

CITY OF RALEIGH

Z-6-08

MH & R-4

to

**SC CUD,
O&I-2 CUD,
R-4 CUD
& CM CUD**

38.58 acres

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

550
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)

Date:

Please type or print name(s) clearly:

Robert N. Binns

Robert N. Binns

October 17, 2007

me

Katherine K. Binns

Katherine K. Binns

October 17, 2007

lcs

EXHIBIT B. Request for Zoning Change

Office Use Only	
Petition No.	<u>2-6-08</u>
Date Filed:	<u>10.19.07</u>
Filing Fee:	<u>pd 1088.00 by CK H 210</u>

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>Robert N & Katherine K</u>	<u>7434 Capital Blvd</u>	
	<u>Binns</u>	<u>Raleigh, NC 27616-3129</u>	
2) Property Owner(s):	<u>Same as Above</u>		
3) Contact Person(s):	<u>David L. York</u>	<u>P.O. Box 27525</u>	<u>919 755.8749</u>
	<u>Smith Moore LLP</u>	<u>Raleigh, NC 27611</u>	<u>david.york@smithmoore</u> <u>law.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): <u>1727869246</u>		
	General Street Location (nearest street intersections): <u>Capital Blvd and Homestead</u> <u>Drive</u>		
5) Area of Subject Property (acres):	<u>38.58 +/-</u>		
6) Current Zoning District(s) Classification: Include Overlay District(s), if Applicable	<u>Mobile Home and R-4</u>		
7) Proposed Zoning District Classification: Include Overlay District(s) if Applicable. If existing Overlay District is to remain, please state.	<u>Shopping Center CUD (S.C. CUD) (11.510 ac.), Office & Institution-2 CUD (O&I-2</u> <u>CUD) (25.239 ac.), Residential-4 CUD (R-4 CUD) (0.395 ac.) and Conservation</u> <u>Management CUD (CM CUD) (1.524 ac.)</u>		

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:

See attached Schedule I

~~For additional space, photocopy this page.~~

~~Rezoning-Petition~~

Form Revised August 1, 2006

RALEIGH 340094.1

Schedule I

WJ Properties Rezoning

Adjacent Owners to 100 linear feet

MAP #	PIN #	Name	Address	City	State	Zip
1	1737065082	Carolina Power & Light Co. ATTN: WH Keith CX1G	PO Box 14042	St. Petersburg	FL	33733-4042
2	1727969668	Raleigh Carohome WCK LLC	PO Box 1551	Raleigh	NC	27602-1551
3	1727879188	Carolina Power & Light Co. ATTN: WH Keith CX1G	PO Box 14042	St. Petersburg	FL	33733-4042
4	1727780087	Crossroads Holdings LLC	1660 Piney Plains Rd	Cary	NC	27518-6852
5	1727880653	MLC Automotive LLC	5601 Capital Blvd	Raleigh	NC	27616-2933
6	1727768891	Barney G. Joyner Family Trust	815 New Bern Ave	Raleigh	NC	27601-1601
7	1727768712	Arthur Hsin Lin	1120 Four Wheel Dr	Wake Forest	NC	27587-8689
8	1727769513	Benjamin A Wilson & Alfreda Wilson	7325 Bassett Hall Ct	Raleigh	NC	27616-5632
9	1727769557	Larry Gonzalez	7329 Bassett Hall Ct	Raleigh	NC	27616-5632
10	1727860507	Bertha Bynum	7333 Bassett Hall Ct	Raleigh	NC	27616-5632
11	1727860554	Robert R. Ray	7332 Bassett Hall Ct	Raleigh	NC	27616-5630
12	1727860498	Christine Williams	7328 Bassett Hall Ct	Raleigh	NC	27616-5630
13	1727860453	John M Boyette	1525 Hanover St	Raleigh	NC	27608-2535
14	1727860308	Walter G. Cooper & Kimberly S. Cooper	7320 Bassett Hall Ct	Raleigh	NC	27616-5630
15	1727769440	Tomeika M. Watkins & Horatio R. Watkins	7316 Bassett Hall Ct	Raleigh	NC	27616-5630
16	1727860354	Bennett O. Mbonu	4309 Whisperwood Dr	Raleigh	NC	27616-3164
17	1727861327	Robert M. Deangelo & Kelly J. Deangelo	4313 Whisperwood Dr	Raleigh	NC	27616-3164
18	1727861387	Anthony J. Lyles	4317 Whisperwood Dr	Raleigh	NC	27616-3164
19	1727862345	David J. Lankshear & Brenda B. Lankshear	4321 Whisperwood Dr	Raleigh	NC	27616-3164
20	1727863301	Ronald Vincent Hicks & Linda Marie Hicks	4325 Whisperwood Dr	Raleigh	NC	27616-3164
21	1727863108	Reenold Thompson & Daphne Thompson	7401 N. Thornciff Pl	Raleigh	NC	27616-5664
22	1727863232	Jenny V. Kearney	5405 Neuse Wood Dr	Raleigh	NC	27616-7744
23	1727863268	Karen P. Allen Flakes	1221 S. Eads St Apt 1114	Arlington	VA	22202-4723
24	1727864229	Lillian Ann Chavis	7413 N. Thornciff Pl	Raleigh	NC	27616-5664
25	1727864285	John M Amein & Catherine S. Amein	1301 Kershaw Dr	Raleigh	NC	27616-5548
26	1727865117	Henny A. Johnson & Maisy H. Johnson	7408 N. Thornciff Pl	Raleigh	NC	27616-5663
27	1727864161	Diane M. Weber & Jeffrey D. Hineline	7404 N Thornciff Pl	Raleigh	NC	27616-5663
28	1727864037	Donal F. Conroy & Maire A. Conroy	4540 Sherbourne Dr	San Jose	CA	95124-4842
29	1727863093	Joan L. Shick & Clyde D. Shick	4401 Whisperwood Dr	Raleigh	NC	27616-3166
30	1727857900	Smoketree Homeowners Association	PO Box 56499	Raleigh	NC	27658
31	1727866100	Wake Investment Properties LLC	5417 Lake Edge Dr	Holly Springs	NC	27540-9342
32	1727866079	Grady Lynn Barnes & Randy Lynn Barnes	4629 Draper Rd	Raleigh	NC	27616-5676

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MAP #	PIN #	Name	Address	City	State	Zip
33	1727867024	Sherri Ann Barnes	4633 Draper Rd	Raleigh	NC	27616-5676
34	1727867072	Jared Faxon Carty	4637 Draper Rd	Raleigh	NC	27616-5676
35	1727858919	Claudia G. Stadlander	4641 Draper Rd	Raleigh	NC	27616-5676
36	1727858954	Tammie Sue Reid	4645 Draper Rd	Raleigh	NC	27616-5676
37	1727858991	Kirsten Tyler	4701 Draper Rd	Raleigh	NC	27616-5678
38	1727859836	Michael E. Flynt & Janny B. Flynt	4705 Draper Rd	Raleigh	NC	27616-5678
39	1727859862	Christian O Williams & Georgina N. Williams	4709 Draper Rd	Raleigh	NC	27616-5678
40	1727950708	Louvenia H Coleman	4713 Draper Rd	Raleigh	NC	27616-5678
41	1727950744	Mark G. Sly & Kelly S. Sly	4717 Draper Rd	Raleigh	NC	27616-5678
42	1727950771	Mary L. Mullins	4721 Draper Rd	Raleigh	NC	27616-5678
43	1727951627	David Rivera	711 FDR Dr., Apt 14B	New York	NY	10009-7121
44	1727951663	Yvette Gonzalez	4809 Draper Rd	Raleigh	NC	27616-5622
45	1727952517	Thomas O. Mukoyama & Celeste G. Mukoyama	4813 Draper Rd	Raleigh	NC	27616-5622
46	1727952552	Jose Monzon Lemus & Margarita G. Lemus	4817 Draper Rd	Raleigh	NC	27616-5622
47	1727953408	Harold Phillips	4821 Draper Rd	Raleigh	NC	27616-5622
48	1727953453	Bobby Alexander Jones & Lori H Jones	4825 Draper Rd	Raleigh	NC	27616-5622
49	1727953396	Perry S. Robinson	4829 Draper Rd	Raleigh	NC	27616-5622
50	1727954300	David L. McCormick & Collis D. McCormick	4833 Draper Rd	Raleigh	NC	27616-5622
51	1727954205	Jaclyn W. Trotter	4837 Draper Rd	Raleigh	NC	27616-5622
52	1727954195	Leslie Johnson	4517 Archibald Way	Raleigh	NC	27616-0942
53	1727954290	Housing Authority of the City of Raleigh	PO Box 28007	Raleigh	NC	27611-8007
54	1727954297	Phoebe Proffit	4524 Archibald Way	Raleigh	NC	27616-0941
55	1727955311	Tamiko D. Watts	4520 Archibald Way	Raleigh	NC	27616-0941
56	1727955381	Jose Soto Zermeno	4516 Archibald Way	Raleigh	NC	27616-0941
57	1727956330	Eduardo Javiero Alarcon & Aridad Gomez Alarcon	4512 Archibald Way	Raleigh	NC	27616-0941
58	1727956289	Sheila M. Phillips	4508 Archibald Way	Raleigh	NC	27616-0941
59	1727957229	Victor Manuel Garcia & Elosia Hernandez Garcia	4504 Archibald Way	Raleigh	NC	27616-0941
60	1727957279	Dorothy Wright	4500 Archibald Way	Raleigh	NC	27616-0941
61	1727958229	Nelson Javier Hernandez	4448 Archibald Way	Raleigh	NC	27616-0931
62	1727958278	Kwabena Gibb	4444 Archibald Way	Raleigh	NC	27616-0931
63	1727959218	Agreta Limerick	PO Box 97442	Raleigh	NC	27624-7442
64	1727959268	Sean E. Overton	4436 Archibald Way	Raleigh	NC	27616-0931
65	1737080217	Rosa A. Riddick	4432 Archibald Way	Raleigh	NC	27616-0931
66	1737050267	Loretta Gay Moss	4428 Archibald Way	Raleigh	NC	27616-0931
67	1737051207	Emido V. Montalvo & Epigmenia R. Montalvo	4424 Archibald Way	Raleigh	NC	27616-0931
68	1737051257	Tisha D. Baker	4420 Archibald Way	Raleigh	NC	27616-0931
69	1737052216	Ruth Roldan	4416 Archibald Way	Raleigh	NC	27616-0931

MAP #	PIN #	Name	Address	City	State	Zip
70	1737052264	James Burns	8210 Creedmoor Rd, Ste 201	Raleigh	NC	27613-1388
71	1737052199	Jess A. Paxson Jr. & Jennifer L. Paxson	4408 Archibald Way	Raleigh	NC	27616-0931
72	1737052194	Rosa I. Camacho & Arturo Sanchez-Hernandez Camacho	4404 Archibald Way	Raleigh	NC	27616-0931
73	1737052087	Denise Caldrone	5001 Jacqueline Ln	Raleigh	NC	27616-0936
74	1737042983	Kurt W. Schmidt & Kristi P. Schmidt	2241 Hutchison St	Vista	CA	92084-2530
75	1737082886	Mary D. Rochelle	4316 Archibald Way	Raleigh	NC	27616-0929
76	1737042789	Esteban Ponce Santana	4312 Archibald Way	Raleigh	NC	27616-0929
77	1737042782	Susie A. Minor	4308 Archibald Way	Raleigh	NC	27616-0929
78	1737042686	Carolyn M Nichols	4304 Archibald Way	Raleigh	NC	27616-0929
79	1737042589	Mack Donald Hurt & Linda Hicks	4300 Archibald Way	Raleigh	NC	27616-0929
80	1737042581	Eric L. Johnson	4220 Archibald Way	Raleigh	NC	27616-0927
81	1737042493	Norman L. Paschall	4216 Archibald Way	Raleigh	NC	27616-0927
82	1737042396	Biddlecome Properties LLC	4212 Archibald Way	Raleigh	NC	27616-0927
83	1737043209	James Jackson Jr & Michele Jackson	4208 Archibald Way	Raleigh	NC	27616-0927
84	1737042291	County of Wake Housing Authority	PO Box 28007	Raleigh	NC	27611-8007
85	1737042163	Melissa L Obillo	4216 Wolftrap Rd	Raleigh	NC	27616-0924
86	1737042086	Samuel Cabrera	4212 Wolftrap Rd	Raleigh	NC	27616-0924
87	1737032997	Terry Thayer	PO Box 58624	Raleigh	NC	27658-8624
88	1737033901	Judith R. London	4204 Wolftrap Rd	Raleigh	NC	27616-0924
89	1737032853	Jennifer M. Metzger	4200 Wolftrap Rd	Raleigh	NC	27616-0924
90	1737031855	Micael A. Johnson Sr.	4201 Wolftrap Rd	Raleigh	NC	27616-0924
91	1737031922	Rebekka V.G. Mastin & Jeffrey Niel Mastin	4209 Wolftrap Rd	Raleigh	NC	27616-0924
92	1737041053	Raleigh Housing Authority Inc	PO Box 28007	Raleigh	NC	27611-8007
93	1737041252	Todd R. Mueller & Lisa D. Mueller	4201 Archibald Way	Raleigh	NC	27616-0928
94	1737041360	Charles Comer & Roxie S. Comer	4209 Archibald Way	Raleigh	NC	27616-0928
95	1737041359	Jesus Guzman & Daniela Y Zuniga	4213 Archibald Way	Raleigh	NC	27616-0928
96	1737041447	Ronald Lee Terrell	4217 Archibald Way	Raleigh	NC	27616
97	1737041519	Michelle D. Zentgraf	4301 Archibald Way	Raleigh	NC	27616-0930
98	1737041607	Odis Samuel Banegas	4305 Archibald Way	Raleigh	NC	27616-0930
99	1737041703	Amnat Yakamna	4309 Archibald Way	Raleigh	NC	27616-0930
100	1737041709	Catherine S. Fair	4313 Archibald Way	Raleigh	NC	27616-0930
101	1737041825	Raleigh Housing Authority	PO Box 28007	Raleigh	NC	27611-8007
102	1737041911	Leon S. Kwarik	4321 Archibald Way	Raleigh	NC	27616-0930
103	1737051056	Evelyn Bethea	4917 Jacqueline Ln	Raleigh	NC	27616-5692
104	1737051132	Tiffany P. McKnight	4409 Archibald Way	Raleigh	NC	27616-0932
105	1737050173	Serafin Vega	4421 Archibald Way	Raleigh	NC	27616-0932
106	1737050113	Julie Pellicore	4429 Archibald Way	Raleigh	NC	27616-0932

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MAP #	PIN #	Name	Address	City	State	Zip
107	1727959164	Adam West Schainblatt, Trustee & Susan Weikert, Trustee	8809 Walking Stick Trl	Raleigh	NC	27615-4037
108	1727959114	Melanie A. Vander-Klok	4441 Archibald Way	Raleigh	NC	27616-0932
109	1727958155	County of Wake Housing Authority	PO Box 28007	Raleigh	NC	27611-8007
110	1727957126	Terrah J Blakley & Michelle A. Blakley	4509 Wolftrap Rd	Raleigh	NC	27616-0938
111	1727956166	Salvador Lopez & Maria L Lopez	4505 Archibald Way	Raleigh	NC	27616-0942
112	1727956105	Kris M. Horton & Aldine F. Horton	4509 Archibald Way	Raleigh	NC	27616-0942
113	1727955144	Jose Rafael Diaz & Milagro E. Diaz	4513 Archibald Way	Raleigh	NC	27616-0942
114	1737055775	William D. Perkins & Robin M. Perkins	7201 Stephen Boyd Ct	Raleigh	NC	27616-5642
115	1737054675	Seung Yang & Kyong Sun	7200 Stephen Boyd Ct	Raleigh	NC	27616-5642
116	1737054479	Benjamin Wilson	7325 Bassett Hall Ct.	Raleigh	NC	27616-5632
117	1737055356	Jimmie A. Baugus	7208 Stephens Boyd Ct	Raleigh	NC	27616-5642
118	1737054151	Cristobal F. Jara	7241 Jacqueline Ln	Raleigh	NC	27616-5685
119	1737044853	Lynne C. Coats	7240 Jacqueline Ln	Raleigh	NC	27616-5684
120	1737045619	Heater Utilities Inc	PO Box 4889	Cary	NC	27519-4889
121	1737045568	Jeff & Susan Coyne	7308 Berkshire Downs Dr	Raleigh	NC	27616-5636
122	1737045467	John A. Debernardo & Ruth Anne Debernardo	7312 Berkshire Downs Dr	Raleigh	NC	27616-5636
123	1737045375	Timothy Wayne Force & Denise Ann Force	7316 Berkshire Downs Dr	Raleigh	NC	27616-5636
124	1737045188	Fentress T. Rodgers	7320 Berkshire Downs Dr	Raleigh	NC	27616-5636
125	1737046096	Charles E. Bright Jr & Jennifer F. Bright	7324 Berkshire Downs Dr	Raleigh	NC	27616-5636
126	1727939777	JVC Homes Inc	PO Box 1108	Wake Forest	NC	27588-1108
127	1737023461	C. Thomas Henderickson, Trustee	PO Box 41228	Raleigh	NC	27629-1228

Office Use Only	
Petition No.	2-6-08
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:

The Property is located in the Northeast Planning District, and has no land use designation.

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 within the Northeast Regional Center, and is governed by both the northeast Regional Center Plan ("Regional Plan") and the Capital Boulevard Corridor Plan ("Corridor Plan"). Under the Regional Plan, the property is located on the non-residential side of the policy boundary line protecting the Smoketree Subdivision and is not designated for any specific use. Under the Corridor Plan, the property is located on the non-residential side of the policy boundary line protecting the Smoketree Subdivision and is not designated for any specific use along Capital Boulevard and is designated for residential uses on the balance of the Property.

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

(continued)

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

The proposed map amendment is substantially consistent with the Comprehensive Plan and other City Council-adopted plans and policies. The S.C. CUD portion of the request is consistent in that the Comprehensive Plan does not designate any specific uses for this portion of the Property. The O&I-2 CUD portion of the request is consistent in that O&I-2 CUD allows the residential uses suggested by the Corridor Plan, and that the office and institutional uses permitted in the proposed O&I-2 CUD, though not consistent with the Corridor Plan's recommended residential use, are consistent with the transitional uses suggested to be located adjacent to policy boundary lines in other parts of the City. The R-4 CUD and CM CUD are also consistent with the Comprehensive Plan given the un-buildable shape of those proposed districts.

Notwithstanding the forgoing, if the staff, Planning Commission, or Council feel an amendment or interpretation of the Comprehensive Plan is required, the same is reasonable and justified to provide for a suitable transition between the established single-family residential communities to the south and east and the industrial uses to the north and west.

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 surrounding area to the immediate south and east off of Capital Boulevard is predominately low-density detached single family residential. Up along Capital Boulevard a mixture of industrial and retail uses are predominate. There is a medium density apartment complex (Overlook at Simms Creek) to the north and east of the Property.

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

The adjacent area to the south and east (off of Capital Boulevard) is predominately zoned for low-density residential (R-4 and R-6). The apartment development to the north and east (off of Capital Boulevard) is zoned R-10 CUD. The southern most boundary Line of the Property is adjacent to a significant area zoned R-15 CUD. A 50-foot wide strip of Conservation Management district borders the Property's northern boundary line. Up along Capital Boulevard, the predominate zoning is Industrial-1.

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

(continued)

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 current use of the property is a retail establishment up along Capital Boulevard with a mobile home park occupying the majority of the remainder. The proposed zoning map amendment creates a suitable transition between the established single-family residential communities to the south and east and the industrial uses to the north and west. Development of the Property under the proposed zoning change would be very much in keeping with the uses and character of the surrounding area.

III. Benefits and detriments of the proposed map amendment.

A. For the landowner(s):

First, the current zoning does not reflect the existing commercial use which has existed on the Property's Capital Boulevard frontage prior to coming into the City's jurisdiction. The proposed map amendment will correct that error. Secondly, the Property is suitable for re-development as areas surrounding it have been developed. The proposed rezoning will allow for a more appropriate mix of uses on the Property.

B. For the immediate neighbors:

The current mobile home park is not the most appropriate use of the Property given its surrounding neighbors. Re-development under the proposed zoning districts will provide for an appropriate transition for surrounding uses.

C. For the surrounding community:

The current mobile home park is not the most appropriate use of the Property given its surrounding neighbors. Re-development under the proposed zoning districts will provide for an appropriate transition for surrounding uses. The re-development of this property will increase the tax base from this property without taxing existing infrastructure.

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

No. The zoning of the Property will not confer significant benefits that are not available to the surrounding properties. The surrounding properties have already or are in the process of re-development which is the purpose of this rezoning request.

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

(continued)

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

As stated above, the current mobile home park is not the most appropriate use of the Property given its surrounding neighbors. Re-development under the proposed zoning districts will provide for an appropriate transition for surrounding uses. The Property is a relatively long, narrow strip of land. Although such a shape presents challenges in its re-development, the building setback flexibility built in to the S.C. and O&I-2 zoning district development standards, will allow for a suitable re-development with a more appropriate use mixture.

V. Recommended items of discussion (where applicable).

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

As mentioned above, it is our understanding that the commercial uses along Capital Boulevard pre-dated the city's planning jurisdiction in the area, and that the Capital Boulevard road frontage should have been zoned for commercial use at that time.

- 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 character of this area has changed substantially in recent years. The population of northeast Raleigh has grown exponentially in recent years and is expected to continue growing at an astonishing rate. With the extension of US Interstate 540 ("I-540") from US Interstate-40 in RTP to US Highway 64 By-Pass near Knightdale, and the increased development all along Capital Boulevard, the Property is no longer located on the outskirts of town, but is located in the vibrant Northeast Regional Center.

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

The Northeast Regional Center's zoning is dominated by Industrial and Thoroughfare District zoning. The development flexibility of Shopping Center and O&I-2 is lacking in areas where small or unusually shaped tracts are in need of such design flexibility. The subject Property is such a tract of land.

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

(continued)

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

The impact on public services, facilities, infrastructure, fire and safety, parks and recreation, topography, access to light and air, etc. will be positive. Subject to the city's customary joint venture/reimbursement policies, the developer will extend the water and sewer lines to the area. The developer is cooperating with the city to locate a future fire/public safety station to serve the area. In addition to the private recreation facilities planned for the development, the developer is cooperating with the city to locate a future park in the area, if the City desires the same. The development of the Property will provide for substantial open space that respects the topography of the land.

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

The community as a whole will benefit from the development of this site. The extension of utility lines will enable the City to provide better services to its citizens. The proposed rezoning of the property in question is in accordance with the Comprehensive Plan.

Both the Wake County Land Use Plan and the Raleigh Comprehensive Plan encourage this site to be developed for lower-density residential use. An R-4 CUD zoning on this site will recognize the urban influence in this area and address the demands of Raleigh's growing population. Based upon the foregoing, the applicant respectfully requests approval to rezone the property in question to R-4 CUD.



Certified Recommendation of the City of Raleigh Planning Commission

Case File: Z-06-08 Conditional Use; Capital Blvd.

General Location: East of Capital Boulevard, north of Jacqueline Drive

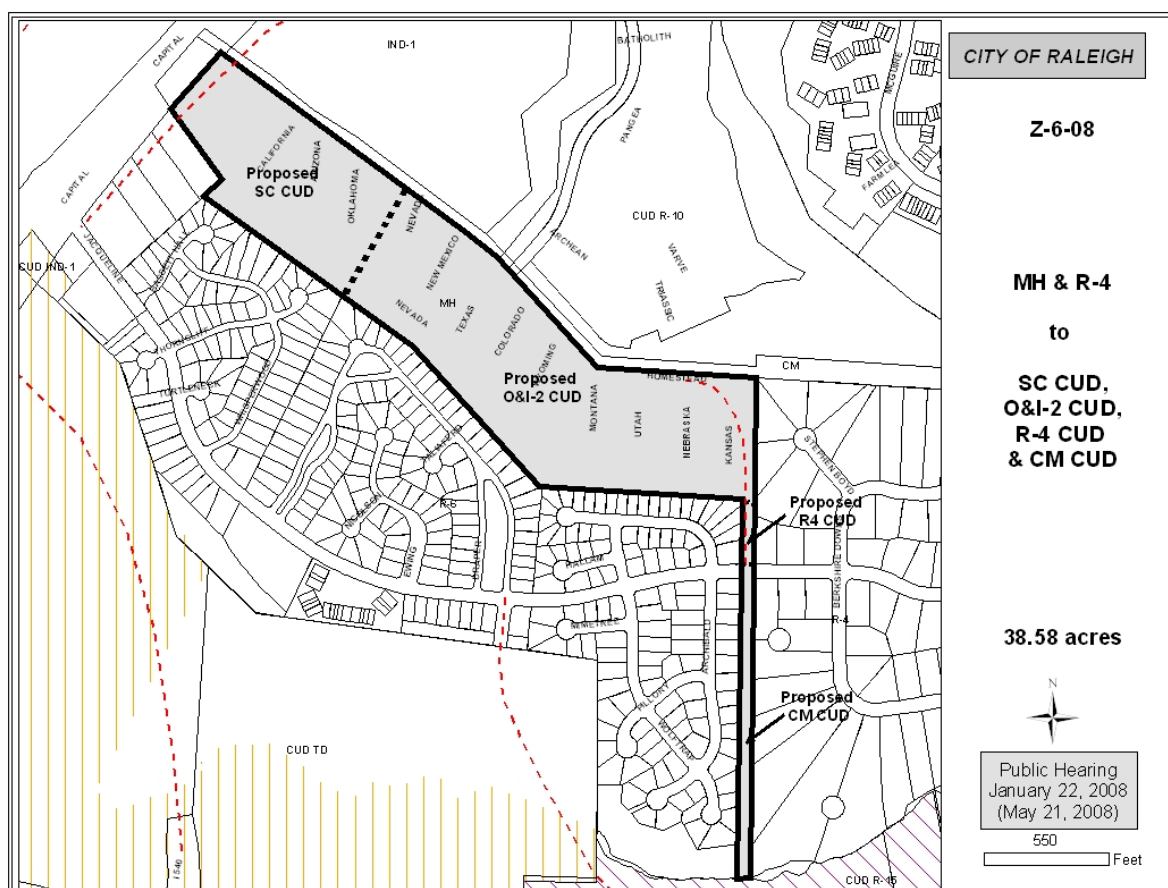
**Planning District
/ CAC:** Northeast / Northeast

Request: Petition for Rezoning from **Manufactured Housing & Residential-4** to **Shopping Center Conditional Use District (CUD), Office & Institution-2 CUD, Residential-4 CUD, and Conservation Management CUD.**

**Comprehensive Plan
Consistency:** The request is consistent with the Northeast District Plan and the Northeast Regional Center Plan, but inconsistent with the Capital Boulevard Corridor Plan. The Capital Boulevard Corridor Plan shows a Residential designation for a large portion of the proposed rezoning area.

**Valid Protest
Petition (VSPP):** Yes

Recommendation: That the request be denied



CASE FILE: Z-06-08 Conditional Use

LOCATION: This site is located on the East of Capital Boulevard, north of its intersection with Jacqueline Drive.

REQUEST: This request is to rezone approximately 38.58 acres, currently zoned Manufactured Housing & Residential-4. The proposal is to rezone the property to Shopping Center Conditional Use District (CUD), Office & Institution-2 CUD, Residential-4 CUD, and Conservation Management CUD.

**COMPREHENSIVE
PLAN CONSISTENCY:** The request is consistent with the Northeast District Plan and the Northeast Regional Center Plan, but inconsistent with the Capital Boulevard Corridor Plan. The Capital Boulevard Corridor Plan shows a Residential designation for a large portion of the proposed rezoning area.

RECOMMENDATION: That the request be denied

FINDINGS AND REASONS: (1) The applicant has made a request that the case be denied.

To PC: 1/29/08
Case History:

To CC: 9/2/08

City Council Status:

Staff Coordinator: Alysia Bailey Taylor

Motion:	Bartholomew
Second:	Mullins
In Favor:	Bartholomew, Butler, Chambliss, Gaylord, Haq, Harris Edmisten, 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: 8/15/08



Zoning Staff Report: Z-06-08 Conditional Use

LOCATION: This site is located on the East of Capital Boulevard, north of its intersection with Jacqueline Drive.

AREA OF REQUEST: 38.58 acres

PROPERTY OWNER: Robert N. & Katherine K. Binns

CONTACT PERSON: David York, 919-755-8749

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

	<u>ZONING:</u>	<u>Current Zoning</u>	<u>Proposed Zoning</u>
		MH: 36.68 AC R-4: 1.91 AC	SC CUD: 11.51 AC O & I-2 CUD: 25.24 AC R-4 CUD: 0.39 AC CM CUD: 1.52 AC
		<u>Current Overlay District</u>	<u>Proposed Overlay District</u>
		None	None
ALLOWABLE DWELLING UNITS:		<u>Current Zoning</u>	<u>Proposed Zoning</u>
		227 units	w / Staff approval: 551 units w / PC approval: 1355 units
ALLOWABLE OFFICE SQUARE FOOTAGE:		<u>Current Zoning</u>	<u>Proposed Zoning</u>
		None	SC CUD: No Limitation O&I-2 CUD: Undetermined, due to conditions limiting uses R-4 CUD: None CM CUD: None
ALLOWABLE RETAIL SQUARE FOOTAGE:		<u>Current Zoning</u>	<u>Proposed Zoning</u>
		None	SC CUD: No Limitation O&I-2 CUD: Limited retail uses (max. of 10%) permitted w/ a office building in excess of 30,000 square feet R-4 CUD: None CM CUD: None

**ALLOWABLE
GROUND SIGNS:**

Current Zoning

Tract Identification Sign

Proposed Zoning

SC CUD: High Profile (Height = 15
feet, Area = 100 sq.ft.)
O&I-2 CUD: Low Profile (Height = 3.5
feet, Area = 70 sq.ft.)
R-4 CUD: Tract ID
CM CUD: None

ZONING HISTORY: This property's current zoning has been in effect since 1981 (Z-23-81).

**SURROUNDING
ZONING:**

NORTH: Industrial-1 & Residential-10 CUD (Z-29-99); Conditions:

1. The 100' protective yard shall be provided along the northeast property line adjacent to Simms Creek which is bordered by City of Raleigh Greenway. This protective yard shall be made available for acquisition by the City of Raleigh for Greenway.
2. A 40, protective yard shall be provided along the northwest property line which adjoins the remainder of the parent tract belonging to Carolina Power & Light (#1727.12 97 2092); 20' of this yard may be located on the parent tract, PIN number (1727.12 97 2092).
3. The maximum number of dwelling units shall be limited to 350.
4. No division of the parent tract (PIN number 1727.12 97 2092) shall be made except with the consent of the City of Raleigh and its development regulations.
5. No dwelling or structures shall be located in the 100 year flood plain. Utilities, storm drainage, drives or roads required by the City of Raleigh, and recreational trails or pedestrian bridges may be located in this area subject to floodway, 404 Wetlands, and Neuse River Buffer regulations.

SOUTH: Residential-6 & Industrial-1

EAST: Residential-4

WEST: Industrial-1

LAND USE: Manufactured Home Park

**SURROUNDING
LAND USE:**

NORTH: Progress Energy Offices & Apartments
SOUTH: Single-Family Residential & Service Garage
EAST: Single-Family Residential
WEST: Golf Course

EXHIBIT C AND D ANALYSIS:

**COMPREHENSIVE
PLAN SUMMARY**

TABLE:

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

Element	Application to case
Planning District	Northeast
Urban Form	Regional Center
Specific Area Plan	Northeast Regional Center Plan & Capital Boulevard Corridor Plan
Guidelines	N/A

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

The site of the proposed rezoning is in the Northeast District with specific recommendations in the Northeast Regional Center Plan and the Capital Boulevard Corridor Plan. The proposed rezoning is located in an area designated as a Regional Center. Regional Centers are designated for high intensity mixed-use development, however, a portion of the subject property has been further defined by the Capital Boulevard Corridor Plan as an area that should develop with primarily residential uses. The request is consistent with the Northeast District Plan and the Northeast Regional Center Plan, but inconsistent with the Capital Boulevard Corridor Plan. The Capital Boulevard Corridor Plan shows a Residential designation for more than half of the proposed rezoning area.

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

The property that is proposed for rezoning is primarily occupied by manufactured housing, but there are also two existing non-conforming uses fronting on Capital Boulevard. The existing non-conforming uses consist of a convenience store with gas pumps and a pool hall. The western half of the subject property is surrounded by a mixture of uses, while the eastern half of the property is surrounded by residential development of varying densities. The property to the north is currently occupied by a combination of Progress Energy office uses and apartments. Property to the east consists of a low density single-family home development, and there is a low density single-family home development to the south as well. Finally, a small portion of land to the southwest of the property consists of a combination of office space and automotive services.

The applicant states that the proposed rezoning will provide a suitable transition between the established single-family residential communities to the south and east of the property, and the industrial uses to the north and west. The applicant has provided conditions that will aid in providing a transitional buffer between the development of this property and existing residential development adjacent to the subject property. The conditions indicate that non-residential buildings within 100 linear feet of Residential-6 zoning shall be "residential in character", and a transitional protective yard with Type-D plantings will be provided along the boarder of the property.

3. Public benefits of the proposed rezoning

The applicant has indicated that the proposed rezoning will not only bring the existing non-conforming uses on the property into compliance, it will also allow for the redevelopment of the property to a more appropriate mix of uses. Additionally, the applicant states that the existing manufactured housing on the subject property is not compatible with surrounding development, therefore, the public benefit of the proposed rezoning of this property will be more appropriate transitional development. Based on the fact that this area has changed significantly since this property was first developed, staff believes that it would be beneficial to the public to have the property rezoned to allow for development that provides a more appropriate transition from the single-family development to the south and east of the property, and the multi-family and non-residential development to the north and west of the property.

4. Detriments of the proposed rezoning

The proposed rezoning has the potential to generate significantly more dwelling units than the current zoning, which could potentially cause a negative impact on traffic in this area, as well as the school capacity. In addition to the potentially negative impact this rezoning could have on traffic and the school system, there may also be a reduction in access to light for single-family homes in the area. While the applicant has provided a forty (40) foot height limit more consideration should be given to the compatibility of future development with the surrounding area.

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

TRANSPORTATION: Capital Boulevard (US 1) is classified as a principal arterial thoroughfare (2005 ADT - 51,000 vpd) and exists as a four-lane median-divided highway on 260 feet of right-of-way. City standards call for this portion of Capital Boulevard to provide an access-controlled eight-lane freeway with parallel collector streets along each side of the freeway. Homestead Drive is classified as a collector street, however it currently exists a private street and is constructed as a 24-foot shoulder section. City standards call for Homestead Drive to provide a 41-foot back-to-back curb and gutter section on 60 feet of right-of-way with sidewalk on one side.

Per the City's Comprehensive Plan, Homestead Drive will have not direct access to Capital Boulevard, but will be designed to have full access to a proposed new collector street parallel to Capital Boulevard. Additional points of access are provided to this parcel via Overlook Pointe Road and Jacqueline Lane. Due to the proposed changes in land use and the proposed changes in access, a traffic impact analysis is recommended for 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: no FEMA; some alluvial soils on site
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 would add approximately 154,320 gpd to the wastewater and water treatment systems of the City. There are existing sanitary sewer and water mains adjacent to the proposed rezoning area which would serve said area. The developer of the proposed rezoning area would be responsible for the installation of the internal sanitary sewer collection and water distribution systems.

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

WAKE COUNTY PUBLIC SCHOOLS: The proposed rezoning would have an impact on the already over capacity schools designated to serve this area. Based on the Wake County data, students living in this area may be assigned to attend either: Fox Road Elementary, Wake Forest Middle, or Wakefield High. Development of the subject property at the requested rezoning could potentially yield the following increases as the assigned schools: Fox Road Elementary may increase by 368 students, Wake Forest Middle may increase by 104 students, and Wakefield High may increase by 127 students.

School name	Current enrollment	Current Capacity	Future Enrollment	Future Capacity
Fox Road	800	82%	1,168	120%
Wake Forest	1,138	100%	1,242	109%
Wakefield	2,372	102%	2,499	108%

IMPACTS SUMMARY: A traffic impact analysis will be needed to determine how this development will impact travel in this area. The rezoning could increase school enrollment by 599 students. The future capacity at Fox Road Elementary could increase from 82% to 120%, the capacity of Wake Forest Middle could increase from 100% to 109%, and the capacity of Wakefield High could increase from 102% to 108%.

OPTIONAL ITEMS OF DISCUSSION

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

The applicant has stated that the current zoning does not reflect the existing non-residential uses that currently exist, and have existed on the property prior to its annexation into the city limits. The proposed rezoning would therefore correct this error.

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.

According to the applicant the population of Northeast Raleigh has grown and will continue to grow at an astonishing rate. This along with the fact that the extension of I-540 and increased development along Capital Boulevard have caused the subject property to no longer be located on the outskirts of the city has created a circumstance that makes the requested rezoning appropriate. Upon review of the applicant's comments staff is in agreement that Northeast Raleigh has changed significantly since the property's zoning in 1981. The Northeast District Plan was adopted in 1987, six years after this property was designated with Manufactured Home (MH) zoning. The Northeast Regional Center Plan which was adopted in 1998, eleven years after the property was designated with its current zoning, indicates that this area should be developed with high intensity mixed-use development. These facts provide a clear indication that the existing zoning classification would not be appropriated if it were being zoned for the first time.

APPEARANCE

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

CITIZEN'S

ADVISORY COUNCIL: DISTRICT: Northeast
CAC CONTACT PERSON: Paul Brant, 919-875-1114

SUMMARY OF ISSUES:

COMPREHENSIVE PLAN / COMPATIBILITY / ADVERSE IMPACTS:

Outstanding issues:

- The request is consistent with the Northeast District Plan and the Northeast Regional Center Plan, but inconsistent with the Capital Boulevard Corridor Plan. The Capital Boulevard Corridor Plan shows a Residential designation for a large portion of the proposed rezoning area.

- The rezoning could increase school enrollment by 599 students. The future capacity at Fox Road Elementary could increase from 82% to 120%, the capacity of Wake Forest Middle could increase from 100% to 109%, and the capacity of Wakefield High could increase from 102% to 108%.
- If the applicant is limiting the uses for the property to be zoned O&I-2 east of Overlook Pointe Road to R-15, perhaps it would be appropriate to rezone the property to R-15.

Suggested conditions:

PLANNING:

- Revise the reference to "Outlook Pointe Road" in condition "i" to "Overlook Pointe Road", and provide clarification on the number of acres this condition will effect.

TRANSPORTATION:

- Due to the proposed changes in land use and the proposed changes in access, a traffic impact analysis is recommended for this case.

