

**EXHIBIT A**  
**ZPH2020-00026**  
**CONDITIONS OFFERED**

In the Matter of:

ZPH2020-00026

20 South Bear Creek Road

20 South Bear Creek Conditional Use Permit & Planned Unit Development

20 South Bear Creek PUD shall, upon approval, be subject to the following conditions of approval:

a. In General:

- i. Prior to commencement of land disturbance and construction activity within the 20 South Bear Creek Planned Unit Development (hereinafter, "20 South Bear Creek PUD"), the Applicant / Owner / Developer shall obtain all necessary permits and approval from Buncombe County, including but not limited to, Zoning, Erosion Control, Stormwater, and Floodplain Development.
- ii. Exhibit B. 20 South Bear Creek Site Plan (hereinafter, "site plan"), which is attached hereto and incorporated herein by reference, and the general layout of roads, structures, and other improvements as depicted thereon, and the general height, mass, shape and size of structures as depicted thereon, is a condition of this CUP. However, any sketches or architectural renderings of the proposed structures are illustrative only and are not binding architectural designs.
- iii. Future land disturbance and construction within the 20 South Bear Creek PUD shall occur in substantial compliance with the site plan.
- iv. Deviations from the site plan shall be considered in accordance with *Sec. 78-677. Procedure for obtaining a conditional use permit, (j) Changes; limitations*, of the Buncombe County Zoning Ordinance or its successor standard.
- v. Large construction vehicles will be prohibited from using Wendover or Bear Creek Roads during construction.
- vi. Developers project a 140-unit senior housing development and two 260-unit conventional apartment developments. Developer has committed to not change this distribution any more than 10% up or down (i.e., senior housing units could change by as much as 14 units up or down, but not more). In any event, total units will not exceed 660. Developer agrees to provide 5% of total units as affordable units as regulated by Buncombe County Affordable Standards for a period of 20 years.

vii. Rentals of less than 30 days are prohibited in the development.

b. Transportation:

i. Permits:

1. Prior to issuance of zoning and other land development permits, the Applicant / Owner / Developer shall provide documentation confirming North Carolina Department of Transportation ("NCDOT") approval of the following:

- a. Driveway permits
- b. Encroachment agreements for traffic improvements, as applicable

ii. Traffic Improvements:

- a. Right Turn Lane from South Bear Creek at NC 191(Brevard Road) and I-40 Westbound Ramp
- b. Right Turn Lane from I-240 Eastbound On/Off Ramp at NC-191(Brevard Road)
- c. Left Turn Lane into the site access from South Bear Creek
- d. Right Turn Lane into the site access from South Bear Creek
- e. Widen South Bear Creek modified lanes to 10'
- f. Three lane cross section site access to South Bear Creek to meeting NCDOT requirements
- g. Left Turn Lane from Southbound Sand Hill Road onto South Bear Creek

Such improvements shall be permitted and constructed to meet NCDOT standards and accepted by NCDOT. Items a. and b. shall be installed prior to the issuance of a certificate of occupancy for the final building structure, and only if NCDOT STIP Project I-2513 does not begin prior to 2028. Items c., d., e., f., and g. shall be installed prior to the issuance of a certificate of occupancy for the first structure constructed within the 20 South Bear Creek PUD.

Except as specifically agreed to by the Applicant, the Applicant shall not be required to construct or install any improvements or facilities on property not belonging to the Applicant.

iii. All on-site and off-site conditions of issuance of NCDOT's driveway permits for the 20 South Bear Creek PUD are conditions of this Conditional Use Permit.

c. Public Greenway:

- i. Given existing conditions and proposed development elements, the Applicant shall construct and provide an easement to Buncombe County, at the Applicant's expense, for a public trail along Hominy Creek in furtherance of the Buncombe County Greenway Masterplan.
  - ii. The Applicant agrees to cooperate with the Buncombe County Recreation Services Department to identify the most appropriate alignment for such trail, and to dedicate a minimum 20-foot-wide permanent easement right-of-way and any associated temporary construction easements associated with such trail.
  - iii. The Applicant shall construct such trail and the trail shall, at a minimum, have a four-inch minimum aggregated base course (ABC) under two-inches of pea gravel and shall be a minimum width of eight feet wide where existing conditions allow, or as approved and agreed upon by owner and Buncombe County. Where existing conditions currently limit the ability to construct a trail that is 8 feet in width, the Applicant shall construct a trail that is a minimum of 6 feet in width.
  - iv. The general trail alignment, design details, and dedicated easement shall be mutually agreed upon by the Applicant and the Buncombe County Recreation Services Department and presented on the 20 South Bear Creek PUD site plan.
  - v. The Applicant agrees to cooperate with the Buncombe County Recreation Services Department to establish a mutual agreement for trail construction phasing to be included with the dedicated easement documentation prior to issuance of a Certificate of Occupancy for the first structure to be permitted and constructed under the PUD site plan.
- d. Landscaping and Buffering:
- i. The Applicant shall submit a landscape and tree protection plan for consideration as part of the zoning permitting process for each phase of the 20 South Bear Creek PUD.
  - ii. Such landscaping shall serve to provide substantial green space within the developed areas of the project site, and to provide substantial buffers between the 20 South Bear Creek PUD project site and adjacent properties.
  - iii. Buffering along the perimeter of the 20 South Bear Creek PUD, and parking lot landscaping within the 20 South Bear Creek PUD, shall be in general compliance with *Sec. 78-667. Buffering and parking lot landscaping*, of the Buncombe County Zoning Ordinance or its successor standard.
  - iv. Tree Canopy Preservation shall comply with the following, minimum requirements:

1. Preserve at least 15% of the existing tree canopy and provide supplemental overstory and understory species (if needed) to meet at least the 15% credit.
2. Existing trees that are located within the project area, if left intact and appear in good health, may be credited toward the overstory planting requirement. The following credit system will be observed:
  - a. Each existing tree 1 ¾" to 3" results in credit of 720 sf preservation per tree
  - b. Each existing tree 3"-9" results in credit of 960 sf preservation per tree
  - c. Each existing tree 10" or larger results in credit of 1600 sf preservation per tree
3. For any new planting: no single species shall comprise more than 50 percent of the overstory or understory species planted.
4. For any new planting: overstory species shall be planted no less than 20 feet apart and no more than 40 feet apart and shall be 560 sf of credit.
5. For any new planting: understory species shall be planted no less than 10 feet apart and no more than 25 feet apart and shall be 315 sf of credit.
6. For any new planting: overstory and understory species shall not be planted in a row and shall not be evenly spaced.

e. Environmental Protection:

i. Floodplain Development:

1. Floodplain Development Permit Applications will be required for any future development activity within the Special Flood Hazard Area or the Regulatory Floodway. Site plans shall clearly depict the limits of the Special Flood Hazard Area, Regulatory Floodway, proposed changes in grade elevations (current and proposed), building footprints with estimated finished floor elevation in comparison with the Base Flood Elevation, and proposed roads and infrastructure. Site plans shall include a reference to the applicable FEMA map number.
2. Individual floodplain development permit applications shall be required for each phase of the project and for each building proposed in the 100-year floodplain and / or the regulatory floodway as applicable under the Buncombe County Flood Damage Prevention Ordinance (or its successor standard) or regulations proffered by the United States Federal Emergency Management Agency or the North Carolina Department of Public Safety, Risk Management Section- NC Floodplain Mapping Program. All phases of the project located in the SFHA will require a floodplain development permit to be reviewed and approved prior to commencement of any work. All vertical construction in the SFHA shall require a

post-construction elevation certificate for each structure, assuring compliance with the County's FDPO. All non-elevated commercial construction in the SFHA shall require a post-construction floodproofing certificate.

3. Each Floodplain Development Application shall indicate the size of the flood fringe, and the amount of the flood fringe proposed to be developed (i.e., any manmade change to improved or unimproved real estate).

ii. Wetlands, Streams and Stormwater:

1. Prior to issuance of zoning and other land development permits, the Applicant shall secure stormwater permits.
2. Proposed development may impact streams and wetlands, in which case permitting may be required from the US Army Corps of Engineers. Such permits must be issued prior to issuance of any Stormwater Permits.
3. In an effort to minimize the impact of the development on the channel-forming discharge of the receiving natural channels, the post-development peak rate of runoff for the two-year 24-hour storm event shall not exceed the pre-development rate. This condition is above and beyond the one-year 24-hour storm event requirement as specified in Sec. 26-362 – Stormwater Management Design Standards in the Buncombe County Stormwater Management Ordinance.

iii. Erosion Control:

1. Prior to issuance of zoning and other land development permits, and following the Stormwater permit issuance, the Applicant shall secure erosion control permits.
2. Prior to commencement of land disturbing activities, the Applicant shall install flagging and fencing to clearly delineate property boundaries as necessary to protect adjacent properties. Such measures shall be maintained at all times and until closure of the associated Erosion Control Permit.

- iv. Applicant shall permanently protect a 50' buffer along Hominy Creek to improve stormwater issues. The 50' buffer shall be measured from the top of bank and shown on the site plan. Applicant to install 50 large evergreen trees on the eastern fill slope that are minimum 6' tall at time of installation with no more than 50% of the trees being the same species. Applicant may cooperate with various community organizations to allow access to this area for streambank restoration and viewshed projects along Hominy Creek, subject to compliance with applicable Federal, State, and County regulations and the issuance of all necessary permits and approvals.

f. Addressing:

- i. Prior to issuance of zoning approval for the first phase or structure, the Applicant shall secure road name approval for the primary loop road as depicted upon the site plan.
  - ii. Applicant shall secure assignment of E911 property addresses and additional road name approval as part of the zoning permitting process for each project phase of the 20 S. Bear Creek Road PUD.
- g. Procurement:
  - i. Applicant will make good faith efforts to follow (and will expect its subcontractors to follow) the principles set forth in the Federal Procurement Regulations of 24 CFR 85.36(e) regarding contracting with small and minority firms and women's business enterprises, as modified as follows:
    - 1. Applicant will take affirmative steps to assure that minority firms and women's business enterprises are used when possible.
    - 2. Affirmative steps will include:
      - a. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
      - b. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
      - c. Conducting job fairs in minority neighborhoods; and
      - d. Working with the YMI, Mountain Biz Works and other local non-profit agencies that serve the minority communities in Asheville.
- h. Land Uses:
  - i. The Applicant shall obtain a Zoning Permit prior to the establishment of any new use of land within the 20 South Bear Creek PUD.
  - ii. Certain generalized, future land uses within the 20 South Bear Creek PUD are limited as follows:
    - 1. A maximum of 660 Multi-Family residential units.
- i. The requirements and conditions of any permit or approval, which may be issued or granted for land disturbance or improvements within the 20 South Bear Creek PUD, including but not limited to those referenced in this document, shall be conditions of this Conditional Use Permit.

- j. Exhibit B. 20 South Bear Creek Site Plan (hereinafter, "site plan"), which is attached hereto and incorporated herein by reference, is a condition of this CUP.
- k. Violations of these conditions shall be a violation of this Conditional Use Permit and of the Buncombe County Zoning Ordinance or its successor standard.
- l. The regulations prescribed in the Buncombe County Code of Ordinances, except as specifically modified by these conditions, shall apply.
- m. Consent

I, \_\_\_\_\_ [PRINTED NAME], am authorized to enter into legally binding agreements on behalf of APPLICANT, Catalyst Capital Partners. I hereby consent to conditions of approval of ZPH2020-00026, which are set forth above.

\_\_\_\_\_ [PRINTED NAME]

\_\_\_\_\_ [TITLE]

\_\_\_\_\_ [SIGNATURE]

\_\_\_\_\_ [DATE]

WITNESS:

\_\_\_\_\_ [PRINTED NAME]

\_\_\_\_\_ [TITLE]

\_\_\_\_\_ [SIGNATURE]

\_\_\_\_\_ [DATE]

**EXHIBIT B**  
**ZPH2020-00026**  
**APPROVED SITE PLAN**

SITE PLAN TO BE INSERTED UPON APPROVAL BY THE BOARD OF ADJUSTMENT.