

CITY OF RALEIGH

Z-4-09

**CM & MH
w/SHOD-1**

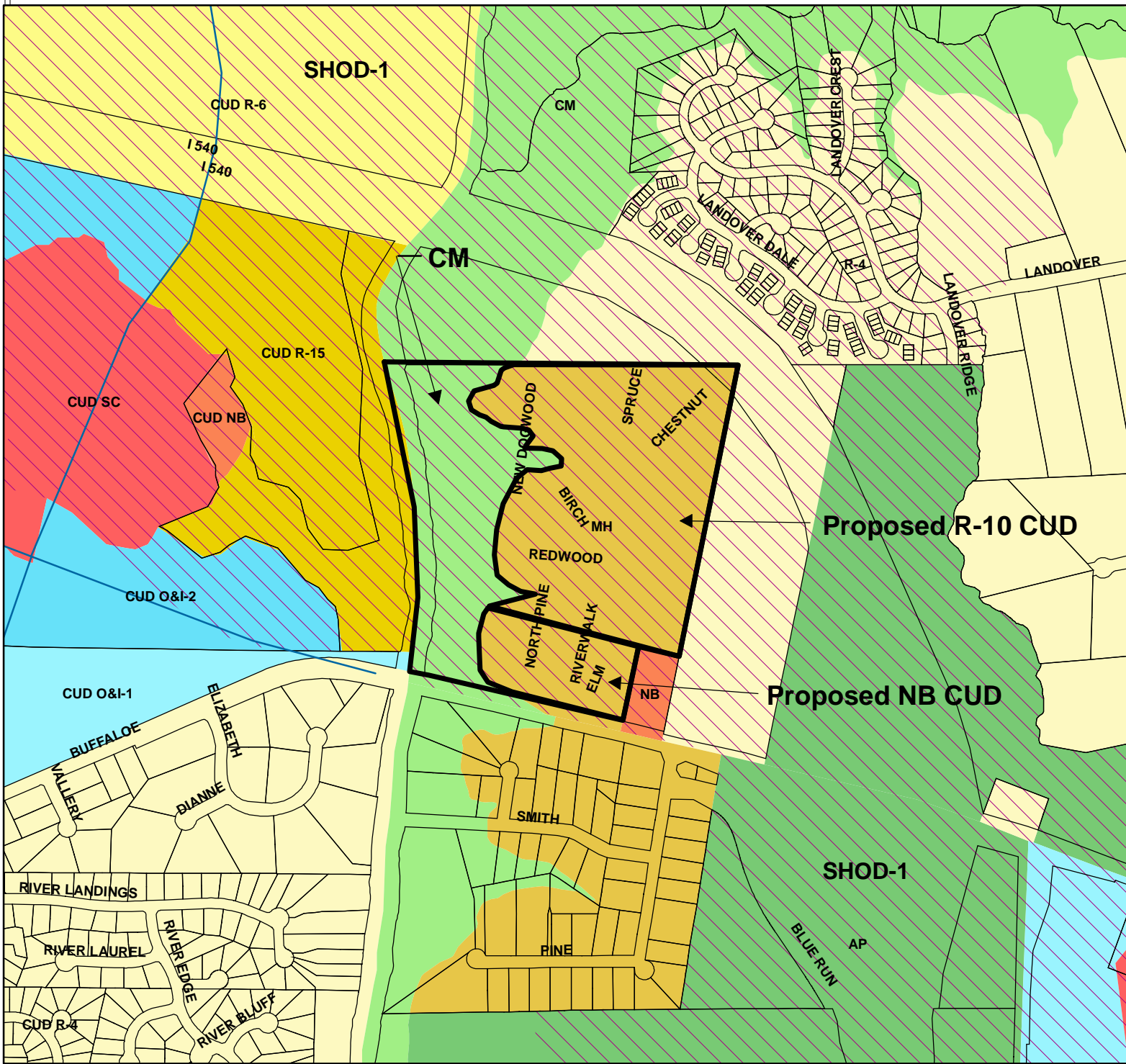
to

**CM, R-10 & NB
w/SHOD-1 CUD**

48.08 acres

Public Hearing
January 22, 2009
(May 22, 2009)

520
Feet





SEP 19 AM 11: 22

Petition to Amend the Official Zoning Map

Before the City Council of the City of Raleigh, North Carolina

The petitioner seeks to show the following:

1. That, for the purposes of promoting health, morals, or the general welfare, the zoning classification of the property described herein must be changed.

2. That the following circumstance(s) exist(s):

- City Council has erred in establishing the current zoning classification of the property by disregarding one or a combination of the fundamental principles of zoning as set forth in the enabling legislation, North Carolina General Statutes Section 160A-381 and 160A-383.
- Circumstances have so changed since the property was last zoned that its current zoning classification could not properly be applied to it now were it being zoned for the first time.
- The property has not heretofore been subject to the zoning regulations of the City of Raleigh.

3. That the requested zoning change is or will be in accordance with the Raleigh Comprehensive Plan.

4. That the fundamental purposes of zoning as set forth in the N.C. enabling legislation would be best served by changing the zoning classification of the property. Among the fundamental purposes of zoning are:

- 1) to lessen congestion in the streets;
- 2) to provide adequate light and air;
- 3) to prevent the overcrowding of land;
- 4) to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements;
- 5) to regulate in accordance with a comprehensive plan;
- 6) to avoid spot zoning; and
- 7) to regulate with reasonable consideration to the character of the district, the suitability of the land for particular uses, the conservation of the value of buildings within the district and the encouragement of the most appropriate use of the land throughout the City.

Please check boxes where appropriate

THEREFORE, petitioner requests that the Official Zoning map be amended to change the zoning classification of the property as proposed in this submittal, and for such other action as may be deemed appropriate.

Signature(s)

Date:

River Walk Limited Partnership

By: [Signature]

9/19/08

Jason L. Barron and Michael Birch,
Attorneys for the Petitioner

EXHIBIT B. Request for Zoning Change

Office Use Only	
Petition No.	<u>2-4-09</u>
Date Filed:	<u>9-19-08</u>
Filing Fee:	<u>pd 1028.00 by C# 101993</u>

Please use this form only – form may be photocopied. Please type or print

See instructions, page 6

	Name(s)	Address	Telephone / E-Mail
<p>1) Petitioner(s): Note: Conditional Use District Petitioner(s) must be owner(s) of petitioned property.</p>	<p><u>River Walk Limited Partnership</u></p>	<p><u>280 Daines Street Suite 300 Birmingham, MI 48009</u></p>	
<p>2) Property Owner(s):</p>	<p><u>River Walk Limited Partnership</u></p>	<p><u>280 Daines Street Suite 300 Birmingham, MI 48009</u></p>	
<p>3) Contact Person(s):</p>	<p><u>Jason L. Barron and Michael Birch K&L Gates LLP</u></p>	<p><u>4350 Lassiter at North Hills Avenue, Suite 300 Raleigh, NC 27609</u></p>	<p><u>(919) 743-7343 (919) 743-7314 jason.barron@klgates.c om michael.birch@klgates.c om</u></p>
<p>4) Property Description: Please provide surveys if proposed zoning boundary lines do not follow property lines.</p>	<p>Wake County Property Identification Number(s) (PIN): <u>1746-04-3525</u></p> <p>General Street Location (nearest street intersections): <u>Northwest quadrant of the intersection of Interstate 540 and Buffalo Road; North of Buffalo Road at Riverwalk Drive.</u></p>		
<p>5) Area of Subject Property (acres):</p>	<p><u>48.08 acres</u></p>		
<p>6) Current Zoning District(s) Classification: Include Overlay District(s), if Applicable</p>	<p><u>Conservation Management and Manufactured Home, all with Special Highway Overlay District-1</u></p>		
<p>7) Proposed Zoning District Classification: Include Overlay District(s) if Applicable. If existing Overlay District is to remain, please state.</p>	<p><u>Conservation Management, Residential-10, and Neighborhood Business, all with Special Highway Overlay District-1 (see attached Exhibit C-1 for proposed district boundaries)</u></p>		

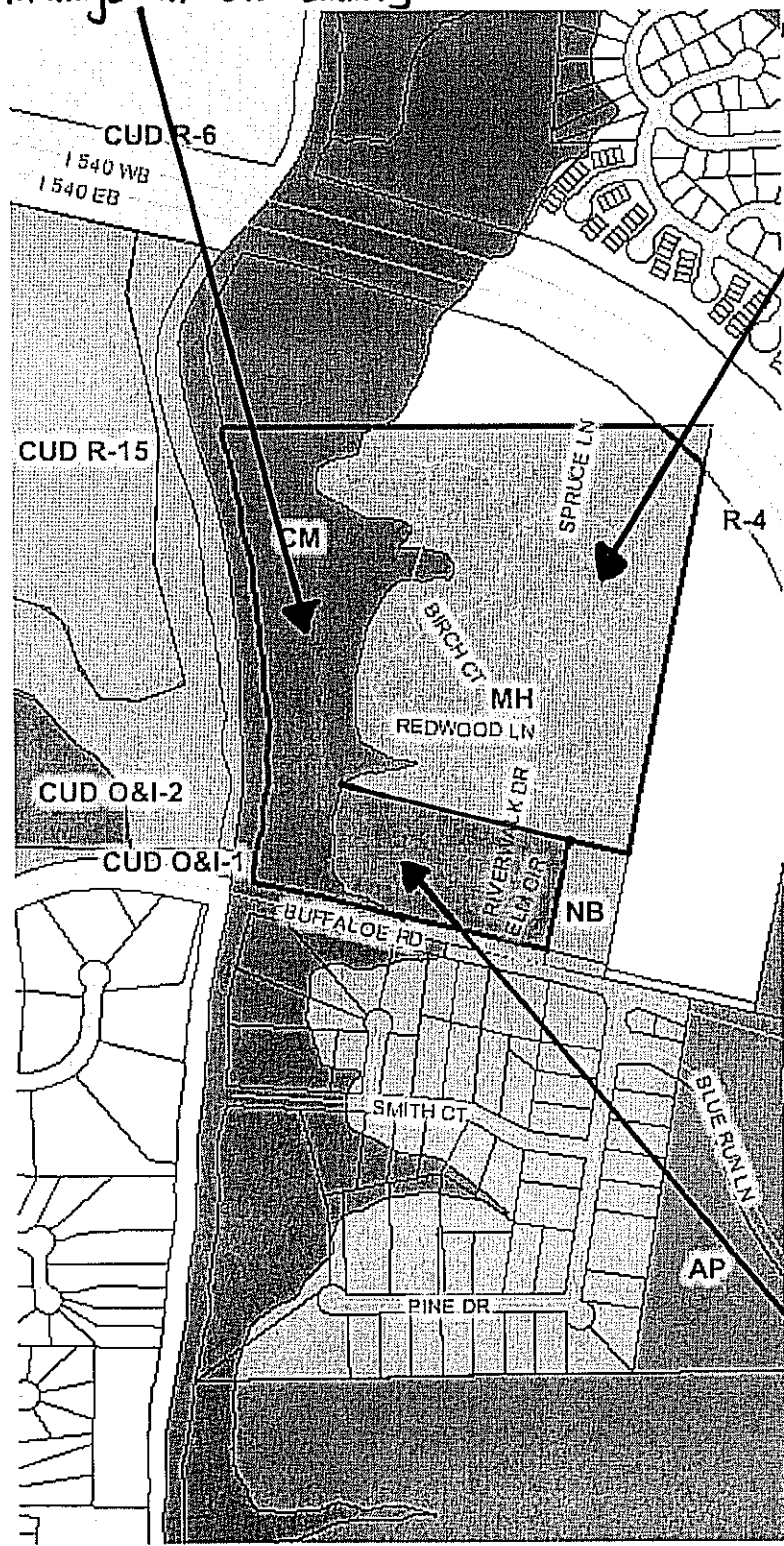
Exhibit C-1

EXHIBIT C-1



Conservation Management (to remain)

Proposed Residential-10 CUD

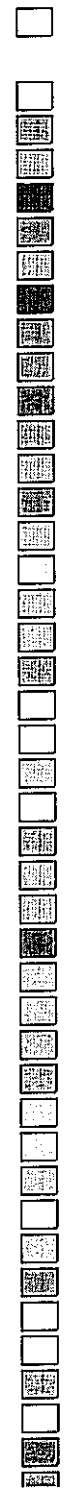


Parcel Number: 1746043525

REID: 0066629
OWNER1: RIVER WALK LIMITED PARTNERSHIP
ADDR1: 280 DAINES ST STE 300
ADDR2: BIRMINGHAM MI 48009-6246
ADDR3:
DEED BOOK: 08168
DEED PAGE: 2254
DEED DATE: 10/20/1998
DEED ACRES: 48.08
BLDG VAL: 3351261
LAND VAL: 1683672
BILLING CLASS: CORPORATE LISTING
DESCRIPTION: UPCHURCH LD
MAP NAME: 174603
PIN NUM: 1746043525
PIN EXT: 000
CITY:
TOWNSHIP: ST. MATTHEWS
YEAR BUILT: 1974
SALEPRICE: 2145000
SALEDATE: 9/30/1986
TYPE USE: Prefab Warehouse.
DESIGN STYLE: Conventional
UNITS: 0
LAND CLASS: MOBILE HOME PARK
OLD PARCEL NUMBER: 412-

RALEIGH SITE ADDRESSES 1
STREET NUM: 6901
STREET SUITE:
STREET DIR PRE:
STREET NAME: BUFFALO
STREET TYPE: RD
STREET DIR SUF:
ADDRESS TYPE: Parcel
ADDRESS STATUS: ACTIVE
CODE DESCR:

RALEIGH SITE ADDRESSES 2
STREET NUM: 7020
STREET SUITE:
STREET DIR PRE:
STREET NAME: NEW DOGWOOD
STREET TYPE: DR
STREET DIR SUF:
ADDRESS TYPE: Parcel
ADDRESS STATUS: ACTIVE
CODE DESCR:



Proposed Neighborhood Business CUD

Z-4-09

Exhibit B-1

Exhibit B-1

Adjacent Property Owners

<u>Name and Address</u>	<u>PIN</u>
Siamak Khorram 875 Washington Street, Suite B1 Raleigh, NC 27605-3272	1736-73-5856
Buffaloe Associates Clifton L. Benson, Jr. Family Limited Partnership P.O. Box 17102 Raleigh, NC 27619-7102	1736-84-4773
Buffaloe Associates TCF Real Estate Foundation Inc. P.O. Box 17102 Raleigh, NC 27619-7102	1736-76-4233
N.C. Department of Transportation 815 Stadium Drive Durham, NC 27704-2713	1736-95-8702
Sanders Development Co., LLC P.O. Box 37759 Raleigh, NC 27627-7759	1746-05-9687
Ross Construction Inc. 8309 Six Forks Road, Suite 207 Raleigh, NC 27615-2097	1746-06-6087
Ross Construction Inc. 8309 Six Forks Road, Suite 207 Raleigh, NC 27615-2097	1746-06-6075
Ross Construction Inc. 8309 Six Forks Road, Suite 207 Raleigh, NC 27615-2097	1746-06-6063
Ross Construction Inc. 8309 Six Forks Road, Suite 207 Raleigh, NC 27615-2097	1746-05-6958

Ross Construction Inc. 8309 Six Forks Road, Suite 207 Raleigh, NC 27615-2097	1746-05-6946
Paul & Michelle Cardon 4810 Landover Charge Lane Raleigh, NC 27616-9050	1746-05-7925
Ross Construction Inc. 8309 Six Forks Road, Suite 207 Raleigh, NC 27615-2097	1746-05-7927
Ross Construction Inc. 8309 Six Forks Road, Suite 207 Raleigh, NC 27615-2097	1746-05-7939
April A. Bonds 4804 Landover Charge Lane Raleigh, NC 27616-9059	1746-06-7042
Mark A. & Melanie S. Wood 4805 Landover Charge Lane Raleigh, NC 27616-9058	1746-05-9913
Raymond J. & Carolanne Farrell 43 Wendy Drive Farmingville, NY 11738-2549	1746-05-9901
Chip Lee Delk 4809 Landover Charge Lane Raleigh, NC 27616-9058	1746-05-8889
Ross Construction Inc. 8309 Six Forks Road, Suite 207 Raleigh, NC 27615-2097	1746-05-8865
Ross Construction Inc. 8309 Six Forks Road, Suite 207 Raleigh, NC 27615-2097	1746-05-8844
Peter Kovacs 4815 Landover Charge Lane Raleigh, NC 27616-9058	1746-05-8832

Marlon & Janice Barreto 4804 Landover Vale Way Raleigh, NC 27616-9068	1746-05-9897
Randall N. & Sara A. Roberson 4806 Landover Vale Way Raleigh, NC 27619-9068	1746-05-9875
Ashley M. Hayes 4808 Landover Vale Way Raleigh, NC 27616-9068	1746-05-9853
Lorraine Moller 218 Springmeadow Drive, Unit C Holbrook, NY 11741-4123	1746-05-9820
Jayson E. & Lisa Ramsey 4814 Landover Vale Way Raleigh, NC 27616-9068	1746-05-9708
Jeanine N. Mayers 4816 Landover Vale Way Raleigh, NC 27616-9068	1746-05-8796
Ross Construction Inc. 8309 Six Forks Road, Suite 207 Raleigh, NC 27615-2097	1746-15-0789
Ross Construction Inc. 8309 Six Forks Road, Suite 207 Raleigh, NC 27615-2097	1746-15-0777
Brian S. Cassidy 4809 Landover Vale Way Raleigh, NC 27616	1746-15-0755
Ross Construction Inc. 8309 Six Forks Road, Suite 207 Raleigh, NC 27615-2097	1746-15-0751
Ross Construction Inc. 8309 Six Forks Road, Suite 207 Raleigh, NC 27615-2097	1746-15-0639

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Ross Construction Inc. 8309 Six Forks Road, Suite 207 Raleigh, NC 27615-2097	1746-15-0627
Gerard A. Gregory 4804 Landover Arbor Place Raleigh, NC 27616-9066	1746-15-1756
Gloria A. Richardson 4806 Landover Arbor Place Raleigh, NC 27616-9066	1746-15-1743
Travis Scott Henegar 4808 Landover Arbor Place Raleigh, NC 27616-9066	1746-15-1731
Britni Coble 4812 Landover Arbor Place Raleigh, NC 27616-9066	1746-15-1627
Ja-Fana G. Harris 4814 Landover Arbor Place Raleigh, NC 27616-9066	1746-15-1605
Dawn C. Baker 4816 Landover Arbor Place Raleigh, NC 27616-9066	1746-15-0693
Eric D. Bellamy, Sr. 4820 Landover Arbor Place Raleigh, NC 27616-9066	1746-15-1527
Kharreya N. Holloway 4822 Landover Arbor Place Raleigh, NC 27616-9066	1746-15-1535
Kathryn A. Goe 4805 Landover Arbor Place Raleigh, NC 27619-9067	1746-15-2760
Ross Construction Inc. 8309 Six Forks Road, Suite 207 Raleigh, NC 27615-2097	1746-15-2668

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Z-4-09

Walter D. & Cynthia M. Fowler 4809 Landover Arbor Place Raleigh, NC 27616-9067	1746-15-2665
John H. Andrews 4815 Landover Arbor Place Raleigh, NC 27616-9067	1746-15-2568
Maksim A. Pakhunov 4817 Landover Arbor Place Raleigh, NC 27616-9067	1746-15-2566
Timothy William Smith P.O. Box 1421 Knightdale, NC 27545-1421	1746-15-2563
Margaret W. Strickland Heirs et al c/o R.H. Watkins, Executor 11428 Jordan Road Raleigh, NC 27603-8330	1746-04-8342
Paul K. & Linda Elaine Hester 7425 Buffalo Road Raleigh, NC 27616-6811	1746-23-6378
Clark Stores, LLC P.O. Box 469 Clinton, NC 28329-0469	1746-03-4839
Horace M. & Connie M. Nixon 6926 Buffalo Road Raleigh, NC 27616-6529	1746-03-4508
Jessie Pearl C. Boles 6908 Buffalo Road Raleigh, NC 27616-6529	1746-03-2622
Patrick H. Simmons 1309 Old Milburnie Road Raleigh, NC 27604-9630	1746-03-0663
Patrick H. Simmons 1309 Old Milburnie Road Raleigh, NC 27604-9630	1736-93-9665

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Patrick H. Simmons 1309 Old Milburnie Road Raleigh, NC 27604-9630	1736-93-8643
Patrick H. Simmons 1309 Old Milburnie Road Raleigh, NC 27604-9630	1736-93-7702
Patrick H. Simmons 1309 Old Milburnie Road Raleigh, NC 27604-9630	1736-93-4781
City of Raleigh P.O. Box 590 Raleigh, NC 27602-0590	1736-93-0526
City of Raleigh P.O. Box 590 Raleigh, NC 27602-0590	1736-93-0737
City of Raleigh P.O. Box 590 Raleigh, NC 27602-0590	1736-83-9983
Donna W. English 6606 Buffaloe Road Raleigh, NC 27616-6523	1736-83-7897

Office Use Only	
Petition No.	<u>2-4-09</u>
Date Filed:	_____

EXHIBIT D. Petitioner’s Argument on Behalf of The Zoning Change Requested

Please use this form only – form may be photocopied – please type or print.

This section is reserved for the applicant to state factual information in support of the rezoning request.

Required items of discussion:

The Planning Department is instructed not to accept any application for amending the official zoning map without a statement prepared by the applicant analyzing the reasonableness of the rezoning request. This statement *shall* address the consistency of the proposed rezoning with the Comprehensive Plan and any other applicable *City*-adopted plan(s), the compatibility of the proposed rezoning with the *property* and surrounding area, and the benefits and detriments of the proposed rezoning for the landowner, the immediate neighbors and the surrounding community.

Recommended items of discussion (where applicable):

1. An error by the City Council in establishing the current zoning classification of the property.
2. How circumstances (land use and future development plans) have so changed since the property was last zoned that its current zoning classification could not properly be applied to it now were it being zoned for the first time.
3. The public need for additional land to be zoned to the classification requested.
4. The impact on public services, facilities, infrastructure, fire and safety, parks and recreation, topography, access to light and air, etc.

PETITIONER’S STATEMENT:

I. Consistency of the proposed map amendment with the Comprehensive Plan (www.raleighnc.gov).

A. Please state which District Plan area the subject property is located within and the recommended land use for this property:

The Property is located in the Northeast District Plan area. According to the Recommended Urban Form map, residential and residential retail uses are recommended for the Property. The Property fronts Buffalo Road, a primarily residential thoroughfare, and is bounded to the north by Interstate 540, a primary arterial. The district plan text suggests that land along the Neuse River develop *primarily* for residential uses to protect the river and adjoining wetlands. Moreover, the plan recommends cluster housing development and higher density residential development to help create open space and preserve the environmental features.

B. Please state whether the subject property is located within any adopted Regional Center Plan, Small Area Plan, Corridor Plan, Neighborhood Plan, Watershed Plan, Streetscape Plan, Redevelopment Plan or other City Council-adopted plans and policies and discuss the policies applicable to future development within the plan(s) area.

The Property is located within the Neuse River East Small Area Plan area. The urban form map suggests residential retail and low density residential for the Property. Because the Property is not located in a focus area, the plan recommends *primarily* low density residential uses and notes that additional retail uses are strongly discouraged. However, because the Property is located just outside of the interchange of

Interstate 540 and Buffalo Road and not within a focus area, the plan suggests that the Property develop for residential or low intensity office/institutional uses. The plan also encourages clustering along the Neuse River.

The Property is located between two neighborhood focus areas, along a primarily residential corridor. A corridor transition area is an area located along a transportation corridor between focus areas, and is typically an area of less intense development relative to focus areas. According to the Urban Form Terms and Policies section, a primarily residential corridor transition area should include *mostly* residential development between focus areas. Such a transition area serves to buffer the roadway from adjacent residential uses. Medium density housing is preferred in primarily residential corridors (between 7 to 14 units per acre).

C. Is the proposed map amendment consistent or inconsistent with the Comprehensive Plan and other City Council-adopted plans and policies?

The portion of the proposed map amendment that attempts to rezone the northern portion of the Property to Residential-10 is consistent with the Northeast District Plan, Neuse River East Small Area Plan, and the Urban Form Terms and Policies. These plans and associated policies recommend medium density, clustered residential development. The Residential-10 zoning district permits such medium-density residential uses. A medium-density residential development would also preserve the natural open space along the Neuse River.

The portion of the proposed map amendment that attempts to rezone the southern portion of the Property to Neighborhood Business is inconsistent with the Northeast District Plan, the Neuse River East Small Area Plan, and the Urban Form Terms & Policies. However, the Petitioner submits that this proposed map amendment is reasonable and in the public interest.

The Northeast District Plan urban map recommends residential retail and residential uses for the Property. Moreover, the residential retail area appears to encompass a portion of the Property according to the small area plan urban form map. Yet, the small area plan text strongly discourages additional retail uses in the residential retail areas. As a result, the a portion of the proposed map amendment is inconsistent with the small area plan.

However, the portion of the proposed map amendment that attempts to expand the residential retail area is reasonable and in the public interest, given (a) the new interchange of Interstate 540 at Buffalo Road, (b) the existing and proposed residential uses in the immediate area, and (c) the existing residential retail use immediately adjacent to the Property. The new interchange is approximately 800 feet east of the Property. Due to this close proximity to a major interchange, retail uses are reasonable for the Property's frontage along Buffalo Road. Retail uses are reasonable and in the public interest because they can provide neighborhood-oriented services and products to the proposed medium-density residential development and existing neighborhoods that are within walking distance to the Property. The provision of neighborhood-oriented services for the immediate area would decrease the need for vehicle trips to a proposed large retail area such as Buffloe Road/Skycrest Drive Extension. An existing residential retail use is located immediately southeast of the Property, along Buffalo Road.

II. Compatibility of the proposed map amendment with the property and the surrounding area.

A. Description of land uses within the surrounding area (residential housing types, parks, institutional uses, commercial uses, large parking lots, thoroughfares and collector streets, transit facilities):

Buffaloe Road, which borders the Property to the south, is a major thoroughfare. Interstate 540, a primary arterial, is located north of the Property. The I-540/Buffaloe Road interchange is approximately 800 feet east of the Property along Buffaloe Road.

A commercial use is located immediately southeast of the Property.

Single family detached dwellings and mobile homes are located to the south and southwest of the Property, across Buffaloe Road.

The Neuse River and a City of Raleigh greenway is immediately west of the Property.

B. Description of existing Zoning patterns (zoning districts including overlay districts) and existing built environment (densities, building heights, setbacks, tree cover, buffer yards):

To the west of the Neuse River, property is zoned Residential-15 CUD and Neighborhood Business CUD, all with SHOD-1 (Z-38-91), Office & Institution-1 CUD (Z-60-04), and Residential-15 CUD, Shopping Center CUD, and Office & Institution-2 CUD, partially with SHOD-1 (Z-33-07). These properties are currently vacant.

Property to the southwest, across Buffaloe Road, is zoned Residential-4. Single family detached dwellings are located on these parcels. Property to the south, across Buffaloe Road, is zoned Conservation Management and Manufactured Home. Mobile homes are located on these parcels.

Property immediately adjacent to the southeast is zoned Neighborhood Business with SHOD-1. A gas station is located on this tract, along with three buildings for mini-warehouse storage.

The parcel to the east of the Property is zoned Residential-4 with SHOD-1. Land to the north owned by North Carolina Department of Transportation is zoned Conservation Management and Residential-4, all with SHOD-1. These parcels are vacant.

C. Explanation of how the proposed zoning map amendment is compatible with the suitability of the property for particular uses and the character of the surrounding area

The proposed map amendment is compatible with the suitability of the property for the proposed use. The proposed map amendment preserves the Conservation Management district along the Neuse River, thereby maintaining the natural open space and serving a critical environmental protection objective. This environmental protection objective is furthered by the condition of the proposed map amendment requiring that stormwater facilities be designed to retain for the 20-year storm. In order to preserve this open space, the proposed map amendment permits clustering of medium-density residential uses. Also, the Property fronts along a major thoroughfare, near an interchange with Interstate 540. The frontage of the Property is a reasonable location for retail uses, especially considering the site's proximity to I-540. The location of retail uses along the front of the Property can also serve as a buffer to the proposed residential district.

The proposed map amendment is also compatible with the character of the surrounding area. Medium-density residential uses are compatible with the character of the surrounding area, which includes mobile/manufactured homes across Buffaloe Road. Also, on the west side of the Neuse River, property is able to be developed to 15 units per acre (Z-38-91), 10 units per acre (Z-60-04), and 12.3 units per acre (Z-33-07). Neighborhood business uses permitted by the proposed map amendment are compatible with the character of the surrounding area, given the immediately adjacent retail use, the Property's proximity to a major interchange, and a proposed commercial development on the other side of the Neuse River at the neighborhood focus area (Z-33-07).

III. Benefits and detriments of the proposed map amendment.

A. For the landowner(s):

The proposed map amendment benefits the landowner by permitting redevelopment of the Property for its highest and best use, and in a more appropriate fashion than the past manufactured home use. Moreover, the landowner is able to preserve open space along the Neuse River as an amenity for the proposed medium-density residential uses. The proposed map amendment also benefits the landowner by permitting it to offer neighborhood-oriented services for the proposed medium-density residential uses and surrounding neighbors.

B. For the immediate neighbors:

The neighborhood-oriented retail uses permitted by the proposed map amendment would benefit the immediate neighbors by providing needed services and products within walking distance.

C. For the surrounding community:

The proposed map amendment benefits the surrounding community by providing additional retail options along a major thoroughfare and near a major interchange.

IV. Does the rezoning of this property provide a significant benefit which is not available to the surrounding properties? Explain:

No. The rezoning of this property does not provide a significant benefit which is not available to the surrounding properties. Rather, the rezoning of the Property's frontage along Buffalo Road to Neighborhood Business provides the Property with benefits already available to an adjacent property. Also, the rezoning of the balance of the Property for medium-density residential uses provides a benefit to the Property already available to properties to the west of the Neuse River.

Explain why the characteristics of the subject property support the proposed map amendment as reasonable and in the public interest.

The location of the Property and the existing and proposed uses in the immediate area support the proposed map amendment as reasonable and in the public interest.

The Property is bordered on the west by the Neuse River and a City of Raleigh greenway. It is reasonable and in the public interest to preserve open space along the river; the proposed map amendment continues to preserve the natural open space along the Neuse River and City of Raleigh greenway through maintaining the Conservation Management district on the western portion of the Property.

The Property has frontage along Buffalo Road, a major thoroughfare, approximately 800 feet from the interchange of Interstate 540 and Buffalo Road. Additionally, a retail use is immediately adjacent to the Property, east along Buffalo Road. It is reasonable and in the public interest to rezone the portion of the Property fronting along Buffalo Road to Neighborhood Business in order to permit development consistent with an adjacent retail use and to provide surrounding neighbors with neighborhood-oriented retail uses. Moreover, it is reasonable and in the public interest to permit retail uses in such close proximity to a major interchange.

The proposal to allow medium-density residential uses is reasonable and in the public interest given the location of the Property next to the Neuse River and the residential density allowances of surrounding parcels. It is reasonable and in the public interest to permit medium-density residential uses, and the clustering of such uses in order to preserve and protect the natural open space along the Neuse River. Also, surrounding properties west along Buffalo Road are permitted to develop up to 15 units per acre (Z-38-91), 12.3 units per acre (Z-33-07), and 10 units per acre (Z-60-04). It is reasonable and in the public interest to allow the Property to develop up to 10 units per acre given the surrounding residential densities currently permitted.

V. Recommended items of discussion (where applicable).

- a. An error by the City Council in establishing the current zoning classification of the property.**

This recommended item of discussion is not applicable.

- b. How circumstances (land use and future development plans) have so changed since the property was last zoned that its current zoning classification could not properly be applied to it now were it being zoned for the first time.**

Since the Property was last zoned, the area has seen a number of changes. A number of properties in the surrounding area have been developed. Further, several properties are now planned for commercial and medium to high density residential uses. Finally, Interstate 540 has been constructed. The increased residential development, proposed mixed-use developments, and the major interchange support a reclassification of the Property's zoning. The Property is now located along a major thoroughfare between an interchange and two proposed mixed-use developments (Z-60-04 & Z-33-07). Given the interchange and changes in proposed land use and future development plans in the immediate area, the Property could not properly be zoned its current classification if it were being zoned for the first time.

- c. The public need for additional land to be zoned to the classification requested.**

This recommended item of discussion is not applicable.

- d. The impact on public services, facilities, infrastructure, fire and safety, parks and recreation, topography, access to light and air, etc.**

No extraordinary impacts on public services, facilities, infrastructure, fire and safety, parks and recreation, topography, or access to light and air are anticipated.

VI. Other arguments on behalf of the map amendment requested.

The Petitioner does not have any other arguments at this time.



Certified Recommendation of the City of Raleigh Planning Commission

Case File: Z-4-09 Conditional Use; Buffalo Road

General Location: Buffalo Road, north side, west of I-540

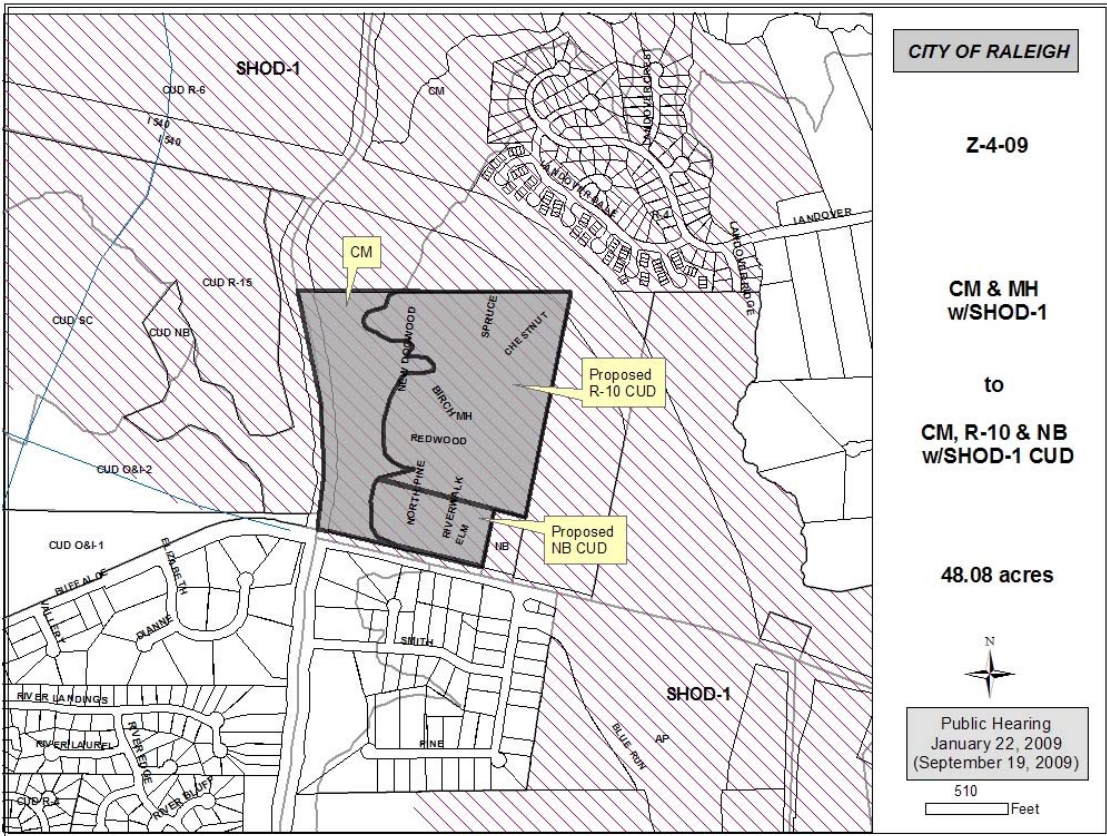
Planning District / CAC: Northeast / Northeast

Request: Petition for Rezoning from **Conservation Management & Manufactured Home w/ SHOD-1** to **Conservation Management, Residential-10 & Neighborhood Business w/ SHOD-1**

Comprehensive Plan Consistency: This request is inconsistent with the Comprehensive Plan.

Valid Protest Petition (VSPP): No

Recommendation: The Planning Commission finds that the proposed rezoning is inconsistent with the Comprehensive Plan. However, based on the findings and reasons stated herein, that this request be approved in accordance with zoning conditions dated August 24, 2009.



CASE FILE: Z-4-09 Conditional Use

LOCATION: This site is located on the north side of Buffaloe Road, west of its intersection with I-540.

REQUEST: This request is to rezone approximately 48.08 acres, currently zoned Conservation Management & Manufactured Home w/ SHOD-1. The proposal is to rezone the property to Conservation Management, Residential-10, & Neighborhood Business w/ SHOD-1.

COMPREHENSIVE PLAN CONSISTENCY: The request is inconsistent with the Comprehensive Plan.

RECOMMENDATION: The Planning Commission finds that the proposed rezoning is inconsistent with the Comprehensive Plan. However, based on the findings and reasons stated herein, that this request be approved in accordance with zoning conditions dated August 24, 2009.

FINDINGS AND REASONS:

- (1) The rezoning request is inconsistent with the Northeast District Plan and the Neuse River East Small Area Plan Comprehensive Plan's recommendation for this area to develop as low density residential (*6 or fewer units per acre*). However, based on the property's proximity to I-540 and the growth that is occurring in this area the request is considered compatible with the surrounding area.
- (2) The request is considered reasonable and in the public interest based on the zoning conditions that will improve the level of compatibility with the surrounding area, and mitigate environmental as well as traffic impacts. The request also serves the public interest by providing the possibility of retail within walking distance for people located in the immediate surrounding area.

To PC: 8/11/09
Case History: 90 day Extension approved 4/21/09; Committee of the Whole: 6/4/09; 6/23/09

To CC: 9/1/09; CPC 9/9/09; CC 9/15/09 **City Council Status:** Approved

Staff Coordinator: Alysia Bailey Taylor

Motion: Chambliss
Second: Haq
In Favor: Chambliss, Anderson, Bartholomew, Butler, Fleming, Gaylord, Haq, Harris Edmisten, Smith, Vance
Opposed:
Excused:

This document is a true and accurate statement of the findings and recommendations of the Planning Commission. Approval of this document incorporates all of the findings of the Staff Report attached.

Signatures: (Planning Dir.) _____ (PC Chair) _____

date: _____ date: 8/11/2009



Zoning Staff Report: Z-4-09 Conditional Use

LOCATION: This site is located on the north side of Buffaloe Road, west of its intersection with I-540.

AREA OF REQUEST: 48.08 acres

PROPERTY OWNER: River Walk Limited Partnership

CONTACT PERSON: Jason Barron and Michael Birch, 919-743-7343

PLANNING COMMISSION RECOMMENDATION DEADLINE: May 22, 2009

ZONING:	<u>Current Zoning</u>	<u>Proposed Zoning</u>
	Conservation Management (CM) & Manufactured Home	CM & Residential-10 CUD = 39.98 AC CM & Neighborhood Business CUD = 8.10 AC

	<u>Current Overlay District</u>	<u>Proposed Overlay District</u>
	SHOD-1	SHOD-1

ALLOWABLE DWELLING UNITS:	<u>Current Zoning</u>	<u>Proposed Zoning</u>
	288 units (6 units per acre)	480 units (10 units per acre)

ALLOWABLE OFFICE SQUARE FOOTAGE:	<u>Current Zoning</u>	<u>Proposed Zoning</u>
	None	NB: No Limit R-10: Not Permitted CM: Not Permitted

ALLOWABLE RETAIL SQUARE FOOTAGE:	<u>Current Zoning</u>	<u>Proposed Zoning</u>
	None	NB: No Limit R-10: Not Permitted CM: Not Permitted

ALLOWABLE GROUND SIGNS:	<u>Current Zoning</u>	<u>Proposed Zoning</u>
	Tract ID	NB: High Profile R-10: Tract ID CM: Tract ID

ZONING HISTORY: This property has been zoned Manufactured Home since the ETJ was extended in 1992.

SURROUNDING ZONING: NORTH: Conservation Management & Residential-4 w/ SHOD-1
SOUTH: Conservation Management & Manufactured Home
EAST: Residential-4 w/ SHOD-1 & Neighborhood Business w/ SHOD-1
WEST: Residential-15, Office & Institution-2 Neighborhood Business & Shopping Center CUD w/ SHOD-1 (*Conditions from Z-33-07 apply*)

LAND USE: Currently vacant (manufactured housing was recently moved from the property)

SURROUNDING LAND USE: NORTH: Vacant wooded lot
SOUTH: Manufacture Housing
EAST: Convenience Store and vacant wooded lot
WEST: Neuse River

DESIGNATED HISTORIC RESOURCES: N/A

EXHIBIT C AND D ANALYSIS:

COMPREHENSIVE PLAN SUMMARY

TABLE: In addition to the various systems plans (i.e. Transportation Plan, Parks and Recreation Plan, etc.) that are part of the City’s adopted Comprehensive Plan the following table summarizes the other comprehensive plan elements that have been adopted by the City Council.

Element	Application to case
Planning District	Northeast
Urban Form	Residential Suburban
Specific Area Plan	Neuse River East Small Area Plan
Guidelines	N/A

1. Consistency of the proposed rezoning with the Comprehensive Plan and any applicable City-adopted plan(s).

This proposal is inconsistent with the Comprehensive Plan. The site is designated as part of the Northeast District Plan with more specific recommendations in the Neuse River East Small Area Plan. The SAP recommends that the property develop as Residential Suburban (six or fewer units per acre).

2. Compatibility of the proposed rezoning with the property and surrounding area.

The Neuse River is located to the immediate west of the property, and approximately one third of the western portion of the subject property is within a floodplain area. The property west of the Neuse River is currently vacant. The property east of the subject property consists of a vacant parcel and a convenience store with gas pumps. There is vacant land north of the subject property, and a manufactured home development located to the south. The petitioner points out that critical environmental protection is being maintained with the requested rezoning because it preserves the Conservation Management district along the Neuse River. The petitioner also indicates that the requested Neighborhood Business zoning along Buffaloe Road is not only reasonable when considering the subject property’s proximity to I-540, but is also an appropriate designation for

buffering the proposed Residential-10 zoning. The petitioner also noted that the requested rezoning is compatible with the character of the surrounding area because the property west of the Neuse River allows for up to 15 units per acre.

The property west of the Neuse River is within a Neighborhood Focus area, which is an appropriate location for more intense development. The proposed Neighborhood Business (NB) zoning along Buffalo Road is compatible with the adjacent convenience store, but is not compatible with the surrounding low density residential development.

3. Public benefits of the proposed rezoning

The petitioner has indicated that the proposed rezoning will provide a benefit because it will allow for the property to redevelop with the highest and best use. The petitioner explains that the proposed Neighborhood Business zoning will also provide a benefit because it will provide neighborhood oriented retail uses within walking distance of the new and surrounding residential development.

The petitioner has provided conditions that limit potential incompatible uses, and has provided conditions that mitigate potential incompatible design features such as: building height, location of services for the non-residential development, and the location of parking, which creates the potential for requested rezoning to serve as a benefit to those in the immediate surrounding area.

4. Detriments of the proposed rezoning

The petitioner states that the requested rezoning is reasonable because the subject property has frontage along Buffalo Road, approximately 800 feet from the interchange of I-540 and Buffalo Road. The petitioner references the fact that a retail use is immediately adjacent to the proposed rezoning, and that the subject property is within close proximity to a proposed mixed-use development (Z-33-07). It may be a detriment to allow additional non-residential development along Buffalo Road when considering the fact that there is approximately 35 acres of land zoned Shopping Center less than one half mile from the proposed Neighborhood Business district zoning. Allowing retail and/or non-residential development to line Buffalo Road creates the potential for auto oriented strip development, rather than the pedestrian friendly environment that is desired.

5. The impact on public services, facilities, infrastructure, fire and safety, parks and recreation, etc.

TRANSPORTATION: Buffalo Road is classified as a major thoroughfare (2007 ADT - 10,000 vpd) and is constructed as a two-lane ribbon paved roadway within a 100-foot right-of-way. City standards call for Buffalo Road to be constructed as a multi-lane facility with a 65-foot back-to-back curb and gutter section with sidewalks on both sides within the existing right-of-way. The petitioner may wish to consider adding a condition stating that offers of cross-access will be provided to the property to the east and north. The petitioner may also wish to consider a condition stating that reimbursement for additional right of way dedicated shall be consistent with current MH values. The size of the subject property will require a street network within the site and as such the petitioner may wish to describe how the site will be accessed. Due to the size of the subject property, close proximity to an I-540 exit ramp and allowable land use density associated with the proposed zoning a traffic impact analysis was recommended for this case.

A traffic impact analysis was submitted and reviewed by staff and as a result of that analysis the applicant is proposing to mitigate the traffic impacts of the rezoning by limiting the buildout of the property until offsite improvements to the I-540 overpass are completed.

TRANSIT: This site is within close proximity of **current or future** bus routes but does not provide an **appropriate** space for a bus stop. No transit easement is needed upon subdivision approval.

HYDROLOGY: FLOODPLAIN: there is FEMA floodplain on the site. The western property boundary is the Neuse River.
DRAINAGE BASIN: Harris Creek
STORMWATER MANAGEMENT: This site is subject to Part 10, Chapter 9 (Stormwater Control and Watercourse Buffer Regulations) of the Raleigh City Code. There are Neuse River Buffers and alluvial soils on site.

PUBLIC UTILITIES:

	Maximum Demand on Current Zoning	Maximum Demand on Proposed Zoning
Water	Approx. <u>122,280</u> gpd	Approx. <u>194,500</u> gpd
Waste Water	Approx. <u>122,280</u> gpd	Approx. <u>194,500</u> gpd

The proposed rezoning would add approximately 72,200 gpd the City's wastewater collection or water distribution systems. There is an existing water main in Buffalo Road which could serve the proposed rezoning property. The City is proposing to extend a major sanitary sewer main along the western property line next to the Neuse River of the rezoning property and has obtained the necessary sanitary sewer easements for this property. If the petitioner can not wait for the major main to be constructed, then the petitioner would need to connect to the City's existing forty-eight (48") inch sanitary sewer across the Neuse River.

PARKS AND RECREATION:

This property is adjacent to the Neuse River. The City has previously acquired the greenway easement on this property. The nearest park services are available at Buffalo Road Athletic Park and at a future planned park located at Forestville Road and Oak Hill Road.

WAKE COUNTY PUBLIC SCHOOLS:

Based on the Wake County data, students living in this area may be assigned to attend either: Forestville Road Elementary, East Wake Middle or Knightdale High. Development of the subject property at the requested rezoning could potentially yield the following increases as the assigned schools: Forestville Road Elementary may increase by 63 students, East Wake Middle may increase by 18 students, and Knightdale High may increase by 22 students.

School name	Current enrollment	Current Capacity	Future Enrollment	Future Capacity
Forestville Road	682	112.9%	745	123.3%
East Wake	1,016	80.4%	1,034	81.8%
Knightdale	1,800	90.9%	1,822	92.0%

IMPACTS SUMMARY: The rezoning could result in an increase in the number of students that would attend the aforementioned schools. An additional 63 students could be added to Forestville Road Elementary, 18 to East Wake Middle and 22 to Knightdale High. A traffic impact analysis is recommended.

OPTIONAL ITEMS OF DISCUSSION

1. An error by the City Council in establishing the current zoning classification of the property.

N/A

2. How circumstances (land use and future development plans) have so changed since the property was last zoned that its current zoning classification could not be properly applied to it now were it being zoned for the first time.

The petitioner states that since the property was last zoned the area has seen a number of changes. Properties in the surrounding area have been developed, and several properties are now planned for commercial and medium to high density residential uses. Furthermore, interstate 540 has been extended to the area. Increased residential development, proposed mixed-use developments and the major I-540 interchange support a reclassification of the subject property's zoning. The petitioner states that given the interchange and changes in proposed land use and future development plans in the immediate area, the subject property could not properly be zoned its current classification if it were being zoned for the first time.

Staff believes that petitioner's comments are accurate. Significant changes have taken place in the area surrounding the proposed rezoning, and it is appropriate for this property to be rezoned to a classification that is more compatible with its surroundings.

APPEARANCE

COMMISSION: This request is not subject to Appearance Commission review.

CITIZENS'

ADVISORY COUNCIL:

DISTRICT: Northeast

CAC CONTACT PERSON: Bob Mulder, 919-876-2828

SUMMARY OF ISSUES:

COMPREHENSIVE PLAN / COMPATIBILITY / ADVERSE IMPACTS:

1. Outstanding issues:

- a. The Neuse River East SAP recommends that the subject property develop as low density residential.
- b. The areas for the respective zoning districts need to be delineated. Staff requests a legal description of the property proposed for each of the zoning designations.

