



**CONSIDER AN APPLICATION FOR CONDITIONAL ZONING – BRIDGEPOINT, 2214 AND 2312 HOMESTEAD ROAD (PROJECT 20-001)**

**SUMMARY REPORT**

TOWN OF CHAPEL HILL PLANNING DEPARTMENT  
 Judy Johnson, Interim Director  
 Anya Grahn, Senior Planner

<b>PROPERTY ADDRESS</b> 2214 & 2312 Homestead Road	<b>MEETING DATE(S)</b> August 18, 2020 – Housing Advisory Board September 10, 2020 – Transportation and Connectivity Advisory Board September 14, 2020 – Environmental Stewardship Advisory Board September 15, 2020 – Planning Commission September 22, 2020 – Community Design Commission	<b>APPLICANT</b> Advanced Civil Design, Inc.
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**STAFF RECOMMENDATION**

That the Housing Advisory Board, Environmental Stewardship Advisory Board, Community Design Commission, Transportation and Connectivity Advisory Board, and Planning Commission review and make a recommendation on the application to the Town Council.

**STAFF ANALYSIS**

The applicant is asking for modifications to regulations. See attached Technical Report for additional information.

**PROCESS**

Town Council approved a Special Use Permit (SUP) at this site on May 21, 2010, and the applicant is requesting to replace that entitlement with this Conditional Zoning application.

Conditional Zoning is a legislative process that allows Town Council to review the rezoning application for consistency with the Land Use Plan in the Comprehensive Plan. On request by the holder of a SUP, the Town Council can approve the abandonment of the permit if the development authorized by the permit or modification no longer requires a SUP and all conditions of the SUP have been satisfied.

**DECISION POINTS**

The proposed development requests a Modification to Regulations for the following:

- Inclusionary Zoning
- Steep Slopes
- Recreation Area
- North Carolina Fire Prevention Code

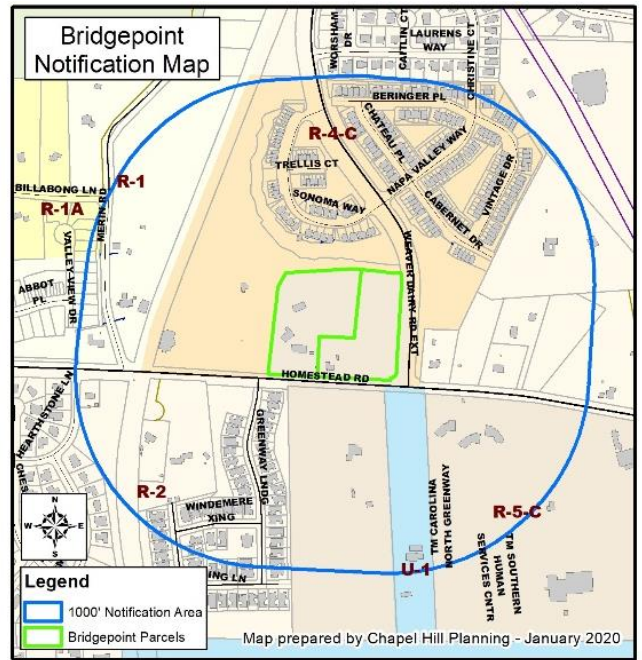
**PROJECT OVERVIEW**

The property has an existing 2010 Special Use Permit entitling the site with up to 23 townhomes and 27,400 square feet of commercial space. The applicant is proposing to change the project to include construction of 53 individual townhouses with 5 affordable units. Primary access to the development is proposed from Weaver Dairy Road Extension. A secondary (emergency only) access is proposed to Homestead Road on Town-owned property located to the west of the site; this is the proposed location of the Town’s 2200 Homestead Road development project.

Each unit will include a two-car garage with space for two additional parking spaces in the driveway. No on-street parking will be permitted.

- Existing Zoning: Residential-5-Conditional (R-5-C)
- Proposed Zoning: Residential-5-Conditional Zoning (R-5-CZ)
- Lot size: 399,975 sq. ft. (9.2 acres)

**PROJECT LOCATION**



**ATTACHMENTS**

1. Project Details Table
2. Resolution A, Resolution of Consistency
3. Ordinance A (Approving the Application)
4. Resolution B (Denying the Application)
5. Applicant Materials



# TECHNICAL REPORT

## PROJECT OVERVIEW

May 29, 2010	Town Council approved a Zoning Atlas Amendment and Special Use Permit (SUP) for a mixed use development containing 23 residential dwelling units within mixed use buildings and townhouses and 27,400 sq. ft. of commercial space. The property was rezoned Residential-2 (R-2) and Residential-4-Conditional (R-4-C) to Residential-5-Conditional (R-5-C).
June 19, 2019	Town Council reviewed a concept plan for Bridgepoint for a mixed-use development containing townhomes, apartments, office, retail, and other amenities.
December 2019	Applicant submitted a Special Use Permit for 53 townhomes.
July 2020	The applicant submits a Conditional Zoning permit application in order to move forward with the project during the COVID 19 pandemic.

The application proposes a Residential-5-Conditional Zoning (R-5-CZ) district to the site in order to accommodate 53 dwelling units. The site currently consists of two separate parcels with existing single-family homes and outbuildings. The Statement of Justification explains that the applicant is seeking a Conditional Zoning to proceed as during the COVID 19 pandemic and the intensity is similar to what is allowed by the existing Residential-5-Conditional (R-5-C) zoning district. More details about the proposed development can be found in the applicant's narrative and statement of justification.

Information about the site and proposed zoning districts can be found below, as well as a list of proposed Modifications to Regulations, other important considerations that Staff has identified, and an analysis of the project's consistency with the Comprehensive Plan and relevant Findings of Fact.

## SITE CONTEXT

Staff has identified the following physical and regulatory characteristics of the land which are relevant to consideration of a Zoning Atlas Amendment:

- The 9.2-acre subject site fronts on and has primary access to Weaver Dairy Road Extension and a future (proposed emergency) access to Homestead Road.
- Properties to the north and west are zoned Residential-4-Conditional (R-4-C) and include the Vineyard Square townhouse development and the site of the Town's future mixed income site at 2200 Homestead Road (to the west).

- Property to the south, across Homestead Road, is zoned Residential-5-Conditional (R-5-C) and was approved in 2019 for the Active Adults development. To the southwest, is the Courtyards at Homestead development zoned Residential-2 (R-2).
- A perennial stream runs along the north portion of the site. The water feature is subject to stream protection standards. The proposed site layout in the Conditional Zoning application suggests that no buildings and minimal impervious surface will be placed in this sensitive area.

## PROPOSED ZONING

The applicant has submitted a Conditional Zoning application, which allows review of the development proposal in conjunction with the rezoning, and which allows site-specific standards to be formulated and applied as conditions through a legislative process. The Conditional Zoning application provides an opportunity to establish conditions that modify use, intensity, and development standards in order to address impacts reasonably expected to be generated by development. Conditions can also address conformance of the development with town regulations and adopted plans. A -CZ suffix would be added to the zoning district designation to incorporate the approved conditions. The applicant has proposed a Conditional Zoning districts for the site, as shown on the site plan: Residential-5-CZ (R-5-CZ).

The intent of the Residential-5 (R-5) zoning district is "to provide for residential development of appropriate intensities consonant with the suitability of land, availability of public services, accessibility to major activity centers and transportation systems, and compatibility with surrounding development."<sup>1</sup>

## PROPOSED MODIFICATIONS TO REGULATIONS

### 1) Section 3.6.3 Land Disturbance in the Resource Conservation District (RCD):

Land disturbance is limited to specific percentages of the total land area in different zones of the RCD. The Upland and Managed Use zones are limited to 40% disturbance. The applicant is proposing to disturb 26,098 sq. ft. (79%) of the Upland zone and 19,664 sq. ft (55%) of the Managed Use zone associated with the perennial stream in the northwest portion of the site, to allow grading for the Stormwater control measures.

*Staff Comment:* Staff believes that the Council could find a public purpose for the increased land disturbance, as the land disturbance is for the construction of Stormwater control measures in order to meet Ordinance standards.

- ### 2) Section 5.3.2 Steep Slopes:
- The applicant is proposing to exceed 25% of the area containing 25% or greater slopes. A majority of these disturbed slopes occur along the west side of Weaver Dairy Road Extension and were created during the construction of Weaver Dairy Road Extension. Additional slopes 25% or greater that were created during the construction of the existing home site, the existing concrete flume, and the existing asphalt path along the western portion of the property. The total area of disturbed natural slopes 25% or greater is only 2,133 sf. This area of impact is necessary to properly grade the area reserved for the future greenway trail.

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<sup>1</sup> LUMO Section 3.3.5

*Staff Comment:* Staff believes the Council could find a public purpose for exceeding the steep slopes, as a majority of the disturbed slopes were created during the construction of Weaver Dairy Road Extension.

- 3) Section 3.10 Inclusionary Zoning:** The applicant is providing five affordable homes which equates to 10.41%. This is less than the 15% inclusionary zoning requirement, however the affordable homes are the same size as the market rate units. In addition, the developer exceeds the minimum net livable square footage requirement associated with the 15% inclusionary zoning requirement with only the five homes.

*Staff Comment:* Staff recommends that the applicant discuss the issue with the Council.

- 4) Section D103 of the North Carolina Fire Prevention Code:** The applicant is proposing street details for a 26-ft with valley curb and 27-ft with standard curb when adjacent to a fire hydrant to meet section D103.1 of the North Carolina Fire prevention Code. The right-of-way width of 35-ft shall remain unchanged.

*Staff Comment:* Staff agrees with the proposal as the Town of Chapel Hill's standard detail for a local street does not meet this criteria, therefore the 25-ft back-to-back dimension for local street (without on-street parking) has been revised.

**Council Findings and Public Purpose:** The Council has the ability to modify the regulations according to Section 4.5.6 of the Land Use Management Ordinance. Staff believes that the Council could modify the regulations if it makes a finding in this particular case that public purposes are satisfied to an equivalent or greater degree. If the Council chooses to deny a request for modifications to regulations, the developer's alternative is to revise the proposal to comply with the regulations.

For additional information on the proposed modifications and other considerations on timing and flexibility, please refer to the applicant's attached materials.

## OTHER CONSIDERATIONS

- **Homestead Road Multi-modal Project:** The applicant has agreed to provide necessary right-of-way associated with the Town's multi-modal improvement project on Homestead Road.
- **Recreation Area Payment-in-Lieu:** The Town has a policy to request 25% of the Recreation Space requirement in the form of a payment-in-lieu. We understand the applicant is requesting Council to consider a lower amount.

## CONSISTENCY WITH THE COMPREHENSIVE PLAN AND OTHER DOCUMENTS

Town staff has reviewed this application for compliance with the themes from the [2020 Comprehensive Plan](#)<sup>2</sup>, the standards of the [Land Use Management Ordinance](#)<sup>3</sup>, and the [Town](#)







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<sup>2</sup> <http://www.townofchapelhill.org/home/showdocument?id=15001>

<sup>3</sup> [https://www.municode.com/library/#!/nc/chapel\\_hill/codes/code\\_of\\_ordinances?nodeId=CO\\_APXALAUUMA](https://www.municode.com/library/#!/nc/chapel_hill/codes/code_of_ordinances?nodeId=CO_APXALAUUMA)

of Chapel Hill, NC : Design Manual and Standard Details<sup>4</sup> and believes the Weaver’s Grove proposal complies with several themes of the 2020 Comprehensive Plan:

**Comprehensive Plan Themes:** The following are themes from the 2020 Comprehensive Plan, adopted June 25, 2012:

<input checked="" type="checkbox"/>		Create a Place for Everyone	<input checked="" type="checkbox"/>		Develop Good Places, New Spaces
<input checked="" type="checkbox"/>		Support Community Prosperity	<input checked="" type="checkbox"/>		Nurture Our Community
<input checked="" type="checkbox"/>		Facilitate Getting Around	<input checked="" type="checkbox"/>		Grow Town and Gown Collaboration

**Land Use Plan:** The [2020 Land Use Plan](#)<sup>5</sup>, a component of the 2020 Comprehensive Plan, designates this site as a “Development Opportunity Area”.

**Staff Evaluation:** North Carolina General Statute Section 160A-383 requires the Council to approve a statement describing whether its action is consistent with an adopted comprehensive plan and any other applicable officially adopted plan when adopting or rejecting any zoning amendment.

Staff provides the following evaluation of this application’s consistency with the 2020 Comprehensive Plan and other adopted plans:

- The proposed rezoning is also consistent in intensity with the Land Use Plan. The Medium Residential land use category supports a density of 4-8 u/ac. While the R-5 district allows up to 15 u/ac, the Conditional Zoning application proposes up to 5.7 u/ac for the site overall, which falls within the appropriate range for the Land Use Plan.
- The Mobility and Connectivity Plan shows future improvements along Weaver Dairy Road Extension in the long-term network, including bike lanes and sidewalk to the south. Improvements to the multimodal network would support increased growth and connection to the Town’s Homestead Road multi-modal improvement project. The proposal would require either construction of a bicycle lane or a multi-modal path from the end of the existing bike lane to Homestead Road.

## FINDINGS OF FACT

In order to establish and maintain sound, stable, and desirable development within the planning jurisdiction of the Town, it is intended that the Land Use Management Ordinance (as stated in Section 4.4) shall not be amended except:

- 1) To correct a manifest error in the chapter; or
- 2) Because of changed or changing conditions in a particular area or in the jurisdiction generally; or
- 3) To achieve the purposes of the Comprehensive Plan.

All information submitted at the public hearing will be included in the record of the hearing.

<sup>4</sup> <http://www.townofchapelhill.org/town-hall/departments-services/public-works/engineering/design-manual-and-standard-details>

<sup>5</sup> <http://www.townofchapelhill.org/home/showdocument?id=1215>

- 1) **Finding #1:** The proposed zoning amendment is necessary to correct a manifest error.
- 2) **Finding #2:** The proposed zoning amendment is necessary because of changed or changing conditions in a particular area or in the jurisdiction generally.
- 3) **Finding #3:** The proposed zoning amendment is necessary to achieve the purposes of the comprehensive plan.