

September 22, 1987  
Amended April 2, 1990  
Amended September 30, 1998  
Amended February 2, 1999  
Amended August 20, 2002  
Amended June 24, 2003

## **JOINT PLANNING AGREEMENT**

THIS AGREEMENT, made and entered into this 2nd day of November, 1987, by and between the COUNTY OF ORANGE, a political subdivision of the State of North Carolina, the TOWN OF CHAPEL HILL, and the TOWN OF CARRBORO, municipal corporations duly created and existing under the laws of North Carolina.

### **WITNESSETH:**

In consideration of the public benefits expected to flow from the cooperative efforts of the parties in establishing a coordinated and comprehensive system of planning within their respective areas of public concern, the parties to this Agreement hereby mutually agree as follows:

### **ARTICLE 1. PURPOSE, DEFINITIONS, EFFECTIVE DATE, LINKAGE**

#### **Section 1.1 Purpose of the Agreement**

The purpose of this Agreement is to establish a method of coordinated and comprehensive planning in the Orange County-Chapel Hill-Carrboro Joint Planning Area, as defined herein.

#### **Section 1.2 Definitions**

- A. Joint Planning Area. The area within the Rural Buffer and Transition Areas designated on the Joint Planning Area Land Use Map lying outside the extraterritorial planning jurisdiction of Chapel Hill and Carrboro.
- B. Joint Planning Area Land Use Plan. The Orange County-Chapel Hill-Carrboro Joint Planning Land Use Plan dated April, 1986, adopted by Orange County August 19,

1986 (revised October 13, 1986), amended May 4, 1987 and as it may be amended from time to time.

- C. Joint Planning Area Land Use Map. The Orange County-Chapel Hill-Carrboro Joint Planning Area Land Use Map, adopted August 19, 1986 (revised October 13, 1986) and as it may be amended from time to time.
- D. Carrboro Joint Development Review Area (CJDA). The area lying generally west of a division of the Joint Planning Area and shown as such on the copy of the Joint Planning Area Land Use Map attached to this Agreement, labeled Exhibit A, and incorporated herein by reference. Exhibit A is appended to this Agreement solely for the purpose of indicating the CJDA and the CHJDA boundary. Exhibit A is an accurate copy of the Joint Planning Area Land Use Map as of the effective date of this agreement. However, it will only be changed as the Joint Planning Area Land Use Map is amended if the Map amendments change the location of either the CJDA or the CHJDA.
- E. Chapel Hill Joint Development Review Area (CHJDA). The area lying generally east of a division of the Joint Planning Area and shown as such on the copy of the Joint Planning Area Land Use Map attached to this Agreement, labeled Exhibit A, and incorporated herein by reference. Exhibit A is appended to this Agreement solely for the purpose of indicating the CJDA and the CHJDA boundary. Exhibit A is an accurate copy of the Joint Planning Area Land Use Map as of the effective date of this agreement. However, it will only be changed as the Joint Planning Area Land Use Map is amended if the Map amendments change the location of either the CJDA or the CHJDA.

- F. Joint Courtesy Review Area. A portion of the northern Rural Buffer Area bounded on the east by I-40 and shown as such on Exhibit A.
- G. Rural Buffer. That portion of the Joint Planning Area designated on the Joint Planning Area Land Use Map as such and designated in the Joint Planning Area Land Use Plan as Rural Residential, Agricultural, Public/Private Open Space, Resource Conservation, Extractive/Disposal Use and the overlay district designated University Lake Watershed Area. This area is further defined as being a low-density area consisting of single-family homes situated on large lots having a minimum size of two (2) acres. The Rural Buffer is further defined as land which, although adjacent to an Urban or Transition area, is rural in character and which will remain rural, contain low-density residential uses and not require urban services (public utilities and other town services).
- H. Transition Area. That portion of the Joint Planning Area designated on the Joint Planning Area Land Use Map as such. This area is further defined as being in transition from rural to urban or already urban in density. Urban services (public utilities and other town services) are now provided to this area or are projected to be provided to this area. The portion of the Transition Area located in the CJDA shall be further divided into Transition Area I and Transition Area II on the Joint Planning Area Land Use Map. The Joint Planning Area Land Use Plan shall provide that, within Transition Area II, no tract may, after the effective date of this Agreement, be approved for development at a density that exceeds one (1) housing unit per gross acre until at least 75% of the gross land area of Transition Area I consists of any combination of:

1. lots containing one acre or less;
2. residential developments approved for development at a density of at least one unit per acre;
3. streets, roads and utility easements located outside of lots containing one acre or less;
4. lots or tracts that are used for commercial, industrial, institutional or governmental purposes;
5. tracts that are owned by the University of North Carolina or other non-profit entities and that are not available for development.

This density limitation does not apply to Village Mixed Use districts or Office/Assembly districts as provided for in the Facilitated Small Area Plan for Carrboro's Northern Study Area.

- I. Development Permit. Major subdivision preliminary plat approval and any discretionary permit (whether called conditional or special use permit or some other term) issued by the Orange County Board of Commissioners, the Chapel Hill Town Council, or the Carrboro Board of Aldermen.
- J. Involuntary Annexation. Annexation authorized or undertaken pursuant to G.S. 160A-31, Article 4A, Part 3.
- K. Voluntary Annexation. Annexation authorized or undertaken pursuant to G.S. Chapter 160A-31 or G.S. Chapter 160A, Article 4A, Part 4.

### **Section 1.3 Effective Date and Duration**

- A. This Agreement, except as provided below, shall become effective on the effective date of an Orange County ordinance (1) adopting this Agreement (after it has been

approved by Chapel Hill and Carrboro); (2) amending Orange County's Zoning Ordinance (including Zoning Atlas) and Subdivision Regulations as prescribed in Section 2.1 of this Agreement; (3) amending the Joint Planning Area Land Use Plan to reflect the existence of Transition Area I and Transition Area II; and (4) amending the Joint Planning Area Land Use Map to show the location of Transition Area I and Transition Area II as indicated on Exhibit A. Any previously adopted Agreements shall become null and void upon this date. The Appendix to this Agreement shall become effective upon the execution of this Agreement.

B. This Agreement, including any Appendix hereto, shall remain in effect until terminated by mutual agreement or by withdrawal of any party. Subject to termination provisions of this Agreement, annexation provisions of this Agreement shall be valid for not more than 20 years and may thereafter be renewed. A party may not withdraw until it holds a public hearing on the proposed withdrawal followed by written notices to the other parties within thirty (30) days of the public hearing. The withdrawal shall be effective one (1) year following receipt by the other party of the written notice. Withdrawal of one party shall not invalidate the Agreement with respect to remaining parties.

C. Upon execution of this Agreement, the parties agree that each will take, in a timely manner and without unnecessary delay, all steps (including but not limited to preparation and adoption of Zoning maps, appointment of Transition Area representatives to Planning Boards and Boards of Adjustment, and all required land use ordinance amendments) required to cause this Agreement to become effective, and will notify the other parties when those steps have been taken. Orange County will

notify the Towns by resolution when this Agreement becomes effective. This Agreement may become effective as to two parties pending completion of steps necessary to make effective a 3-party Agreement.

**Section 1.4 Linkage with the Water and Sewer Management, Planning and Boundary Agreement**

The Water and Sewer Management, Planning and Boundary Agreement (hereinafter WSMPBA) is incorporated into this agreement by reference. A copy of the WSMPBA is Exhibit B to this agreement. Termination of the WSMPBA does not terminate this agreement. The withdrawal by a party from the WSMPBA does not constitute withdrawal from this agreement. Termination of this agreement or withdrawal from this agreement can only be accomplished as provided in this agreement.

**ARTICLE 2. ADOPTION, ADMINISTRATION AND  
AMENDMENT OF STANDARDS**

**Section 2.1 Standards Within the Transition Area**

- A. Chapel Hill shall prepare a Zoning Map for that portion of the Transition area that lies within the CHJDA and shall recommend its adoption by Orange County which, upon approval and adoption as prescribed in Subsection C of this Section, shall become part of the Orange County Zoning Ordinance. The Zoning Map shall be prepared using zoning districts which correspond to the text of the Chapel Hill Land Development Ordinance and which correspond with the density designations and plan classifications as prescribed in the adopted Joint Planning Area Land Use Plan and the adopted Joint Planning Area Land Use Map for the CHJDA.

- B. Carrboro shall prepare a Zoning Map for that portion of the Transition area that lies within the CJDA and shall recommend its adoption by Orange County, which upon approval and adoption as prescribed in Subsection C of this Section, shall become part of the Orange County Zoning Ordinance. The Zoning Map shall be prepared using zoning districts which correspond with the density designations and plan classifications as prescribed in the adopted Joint Planning Area Land Use Plan and the adopted Joint Planning Area Land Use Map for the CJDA. Transition Area II shall have density limited pursuant to Section 1.2H.
- C. Upon completion of the Zoning Maps referred to in Section 2.1A and B above, Orange County shall amend its Zoning Atlas in accordance with said Maps. Orange County shall also adopt by reference (i) the Chapel Hill Land Development Ordinance and make its provisions applicable to that portion of the Transition area located within the CHJDA, and (ii) the Carrboro Land Use Ordinance and makes its provisions applicable to that portion of the Transition area located within the CJDA.

## **Section 2.2 Standards Within the Rural Buffer**

Within the Rural Buffer, the Orange County Zoning Ordinance (including Zoning Atlas) and Subdivision Regulations that are in effect on the effective date of this Agreement shall remain in effect unless amended in accordance with Section 2.6 of this Agreement.

## **Section 2.3 Permit Administration Within the Transition Area**

- A. Except as otherwise provided in Sections 2.5 and 2.6, the Town of Chapel Hill and the Town of Carrboro, respectively, shall perform all functions related to the administration of the ordinances referenced in Section 2.1C. Subject to the remainder of this Section, Chapel Hill and Carrboro shall administer the referenced ordinances just as if the land

were located within the respective Towns' planning jurisdictions. Administration shall include, but not be limited to, the following:

1. Receipt and processing of applications;
2. Issuance of any required permits and certifications;
3. Review and approval of required site/construction plans;
4. Conducting necessary site/building inspections;
5. Enforcement of all standards;
6. Any other acts or things necessary to administer the Ordinances;

and shall be carried out in a manner so as to insure that a developer complies with all applicable ordinance requirements and the terms and conditions of any permit issued by the respective towns. The towns may also charge fees for processing applications, conducting site/construction plan reviews, and carrying out site/building inspections in accordance with fee schedules applicable within their respective planning jurisdictions.

- B. Whenever Chapel Hill or Carrboro receives an application for a development permit as defined in this Agreement relating to land within their respective portions of the Transition area, it shall forward copies of the application to Orange County for review. The towns shall establish timetables to insure that Orange County has an opportunity to make recommendations regarding such applications within the framework of the County's regularly scheduled meeting dates. To the extent possible, the timetables of the County and the towns shall provide for simultaneous review to expedite application processing; provided, however, the towns may not vote to issue or deny a permit until they have received the recommendations of Orange County or until the expiration of forty-five (45) days after orange County has received the application, whichever comes first.

C. From time to time a development moratorium is appropriate in order to address exigent circumstances or the results of a study of density designations, plan classifications or other matters prescribed by the adopted Joint Planning Area Land Use Plan, the Joint Planning Area Land Use Map or any of the land use ordinances of the Town of Chapel Hill or the Town of Carrboro. To preserve the status quo pending the consideration of a land use ordinance amendment designed to address exigent circumstances or the results of a study, the Town of Carrboro or the Town of Chapel Hill may propose the adoption of a development moratorium pending consideration of the ordinance amendment. With respect to the CJDA, any proposed moratorium shall not be effective until adopted by the Town of Carrboro and approved by Orange County following a public hearing conducted by the Town of Carrboro. With respect to the CHJDA, any proposed moratorium shall not be effective until adopted by the Town of Chapel Hill and approved by Orange County following a public hearing conducted by the Town of Chapel Hill. Any such adopted and approved moratorium shall initially be no more than six months in duration and may be extended one time for no more than six months for the reasons and following the procedures prescribed here.

#### **Section 2.4 Permit Administration in the Rural Buffer**

- A. Except as otherwise provided in Section 2.6 and the remaining provisions of this Section, Orange County shall perform all functions related to the administration of the ordinances referenced in Section 2.2 in the same manner as if the land were located outside the Joint Planning Area.
- B. Whenever Orange County receives an application for a development permit relating to land located within the CHJDA Rural Buffer or the Joint Courtesy Review Area, it shall

forward copies of the application to Chapel Hill for review. Similarly, whenever Orange County receives an application for a development permit relating to land located within the CJDA Rural Buffer or the Joint Courtesy Review Area, it shall forward copies of the application to Carrboro for review. The County shall establish timetables to insure that the towns have an opportunity to make recommendations regarding such applications within the framework of their respective regularly scheduled meeting dates. To the extent possible, the timetables of the respective towns and the County shall provide for simultaneous review to expedite application processing; provided, however, Orange County may not vote to issue or deny a permit until it has received the recommendations of the respective Towns or until the expiration of forty-five (45) days after the respective towns have received the application, whichever occurs first.

- C. From time to time a development moratorium is appropriate in order to address exigent circumstances or the results of a study of density designations, plan classifications or other matters prescribed by the adopted Joint Planning Area Land Use Plan, the Joint Planning Area Land Use Map or any of the land use ordinances of Orange County. To preserve the status quo pending the consideration of a land use ordinance amendment designed to address exigent circumstances or the results of a study, Orange County may propose the adoption of a development moratorium pending consideration of the ordinance amendment. Any proposed moratorium shall not be effective until adopted by Orange County following a public hearing conducted by Orange County. Any such adopted moratorium shall initially be no more than six months in duration and may be extended one time for no more than six months for the reasons and following the procedures prescribed here.

**Section 2.5 Enforcement Remedies.**

- A. Permit revocation, if necessary and authorized by ordinance, shall be handled by the same individual or board authorized to issue the original permit.
- B. Within those portions of the Joint Planning Area where the ordinances specified in Section 2.1C are administered by the respective towns, enforcement efforts through the use of civil penalties, criminal penalties or injunctive relief shall be initiated by the respective towns. The towns shall have the duty to defend at their own expense and shall indemnify and hold harmless, to the extent they can legally do so, Orange County, its Board of Commissioners, its advisory boards, its staff and all members of its boards and staffs, in their official and individual capacities, from any and all claims, actions, proceedings, expenses, damages or liabilities, including attorneys' fees and courts costs, resulting from the towns' administration of the ordinances specified in Sections 2.1(C).
- C. Orange County shall notify the respective towns and the towns shall notify Orange County as soon as practicable thereafter of any such claim, action or proceeding.

**Section 2.6 Text and Map Amendments**

- A. Proposed amendments to the Joint Planning Area Land Use Plan and/or the Joint Planning Area Land Use Map may be initiated by (i) Orange County or (ii) the Towns or any other party by filing a request for such an amendment with Orange County. Any petition or request to amend the Joint Planning Area Land Use Plan received by the County shall be referred to the respective Towns. No such amendment may become effective until after it has been adopted by Orange County, Chapel Hill and Carrboro following a joint public hearing by all three governing bodies.

B. Except as provided herein, proposed amendments to the text of the Orange County Zoning and Subdivision Ordinances that are applicable within the Rural Buffer as well as proposed changes in zoning district classifications (i.e., zoning map changes) that affect property within the Rural Buffer shall be initiated and adopted in accordance with the procedures set forth in those County ordinances. All such proposals that affect the CHJDA shall be referred to Chapel Hill for review and recommendation, and all such proposed amendments that affect the CJDA shall be referred to Carrboro for review and recommendation. Orange County may not adopt such proposed amendments until the respective Towns have made their recommendations, or until the expiration of thirty (30) days following such referral, whichever occurs first.

C. Whenever Chapel Hill proposes to amend the text of its Land Development Ordinance, and whenever Carrboro proposes to amend the text of its Land Use Ordinance, the respective towns shall deliver a copy of the full text of the proposed amendment to Orange County not later than thirty (30) days before the date of the public hearing on any such amendment. However, with the written consent of the Orange County Manager or his designate, this thirty (30) day period may be reduced to not less than ten (10) days.

Unless Orange County files with the respective towns a written objection on or before the date of the public hearing on the proposed ordinance amendment, then adoption of the amendment by the respective town shall automatically effect a corresponding amendment to the applicable ordinance adopted by reference by Orange County as provided in Section 2.1C. Any such objection shall be based on a determination by Orange County that the proposed amendment is inconsistent with the adopted Joint Planning Area Land Use Plan. If a town adopts an amendment despite Orange County's objection, then it shall refer such

amendment to Orange County with a request that the County make corresponding changes as expeditiously as reasonably possible so that the town may continue to enforce within its portion of the Transition area the same standards that it enforces within its own planning jurisdiction. In the event of objection by Orange County as provided herein, no such amendment shall be effective within the Joint Planning Area until it is adopted by Orange County.

- D. Orange County may not unilaterally amend the text of its zoning or subdivision ordinances applicable to the Transition areas (i.e., those ordinances adopted by reference pursuant to Section 2.1C). Amendments to the ordinances referenced in Section 2.1C by Orange County may be accomplished only pursuant to subsection C above (including adoption by Orange County following a request to do so by the applicable town). Any petitions or request to amend these ordinances received by the County or initiated by the County shall be referred to the respective Towns.
- E. With respect to property that is located within the CHJDA Transition area, changes in zoning classifications may not be made unless and until an ordinance approving such zoning map amendment has been approved both by Orange County and Chapel Hill following a joint public hearing by the two governing bodies. With respect to property that is located within the CJDA Transition area, changes in zoning classifications, including the creation of or changes to the ‘floating’ conditional use districts designed to implement the recommendations of the ‘Facilitated Small Area Plan for Carrboro’s Northern Study Area’ (Village Mixed Use conditional use districts or Office/Assembly conditional use districts) may not be made unless and until an ordinance approving such zoning map amendment has been approved both by Orange County and Carrboro

following a joint public hearing by the two governing bodies. Requests for rezonings within the Transition areas that are filed with the County shall be referred to the respective towns to initiate the amendment process.

- F. Proposed amendments to the text of this Agreement shall not become effective until approved by the towns and an Orange County ordinance adopting the amendment is adopted by Orange County.

### **Section 2.7 Representation of Transition Area Residents**

Chapel Hill shall revise its Land Development Ordinance and Carrboro shall revise its Land Use Ordinance to provide that at least one resident of each town's respective Transition area shall be appointed to each town's respective planning board and board of adjustment, in the same manner as representation of extraterritorial planning area residents is provided for in each Town's ordinance.

## **ARTICLE 3. LIMITATIONS ON ANNEXATIONS**

### **Section 3.1 No Annexation Into Rural Buffer**

Except pursuant to the written consent of all parties to this Agreement, neither Chapel Hill nor Carrboro may annex into the Rural Buffer (whether by voluntary or involuntary annexation or any other method authorized by law) nor shall any party seek special legislation accomplishing such annexation.

### **Section 3.2 No Annexation by One Town Into Another Town's Transition Area**

Except pursuant to the written consent of the other town, neither Chapel Hill nor Carrboro may annex into the other's Transition area (whether voluntary or involuntary annexation) or

any other method authorized by law, nor shall either Town seek special legislation accomplishing such annexation.

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