

Z-65-96 Airport Assemblage, generally bounded by U.S. 70 on the northeast, property of the Raleigh Durham International Airport on the south, and the Wake County/Durham County line on the west, being various maps and parcels. Approximately 1999 acres rezoned to Thoroughfare District Conditional Use with Special Highway Overlay District-2 and Airport Overlay District.

Conditions: 6/26/96

1. Petitioner's property to be divided into four (4) areas (A, B, C & D) as shown upon map entitled "Eastern Airline Property Conditional Use Plan" dated March 15, 1996, last revised May 20, 1996 (the "Conditional Use Plan") incorporated herein by reference with land use by area as specified upon **Exhibit C-1 attached** hereto and incorporated herein by reference.
2. Allowed Land Uses are as specified upon **Exhibit C-2 attached hereto** and incorporated herein by reference shall apply to the Petitioner's property.
3. General Conditions as specified in **Exhibit C-3 attached** hereto and incorporated herein by reference shall apply to the Petitioner's property.
4. The Conditional Use Plan notes set forth in **Exhibit C-4 attached** hereto and incorporated herein by reference shall apply to Petitioner's property.
5. The Conditional Use Plan as set forth in **Exhibit C-5 attached** hereto and incorporated herein by reference shall apply to Petitioner's property.
6. The Conceptual Roads and Utility Plan as set forth in **Exhibit C-6 attached** hereto and incorporated herein by reference shall apply to Petitioner's property.

(See attachments as indicated)

Z-65-96 Exhibits:

See zoning file for Exhibits C-1, C-5 and C-6

Exhibit C-2

ALLOWED USES BY LAND USE AREA

1. RESIDENTIAL

All residential uses allowed in the Residential 30 District as indicated in Section 10-2071 of the City of Raleigh Zoning Code up to and including 30 units/acre; however, no more than 1500 dwelling units shall be allowed in Area "A", 3550 dwelling units in Area "B", 450 dwelling units in Area "C", and 1000 dwelling units in Area "D". Areas "C" and "D" may not contain single family detached residential dwelling units.

2 OFFICE, INSTITUTIONAL, CIVIC & SERVICES

All Office, Institutional, Civic and Services uses allowed in the Thoroughfare District Zone as indicated in Section 10-2071 of the City of Raleigh Zoning Code also including without limitation hospitals, and multi-family (30 through 40 units per acre), and residential uses but excepting single family detached dwellings, which are excluded

3. COMMERCIAL

All Commercial uses allowed in the Thoroughfare District Zone as indicated in Section 10-2071 of the City of Raleigh Zoning Code. Also all recreation uses as indicated in Sec. 10-2071 of the City of Raleigh Zoning Code, save and except any recreation uses explicitly listed in Land Use Area 5 "Open Space/Buffers & Recreation Areas."

4. INDUSTRIAL

All industrial uses allowed in the thoroughfare District Zone as indicated in Section 10-2071 of the City of Raleigh Zoning Code.

5. OPEN SPACE/BUFFERS & RECREATION AREAS

Open Space/Buffers & Recreation Areas will include, at the Petitioner's discretion, floodways; public and private park areas; public and private greenways; bike trails; lakes, ponds, streams, and other water features not included in floodways; golf courses and golf related facilities and outdoor tennis facilities.

NOTE A as to above Sections 1, 2, 3, 4 and 5: Allowable uses shall include "accessory uses" and "accessory structures" as permitted in the City of Raleigh Zoning Code. Where a use is allowed and is proposed for development by a mixed-use site plan the dominant use designated by the applicant on said site plan shall determine the Land Use Area to be allocated under Exhibit C-1, Table 1. In non-mixed-use site plan proposals, the applicant shall allocate the land use acreage to a particular Land Use Area as permitted herein. All principal buildings however, which indicate the primary use as being "retail" shall be allocated to the "Commercial" category.

NOTE B as to above Sections 1, 2, 3, 4 and 5: Correctional/Penal facilities and adult establishments are prohibited.

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NOTE C as to above Section 5: Land Use Area acreages used for golf courses and golf related facilities will be counted toward the minimum Open Space required and not deducted from any of the other maximum land use by area acreages.

Exhibit C-3

GENERAL CONDITIONS

1. Acreages and number of living units shown in Exhibit C-1, Table 1 are base densities and may, upon request by the Petitioner (i.e. Owner), be adjusted upward or downward by twenty-five (25%) percent by transfer to or from an adjacent Land Use Area, provided that no residential density other than Congregate Care and Congregate Living Facilities shall exceed forty (40) dwelling units or equivalent dwelling units per acre. The Land Use Areas to which and from which transfers may be made must be under the same ownership at the time of the transfers.

2. Site plans and/or subdivision plans shall be submitted for review in accordance with the requirements of the Raleigh City Code and shall show allocations of land use types by Exhibit C-1, dated March 15, 1996, last revised June 14, 1996, and Exhibit C-5 dated March 15, 1996, last revised May 20, 1996. A projection of traffic trip generation, based on guidelines described in the project's Transportation Analysis dated June 6, 1996, will be provided to the City Transportation Department at the time of site plan approval of individual parcels within the property unless waived by the City's Director of Transportation. See Note 2 of Table 1, Exhibit C-1 and Section 6 of the Transportation Report, both which are incorporated herein by reference.

3. Development of the subject property, or subdivided lots thereof, will comply with the provisions of Certified Recommendation 7107 of the Raleigh Planning Commission.

4. Any additional public road right-of-way needed from Parcels 0758.02-65-0728, 0758.04 93 5713 or 0758.04 82 4852 shall be reimbursed based upon their present zoning of R-4.

5. Recorded subdivision plats will contain reference to this zoning case as follows: "Z-65-96 Thoroughfare District CUD with Special Highway Overlay District-2 and Airport Overlay District."

EXHIBIT C-4
CONDITIONAL USE NOTES

1. GENERAL

A. The City Planning Director shall be permitted to administratively approve site plans which reflect modifications to Exhibit C-1, Table 1, entitled "Land Use By Area" dated March 15, 1996, last revised June 14, 1996, Exhibit C-5 dated March 15, 1996, last

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revised May 20, 1996, and Exhibit C-6, the Petitioner's Conceptual Road and Utility Plan, dated June 3, 1996.

Modifications include:

1. The transfer or expansion of acres and/or uses between land use Areas A, B, C & D as requested by the Petitioner and illustrated on Exhibit C-1, Table 1, and Exhibit C-5, provided no one land use or area is adjusted by more than 25% in any given Land Use Area. The Land Use Areas to which and from which transfers may be made must be under the same ownership at the time of the transfers.
2. Adjustments to the sizes and alignments of utility lines and roads requested by the Petitioner (i.e. Owner) and illustrated on Exhibit C-6, which maintain the same overall level of service.

2. ROADS & UTILITIES (See Exhibit C-6 for Conceptual Roads and Utility Plan)

A. Access to Highway US-70.

1. Access in Area A along US 70 between Alexander Drive and the Durham County line (approximately 4,900 feet) will have no more than one intersection with a Cross-Over on US 70 plus no more than two right-turn-in/right-turn-out access points exclusive of the out-parcels owned by others and located within or contiguous to the boundaries of the rezoned property as of the date of the approval of this Petition by the Raleigh City Council. Such access and/or driveways will be subject to NCDOT review and approval.

2. Access to US-70 between T. W. Alexander Drive and Northern Wake Expressway will be limited to no more than two intersections with Cross-Overs on US-70 and no more than one right-turn-in/right-turn-out access point exclusive of the out-parcels as of the date of the approval of this Petition by the Raleigh City Council, between T.W. Alexander Drive and Northern Wake Expressway. Such access and/or driveways will be subject to NCDOT review and approval.

a. A strip of land 20 feet wide shall be reserved along the US 70 Petitioner's frontage of the property between Alexander Drive and the Durham County line for eventual widening until such time as it is determined that the strip is not needed to accommodate the anticipated improvements. Any reservation by Petitioner of right-of-way in excess of existing right-of-way at the time of approval of this Zoning Petition can be used to meet City of Raleigh requirements for streetscape setbacks and/or buffers along US 70.

B. Access to T.W. Alexander Drive.

Access to T.W. Alexander Drive from Areas A & B will be in accordance with the agreement relating to the construction of Southern Parkway (now Alexander Drive)

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between NCDOT and Wachovia Bank & Trust, et al, dated December 18, 1986 and as amended June 15, 1987.

C. Brier Creek Parkway.

1. The Petitioner (i.e. Owner) will convey one hundred ten (110') feet of right of way to NCDOT for the construction of Brier Creek Parkway. An additional fifteen (15') feet of land on each side of the initial dedication will be reserved for temporary construction and drainage easements for a period of ten (10) years to accommodate widening unless and until such time as it is determined that the additional fifteen (15') feet on each side is not needed to accommodate the anticipated improvements. If the reservation is not purchased within the ten year time period, the reservation may, in the sole discretion of the Petitioner, be abandoned and if so, shall no longer exist. The dimensions of any setbacks, buffers and/or landscape yards required on properties adjacent to Brier Creek Parkway will be measured from the boundary of the original one hundred ten (110') foot right of way as conveyed by the Petitioner.

2. The one hundred ten (110') foot conveyed right-of-way for Brier Creek Parkway will qualify for reimbursement to the Petitioner by the City of Raleigh under existing City Road Right-of-Way Reimbursement Policy. Any of the additional reserved slope easements (referred to as construction and drainage easements in Paragraph C[1] above), will also qualify for reimbursement to the Petitioner by the City of Raleigh under existing City road right of way reimbursement policy.

D. Completion of Roads.

Site plans for no more than 50% of the total frontage of any one side of a section of a Collector or Thoroughfare street between two intersections as shown on Exhibit C-6, which provide access from two completely different directions will be approved until a commitment is made to the City of Raleigh pursuant to 10-3013(c)(2) of the Raleigh City Code guaranteeing completion of that section of the street to a cross-section width equal to or greater than the existing completed sections of the street unless otherwise agreed by the City of Raleigh. Open Space shall not be included in the total road frontage.

E. Cross Overs on Thoroughfares and Collectors.

Cross Overs shall be a sum of 660 feet apart on Collectors and on Thoroughfares. Cross Overs on Brier Creek Parkway will be located per the Construction Agreement between the Petitioner and the North Carolina Department of Transportation dated June 19, 1996.

F. Public access to outparcels.

If at the time of subdivision, tracts of land owned by others which adjoin Petitioner's property (sometimes referred to herein as "outparcels"), are affected by the relocation of a street, the subdivision must indicate "equivalent access" to the adjoining outparcels).

G. When US 70 is constructed as a freeway, direct access shall be limited to full service interchanges at Aviation Parkway, T.W. Alexander Drive, and Brier Creek Parkway. Prior to actual construction of such improvements to US 70, direct access to US 70 from the property will be allowed as stated in Exhibit C-4 (2)(A)(1) and Exhibit C-4(2)(A)(2) above.

H. The Petitioner will reserve land, owned by the Petitioner, for full service interchanges at the proposed intersection of Brier Creek Parkway and US 70, at the intersection of T.W. Alexander Drive and US 70, and at the proposed intersection of Aviation Parkway and US 70 for purchase by governmental authorities for up to ten (10) years from the date of final approval by the Raleigh City Council of this zoning petition.

The land reserved at Aviation Parkway and T.W. Alexander Drive will be of a size and location to accommodate the current functional interchange designs illustrated in the US 70 Corridor Study, prepared by BAKK and dated March 1992, or an alternate design mutually acceptable to the Petitioner and NCDOT. The land reserved for the Brier Creek Parkway interchange will be of a size and location to accommodate a functional design which will be developed with the design of Brier Creek Parkway.

If the reservation is not purchased within the ten-year time period, the reservation may, in the sole discretion of the Petitioner, be abandoned and if so, shall no longer exist.

3. OPEN SPACE

A. Active Recreation - A potential location(s) for park sites of no less than eight (8) acres in size for active recreation totaling no more than fifty acres which will be available for acquisition by the City of Raleigh will be located within the property. With regard to a site for active recreation uses:

1. A map designating the boundaries of the location for the park sites, as determined jointly by the Petitioner and the City Parks and Recreation Director shall be filed with City of Raleigh Parks and Recreation Department prior to approval of site plans for more than a total of 2,000 dwelling units and equivalent dwelling units in Land Use Area B.

2. The park sites shall be reserved for acquisition by the City for a period of two years from date of acceptance of the map by the Parks and Recreation Director. The Parks and Recreation Director shall have two months after the date of submission of the map to respond to the Petitioner as to the acceptability of the site. Failure of the Parks and Recreation Director to respond in writing within two months shall constitute acceptance of the site.

If the reservation is not purchased within this two-year time period, the reservation may, in the sole discretion of the Petitioner, be abandoned and if so, shall no longer exist.

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3. The park sites shall not be designated as floodway, and shall be part of the Petitioner's area(s) for Open Space/Buffers & Recreation to be designated by the Petitioner.

B. Greenways - Up to fifty acres within the Petitioner's property will be reserved to the City of Raleigh for inclusion in the City's Greenway system. If so included, this greenway acreage shall be considered part of Petitioner's area(s) for Open Space/Buffers & Recreation.

At the earlier time of either site plan approval or subdivision of areas between points E & F, F & G, E & H, I & J and K & L as indicated on the Conditional Use Plan, Greenways will be reserved for purchase from the owner by the City of Raleigh, in accordance with the applicable provisions of the Raleigh City Code. Where not included in public rights of way, the greenways will be reserved to a width as indicated in the City of Raleigh Comprehensive Plan From time of reservation (at subdivision) the City will have two (2) years to purchase the reservation. If the reservation is not purchased within this time, the reservation may, in the sole discretion of Petitioner be abandoned and if so abandoned shall no longer exist.

C. The total acreage of Open Space/Buffers & Recreation Area(s) can be allocated to different areas of the respective land use areas A, B, C and D in Exhibit C-1, Table 1, but the sum total acreage of all Open Space/Buffers & Recreation in each land use area shall be provided. No more than 80% of the acreage within each land use area, as shown on Exhibit C-1, Table 1, dated March 15, 1996, and last revised May 20, 1996 shall be given site plan approval until all the minimum Open Space/Buffers & Recreation for each zoning area is delineated on either approved preliminary subdivisions or site plans.

D. For all Open Space/Buffers & Recreation Area(s) corridors which follow stream, or drainageway alignments, the distance from the boundary of the corridor to the centerline of the stream shall be a minimum of fifty feet.

Z-65-96



City Of Raleigh
North Carolina

Mr. Lacy Reaves
Kennedy Covington Attorneys at Law
Post Office Box 1070
Raleigh, NC 27602-1070

RE: Request to Amend Rezoning Conditions (Ordinance (1996) 929 ZC 392

Dear Lacy:

This concerns your letter of September 25, 2003, requesting a change to the allocation of land uses within the Brier Creek development project. The Airport Assemblage rezoning case Z-65-96 does allow administrative approval of modifications to Exhibit C-1 of the Conditional Use zoning case, provided that no one land use quantity or area is adjusted by more than 25%. Your request, as illustrated in the revised Exhibit C-1 dated September, 2003, meets this standard.

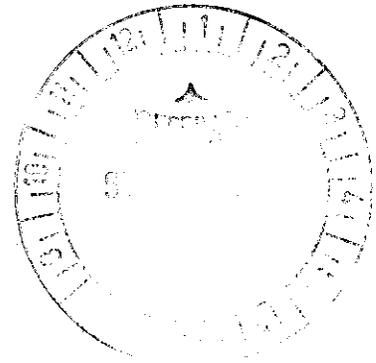
Accordingly, this request to transfer 112 dwelling units and 7 acres for residential use from Land Use Area C to Land Use Area D; and, transfer 138 dwelling units and 3 acres for residential development from Land Use Area A to Land Use Area D is approved.

Sincerely,

George B. Chapman, FAICP
Planning Director

Kennedy Covington
ATTORNEYS AT LAW

Z.65.96



Lacy H. Reaves
919/743-7304
lreaves@kclh.com

September 25, 2003

Via Hand Delivery

Mr. George B. Chapman, Planning Director
City of Raleigh Planning Department
Raleigh Municipal Building, 4th Floor
222 West Hargett Street
Raleigh, North Carolina 27602

RE: Ordinance (1996) 929 ZC 392 - Brier Creek

Dear George:

With reference to my letter dated June 13, 2003, and based upon my conversations with Greg Hallam, I am writing to request your approval of a transfer of 112 dwelling units from Land Use Area C to Land Use Area D. We also request a transfer of seven (7) acres of property designated for residential development from Land Use Area C to Land Use Area D. We further request a transfer of three (3) acres designated for residential development from Land Use Area A to Land Use Area D. The property owner also requests your approval of the transfer of 138 residential units from Land Use Area A to Land Use Area D.

Please call me in the event that there are questions.

Very truly yours,

Lacy H. Reaves

LHR/kva

Enclosure

cc: Mr. Paul Herndon (Via Facsimile)
Mr. Greg Hallam (Via Facsimile)

KENNEDY COVINGTON LOBDELL & HICKMAN, L.L.P.
CHARLOTTE RALEIGH ROCK HILL

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19th FLOOR, POST OFFICE BOX 1070
RALEIGH, NORTH CAROLINA 27602-1070

EXHIBIT C-1
MARCH 15, 1996
LAST REVISED SEPTEMBER, 2003

LAND USE BY AREA							
MAXIMUM							
LAND USE AREA	ACTUAL ACREAGE	RESIDENTIAL	DWELLING UNITS	OFFICE/ INSTITUTION/ CIVIC/SERVICE	COMMERCIAL	INDUSTRIAL	MINIMUM OPEN SPACE/ BUFFERS & RECREATION
A	148	37	1,362	62.5	100	40	5
B	942	670	3,550	187.5	125	100	150
C	298	23	338	100	100	200	20
D	611	50	1,250	200	125	200	25
TOTALS	1,999*	780	6,500**	550	450	540	200

* "Actual Acreage" includes all public road rights-of-way internal to Petitioner's property. Allowable maximum acreages do not include public road rights-of-way.

** The total number of dwelling units is not to exceed 6,500 including congregate care facilities.

Notes:

1. When 75% of the total acreage in any land use area (A, B, C, D above) has been developed, additional analysis of the transportation facilities may be required for that particular land use area by the City of Raleigh.
2. The Transportation Analysis for the property, as prepared by Parsons Brackerhoff and dated June 6, 1996 (the "Report"), is on file with the City of Raleigh Transportation Department. The trip generation analysis in the Report will be used as a guide for monitoring trip generation associated with development in the separate land use areas (A, B, C, D above). When traffic generated by proposed site development in each land use area (A, B, C, D above) exceeds the threshold values indicated in Table 6 of the Report by 10% or more, additional analysis of the existing and proposed transportation facilities may be required.

2.65-96

EXHIBIT C-1
March 15, 1996
Last Revised June 14, 1996

TABLE 1
LAND USE BY AREA

LAND USE AREA	ACTUAL ACREAGE	MAXIMUM					MINIMUM OPEN SPACE/ BUFFERS & RECREATION
		RESIDENTIAL	DWELLING UNITS	OFFICE/ INSTITUTION/ CIVIC/SERVICE	COMMERCIAL	INDUSTRIAL	
A	148	40	1,500	50	100	40	5
B	942	670	3,550	200	150	100	150
C	298	30	450	100	100	200	20
D	611	40	1,000	200	100	200	25
TOTALS	1,999	780	** 6,500	550	450	540	200

Projected
 * "Actual Acreage" includes all public road rights of way internal to Petitioner's property. Allowable maximum acreages do not include public road rights of way.
 ** The total number of dwelling units not to exceed 6,500 including congregate care facilities.

Notes:

1. When 75% of the total acreage in any land use area (A, B, C, D above) has been developed, additional analysis of the transportation facilities may be required for that particular land use area by the City of Raleigh.
2. The Transportation Analysis for the property, as prepared by Parsons Brinckerhoff and dated June 6, 1996, (the "Report"), is on file with the City of Raleigh Transportation Department. The trip generation analysis in the Report will be used as a guide for monitoring trip generation associated with development in the separate land use areas (A, B, C, D above). When traffic generated by proposed site development in each land use area (A, B, C, D above) exceeds the threshold values indicated in Table 6 of the Report by 10% or more, additional analysis of the existing and proposed transportation facilities may be required.

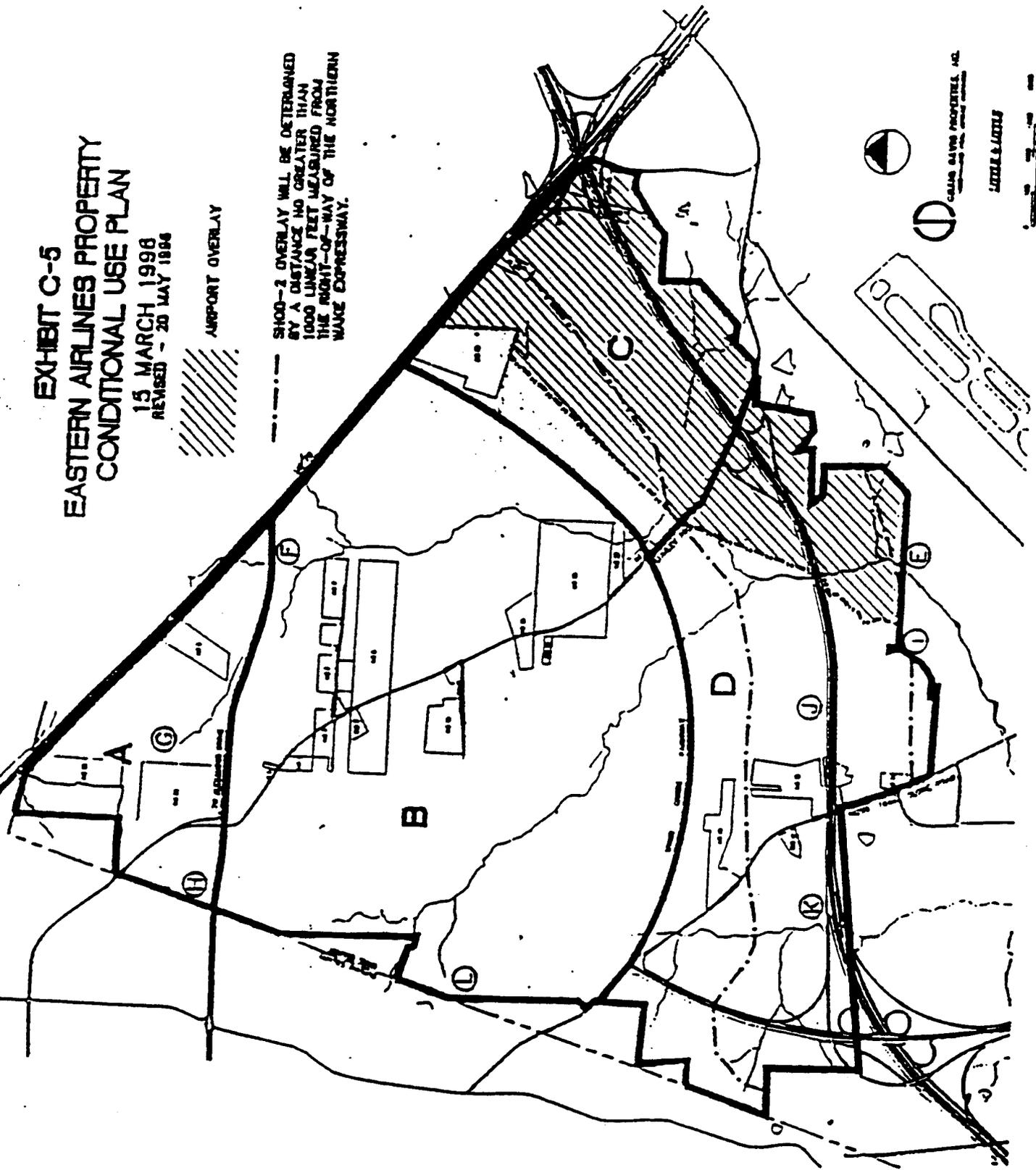
PLEASE PRINT
 [Signature]

EXHIBIT C-5
EASTERN AIRLINES PROPERTY
CONDITIONAL USE PLAN

15 MARCH 1998
REVISED - 20 MAY 1994

AIRPORT OVERLAY

SHOUD-2 OVERLAY WILL BE DETERMINED
BY A DISTANCE NO GREATER THAN
1000 LINEAR FEET MEASURED FROM
THE RIGHT-OF-WAY OF THE NORTHERN
WAKE EXPRESSWAY.



CLARK GAYNE PROPERTIES, INC.
PLANNING AND ARCHITECTURE

LITTLE & LITTLE

lad

