

**CITY OF RALEIGH**

**Z-1-09**

**R-6  
to  
R-4**

**37.24 acres**

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

470  
Feet



AM 10:15

## 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:

Please type or print name(s) clearly:

Paula Hoffman

Margaret Matrone

8/12/08

August 12, 2008

# EXHIBIT B. Request for Zoning Change

|                 |                                      |
|-----------------|--------------------------------------|
| Office Use Only | <u>Z-1-09</u>                        |
| Petition No.    | <u>9-04-08</u>                       |
| Date Filed:     | <u>9-04-08</u>                       |
| Filing Fee:     | <u>pd. 514.00 by CK# 5240 + 8681</u> |

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

See instructions, page 6

|   | Name(s)  | Address   | Telephone / E-Mail    |
|---|--|---|-----------------------|
| <b>1) Petitioner(s):</b><br>Note: Conditional Use District<br>Petitioner(s) must be owner(s) of<br>petitioned property.             | <u>Paula Hoffman</u>   | <u>1512 Duplin Road</u><br><u>Raleigh, NC 27607</u> | <u>(919) 787-7913</u> |
|   | <u>Margaret Matrone</u>  | <u>1333 Duplin Road</u><br><u>Raleigh, NC 27607</u> | <u>(919) 877-5606</u> |
| <b>2) Property<br/>Owner(s):</b>  | <u>See Schedule 1 attached</u>   |   |                       |
|   |  |   |                       |
|   |  |   |                       |
| <b>3) Contact Person(s):</b>  | <u>Paula Hoffman</u>   | <u>1512 Duplin Road</u><br><u>Raleigh, NC 27607</u> | <u>(919) 787-7913</u> |
|   |  |   |                       |
|   |  |   |                       |
| <b>4) Property<br/>Description:</b><br>Please provide surveys if proposed<br>zoning boundary lines do not follow<br>property lines. | Wake County Property Identification Number(s) (PIN): <u>See Schedule 1 attached</u>  |   |                       |
|   |  |   |                       |
|   |  |   |                       |
|   | General Street Location (nearest street intersections): <u>Duplin Road and Lewis</u> |   |                       |
|   | <u>Farm Road, Duplin Road and Churchill Road</u>                                     |   |                       |
| <b>5) Area of Subject<br/>Property (acres):</b>   | <u>37.24 acres</u>   |   |                       |
| <b>6) Current Zoning<br/>District(s)</b>  |  |   |                       |
| <b>Classification:</b>  | <u>R-6</u>   |   |                       |
| Include Overlay District(s), if<br>Applicable   |  |   |                       |
| <b>7) Proposed Zoning<br/>District</b>  |  |   |                       |
| <b>Classification:</b>  | <u>R-4</u>   |   |                       |
| Include Overlay District(s) if<br>Applicable. If existing Overlay<br>District is to remain, please state.                           |  |   |                       |

**8) Adjacent Property Owners**

The following are all of the person, firms, property owners, associations, corporations, entities or governments owning property adjacent to and within one hundred (100) feet (excluding right-of-way) of (front, rear, all sides and across any street) the property sought to be rezoned.

**(Important: Include PIN Numbers with names, addresses and zip codes.)** Indicate if property is owned by a condominium property owners association. Please complete ownership information in the boxes below in the format illustrated in the first box. Please use this form only – form may be photocopied – please type or print.

| Name(s):                  | Street Address(es):  | City/State/Zip:             | Wake Co. PIN #'s: |
|---------------------------|----------------------|-----------------------------|-------------------|
| JONES, DAVID T & SHAWNA N | 1308 BANBURY RD      | RALEIGH NC 27607-3710       | 0794677512        |
| CARSTARPHEN, SHIELDS      |                      |                             |                   |
| HARRIS KNOX, JENNIFER     | 1228 BANBURY RD      | RALEIGH NC 27607-3709       | 0794678127        |
| JANE                      |                      |                             |                   |
| GREENLEE, DAVID B &       | 1417 CANTERBURY RD   | RALEIGH NC 27608-1903       | 0794787626        |
| KELLY L                   |                      |                             |                   |
| STALLINGS, JOHN G &       | 1431 CANTERBURY RD   | RALEIGH NC 27608-1903       | 0794797176        |
| MARY CELESTE              |                      |                             |                   |
| REYNOLDS, PAUL D III &    | 1913 LEWIS CIR       | RALEIGH NC 27608-1351       | 0794699620        |
| LYNN L                    |                      |                             |                   |
| OLIVE, EUGENE F & MARY W  | 2911 CHURCHILL RD    | RALEIGH NC 27607-3714       | 0794687294        |
| DUKE, THOMAS CANNON III & |                      |                             |                   |
| KAREN M                   | 1344 BANBURY RD      | RALEIGH NC 27607-3710       | 0794687176        |
| HALE, WILLIAM C &         |                      |                             |                   |
| MARY R CLARK              | 1337 CANTERBURY RD   | RALEIGH NC 27608-1901       | 0794788074        |
| MARINA, JUAN F MARINA,    |                      |                             |                   |
| JOSE M & LIZA G           | 5304 LAKE EDGE DR    | HOLLY SPRINGS NC 27540-9339 | 0794798703        |
| SPOONER, LAROSE F         | PO BOX 2588          | BLOWING ROCK NC 28605-2588  | 0794688776        |
| ABEE, STEPHANIE           |                      |                             |                   |
| DEVANABEE, JUDY C         | 3108 ETON RD         | RALEIGH NC 27608-1114       | 0794677472        |
| MATZEN, NITAMATZEN,       |                      |                             |                   |
| MARY TUCKER               | 1408 BANBURY RD      | RALEIGH NC 27607-3711       | 0794688556        |
| LLOYD, PATSY H            | 1324 BANBURY RD      | RALEIGH NC 27607-3710       | 0794676698        |
| TROWBRIDGE, THOMAS A &    |                      |                             |                   |
| CYNTHIA P                 | 1534 BROOKS AVE      | RALEIGH NC 27607-6614       | 0795706014        |
| JOHNS, MARVIN CURTIS &    |                      |                             |                   |
| SARAH B                   | 327 TRANSYLVANIA AVE | RALEIGH NC 27609-6951       | 0795701183        |
| LEWIS, JOHN P JR          | 3029 CHURCHILL RD    | RALEIGH NC 27607-3716       | 0794798656        |
| ROBERTS, WILLIAM A JR &   |                      |                             |                   |
| DEBORAH A                 | 3120 GEORGIAN TER    | RALEIGH NC 27607-6624       | 0795700057        |
| MULLINS, MICHAEL B &      |                      |                             |                   |
| JUDY M                    | 1336 BANBURY RD      | RALEIGH NC 27607-3710       | 0794677949        |
| COLEMAN, TAYLOR F &       |                      |                             |                   |
| DOROTHY H                 | 1321 CANTERBURY RD   | RALEIGH NC 27608-1901       | 0794778779        |
| THOMPSON, BRIAN &         |                      |                             |                   |
| ELLEN S                   | 1345 CANTERBURY RD   | RALEIGH NC 27608-1901       | 0794788280        |
| MOULD, DAVID & DARGAN F   | 2906 GRANT AVE       | RALEIGH NC 27607-3727       | 0794678305        |
| PURRINGTON, NELLA G       |                      |                             |                   |
| TRUSTC/O ALFRED L         |                      |                             |                   |
| PURRINGTON III            | 6108 LOST VALLEY RD  | RALEIGH NC 27612-1815       | 0794798480        |
| SMITH, THOMAS EUGENE      | 1422 BANBURY RD      | RALEIGH NC 27607-3711       | 0794688982        |
| CLARK, E SPENCER          | 1508 BANBURY RD      | RALEIGH NC 27607-6611       | 0794699522        |
| STEIN, GERDA S            | 1226 BANBURY RD      | RALEIGH NC 27607-3709       | 0794678039        |
| BROWN, ROBERT MACLEAN     | 1424 BANBURY RD      | RALEIGH NC 27607-3711       | 0794698080        |
| JONES, VAN M & JUNE G     | 2910 CHURCHILL RD    | RALEIGH NC 27607-3715       | 0794688450        |
| BROWN, MARY P             |                      |                             |                   |
| BROWN, MARY P             | 1415 CANTERBURY RD   | RALEIGH NC 27608-1903       | 0794787527        |
| SCHERER, SALLY H          | 1420 BANBURY RD      | RALEIGH NC 27607-3711       | 0794688884        |
| MERRIMAN PROPERTIES LLC   | PO BOX 20270         | RALEIGH NC 27619-0270       | 0794788172        |

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| Name(s):   | Street Address(es):                     | City/State/Zip:                                | Wake Co. PIN #'s:        |
|--|---|--|--------------------------|
| WILLSON, JOSEPH C &<br>JO CAROLE M                                     | 2721 203 GLENWOOD GARDENS<br>LN         | RALEIGH NC 27608                               | 0794699638               |
| BARNES, THOMAS EDWARD<br>JR & SHEILA D                                 | 1227 DUPLIN RD                          | RALEIGH NC 27607-3718                          | 0794770127               |
| LANGSTON, JOHN D &<br>LISA M ZYWICKI                                   | 1229 CANTERBURY RD                      | RALEIGH NC 27608-1925                          | 0794778069               |
| WOOD, KENNETH G &<br>MARIA L   | 1315 CANTERBURY RD                      | RALEIGH NC 27608-1901                          | 0794778673               |
| HUTTON, CLYDE LEE JR &<br>LINDA W                                      | 1608 BROOKS AVE                         | RALEIGH NC 27607-6616                          | 0795704132               |
| TYSON, DAVID E & TREVA W   | 1514 BROOKS AVE                         | RALEIGH NC 27607-6614                          | 0794797681               |
| BEASON, MARK<br>CHRISTOPHER  | 1303 CANTERBURY RD                      | RALEIGH NC 27608-1901                          | 0794778379               |
| JORDAN, GLENN C<br>FRIEDRICH, KAREN J                                  | 3820 DOESKIN DR                         | APEX NC 27539-8643                             | 0794774039               |
| PARKER, LYLE ALLAN<br>PARKER, TRISH<br>MCCULLOUGH                      | 1311 CANTERBURY RD                      | RALEIGH NC 27608-1901                          | 0794778565               |
| BOONE, ROBERT P III &<br>SARAH S                                       | 1231 CANTERBURY RD                      | RALEIGH NC 27608-1925                          | 0794778167               |
| BOYLES, JEAN WINBORNE  | 1319 CANTERBURY RD                      | RALEIGH NC 27608-1901                          | 0794778771               |
| CAPPS, MAURICE C JR  | 3328 WHITE OAK RD                       | RALEIGH NC 27609-7619                          | 0794788355               |
| KUNZ, BARBARA CATHLENE   | 1601 NOTTINGHAM RD                      | RALEIGH NC 27607-6629                          | 0795606001               |
| BIRCH, ROBERT M &<br>KIMBERLY BMANN, LOUIS H                           | 1042 WASHINGTON ST                      | RALEIGH NC 27605-1258                          | 0794688457               |
| MCKEE, PAUL A<br>HOGAN, JOSEPH S &<br>BLAIR WEBB                       | 1332 BANBURY RD<br>2221 COLEY FOREST PL | RALEIGH NC 27607-3710<br>RALEIGH NC 27607-3123 | 0794677931<br>0794696940 |
| NABORS, JOHN C JR  | 1504 BANBURY RD                         | RALEIGH NC 27607-6611                          | 0794699424               |
| MATTOX, JAMES P II   | 1428 BANBURY RD                         | RALEIGH NC 27607-3711                          | 0794698098               |
| PFLUGRATH, RACHEL M  | 1432 BANBURY RD                         | RALEIGH NC 27607-3711                          | 0794699107               |
| FULLER, DAVID T & ASHLEY B   | 1425 CANTERBURY RD                      | RALEIGH NC 27608-1903                          | 0794787824               |
| BASS, JAMES H & CLARE A  | 1222 DUPLIN RD                          | RALEIGH NC 27607-3719                          | 0794772079               |
| GRUNE, GUERRY L TRUSTEE<br>GRUNE, CARLA O TRUSTEE                      | 784 S VILLIER CT                        | VIRGINIA BEACH VA 23452-3848                   | 0794770029               |
| ROBERTS, JEFFREY OWEN &<br>ANNA BOYLE                                  | 1301 CANTERBURY RD                      | RALEIGH NC 27608-1901                          | 0794778371               |
| PETTY, MICHAEL S & AMY C   | 1513 CANTERBURY RD                      | RALEIGH NC 27608-1105                          | 0794799797               |
| JEFFRIES, JUDITH Q   | 1610 BROOKS AVE                         | RALEIGH NC 27607-6616                          | 0795703260               |
| CAVINESS, M ANNE   | 1309 CANTERBURY RD                      | RALEIGH NC 27608-1901                          | 0794778476               |
| KIRKMAN, NATHANIEL L   | 1225 BROOKS AVE                         | RALEIGH NC 27607-3701                          | 0794774127               |
| HUTCHENS, LANCE HILL &<br>ASHLEY FAULK                                 | 4301 YADKIN DR                          | RALEIGH NC 27609-5564                          | 0794786975               |
| SPENCER, ALICE D<br>HICKMON, ELIZABETH D                               | 10641 GREEN BAY RD                      | RICE VA 23966-2407                             | 0794786478               |
| BOLEN, ZACHARY C &<br>COURTNEY B                                       | 1508 BROOKS AVE                         | RALEIGH NC 27607-6614                          | 0794797532               |
| TEMPLETON, MICHAEL E &<br>JANE A                                       | 1234 BROOKS AVE                         | RALEIGH NC 27607-3702                          | 0794776194               |
| JULICH, CHRISTOPHER M &<br>SIDNEY M                                    | 1323 CANTERBURY RD                      | RALEIGH NC 27608-1901                          | 0794778878               |
| PERRY, MARIE F PERRY,<br>CHERYL KING; C/O DAVID &<br>CHERYL KING PERRY | 1412 BANBURY RD                         | RALEIGH NC 27607-3711                          | 0794688666               |

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| Name(s):   | Street Address(es):        | City/State/Zip:       | Wake Co. PIN #'s: |
|--|----------------------------|-----------------------|-------------------|
| SUMNER, DAVID VANCE                                  | 3001 MEDLIN DR             | RALEIGH NC 27607-6627 | 0794696637        |
| ANGUS PROPERTIES LLC                                 | PO BOX 91602               | RALEIGH NC 27675-1602 | 0794772177        |
| WORKMAN, GILBERT LEON                                | 3100 GEORGIAN TER          | RALEIGH NC 27607-6624 | 0795702073        |
| NICHOLSON, DEBRA KAY                                 | 1500 BANBURY RD            | RALEIGH NC 27607-6611 | 0794699326        |
| ELLIS, VIOLETA<br>REVOCABLE TRUST                    | 1600 BROOKS AVE            | RALEIGH NC 27607-6616 | 0795705141        |
| BOCK, PAUL F & REBECCA S                             | 316 W MILLBROOK RD STE 101 | RALEIGH NC 27609-4482 | 0794797874        |
| ALLEN, DAVID & ANN                                   | 1440 BROOKS AVE            | RALEIGH NC 27607-3706 | 0794796078        |
| MERRIMAN, WILLIAM W<br>MERRIMAN, JOHN M              | 1341 CANTERBURY RD         | RALEIGH NC 27608-1901 | 0794778976        |
| SIMPSON, GEORGE LEE<br>IVSIDE BOTTOM,<br>KATHERINE B | 3122 GEORGIAN TER          | RALEIGH NC 27607-6624 | 0795609067        |
| LLOYD, PATSY H                                       | 1324 BANBURY RD            | RALEIGH NC 27607-3710 | 0794677715        |
| HUPKO, SHERRY L                                      | 3104 GEORGIAN TER          | RALEIGH NC 27607-6624 | 0795701054        |
| MORELOCK, FRED MICHAEL<br>& JEANNIE S                | 1532 BROOKS AVE            | RALEIGH NC 27607-6614 | 0794797914        |
| GOLDMAN, REBECCA ANNE                                | 1328 BANBURY RD            | RALEIGH NC 27607-3710 | 0794677834        |
| BANBURY PLACE LLC                                    | PO BOX 91602               | RALEIGH NC 27675-1602 | 0794677610        |
| WILSON, JAMES B &<br>CAROLE P                        | 1421 CANTERBURY RD         | RALEIGH NC 27608-1903 | 0794787725        |
| STANNETT-ROYCE,<br>ROSEMARY & THOMAS R               | 1340 BANBURY RD            | RALEIGH NC 27607-3710 | 0794687058        |
| HOGAN, JOSEPH SULLIVAN<br>HOGAN, JOHN FRANCIS        | 2221 COLEY FOREST PL       | RALEIGH NC 27607-3123 | 0794699215        |

## 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 subject property is located within the University District Plan. The Comprehensive Plan recommends the subject property be zoned as suburban residential.

- 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 subject property is not located within any of the plans listed above.

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

The proposed amendment is consistent with the Comprehensive Plan. By changing the subject property, an established, low density neighborhood, from R-6 to R-4, the proposed amendment would protect the neighborhood from increasing pressures to redevelop into higher density housing. It would also preserve the prevailing pattern of development for the area by preserving minimum lot requirements and minimum setback requirements that, until recently, were determined by restrictive covenants. Both of these goals are consistent with the Comprehensive Plan.

Section 5-10.2 of the Comprehensive Plan notes that some of the "established, low density neighborhoods" in the University District Plan "face pressures to redevelop into higher density housing." In the face of these increasing pressures, it continues, "[n]eighborhood protection can be achieved by establishing the proper zoning to limit their densities." Until recently, a large portion of the subject property was subject to restrictive covenants that mimicked or were even more restrictive than R-4 zoning in many ways. For example, the covenants established front yard set backs of forty (40) feet and side yard setbacks of ten (10) feet. The covenants also required that all residential structures be constructed on no less than two lots. Because most of the original lots were forty (40) feet wide, this covenant established an effective minimum lot width of eighty (80) feet. All of these restrictions are the same or more stringent than the requirements under R-4 zoning. Unfortunately, the restrictive covenants also contained a racist provision that restricted ownership or use of lots in the neighborhood to those of "the Caucasian race." Though this racist restriction was obviously no longer enforceable, it was at least a part of the reason the neighborhood recently decided to remove these restrictive covenants. Many of the owners of the subject property, however, do not want to lose many of the protections against the increasing "pressures to redevelop into higher density housing," as noted in the Comprehensive Plan, that until recently were provided by the restrictive covenants. The proposed amendment, therefore, is consistent with the Comprehensive Plan's stated goal of protecting the subject property from increasing pressures to redevelop into higher density housing.

Section 4-9.4 of the Comprehensive Plan also dictates that "[z]oning densities should be tailored to match the prevailing pattern of development for areas built-up prior to the adoption of the zoning code." Though the subject property was not developed prior to the adoption of the zoning code, the subject property was rezoned from R-10 to R-6 in 1975. At that time, due to the restrictive covenants in place, the subject property was more appropriately developed for R-4 at that time. The subject property, therefore, should have been rezoned to R-4 in 1975. The proposed amendment will correct this original mismatch between the zoning of the subject property and the development as it actually exists on the subject property.

**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):**

The subject property is part of a larger low density, established neighborhood, which consists of mainly single family dwellings comparable to the development prevalent in the subject property. To the south and east of the subject property is a residential neighborhood



with higher density than the subject property. To the west of the subject property is a greenway between Banbury Road and Nottingham Road.

There are no institutional uses, large parking lots or transit facilities in the immediate area of the subject property. No major roadway either borders or intersects the subject property. Wade Avenue, which is designated a secondary arterial, is one block south of the subject property and accessible to the subject property via both Duplin Road and Brooks Avenue. Dixie Trail, which is designated a minor thoroughfare, is two blocks east of the subject property and accessible to the subject property via both Lewis Farm Road and Churchill Road. Brooks Avenue, which intersects and runs along the eastern portion of the subject property, and Lewis Farm Road and Churchill Road, both of which intersect the subject property, are all designated as collectors.

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

The portion of the neighborhood to the north and east of the subject property is zoned R-4. The portion of the neighborhood immediately to the south and west of the subject property is zoned R-6 and R-10.

As originally platted, many of the current lots in the subject property actually consist of two (2) separate lots. These so-called ghost lots are all approximately forty (40) feet wide. As noted above, the recently rescinded restrictive covenants required each residential structure to be constructed upon no less than two (2) of the originally platted lots. This restriction effectively required each lot owner to own and sell two (2) of the originally platted lots as a single lot. As a result, the City of Raleigh has traditionally treated the two (2) originally platted lots that make up most of the current lots as just one (1) lot for tax and other purposes. If each of these originally platted lots is treated as a separate lot for the purposes of this proposed amendment, each would be non-conforming due to minimum lot width requirements and minimum lot area requirements under R-4 zoning. It should be noted, however, that almost all of the originally platted lots would also be non-conforming under the current R-6 zoning for the same reasons.

If the City of Raleigh considers only the lots recognized by the City of Raleigh Geographic Information System, R-4 zoning fits the existing built environment of the subject property very closely and would create a minimal number of non-conformities. Only two (2) of the one hundred four (104) parcels included in the subject property would not conform to the minimum area requirements under R-4 zoning, and one (1) of those non-conforming parcels is non-conforming even under the current R-6 zoning. The vast majority of the parcels in the subject property would also conform to the density, building height, set back and buffer requirements under R-4 zoning.

**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 zoning map amendment would make the zoning of the subject property conform more closely to the existing uses, density, lot sizes and setbacks of the subject property as it currently exists. The proposed zoning map amendment would also establish minimum lot size; setback and density requirements that will help the neighborhood resist the pressures to redevelop into higher density housing. The lots bordering the subject property and facing Banbury Road were not included in the subject property because their inclusion would have created numerous non-conformities in the subject property. Leaving this property under

2-1-09  
R-6 zoning also provides for a gradual transition from the subject property and the larger R-4 neighborhood to the East of the subject property to the nearby area under R-10 zoning.

**III. Benefits and detriments of the proposed map amendment.**

**A. For the landowner(s):**

The proposed map amendment would benefit the landowners by maintaining the neighborhood's current style and character. By maintaining these standards the proposed map amendment would help maintain the desirability of the neighborhood as an established, low density neighborhood. The current trend in redeveloping established neighborhoods such as the subject property is to tear down the original structures on the lots and rebuild larger single family houses. This trend does nothing to ease congestion or to raise density in the neighborhoods, but serves to change the character of the neighborhood by generally contributing to the destruction of older growth trees, covering more of the redeveloped lots with impermeable surfaces and lessening the space between the new construction, the public right-of-ways and the neighboring houses.

A potential detriment for the landowners is that they will not be able to make use of the lesser setbacks afforded by R-6 zoning and a smaller subset of the landowners would not be allowed to subdivide their lots under R-4 zoning when it would have otherwise been possible under R-6 zoning. Rezoning from R-6 to R-4, however, was chosen in this instance because, even though it would be possible to further restrict the type of quality of new development on the subject property through the newly revised overlay district process, the proposed amendment would accomplish the goals stated herein without being too restrictive on the current landowners.

**B. For the immediate neighbors:**

The benefits to the immediate neighbors of the subject property are the same as those listed below for the surrounding community. There would be no known detriments to the immediate neighbors of the subject property.

**C. For the surrounding community:**

The proposed map amendment would ensure that any redevelopment in the area is in keeping with the established nature and character of the larger neighborhood in which the subject property is situated. The entire neighborhood to the north and east of the subject property is zoned R-4. The proposed amendment would extend the protection R-4 zoning provides to a larger portion of the neighborhood. By protecting a larger portion of the lots in the subject property from development, the proposed amendment would also potentially protect a portion of the tree growth on the subject property and reduce the coverage of impermeable surfaces in the subject property. These protections would benefit the surrounding community in many ways. In potentially limiting higher density development, the proposed amendment would also be a benefit for the surrounding community in that it would keep increased growth from overburdening already taxed infrastructure, such as roads and sewers.

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

The proposed rezoning would not provide a significant benefit to the subject property that is not available to the surrounding the properties. The properties to the immediate north and east of the subject property are already zoned R-4. The properties to the south and west of the subject property are appropriately zoned R-6 and applying R-4 zoning to those properties would create a large number of non-conformities.

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

As noted previously, the subject property as developed is consistent with R-4 zoning due to the restrictive covenants that were in effect until recently. Rezoning to R-4 is now needed to help the neighborhood resist higher density and more destructive redevelopment. This protection is one of the stated goals of the comprehensive plan and can only be viewed as both reasonable and in the public interest.

**V. Recommended items of discussion (where applicable).**

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

The subject property was zoned R-6 in 1975. At that time the subject property was developed much as it is today. Section 4-9.4 of the Comprehensive Plan states that "[z]oning densities should be tailored to match the prevailing pattern of development for areas built-up prior to the adoption of the zoning code." Because the subject property was more suited to R-4 zoning at that time, City Council erred in zoning the subject property R-6.

**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.**

The use of the subject property has not changed dramatically since the subject property was last zoned, but the restrictive covenants mentioned above were recently rescinded, leaving the subject property vulnerable to the increasing pressures for redevelopment that is not within the character of the established neighborhood in and around the subject property.

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

A large portion of the landowners on the subject property desire to have the subject property rezoned from R-6 to R-4. Twenty-six (26) of the landowners have donated money toward the application fee and the costs related to completing this rezoning petition. There is a broad base of support from the lot owners within the subject property for this proposed amendment.

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

There would be no immediate impact on any of the services, facilities, infrastructure, fire and safety, parks and recreation, or any other services, topography, access to light and air or any other physical feature. If approved, this request for a zoning change on the subject property would keep many of the parcels in the subject property from being further divided or developed, which would help curb the increasing demands upon the City of Raleigh's facilities, infrastructure and many services. It would also potentially protect the current topography of the subject property by reducing chances of larger and more intrusive development.

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

The fundamental purposes of zoning as put forth in the North Carolina enabling legislation are best served by changing the classification of the subject property from R-6 to R-4. First, it will serve to lessen, or at least keep from adding to, the congestion in the surrounding streets and roads by helping protect the subject property from the increasing pressures of higher density development. Second, it will have no negative impact of providing light and air to the residents of the subject property and the surrounding community. Third, it will help prevent the overcrowding of land by, again, helping protect the subject property from the pressure to redevelop. Fourth, it will facilitate the adequate provision of transportation, water, sewer, schools, parks and other public requirements by not increasing the burden on already taxed City services and infrastructure. Fifth, as noted above, it will be in accordance with the Comprehensive Plan because it helps protect the neighborhood from higher density development. Sixth, it will not be spot zoning because it does not pick out a singular property for special treatment. The subject property will merely be changed to the same zoning classification as the majority of the neighborhood surrounding it. The proposed amendment would merely extend the reach the nearby R-4 zoning has already.

Finally, changing the classification of the subject property from R-6 to R-4 will serve to regulate the character of the subject property with reasonable consideration for the current and future landowners. The underlying concept behind zoning is that some individual freedoms of owning property will be curtailed for the benefit of the larger community. The continuing question is where to draw the line between individual freedom and the collective good. One of the options available to the petitioners is to request an overlay district for the subject property instead of the proposed amendment. In some ways, an overlay district might be more appropriate for protecting the character and unique features of the subject property. The petitioners, however, believe the proposed amendment is the best compromise available between protecting the subject property from the pressures to redevelop and protecting the rights of the individual landowners. An overlay district could potentially place many more restrictions upon the subject property than would be entailed in the proposed amendment, which might overly burden the property owners within the subject property. The proposed amendment, therefore, is the most straightforward manner in which to achieve the goals set forth above.

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**Schedule I**

| OWNER                                  | ADDR1             | ADDR2                 | PIN_NUM    |
|--|-------------------|-----------------------|------------|
| COCHRANE, POLLY CARTER                 | 1415 BROOKS AVE   | RALEIGH NC 27607-3705 | 0794784745 |
| TROPPE, MICHAEL                        | 4 MYRTLE AVE      | MADISON NJ 07940-1212 | 0794774633 |
| BEARDSLEY, DONALD R & PATRICIA L       | 2805 CHURCHILL RD | RALEIGH NC 27607-3712 | 0794782189 |
| OAKLEY, MARK                           | 3125 GEORGIAN TER | RALEIGH NC 27607-6623 | 0794699825 |
| CASTELAIN, CAROLINE & ARMIN E ALLEN    | 1321 BROOKS AVE   | RALEIGH NC 27607-3703 | 0794774731 |
| STRINGER, MICHAEL & CAROLINE           | 1309 BROOKS AVE   | RALEIGH NC 27607-3703 | 0794774436 |
| MUSTEN, DANNY L & LINDA E              | 1511 DUPLIN RD    | RALEIGH NC 27607-6654 | 0794790582 |
| DANIEL, GARY L & ANNIE L               | 1326 DUPLIN RD    | RALEIGH NC 27607-3721 | 0794772870 |
| DEAN, JAMES W                          | 1410 DUPLIN RD    | RALEIGH NC 27607-3723 | 0794782574 |
| HODGES, DEMPSEY W III & AMY H          | 2312 BYRD ST      | RALEIGH NC 27608-1412 | 0794774739 |
| GATES, JOHN S IIIGATES, HARLOTTE LEIGH | 2800 CHURCHILL RD | RALEIGH NC 27607-3713 | 0794784335 |
| LANE, MICHAEL P                        | 1406 DUPLIN RD    | RALEIGH NC 27607-3723 | 0794782477 |
| BROWN, RONALD DOUGLAS & MARY P         | 1333 BROOKS AVE   | RALEIGH NC 27607-3703 | 0794774935 |
| MAHAFFEY, JAMES WILLIAM & AMY L        | 1421 DUPLIN RD    | RALEIGH NC 27607-3722 | 0794780762 |
| THORNHILL, GEORGE T IV                 | 1322 BROOKS AVE   | RALEIGH NC 27607-3704 | 0794776781 |
| CLARK, TIMOTHY ALAN                    | 1427 BROOKS AVE   | RALEIGH NC 27607-3705 | 0794794148 |
| HULL, MARY VIRGINIA & ROBERT H         | 1403 BROOKS AVE   | RALEIGH NC 27607-3705 | 0794784433 |
| GEDDIE, JONATHAN D & CARRIE B          | 3105 GEORGIAN TER | RALEIGH NC 27607-6623 | 0794793823 |
| GAUTREAUX, RICHARD EDWARD              | 3109 GEORGIAN TER | RALEIGH NC 27607-6623 | 0794792844 |
| LANCASTER, HAZEN GLENN III             |                   |                       |            |
| LANCASTER, LEIGH ANNE                  | 1501 BROOKS AVE   | RALEIGH NC 27607-6613 | 0794794333 |
| GEPHART, ELIZABETH F                   | PO BOX 33446      | RALEIGH NC 27636-3446 | 0794772575 |
| SEDBERRY, CHARLES H & MARY G           | 510 YARMOUTH RD   | RALEIGH NC 27608-1032 | 0794782881 |
| ROBERTS, GRAHAM L & RACHEL V           | 1328 DUPLIN RD    | RALEIGH NC 27607-3721 | 0794772877 |
| FORE, GEORGE T JR                      | 1334 DUPLIN RD    | RALEIGH NC 27607-3721 | 0794782073 |
| HALE, FRANCIS J III                    | 1329 DUPLIN RD    | RALEIGH NC 27607-3720 | 0794770922 |
| GEPHART, ELIZABETH F                   | 1407 BROOKS AVE   | RALEIGH NC 27607-3705 | 0794784539 |
| HOFF, WILLIAM J                        | 1415 DUPLIN RD    | RALEIGH NC 27607-3722 | 0794780663 |
| DORN, SCOTT P & CLARE G                | 1339 BROOKS AVE   | RALEIGH NC 27607-3703 | 0794784131 |
| ALLEY, BARBARA TARLTON                 |                   |                       |            |
| TARLTON, PEARL G HEIRS                 | 1711 LYNN RD      | RALEIGH NC 27612-6821 | 0794790162 |
| THURSTON, MARGARET BEATTIE             |                   |                       |            |
| BEATTIE, GUY BAKER JR                  | 6405 LAKELAND DR  | RALEIGH NC 27612      | 0794772389 |
| WILKINSON, DANIEL B & KATHERINE M      | 1316 BROOKS AVE   | RALEIGH NC 27607-3704 | 0794776683 |
| PARKER, ARTHUR L & ANNA L              | 1327 DUPLIN RD    | RALEIGH NC 27607-3720 | 0794770824 |
| BLOEM, KENNETH A & STEPHANIE           | 1514 DUPLIN RD    | RALEIGH NC 27607-6655 | 0794792589 |
| BLALOCK FAMILY TRUST THE               | 1315 BROOKS AVE   | RALEIGH NC 27607-3703 | 0794774535 |
| SELTMANN, HEINZ                        | 1324 BROOKS AVE   | RALEIGH NC 27607-3704 | 0794776798 |
| MATRONE, MARGARET A                    | 1333 DUPLIN RD    | RALEIGH NC 27607-3720 | 0794780018 |
| BAILEY, CLYDE C III & MARCILLA H       | 1305 DUPLIN RD    | RALEIGH NC 27607-3720 | 0794679399 |
| MACBETH, PETER CUNNINGHAM              |                   |                       |            |
| FLOWERS, LENNON GRANT                  | 1505 BROOKS AVE   | RALEIGH NC 27607-6613 | 0794794541 |
| HOFFMAN, CHARLES W & PAULA A           | 1512 DUPLIN RD    | RALEIGH NC 27607-6655 | 0794792591 |
| GRAMS, CHRISTOPHERGRAMS, STACY DOSTER  | 3101 GEORGIAN TER | RALEIGH NC 27607-6623 | 0794794822 |
| HARER, JOAN RINN                       | 1419 BROOKS AVE   | RALEIGH NC 27607-3705 | 0794784931 |
| GARRISON, JON H & M SHAWN WATSON       | 1300 BROOKS AVE   | RALEIGH NC 27607-3704 | 0794776391 |
| HOOVER, GARY T & ELLEN W               | 1301 DUPLIN RD    | RALEIGH NC 27607-3720 | 0794679392 |
| HIKSON, TODD & MARY KATHRYN            |                   |                       |            |
| HIKSON, MARK E & GISPIE W              | 1307 BROOKS AVE   | RALEIGH NC 27607-3703 | 0794774329 |
| LANG, SAMUEL G                         | 1344 BROOKS AVE   | RALEIGH NC 27607-3704 | 0794786290 |
| JITB LLC                               | 2745 ROTHGEB DR   | RALEIGH NC 27609-7703 | 0794790494 |
| RIDEOUT, JEFFREY S & DANA C            | 1502 DUPLIN RD    | RALEIGH NC 27607-6655 | 0794792385 |



# Schedule I

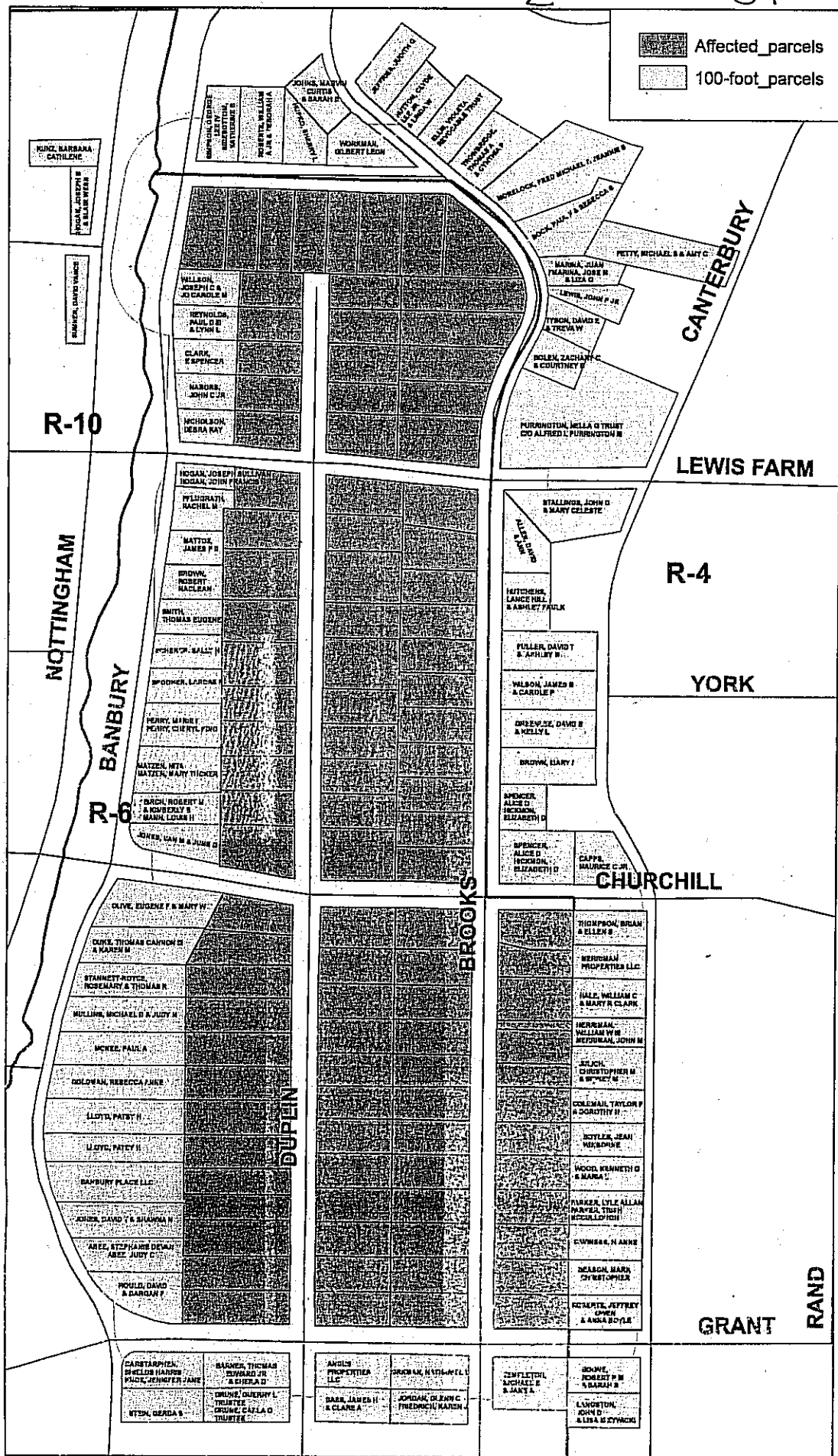
|                                     |                    |                       |            |
|-------------------------------------|--------------------|-----------------------|------------|
| BALDWIN REALTY INC                  | 4401 HARBOUR-      | RALEIGH NC 27612-2719 | 0794782771 |
| GR WOOTEN CONSTRUCTION INC          | GATE DR            | RALEIGH NC 27624-7712 | 0794780243 |
| GOODWIN, HELEN PARKS HEIRS          | C/O                |                       |            |
| MARCIA ELAINE GOODWIN EXEC          | 1531 BROOKS AVE    | RALEIGH NC 27607-3707 | 0794795758 |
| KIM, KWANGHOON & JUNGHWA            | 1407 DUPLIN RD     | RALEIGH NC 27607-3722 | 0794780467 |
| WOOD, W SWAIN & KAREY A HARWOOD     | 1435 DUPLIN RD     | RALEIGH NC 27607-3722 | 0794790062 |
| COOTS, CATHERINE CARSON             | 1517 DUPLIN RD     | RALEIGH NC 27607-6654 | 0794790698 |
| HUNT, KEMP NEAL JR                  | 1332 DUPLIN RD     | RALEIGH NC 27607-3721 | 0794772975 |
| PAGE, MICHAEL SHANEPAGE, KERRI L    | 1301 BROOKS AVE    | RALEIGH NC 27607-3703 | 0794774332 |
| RICE, DAVID SINCLAIR                | 3224 LEWIS FARM RD | RALEIGH NC 27607-6723 | 0794792082 |
| BRINLEY, ROBERT L & AMY P           | 4104 LAMBETH DR    | RALEIGH NC 27609-5800 | 0794782171 |
| MCFARLAND, ANNA L & CARL T          | 1317 DUPLIN RD     | RALEIGH NC 27607-3720 | 0794770611 |
| BRADY, KATHRYN H                    | 1508 DUPLIN RD     | RALEIGH NC 27607-6655 | 0794792483 |
| GR WOOTEN CONSTRUCTION INC          | PO BOX 97712       | RALEIGH NC 27624-7712 | 0794780125 |
| POE, WILLIAM D III & CHANEY H       | PO BOX 10962       | RALEIGH NC 27605-0962 | 0794780020 |
| WILLIAMSON, BETTY BRANDT            | 3113 GEORGIAN TER  | RALEIGH NC 27607-6623 | 0794791874 |
| CROCKETT, LEONA J                   | 7948 CARUTH CT     | DALLAS TX 75225-8141  | 0794780892 |
| CHOI, CAROLINE                      | 1329 BROOKS AVE    | RALEIGH NC 27607-3703 | 0794774837 |
| BROWN, MELINA                       | 1411 DUPLIN RD     | RALEIGH NC 27607-3722 | 0794780565 |
| BENNETT, JOHN JR AI                 | 111 HAMPTON        |                       |            |
| BALDI-BENNETT, JEANNE P             | WOODS LN           | RALEIGH NC 27607-5062 | 0794790375 |
| ABERNETHY, KRISTI A                 | 1421 BROOKS AVE    | RALEIGH NC 27607-3705 | 0794784949 |
| MOODY, J F HEIRS MARY L MOODY       | MARY L MOODY       | 1413 BROOKS AVE       | 0794784647 |
| SELTSMANN, HEINZ                    | 1324 BROOKS AVE    | RALEIGH NC 27607-3704 | 0794776895 |
| SPRINGFIELD, MARK A & LYNN H        | 1405 BROOKS AVE    | RALEIGH NC 27607-3705 | 0794784531 |
| SESSIONS, RICHARD ALLEN             | 1432 DUPLIN RD     | RALEIGH NC 27607-3723 | 0794792181 |
| BIRCH, ELLEN A                      | 1519 BROOKS AVE    | RALEIGH NC 27607-6613 | 0794795677 |
| WEHUNT, D F                         | 1443 DUPLIN RD     | RALEIGH NC 27607-3722 | 0794790272 |
| BARWICK, ANTHONY JAMES              |                    |                       |            |
| BARWICK, AMBER LUEKEN               | 1340 BROOKS AVE    | RALEIGH NC 27607-3704 | 0794786192 |
| CLARK, EDITH A                      | 1308 DUPLIN RD     | RALEIGH NC 27607-3721 | 0794772475 |
| JONES, NEVILLE WIGG                 | 1418 DUPLIN RD     | RALEIGH NC 27607-3723 | 0794782673 |
| MOSS, RICHARD F & MARSHA OWNE       | 1429 DUPLIN RD     | RALEIGH NC 27607-3722 | 0794780960 |
| MCGRATH, AMY K                      | 1325 DUPLIN RD     | RALEIGH NC 27607-3720 | 0794770725 |
| WALDROP, JOSEPH MICHAEL             | 1426 DUPLIN RD     | RALEIGH NC 27607-3723 | 0794782981 |
| BURNS, DECLAN P                     | 1308 BROOKS AVE    | RALEIGH NC 27607-3704 | 0794776496 |
| CARLISLE, RICK & SARA E LAWRENCE    | 1336 BROOKS AVE    | RALEIGH NC 27607-3704 | 0794786093 |
| NIVER, JAMES H & V LORI FULLER      | 1313 DUPLIN RD     | RALEIGH NC 27607-3720 | 0794770515 |
| PERSHKE, JON R & ANN M              | 1337 BROOKS AVE    | RALEIGH NC 27607-3703 | 0794784033 |
| GREENE, ROBERT IAN & OLESIA N       | 1323 DUPLIN RD     | RALEIGH NC 27607-3720 | 0794770617 |
| FLOURNOY, STEPHEN PAUL & JULIE LONG | 1316 DUPLIN RD     | RALEIGH NC 27607-3721 | 0794772673 |
| HUMPHREY, SHERRY U                  | 1309 EVA MAE DR    | RALEIGH NC 27610-4425 | 0794776595 |
| BARNERS, C S                        | 919 WASHINGTON ST  | CARY NC 27511-3917    | 0794780369 |
| CRAVER, CURTIS R JR                 | 2806 CHURCHILL RD  | RALEIGH NC 27607-3713 | 0794782376 |
| NICHOLSON, LUCILE H                 |                    |                       |            |
| NICHOLSON, JOSEPH EDWARD JR         | 1503 BROOKS AVE    | RALEIGH NC 27607-6613 | 0794794443 |
| MILLEN, JAMES D JR & MARY H         | 1423 BROOKS AVE    | RALEIGH NC 27607-3705 | 0794794047 |
| CARSTENS, CATHRYN J                 | 1417 BROOKS AVE    | RALEIGH NC 27607-3705 | 0794784833 |
| RAY, MARK C & WENDY C               | 3121 GEORGIAN TER  | RALEIGH NC 27607-6623 | 0794790815 |
| DELANEY, SEAN G & MARYELLEN G       | 1300 DUPLIN RD     | RALEIGH NC 27607-3721 | 0794772371 |
| COGGINS, ROBERT KEVIN & PHOEBE M    | 2807 LEWIS FARM RD | RALEIGH NC 27607-3708 | 0794792280 |
| MCCULLEN, CECIL D & CAROLINE W      | 1511 BROOKS AVE    | RALEIGH NC 27607-6613 | 0794795569 |

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|  |                   |                       |            |
|--|-------------------|-----------------------|------------|
| WOODCOCK, MARIE W                          | 3117 GEORGIAN TER | RALEIGH NC 27607-6623 | 0794790894 |
| BREWER, DARREN TAYLOR BREWER, NANCY KESTER | 1307 DUPLIN RD    | RALEIGH NC 27607-3720 | 0794679496 |
| PIETRUS, ANDREW JOSEPH PIETRUS, ZOE ANN    | 1515 DUPLIN RD    | RALEIGH NC 27607-6654 | 0794790680 |
| SOLOMON, SHERYL                            | 1304 BROOKS AVE   | RALEIGH NC 27607-3704 | 0794776399 |
| BYRUM, DANIEL S & ELLEN K                  | 1328 BROOKS AVE   | RALEIGH NC 27607-3704 | 0794776998 |
| BURRIS, CRAVEN ALLEN BURRIS, JANE RUSSELL  | 1322 DUPLIN RD    | RALEIGH NC 27607-3721 | 0794772762 |
| LANCASTER, MITCHELL OWENS                  | 1345 BROOKS AVE   | RALEIGH NC 27607-3703 | 0794784139 |
| BYRUM, DANIEL S & ELLEN K                  | 1328 BROOKS AVE   | RALEIGH NC 27607-3704 | 0794776992 |
| NEWBY, JOHN PARKS                          | 1518 DUPLIN RD    | RALEIGH NC 27607-6655 | 0794792688 |

 Affected\_parcel  
 100-foot\_parcel







## Certified Recommendation of the City of Raleigh Planning Commission

**Case File:** Z-1-09 General Use; Duplin Road

**General Location:** This site is located on the east and west sides of Duplin Road and Brooks Avenue, north and south of its intersections with Lewis Farm Road and Churchill Avenue.

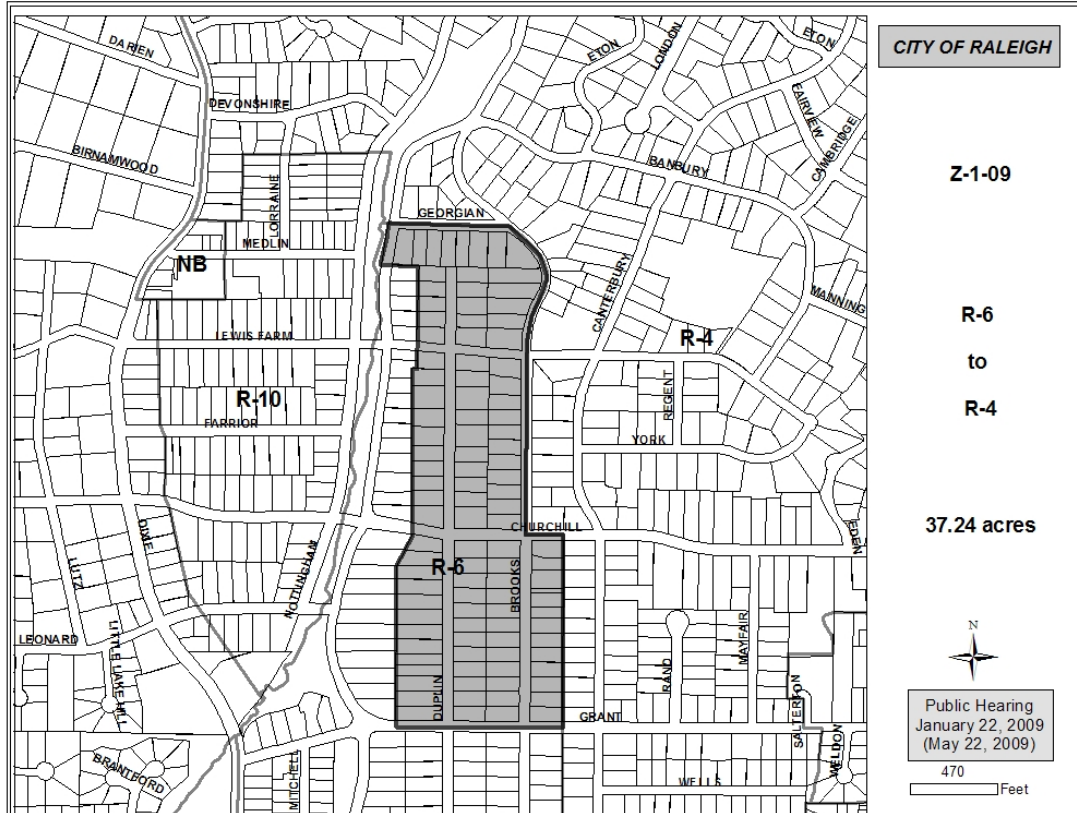
**Planning District  
/ CAC:** University / Wade

**Request:** Petition for Rezoning from Residential-6 to Residential-4.

**Comprehensive Plan  
Consistency:** This request is consistent with the Comprehensive Plan.

**Valid Protest  
Petition (VSPP):** NO

**Recommendation:** The Planning Commission finds that the proposed rezoning is consistent with the Comprehensive Plan and that this request be approved based on the Findings and Reasons stated below.



**CASE FILE: Z-1-09 General Use**

**LOCATION:** This site is located on the east and west sides of Duplin Road and Brooks Avenue, north and south of its intersections with Lewis Farm Road and Churchill Avenue.

**REQUEST:** This request is to rezone approximately 37.24 acres, currently zoned Residential-6. The proposal is to rezone the area to Residential-4.

**COMPREHENSIVE  
PLAN CONSISTENCY:** This request is consistent with the Comprehensive Plan.

**RECOMMENDATION:** The Planning Commission finds that the proposed rezoning is consistent with the Comprehensive Plan and that this request be approved based on the Findings and Reasons stated below.

## FINDINGS AND REASONS:

- (1) The request is consistent with the Comprehensive Plan. The University District Plan designates this area as being appropriate for suburban residential development.
- (2) The Planning Commission also finds that this request is reasonable and in the public interest. Rezoning the properties to Residential-4 is consistent and compatible with the current large lot single family residential character of the neighborhood.
- (3) The proposal to rezone to Residential-4 is an effective method of neighborhood conservation. The proposal will help to conserve the current character of the neighborhood.

**To PC:** 2/10/2009  
**Case History:**

**To CC:** 2/17/2009

**City Council Status:**

**Staff Coordinator:** Stan Wingo

**Motion:** Haq

**Second:** Harris Edmisten

**In Favor:** Anderson, Bartholomew, Butler, Chambliss, Gaylord, Haq, Harris Edmisten, Holt, Mullins, Smith

**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: 2/12/09



## Zoning Staff Report: Z-1-09 General Use

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**LOCATION:** This site is located on the east and west sides of Duplin Road and Brooks Avenue, north and south of its intersections with Lewis Farm Road and Churchill Avenue.

**AREA OF REQUEST:** 37.24 acres

**PROPERTY OWNER:** Various property owners

**CONTACT PERSON:** Paula Hoffman 787-7913

**PLANNING COMMISSION  
RECOMMENDATION  
DEADLINE:** May 22, 2009

---

**ZONING:** Current Zoning

Residential-6

Current Overlay District

None

Proposed Zoning

Residential-4

Proposed Overlay District

None

**ALLOWABLE  
DWELLING UNITS:**

Current Zoning

223 dwelling units

Proposed Zoning

148 dwelling units

**ALLOWABLE OFFICE  
SQUARE FOOTAGE:**

Current Zoning

Office uses not permitted.

Proposed Zoning

Office uses not permitted.

**ALLOWABLE RETAIL  
SQUARE FOOTAGE:**

Current Zoning

Retail uses not permitted.

Proposed Zoning

Retail uses not permitted.

**ALLOWABLE  
GROUND SIGNS:**

Current Zoning

Tract ID Sign

Proposed Zoning

Tract ID Sign

**ZONING HISTORY:** This property has been zoned Residential-6 since 1975 (Z-17-75).

**SURROUNDING  
ZONING:**

NORTH: R-4  
SOUTH: R-6

EAST: R-4  
WEST: R-6, R-10

**LAND USE:** Single Family Residential

**SURROUNDING**

**LAND USE:** NORTH: Single family  
SOUTH: Single family  
EAST: Single family  
WEST: Single family

**DESIGNATED HISTORIC RESOURCES:** *Site is not located within a historic district and does not contain any historic landmarks.*

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**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  | University           |
| Urban Form         | Suburban Residential |
| Specific Area Plan | N/A                  |
| Guidelines         | N/A                  |

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

This site is located within the University Planning District in a location designated as appropriate for Suburban Residential. The request to rezone to Residential-4 is consistent with the Comprehensive Plan.

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

Applicant states that the proposed map amendment would make the zoning of the subject property conform more closely to the existing uses, density, lot sizes and setbacks of the subject property as it currently exists. The proposed zoning map amendment would also establish minimum lot size, setback and density requirements that will help the neighborhood resist the pressures to redevelop into higher density housing.

Staff agrees with the applicant's assessment. The rezoning of these properties is consistent and compatible with the current large lot single family residential land use in place. Residential-4 zoning is also compatible with surrounding zoning and land uses. The proposal would increase minimum lot size requirement from 7,260 square feet to 10,890 square feet. Of the 104 parcels, only one will be made non-conforming based on lot size, while another is currently nonconforming under the Residential-6 zoning.

**3. Public benefits of the proposed rezoning**

The applicant states that the proposal would ensure that any redevelopment in the area is in keeping with the established nature and character of the larger neighborhood in which the subject properties are located. The entire neighborhood to the north and east are zoned Residential-4. Extending the Residential-4 zoning would help to maintain the desirability of the neighborhood as an established, low density neighborhood.

Staff agrees that this proposal would be an effective method for neighborhood conservation. The request to rezone this area to Residential-4 would help to ensure the conservation of the current low density residential style and character.

#### 4. Detriments of the proposed rezoning

This requested rezoning may affect the ability to subdivide property in the future.

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

**TRANSPORTATION:** Duplin Road is classified as a residential street and is constructed as a two-lane 26-foot ribbon paved road within a 60-foot right-of-way. City standards call for Duplin Road to be constructed as a 31-foot back-to-back curb and gutter section with sidewalks on a minimum of one side within the existing right-of-way. Brooks Avenue and Churchill Road are both classified as collector streets and each roadway is constructed with a 41-foot back-to-back curb and gutter section within a 60-foot right-of-way. City standards call for Brooks Avenue and Churchill Road to be constructed with sidewalk on a minimum of one side. Lewis Farm Road is also classified as a collector street and is constructed as a 32-foot ribbon paved roadway within a 50 foot right-of-way. City standards call for Lewis Farm Road to be constructed as a 41-foot back-to-back curb and gutter section with sidewalk on a minimum of one side within a 60-foot right-of-way.

Grant Avenue and Georgian Terrace are both classified as residential streets and both are constructed as two-lane roads with a 32-foot back-to-back curb and section within a 60-foot right-of-way. City standards call for Grant Avenue and Georgian Terrace to be constructed with sidewalk on a minimum of one side within the existing right-of-way. Neither NCDOT nor the City have any projects currently scheduled in the vicinity of this case.

**TRANSIT:** The site is not within close proximity of current/future bus routes or proposed regional rail transit station. No transit easement is needed upon subdivision approval.

**HYDROLOGY:** FLOODPLAIN: Adjacent to FEMA –stream on west side of Banbury Rd  
DRAINAGE BASIN: Beaver-SW  
STORMWATER MANAGEMENT: Site is subject to Part 10, Chapter 9 - Stormwater Regulations. No Buffers – Stream on west side of Banbury Rd. No WSPOD.

#### PUBLIC UTILITIES:

|             | Maximum Demand<br>on Current Zoning | Maximum Demand<br>on Proposed Zoning |
|-------------|-------------------------------------|--------------------------------------|
| Water       | Approx. <u>130,340</u> gpd          | Approx. <u>74,480</u> gpd            |
| Waste Water | Approx. <u>130,340</u> gpd          | Approx. <u>74,480</u> gpd            |

The proposed rezoning would not impact the City's wastewater collection or water distribution systems. There are existing sanitary sewer and water mains located within the zoning case's boundary.

**PARKS AND**

**RECREATION:** This property is adjacent to Beaver Dam Creek Greenway West. The City has already acquired the greenway along this corridor. This proposed rezoning reduces the neighborhood density and the level of service required for park facilities in the area. The current facilities will continue to support the residents of the area.

**WAKE COUNTY**

**PUBLIC SCHOOLS:** The current rezoning proposal would not increase residential density, therefore would have no additional impact on area public schools.

**IMPACTS SUMMARY:** There will be no impact on infrastructure associated with this rezoning request. However, the request may affect property owners ability to subdivide their lots in the future.

**OPTIONAL ITEMS OF DISCUSSION**

*[Only address if the applicant has]*

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

Applicant states that the subject property was zoned R-6 in 1975. At that time the subject property was developed much as it is today. Because the subject property was more suited to R-4 zoning at that time, City Council erred in zoning the subject property R-6.

**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.**

Applicant states the use of the subject property has not changed dramatically since the subject property was last zoned, but the restrictive covenants mentioned above were recently rescinded, leaving the subject property vulnerable to the increasing pressures for redevelopment that is not within the character of the established neighborhood in and around the subject property.

**APPEARANCE**

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

**CITIZENS'**

**ADVISORY COUNCIL:** DISTRICT: Wade  
CAC CONTACT PERSON: Bill Padgett 787-6378

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**SUMMARY OF ISSUES:**

**COMPREHENSIVE PLAN / COMPATIBILITY / ADVERSE IMPACTS:**

**1. Outstanding issues**

The requested rezoning may affect the ability to subdivide property in the future. The proposed rezoning may also render some structural nonconformities due to increased setbacks.

