

CITY OF RALEIGH

Z-9-08

**O&I-1 CUD (25.13 ac)
SC CUD (24.15 ac)
& R-4 (19.19 ac)
w/SHOD-1**

to

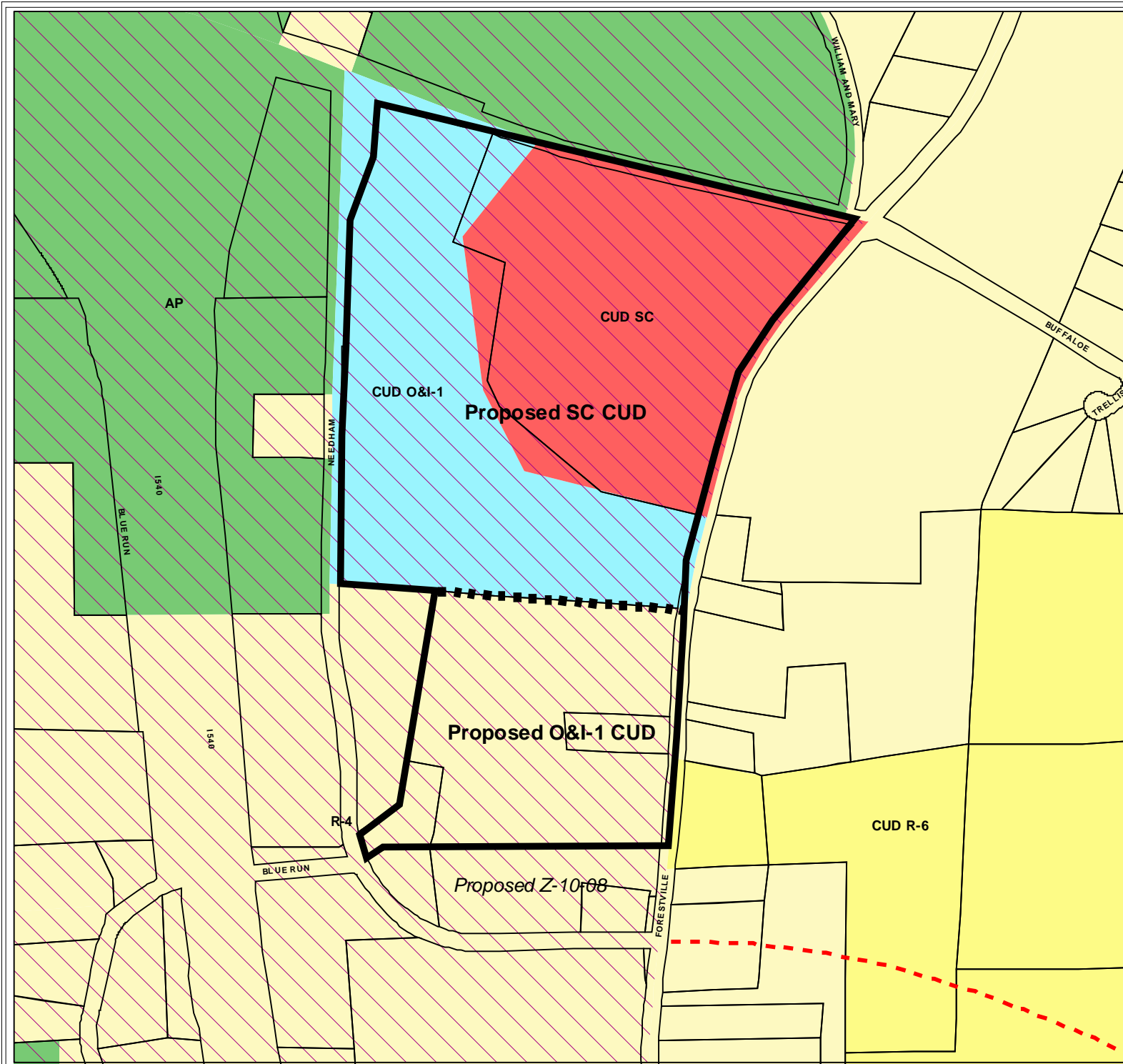
**SC CUD (49.28 ac)
& O&I-1 CUD (21.40 ac)
w/SHOD-1**

70.68 acres

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

530

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)

Ivon D. Rohrer, Southern Real Estate Company of Charlotte, BRC Buffaloe Road Retail, LLC, WBY Buffaloe Road Retail, LLC, BRC Buffaloe Road Apartments, LLC, WBY Buffaloe Road Apartments, LLC, and Marie Davis Poole


By: Eric M. Braun and Jason L. Barron, Attorneys

10/18/07
Date

EXHIBIT B. Request for Zoning Change

| | |
|-----------------|------------------------|
| Office Use Only | |
| Petition No. | 2-9-08 |
| Date Filed: | 10-19-07 |
| Filing Fee: | \$1000.00 by CK 773698 |

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) and Property Owner(s): | Ivon D. Rohrer | 1701 E. 3 rd Street Charlotte, NC 27204 | |
| | Southern Real Estate Company of Charlotte, a North Carolina Corporation | Same as above | |
| | BRC Buffalo Road Retail, LLC, a North Carolina limited liability company | 5826 Samet Dr, Ste 105 High Point, NC 27265-3614 | |
| | WBX Buffalo Road Retail, LLC | 17 Granville Oaks Court Greensboro, NC 27408 | |
| | BRC Buffalo Road Apartments, LLC, a North Carolina limited liability company | 5826 Samet Dr, Ste 105 High Point, NC 27265-3614 | |
| | WBX Buffalo Road Apartments, LLC, a North Carolina limited liability company | 17 Granville Oaks Court Greensboro, NC 27408 | |
| | Marie Davis Poole | 301 Pine Forest Trl Knightdale, NC 27545-7925 | |
| 2) Contact Person(s): | Eric M. Braun and Jason L. Barron | KENNEDY COVINGTON 4350 Lassiter at North Hills Ave., Ste. 300 Raleigh, NC 27609 | 743.7325 and 743.7343; ebraun@kennedycovington.com AND jbarron@kennedycovington.com |
| | The John R. McAdams Company, Inc. | PO Box 14005 RTP, NC 27709-4005 | 361.5000 |
| 3) Property Description: <small>Please provide surveys if proposed zoning boundary lines do not follow property lines.</small> | Wake County Property Identification Number(s) (PIN): | | |
| | 1746 - 21 - 6969 | 1746 - 20 - 4575 | |
| | 1746 - 32 - 2355 | 1746 - 30 - 2826 | |
| | 1746 - 20 - 8993 | | |
| | General Street Location (nearest street intersections): Southwest quadrant of the intersection of Buffalo Road and Forestville Road | | |
| 4) Area of Subject Property (acres): | 26.70 ac., 24.79 ac., 16.94 ac., 1.25 ac., 1.00 ac. = 70.68 acres total | | |

5) Current Zoning

District(s)

Classification:

CUD O&I-1, CUD SC and R-4; all with SHOD-1 overlay

Include Overlay District(s), if
Applicable

6) Proposed Zoning

District

Classification:

CUD SC and CUD O&I-1; SHOD-1 overlay to remain. See attached exhibit for
proposed boundary lines.

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

| |
|---|
| Office Use Only Petition No. <u>2-9-08</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: |
|---|-----------------------------------|--|---------------------|
| <u>Paul K and Linda Elaine Hester</u> | <u>7425 Buffaloe Rd</u> | <u>Raleigh, NC 27616-6811</u> | <u>1746-23-6378</u> |
| <u>NC Dept of Transportation</u> | <u>815 Stadium Dr</u> | <u>Durham, NC 27704-2713</u> | <u>1746-23-1375</u> |
| <u>Pauline C & Harvey M Lewis</u> | <u>6245 Burlington Ave N</u> | <u>Saint Petersburg, FL 33710-8429</u> | <u>1746-12-1131</u> |
| <u>Robert Franklin Dail</u> | <u>5116 Needham Rd</u> | <u>Raleigh, NC 27604-9797</u> | <u>1746-21-0963</u> |
| <u>C P & Grace P Chappell</u> | <u>5228 Needham Rd</u> | <u>Raleigh, NC 27604-9799</u> | <u>1746-11-0217</u> |
| <u>Weldon W & Constance W Stokes</u> | <u>1936 Old Greenfield Rd</u> | <u>Raleigh, NC 27604-9785</u> | <u>1746-20-4366</u> |
| <u>Constance W Stokes & Carol W Musselman</u> | <u>1936 Old Greenfield Rd</u> | <u>Raleigh, NC 27604-9785</u> | <u>1746-20-8342</u> |
| <u>Buffaloe Forest LLC</u> | <u>5882 Faringdon Pl, Ste 200</u> | <u>Raleigh, NC 27609-3932</u> | <u>1746-30-5383</u> |
| <u>Buffaloe Forest LLC</u> | <u>5882 Faringdon Pl, Ste 200</u> | <u>Raleigh, NC 27609-3932</u> | <u>1746-30-5575</u> |
| <u>Buffaloe Forest LLC</u> | <u>5882 Faringdon Pl, Ste 200</u> | <u>Raleigh, NC 27609-3932</u> | <u>1746-30-5871</u> |
| <u>James D. Miles & Joyce S Miles</u> | <u>PO Box 58284</u> | <u>Raleigh, NC 27658-8384</u> | <u>1746-30-8877</u> |
| <u>James D. Miles and Barbara Miles</u> | <u>PO Box 513</u> | <u>Knightdale, NC 27545-0513</u> | <u>1746-41-0189</u> |
| <u>Lamont M & Dolores W Inge</u> | <u>2504 Old Milburnie Rd</u> | <u>Raleigh, NC 27604-9359</u> | <u>1746-31-6238</u> |
| <u>Lamont M & Dolores W Inge</u> | <u>2504 Old Milburnie Rd</u> | <u>Raleigh, NC 27604-9359</u> | <u>1746-31-6404</u> |
| <u>Heirs of Margaret Strickland c/o R H Watkins</u> | <u>11428 Jordan Rd</u> | <u>Raleigh, NC 27603-8330</u> | <u>1746-42-6835</u> |
| <u>NC Dept of Transportation</u> | <u>815 Stadium Dr</u> | <u>Durham, NC 27704-2713</u> | <u>1746-10-9464</u> |
| <u>Ronnie L & Joann P Mosley</u> | <u>5320 Needham Rd</u> | <u>Raleigh, NC 27604-9731</u> | <u>1746-20-1181</u> |

| | |
|-----------------|--------|
| Office Use Only | |
| Petition No. | 2-9-08 |
| 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 subject property is located within the Northeast District Plan Area, as well as the Neuse River East SAP. The property is designated as a Community Focus Area, with a mixed-use commercial core and medium-density housing. The CUD SC and CUD O&I-1 districts proposed for rezoning will support a wide range of uses, including a variety of commercial opportunities and many housing types.

B. Please state whether the subject property is located within any adopted Regional Center Plan, Small Area Plan, Corridor Plan, Neighborhood Plan, Watershed Plan, Streetscape Plan, Redevelopment Plan or other City Council-adopted plans and policies and discuss the policies applicable to future development within the plan(s) area.

The subject property falls under the Neuse River East Small Area Plan and the Northeast District Plan. It is subject to the guidelines of the Small Area Plan and other Comprehensive Plan Guidelines relating to Community Focus Areas. Specific policies applicable to the site include:

- Growth is efficient, coordinates with adjacent development, and utilizes existing and planned infrastructure

The development of this property will be a key part of the development of a Community Focus Area near the Buffalo / Forestville intersection, as designated in the Small Area Plan. According to the Northeast District Plan Maps, the site is served by the existing water system and can be served by proposed wastewater extensions. The road and highway network also supports growth.

- Moderate isolated low-density development and promoting mixed-use centers

The proposed rezoning allows for a concentration of development and permits a wide variety of uses.

- A mixed-use core of 10 to 50 acres provides retail, professional services, civic and educational uses to serve not only the core area occupants but also the needs of the surrounding neighborhoods

The proposed CUD SC district covers an area approximately this size and accommodates all the uses listed in this policy. The transportation infrastructure in place and the proximity of the site to existing neighborhoods will allow development to be accessible to surrounding residents.

- Commercial development should be concentrated within the Focus Area between I-540, Forestville Road, Buffalo Road and Skycrest Drive extension

The proposed CUD SC district falls within this location and permits commercial uses.

- Community Focus Areas shall have retail development with a Floor Area Ratio of 0.26 and a maximum retail square footage of 566,280.

Development on the subject property will conform to intensity and square footage requirements.

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 consistent with the Comprehensive Plan and with City Council-adopted plans and policies. The proposed zoning map designations allow for the implementation of a mixed-use core that will anchor the Community Focus Area. The proposed designations provide the opportunity for more intense and compact development that is consistent with the prescribed urban design for a Community Focus Area.

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 uses include agriculture, floriculture and undeveloped land. There is also single-family housing of a rural character. Suburban residential development patterns are found within a half mile. The site sits at the intersection of two thoroughfares: Buffalo Road and Forestville Road. It is also in close proximity to an I-540 interchange. Because of the availability of transportation infrastructure and the compatibility of the proposed rezoning with future land use and development criteria prescribed for the area, this site is suited for more intense uses than those that currently exist.

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

The subject property is currently zoned CUD SC, CUD O&I-1, and R-4. The CUD districts were instituted by Rezoning Case Z-3(B)-92. A SHOD-1 Overlay also applies to all of the subject property, based on its proximity to I-540. Adjacent property is zoned R-4 and AP. Existing development on or near the site are typically one and two story homes at a density of less than one unit per acre, with large setbacks. Large forested areas and natural buffers are interspersed with cleared fields and home sites.

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

Physical factors of the subject property, including gentle slopes and a lack of environmentally sensitive areas, make the property suitable for the more intense types of development permitted under the proposed CUD SC and CUD O&I-1 districts. The standards of the Comprehensive Plan suggest that these zoning districts are appropriate. The character of the surrounding area is subject to change in the near future and become more consistent with development patterns made possible by the proposed rezoning. The change in character can be attributed to city-wide planned growth patterns, the Comprehensive Plan designations at this location as a Community Focus Area, and the presence of infrastructure such as highways and water service. With the future growth being planned in this area, this rezoning will provide the necessary uses from more intense SC to the O&I-1 into multi-family and other residential uses in order to establish the necessary transition for this area.

III. Benefits and detriments of the proposed map amendment.

A. For the landowner(s):

- Higher and better use of the land as permitted within the Area Plans and the Comprehensive Plan
- Greater flexibility in permitted uses

B. For the immediate neighbors:

- Immediate access to retail, shopping, and services
- Employment opportunities
- Higher and better use of the land as permitted within the Area Plans and the Comprehensive Plan
- Greater flexibility in permitted uses in order to provide the necessary transitions for future uses planned for the area.

C. For the surrounding community:

- Additional retail, shopping, and services made available to the community
- Employment opportunities
- Higher and better use of the land as permitted within the Area Plans and the Comprehensive Plan
- Greater flexibility in permitted uses in order to provide the necessary transitions for future uses planned for the area.

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

Technically, this site is being rezoned in order to readjust the zoning lines that currently exist. The zoning that currently exists on the site is SC CUD and O&I-1, yet the SC boundary will move further to the west and the O&I-1 boundary will be shifted south in order to even out the lines and make a cleaner petition. In doing so, the rezoning is adjusting those beneficial uses that were zoned previously in order to provide additional services and uses to the adjacent and surrounding properties. Due to the transition in the area and the planned growth established by the City, this rezoning will provide a significant benefit to the surrounding properties in that it will:

- Provide necessary and much needed retail, and shopping center uses to the area in close proximity to homes;
- Decrease the travel time to surrounding, existing residents in order to access those much needed services;
- Provide employment opportunities in closer proximity to homes in the area;
- Establish uses that will be consistent with the future plans for this area as permitted by the City of Raleigh planning efforts; and
- Prepare the area for the future growth in this area by creating the transition in uses from I-540 to the SC uses at the major intersection, into the less intense uses to the south and east.

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

- Topography of the existing site;
- Minimal environmental concerns;
- Access to transportation network

V. Recommended items of discussion (where applicable).

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

Not applicable

- 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.**

Although the site is zoned appropriately and this rezoning is mainly to adjust the zoning boundaries, the area has changed in the following respects in order to justify this revised rezoning petition for the subject site. The following items address how the area has changed justifying this petition:

- The area is designated as a Community Focus Area,
- The growth in population of the Northeast District promotes the SC and O&I-1 uses;

- The construction of I-540 created a more intense use in this area that required a transition from higher intensity uses into the existing neighborhoods and future growth in the area;
- The change aids in evening out and adjusting zoning lines to improve transitions.

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

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

As a development contemplating a mixture of uses, the project will have an impact on public services. However, because the Comprehensive Plan contemplates a mixed use development at this location, this is an impact for which the City has been planning. In this regard, the Wastewater System Plans for the Northeast District contemplate the extension of public sewer into this area to accommodate planned growth.

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

None at this time.



Certified Recommendation of the City of Raleigh Planning Commission

Case File: Z-09-08 Conditional Use; Buffalo Road and Forestville Road

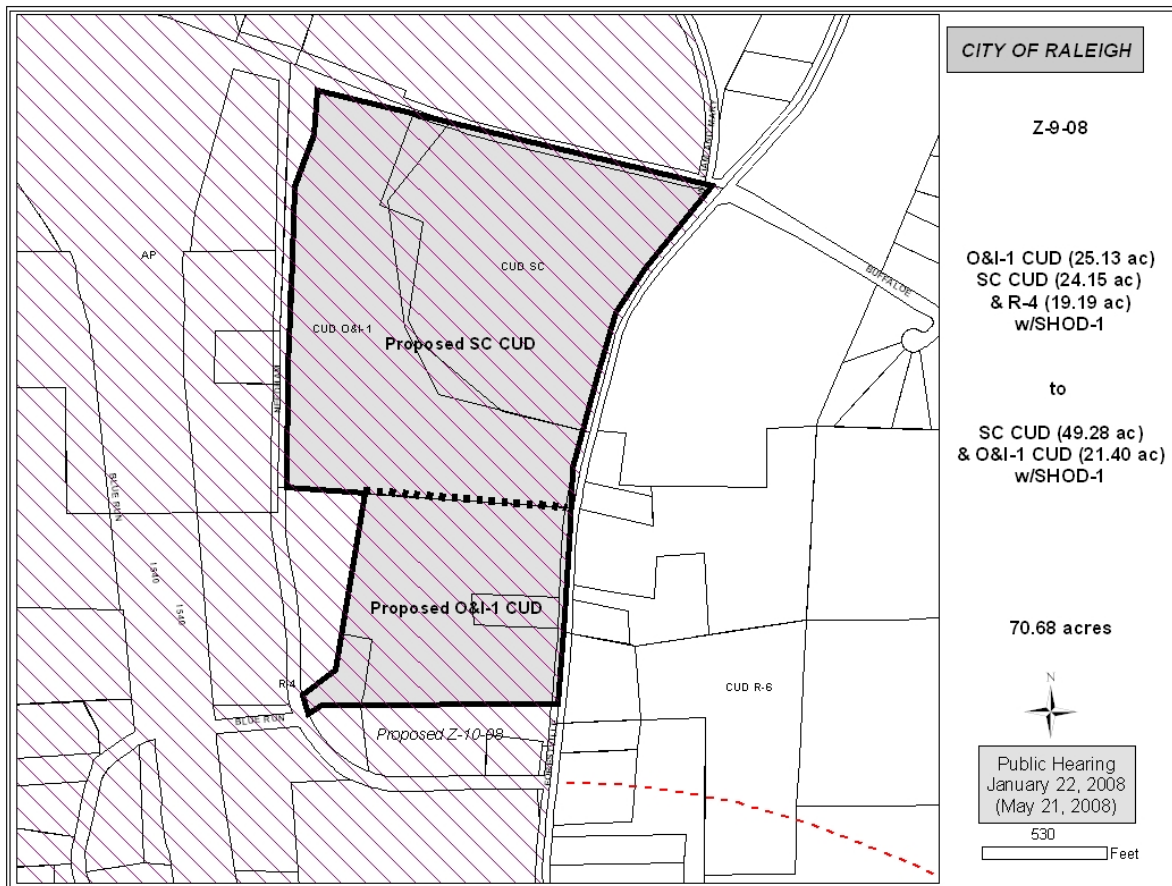
General Location: South of Buffalo Road, west of Forestville Road

Request: Petition for Rezoning from O&I-1 CUD, SC CUD, R-4 w/ SHOD-1 to SC CUD, O&I-1 CUD w/ SHOD-1.

Comprehensive Plan Consistency: The request is consistent with the Comprehensive Plan, however, the proposed rezoning creates the possibility that the mixed-use core of the Community Focus Area will develop in excess of the recommended maximum of fifty (50) acres of retail, professional services, civic, and educational uses.

Valid Protest Petition (VSPP): No

Recommendation: That the request be denied



CASE FILE: Z-09-08 Conditional Use

LOCATION: This site is located on the south side of Buffaloe Road, west of its intersection with Forestville Road.

REQUEST: This request is to rezone approximately 70.68 acres, currently zoned Office & Institution-1 CUD, Shopping Center CUD, Residential-4 w/ Special Highway Overlay District-1. The proposal is to rezone the property to Shopping Center CUD, Office & Institution-1 CUD w/ Special Highway Overlay District-1.

COMPREHENSIVE PLAN CONSISTENCY: The request is consistent with the Comprehensive Plan, however, the proposed rezoning creates the possibility that the mixed-use core of the Community Focus Area will develop in excess of the recommended maximum of fifty (50) acres of retail, professional services, civic, and educational uses.

RECOMMENDATION: That the request be denied

FINDINGS AND REASONS: (1) The applicant has requested 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: Butler
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-09-08 Conditional Use

LOCATION: This site is located on the south side of Buffaloe Road, west of its intersection with Forestville Road.

AREA OF REQUEST: 70.68 acres

PROPERTY OWNER: Multiple Property Owners

CONTACT PERSON: Eric M. Braun & Jason L. Barron, 919-743-7325 & 919-743-7343

**PLANNING COMMISSION
RECOMMENDATION
DEADLINE:**

May 21, 2008

ZONING:

Current Zoning

Proposed Zoning

SC CUD: 24.15 AC
O&I-1 CUD: 25.13 AC
R-4: 19.19 AC

SC CUD: 49.28 AC
O&I-1 CUD: 21.40 AC

Current Overlay District

Proposed Overlay District

Special Highway Overlay District (SHOD)-1

Special Highway Overlay District (SHOD)-1

ALLOWABLE DWELLING UNITS:

Current Zoning

Proposed Zoning

w / Staff approval: 814 units
w / PC approval: 1428 units

w / Staff approval: 1060 units
w / PC approval: 2013 units

ALLOWABLE OFFICE SQUARE FOOTAGE:

Current Zoning

Proposed Zoning

SC CUD: No Limitation
O&I-1 CUD: 820,997 (0.75 FAR)
R-4: Office Uses Not Permitted

SC CUD: No Limitation Specified
O&I-1 CUD: 699,138 (0.75 FAR)

ALLOWABLE RETAIL SQUARE FOOTAGE:

Current Zoning

Proposed Zoning

SC CUD: No Limitation
O&I-1 CUD: Limited retail uses (max. of 10%) permitted w/ a office building in excess of 30,000 square feet
R-4: Retail Uses not Permitted

SC CUD: 535,000 (per conditions)
O&I-1 CUD: Limited retail uses (max. of 10%) permitted w/ a office building in excess of 30,000 square feet

ALLOWABLE GROUND SIGNS:

Current Zoning

Proposed Zoning

SC CUD: High Profile
O&I-2 CUD: Low Profile

SC CUD: High Profile (Height = 15 feet, Area = 100 sq.ft.)

R-4 CUD: Tract ID Sign

O&I-2 CUD: Low Profile (Height = 3.5 feet, Area = 70 sq.ft.)

ZONING HISTORY: This property's current zoning has been in effect since 1992 (Z-3B-92).

CONDITIONS:

1. Access to Buffaloe and Forestville Roads will be in accordance with NCDOT and the City of Raleigh regulations and standards.
2. The petitioner will utilize the standards of the City SHOD-1 Overlay District requirements within 1,250 feet from the proposed right-of-way boundary of the Northern Wake Expressway.
3. If a package treatment plant is used, the developer agrees to discontinue the package treatment plant at the time that public sewer is available and utilize the public sewer system.
4. The petitioner will reserve the necessary right-of-way along the subject property frontage for the relocation of Buffaloe Road near the Northern Wake Expressway. All reservations shall be in accordance with the Official Northern Wake Expressway Corridor Plan.
5. The petitioner will reserve an additional 15 feet of right-of-way along Buffaloe and Forestville Roads for the future City of Raleigh Thoroughfare improvements.
6. The petitioner will reserve the necessary right-of-way for the realignment and extension of Needham Road to connect to Buffaloe Road. All reservations shall be in accordance with the Official Northern Wake Expressway Corridor Plan.

**SURROUNDING
ZONING:**

NORTH: Agricultural Protective District

SOUTH: Residential-4

EAST: Residential-4 & Residential-6 CUD (Z-54-06) Conditions are:

- a. Reimbursement for additional right-of-way dedications along Buffaloe Road, Old Milburnie Road and Forestville Road shall be at Residential-4 District values.
- b. There shall be no more than: (i) two (2) public street accesses onto Buffaloe Road from the Property; (ii) one (1) public street access onto Forestville Road from the Property; and (iii) one (1) public street access onto Old Milburnie Road from the Property.
- c. Development of the Property shall consist of only single family detached dwelling units and/or townhomes. Residential density for the Property shall not exceed 600 dwelling units or an average of 4.7 dwelling units per acre, whichever is less. There shall be a maximum of 120 townhouse dwelling units located on the Property. All townhouses located on the Property shall be served by at least a one-car garage.
- d. Development of those portions of the Property adjacent to and abutting the properties identified by Wake County PINs (**collectively, the "Adjacent Properties"**) shall consist only of: (i) single-family dwelling unit lots with a minimum depth of 110 feet and a minimum width of 75 feet; or (ii) open space lots with a minimum depth of 50 feet; or (iii) public rights-of-way.
- e. Except for open space adjacent to and abutting Wake County PIN 1745-49-5347 (Bk 7222, Pg 867) and prior to the issuance of a certificate of occupancy for

the Property, the owner of the Property shall construct and install a six (6') foot high solid wood or vinyl fence within five (5') feet of the common property lines along those portions of the Property adjacent to and abutting the Adjacent Properties (as defined in Condition d. above.)

f. Any townhouse structures located upon the Property shall be located no closer than 400 feet from the common property lines of the Property and the Adjacent Properties.

g. The front exterior wall of dwelling units, exclusive of foundations, constructed upon the Property shall have areas of brick and/or stone, and hardiplank siding or vinyl siding.

h. Buildings constructed upon the Property shall not exceed forty (40) feet in height or three (3) stories, whichever is lesser.

i. Prior to the issuance of a certificate occupancy for the three hundredth single family dwelling unit constructed upon the Property, development upon the Property shall include the following, completed amenities: a clubhouse not less than 1200 square feet in size; a swimming pool; and three (3) tot lots not less than 900 square feet each in size.

j. Single family detached dwelling units constructed on the Property shall include crawl space foundations.

k. Where there are no mature trees meeting the basal standards of Section 10-2082.5(f) of the City landscape ordinance and within twenty feet (20') of Buffalo Road, an earthen berm at least four feet (4') in height measured from the edge of right of way of Buffalo Road shall be constructed and installed along the northern boundary of the Property that abuts Buffalo Road.

WEST: Agricultural Protective District & Residential-4

LAND USE: Site contains a large tract of vacant, lightly vegetated, land with a few single family residences.

SURROUNDING LAND USE:
NORTH: Vacant
SOUTH: Single-Family
EAST: Single-Family
WEST: Manufactured Home & Single-Family

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 | Buffaloe/Skycrest Community Focus Area |
| Specific Area Plan | Neuse River East Small Area 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 Neuse River East Small Area Plan (SAP). The site is a part of a Community Focus Areas, which is designated for pedestrian and public transit friendly shopping center, office building, and higher intensity residential development. The Retail Use Guidelines provide a recommendation that a maximum of 566,280 square feet of retail in Community Focus Areas. The request is consistent with the Comprehensive Plan, however, the proposed rezoning creates the possibility that the mixed-use core of the Community Focus Area will develop in excess of the maximum of fifty (50) acres of retail, professional services, civic, and educational uses recommended in the Neuse River East SAP.

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

The proposed rezoning is made up of five lots, and is primarily vacant with few trees. There are single-family homes on two of the lots. East of the proposed rezoning is property that was rezoned in 2006 (Z-54-06) from R-4 to R-6 CUD. This property is the future site of Buckhorn Place (S-68-07), a 505 lot subdivision that is currently going through the review process. Land to the immediate south is currently zoned R-4, however, there is a zoning case in review (Z-10-07) that proposes to rezone the property north of Needham Road to Office and Institution-1 CUD. Property to the west contains rural development, and the property to the north is heavily wooded vacant land.

While the property proposed for rezoning is surrounded by rural development, it is approximately 260 feet from I-540, and approximately 530 feet from a Neighborhood Focus Area that consists of a subdivision containing nearly 200 dwellings. The applicant states that the proposed rezoning is compatible with future land use and development for the area. The applicant has not provided any conditions that would indicate that the development that would occur on this property would be compatible with the residential development that currently exists in this area, nor have they provided conditions that indicate that development of this property will consist of any residential design characteristics.

3. Public benefits of the proposed rezoning

The applicant has indicated that the proposed rezoning is a benefit because it will create the possibility that the subject property could serve as both a transition from I-540 to lower intensity residential development, and provide convenient access to retail and services for future residential development. The current zoning fulfills the same need, therefore, staff feels that the requested rezoning, which only increases the intensity of development, will not necessarily create any added benefit.

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, while the SHOD-1 will provide a height limit of five (5) stories, there may also be a reduction in access to light for single-family homes in the area. More consideration should be given to the character that will be created for the area by the development that may be produced as a result of this rezoning.

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

TRANSPORTATION: Forestville Road (2005 ADT- 4,200 vpd) is classified as a major thoroughfare and exists as a two-lane shoulder section on 60 feet of right-of-way. City standards call for Forestville Road to provide a 65-foot back-to-back curb and gutter section on 90 feet of right-of-way with sidewalks on both sides. Buffalo Road is classified as a major thoroughfare (2005 ADT - 6,800 vpd) and exists as a two-

lane shoulder section on 60 feet of right-of-way fronting the subject property. City standards call for both Buffalo Road and Forestville Road to provide a 65-foot back-to-back curb and gutter section on 90 feet of right-of-way with sidewalks on both sides. Needham Road exists as a two-lane dirt road on 60 feet of right-of-way. In conjunction with the proposed adjacent development, Needham Road will meet the criteria for classification as a commercial street, which requires a 41-foot back-to-back curb and gutter section on 60 feet of right-of-way with sidewalk on both sides. Assuming that Needham Road is extended as part of the development of the adjacent property, the alignment of the existing right-of-way may be required to be shifted eastward to avoid conflicts with the I-540 interchange ramps. Due to the proposed changes in land use and the size of the subject property, 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 flood hazard areas 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 not impact the wastewater or water treatment systems of the City. There is an existing water main adjacent to the proposed rezoning area which would serve said area. There is currently no sanitary sewer main adjacent to the proposed rezoning area. The developer of the properties would be required to extend the sanitary sewer to the properties, since the properties are outside the City, but within the City's Utilities Service Area.

PARKS AND RECREATION: This property is adjacent to a creek corridor identified in the Capital Area greenway master plan as Trib E of Harris Creek. The minimum greenway width of this corridor is 50' on each side of the creek measured from the top of bank. The applicant/owner will be required to reserve this area at the time of either preliminary subdivision or site plan approval.

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: Forestville Road Elementary, East Wake Middle, or Knightdale High. Development of the subject property at the requested rezoning could potentially yield the following increases to the assigned schools: Forestville Road Elementary may increase by 191 students, East Wake Middle may increase by 54 students, and Knightdale High may increase by 66 students.

| School name | Current enrollment | Current Capacity | Future Enrollment | Future Capacity |
|------------------|--------------------|------------------|-------------------|-----------------|
| Forestville Road | 566 | 76% | 757 | 101% |
| East Wake | 949 | 113% | 1,003 | 119% |
| Knightdale | 1,616 | 97% | 1,682 | 101% |

IMPACTS SUMMARY: A traffic impact analysis will be needed to determine how this development will impact this area. The rezoning could increase school enrollment by 311 students. The future capacity at Forestville Road Elementary could increase from 76% to 101%, the capacity of East Wake Middle could increase from 113% to 119%, and the capacity of Knightdale High could increase from 97% to 101%.

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.

According to the applicant circumstances that have changed since the last rezoning, were that the area was designated as a Community Focus Area, there was an increase in population, the extension of I-540 created the need for more intense land use in this area, and zoning lines are being adjusted through the proposed rezoning, which presents an opportunity to improve transition in land use. However, the circumstances presented by the applicant do not substantiate the requested increases in land zoned Shopping Center and Office and Institution-1 because a carefully designed transition could be provided using the current zoning designation. The requested zoning map change creates the possibility for development to occur in excess of the 50 acre maximum for a mixed-use core. Another point to note is that this area was designated as a Community Focus Area even before the 1992 (Z-3B-92) zoning case was approved, so the focus area designation was not a change in circumstances.

APPEARANCE

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

CITIZEN'S

ADVISORY COUNCIL: DISTRICT: Northeast
CAC CONTACT PERSON: Bob Mulder, 919-876-2828

SUMMARY OF ISSUES:

COMPREHENSIVE PLAN / COMPATIBILITY / ADVERSE IMPACTS:

Outstanding issues:

- Although consistent with the Comprehensive Plan, the mixed use core of a Community Focus area has been designated to provide 10 to 50 acres of retail, professional services, civic and educational uses and the proposed rezoning provides the possibility of 51.49 acres of the aforementioned uses.
- The rezoning could increase school enrollment by 311 students. The future capacity at Forestville Road Elementary could increase from 76% to 101%, the capacity of East Wake Middle could increase from 113% to 119%, and the capacity of Knightdale High could increase from 97% to 101%.

Suggested conditions:

PLANNING:

- Consider providing a condition that prohibits "mini-warehouse storage facilities".
- Consider providing conditions that will encourage pedestrian friendly development that limits parking to the side and rear of the buildings.
- Consider providing conditions that begin to address use of building materials and building design.

