

## **MEMORANDUM**

TO: Chapel Hill Planning Board

FROM: Gene Poveromo, Development Manager  
Judy Johnson, Senior Planner

SUBJECT: Bridgepoint at 2300 Homestead Road - Application for a Zoning Atlas Amendment (File No. 9870-91-4489)

DATE: February 16, 2010

### **PURPOSE**

We have scheduled a public hearing for April 19, 2010 for consideration of an application from The Design Response, Inc. for rezoning a 9.2-acre gross land area site located at 2300 Homestead Road. The application for the Zoning Atlas Amendment proposes to rezone the site from Residential-2 (R-2) to Residential-5-Conditional (R-5-C). The Planning Board is asked to make a recommendation to the Council on this application.

Accompanying this application is a request from The Design Response, Inc. for a Planned Development-Mixed Use Special Use Permit proposing to deconstruct two existing single-family dwelling units and to construct 77,567 square feet of floor area for two office/retail buildings and 23 townhouses. Parking for 134 vehicles is also proposed. Please see the accompanying memorandum for information regarding the proposed Planned Development-Mixed Use Special Use Permit application.

The purpose of this cover memorandum is to request that the Planning Board review the proposed rezoning application and forward a recommendation to be included as part of the record being considered by the Town Council at the public hearing. Attached is the Manager's draft memorandum to the Council regarding this rezoning request.

### **RECOMMENDATION**

We recommend that the Planning Board recommend that the Council enact the attached Ordinance, rezoning the site to Residential-5-Conditional (R-5-C). We believe that the rezoning could be justified based on finding C regarding achievement of the purposes of the Comprehensive Plan.

**DRAFT MEMORANDUM**

TO: Roger L. Stancil, Town Manager

FROM: J.B. Culpepper, Planning Director  
Gene Poveromo, Development Manager  
Judy Johnson, Senior Planner

SUBJECT: Bridgepoint at 2300 Homestead Road – Application for a Zoning Atlas  
Amendment (File No. 9870-91-4489)

DATE: April 19, 2010

**INTRODUCTION**

Tonight's public hearing has been called to consider an application from the Design Response, Inc. for rezoning a 9.2-acre site located at 2300 Homestead Road.

We recommend that the Council open the public hearing, received comments and consider the attachments associated with this application.

**DESCRIPTION OF THE APPLICATION**

The application proposes rezoning a 9.2-acre property currently zoned Residential-2 (R-2) to Residential-5-Conditional (R-5-C). The site is located at 2300 Homestead Road and is identified as Orange County Parcel Identifier Numbers 9870-91-4489 and 9870-91-9528.

Zoning determines the type and intensity of uses and development that are allowed on a piece of land. An application for a Zoning Atlas Amendment for rezoning involves a change to the current zoning, and thus the permitted types and intensity of land uses. The Residential-5-Conditional (R-5-C) zoning district allows development at a maximum density of 15 units per acre with consideration of a Special Use Permit application.

**REZONING REQUEST**

In Chapel Hill, a rezoning may be requested in two ways: general use and conditional use rezoning requests. A general use rezoning request is to change the zoning to a different zoning district in which any of several kinds of development and uses are permissible. A conditional use rezoning request is to allow development and uses only with approval of a Special Use Permit. The Bridgepoint rezoning application is a conditional use rezoning request. Consequently, if the Bridgepoint conditional use rezoning request were to be approved, the applicant would still need to receive approval for the Special Use Permit application prior to development actually occurring on the site.

With respect to conditional use rezoning requests, the Council has adopted two Resolutions stating the Council's expectations associated with the accompanying Special Use Permit

application. The first Resolution outlines the Council's desire for the submission of an Energy Management Plan with the Special Use Permit application associated with a conditional use rezoning. The second Resolution states the Council expectation that the Special Use Permit associated with a conditional use rezoning application include an affordable housing component. For additional information on the applicant's response to these adopted expectations, please refer to the Affordable Housing and Energy Management sections in the Staff Report attached to the accompanying Special Use Permit memorandum.

### **PROTEST PETITION**

Opportunity for a protest petition to a proposed amendment to the Zoning Atlas is provided for under North Carolina Statutes. If a sufficient protest petition is filed with the Town Clerk at least 2 business days prior to the date of the public hearing, the proposed rezoning shall not become effective except by favorable vote of not less than three-fourths of the Town Council. Copies of protest petition forms and additional information are available from the Planning Department, the Town Clerk, or on the Town's Web page:

<http://www.townofchapelhill.org/index.aspx?page=556>

### **ANALYSIS OF THE APPLICATION**

The zoning designation of a property determines the range of land uses and development intensities permitted on the property. Article 4.4 of the Land Use Management Ordinance establishes the intent of Zoning Atlas Amendments by stating that, "In order to establish and maintain sound, stable, and desirable development within the planning jurisdiction of the Town it is intended that this chapter shall not be amended except:

- a) to correct a manifest error in the chapter; or
- b) because of change or changing conditions in a particular area in the jurisdiction generally; or
- c) to achieve the purposes of the Comprehensive Plan.

Each of these requirements, with respect to this proposed rezoning application, is discussed below:

- A) A zoning atlas amendment (rezoning) to the Land Use Management Ordinance is necessary to correct a manifest error in the chapter (zoning atlas).**

*Staff Comment:* We believe the information in the record to date can be summarized as follows:

- Argument in Support: The applicant has not offered arguments to support this circumstance. We were unable to identify any arguments in support of a manifest error.
- Argument in Opposition: To date no arguments in opposition have been submitted.

- B) A zoning atlas amendment (rezoning) to the Land Use Management Ordinance is necessary because of changed or changing conditions in a particular area or in the jurisdiction generally.**

*Staff Comment:* We believe the information in the record thus far can be summarized as follows:

- Argument in Support: The applicant has not offered arguments to support this circumstance. We were unable to identify any arguments in support of change or changing conditions.
- Argument in Opposition: To date no arguments in opposition have been submitted.

**C) An amendment to the Land Use Management Ordinance is necessary to achieve the purposes of the Comprehensive Plan.**

*Staff Comment:* We believe the information in the record thus far can be summarized as follows:

- Arguments in Support: Arguments in support of this finding are offered in the applicant's statement of justification, which references several themes in the Comprehensive Plan:

"the proposed development program achieves multiple goals of the Town's Comprehensive Planning documents, including complementing adjoining development, providing diversity of housing types, and preserving clusters of significant trees. Thus, while the Northern Area Task Force Report does discuss achieving transit-oriented development with a minimum density of 15+ units/acre for residential development in this area, we believe that the ability to accomplish other important competing Comprehensive Plan goals while still achieving the minimum density (8-15 units per acre) that is identified as necessary to support bus transit service in the Northern Area Task Force Report, best supports the overall range of goals discussed in the Town's Comprehensive Planning documents." [Applicant's Statement]

Please refer to the applicant's Statement of Justification for more detail.

- Arguments in Opposition: To date, no arguments have been submitted indicating that this development would not be consistent with the Comprehensive Plan.

### **RECOMMENDATION**

We note that the Land Use Plan, another component of the Comprehensive Plan, amended January 14, 2008, identifies this area as "Town/Village Center." The area is identified as part of Focus Area 4 within the Northern Area Task Force Report. The Report states the area should include transit-oriented development with a residential focus of 15 plus dwelling units per an acre minimum gross density and supportive neighborhood retail.

We believe that the proposed development achieves several of the goals and objectives outlined in the Town's Comprehensive Plan and the Northern Area Task Force Report, which is an adopted component of the Comprehensive Plan. In particular, the proposed development proposes a form of development that is complementary in style and density with adjoining residential development (Vineyard Square) while at the same time incorporating desirable tree save areas. The proposed development meets the desired minimum density (8-15 units per acre) to support bus transit service. However, we note that the proposed development does not

achieve the identified 15+ dwelling unit per acre minimum gross density identified for residential development in Focus Area 4 in the Northern Area Task Force Report.

On balance, when the variety of goals and objectives are considered, we believe that the finding can be made that the proposal is generally consistent with the Comprehensive Plan and the Northern Area Task Force Report. Accordingly, we recommend approval of Resolution A, which would approve the requested rezoning. On the other hand, if the Council believes the associated Special Use Permit application proposal does not achieve the desired objectives for this site, then we recommend adoption of Resolution B, which would deny the requested rezoning.

We recommend that the Council open the public hearing, receive comments and consider the attachments associated with this application.

The attached Ordinance would approve the rezoning application. The attached Resolution would deny the rezoning request.

#### **ATTACHMENTS**

1. Ordinance – Approving the Rezoning Application
2. Resolution – Denying the Rezoning Application
3. Applicant’s Statement of Justification
4. Legal Description of proposed rezoning
5. Area Map

**ATTACHMENT 1  
ORDINANCE  
(Rezoning to R-5-C)**

**AN ORDINANCE AMENDING THE CHAPEL HILL ZONING ATLAS FOR THE BRIDGEPOINT AT 2300 HOMESTEAD ROAD (Orange County Parcel Identifier Numbers: 9870-91-4489 and 9870-91-9528)**

WHEREAS, the Council of the Town of Chapel Hill has considered the application from The Design Response, Inc. to amend the Zoning Atlas to rezone property described below from Residential-2 (R-2) to Residential-5-Conditional (R-5-C), and finds that the amendment is warranted, in order to achieve the purposes of the Comprehensive Plan including:

- Encouragement of development of selected opportunity areas; and
- Encouragement of neighborhood-scale commercial centers.

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

Being all that certain tract of land containing 363,614 square feet or 8.35 acres more or less, located in Chapel Hill Township, Orange County, North Carolina, and being more particularly described as follows:

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 leaving the property line of said Bridgepoint property and proceeding due south approximately 73 feet through the west side of the right-of-way of Weaver Dairy Road Extension to a point on the centerline of the right-of-way of Homestead Road, and then proceeding westerly along said centerline of aforementioned Homestead Road right-of-way approximately 395 feet to a point on said right-of-way, thence proceeding due north approximately 30 feet to an iron pipe on the northern edge of said road right-of-way and said iron pipe also being the southwestern corner of the Bridgepoint Development property; 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

(the Bridgepoint Development) containing 363,614 square feet or 8.35 acres, more or less, plus one-half of the abutting right-of-way of Homestead Road.

## SECTION II

That all ordinances and portions of ordinances in conflict herewith are hereby repealed.

This the \_\_\_\_\_ day of \_\_\_\_\_, 2010.

**ATTACHMENT 2  
DRAFT RESOLUTION  
(Denying R-5-C rezoning)**

**A RESOLUTION DENYING AN APPLICATION FOR A ZONING ATLAS FOR THE BRIDGEPOINT AT 2300 HOMESTEAD ROAD (Orange County Parcel Identifier Numbers: 9870-91-4489 and 9870-91-9528)**

WHEREAS, the Council of the Town of Chapel Hill has considered the application from The Design Response, Inc., to amend the Zoning Atlas to rezone property described below from Residential-2 (R-2) to Residential-5-Conditional (R-5-C), and fails to find that the amendment;

- a) corrects a manifest error in the chapter, or
- b) is justified because of changed or changing conditions in the area of the rezoning site or the community in general; or
- c) achieves the purposes of the Comprehensive Plan.

For the reasons that:

[INSERT REASONS FOR DENIAL]

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby denies the application by The Design Response, Inc. to rezone the site, identified now or formerly as Orange County Parcel Identifier Numbers 9870-91-4489 and 9870-91-9528 that are currently zoned Residential-2 (R-2) located at 2300 Homestead Road.

This the \_\_\_\_\_ day of \_\_\_\_\_, 2010.

# **BRIDGEPOINT**

**2214 & 2312 Homestead Road  
Chapel Hill, NC 27516**

## **ZONING ATLAS AMENDMENT (Residential-2 to Residential-5-Conditional)**

### **STATEMENT OF JUSTIFICATION**

A Zoning Atlas Amendment (ZAA), otherwise known as a rezoning, can be one of two types of requests in Chapel Hill. Either the request is for a general use zoning district, in which any of certain land uses and types of development may occur, or it is for a conditional use zoning district, in which land uses and development may occur only with the approval of a Special Use Permit (SUP). This particular rezoning request is for a Zoning Atlas Amendment from the current general use Residential-2 (R-2) zoning district to the conditional use Residential-5-Conditional (R-5-C) zoning district.

Under the requested Residential-5-Conditional (R-5-C) zoning district, development would only be permissible with the approval of a Special Use Permit by the Town Council. Accordingly, the property owner has also filed an application for a Special Use Permit for a Planned Development – Mixed Use (PD-MU) to accompany this request for a Zoning Atlas Amendment from R-2 to R-5-C.

From previous Town staff memos to Town Council, as a conditional zoning request, the proposal in the accompanying Special Use Permit application is specifically related to the rezoning request. Article 20 of the LUMO provides for an application for a conditional zoning district to be accompanied by an application for a Special Use Permit and for them to be reviewed concurrently.

Article 20 of the Development Ordinance establishes the intent of Zoning Atlas Amendments by stating that, “In order to establish and maintain sound, stable, and desirable development within the planning jurisdiction of the Town it is intended that this chapter shall not be amended except:

- a) to correct a manifest error in the chapter; or
- b) because of changed or changing conditions in a particular area or in the jurisdiction generally; or
- c) to achieve the purposes of the Comprehensive Plan.”

In this instance, the property owner's conditional zoning request for a Zoning Map Amendment from general use zoning district Residential-2 (R-2) to conditional use zoning district Residential-5-Conditional (R-5-C) achieves the purposes of the Comprehensive Plan.

As amended by the adopted report of the Northern Area Task Force, this property is identified as being located within a "Development Opportunity Area". From Article 8 of the Comprehensive Plan, these development opportunity areas are "appropriate for creative development or redevelopment to achieve Comprehensive Plan objectives." Strategy 8A-1 of the Plan is to "encourage development of selected 'opportunity areas' to achieve Comprehensive Plan objectives. Strategy 8A-2 goes on to further "encourage mixed-use development forms".

These strategies were developed to implement the Comprehensive Plan goal of "promote orderly development and redevelopment to achieve appropriate and compatible use of land". The objectives further focus these efforts on the Town's Urban Services Area, within which this property lies, with no need for any extension of OWASA water or sanitary sewer to serve the site.

Strategy 8A-2 speaks of encouraging neighborhood-scale commercial centers and "Neighborhood-Serving Center" is defined within the Glossary of the Comprehensive Plan as being "a node of development and activity that is designed to serve adjacent neighborhood needs by providing services such as a grocery store, pharmacy, convenience shopping, banking, and small to medium-size office space." Cedar Falls Courtyard is discussed as a specific example of just such a center.

When the Zoning Map Amendment conditional rezoning request for Residential-5-Conditional is examined in conjunction with the related Planned Development-Mixed Use Special Use Permit, just such a neighborhood service center would be created, serving the neighborhoods west of Martin Luther King, Jr. Blvd. and north of Homestead Road, as well as the neighborhoods farther to the west along Homestead Road. In addition, with several community-oriented and service-related land uses nearby (Homestead Park Aquatics Center, soccer and baseball fields at Homestead Park, Orange County Southern Human Services, Orange County Senior Center, and three nearby schools), a neighborhood service center would encourage multi-destination vehicular trips and also offer a destination that could be reached by foot or bicycle from neighborhoods in the immediate area.

With the future development of the envisioned "Rail Trail" along the State University railroad corridor, there would also be greenway connections available from the western edge of this property, thereby extending the range of potential non-automobile trips to this neighborhood service center to an even greater range of areas than the neighborhoods in the immediate area. Coupled with the extension of bus service into this area (current bus service terminates at the Orange County Human Services Center), multi-modal approaches to this property become easier over time. We also note that the property is within easy walking distance of whatever transit corridor that may develop within the nearby State University railroad right-of-way.

Strategy 8A-2 from the Comprehensive Plan also encourages residential development to be mixed with these service centers to further provide a mixture of uses, affording some residents who choose this lifestyle and location easy walking distance access to retail services and/or employment opportunities. The Planned Development – Mixed Use (PD-MU) Special Use Permit that accompanies this conditional rezoning request establishes a townhome community within the western portion of the site, a land use that is compatible with the Vineyard Square townhome community north of the Resource Conservation District (RCD) buffer area that separates the two sites. Affordable housing is also offered as a component of this residential community, furthering the goals and objectives of the Comprehensive Plan to promote work force housing and to provide affordable housing units with non-residential projects that generate new jobs in the community.

Zoning the property as Residential-5-Conditional (R-5-C) would match the existing zoning of the Orange County government services center (Southern Human Services Center, Senior Center, etc.), which is located diagonally opposite this property in the southeast quadrant of the Homestead Road and Weaver Dairy Road Extension intersection, thereby establishing similar intensities and zoning patterns for these two intersection properties. Vineyard Square, the townhome community immediately to the north of this property (a RCD buffer separates the two land uses) is zoned Residential-4-Conditional (R-4-C). The Planned Development – Mixed Use Special Use Permit that accompanies this zoning atlas amendment request limits the total floor area of the proposed project to just slightly over the R-4 maximum floor area limits, but proposes to only utilize just over seventy (70%) percent of the floor area that could be permitted based on the R-5 floor area limits.

As discussed earlier, by being a conditional rezoning request, the Special Use Permit is related to the zoning atlas amendment request, so the accompanying Special Use Permit limits the floor area available to what is stated on the plans, documents, and conditions of approval related to that Special Use Permit. Furthermore, the Planned Development – Mixed Use Special Use Permit sets both the form of development and the ratio of the mixed uses contained within.

This conditional use zoning request for a Residential-5-Conditional zoning district, together with the Planned Development – Mixed Use (PD-MU) Special Use Permit that accompanies it (as provided for by Article 20 of the LUMO), combines to provide the creative development opportunity for desirable mixed-use form of development at a neighborhood scale level that is encouraged within the Comprehensive Plan, both by map and by adopted goals, objectives, and strategies at a location identified as a Development Opportunity Area.

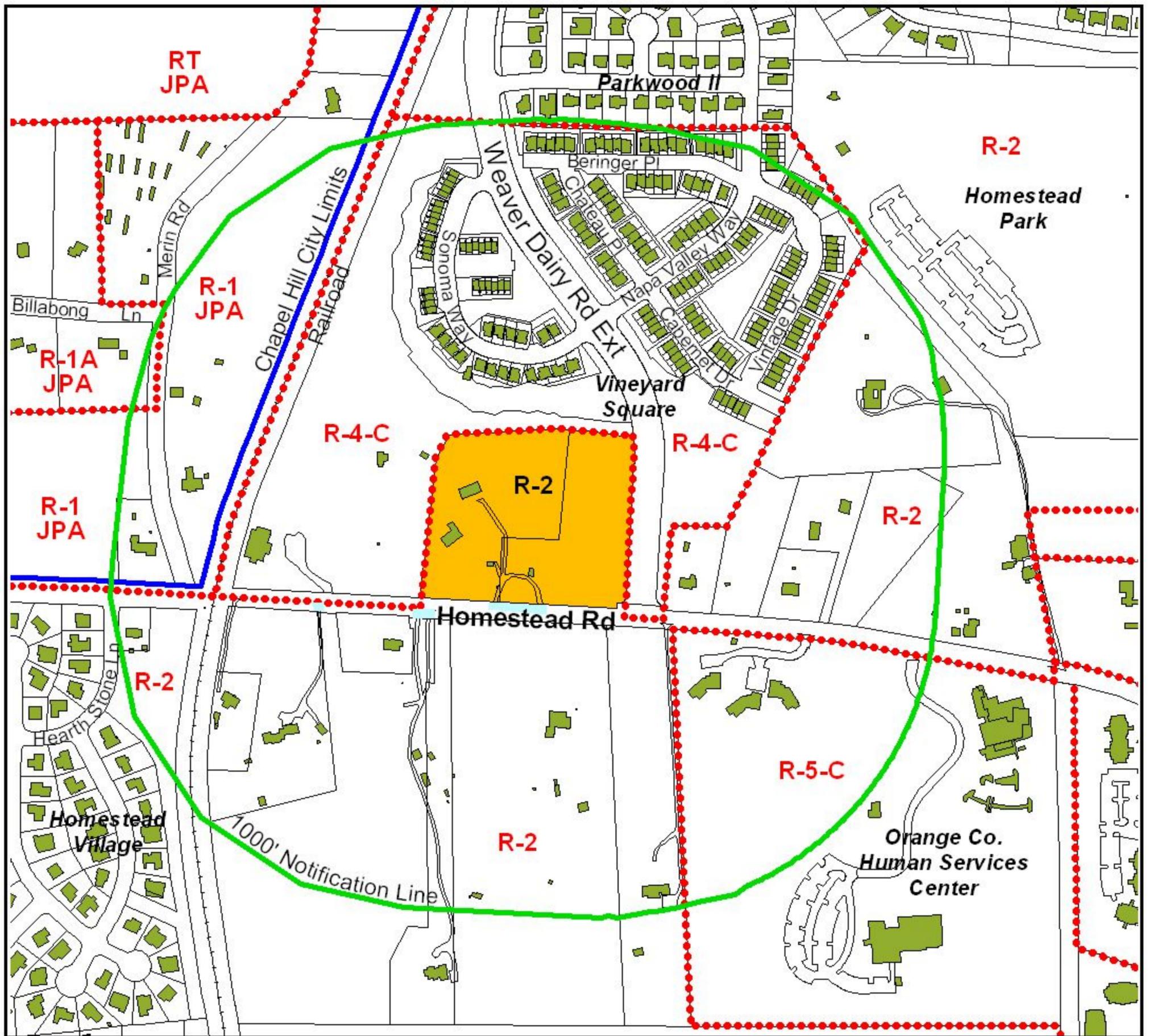
## **Fraley Tract Property Description**

Being all that certain tract of land containing 363,614 square feet or 8.35 acres more or less, located in Chapel Hill Township, Orange County, North Carolina, and being more particularly described as follows:

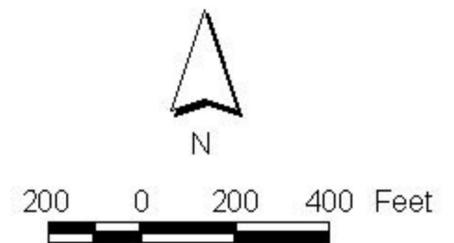
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# Area Map Fraley Property



-  Fraley Property
-  Buildings
-  Chapel Hill Zoning
-  Joint Planning Agreement Area, Chapel Hill Transition District
-  Chapel Hill City Limits



GIS Map prepared by  
Town of Chapel Hill  
Planning Department  
October, 2008