

AN ORDINANCE AMENDING THE CHAPEL HILL ZONING ATLAS TO REZONE THE PROPERTY LOCATED AT 2214 AND 2312 HOMESTEAD ROAD TO RESIDENTIAL-5-CONDITIONAL ZONING DISTRICT (R-5-CZD) (PROJECT #20-001) (2020-12-09/O-1)

WHEREAS, the Council of the Town of Chapel Hill has considered the application for Conditional Zoning submitted by Advanced Civil Design, Inc., on behalf of owner Capkov Ventures, Inc., to rezone a 9.2-acre parcel located at 2214 and 2312 Homestead Road on property identified as Orange County Property Identifier Numbers 9870-91-5696 and 9870-91-8588, to allow a townhouse community and finds that the amendment if enacted, is reasonable and in the public's interest and is warranted to achieve the purposes of the Comprehensive Plan, as explained by, but not limited to, the following goals of the Comprehensive Plan:

- Range of housing options for current and future residents (*Goal A Place for Everyone.3*)
- Foster success of local businesses (*Community Prosperity and Engagement.2*)
- A connected community that links neighborhoods, businesses, and schools through the provision of greenways, sidewalks, bike facilities, and public transportation (*Getting Around.2*)
- Open and accessible common spaces for community gathering, cultural uses, and community development (*Good Places, New Spaces.7*)
- Protect, acquire, and maintain natural/undeveloped open spaces and historic sites in order to protect wildlife corridors, provide recreation, and ensure safe pedestrian and bicycle connections. (*Nurturing our Community.3*)

WHEREAS, the application, if rezoned to Residential-5-Conditional Zoning District (R-5-CZD) according to the district-specific plan dated November 10, 2020 and October 16, 2020, and the conditions listed below would:

- 1) Conform with the applicable provisions of the Land Use Management Ordinance and Town Code
- 2) Conform with the Comprehensive Plan
- 3) Be compatible with adjoining uses
- 4) Mitigate impacts on surrounding properties and the Town as a whole
- 5) Be harmonious with existing and proposed built systems including utility infrastructure, transportation facilities, police and fire coverage, and other public services and facilities
- 6) Be harmonious with natural systems such as hydrology, topography, and other environmental constraints

MODIFICATIONS TO REGULATIONS

WHEREAS, the Council of the Town of Chapel Hill finds, in this particular case, that the proposed development with the following requested modifications to regulations satisfies public purposes to an equivalent or greater degree:

- 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 zone is limited to 40 percent disturbance. The developer is proposing to disturb 26,098 sq. ft. (79 percent) of the Upland zone associated with the perennial stream in the northwest portion of the site, to allow grading for the stormwater control measures.

This finding is based on a determination that the public purposes are satisfied to an equivalent or greater degree because the land disturbance is for the construction of Stormwater control measures in order to meet Ordinance standards for the new impervious area associated with the proposed development. **Prior to submitting the Final Plans Zoning Compliance Permit application, the developer shall try to further reduce the footprint of the Storm Water Control Measure to further reduce the land disturbance in the Resource Conservation District (RCD).**

- 2) **Section 5.3.2 Steep Slopes:** The developer is proposing to exceed 25 percent of the area containing 25 percent 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 measuring 25 percent or greater 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 percent or greater will not exceed 2,133 sf. This area of impact is necessary to properly grade the area reserved for the future greenway trail.

This finding is based on a determination that the public purposes are satisfied to an equivalent or greater degree because the majority of the disturbed slopes were created during the construction of Weaver Dairy Road Extension.

- 3) **Section 3.10 Inclusionary Zoning:** The developer is providing five affordable homes which equates to **9.25** percent. This is less than the 15 percent 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 inclusionary zoning requirement with only the five homes.

This finding is based on a determination that the public purposes are satisfied to an equivalent or greater degree. The provided units exceed the required livable square footage and offer opportunities for increased affordable housing units.

- 4) **Section D103 of the North Carolina Fire Prevention Code:** The developer 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. Further, fire lane signs as specified in Section D103.6 of the North Carolina Fire Prevention Code shall be posted on both sides of fire apparatus access roads that are 20 to 26 feet wide. This finding is based on a determination that the public purposes are satisfied to an equivalent or greater degree. The increased street widths and fire lane signs are in compliance with the North Carolina Fire Prevention Code; whereas, the Town's standard detail for local streets does not comply with the state Fire Prevention Code.
- 5) **LUMO Section 5.4.6(d):** The developer is proposing to relocate and convey an existing ephemeral stream with a piped stormwater conveyance system. Land

disturbance within the stream channel of any ephemeral stream shall be minimized, and prohibited unless explicitly authorized by issuance of a zoning compliance permit after demonstration of the necessity for the disturbance. [LUMO 5.4.6(d)]

This finding is based on a determination that the public purposes are satisfied to an equivalent or greater degree because the relocation of the existing ephemeral stream allows the development to provide **54** units of affordable and missing-middle housing. **This existing stream has been identified as a six-foot-wide concrete flume designed to carry water alongside the driveway that previously existed on the Town's 2200 Homestead Road property.**

CONDITIONAL ZONING DISTRICT

WHEREAS the Council of the Town of Chapel Hill finds, in this particular case, the proposed rezoning with the following uses, subject to the conditions below, satisfies the purposes of Residential-5-Conditional Zoning District (R-5-CZD).

NOW, THEREFORE, BE IT ORDAINED by the Council of the Town of Chapel Hill that the Chapel Hill Zoning Atlas be amended as follows:

SECTION I

The following Orange County parcels identified by Parcel Identifier Numbers (PIN) 9870-91-5696 and 9870-91-8588, described below, shall be rezoned to Residential-5-Conditional Zoning District (R-5-CZD):

Beginning at an existing iron pipe located along the eastern line of the now or formerly Town of Chapel Hill tract as shown in deed book 2831, page 13 of the Orange County registry, said point being the POINT OF BEGINNING; thence along and with the aforementioned eastern line North 09°00'52" East, a distance of 486.86 feet to a calculated point; thence North 37°40'26" East, a distance of 65.21 feet to a 24" gum tree with chop marks; thence along the southeastern line of the aforementioned Town of Chapel Hill tract the following 5 calls: North 87°29'58" East, a distance of 327.31 feet to an existing iron pipe; thence South 82°38'21" East, a distance of 36.23 feet to an existing iron pipe; thence South 84°02'57" East, a distance of 79.53 feet to an existing iron pipe; thence South 82°14'50" East, a distance of 87.95 feet to a calculated point; thence North 87°35'28" East, a distance of 39.61 feet to a calculated point; thence along the western right of way of Weaver Dairy Road Extension, a 98' public right of way along a curve to the right having a radius of 524.12 feet, an arc length of 95.51 feet and a chord bearing and distance of South 02°01'38" East, 95.38 feet to a calculated point; thence along the aforementioned western right of way South 03° 10'42" West, a distance of 438.69 feet to a calculated point; thence along the aforementioned western right of way along a curve to the right having a radius of 30.00 feet, an arc length of 47.13 feet and a chord bearing and distance of South 48°10'42" West, 42.43 feet to an existing iron pipe; thence South 03°10'42" West, a distance of 15.00 feet to a calculated point located on the northern right of way of Homestead Road, a variable public width right of way; thence along the aforementioned northern right of way North 86°49'42" West, a distance of 391.36 feet to an existing iron pipe; thence along the aforementioned northern right of way North 86° 15'24" West, a distance of 243.69 feet to an existing iron pipe; thence North 09°03'29" East, a distance of 15.59 feet to a point being the Point of BEGINNING and being all of that certain tract of land containing 363,614 square feet or 8.35 acres, more or less, including to the midpoint of the adjoining Homestead Road and Weaver Dairy Road Extension right-of-ways.

SECTION II

BE IT FURTHER ORDAINED by the Council of the Town of Chapel Hill that the following conditions are hereby incorporated by reference:

[See stipulations in Planning or CaPA packet files. Removed from Code reference because it is specific to project and not general Code.]

This the 9th day of December, 2020.