

CITY OF RALEIGH

Z-4-08

**R-10
to
R-15 CUD**

34.40 acres

Public Hearing
January 22, 2008
(May 21, 2008)

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

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)

[Signature]

Date:

10-17-07

Please type or print name(s) clearly:

Jim Pendergrass c/o Breezewood Holdings, LLC

EXHIBIT B. Request for Zoning Change

Office Use Only	
Petition No.	<u>Z-4-08</u>
Date Filed:	<u>10.19.07</u>
Filing Fee:	<u>cd 1000.00 by cv#</u>

3477

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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>Breezewood Holdings,</u>	<u>1511 Sunday Dr,</u>	<u>919-510-9559</u>
	<u>LLC</u>	<u>Suite 220</u>	<u>ipendergrass@render-</u>
		<u>Raleigh, NC 27607</u>	<u>grasslawfirm.com</u>

2) Property Owner(s):	<u>Breezewood Holdings,</u>	<u>1511 Sunday Dr,</u>	<u>919-510-9559</u>
	<u>LLC</u>	<u>Suite 220</u>	<u>ipendergrass@render-</u>
		<u>Raleigh, NC 27607</u>	<u>grasslawfirm.com</u>

3) Contact Person(s):	<u>Jerry J Jensen</u>	<u>111 MacKenan Dr.</u>	<u>919-469-3340</u>
	<u>c/o Withers & Ravenel</u>	<u>Cary, NC 27511</u>	<u>jjensen@withersravenel.</u>
			<u>com</u>

4) Property Description: Please provide surveys if proposed zoning boundary lines do not follow property lines.

Wake County Property Identification Number(s) (PIN): _____

Please see attached sheet 2A for PINs

General Street Location (nearest street intersections): _____

Falls Landing Drive @ Farville Road

5) Area of Subject Property (acres): 34.40 acres

6) Current Zoning District(s)

Classification: R-10

Include Overlay District(s), If Applicable _____

7) Proposed Zoning District

Classification: R-15 CUD

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

Item 4) Property Description

Wake County Property Identification Number(s) (PIN)

1729.04-61-1682	1729.04-80-2758
	1729.04-81-1099
1729.04-61-9647	1729.04-81-3046
1729.04-71-2690	1729.04-80-4868
1729.04-71-1593	1729.04-80-3822
	1729.04-80-1895
1729.04-71-6299	1729.04-80-0877
1729.04-71-4469	1729.04-80-0909
1729.04-71-5598	
1729.04-71-7597	1729.04-71-6033
1729.04-71-9429	
1729.04-71-7394	1729.04-71-0386
1729.04-71-6315	
	1729.04-61-6537
1729.04-81-2466	
1729.04-81-0434	
1729.04-81-1515	
1729.04-81-2545	
1729.04-81-3565	
1729.04-81-4475	
1729.04-81-3380	
1729.04-81-2304	

2- -08

(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.

For additional space, photocopy this page.

BREEZEWOOD CONDOMINIUMS
EXHIBIT A

Z-4-08

<u>PIN NUM</u>	<u>OWNER</u>	<u>STREET ADDRESS</u>	<u>CITY STATE ZIP</u>
1729517898	CLEVELAND, NEIL L JR & KATHLEEN	4305 FALLS RIVER AVE	RALEIGH, NC 27614
1729518303	WILL IT LLC	6729 FALLS OF NEUSE RD	RALEIGH, NC 27615
1729518601	BLEDSON, KENNETH	1901 DUNN RD	RALEIGH, NC 27614
1729518708	WILL IT LLC	6729 FALLS OF NEUSE RD	RALEIGH, NC 27615
1729518755	WILL IT LLC	6729 FALLS OF NEUSE RD	RALEIGH, NC 27615
1729518960	BRADYWINE LLC	448 VIKING DR STE 220	VIRGINIA BEACH, VA 23452
1729519819	MITTEN, ROBERT L & JAYNE E	2020 HOPETON AVE	RALEIGH, NC 27614
1729519861	BRANDYWINE LLC	448 VIKING DR STE 220	VIRGINIA BEACH, VA 23452
1729519879	LEATHERMAN, ALICE C	2024 HOPETON AVE	RALEIGH, NC 27614
1729610828	MILLER, GARY L & JEAN MARIE	2028 HOPETON AVE	RALEIGH, NC 27614
1729610878	RAUER, KAREN SUE	2032 HOPETON AVE	RALEIGH, NC 27614
1729611356	BLEDSON, KATHLEEN M & TED M	1917 DUNN RD	RALEIGH, NC 27614
1729611828	DELTORO, CORWIN & PATRICIA	2036 HOPETON AVE	RALEIGH, NC 27614
1729611877	LYNT, PETER B	2040 HOPETON AVE	RALEIGH, NC 27614
1729612441	DINH, HOANG K	1811 BARNGATE WAY	RALEIGH, NC 27614
1729612483	AUSTIN, ANGELA & SADAM	1815 BARNGATE WAY	RALEIGH, NC 27614
1729612530	RAVANBAKHT, JASON A	100 HARTLAND CT	RALEIGH, NC 27614
1729612571	CARTER, JOHN W	1824 FALLS LANDING DR	RALEIGH, NC 27614
1729612827	BEEKMAN, RICHARD & JUDITH FONDA	2044 HOPETON AVE	RALEIGH, NC 27614
1729612877	LECANN, NICOLE	2048 HOPETON AVE	RALEIGH, NC 27614
1729613422	RAVENBAKHT, JASON A.	1819 BARNGATE WAY	RALEIGH, NC 27614
1729613462	RAFFERTY, CHRISTINE A	1823 BARNGATE WAY	RALEIGH, NC 27614
1729613511	WALTON, CAROLYN P	1828 FALLS LANDING DR	RALEIGH, NC 27614
1729613551	AUSTIN, VALERIE SUZANNE	1904 FALLS LANDING DR	RALEIGH, NC 27614
1729613591	WOOLDRIDGE, KIMBERLY	1908 FALLS LANDING DR	RALEIGH, NC 27614
1729613846	DIXON, THOMAS C III & JANET R	2054 HOPETON AVE	RALEIGH, NC 27614
1729613896	COBB, CHRISTOPHER A	2058 HOPETON AVE	RALEIGH, NC 27614
1729614402	HUELSMANN, ANTOINETTE D	1827 BARNGATE WAY	RALEIGH, NC 27614
1729614442	LABAU, MICHAEL	1901 BARNGATE WAY	RALEIGH, NC 27614
1729614473	DAUGHERTY, GERALD & ROBIN	1905 BARNGATE WAY	RALEIGH, NC 27614
1729614531	FAIRCLOTH, KENNETH & DONNA	1910 FALLS LANDING DR	RALEIGH, NC 27614
1729614571	ACREE, JOHN F & ACREE, DAVID J	1912 FALLS LANDING DR	RALEIGH, NC 27614
1729614846	TERBET, COLLEEN ANN	2062 HOPETON AVE	RALEIGH, NC 27614
1729614895	MARA, JO ANN	2066 HOPETON AVE	RALEIGH, NC 27614
1729615413	LANDRY, MICHAEL R	1909 BARNGATE WAY	RALEIGH, NC 27614
1729615453	BEST, JACOB F	1913 BARNGATE WAY	RALEIGH, NC 27614
1729615493	BRAGG, NANCY S	10500 BYRUM WOODS DR	RALEIGH NC 27613
1729615511	AUSTIN, STEVEN & JOANNA L	1914 FALLS LANDING DR	RALEIGH, NC 27614
1729615552	PIPAS, ROBERT	1916 FALLS LANDING DR	RALEIGH, NC 27614
1729615845	DIBATTISTA, CARMINE & MARSHA C	2070 HOPETON AVE	RALEIGH, NC 27614
1729616433	HUISMAN, JOHN W & ARIEL L	1921 BARNGATE WAY	RALEIGH, NC 27614
1729616511	STOCKETT, RICHARD H & MARY R	4098 BARRETT DR	RALEIGH, NC 27609
1729616815	PIERSON, FRANK W & JULIE ANN	10402 PUMPKIN LN	RALEIGH, NC 27614
1729616861	BOYER, JAMES & HALEY	10406 PUMPKIN LN	RALEIGH, NC 27614
1729617287	HAIR, FREDERICK & MARTINE	11008 FARMVILLE RD	RALEIGH, NC 27614
1729617359	TAYLOR, MANCIN & CAROL P	15053 CALLE VERANO	CHINO HILLS CA 91709
1729617365	HOLLINGER, CHRISTINE P	11016 FARMVILLE RD	RALEIGH, NC 27614
1729617371	STOCKETT, RICHARD H & MARY R	6201 CARLYLE DR	RALEIGH, NC 27614
1729617444	WHITE, DAVID E	11108 FARMVILLE RD	RALEIGH, NC 27614
1729617905	HOLBROOK, CYRUS AUBURN III	2102 HOPETON AVENUE	RALEIGH, NC 27614

BREEZEWOOD CONDOMINIUMS
EXHIBIT A

2-4-08

1729618807	LEHMAN, EILLEN	2101 KARNS PLACE	RALEIGH, NC 27614
1729618930	SMITH, GENE	2105 KARNS PLACE	RALEIGH, NC 27614
1729619107	WOODHOUSE, MARK	10916 FARMVILLE RD	RALEIGH, NC 27614
1729619146	MCGINNIS, JASON & DACEY	10912 FARMVILLE RD	RALEIGH, NC 27614
1729619185	TAYLOR, VIVIAN MARIE	10908 FARMVILLE RD	RALEIGH, NC 27614
1729619208	FALLS GLEN HOA INC	PO BOX 20969	RALEIGH NC 27619
1729619840	KURTZ, PENNI G	2104 KARNS PL	RALEIGH, NC 27614
1729619884	CHIAVATTI, ANTHONY J & MELANIE C	2108 KARNS PL	RALEIGH, NC 27614
1729701908	MEZA, ARISTIDES J	10833 FARMVILLE RD	RALEIGH, NC 27614
1729701947	STOCKETT, RICHARD H & MARY R	10829 FARMVILLE RD	RALEIGH, NC 27614
1729701986	CARUTHERS, MARGARET R.	10825 FARMVILLE RD	RALEIGH, NC 27614
1729702925	GIPPLE, ARTHUR M IV	10821 FARMVILLE RD	RALEIGH, NC 27614
1729702964	REID, TAMMY M	10817 FARMVILLE RD	RALEIGH, NC 27614
1729703922	JONES, SCOTT WILLIAM	10813 FARMVILLE RD	RALEIGH, NC 27614
1729703966	DAVIS, MICHAEL K	10809 FARMVILLE RD	RALEIGH, NC 27614
1729704888	FALLS GLEN HOA INC	PO BOX 20969	RALEIGH, NC 27619
1729705514	DUNN, HORACE & JESSIE;	1925 DUNN RD	RALEIGH, NC 27614
1729705514	DUNN, WORTH & HELEN	1925 DUNN RD	RALEIGH, NC 27614
1729709627	FALLS COMMONS TWNHMS HOA	C/O PPM PO BOX 99657	RALEIGH, NC 27624
1729709669	OLMSTEAD, KEVIN SCOTT	10921 PENDRAGON PL	RALEIGH, NC 27614
1729709780	LYNCH, JIMMY	5705 OAK FOREST DR	RALEIGH NC 27616
1729710125	HICKS, KIMBERLY E	10904 FARMVILLE RD	RALEIGH, NC 27614
1729711103	BOYLE, LORI ANNE	10832 FARMVILLE RD	RALEIGH, NC 27614
1729711142	FOOTE, STEPHEN C & JENNIFER	10828 FARMVILLE RD	RALEIGH, NC 27614
1729711171	PSYRAS, DIANA M & JAMES WARD JR	2200 VIZCAYA CIR	CAMPBELL, CA 95008
1729711723	BRANDYWINE LLC	448 VIKING DR STE 220	VIRGINIA BEACH, VA 23452
1729711815	BOTTOMLEY, ERIC & PETRA M	10518 EVERGREEN SPRING PL	RALEIGH, NC 27614
1729711863	DABEK, CHRISTOPHER & MICHELLE	10522 EVERGREEN SPRING PL	RALEIGH, NC 27614
1729712039	FANNIE MAE	950 E PACES FERRY RD	ATLANTA, GA 30326
1729712801	WILSON, DAVID	10526 EVERGREEN SPRING PL	RALEIGH, NC 27614
1729712851	LUPTON, KEVIN & JENNIFER	10530 EVERGREEN SPRING PL	RALEIGH, NC 27614
1729712890	AKHAVI, SHAHPOUR S & MICHELLE C	10534 EVERGREEN SPRING PL	RALEIGH, NC 27614
1729713070	FINCH, KARENSTEELE, PATRICK	10805 FARMVILLE RD	RALEIGH, NC 27614
1729713840	FISCHER, SALLIE	10538 EVERGREEN SPRING PL	RALEIGH, NC 27614
1729713880	HOYLE, WILLIAM & JULIE ANN	10542 EVERGREEN SPRING PL	RALEIGH, NC 27614
1729714739	NUECES, IVELCA DE LAS	10546 EVERGREEN SPRING PL	RALEIGH, NC 27614
1729715709	BARNEY, JOSEPH & NANCEY	10550 EVERGREEN SPRING PL	RALEIGH, NC 27614
1729715749	MORSE, JEFFREY A JR & MICHELE B	10554 EVERGREEN SPRING PL	RALEIGH, NC 27614
1729715788	SZWARCKOP, ANDREW J & CYNTHIA	10558 EVERGREEN SPRING PL	RALEIGH, NC 27614
1729716728	ZEIGLER, MATTHEW & LARENA	10562 EVERGREEN SPRING PL	RALEIGH, NC 27614
1729716768	LAY, SHERRY L	10566 EVERGREEN SPRING PL	RALEIGH, NC 27614
1729717658	BRANDYWINE LLC	448 VIKING DR STE 220	VIRGINIA BEACH, VA 23452
1729717708	LAFORTE, JASON & AMANDA	10570 EVERGREEN SPRING PL	RALEIGH, NC 27614
1729717747	BLYTHE, MICHAEL P & LINDA E	10574 EVERGREEN SPRING PL	RALEIGH, NC 27614
1729717787	KRUGER, STEVEN J & LISA T	10578 EVERGREEN SPRING PL	RALEIGH, NC 27614
1729718727	LEARY, KURT DEMAY & VALERIE HOLT	10582 EVERGREEN SPRING PL	RALEIGH, NC 27614
1729718767	CRENSHAW, LESTER III & VIRGINIA	10586 EVERGREEN SPRING PL	RALEIGH, NC 27614
1729719706	SIMPSON, COREY P & JILL N	10590 EVERGREEN SPRING PL	RALEIGH, NC 27614
1729719756	PRESTO, JAMES & JESSICA	10594 EVERGREEN SPRING PL	RALEIGH, NC 27614
1729800588	SCHNEIDER, THERESE M	10950 PENDRAGON PL	RALEIGH, NC 27614
1729800701	CURRIE, RHONDA	5308 OLD FORGE CIR	RALEIGH, NC 27609

BREEZEWOOD CONDOMINIUMS
EXHIBIT A

Z - 4 - 08

1729800712	WILLIAMS, TAMIKA D	10927 PENDRAGON PL	RALEIGH, NC 27614
1729800774	FISH ROGERS, KELLEY ANNE	10941 PENDRAGON PL	RALEIGH, NC 27614
1729800794	LANE, BRIAN & NICOLE	10943 PENDRAGON PL	RALEIGH, NC 27614
1729801508	LYNCH, JIMMY M	5705 OAK FOREST DR	RALEIGH, NC 27616
1729801528	WELLS, MARCUS	10954 PENDRAGON PL	RALEIGH, NC 27614
1729801547	LYNCH, JIMMY M	5705 OAK FOREST DR	RALEIGH, NC 27616
1729801567	ZELLAR, ERIN	10958 PENDRAGON PL	RALEIGH, NC 27614
1729801566	BENNETT, AMANDA	10960 PENDRAGON PL	RALEIGH, NC 27614
1729801713	LYNCH, EDMUND F III	10945 PENDRAGON PL	RALEIGH, NC 27614
1729801733	SMITH, KENNETH B	10947 PENDRAGON PL	RALEIGH, NC 27614
1729801762	CLARK, DEBORAH LYNN	10949 PENDRAGON PL	RALEIGH, NC 27614
1729801782	FALLS COMMONS TWNHMS HOA	C/O PPM PO BOX 99657	RALEIGH NC 27624
1729802506	NEWSOME, DEBRA	10962 PENDRAGON PL	RALEIGH NC 27624
1729802525	POPE, SHARON	10964 PENDRAGON PL	RALEIGH NC 27624
1729802689	FRYE, PHILLIP ANDREW	10969 PENDRAGON PL	RALEIGH, NC 27614
1729802701	HARRIS, KENDALL LASHAUN	10961 PENDRAGON PL	RALEIGH, NC 27614
1729802721	HUNDEBY, COLEMAN & TONYA	2733 STARBIRD DR	COSTA MESA, CA 92626
1729802740	SERENITA, ROSE-MARIE & IRVIN C	10965 PENDRAGON PL	RALEIGH, NC 27614
1729802760	FULLER, KIMBERLY A	10967 PENDRAGON PL	RALEIGH, NC 27614
1729803543	FALLS COMMONS TWNHMS HOA	PO BOX 99657	RALEIGH NC 27624
1729803609	WILLIAMS, DOMONIC GERROD	10971 PENDRAGON PL	RALEIGH, NC 27614
1729803628	PHILLIPS, ERIX A & PAMELA E	10973 PENDRAGON PL	RALEIGH, NC 27614
1729803648	STONE, ALICIA J	10975 PENDRAGON PL	RALEIGH, NC 27614
1729806536	GRANTHAM, LENORE H	11019 CONNALLY LN	RALEIGH, NC 27614
1729806630	HARRIS, REBECCA S & SCOTT C	11021 CONNALLY LN	RALEIGH, NC 27614
1729807697	BRANDYWINE LLC	PO BOX 788	CARY, NC 27512
1729810750	BUTLER, PHILIP & MEGAN	2107 CLOUD COVER	RALEIGH, NC 27614
1729810754	MCNEIL, MELVA R & DAVID I MATTHEW	2111 CLOUD COVER	RALEIGH, NC 27614
1729812628	PRESERVATION HOMES LLC	500 UWHARRIE CT	RALEIGH, NC 27606
1729812722	REED, J ANDREW & ANNE H	2110 CLOUD COVER	RALEIGH, NC 27614
1729812849	BRANDYWINE LLC	448 VIKING DR STE 220	VIRGINIA BEACH, VA 23452
1729815878	BEDFORD AT FALLS RIVER MAS ASSOC	PO BOX 99657	RALEIGH NC 27624
1729816343	MODINOS-CAPPS, BARBARA	2205 BANKS HILL ROW	RALEIGH, NC 27614
1729816345	TAYLOR, DANIEL COBB & DALIA	2207 BANKS HILL ROW	RALEIGH, NC 27614
1729816347	LEVY, HEATHER M	2209 BANKS HILL ROW	RALEIGH, NC 27614
1729816349	JOHNSON, ANTHONY LEVAR	2211 BANKS HILL ROW	RALEIGH, NC 27614
1729816442	BOGUE, RODD S , LTD PTNRP	12308 CAMBERWELL CT	RALEIGH, NC 27614
1729816446	PAPPAS, SUSAN T	2221 BANKS HILL ROW	RALEIGH, NC 27614
1729816448	ROACH, CHARLES A	2223 BANKS HILL ROW	RALEIGH, NC 27614
1729816540	MIANO, RICHARD A & LORRAINE I	920 STONE FALLS TRL	RALEIGH, NC 27614
1729816542	KAPP, KELLY ANNE	2227 BANKS HILL ROW	RALEIGH, NC 27614
1729816545	STRODER, RICHARD LEE	2229 BANKS HILL ROW	RALEIGH, NC 27614
1729816599	LOCKE, PAUL F	2235 BANKS HILL ROW	RALEIGH, NC 27614
1729817102	BRANDYWINE LLC	448 VIKING DR STE 220	VIRGINIA BEACH ,VA 23452
1729817379	BRIGGS, KIMBERLY	11425 SHADOW ELMS LN	RALEIGH, NC 27614
1729817472	TEMPLE, LYNNE	11427 SHADOW ELMS LN	RALEIGH, NC 27614
1729817620	VANG, MICHAEL E & YEE YER	2237 BANKS HILL ROW	RALEIGH, NC 27614
1729819206	BRANDYWINE LLC	448 VIKING DR STE 220	VIRGINIA BEACH, VA 23452

Office Use Only	
Petition No.	2-4-08
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:**

District Plan: North Planning District

Recommended Land Use per District Plan : 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.**

Property is not located within any other City Council adopted plan.

(continued)

Office Use Only	
Petition No.	2-4-08
Date Filed:	

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

Proposed map amendment is not consistent with Comprehensive Plan. Current plan guidelines suggest residential-suburban densities of six (6) dwelling units per acre or less. However, this parcel has unusual circumstances that would prevent it from meeting this guideline.

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):

Surrounding area is residential in character with a mixture of housing types such as single family multi-family.

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

Property is surrounded by property zoned R-10 to the south and PDD zoning (Bedford at Falls River) for the remaining sides. Densities, building setbacks, etc. are consistent with the surrounding area.

- 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

In 1998 the subject property was approved for 344 dwelling units, per GH-2-98. This approval allowed density transfer from the public street right-of-way (37 units) into the lots. Since then the project approval has sunset and any subsequent approval of a group housing plan will not allow density transfer from the existing public right-of-way based on current City Code ordinances. As a result 37 units would be forfeited from the original approval of 344 dwelling units. This conditional use request would allow future group housing approvals to be made by limiting the number of dwelling units to 344, as originally intended. This density is consistent with the expectation of the current Breezewood Condominium neighborhood and the surrounding neighborhoods.

III. Benefits and detriments of the proposed map amendment.

- A. For the landowner(s):

The landowner will benefit by being able to develop the property to the original proposed density of 344 dwelling units.

(continued)

B. For the immediate neighbors:

The Breezewood Condominium neighborhood can realize the full intent of the project, which was to build 344 dwelling units. Without the rezoning the HOA will have higher maintenance costs per resident since there will be fewer dwellings allowed using the current zoning.

C. For the surrounding community:

The surrounding community will be able to realize the housing intent of the area, generating tax base, etc.

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

This rezoning does not benefit the property in any way other than what was originally intended, to build 344 condominium units. No additional units are being requested, just those originally envisioned for the project.

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

Public infrastructure such as: streets, utilities, storm drainage, landscaping, etc. have already been installed to support 344 condominium units. There have been 266 units completed and 78 dwelling units remain to be built. Infrastructure already installed can easily accommodate the remaining units without public involvement. This zoning amendment will allow the original density to be realized and it is reasonable and in public interest to complete this project.

V. Recommended items of discussion (where applicable).

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

No error occurred.

- 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.**

Current zoning and land use ordinances would not allow the project to be constructed to 344 units as originally intended since density cannot be transferred out of existing public street right-of-way.

(continued)

Office Use Only	
Petition No.	2-4-08
Date Filed:	

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

The public, in particular, the Breezewood Condominium HOA deserve to see the development of the project built out to it's original intent of 344 units; otherwise HOA costs per resident will significantly increase, to maintain existing infrastructure and landscaping since the original cost sharing basis was for 344 units.

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

All public and private infrastructure is already in place to support 344 dwelling units as requested. No additional public services are needed to support this request since services were previously planned in the original group housing approval for this project.

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

SEE EXHIBIT "B" ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE.

EXHIBIT "B"

The property that is the subject of this rezoning petition was originally approved for three hundred forty four (344) condominium units as an R-10 development. It was believed by the developers and various individuals who have purchased units in the development that two (2) separate condominium regimes had been properly established on the property by the engineers and attorneys who prepared the Plats, Plans and Condominium documents. It has recently been discovered that in fact the Plats, Plans and Condominium documents are inadequate either to create valid condominium units or to establish two (2) separate condominium regimes. Due to the foregoing, no legal title actually passed to any of the buyers of units due to no fault either of the developers or the intended purchasers. At the time the various plats were recorded since the aforementioned 1998 approval, the rights-of-way of Dunn Road, Falls Landing Drive and Farmville Road were dedicated to the City of Raleigh. The density was transferred from those rights-of-way to the balance of the acreage, which density transfer amounted to thirty seven (37) of the three hundred forty four (344) units.

During the course of the development, the product being constructed changed as did the developer. Purported buyers of the units purchased the units believing the development to actually be two (2) separate condominium regimes divided along product lines. The first condominium regime was to consist of one hundred thirty two (132) units and the second condominium regime was to consist of two hundred twelve (212) units. The two (2) products constructed or which are being constructed are very different, both in style and construction materials, thereby making it difficult to manage as a single condominium regime.

In order to now divide the units along product lines, to enable two (2) separate condominium regimes to be established, a multi-lot subdivision of the thirty four (34) acres is needed. To obtain that subdivision approval and maintain the original three hundred forty four (344) unit yield requires the owner be credited for the lands from the aforementioned rights-of-way dedicated to the City in 1998 or the thirty seven (37) units created by that density transfer will be lost. No additional density other than that which was originally approved is being sought.



Certified Recommendation of the City of Raleigh Planning Commission

Case File: **Z-04-08 Conditional Use; Falls Landing Drive**

General Location: Falls Landing Drive, north side and south side, northeast of its intersection with Dunn Road

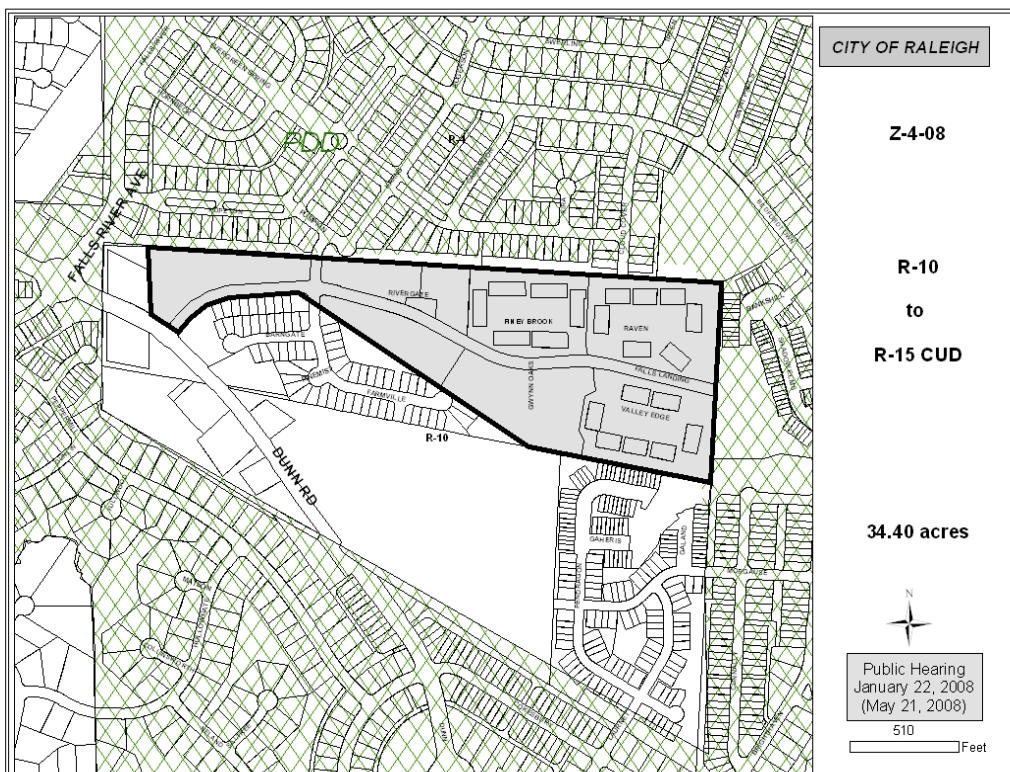
**Planning District
/ CAC:** North / North

Request: Petition for Rezoning from **Residential-10 to Residential-15 Conditional Use District.**

**Comprehensive Plan
Consistency:** The request is inconsistent with the Comprehensive Plan

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

Recommendation: The Planning Commission finds that this request is inconsistent with the Comprehensive Plan. However, based on the Findings and Reasons stated herein, the Planning Commission recommends that this request be approved in accordance with conditions dated October 17, 2007.



CASE FILE: Z-04-08 Conditional Use

LOCATION: This site is located on the north side and south side of Falls Landing Drive, northeast of its intersection with Dunn Road.

REQUEST: This request is to rezone approximately 34.40 acres, currently zoned Residential-10. The proposal is to rezone the property to Residential-15 Conditional Use District.

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

RECOMMENDATION: The Planning Commission finds that this request is inconsistent with the Comprehensive Plan. However, based on the Findings and Reasons stated herein, the Planning Commission recommends that this request be approved in accordance with conditions dated October 17, 2007.

**FINDINGS
AND REASONS:**

- (1) That this request is inconsistent with the Comprehensive Plan that recommends low density residential uses for the site. However, the request is consistent with the medium density residential use (total of 344 dwelling units at R-10 density) that was originally approved for the site as per GH-2-98. This initially approved site plan sunset before the project was completed. The rezoning is an attempt to reinstate the originally approved use and density on the site, while no additional changes are being requested.
- (2) That the conditions of the rezoning request limit the property to a total of 344 dwelling units (R-10 density - 344 units on 34.4 acres), thus rendering it consistent with the originally approved use and density on the site as per GH-2-98.
- (3) That the rezoning request is an action consistent with a recommendation of the Raleigh Board of Adjustment ruling of November 19, 2007 that approved granting of a variance for this property, with the condition that the applicants continue to pursue a rezoning application. The granted variance, independent of the rezoning action, would allow the property to be given credit for right-of-way density transfer of 37 units, even though the right-of-way was dedicated to the City previously by the developer.
- (4) That the rezoning request is an attempt to resolve the outstanding legal title issues that exist for condominium unit owners of the development, a result of failure to timely subdivide the property as approved by GH-2-98. The granted variance would adequately ensure securing appropriate titles for condominium property owners and the rezoning would incorporate the Board's action into the Official Zoning Map to reflect consistency between the built environment and zoning designation, thereby, justifying the reasonableness and public interest served by this request.
- (5) That based on the above stated reasons, its context and the unique circumstances rendered by the Raleigh Board of Adjustment ruling pertinent to this property, the Planning Commission recommends approval of this request.

To PC: 1/29/08

Case History: 1/29/08 Deferred by PC for further evaluation of the variance ruling on this property.

To CC: 2/19/08

City Council Status: _____

Staff Coordinator: Dhanya Sandeep

Motion: Smith
Second: Bartholomew
In Favor: Anderson, Bartholomew, Butler, Chambliss, Davis, Gaylord, Harris Edmisten, Holt, Smith
Opposed: Haq
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: 2/14/08



Zoning Staff Report: Z-04-08 Conditional Use

LOCATION: This site is located on the north side and south side of Falls Landing Drive, northeast of its intersection with Dunn Road.

AREA OF REQUEST: 34.40 acres

PROPERTY OWNER: Breezewood Holdings LLC

CONTACT PERSON: Jerry J. Jensen c/o Withers & Ravenel, 919-469-3340

**PLANNING COMMISSION
RECOMMENDATION
DEADLINE:** May 21, 2008

ZONING: Current Zoning

Residential-10

Current Overlay District

N/A

Proposed Zoning

Residential-15 CUD

Proposed Overlay District

N/A

**ALLOWABLE
DWELLING UNITS:**

Current Zoning

344 Dwelling Units

Proposed Zoning

344 Dwelling Units (per zoning conditions)

**ALLOWABLE OFFICE
SQUARE FOOTAGE:**

Current Zoning

Not permitted

Proposed Zoning

Not permitted

**ALLOWABLE RETAIL
SQUARE FOOTAGE:**

Current Zoning

Not permitted

Proposed Zoning

Not permitted

**ALLOWABLE
GROUND SIGNS:**

Current Zoning

Tract ID Sign

Proposed Zoning

Tract ID Sign

ZONING HISTORY: The subject properties and few other parcels surrounding it were rezoned from Residential-4 to Residential-10 in 1994. The surrounding areas to the east, north and west, adopted the Planned Development District in 1994 (Falls River Master Plan- MP-1-94). The subject property has remained at R-10 zoning since that time.

A variance was filed for this property in 2007 that proposed to retain the additional density of 37 units originally granted in 1998 due to a right-of-way density transfer, that eventually sunset before completion of the project. On November 19, 2007, the Raleigh Board of Adjustment voted to approve the request for a variance per Code Section 10-2074 to allow existing right-of-way areas of Dunn Road, Falls Landing Drive, and Farmville Road to be given credit for density transfer even though the right-of-way was dedicated to the City of Raleigh previously by the developer, with the condition that Breezewood Holdings, LLC, its heirs or successors, continue to pursue its current rezoning application before the City of Raleigh, but the variance is not affected if the rezoning application is denied.

**SURROUNDING
ZONING:**

NORTH: Residential-4 w/ PDD
SOUTH: Residential-10
EAST: Residential-4 w/ PDD
WEST: Residential-4 w/ PDD

LAND USE: Multifamily Residential Use - Condominiums

**SURROUNDING
LAND USE:**

NORTH: low density residential uses
SOUTH: medium density residential uses
EAST: low density residential uses
WEST: low density residential uses

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	North
Urban Form	Low Density Residential
Specific Area Plan	Neuse River/ Richland Creek Watershed Plan
Guidelines	Secondary Watershed Protection Area

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

The request is inconsistent with the Comprehensive Plan in that, low density residential uses are recommended for the properties. The subject properties are located within the North Planning District, to the north and south of Landmark Drive, northeast of its intersection with Dunn Road. The North District Urban Form map designates the properties for suburban low density residential uses which permit up to 6 dwelling units per acre.

The properties also fall within the secondary watershed protection area of the Neuse River/ Richland Creek Watershed Plan. The plan recommends appropriate land use and adoption of water supply watershed protection policies to conform to the Class WS-IV NSW standards in consideration of the

current Comprehensive Plan land use recommendations and the economic development interests within the plan area.

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

The surrounding land uses are predominantly residential in character with a mix of housing types which includes single family detached and multi-family residential. Subject site is surrounded by R-4 zoning and Planned Development District (Bedford at Falls River) to its north, east and west and with R-10 zoning to its south. The proposed densities are compatible with the surrounding areas. Per GH-2-98 approved in 1998, the subject property was approved for 344 dwelling units. This approval allowed density transfer of 37 units from the public street right-of-way into the lots. Since then the 5-year sunset date has expired and any subsequent approval of a group housing plan on this site will not be entitled to the previously-approved density transfer. As a result, 37 units would be forfeited from the original approval of 344 Dwelling Units. The proposed rezoning, with the stipulated conditions would allow future group housing approvals to be made by limiting the number of dwelling units on the site to 344, as was originally intended. The applicant notes that this density is consistent with the expectation of the current Breezewood Condominium neighborhood and the surrounding neighborhoods.

3. Public benefits of the proposed rezoning

The proposed rezoning while being inconsistent with the recommendations of the Comprehensive Plan is consistent with the existing use on the site and with what was originally approved to be developed on the site. Per GH-2-98 approved in 1998, the subject property was approved for 344 Dwelling Units. This approval allowed density transfer of 37 units from the public street right-of-way into the lots. Since then the project approval has sunset and any subsequent approval of a group housing plan will not be entitled to the previously-approved density transfer. As a result, 37 units would be forfeited from the original approval of 344 Dwelling Units. The proposed rezoning, with the stipulated conditions would allow future group housing approvals to be made by limiting the number of dwelling units on the site to 344, as was originally intended. The rezoning request is an attempt to reinstate the originally approved density on the site.

The applicant notes that the landowner would benefit from being able to develop the property to the original proposed density of 344 dwelling units. That the residents of the condominiums on the site will benefit from being able to appropriate legal titles to the properties they own. That the surrounding community would also benefit in being able to realize the housing needs of the area and in generating tax base for the city. Further, the applicant notes that the Breezewood Condominium HOA supports to see the development of the project out to its original intent of 344 units; otherwise HOA costs per resident will significantly increase, to maintain existing infrastructure and landscaping since the original cost sharing basis was for 344 units. It should be noted that the variance granted by the Raleigh Board of Adjustment addresses the issues which initiated this rezoning request. Therefore, the need for the rezoning of the property in addition to the approved variance should be evaluated further.

4. Detriments of the proposed rezoning

The proposed rezoning while being inconsistent with the recommendations of the Comprehensive Plan is consistent with the existing use on the site and with what was originally approved to be developed on the site. The proposed rezoning, with the stipulated conditions would allow future group housing approvals to be made by limiting the number of dwelling units on the site to 344, as was originally intended. The rezoning request is an attempt to reinstate the originally approved density on the site. Therefore, there are no major adverse impacts apparent with this rezoning as the proposed density remains the same as that approved for the site. However, R-15 CUD zoning could potentially set precedence for the rezoning other properties within the general area.

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

TRANSPORTATION: Dunn Road is classified as a minor thoroughfare. West of Falls Landing Drive, Dunn Road is constructed to City standards as a 60-foot back-to-back curb and gutter section on varying right-of-way with sidewalks on both sides. To the east of Falls Landing Drive, Dunn Road exists as a 20-foot shoulder and ditch section on 60 feet of right-of-way. Falls Landing Drive is classified as a residential collector street and is constructed to City Standards as a 36-foot back-to-back curb and gutter section with sidewalk on one side on 55 feet of right-of-way. Farmville Road is classified as a residential street and is constructed to City standards as a 31-foot back to back curb and gutter section with sidewalk on one side on a 50-foot right-of-way. Neither NCDOT nor the City of Raleigh have any projects planned in the vicinity of this case.

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

HYDROLOGY: FLOODPLAIN: some alluvial soils flood hazard areas
DRAINAGE BASIN: Neuse
STORMWATER MANAGEMENT: This site is subject to Part 10, Chapter 9 (Stormwater Control and Watercourse Buffer Regulations) of the Raleigh City Code.

PUBLIC UTILITIES: The proposed rezoning retains the maximum number of dwelling units that would be permitted under the current zoning (344 units). There are existing sanitary sewer and water mains adjacent to the proposed rezoning area which would serve said area.

PARKS AND RECREATION: This property is not adjacent to a greenway corridor.

WAKE COUNTY PUBLIC SCHOOLS: No impacts as the density remains the same at 344 dwelling units.

IMPACTS SUMMARY: This rezoning does not provide any additional density, other than what was originally intended and approved for the site, which is a total of 344 dwelling units. All public and private infrastructures are already in place to support the 344 dwelling units as requested. No additional public services are needed to support this request since services were previously planned in the original group housing approval for this project.

OPTIONAL ITEMS OF DISCUSSION

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

N/A

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

Per GH-2-98 approved in 1998, the subject property was approved for 344 dwelling units. This approval allowed density transfer of 37 units from the public street right-of-way into the lots. Since then the project approval has sunset and any subsequent approval of a group housing plan will not allow density transfer from the existing public right-of-way based on current City Code ordinances. As a result, 37 units would be forfeited from the original approval of 344 dwelling units. The proposed rezoning, with the stipulated conditions would allow future group housing approvals to be made by limiting the number of dwelling units on the site to 344, as was originally intended. The rezoning request is an attempt to reinstate the originally approved density on the site.

APPEARANCE

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

CITIZEN'S

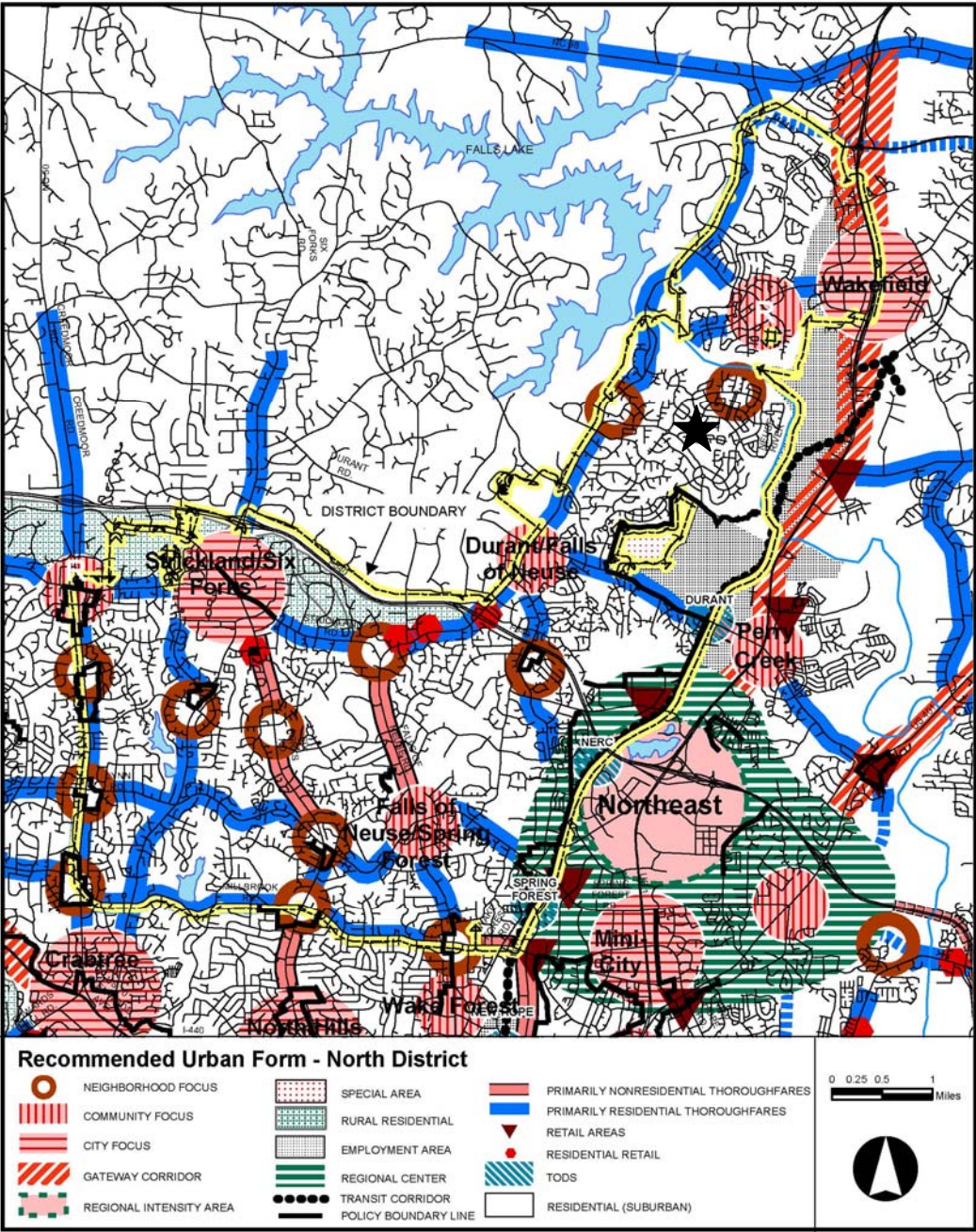
ADVISORY COUNCIL: DISTRICT: North
CAC CONTACT PERSON: Tom Slater, 846-0584; Ann Weathersbee, 876-1807

SUMMARY OF ISSUES:

COMPREHENSIVE PLAN / COMPATIBILITY / ADVERSE IMPACTS:

1. Outstanding issues

- The Raleigh Board of Adjustment ruling of November 19, 2007 granted a variance for this property (to be allowed to be given credit for right-of-way density transfer (37 units), even though the right-of-way was dedicated to the City previously by the developer), with the condition that the applicants continue to pursue a rezoning application, but the variance is not affected if the rezoning application is denied.
- This proposal is inconsistent with the Comprehensive Plan that recommends suburban low density residential uses for the site. However, the request is consistent with the existing use on the site as the proposed conditions intend to retain the initial density that was approved on the site as per site plan GH-02-98, which has subsequently sunset. No additional density is being proposed.



12/06 Raleigh Comprehensive Plan

North District 5-3.F

