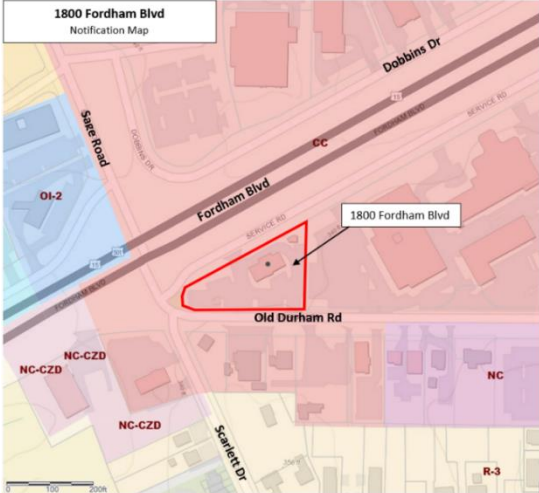




CLOSE THE EVIDENTIARY HEARING AND CONSIDER AN APPLICATION: SPECIAL USE PERMIT MODIFICATION FOR FIFTH THIRD BANK(PROJECT #21-091)

SUMMARY REPORT

TOWN OF CHAPEL HILL PLANNING DEPARTMENT
 Colleen Willger, Director
 Judy Johnson, Assistant Director
 Charnika Harrell, Planner I

PROPERTY ADDRESS	MEETING DATE	APPLICANT
1800 Fordham Boulevard	June 15, 2022	Aston Properties, Inc. on behalf of API-DEC, LLC
<p>TOWN MANAGER RECOMMENDATION</p> <p>That the Council close the evidentiary hearing, review the evidence presented, and consider adopting Resolution A, approving the Special Use Permit Modification application.</p>		
<p>UPDATES SINCE THE MAY 18, 2022 EVIDENTIARY HEARING</p> <p>Staff has added a stipulation to Revised Resolution A to maintain existing mature trees on-site. Staff has also worked with the applicant to revise Resolution A, approving the Special Use Permit application. The revisions are to the Standard stipulations of approval and better reflect specific site conditions.</p>		
<p>PROCESS</p> <p>Special use permit decisions are based solely on competent, material, and substantial evidence presented during a quasi-judicial proceeding (evidentiary hearing). The Council must make four findings to approve a Special Use Permit Modification, which indicate that the use or development:</p> <ol style="list-style-type: none"> 1. is located, designed, and proposed to be operated so as to maintain or promote the public health, safety, and general welfare; 2. complies with all required regulations and standards of the Land Use Management Ordinance; 3. is located, designed, and proposed to be operated so as to maintain or enhance the value of contiguous property, or that the use or development is a public necessity; and 4. conforms to the general plans for the physical development of the Town as embodied in the Land Use Management Ordinance and in the Comprehensive Plan 	<p>DECISION POINTS</p> <p>The applicant is requesting modifications to regulations for the following standards:</p> <ul style="list-style-type: none"> • Steep slopes • Landscape buffers • Entrance drive landscaped buffer strip • Drive-thru screening <p>This approval would supersede the previous Special Use Permit granted in 1993.</p>	
<p>PROJECT OVERVIEW</p> <p>The application is to construct a 2,400 sq. ft. Fifth Third Bank branch with a drive-in window and ATM. The property is zoned Community Commercial (CC). A drive-in window is permitted as a special use in CC according to Section 3.7 of the Land Use Management Ordinance (LUMO)¹. Council granted the existing Hardee’s fast-food restaurant a Special Use Permit for the drive-through window on May 10, 1993.</p> <p>A Special Use Permit Modification is required to redevelop the parcel as proposed.</p> <p>The project also consists of:</p> <ul style="list-style-type: none"> • Demolishing the existing 3,287 sq. ft. fast food restaurant, parking lot, and auxiliary structures • Abandoning the existing driveway on Fordham Boulevard Service Road • Building a smaller redesigned parking lot 	<p>PROJECT LOCATION</p> 	
<p>ATTACHMENTS</p>	<ol style="list-style-type: none"> 1. Technical Report and Project Details 2. Draft Staff Presentation 3. Revised Resolution A (Approving the Application) 4. Resolution B (Denying the Application) 5. Applicant Materials 6. Plans 	

¹ https://library.municode.com/nc/chapel_hill/codes/code_of_ordinances?nodeId=CO_APXALAU5MA_ART3ZODIUSDIST_3.7USRE



TECHNICAL REPORT

UPDATES SINCE THE MAY 18, 2022 EVIDENTIARY HEARING

At the May 18, 2022 hearing, Council discussed the application and suggested efforts to retain the existing mature trees on-site. The following stipulation has been added to Revised Resolution A:

Landscape Improvements: Existing mature trees on-site will be maintained to the extent possible as shown on the plans. Additional landscape buffering along the US 15-501 frontage shall be encouraged although balanced with safety considerations.

Since the May 18, 2022 hearing, staff has worked with the applicant to simplify the Resolution. The revisions to the Resolution only provide clarity and are not substantive.

PROJECT OVERVIEW

The proposed project is a bank with a drive-in window and ATM. The project also includes redesigning the parking lot, removing the driveway on Fordham Boulevard Service Road, adding a driveway from the adjacent site (Wegmans), and adding a dumpster enclosure. The site is zoned Community Commercial (CC) which permits banks as a principal use. Drive-through windows are permitted only as a special use.

Council granted the existing fast-food restaurant a Special Use Permit for the drive-through window on May 10, 1993.

SITE CONTEXT

Staff have identified the following physical and regulatory characteristics of the land which are relevant to consideration of a Special Use Permit Application:

- The property is zoned Community Commercial (CC). The Community Commercial (CC) zoning district is intended to provide for the development of high-intensity commercial and service centers that serve community-wide or regional commercial and service needs.
- The site has an existing fast-food restaurant with a drive-in window.
- The site is connected to Wegmans Grocery Store with an existing cross-access easement.
- The site is in the North 15-501 Corridor Sub-Area A focus area identified in the Future Land Use Map (FLUM).
- The site does not appear to have any hydrological features.

- The site is currently approximately 76 percent impervious area. The proposed project will reduce the impervious surface from 76 percent (31,583 sq. ft.) to 49 percent (20,664 sq. ft.).
- The site has street frontage on Old Durham Road and the 15-501/Fordham Boulevard Service Road.

PROPOSED MODIFICATIONS TO REGULATIONS

- 1) Section 5.3.2 Steep slopes:** The ordinance requires that no more than 25 percent of areas containing slopes 25 percent or greater be disturbed. Approximately 2 percent (1,082 square feet) of the site is covered in slopes exceeding 25 percent. The developer proposes to disturb 100 percent of the steep slope area to construct access improvements and pedestrian connectivity.

Staff Comment: The disturbance limit for steep slopes is intended to protect animal and plant habitats, water bodies (streams and lakes), and preserve the natural beauty of the Town's wooded hillsides. Staff believes the Council could find a public purpose for exceeding the disturbance limit as the slopes on this parcel are manmade.

- 2) Section 5.6 Landscaping, screening, and buffering:** The ordinance requires buffers along the perimeter of the site for the proposed redevelopment. The table below shows the buffers required by ordinance and the developer's proposed modifications:

Location	Required	Proposed
North (15-501 frontage)	Type 'C' 20 ft.	Modified Type 'C' buffer with a reduced width along drive-thru lane and reduced number of plantings
East (adjoining Wegman's property)	Type 'B' 10 ft.	Shared 10-foot Type 'B' buffer on adjacent (Wegmans) site
South (Old Durham Road frontage)	Type 'C' 20 ft.	Modified Type 'C' buffer with a reduced width along drive-thru/parking lot and reduced number of plantings

Staff Comment: Staff believes the Council could find a public purpose for modifying the landscaping and buffer requirements to enhance visibility of the property and ensure a compatible streetscape design with the adjacent Wegmans development.

- 3) Section 5.9.6(c)(1) Entrance drives:** Entrance drives for parking facilities with more than 10 spaces must be bordered by a landscaped buffer strip a minimum of 8 feet wide. The developer has provided an 8-foot-wide landscaped buffer but requests to modify the length of the buffer to keep sight distance triangles free of landscaping, complying with NC Department of Transportation requirements.

Staff Comment: Staff believes the Council could find a public purpose for reducing the landscaped buffer width along the entrance drives to protect public safety of pedestrians and motorists navigating to and around the site.

- 4) Section 5.9.6(c)(2)I Drive-thru screening:** The LUMO sets standards for screening of drive-thru lanes. The developer requests to modify the screening to increase visibility of the drive-thru for public safety.

Staff Comment: Staff believes the Council could find a public purpose for modifying the

drive-thru screening requirements to protect public safety and promote visibility of pedestrians and motorists.

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 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.

FINDINGS OF FACT

No Special Use Permit Modification shall be recommended by the Town Manager for approval and no Special Use Permit Modification shall be approved by the Town Council unless each of the following findings is made concerning the Special Use Permit Modification.

FINDING #1: That the use or development is located, designed, and proposed to be operated so as to maintain or promote the public health, safety, and general welfare.	
Evidence in Support	The applicant’s Statement of Justification includes the following: “The existing fast-food restaurant has a relatively high trip generation and is located at busy intersection. The proposed improvement will reduce the number of trips entering and exiting the site, thus improving the traffic conditions. The proposed site will increase pedestrian connectivity by extending the Service Road sidewalk to the Old Durham Road intersection. These improvements advance public health and safety.”
Evidence in Opposition	To date, no evidence in opposition has been submitted or identified by staff.

Staff Response: We believe, based on the evidence entered into the record to date, that the Council could make the finding that the development would be located, designed, and proposed to be operated so as to maintain or promote the public health, safety, and general welfare and the Special Use Permit Modification is approved with the conditions and modifications in Resolution A.

FINDING #2: That the use or development complies with all required regulations and standards of this chapter, including all applicable provisions of articles 3 and 5, the applicable specific standards contained in the supplemental use regulations (article 6), and with all other applicable regulations.	
Evidence in Support	The applicant’s Statement of Justification includes the following: “The proposed Fifth Third Bank is designed and will be operated to maintain compliance with all required regulations and standards, provided that the landscape buffer modifications are approved to ensure public and employee safety by providing adequate visibility to the site at all times.”
Evidence in Opposition	To date, no evidence in opposition has been submitted or identified by staff.

Staff Response: We believe, based on the evidence entered into the record to date, that the Council could make the finding that the development would comply with all required regulations and standards except for the requested modifications to regulations. We believe the request for these modifications are reasonable. Please see the Proposed Modification of the Regulations section above for discussion of this issue. We believe that if the Special Use Permit is approved with the conditions and modifications to regulations in Revised Resolution A, the proposed development would meet all other pertinent regulations and standards of the Land Use Management Ordinance. If the Council in its discretion finds that the modifications to regulations are not warranted the proposed development would not meet this finding #2 and must be denied. In the alternative, the applicant may request an opportunity to adjust the proposed project to comply with those regulations which the Council is not willing to modify.

FINDING #3: That the use or development is located, designed, and proposed to be operated so as to maintain or enhance the value of contiguous property, or that the use or development is a public necessity.	
Evidence in Support	The applicant’s Statement of Justification includes the following: “The redevelopment of the existing Hardee’s to the proposed Fifth Third Bank will enhance the value of the contiguous properties by providing more contemporary, state of the art, financial institution which offers increased pedestrian connectivity and green space creating an open and inviting atmosphere to the already busy intersection.”
Evidence in Opposition	To date, no evidence in opposition has been submitted or identified by staff.

Staff Response: We believe, based on the evidence entered into the record to date, that the Council could make the finding that the proposed development is designed in a way that would maintain or enhance the value of contiguous properties if the Special Use Permit Modification is approved with the conditions and modifications in Resolution A.

FINDING #4: That the use or development conforms with the general plans for the physical development of the town as embodied in this appendix and in the comprehensive plan.	
Evidence in Support	The applicant’s Statement of Justification includes the following: “The proposed Fifth Third Bank conforms with the general plans for the physical development of the Town as embodied by the LUMO, Town Guidelines, and Comprehensive Plan. The proposed development will enhance adjacent properties by providing contemporary financial institution, greater pedestrian connectivity, more green space, less impervious area, and a reduction in the number of trips generated.”
Evidence in Opposition	To date, no evidence in opposition has been submitted or identified by staff.



Staff Response: We believe, based on the evidence entered into the record to date, that the Council could make the finding that the development conforms to the general plans for physical development of the Town as embodied in the 2020 Comprehensive Plan. We

believe the proposal generally complies with the land use plan and themes in the 2020 Comprehensive Plan.

CONSISTENCY WITH THE COMPREHENSIVE PLAN AND OTHER DOCUMENTS

Town staff has reviewed this application for compliance with the themes from the [2020 Comprehensive Plan](#)², the standards of the [Land Use Management Ordinance](#)³, and the [Town of Chapel Hill, NC : Design Manual and Standard Details](#)⁴ and has provided a brief overview of the developer’s justification of compliance and staff comments on the following:

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

X		Create a Place for Everyone	X		Develop Good Places, New Spaces
X		Support Community Prosperity	X		Nurture Our Community
X		Facilitate Getting Around	X		Grow Town and Gown Collaboration

Create A Place for Everyone: The developer states the project provides a state of the art, open, and welcoming banking facility while increasing green open space and pedestrian connectivity.

Support Community Prosperity: The developer states that Fifth Third Bank is a contemporary and progressive financial institution that will advance community prosperity.

Facilitate Getting Around: The developer states the project improves the public’s ability to walk and bike within and around the site to facilitate getting around.

Develop Good Place, New Spaces: The developer states the project to be a visual improvement to the surrounding area and believes this will increase its value.

Nurture Our Community: The developer states that Fifth Third Bank will provide financial and employment opportunities that will nurture the community.

Grow Town and Gown Collaboration: The developer states that Fifth Third Bank will provide financial and employment opportunities that embrace the town and gown collaboration.

Refer to the statement of justification in the Applicant Materials for the developer’s explanation of compliance with comprehensive plan themes.

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

³ https://www.municode.com/library/#!/nc/chapel_hill/codes/code_of_ordinances?nodeId=CO_APXALAU5MA

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


















PROJECT FACT SHEET





Overview

Site Description	
Project Name	Fifth Third Bank
Address	1800 Fordham Boulevard
Property Size (GLA)	45,537 sq. ft. (1.05 acres)
Existing	Restaurant
Orange County Parcel Identifier Numbers	9799-68-5750
Existing Zoning	Community Commercial (CC)


Site Design

Topic	Comment	Status
Use/Density (Sec. 3.7)	Bank with drive-through teller lane and drive-up ATM	
Dimensional Standards (Sec. 3.8)	Comply with LUMO Section 3.8	
Floor area (Sec. 3.8)	<i>Maximum:</i> 18,119 sq. ft. <i>Proposed:</i> 2,400 sq. ft.	
Inclusionary Zoning (Sec. 3.10)	Not applicable	NA
Landscape		
Buffer – North (Sec. 5.6.2)	<i>Required:</i> 20 ft. Type 'C' <i>Proposed:</i> Modified Type 'C' buffer with a reduced width along drive-thru lane and reduced number of plantings	M
Buffer – East (Sec. 5.6.2)	<i>Required:</i> 10 ft. Type 'B' <i>Proposed:</i> Shared 10-foot Type 'B' buffer on adjacent (Wegmans) site	
Buffer – South (Sec. 5.6.2)	<i>Required:</i> 20 ft. Type 'C' <i>Proposed:</i> Modified Type 'C' buffer with a reduced width along drive-thru lane/parking lot and reduced number of plantings	M
Tree Canopy (Sec. 5.7)	<i>Required:</i> 30% <i>Proposed:</i> 47%	
Parking Landscape Standards (Sec. 5.9.6)	Modification requested for landscaped buffer strip for entrance drives and drive-thru screening.	M
Environment		
Resource Conservation District (Sec. 3.6)	No Resource Conservation District on-site	

Erosion Control (Sec. 5.3.1)	Orange County Erosion Control permit required	FP
Steep Slopes (Sec. 5.3.2)	Disturb 100% of slopes 4:1 (25%) or greater.	M
Stormwater Management (Sec. 5.4)	Application must comply	
Land Disturbance	50,000 sq. ft. (1.15 acres)	
Impervious Surface (Sec. 3.8)	<i>Existing:</i> 34,382 sq. ft. (76%) <i>Proposed on-site:</i> 20,413 sq. ft. (45%) <i>Proposed off-site:</i> 3,368 sq. ft. (7%)	
Solid Waste & Recycling	Private collection.	
Jordan Riparian Buffer (Sec. 5.18)	No Jordan Buffer on-site	
Access and Circulation		
Road Improvements (Sec. 5.8)	Remove the existing driveway on Fordham Boulevard Service Rd.	
Vehicular Access (Sec. 5.8)	Primary vehicular access proposed from Old Durham Rd. Secondary vehicular access proposed through Wegmans site.	
Bicycle Improvements (Sec. 5.8)	Stairs with a bicycle access ramp proposed at sidewalk along Fordham Boulevard Service Rd.	
Pedestrian Improvements (Sec. 5.8)	Sidewalk proposed along Fordham Boulevard Service Rd and on Old Durham Rd to the site.	
Transit (Sec. 5.8)	No transit improvements proposed.	NA
Traffic Impact Analysis (Sec. 5.9)	TIA Exemption granted	
Vehicular Parking (Sec. 5.9)	<i>Required:</i> 8 minimum and 12 maximum <i>Proposed:</i> 12 spaces (including 1 accessible space)	
Bicycle Parking (Sec. 5.9)	<i>Proposed:</i> 4 bicycle spaces	
Parking Design Standards (Sec. 5.9.5)	Application must comply	
Loading Space Requirements (Sec. 5.9)	Not applicable	NA
Building Height		
Building Height (Sec. 3.8)	<i>Required:</i> Primary Building Height: 34 ft.; Secondary Building Height: 60 ft. <i>Proposed:</i> Primary Building Height: 19 ft.; Secondary Building Height: 19 ft.	
Technical		
Fire	Meet Town Standards	

Site Improvements	New bank with drive-thru teller lane, drive-up ATM, and parking lot	
Recreation Area (Sec. 5.5)	Not applicable	
Lighting Plan (Sec. 5.11)	Application must comply	FP
Homeowners Association (Sec. 4.6)	Not applicable	
Adequate Public Schools (Sec. 5.16)	Not applicable	

Project Summary Legend

Symbol	Meaning
	Meets Requirements
M	Seeking Modification
C	Requires Council Endorsement
FP	Required at Final Plan;
NA	NA