director of the Federal Emergency Management Agency, that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot above the 100 year flood water surface elevation.
- 2.105 Research Activities: Research, development, and testing related to such fields as chemical, pharmaceutical, medical, electrical, transportation, and engineering, provided such activities are conducted within entirely enclosed buildings and produce no noise, smoke, glare, vibration, or odor detectable outside the buildings.
- 2.106 Residence Hall: A building or group of buildings containing in combination ten (10) or more lodging units intended primarily for rental or lease for periods of thirty (30) days or longer, provided, however, that temporary lodging units for guests of regular tenants may be provided, with the number of such units limited to not more than ten percent (10%) of the total number of lodging units.
- 2.107 <u>Residential Support Facility</u>: A building or group of buildings owned or operated by a nonprofit organization intended to be used solely for temporary occupancy by family members of patients being treated at a local hospital, with occupancy not to exceed thirty (30) families.
- 2.107.1 <u>Riverine</u>: Areas formed by, or resembling a river.
- 2.108 Rooming House: A building or group of buildings containing in combination three (3) to nine (9) lodging units intended primarily for rental or lease for periods of longer than one week, with or without board. Emergency shelters for homeless persons and residential support facilities, as defined elsewhere in this ordinance, are not included. A Rooming House shall include a single-family dwelling, two-family dwelling including accessory apartment, or a two-family dwelling duplex if used in a manner described in the applicable definition sections so as to constitute a Rooming House. A Rooming House shall also include a

building or group of buildings intended for occupancy by or occupied by more than four (4) persons who are not related by blood, adoption, marriage or domestic partnership.

- 2.109
- <u>School, Elementary</u>: A facility providing a curriculum of elementary academic instruction, including kindergartens, elementary schools, junior high schools, and comparable private schools.
- 2.110
- <u>School, Secondary</u>: A facility providing a curriculum of secondary academic instruction, including high schools and comparable private schools.
- 2.111
- <u>Service Station</u>: An establishment where gasoline or diesel fuel is supplied and dispensed at retail and where, in addition, the following services only may be rendered and sales made:
- a) Sales and service of spark plugs, batteries, and distributor and ignition system parts;
- b) Sales, service, and repair of tires, but not recapping or regrooving;
- c) Replacement of mufflers, tail pipes, water hose, fan belts, brake fluid, light bulbs, fuses, floor mats, seat covers, windshield wipers and blades, grease retainers, wheel bearings, mirrors, and the like;
- d) Radiator cleaning, flushing, and fluid replacement;
- e) Sale of automotive washing and polishing supplies;
- f) Greasing and lubrication;
- g) Providing and repairing fuel pumps, oil pumps, and lines;
- h) Minor adjustment and repair of carburetors;
- i) Emergency repair of wiring;
- j) Minor motor adjustment not involving removal of the head or crankcase;
- Sale of beverages, packaged foods, tobacco products, and similar convenience goods for customers, as accessory and incidental to principal operations;
- 1) Provision of road maps and other travel information to customers;
- m) Provision of restroom facilities;

n) Warranty maintenance and safety inspections.

Uses permissible at a service station do not include major mechanical and body work, straightening of body parts, painting, welding, storage of automobiles not in operating condition, or other work involving noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in service stations.

2.112 Reserved

- 2.113 <u>Setback, Interior</u>: The horizontal distance between the interior lot line of a zoning lot and any structure on such zoning lot, measured perpendicular to the interior lot line (See Figure 13-4).
- 2.114 <u>Setback, Solar</u>: The horizontal distance between the north lot line of a zoning lot and any structure on such zoning lot, measured along the north/south axis in a southerly direction from the north lot line (See Figure 13-4).
- 2.115 <u>Setback, Street</u>: The horizontal distance between the street lot line of a zoning lot and any structure on such zoning lot, measured perpendicular to the street lot line (See Figure 13-4).
- 2.115.1 <u>Shelter</u>: A building or group of buildings owned or operated by a non-profit organization intended to be used solely for temporary occupancy by not more than 25 homeless persons, with on-site supervision during all hours of operation, with or without board for the occupants and staff of the shelter.
- 2.116 <u>Sign</u>: Any device designed to inform or attract the attention of persons not on the premises on which the device is located.
- 2.116.1 <u>Sign, Cantilevered Ground</u>: A sign supported in a cantilevered fashion by an upright post.
- 2.117 <u>Sign, Free-Standing</u>: A sign attached to, erected on, or supported by a structure whose primary function is to support a sign and which is not itself an integral part of a building or other structure and including signs attached to or painted on a motor vehicle if such motor vehicle is located on a site in such a way as to serve as a sign, as defined in Section 2.116 above.
- 2.118 <u>Sign, Ground</u>: A free-standing sign attached to a contiguous structural base or planter box, which base or box shall be of the same width as or greater width than the message portion of the sign, and is permanently affixed to the ground. Ground signs do not include free-standing signs supported by poles.
- 2.119 <u>Sign, Projecting</u>: A sign attached to and supported by a building and extending beyond the building to which it is attached at an angle.

2.120 Sign, Wall: A sign attached to or painted on a wall or building, with the exposed display surface of the sign in a plane parallel to the plane of the wall to which it is attached or painted, and including signs affixed to or otherwise displayed on or through a facade window. 2.120.1 Sign Plan, Unified: An overall plan for placement and design of multiple signs for a building or group of buildings on a single zoning lot. 2.121 Site plan review: The process whereby the Council or Planning Board reviews plans of a development proposal which is a permitted use to assure that it complies with applicable development regulations and standards. 2.121.1 Site Specific Development Plan: A Special Use Permit issued by the Council authorizing the development of a zoning lot. 2.122 Special Use: A use of land, buildings, or structure that is identified in this chapter as a use that because of its inherent nature, extent, and external effects, requires special care in the control of its location, design, and methods of operation in order to ensure protection of the public health, safety, and welfare. 2.123 Special Use Permit: A permit issued by the Council authorizing the development of a zoning lot for a special use or a planned development. 2.123.1 Stream Bank: The point(s) where the wetted perimeter of a stream's cross section has the highest elevation (as referenced to mean sea level) during normal flow. 2.123.2 Stream Buffer: A natural or vegetated area adjacent to watercourses through which stormwater runoff flows in a diffuse manner, so that runoff does not become channelized and that provides for the infiltration of runoff and filtering or pollutants. 2.124 Street: A right-of-way or easement thirty (30) feet or more in width containing a roadway which provides or is used primarily for vehicular circulation. 2.125 Street, Private: A street consisting of a private easement and a privately maintained roadway. 2.126 Street, Public: A street consisting of a publicly dedicated right-of-way and a roadway maintained by the Town of Chapel Hill or the State of North Carolina. 2.127 Street Frontage Width: The horizontal distance measured along a straight line connecting the points at which the street lot line abutting a street intersects with interior lot lines and/or other street lot lines (See Figure 13-2). 2.128 Structural Alteration: Any change, except for repair or replacement, in the supporting members of a structure, such as, but not limited to, bearing walls, columns, beams, or girders.

2.129

<u>Structure</u>: Anything constructed or erected which requires location on the ground or attachment to something having a fixed location on the ground, including but not limited to principal and accessory buildings, signs, fences, walls, bridges, monuments, flagpoles, antennas, and transmission poles, towers, and cables.

2.130

<u>Structure, Accessory</u>: A subordinate structure detached from, but located on the same lot as the principal structure, the use of which is incidental and accessory to that of the principal structure.

2.131

<u>Structure</u>, <u>Principal</u>: A structure or, where the context so indicates, a group of structures in or on which is conducted the principal use of the lot on which such structure is located.

2.131.1

Substantial Improvement: Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the assessed taxable value of the structure, either (1) before the improvement or repair is started, or (2) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

2.132

<u>Supply Yard</u>: A commercial establishment storing and offering for sale building supplies, steel supplies, coal, heavy equipment, feed and grain, and similar goods.

2.133

<u>Temporary Portable Building</u>: A building intended for nonresidential use for a limited time period, consisting of one or more modules constructed off the ultimate site of use and transported to that site either on its own wheels or otherwise.

2.134

<u>Temporary Portable Building, Construction-Related</u>: A temporary portable building directly related to the development of a lot and limited in duration to a time period extending from issuance of the initial Zoning Compliance Permit for such development to issuance of the final Certificate of Occupancy for the development.

2.135

<u>Tourist Home</u>: A building or group of buildings containing in combination three (3) to nine (9) lodging units intended for rental or lease primarily to transients for daily or weekly periods with or without board, as distinguished from rooming

houses in which occupancy is generally by residents rather than transients. Emergency shelters for homeless persons and residential support facilities, as defined elsewhere in this ordinance, are not included.

2.136

Townhouse Development: A development of a zoning lot that consists of two (2) or more dwelling units or buildings, each of which is located on its own individual lot, plus land developed and designated for the common use and benefit of the occupants of the townhouse lots, provided an entity is designated to be legally responsible for maintenance and control of the common land areas. The gross land area of the commonly held land shall be not less than ten percent (10%) of the zoning lot's total gross land area. The individual lots within a Townhouse Development shall not be required to meet the lot design standards of Article 17 or the intensity regulations of Article 13, provided the zoning lot containing the Townhouse Development meets such standards.

2.137

<u>Transportation Plan</u>: A plan, or any portion thereof, adopted by the Chapel Hill Town Council, establishing goals, objectives, policies, and recommendations designed to manage vehicular, transit, bicycle, and pedestrian transportation access and circulation patterns in the Chapel Hill community. The Transportation Plan is composed of the transportation sections of the Comprehensive Plan, the Thoroughfare Plan, the Street Classification Standards, the Functional Classification of Existing Streets, the Bikeways Plan, the Sidewalk Plan, and any Council-adopted plans for area traffic circulation and parking.

- 2.137.1 <u>Tree</u>: Any upright plant whose trunk diameter at Breast Height (DBH) measures a minimum of 6 inches.
- 2.137.2 <u>Tree Rare or Specimen</u>: A tree that meets those qualifications as outlined in Section 11.6 of this document.
- 2.137.3 <u>Undeveloped Land</u>: A zoning lot on which no residential, commercial, office or industrial activity is taking place.
- 2.138 <u>Use</u>: The specific activity or function for which land, a building, or a structure is designated, arranged, intended, occupied, or maintained.
- 2.139 <u>Use, Accessory</u>: A use on the same lot or in the same structure with, and of a nature and extent customarily incidental and subordinate to, the principal use of the lot or structure.
- 2.140 <u>Use, Principal</u>: The primary use and chief purpose of a lot or structure.
- 2.141 <u>Variance</u>: A relaxation of the strict terms of a specific provision of this chapter authorized by the Board of Adjustment in accord with the provisions of Article 24.

2.142 Veterinary Hospital or Clinic: An establishment used for the care, grooming, diagnosis, and treatment of sick, ailing, infirm, or injured animals in need of medical or surgical attention. Water and Wastewater Treatment Plant: The use of land, buildings, or structures by 2.142.1 a public utility or governmental agency to provide sanitary treatment of community water supplies and wastewater discharges. 2.142.2 Watercourse: Any area of a perennial stream or regulatory flood plain which is inundated during the base flood discharge. 2.143 Watershed Buffer: A natural or vegetated area through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams or rivers. 2.143.1 Wetted Perimeter: The line of intersection between water and any other part of a stream's cross section. 2.143.2 Woodlands: Land which is undeveloped except for roads and utilities, and contains stands of native trees. 2.144 Zoning Compliance Permit: A permit issued by the Town Manager authorizing the recipient to make use of property in accord with the requirements of this chapter. 2.145 Zoning Lot: A legally subdivided lot shown on a legally recorded plat or deed, or a combination of such legally subdivided and recorded adjacent lots.

							Zonin	g Distr	ricts	··· F			<i>8</i>			
	TC-1			0I-1		R-4	R-2	_						PD-SC(C)		
	and TC-2	NC CC	01-3	and 0I-2	т	R-5 R-6	R-2A R-3	R-1	Ρ_1 Λ	R-LD1	R-LD5	RT	PD-H	PD-OI PD-SC(N)	PD_MII	DD⁻I
Uses*	10-2		01-3	01-2	1	K-0	K-3	IX-1	K-1A	K-LD1	K-LD3	IX I	1 D-11	TD-SC(N)	1 D-MIC	<u> 1 D-1</u>
USE GROUP A (pag	ge 1 of 2	2)														
Accessory Use Customarily Incidental to a Permitted Group A Principal or Special U	A Jse	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Agriculture: - Non-Livestock - Livestock (See Article 12.4)	A 	A 	A 	A 	A 	A 	A 	A 	A 	A 	A A	P,A P,A	A 	A 	A 	A
Cemetery			S			S	S	S	S	S	S	S				
DWELLING Single Family	P	P	P	P		P	P	P	P	P	P	P	P		P	
Two-Family: - including accessory apartments duplex	y P P	P P	P P	P P		P P	P P	P **	P 	P 	P 	P P	P P		P P	

^{*} Key: "--" Not Permitted; "A" Permitted as an Accessory Use; "P" Permitted as a Principal Use if floor area of proposed development is less than 20,000 square feet and area of disturbed land is less than 40,000; otherwise, permitted as a Special Use in all districts except OI-3 and for all uses except existing Elementary and Secondary Schools. In OI-3 "P" Permitted as a Principal Use, "S" Permitted as a Special Use. For existing Elementary and Secondary Schools "P" Permitted as a Principal Use.

^{**} Permitted as a Principal Use on a lot created by a subdivision for which a) an application for preliminary plat approval was submitted to the Town before September 5, 1983, and b) substantial expenditures were made in good faith before December 5, 1983.

							Zonin	g Disti	ricts							
	TC-1			0I-1		R-4	R-2							PD-SC(C)		
	and	NC		and		R-5	R-2A							PD-OI		
	TC-2	CC	01-3	0I-2	I	R-6	R-3	R-1	R-1A	R-LD1	R-LD5	RT	PD-H	PD-SC(N)	PD-MU	PD-I
Uses*																
USE GROUP A (pag	ge 2 of 2	2)														
Multi-Family:																
3 to 7 dwelling units	P	P	P	P		P							P		P	
over 7 dwelling units	P	P	P	P									P		P	
Essential Services	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A
Home Occupation	A	A	A	A		A	A	A	A	A	A	A	A		A	
Mobile Home:																
- Class A	P	P	P	P		P	P	P	P	P	P	P	P		P	
- Class B										P	P	P				
- Mobile Home Park													P		P	
Outdoor Skateboard Ramp										,						
(see Article 12.6)	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A

^{*} Key: "--" Not Permitted; "A" Permitted as an Accessory Use; "P" Permitted as a Principal Use if floor area of proposed development is less than 20,000 square feet and area of disturbed land is less than 40,000; otherwise, permitted as a Special Use in all districts except OI-3 and for all uses except existing Elementary and Secondary Schools. In OI-3 "P" Permitted as a Principal Use, "S" Permitted as a Special Use. For existing Elementary and Secondary Schools "P" Permitted as a Principal Use.

^{**} Permitted as a Principal Use on a lot created by a subdivision for which a) an application for preliminary plat approval was submitted to the Town before September 5, 1983, and b) substantial expenditures were made in good faith before December 5, 1983.

						Zc	ning]	Distric	ets						
									R-1,R-1A, R-2,R-2A,						
	TC-1 and				OI-1 and			R-3	R-LD1, R-LD5,						
<u>`</u>	TC-2	CC	NC	01-3	0I-2	I	R-6	R-4	and RT	PD-H	PD-SC(N)	PD-SC(C)	PD-OI	PD-MU	PD-I
<u>Uses*</u>															
USE GROUP B (page	e 1 of 3)														
Accessory Use Customarily Incidental to a Permitted Group B Principal or Special Use	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Adult Day Care Facility	P,A	P,A	P,A	P,A	P,A		S,A	S,A	S,A	P,A	P,A	P,A	P,A	P,A	
Business, Office-Type	P,A	P,A	P,A	P,A	P,A	P,A					P,A	P,A	P,A	P,A	
Child Day Care Facility (See Article 12.6)	P,A	P,A	P,A	P,A	P,A		P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	
Clinic	P	P,A	P,A	P,A	P							P,A	P,A	P,A	
Club	P,A	P,A	P,A	P,A	P,A					A	P,A	P,A	P,A	P,A	
College or University	P	P		P	P								P		

^{*} Key: "--" Not Permitted; "A" Permitted as an Accessory Use; "P" Permitted as a Principal Use if floor area of proposed development is less than 20,000 square feet and area of disturbed land is less than 40,000; otherwise, permitted as a Special Use in all districts except OI-3 and for all uses except existing Elementary and Secondary Schools. In OI-3 "P" Permitted as a Principal Use, "S" Permitted as a Special Use. For existing Elementary and Secondary Schools "P" Permitted as a Principal Use.

						Zo	ning	Distric	ets						
									R-1,R-1A,						
									R-2,R-2A,						
	TC-1				0I-1				R-LD1,						
	and	CC	NG	01.2	and		R-5	R-3	R-LD5,				DD OI	DD MII	DD I
I I a a a *	TC-2	CC	NC	01-3	0I-2		R-6	R-4	and RT	PD-H F	<u>'D-SC(N)</u>	PD-SC(C)	PD-OI	PD-MU	<u>PD-1</u>
<u>Uses*</u>															
USE GROUP B (page	ge 2 of 3)													
Fine Arts Educa-															
tional Institution	P	P	P	P	P		S								
Fraternity or	S	S		P	S		S								
Sorority Dwelling															
		ъ.		5 .											
Funeral Home	P	P,A		P,A	P							P		P	
Group Care Facility	P	P	P	P	P		S	S	S	A			P	P	
Group Care Pacifity	1	1	1	1	1		b	b	S	A			1	1	
Hospital		P		P									P		
1															
Hotel or Motel	P	P		P								P	P	P	
Place of Worship	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
(See Article 12.6)															
Public Cultural	ДΛ	ДΛ	DΛ	ДΛ	ДΛ	DΛ	D	۸ D	л рл	ДΛ	ДΛ	DΛ	DΛ	ДΛ	DΛ
Facility	P,A	P,A	P,A	P,A	P,A	P,A	Ρ,	A P,	A P,A	P,A	P,A	P,A	P,A	P,A	P,A
(See Article 12.6)															
(500 / 1111010 12.0)															

^{*} Key: "--" Not Permitted; "A" Permitted as an Accessory Use; "P" Permitted as a Principal Use if floor area of proposed development is less than 20,000 square feet and area of disturbed land is less than 40,000; otherwise, permitted as a Special Use in all districts except OI-3 and for all uses except existing Elementary and Secondary Schools. In OI-3 "P" Permitted as a Principal Use, "S" Permitted as a Special Use. For existing Elementary and Secondary Schools "P" Permitted as a Principal Use.

						Z	oning	Distri	-						
							_		R-1,R-1A,						
									R-2,R-2A,						
	TC-1				0I-1		D 5	D 0	R-LD1,						
	and	CC	NG	01.2	and	т.	R-5	R-3	R-LD5,				DD OI		DD I
Uses*	TC-2	CC	NC	01-3	0I-2	1	R-6	R-4	and RT	PD-H I	PD-SC(N)	PD-SC(C)	PD-OI	PD-MU	PD-I
<u> </u>															
USE GROUP B (pa	ge 3 of 3	3)													
Public Use Facility	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A
Research Activities	P,A	P,A		P,A	P,A	P,A						P,A	P,A	P,A	P,A
Residence Hall	P			P						P				P	
Residential Support Facility	P	P	P	P	P										
Rooming House	P	P	P	P	P		P	P	-	P				P	
School, Elementary or Secondary (See Article 12.6)	P	P	P	P	P		P	P	P	P	Р	P	P	P	
Shelter	P	P		P	P										
Tourist Home	P	P		P	P							P	P	P	

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						Zo	ning Districts_							
							R-1, R-1A,							
							R-2, R-2A,							
	TC-1				0I-1	R	R-3, R-4, R-5							
	and		NG	01.2	and		R-6, R-LD1	ъ.	DD 11		DD (G(G)	DD 01	DD 1411	DD 1
TT di	TC-2	CC	NC	01-3	0I-2	ı	R-LD5	RT	PD-H	PD-SC(N)	PD-SC(C)	PD-OI	PD-MU	PD-I
Uses* USE GROUP C (pa	nge 1 of 4	-)												
Accessory Use Customarily Incidental to a Permitted Group C Principal or Special U	A Use	A	A	A	A	A	A	A	A	A	A	A	A	A
Automotive Repair (Less Collision Service and Painting)	P,A	P,A	P,A			P,A				P,A	P,A		P,A	P,A
Automotive Repair	P,A	P,A				P,A					P,A		P,A	P,A
Automotive, Trailer, and Farm Implement Sales or Rental		P,A									P,A		P,A	
Bank	P,A	P,A	P,A	P,A	P,A					P,A	P,A	P,A	P,A	
Barber Shop/ Beauty Salon	P	P	P	P	P					P	P	P	P	

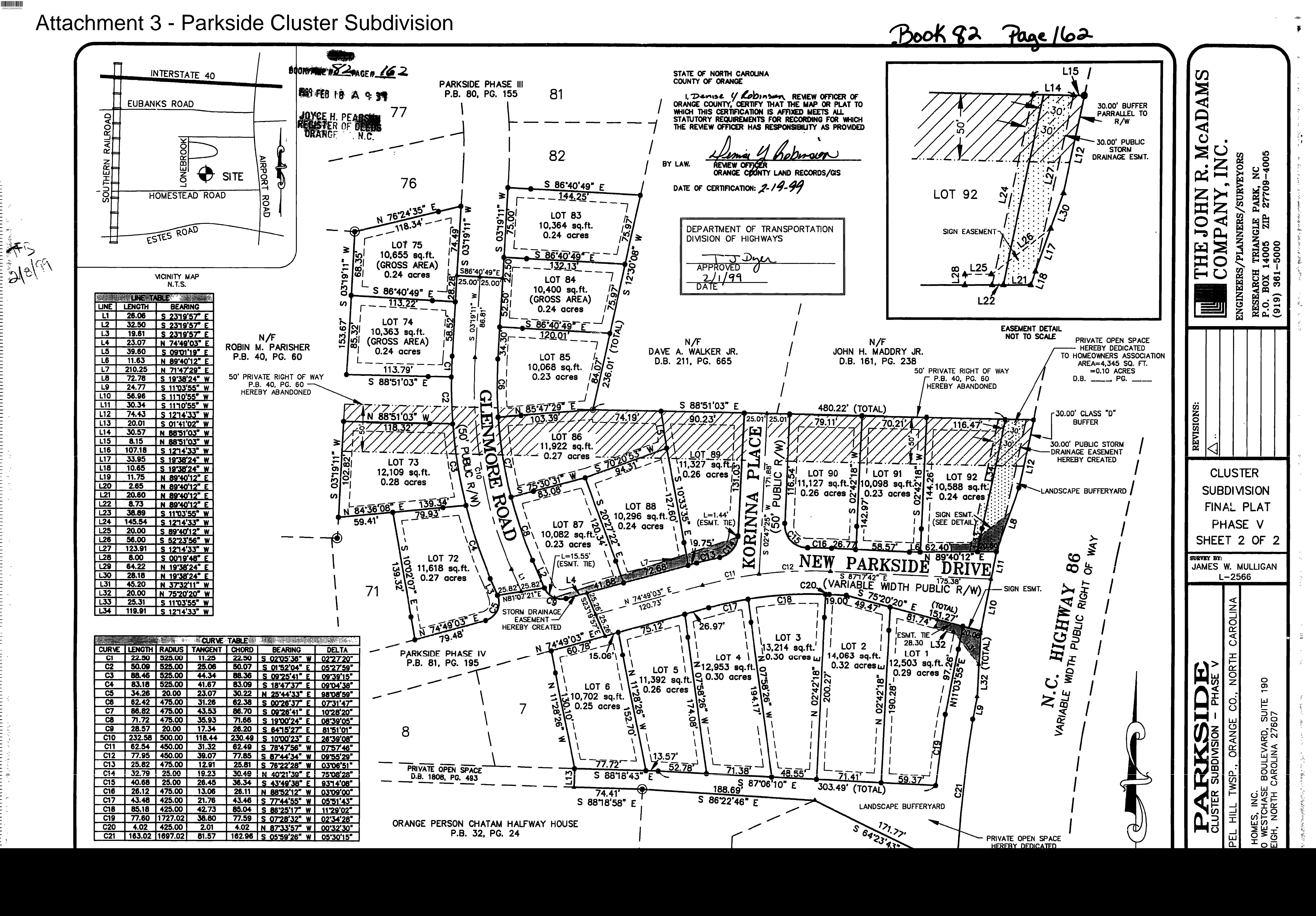
^{*} Key: "--" Not Permitted; "A" Permitted as an Accessory Use; "P" Permitted as a Principal Use if floor area of proposed development is less than 20,000 square feet and area of disturbed land is less than 40,000; otherwise, permitted as a Special Use in all districts except OI-3 and for all uses except existing Elementary and Secondary Schools. In OI-3 "P" Permitted as a Principal Use, "S" Permitted as a Special Use. For existing Elementary and Secondary Schools "P" Permitted as a Principal Use.

						Zo	oning Districts_							
							R-1, R-1A,							
	TC 1				OT 1	,	R-2, R-2A,							
	TC-1				0I-1		R-3, R-4, R-5							
	and TC-2	CC	NC	01.2	and 0I-2	т	R-6, R-LD1	рт	DD II	DD CC(N)		DD OI	DD MII	DD I
Uses*	1C-2	CC	NC	01-3	01-2	1	R-LD5	RT	РД-Н	PD-SC(N)	PD-SC(C)	PD-OI	PD-MU	PD-I
USE GROUP C (pag	ge 2 of 4	-)												
Business-Convenience	РА	P,A	P,A	A		A				P,A	P,A		P,A	
Business-General	P,A	P,A	P,A	A						P,A	P,A		P,A	
Business-Wholesale	A	P,A									P,A		P,A	
Car Wash		S	S											
Extraction of Earth Products								S						
Hangar, Medical Aircraft					P									
Kennel		P,A		A							P,A		P,A	
Landfill								S						
Maintenance and/or Storage Facility		A		P,A		P,A					A		A	P,A
Manufacturing, Light	A	P,A				P					A		A	P
Parking, Off-Street	P,A	A	A	P,A	A	A	A	A	A	A	A	A	A	A
Park/Ride		P,A	P,A	P,A	P,A	P,A	s S	S	A	P,A	P,A	P,A	P,A	P,A

						Zor	ning Districts_			J 6	<i>6</i>			
							R-1, R-1A,							
							R-2, R-2A,							
	TC-1				0I-1	R	-3, R-4, R-5							
	and				and		R-6, R-LD1							
	TC-2	CC	NC	01-3	0I-2	I	R-LD5	RT	PD-H	PD-SC(N)	PD-SC(C)	PD-OI	PD-MU	PD-I
Uses*										•				
USE GROUP C (pa	ge 3 of 4	4)												
Personal Services	P,A	P,A	P,A	A					A	P,A	P,A		P,A	
Place of Assembly: - up to 2,000														
seating capacity	P,A	P,A	A	P,A	A	A	A	A	A	A	P,A	P,A	P,A	A
- over 2,000 seating seating capacity	S	S		S							P	P		
Public Service Facilit	y P,A	P,A	P,A	P,A	P,A	P,A	S	S	A	P,A	P,A	P,A	P,A	P,A
Publishing and/or Printing	P,A	P,A		P,A	P,A	P,A					P,A	P,A	P,A	P,A
Accessory Radio or Television Transmitti and/or Receiving Ant	-	A	A	A	A	A	A	A	A	A	A	A	A	A
Radio or Television Transmitting and/or Receiving Facility		S		S	S	S					P,A	P,A	P,A	P,A

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						Zc	oning Districts_							
							R-1, R-1A,							
							R-2, R-2A,							
	ΓC-1				OI-1]	R-3, R-4, R-5							
	ınd				and		R-6, R-LD1							
	ГС-2	CC	NC	01-3	0I-2	I	R-LD5	RT	PD-H	PD-SC(N)	PD-SC(C)	PD-OI	PD-MU	PD-I
<u>Uses*</u>														
USE GROUP C (page	e 4 of 4	4)												
Recreation Facility:														
- Non-Profit	P	P	P	P,A	P	P	P	P	Α	P	P	P	P,A	P
- Commercial	P,A	P,A	P,A	P,A		A			A	P,A	P,A	P,A	P,A	Α
- Outdoor Commercial	Ś	Ś	Ś							P,A	P,A		P,A	
	~	~	~							- ,	- ,		- ,	
Service Station	S	S	S	A		A				P	P		P	A
Supply Yard		P,A				P,A					P,A		P,A	P,A
Temporary Portable Building:														
- Construction-Related	l A	A	A	A	A	A	A	A	A	A	A	A	A	A
- Not Construction-	S	S	S	S	S	S		А	А	Α		A		P
Related	S	S	S	S	S	S								Г
Veterinary Hospital or Clinic		P,A		A							P,A		P,A	
Vocational School	P,A	P,A		P,A							P,A	P,A	P,A	
Water and Wastewater Treatment Plant						P,A								P,A
Window, Drive-in,	S	S	S	S	S					A	A	A	A	A



Town of Chapel Hill Land Use Management Ordinance Section 6.27

6.27 - Short-term rentals.

6.27.1 Applicability. Unless otherwise specified, the requirements and provisions of this section shall apply to primary residence short-term rentals and dedicated short-term rentals (collectively called "short-term rentals" or "STRs"). This section shall not apply to other types of lodging uses, such as hotels, motels, tourist homes, or rooming houses.

Except as provided in this section, nothing herein shall be construed to prohibit, limit, or otherwise supersede existing local authority to regulate the short-term rental of property through general land use and zoning authority.

- *6.27.2 Purpose and Intent.* The purpose of this ordinance is to establish general requirements for the operation of short-term rentals. The purposes and intent of this ordinance are to:
 - (a) Promote the health, safety, and general welfare of the public by establishing minimum operational standards for the use of residential dwelling units as primary residence and dedicated short-term rentals.
 - (b) Preserve the character and stability of the historic districts immediately surrounding the downtown and campus areas around the University.
 - (c) Maintain the economic stability and neighborhood character of low-density residential zoning districts.
 - (d) Maintain housing opportunities for full-time residents by preventing the conversion of residential units into dedicated short-term rentals.
 - (e) Reduce nuisances to full-time residents by prohibiting dedicated short-term rentals in residential neighborhoods and the historic districts.
 - (f) Provide opportunities for the operation of dedicated short-term rentals in mixed-use and commercial zoning districts where there is greater availability of public services and access to major activity centers supporting tourists.
- 6.27.3 Definitions. For the purpose of this Section 6.27, the following are defined terms:

Primary residence: A dwelling unit, a single-family dwelling unit with accessory apartment, or a dwelling unit with an attached duplex unit owned by the same property owner, in which the host resides a majority of the year (183 days per year or 50 percent or more of the time).

Short-term rental (STR): the rental of a dwelling unit that is rented in whole or in part for fewer than thirty (30) consecutive days for a fee or other valuable consideration, or a lodging unit contained in a building that primarily contains dwelling units. A building that contains more lodging units than dwelling units, and at least three (3) lodging units, shall be considered a Tourist Home or Hotel or motel as defined in Appendix A.

Short-term rental (STR), dedicated: A residential dwelling unit(s) located on a property not used as a primary residence in which the dwelling unit is rented in whole or in part for fewer than thirty (30) consecutive days for a fee or other valuable consideration, or a lodging unit contained in a building that

primarily contains dwelling units.

Short-term rental (STR), host: see definition for STR operator.

Short-term rental (STR) hosting platform: A public platform that allows an operator to advertise a residential dwelling unit for use as a short-term rental and facilitates the booking transaction between the operator and the guest.

STR Designated Local Responsible Party: The local contact responsible for responding to emergency complaints or issues stemming from the use of the dwelling unit as a short-term rental.

Short-term rental (STR) operator. A property owner or authorized agent advertising, managing, and/or facilitating the use of the property as a primary residence STR or dedicated STR.

Short-term rental (STR), primary residence: A primary residence rented in whole or in part for fewer than thirty (30) consecutive days for a fee or other valuable consideration.

Short-term rental (STR) property owner: The owner of record of the short-term rental property as recorded in the Orange County Register of Deeds. The property owner maybe an individual or individuals or any form of business entity recognized by the State of North Carolina. If the property owner is a form of business entity, it shall maintain current registration with the North Carolina Secretary of State.

Short-term rental (STR) permit. The zoning compliance permit issued by the town to property owners or designated agents to certify that a residential dwelling unit or accessory structure may be used as a primary residence STR or dedicated STR.

6.27.4 Permitting.

- (a) A short-term rental (STR) permit shall be assigned to each residential dwelling unit that satisfies the requirements of this section and is used as a primary residence STR or dedicated STR for more than fourteen (14) days per calendar year. A permit number shall be assigned to each STR, and the permit number shall be clearly noted in any rental advertisements.
- (b) STR permits shall be renewed annually before the expiration date. Failure to timely renew may result in expiration of the STR permit. The Town Manager may consider a grace period.
- (c) No more than two (2) units or three percent (3%) of units, whichever is greater, in a multifamily development shall be used as a Dedicated STR. For the purposes of this section, "multifamily development" is defined as a residential development consisting of a building or group of buildings containing three (3) or more dwelling units on one zoning lot.
- (d) *Grounds for denial.* The town manager may deny an application for a short-term rental (STR) permit if any of the following has occurred:
 - (1) The applicant submits an incomplete application; or
 - (2) The proposed short-term rental fails to meet a specified standard set forth in this appendix.

The applicant may appeal the denial of a short-term rental permit to the board of adjustment pursuant to the requirement set forth in the Chapel Hill Land Use Management Ordinance 4.10.

6.27.5 Operational Requirements.

(a) Rentals.

- (1) Operators of dedicated STRs consisting of residences with an accessory apartment may, at any given time, offer for short-term rental either the single-family dwelling unit or the accessory apartment, or both units. The simultaneous rental of both the single-family dwelling unit and the accessory apartment to more than one party under separate contracts is prohibited. The units may, however, be rented out together to one party under a single contract.
- (2) Operators of primary residence STRs consisting of single-family residences with an accessory apartment or a duplex unit on the same lot may rent the single-family dwelling unit, the accessory apartment, or one dwelling unit in the duplex as a short-term rental. The simultaneous rental of more than one dwelling unit on the zoning lot to more than one party under separate contracts is permitted only when the STR operator is onsite.
- (b) *Maximum Overnight Occupancy*. The overnight occupancy shall not exceed two (2) persons per bedroom plus two (2) additional persons, excluding children under twelve (12) years of age. The occupancy limit shall be posted prominently within the short-term rental and be included in property listings on hosting platforms.
- (c) STR Designated Local Responsible Party. Operators shall designate a short-term rental local responsible party available to respond within two (2) hours to handle emergency situations stemming from the short-term rental use. The responsible party shall be available 24 hours per day and seven (7) days a week during all times the property is under rental. The name, telephone number, and email address of the designee shall be conspicuously posted within the short-term rental and match the name, telephone number, and email address provided in the short-term rental permit. The designee may be the property owner. A designee's repeated failure to timely respond to renter issues, resident concerns, or town initiated communications may result in revocation of the STR permit.
- (d) *Noise*. The noise regulations set forth in <u>Chapter 11</u>, Article III of the Code of Ordinances shall apply to short-term rentals. Among other requirements, Article III regulates nuisance noises and makes it unlawful to create, cause, or allow the continuance of any unreasonably loud noise, particularly during nighttime, which interferes seriously with neighboring residents' reasonable use of their properties.
- (e) *Parking*. One parking space per bedroom plus one parking space should be provided for each STR. Each STR is further subject to the parking regulations in LUMO_Section 5.9.
- (f) Special Events. STR operators are responsible for securing the necessary permits for any $\frac{55}{55}$

- special events that may impact nearby residents or businesses.
- (g) *Signs*. Signs on the property advertising it as the location of a short-term rental are prohibited.
- (h) *Taxes*. Short-term rental operators are responsible for paying the state sales tax, personal property taxes, the transient occupancy tax and any other applicable taxes and fees as established by law.
- (i) *Minimum Rental Age*. An STR operator shall ensure that the primary responsible renter of a short-term rental shall be at least eighteen (18) years old.
- (j) *Minimum Rental Duration*. The operator shall not make the short-term rental available for a period of less than eighteen (18) hours, which period shall include the overnight hours.

6.27.6. Enforcement.

- (a) *Enforcement*. The procedures for the enforcement of this ordinance are set forth in LUMO Section 4.13 Violations and penalties.
- (b) *Penalties and Remedies for Violations*. The penalties and remedies for violations of this ordinance are set forth in LUMO <u>Section 4.13</u> Violation and penalties.
- (c) *Permit Revocations*. The town manager may revoke a STR permit if he/she determines the conditions are being violated as outlined in LUMO Section 4.9.5.
- (d) *Operating Without a Permit*. Any person who operates a short-term rental property without a valid STR permit shall be in violation of LUMO Section 4.9.8.
- (e) Expiration of Short-Term Rental (STR) Permit. Approval of the STR permit shall expire upon failure to comply with the annual renewal requirement in section 6.27.4.
- (f) Action for Recovery of Civil Penalty. If payment of a civil penalty is not made or if violations are not cured or corrected within the time specified in the citation or within thirty (30) days of the conclusion of an appeal, the town may initiate a civil action in the nature of a debt. The manager is authorized to reach equitable settlement of unpaid penalties.

6.27.8 Existing short-term rentals.

- (a) Any short-term rental existing at the time of the adoption of this ordinance ("existing STR") is subject to the requirements of sections 3.7, 4.9.8, 6.27, and all other relevant requirements of the LUMO.
- (b) Any existing STR that is not a permitted use under <u>section 3.7</u> shall nevertheless be allowed to continue operating as a short-term rental for eighteen months after the effective date of this ordinance, provided its continued operation on or after December 23, 2022, shall be in violation of the LUMO.

(Ord. No. 2021-06-23/O-9, § 3)

Town of Chapel Hill Short-Term Rentals Webpage

Short Term Rentals

A Short Term Rental (STR) is the rental of all or part of a residential dwelling unit for a period of less than 30 days for compensation. These rentals are typically advertised on hosting platforms, such as Airbnb, VRBO, and HomeAway.

There are two types of STRs:

Primary Residence STR: Rental of a dwelling unit in which the STR operator lives on site a minimum of 183 days per year. Primary Residence STRs are permitted in almost all zoning districts. Additionally, please check your Homeowners Association to ensure STRs are permitted in your development.

Dedicated STR: Rental of a dwelling unit that is not used as a primary residence or the STR operator lives on site less than 183 days per year. Dedicated STRs are limited to commercial and mixed-use zoning districts.

Determining Your STR Type:

Primary Residence STR Dedicated STR I live on site at least 183 days/year I live on site less than 183 days/year · I do not live on site About me: · I provide unhosted rentals · I provide hosted or unhosted rentals Spare bedroom(s) House House House + Accessory Apartment About my rental: **Accessory Apartment** Duplex Unit(s) · Duplex unit attached to your residence · Apartment/Condo/Townhouse Apartment/Condo/Townhouse

To determine where the two types of STRs are allowed:

- You can use our **STR Map**, which shows which type of STR is allowed in each zoning district.
- To report a nuisance, please visit our <u>Good Neighbors page</u>

Permits for a Short Term Rental

Staff is working on developing a permit for STRs. It will be made available online in fall 2021. Existing STRs may continue operation and will be required to obtain a permit by December 23, 2022.

- STR permit will be required for all homes rented more than 14 days/year
- Assigned STR permit number shall be listed in any rental advertisements
- STRs are limited to no more than 2 units or 3% of units, whichever is greater, in a multifamily development (those having +3 units)

Operating a Short Term Rental

You can find the operational requirements for STRs in <u>Section 6.27 of the Land Use Management Ordinance</u>. We have summarized these requirements in the table below:

Operational Requirement:

Responsibility of STR Operator:

Simultaneous Rentals

- Simultaneous rentals only permitted when STR operator is on-site with guests in Primary Residence STRs
- Simultaneous rentals are prohibited in dedicated STRs.

Maximum Overnight Occupancy

- 2 person(s)/bedroom + 2 people
- · Does not include children under 12 years of age

STR Designated Local Responsible Party

- Shall be available to respond within 2 hours to handle emergency situations
- Shall be available at all times that STR is rented
- Name, telephone number, and email address shall be posted in the
- · May be the property owner

Noise

· Must comply with Town Noise Ordinance

Parking

• 1 space/bedroom + 1 parking space for each STR unit

Special Events

 Permits may be required for special events impacting nearby residents or businesses

Signs

· Signs advertising STR use are prohibited

Taxes

· Payment of state sales tax, personal property taxes, transient occupancy tax, and any other applicable taxes and fees

Minimum Rental Age

Minimum of 18 years for primary guest

Minimum Rental Duration

· Minimum of 18 hours, including overnight

Short Term Rental Ordinance Development

The Chapel Hill Town Council approved the short-term rental ordinance on June 23, 2021. For more information, please see Chapel Hill ENews.

Past Meeting Dates:

Date and Group: Location: Materials Related to STRs: Time: **Short Term Town Council** Virtual Meeting June 23, Rental 2021 Meeting **Agenda** Survey Results **Meeting Materials** Thank you so Staff Report - Revised 6.21.2021 much for all of those that Resolution to Amend the Fee participated! To Schedule for STR Permitsfind out more 06.22.2021 about the survey Ordinance A - Revised results, review 6.21.2021 documents below June 16, Town Council Virtual Meeting **Agenda** 2021 Meeting Meeting Materials Virtual Open House STR

2:15 PM		Overlay Districts	Town of Chapel Hill, NC	
May 19, 2021	Town Council Meeting	Virtual Meeting	<u>Agenda</u>	Survey Results - Staff Analysis
ZUZ I	Meening		Meeting Materials	9.18.2020
			Planning Commission STR	<u>Virtual Open</u> House STR
			<u>Letter to Town Council -</u> 5.18.2021	Survey Results -
May 4, 2021	Planning	Virtual Meeting	Agenda •	
Way 4, 2021	Commission	virtual Wooting		Rental- Survey Results- Staff
	Meeting		Meeting Materials	<u>Analysis 12.11.19</u>
			<u>Video</u>	<u>STR Survey</u> —Results - Excel
April 19, 2021 from 5:15pm-	Public Information Meeting	Virtual Meeting	DRAFT Dedicated and Primary Residence STRs Ordinance - 4.16.2021	Data
6:15pm			STR Summary Handout 4.16.2021	
			Staff Presentation	
			<u>Video</u>	
			Q&A - Follow-up on community questions	
March 24,	Town Council	<u>Virtual Meeting</u>	<u>Agenda</u>	_
2021 at 7:00pm	Meeting		Meeting Materials	
March 17, 2021 at	Council Work Session	<u>Virtual Meeting</u>	<u>Agenda</u>	_
6:30pm	00331011		Meeting Materials	
			<u>Video</u>	
March 5, 2021	Council Committee on Economic Sustainability (CCES)	<u>Virtual Meeting</u>	See CCES Meeting Page	
December 2,	Council Work Session	Virtual Meeting	Meeting Materials	
2020, 6:30pm	Session			
October 2, 2020, 8am	Council Committee on Economic Sustainability	Virtual Meeting	See CCES meeting page	
June 17, 2020 at 7pm	Town Council	Virtual Meeting	<u>Agenda</u>	
2020 at 1 pill			Meeting Materials	
STR Open House CANCELLED		<u>Flyer</u>		
March 6 at	Council Committee	Chapel Hill Public Library, Meeting	<u>Agenda</u>	-
8am	on Economic Sustainability	Room B	Meeting Materials	

2.13 FW		<u> </u>	эмп от Спарет пії, МС
February 5 from 4:30pm-	STR Task Force	Chapel Hill Public Library, Meeting Room B	<u>Agenda</u>
6:30pm		1.00 2	STR Task Force Summary of Discussion - 2.5.2020
			STR Next Steps Presentation - 2.5.20
			STR Task Force FAQs
			Public Comment received as of 2.6.2020
			DRAFT Action Minutes- 1.15.20
			<u>Final Task Force Findings - 2.18.2020</u>
January 22	Town Council	Town Hall, Council Chamber	<u>Agenda</u>
at 7pm			<u>Update on Short Term Rental</u> <u>Task Force</u>
January 15	STR Task Force	Chapel Hill Public Library, Meeting Room A	<u>Agenda</u>
from 4:30pm- 6:30pm		NOUTH	STR Task Force Draft Recommendations
December 11 from 4:30pm-	STR Task Force	Chapel Hill Public Library, Meeting Room B	<u>Agenda</u>
6:30pm		KOOIII D	Adopted Action Minutes- 12.11.19
			STR Task Force- Homework Assignment
			STR Task Force Homework Results 12.11.19
			STR Intro Presentation - 12.11.19
			STR Operational Regulations Presentation - 12.11.19
			Public Comment through 12.12.19
November 6	STR Task Force	Carolina Coworking. 206 West	<u>Agenda</u>
from 4:30pm- 6:30pm		Franklin Street, Patio Entrance, Lower Level, Chapel Hill, NC 27516	Adopted Action Minutes
			STR Intro Presentation
			Regulating STRs Presentation
			Town Council Resolution (2019- 09-11/R-8) - Public Engagement and Task Force Charge
			Terms & Definitions Handout
			Ordinance Development Handout 11.6.19
			Affordable Housing Statistics
			STR Location Map
			Summary of STR Regulations
			Task Force Activity Worksheets
			Public Comment received prior to 11.6.19

October 16 from 4:00pm-	STR Task Force	Tuscany Room at The Siena Hotel. 505 East Franklin Street Chapel Hill,	<u>Agenda</u>
6:00pm		NC 27514	Adopted Action Minutes
			Advisory Board Orientation
			Checking Inn
			STR Intro Presentation
			Public Comment - 10.16.19
October 2 at 7:00pm	Town Council Public Hearing	Town Hall, Council Chamber	Meeting Materials
September 23 at 5:30pm- 7:30pm	Staff	Seymour Senior Center, 2551 Homestead Road	<u>Flyer</u>
September 11, 2019 at 7:00pm	Town Council Public Hearing	Town Hall, Council Chamber	Meeting Materials
September 10 at 6:30pm	Historic District Commission (HDC)	Town Hall, Council Chamber	Meeting Materials
September 3 at 7:00pm	Planning Commission	Town Hall, Council Chamber	Meeting Materials
August 27, 2019 at 6:30pm	Transportation & Connectivity Board (T-CAB)	Town Hall, Room 102	Meeting Materials
August 27, 2019 at 6:30pm	Community Design Commission (CDC)	Town Hall, Council Chamber	Meeting Materials
June 19, 2019 at 7:00pm	Town Council Public Hearing	Town Hall, Council Chamber	Meeting Materials
June 7, 2019 at 8:00am	Council Economic Sustainability Committee	Chapel Hill Public Library, Room B	Meeting Materials