

CITY OF RALEIGH

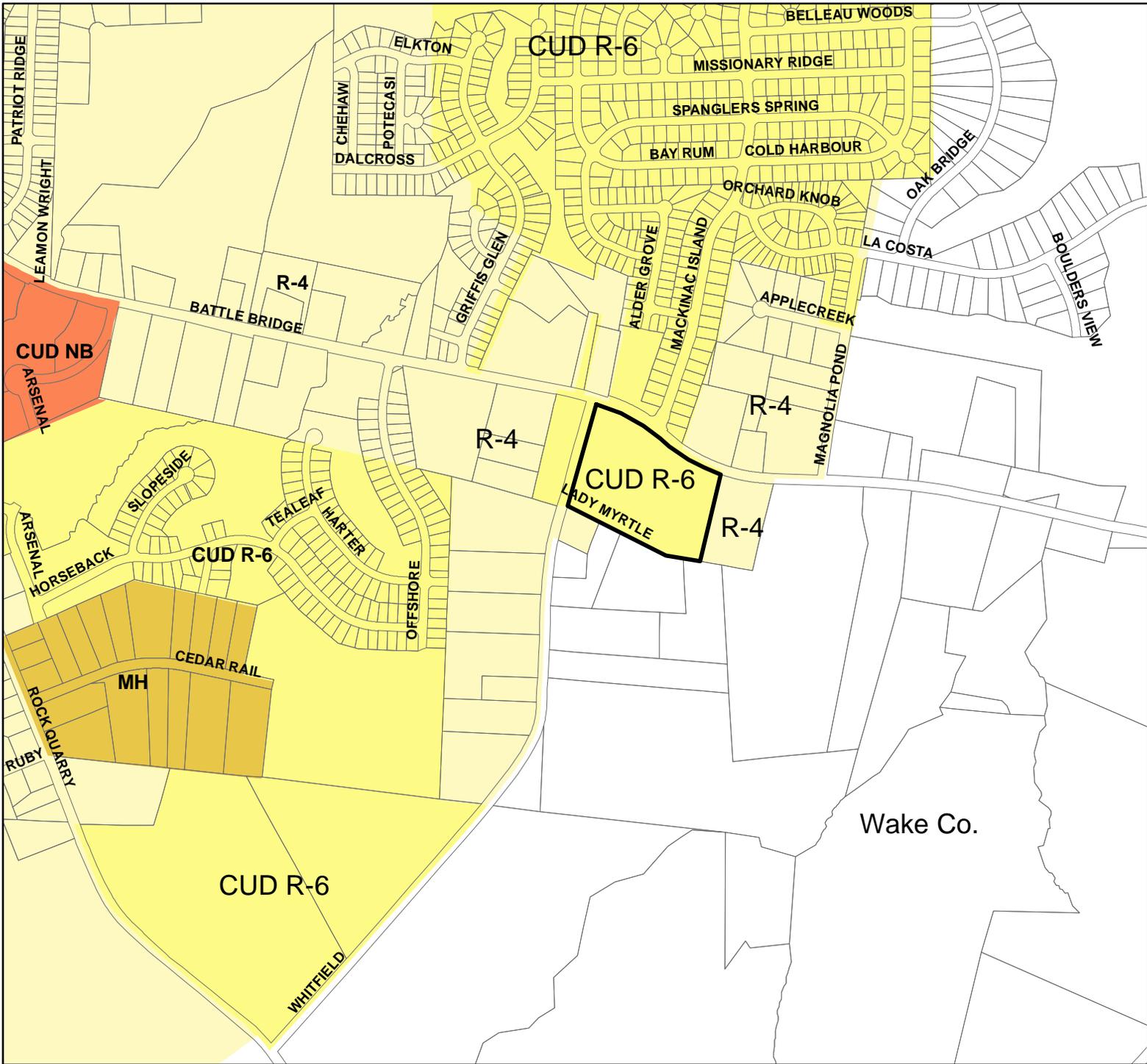
Z-3-10

R-6 CUD

to

**R-6 CUD
(Amended
Conditions)**

10.93 acres



Wake Co.

Public Hearing
January 19, 2010
(May 19, 2010)

510
Feet



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

CITY OF RALEIGH
CITY PLANNING DEPT

2009 SEP 18 AM 9:51

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:

9.16.09

Please type or print name(s) clearly:

Jerry Gower – Owner Gower Construction Co

9-16-09

EXHIBIT B. Request for Zoning Change

<i>Office Use Only</i>	
Petition No.	74003-10
Date Filed:	7-9-09
Filing Fee:	pd 1028.00 by CK # 38115

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

See instructions, page 6

	Name(s)	Address	Telephone / E-Mail
1) Petitioner(s): Note: Conditional Use District Petitioner(s) must be owner(s) of petitioned property.	<u>Jerry Gower</u>	<u>7324 Siemens Road</u>	<u>919-365-9767</u>
		<u>Wendell NC 27591</u>	

2) Property Owner(s):	<u>Jerry Gower</u>	<u>7324 Siemens Road</u>	
		<u>Wendell NC 27591</u>	

3) Contact Person(s):	<u>David Dolezsar</u>	<u>4932-b Windy Hill Drive</u>	<u>ddolezsar@nc.rr.com</u>
		<u>Raleigh NC 27609</u>	<u>919-448-7880</u>

4) Property Description: Wake County Property Identification Number(s) (PIN): 1731-87-2621

Please provide surveys if proposed zoning boundary lines do not follow property lines.

General Street Location (nearest street intersections): _____

Battle Bridge Road and Mackinac Island Lane and Whitefield Road

5) Area of Subject Property (acres): 10.93 acres +/-

6) Current Zoning District(s)

Classification: R-6 Conditional Use single family detached homes and accessory uses on individual lots.

Include Overlay District(s), if Applicable

7) Proposed Zoning District

Classification: Same R-6 Condition Use – But conditions to include allowing a Daycare Center, Congregate Care Structure, Life care community, Rest Home and including the existing single family use that is now allowed – single family detached homes and accessory uses on individual lots.

Include Overlay District(s) if Applicable. If existing Overlay District is to remain, please state.

Office Use Only
Petition No. Z - 0 0 3 - 1 0
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:

Southeast Raleigh District. Recommended use is 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 property is not located within any of the adopted "Plans" noted above

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

Yes , it is consistent

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):

Land uses in the surrounding area are mainly single-family residences of no more than 2 stories

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

The tract is located on an existing R-6 CUD and is now vacant . An old cemetery occupies approx. 32,000 square feet and has never been deeded or mapped.

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

A Daycare Facility , Congregate Care Structure , Life Care community or Rest Home is a suitable use due to the fact that there are several thousand single-family homes in the vicinity , including the developments Griffis Glen , Chastain, Battlebridge and Summerlyn Subdivisions to name a few in the immediate vicinity.

III. Benefits and detriments of the proposed map amendment.

A. For the landowner(s):

A good location for a Daycare Facility , Congregate Care Structure , Life Care community or Rest Home due to the high volume of single family homes present and proposed in the area.

DETRIMENTS – NONE

B. For the immediate neighbors:

Easy access by foot or by vehicle for a much needed Daycare Facility , Congregate Care Structure, Life Care community or Rest Home for the numerous neighboring families in the area.

DETRIMENTS – NONE

C. For the surrounding community:

Easy access by foot or by vehicle for a needed Daycare Facility , Congregate Care Structure , Life Care community or Rest Home Center for the numerous neighboring families in the area.

DETRIMENTS – NONE

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

Yes , This particular location is surrounded by single family housing that would benefit from a much needed Daycare facility , Congregate Care Structure , Life Care community or Rest Home .

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

This tract is centrally located at the intersection of Battle Bridge Road and Whitefield Road within an area being developed mainly residential.

V. Recommended items of discussion (where applicable).

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

N/A

- 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 addition of several thousand new homes in this area has created a need for additional services to accommodate the needs of those new homeowners in this area.

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

N/A



Certified Recommendation

Raleigh Planning Commission

CR# 11378

Case Information – Z-3-10

<i>Location</i>	Battle Bridge Road, south side, at its intersection with Whitfield Road
<i>Size</i>	10.93 acres
<i>Request</i>	Amend conditions associated with R-6 CUD zoning

Comprehensive Plan Consistency

<i>Future Land Use Designation</i>	Low Density Residential
<i>Applicable Policy Statements</i>	Policy LU 1.2—Future Land Use Map and Zoning Consistency Policy LU 1.3—Conditional Use District Consistency Policy LU 4.5—Connectivity Policy LU 5.3—Institutional Uses Policy LU 7.3—Single Family Lots on Thoroughfares Policy HP 1.2—Cultural and Historic Resource Preservation

Consistent

Inconsistent

Summary of Conditions

<i>Submitted Conditions</i>	<ol style="list-style-type: none"> 1. Limitation on uses: single family residential; day care (max. 250 students); congregate care, community care, life care or rest home (max. 60 beds). 2. Maximum of one access on Battle Bridge Rd. and one on Whitfield Rd. 3. Provide transit easement. 4. No single family residence may gain access from Battle Bridge Rd. 5. Future development will inventory and protect cemetery. 6. Offer of cross access to property to east. 7. Six foot privacy fence will be installed along south and east property lines. 8. Building height limited to 2 stories/ 35 feet, primary entrances to be oriented to street, roofs a minimum 4:12 pitch, parking lots/ playgrounds to be set back behind front façade of building, lighting to be of full-cutoff design on maximum 20-foot tall poles.
-----------------------------	---

Issues and Impacts

<i>Outstanding Issues</i>	None.
<i>Impacts Identified</i>	None.

Public Meetings

<i>Neighborhood Meeting</i>	<i>Public Hearing</i>	<i>Committee</i>	<i>Planning Commission</i>
12-2-09	1-19-10	n/a	1-26-10: Deferred 5-11-10: 60-Day Extension Recommended <i>(approved by Council, 5/18/10)</i> 7-13-10: Approval Recommended



Zoning Staff Report – Z-3-10

Conditional Use District

Request

<i>Location</i>	Battle Bridge Road, south side, at its intersection with Whitfield Road; PIN 1731-87-2621
<i>Request</i>	Amend conditions associated with R-6 CUD zoning
<i>Area of Request</i>	10.93 acres (470,110 s.f.)
<i>Property Owner</i>	Jerry Gower
<i>PC Recommendation Deadline</i>	July 18, 2010

Subject Property

	<i>Current</i>	<i>Proposed</i>
<i>Zoning</i>	R-6 CUD	R-6 CUD
<i>Additional Overlay</i>	N/A	N/A
<i>Land Use</i>	Vacant; cemetery	Single family dwellings; daycare facility; congregate care structure, life care community, or rest home
<i>Residential Density</i>	Maximum 65 units	Maximum 65 single-family units; conditioned max. 60 congregate/ life care/ rest home beds

Surrounding Area

	<i>North</i>	<i>South</i>	<i>East</i>	<i>West</i>
<i>Zoning</i>	R-6 CUD; R-4	R-4; WC R-30	R-4	R-6 CUD
<i>Future Land Use</i>	Low Density Residential (1-6 du/acre)			
<i>Current Land Use</i>	Single-family residences; vacant	Single-family residences; vacant	Single-family residence	Single-family residence

Comprehensive Plan Guidance

<i>Future Land Use</i>	Low Density Residential (1-6 units per acre)
<i>Area Plan</i>	N/A
<i>Applicable Policies</i>	Policy LU 1.2—Future Land Use Map and Zoning Consistency Policy LU 1.3—Conditional Use District Consistency Policy LU 4.5—Connectivity Policy LU 5.3—Institutional Uses Policy LU 7.3—Single Family Lots on Thoroughfares Policy HP 1.2—Cultural and Historic Resource Preservation

Contact Information

<i>Staff</i>	Doug Hill, doug.hill@ci.raleigh.nc.us
<i>Applicant</i>	David Dolezsar, ddolezsar@nc.rr.com
<i>Citizens Advisory Council</i>	Bill Lynn, 231-8153

Zoning Overview

The applicant requests an amendment to the existing conditions associated with a parcel currently zoned R-6 CUD. The request would broaden the range of allowed uses and add conditions to mitigate site development. This property was rezoned R-6 CUD in June, 1997, under case Z-45-97. The approved condition limits development to single family detached homes and accessory uses on individual lots.

Exhibit C & D Analysis

Staff examines consistency with the Comprehensive Plan, compatibility with the surrounding area, public benefits and detriments of the proposal, and summarizes any associated impacts of the proposal.

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

Future Land Use

The Future Land Use Map designates the property for Low Density Residential development (one to six dwelling units per acre). The current zoning is consistent with this designation. The proposed zoning conditions would not alter that status.

Policy Guidance

The following policy guidance is applicable with this request:

Policy LU 1.2

Future Land Use Map and Zoning Consistency

The Future Land Use Map shall be used in conjunction with the Comprehensive Plan policies to evaluate zoning consistency including proposed zoning map amendments and zoning text changes.

The property is currently zoned R-6 CUD. The request will not alter the zoning, only the conditions associated with the property. The R-6 zoning is consistent with the low density residential designation on the Future Land Use Map.

Policy LU 1.3

Conditional Use District Consistency

All conditions proposed as part of a conditional use district (CUD) should be consistent with the Comprehensive Plan.

The proposed conditions are consistent with the Comprehensive Plan. The conditioned uses are permitted in R-6 zoning districts, either as a Special Use, Conditional Use, or General Use.

Policy LU 4.5

Connectivity

New development and redevelopment should provide pedestrian and vehicular connectivity between individual development sites to provide alternative means of access along corridors.

Battle Bridge Road is classified as a minor thoroughfare. Whitfield Road provides access on the west side of the subject parcel, and Lady Myrtle Lane provides access on the south (extending west to east). Cross access to the east is offered as a condition of the proposed rezoning.

Policy LU 5.3

Institutional Uses

Ensure that when institutional uses, such as private schools, child care facilities, and similar uses are permitted in residential neighborhoods, they are designed and operated in a manner that is sensitive to neighborhood issues and that maintains quality of life. Encourage institutions and neighborhoods to work proactively to address such issues as traffic and parking, hours of operation, outside use of facilities, and facility expansion.

All adjoining developed properties contain single-family residences. The proposal is conditioned to provide privacy/ security fences parallel to the south and east property lines, and limit building height, and lighting height and design, orient buildings to the street, provide sloped roofs, and locate parking lots and playgrounds behind the building, toward greater contextual compatibility. Operational hours, outside use, and future expansion are not addressed.

Policy LU 7.3

Single Family Lots on Thoroughfares

No new single family residential lots should have direct vehicular access from thoroughfares, in an effort to minimize traffic impacts and preserve the long-term viability of these residential uses when located adjacent to thoroughfares.

Battle Bridge Road is a minor thoroughfare. The rezoning is conditioned to prohibit direct access to the road by any future single family lots on the subject property.

Policy HP 1.2

Cultural and Historic Resource Preservation

Identify, preserve, and protect cultural and historic resources including buildings, neighborhoods, designed and natural landscapes, cemeteries, streetscapes, view corridors, and archeological resources.

The site contains an untended cemetery. Inventorying of the site and methods of its preservation are conditioned.

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

The proposed rezoning seeks to amend the previously-approved conditions to allow day care, congregate care, life care, and rest home uses, in addition to single-family residences. Within Residential-6 zoning districts, day care facilities are a permitted Special Use, congregate care structures and life care communities are Conditional Uses, and rest home, a General Use. The prohibition on these institutional uses would continue on the surrounding properties associated with the original zoning case.

The proposed uses could introduce built forms not part of development patterns currently in place or possible given neighboring properties' present zoning, including installation of parking lots, playgrounds, added lighting, and security devices. Each could affect neighborhood character. Conditions are provided to address many of these matters.

As the subject property borders Wake County on the south, County Planning staff was informed of the proposed zoning condition amendments; the County staff had no comments on the proposal.

3. Public benefits of the proposed rezoning

The rezoning petition reinstates the opportunity to apply for uses otherwise permitted under the present zoning designation, but precluded under the current zoning condition. The applicant notes the property affords a good location for the uses proposed, given the number of existing and potential future residences in close proximity; staff concurs.

4. Detriments of the proposed rezoning

Given the proposed uses, and the existing zoning and resultant urban form (low-density residential) of the surrounding area, it can be expected that traffic to the subject site will increase, especially during day care drop-off/pick-up hours and expected visiting hours for the other proposed uses.

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

Each subsection contains a discussion of relevant impacts. Staff summarizes the impact generated by the request at the end of each subsection. These impacts are consolidated in subsection 5.9, "Impacts" and mitigation addressed in subsection 5.10, "Mitigation".

5.1 Transportation

Battle Bridge Road is classified as a minor thoroughfare and exists as a 2-lane ribbon paved roadway within a varying 60 to 70 feet of right-of-way. City standards call for Battle Bridge Road to be constructed as a multi-lane facility with a 53-foot back-to-back curb and gutter section with sidewalks on both sides within a minimum of 80-foot right-of-way. Whitfield Road is classified as a collector street and exists as a 2-lane, 20-foot roadway within 60 feet of right-of-way. City standards call for Whitfield Road to be constructed with a 41-foot back-to-back curb and gutter section with sidewalk on a minimum of one side within the existing right-of-way. Lady Myrtle Lane is a private street and exists as an unimproved gravel roadway within the subject property. Neither NCDOT nor the City have any projects currently scheduled in the vicinity of this case.

Trip Impact Analysis has been provided and approved.

Impact Identified: There is no negative impact identified related to transportation matters.

5.2 Transit

Prior to lot recordation or the issuance of any building permit, whichever shall first occur, the owner of the property shall deed to the City a transit easement measuring twenty feet (20') long by fifteen feet (15') wide adjacent to the public right-of-way to support a bus stop for future transit services in the area. The location of the transit easement shall be timely reviewed and approved by the Transit Division of the City and the City Attorney or his designee shall approve the transit easement deed prior to recordation in the Wake County Registry.

Impact Identified: The increase in intensity warrants dedication of a future transit stop adjacent to the thoroughfare. The applicant has offered a condition to mitigate this impact.

5.3 Hydrology

<i>Floodplain</i>	No FEMA; no alluvial soils.
<i>Drainage Basin</i>	Big Branch S
<i>Stormwater Management</i>	Subject to Part 10, Chapter 9
<i>Overlay District</i>	N/A

Impact Identified: There is no impact identified related to stormwater. The applicant will be required to comply with code standards related to stormwater management at the construction phase.

5.4 Public Utilities

	<i>Maximum Demand (current)</i>	<i>Maximum Demand (proposed)</i>
<i>Water</i>	Approx. 38,255 g.p.d.	Approx. 38,255 g.p.d.
<i>Waste Water</i>	Approx. 38,255 g.p.d.	Approx. 38,255 g.p.d.

Impact Identified: The proposed rezoning would not impact the City's wastewater disposal or water distribution systems. There is an existing twelve (12") inch water main in Battle Bridge Road to which the proposed development could connect. The petitioner will be required to install the water and sanitary sewer mains required for the proposed internal development.

5.5 Parks and Recreation

The subject property is neither adjacent to a greenway corridor nor located in a park search area. The rezoning of this property will not alter the level of service for park and recreation in this area.

Impact Identified: There is no impact identified related to parks and recreation.

5.6 Urban Forestry

Existing site trees appear to coincide with the area of the private cemetery. However, if the cemetery area is found to be smaller than that covered by the trees, when plans come in for subdivision or site plan review a Tree Conservation Area will apply to those trees located outside the cemetery and within 65 feet of the right of way or property line.

Impact Identified: The physical extent of the cemetery will need to be determined in order to confirm the applicability of the City's tree conservation standards to future site development.

5.7 Wake County Public Schools

The proposed amended uses would result in the same or fewer students being added to the number possible under the current zoning conditions.

Impact Identified: There is no negative impact identified related to Wake County Schools. Certain allowed uses could decrease the school age population on this property, lessening demand for public schools in the area.

5.8 Designated Historic Resources

No designated historic landmarks are located on the site, or within 100 feet of the site. However, the wooded area centered on the property's frontage on Battle Bridge Road encompasses a cemetery of unknown age, covering approximately $\frac{3}{4}$ acre (although the exact extent is not established). A preliminary inspection of the cemetery performed by a representative of the Office of State Archaeology, North Carolina Department of Cultural Resources, in conjunction with a previously proposed subdivision of the property (S-69-07, subsequently withdrawn), noted more than 80 stone markers.

Impact Identified: Site development could impact the cemetery. The applicant has offered a condition to inventory and protect the cemetery site.

5.9 Impacts Summary

None; the rezoning could even ease potential impacts on area schools (e.g., congregate care facility vs. single-family dwellings).

5.10 Mitigation of Impacts

Provision of a transit easement is conditioned.

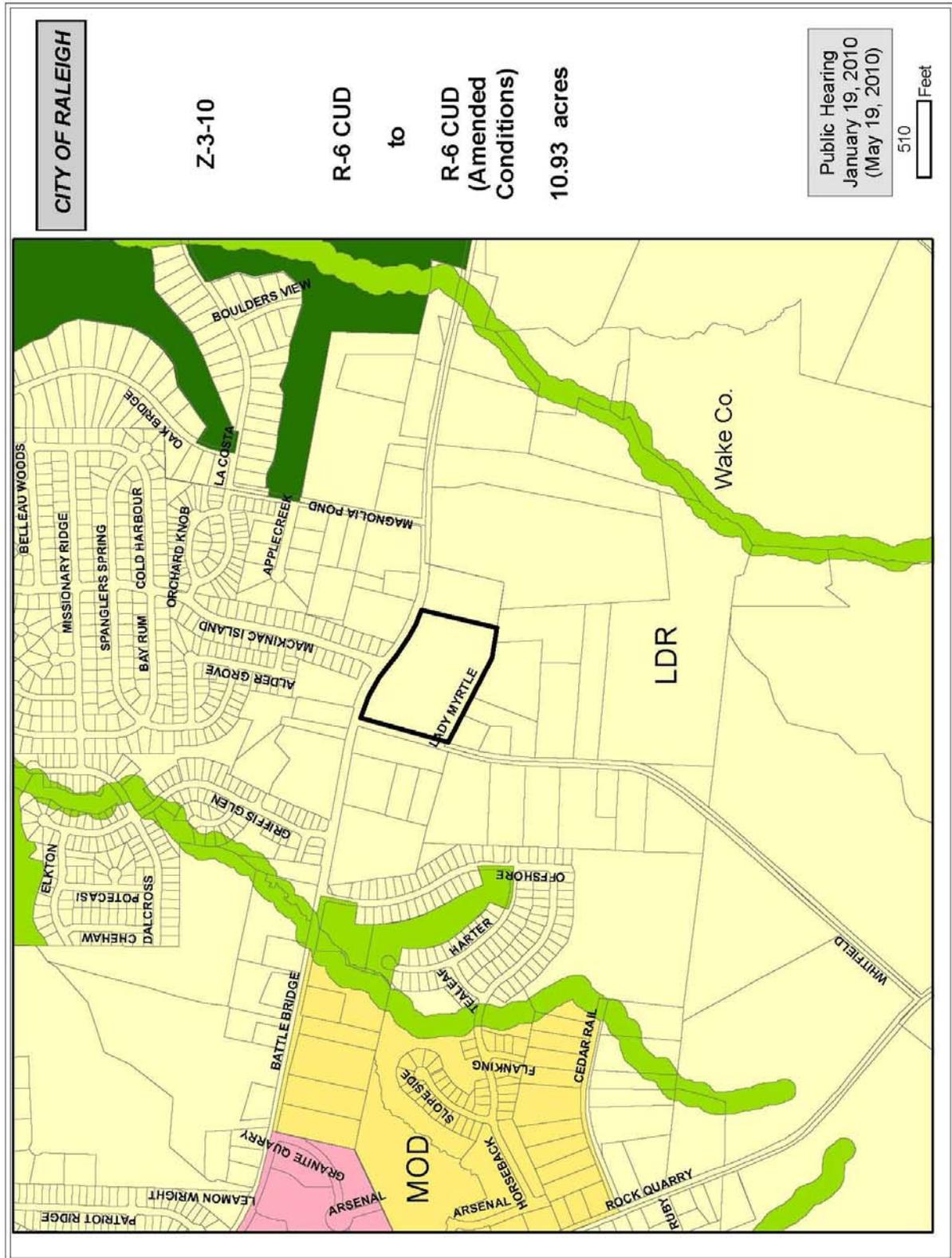
6. Appearance Commission

The proposal is not subject to Appearance Commission review.

7. Conclusions

The request is to modify conditions associated with property zoned R-6. The original rezoning limited site development to single family residences. The request is consistent with the future land use map and several key policies of the 2030 Comprehensive Plan. Most impacts of the rezoning will be limited.

Future Land Use Map



CITY OF RALEIGH

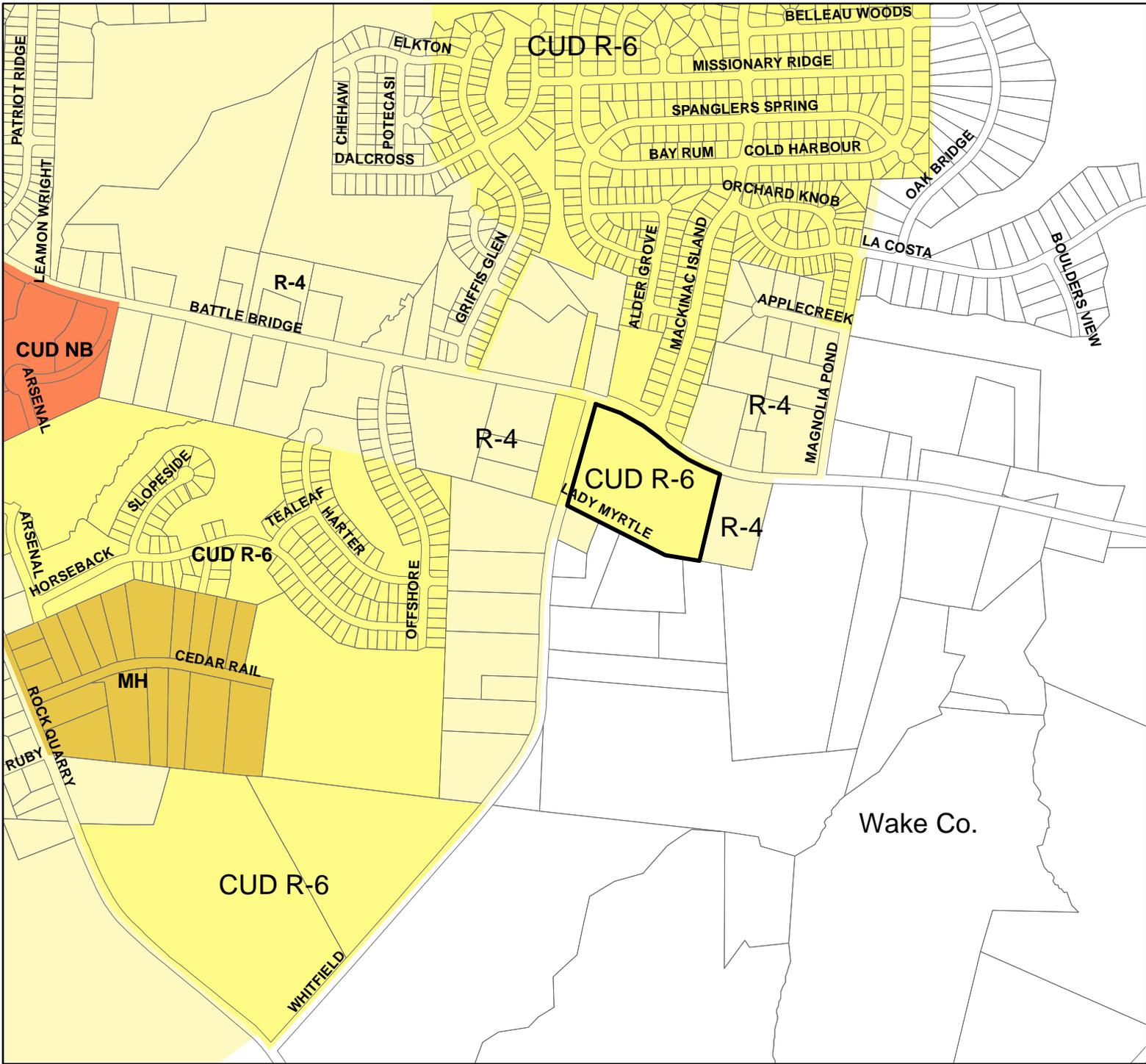
Z-3-10

R-6 CUD

to

**R-6 CUD
(Amended
Conditions)**

10.93 acres



Public Hearing
January 19, 2010
(July 18, 2010)

520
Feet



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

CITY OF RALEIGH
CITY PLANNING DEPT

2009 SEP 18 AM 9:51

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:

9.16.09

Please type or print name(s) clearly:

Jerry Gower – Owner Gower Construction Co

9-16-09

EXHIBIT B. Request for Zoning Change

Office Use Only	
Petition No.	74003-10
Date Filed:	7-9-09
Filing Fee:	pd 1028.00 by CK # 38115

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

See instructions, page 6

	Name(s)	Address	Telephone / E-Mail
1) Petitioner(s): Note: Conditional Use District Petitioner(s) must be owner(s) of petitioned property.	<u>Jerry Gower</u>	<u>7324 Siemens Road</u>	<u>919-365-9767</u>
		<u>Wendell NC 27591</u>	

2) Property Owner(s):	<u>Jerry Gower</u>	<u>7324 Siemens Road</u>	
		<u>Wendell NC 27591</u>	

3) Contact Person(s):	<u>David Dolezsar</u>	<u>4932-b Windy Hill Drive</u>	<u>ddolezsar@nc.rr.com</u>
		<u>Raleigh NC 27609</u>	<u>919-448-7880</u>

4) Property Description: Wake County Property Identification Number(s) (PIN): 1731-87-2621

Please provide surveys if proposed zoning boundary lines do not follow property lines.

General Street Location (nearest street intersections): _____

Battle Bridge Road and Mackinac Island Lane and Whitefield Road

5) Area of Subject Property (acres): 10.93 acres +/-

6) Current Zoning District(s)

Classification: R-6 Conditional Use single family detached homes and accessory uses on individual lots.

Include Overlay District(s), if Applicable

7) Proposed Zoning District

Classification: Same R-6 Condition Use – But conditions to include allowing a Daycare Center, Congregate Care Structure, Life care community, Rest Home and including the existing single family use that is now allowed – single family detached homes and accessory uses on individual lots.

Include Overlay District(s) if Applicable. If existing Overlay District is to remain, please state.

Office Use Only	2-3-10
Petition No.	
Original Date Filed:	9/18/09
Amended Date:	7/14/10

PG 1 OF 2

EXHIBIT C. Request for Zoning Change

Please use this form only – form may be photocopied – please type or print. See instruction, page 8.

1) Conditional Use Zone Requested: R-6 Conditional use as it is now (single family detached homes) BUT revised conditions to also allow Daycare Facilities – child, Congregate Care Structures , Life Care Community , Rest Home or any combination of these uses.

2) Narrative of conditions being requested:

a.)

Development will be limited to:

Single family detached dwellings.

or

Daycare Facilities - child - with a maximum of 250 students.

and

Congregate Care Structures, Life Care Community, Rest Home with a maximum of 60 beds.

b.)

Access will be limited to no more than (1) one driveway connection on Battle Bridge Road and no more than (1) one driveway connection on Whitfield Road.

c.)

Prior to lot recordation or the issuance of any building permit, whichever shall first occur, the owner of the property shall deed to the City a transit easement measuring twenty feet (20') long by fifteen feet (15') wide adjacent to the public right-of-way to support a bus stop for future transit services in the area. The location of the transit easement shall be reviewed and approved by the Transit Division of the City and the City Attorney or his designee shall approve the transit easement deed prior to recordation in the Wake County Registry

d.)

No single family detached dwellings created after the adoption date of this rezoning ordinance will have direct vehicular access to Battle Bridge Road.

e.)

Future development shall preserve and protect the existing cemetery on site. To that end, prior to the filing of any request for site plan or subdivision approval for the subject property or any part thereof, the applicant shall engage the services of a professional archaeologist to inventory and map the cemetery, and thereby confirm its boundaries. Prior to any site development, the resulting archaeological report shall also be filed with the State Archaeology Office. Concurrent with any building permit issuance on the rezoned land, an open (non-opaque) post-and-panel fence (other than chain link) shall be installed a minimum of five (5) feet outward from the confirmed cemetery boundaries. A gate will be provided to allow access to the cemetery for maintenance purposes (periodic removal of fallen limbs, brush, etc.), and visitation.

I acknowledge that these restrictions and conditions are offered voluntarily and with knowledge of the guidelines stated on Page 7 through 9 of the Zoning Application Instructions.

Note: if additional space is necessary, attach extra page(s) of Exhibit C signed and dated by all property owners

Printed Name: Jerry Gower

Owner

Signature:



Date: 9/16/09
Revised 7/14/10

Rezoning Petition

Printed Name:

4

EXHIBIT C. Request for Zoning Change
Narrative of conditions being requested (cont.):

Office Use Only	
Petition No.	<u>2-3-10</u>
Original Date Filed:	<u>9/18/09</u>
Date Filed:	<u>7/14/10</u>

PA 2 OF 2

f.)

Prior to lot recordation or the issuance of any building permit, whichever shall first occur, an offer of cross-access recorded with the Wake County Registry of Deeds office shall be provided to the property to the east (DB E/ PG 368) of this site.

g.)

If any use of the property other than single-family residences is contiguous with properties adjoining to the south (DB 3794/ PG 725) (DB 3794/ PG 733) (DB 3794/ PG 734) (DB 3794/ PG 741) A six (6) foot tall, solid privacy fence will be installed sixteen (16) feet north of the shared property line for the length of that shared property line; if any use other than single-family residences is contiguous with the property adjoining to the east (DB 11119/ PG 250) a six (6) foot tall, solid privacy fence will be installed five (5) feet west of the shared property line for the length of that shared property line, provided that a break is included in the eastern fence to permit the construction and operation of the cross-access drive required by Condition f. above. This fence will be required to be in place prior to the Certificate of Occupancy being issued for any facility associated with the said use.

h.)

Compatibility of character between single-family detached houses and future development of any residential institutional use permitted by Condition a. above shall be achieved as follows:

1. Building height shall be limited to a maximum of two (2) stories and thirty-five (35) feet, as measured per Raleigh City Code §10-2076.
2. All buildings' primary entrances shall be oriented to and visible from the street providing primary access to the building lot.
3. All roofs shall exhibit a minimum 4:12 pitch.
4. Any parking lots (exclusive of driveways and porte-cochere's) and any playground facilities shall be located behind the front façade of the primary building.
5. Site outdoor lighting shall be limited to fixtures of full-cutoff design, and site light poles (exclusive of street lighting) shall be limited to no more than twenty (20) feet in height.

I acknowledge that these restrictions and conditions are offered voluntarily and with knowledge of the guidelines stated on Page 7 through 9 of the Zoning Application Instructions.

Printed Name: Jerry Gower

Owner

Signature: _____



Date: 9/16/09

Revised 7/14/10

Printed Name: _____

Signature: _____

Date: _____

EXHIBIT C. Request for Zoning Change

Office Use Only	
Petition No.	2-3-10
Original Date Filed:	9/18/09
Date Filed:	2/15/10
Amendments	

Narrative of conditions being requested (cont.):

f.)

Prior to the issuance of a building permit, an offer of cross-access recorded with the County Registry of Deeds office shall be provided to the property to the east (DB E/ PG 368) of this site.

g.)

A six (6) foot tall, solid privacy fence will be installed sixteen (16) feet north of the southern property line (DB 3794/ PG 725) (DB3794/ PG733)(DB 3794/ PG 743)(DB 3794/ PG 741)and five (5) feet west of the eastern property line (DB 11119 / PG 250) along with the required landscaping as per City of Raleigh Code, provided that a break is included in the eastern fence to permit the construction and operation of the cross-access drive required by Condition f. above.

h.)

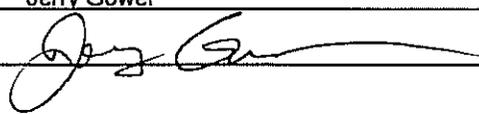
Compatibility of character between single-family detached houses and future development of any residential institutional use permitted by Condition a. above shall be achieved as follows:

1. Building height shall be limited to a maximum of two (2) stories and thirty-five (35) feet, as measured per Raleigh City Code §10-2076.
2. All buildings' primary entrances shall be oriented to and visible from the street providing primary access to the building lot.
3. All roofs shall exhibit a minimum 4:12 pitch.
4. Any parking lots (exclusive of driveways and porte-cochere's) and any playground facilities shall be located behind the primary building.
5. Site outdoor lighting shall be limited to fixtures of full-cutoff design, and site light poles (exclusive of street lighting) shall be limited to no more than twenty (20) feet in height.

I acknowledge that these restrictions and conditions are offered voluntarily and with knowledge of the guidelines stated on Page 7 through 9 of the Zoning Application Instructions.

Printed Name: Jerry Gower

Owner

Signature: 

Date: 9/16/09

Printed Name:

Revised 2/11/10

Signature:

Date:

Office Use Only
Petition No. Z - 0 0 3 - 1 0
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:

Southeast Raleigh District. Recommended use is 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 property is not located within any of the adopted "Plans" noted above

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

Yes , it is consistent

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):

Land uses in the surrounding area are mainly single-family residences of no more than 2 stories

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

The tract is located on an existing R-6 CUD and is now vacant . An old cemetery occupies approx. 32,000 square feet and has never been deeded or mapped.

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

A Daycare Facility , Congregate Care Structure , Life Care community or Rest Home is a suitable use due to the fact that there are several thousand single-family homes in the vicinity , including the developments Griffis Glen , Chastain, Battlebridge and Summerlyn Subdivisions to name a few in the immediate vicinity.

III. Benefits and detriments of the proposed map amendment.

A. For the landowner(s):

A good location for a Daycare Facility , Congregate Care Structure , Life Care community or Rest Home due to the high volume of single family homes present and proposed in the area.

DETRIMENTS – NONE

B. For the immediate neighbors:

Easy access by foot or by vehicle for a much needed Daycare Facility , Congregate Care Structure, Life Care community or Rest Home for the numerous neighboring families in the area.

DETRIMENTS – NONE

C. For the surrounding community:

Easy access by foot or by vehicle for a needed Daycare Facility , Congregate Care Structure , Life Care community or Rest Home Center for the numerous neighboring families in the area.

DETRIMENTS – NONE

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

Yes , This particular location is surrounded by single family housing that would benefit from a much needed Daycare facility , Congregate Care Structure , Life Care community or Rest Home .

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

This tract is centrally located at the intersection of Battle Bridge Road and Whitefield Road within an area being developed mainly residential.

V. Recommended items of discussion (where applicable).

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

N/A

- 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 addition of several thousand new homes in this area has created a need for additional services to accommodate the needs of those new homeowners in this area.

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

N/A