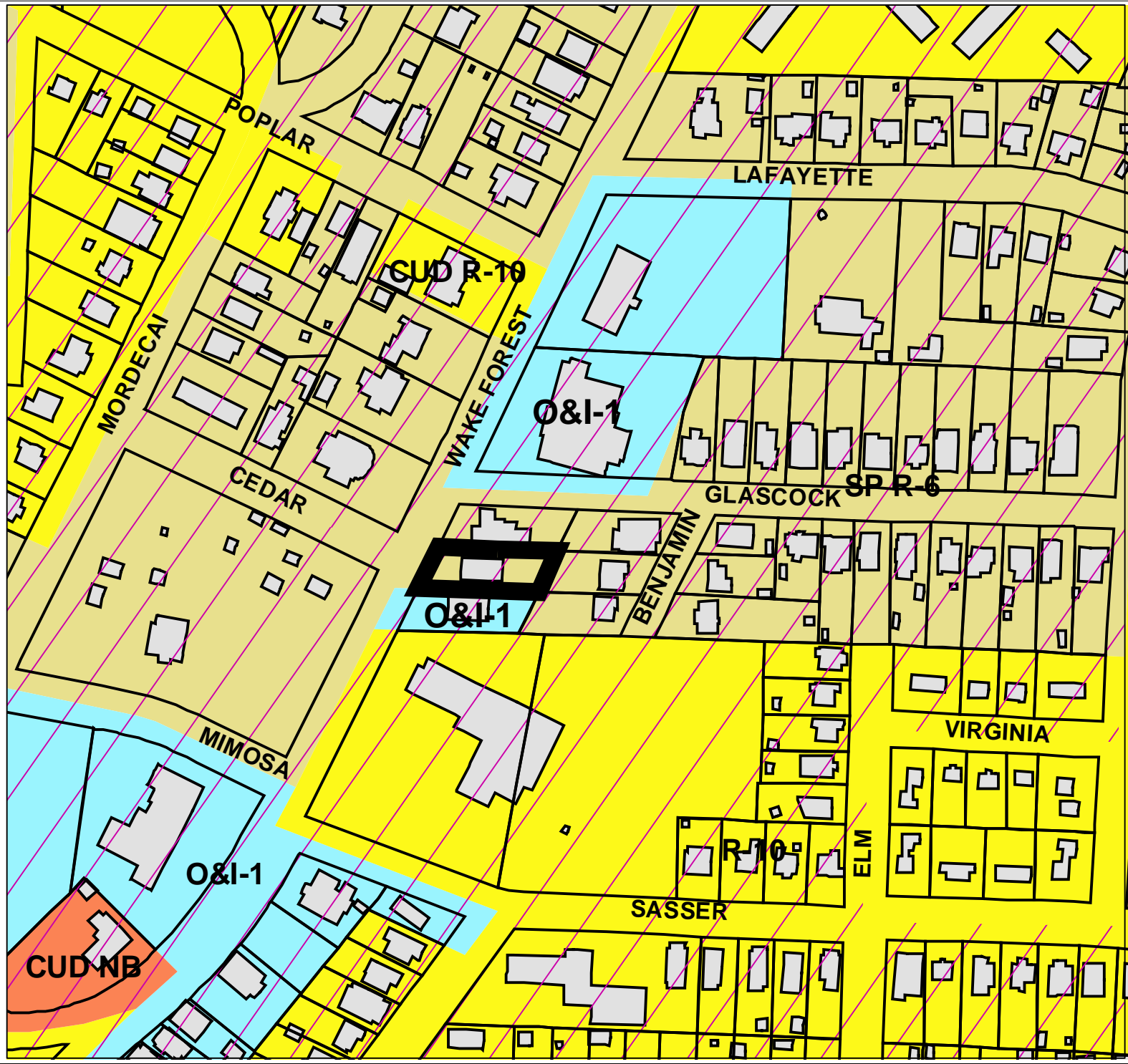


CITY OF RALEIGH



Z-13-08

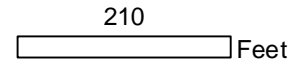
**SP R-6
w/NCOD**

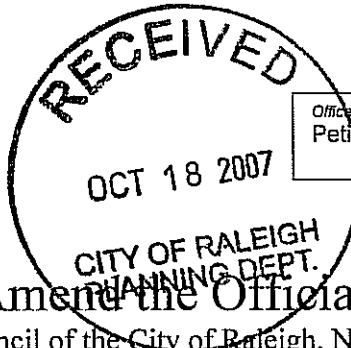
to

**O&I-1 CUD
w/NCOD**

0.22 acre

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





Office Use Only
Petition No. 2-13-08

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) *[Handwritten Signature]* Date: 10.18.07
[Handwritten Signature] 10-18-07

Please type or print name(s) clearly:
TED VAN DYK
PAT VAN DYK

EXHIBIT B. Request for Zoning Change

Office Use Only	
Petition No.	2-13-08
Date Filed:	10-19-07
Filing Fee:	pd 200.00 OK # 13131

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.	Ted Van Dyk	1304 Hillsborough St.	919.831.1308
	Pam Van Dyk	1304 Hillsborough St.	919.831.1308

2) Property Owner(s):	Ted Van Dyk	1304 Hillsborough St.	919.831.1308
	Pam Van Dyk	1304 Hillsborough St.	919.831.1308

3) Contact Person(s):	Ted Van Dyk	1304 Hillsborough St.	919.831.1308
			919.395.1936

4) Property Description:	Wake County Property Identification Number(s) (PIN):	1704931783
Please provide surveys if proposed zoning boundary lines do not follow property lines.		

General Street Location (nearest street intersections): Nearest intersections:
Wake Forest Rd./Glascock Street and Wake Forest Rd/Cedar St.

**5) Area of Subject
Property (acres):** _____

**6) Current Zoning
District(s)** R-6 SP NCOD
Classification: _____
Include Overlay District(s), if
Applicable

**7) Proposed Zoning
District** O&I-1 CUD NCOD
Classification: _____
Include Overlay District(s) if
Applicable. If existing Overlay
District is to remain, please state.
Mordecai Small Area Plan

Office Use Only

Petition No.

2-13-08

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:**

See Attached

- 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.**

See Attached

Office Use Only	
Petition No.	2-13-08
Date Filed:	_____

(continued)

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

See Attached

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): See Attached:

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

See Attached.

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

See Attached

III. Benefits and detriments of the proposed map amendment.

A. For the landowner(s):

See Attached

(continued)

B. For the immediate neighbors:

See Attached

C. For the surrounding community:

See Attached

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

See Attached

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

See Attached

V. Recommended items of discussion (where applicable).

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

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.**

See Attached

Office Use Only	
Petition No.	Z-13-08
Date Filed:	_____

(continued)

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

See Attached

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

See Attached

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

See Attached

I. Consistency of the Proposed map amendment with the Comprehensive Plan

A The Property is within the Central District. The Map appears to designate this as 'residential-retail'- at the edge of a neighborhood focus area.

B The Property is within the Mordecai Small Area Plan. The Plan does not address this property specifically, but allows for low intensity office or retail uses in residential structures just to the South of the property. The property directly fronts Wake Forest Road.

C. The proposed Zoning is consistent, as it places a transitional zoning (O&I 1) between a busy thoroughfare and adjacent residential uses.

II Compatibility of the proposed map amendment with the property and the surrounding area.

A. The property fronts Wake Forest Road, a busy 4 lane section with periods of heavy traffic. Lots just to the rear are a mix of modestly sized rental houses, all currently held by a single landlord. The property just across the street, though zoned SP-6, is actually Mordecai Historic Park, which hosts frequent tours and visiting groups, and is not a residential use.

The property shares the block with an institutional user (Salvation Army), which has an extensive outdoor play area and large parking lots. There is an existing O&I 1 lot, with a residential structure converted for office use adjacent to the South.

B. The property to the north is a well-maintained single family residence. The block just North, the old hospital is also zoned O&I 1 on this side of Wake Forest Road.

The Existing zoning pattern seems to be largely R-6 SP, with O&I zoning mixed in along Wake Forest Road. Though the zoning map shows both Mordecai Historic Park and The Salvation Army Facility as SP-6, these are clearly not residential in scale or use.

The hospital also offers a commercial scale facility in the immediate vicinity. The balance of structures are single family in scale, though there is a converted apartment complex one block to the north across from the Hospital.

The area is filled with mature trees and landscaping.

C. The proposed map amendment is compatible with the suitability of the property for O&I 1 uses, as it finds new life and purpose for a residential structure on a busy road.

III Benefits and Detriments of the proposed map amendment

A. The landowners will benefit by allowing an appropriate use for the busy corridor, making the property useable in a way consistent with its' surroundings and location.

B. The neighbors will benefit, as the re-zoning will preserve the scale and character of the existing fabric, while offering uses more in keeping with its location along a heavily traveled corridor. The property sat vacant for over eight years prior to acquisition by the current owners. Office use will bring a professional population to a previously blighted location.

C. The use of a residential structure is compatible with the uses to the South, including the existing O&I 1 property directly adjacent. The property 2 lots to the South, though zoned r-10, has a large institutional user on the site (salvation Army community Center).

The proposed re-zoning also matches the large swaths of O&I-! Just to the north of the Site. These sites offer a buffer and transition of use and intensity from the busy 4 lanes of Wake Forest Road to the residential neighborhoods to the East.

IV Does the rezoning provide a significant benefit...

The rezoning does not provide any unfair benefit to the property owners that is not available to surrounding owners.

The characteristics of the subject property support the map amendment by retaining residential scale and character while allowing an appropriate set of buffer uses between the neighborhood and Wake Forest Road. The block configuration is set up so that there is ample open space between the O&I properties and the residential properties to the East.

V recommended items of discussion (where applicable)

A. There has been no error by Council. This is a response to many years of growth and development in the area.

B. The original use of the residential structures on the block appears to have been to provide housing for staff at the old Saint Elizabeth's hospital. This building has now been converted to office use. Wake Forest Road, like many of the roads in Raleigh's core area, has grown from modest dimensions to a 4-lane road carrying thousands of cars per day. The current sp-6 zoning allows for only modest scale duplex units or single family. Office use is a more reasonable and appropriate use along this busy road.

C. There is a need for small-scale office space. Many similar properties are occupied by non-profits, professionals, and other similar users. The influx of such users in the Mordecai district will help with the safety, prosperity, and appearance of the neighborhood.

D. Impact on public services, utilities, infrastructure and other City systems will be negligible, as the structure is currently 2200 sf in total heated square footage, and the site is approx. .22 acres total area.



Certified Recommendation of the City of Raleigh Planning Commission

Case File: Z-13-08 Conditional Use; Wake Forest Road

General Location: The site is located on the east side of Wake Forest Road, between Sasser and Lafayette Streets, and within the Mordecai NCOD limits

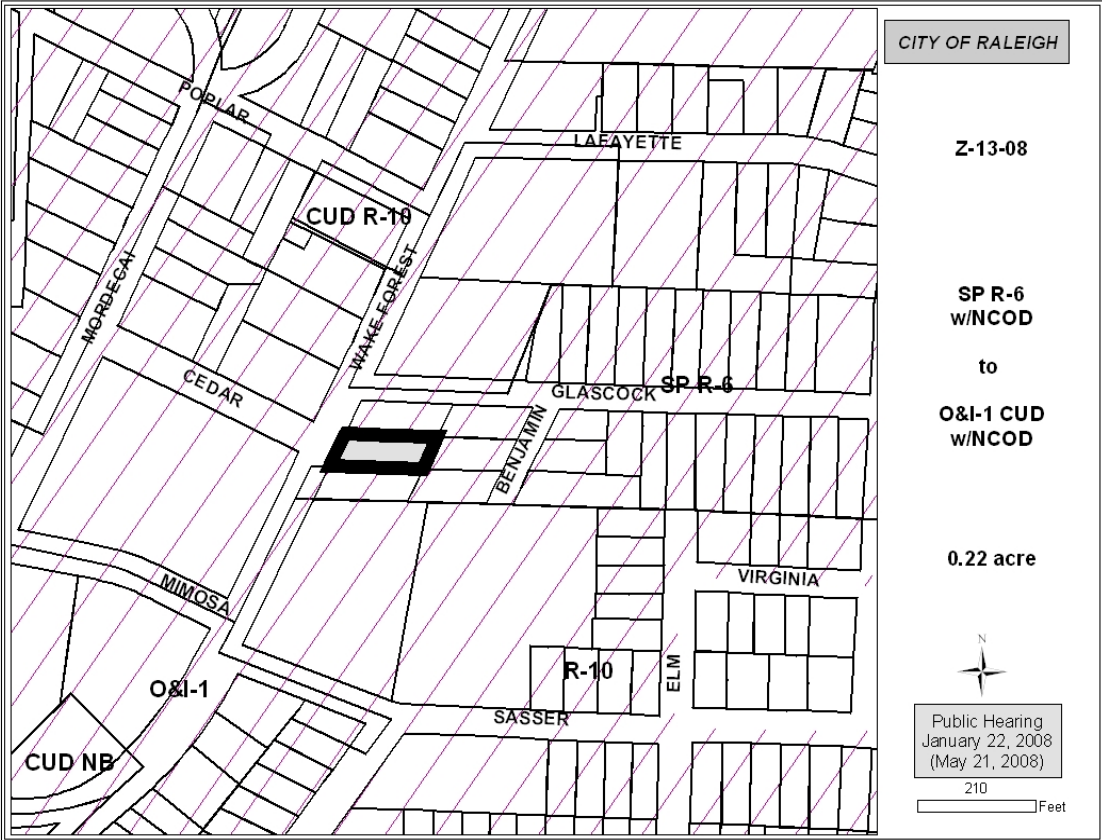
Planning District / CAC: Central / Mordecai

Request: Petition for Rezoning from **Special R-6 w/ NCOD** to **Office & Institution-1 CUD w/ NCOD**

Comprehensive Plan Consistency: The request is consistent with the Comprehensive Plan

Valid Protest Petition (VSPP): NO

Recommendation: The Planning Commission finds that the proposed rezoning is consistent with the Comprehensive Plan and that this request be approved in accordance with conditions dated January 29, 2008.



CASE FILE: Z-13-08 Conditional Use

LOCATION: This site is located on the east side of Wake Forest Road, between Sasser and Lafayette, and within the Mordecai NCOD limits.

REQUEST: This request is to rezone approximately 0.22 acres, currently zoned Residential-6 w/ NCOD. The proposal is to rezone the property to Office & Institution-1 CUD w/ NCOD.

COMPREHENSIVE PLAN CONSISTENCY: The request is consistent with the Comprehensive Plan

RECOMMENDATION: The Planning Commission finds that the proposed rezoning is consistent with the Comprehensive Plan and that this request be approved in accordance with conditions dated January 29, 2008.

FINDINGS AND REASONS:

- 1) The rezoning request is consistent with the land use recommendations of the Comprehensive Plan. The Mordecai Small Area Plan recommends a mixture of low density residential and low intensity office and institutional uses on east and west sides of Wake Forest Road.
- 2) The conditions associated with this request address the building scale and character thereby lending compatibility with the surrounding uses.
- 3) The request proposes to re-use existing residential structure, with possible compatible additions, or construction of a new building that is residential in character and scale. This condition further lends consistency with the Comprehensive Plan recommendation to preserve and sensitively rehabilitate existing residential structures in this area.
- 4) That the request being consistent, compatible and having no adverse impacts, could be considered reasonable and in the public interest.

To PC: 1/29/08

Case History:

To CC: 2/5/08

City Council Status: _____

Staff Coordinator: Dhanya Sandeep

Motion: Chambliss

Second: Haq

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

Opposed:

Excused:

This document is a true and accurate statement of the findings and recommendations of the Planning Commission. Approval of this document incorporates all of the findings of the Staff Report attached.

Signatures: (Planning Dir.) _____ (PC Chair) _____

date: _____

date: 1/31/08



Zoning Staff Report: Z-13-08 Conditional Use

LOCATION: The site is located on the east side of Wake Forest Road, between Sasser and Lafayette, and inside the Mordecai NCOD limits

AREA OF REQUEST: 0.22 acre

PROPERTY OWNER: Ted Van Dyk & Pam Van Dyk, 919-831-1308

CONTACT PERSON: Same as above

PLANNING COMMISSION RECOMMENDATION DEADLINE: May 21, 2008

ZONING:	<u>Current Zoning</u>	<u>Proposed Zoning</u>
	Special R-6	O&I-1 CUD
	<u>Current Overlay District</u>	<u>Proposed Overlay District</u>
	NCOD	NCOD
ALLOWABLE DWELLING UNITS:	<u>Current Zoning</u>	<u>Proposed Zoning</u>
	1 unit	w / Staff approval: 3 units w / PC approval: 5 units
ALLOWABLE OFFICE SQUARE FOOTAGE:	<u>Current Zoning</u>	<u>Proposed Zoning</u>
	Not permitted	7,187 sq. ft (0.75 FAR)
ALLOWABLE RETAIL SQUARE FOOTAGE:	<u>Current Zoning</u>	<u>Proposed Zoning</u>
	Not permitted	Not permitted
ALLOWABLE GROUND SIGNS:	<u>Current Zoning</u>	<u>Proposed Zoning</u>
	Tract ID	Low Profile (Height – 3 ½ feet, Area – 70 sq. ft.)
ZONING HISTORY:	This property was rezoned from Residential-10 to Special R-6 in 1996 pursuant to the recommendations of the Mordecai Neighborhood Plan. The Neighborhood Conservation Overlay District (Mordecai NCOD) for this area was adopted in	

1994. The property to the immediate south was rezoned to O&I-1 in 1973. The property to the north on which the hospital is situated was rezoned in 1955.

**SURROUNDING
ZONING:**

NORTH: SP R-6 and O&I-1 w/ NCOD
SOUTH: O&I-1 and R-10 w/ NCOD
EAST: SP R-6 w/ NCOD
WEST: SP-R-6 w/ NCOD

The following regulations apply to the portion of the NCOD on which the subject property is located:

- Minimum lot size – 14,520 square feet or the minimum lot size for a duplex in Special R-6
- Maximum building height – 35 feet
- Minimum lot width – 50 feet
- Maximum lot width – 100 feet
- Conservation District 1 – minimum front yard setback of 35 feet for the area west of Wake Forest Road and north of Cedar Street, except for part of the north side of Courtland Drive.

LAND USE: SF detached residential use

**SURROUNDING
LAND USE:**

NORTH: SF detached residential use & Institutional
SOUTH: Office (Residential scale), Institutional (Salvation Army Community Center)
EAST: Mordecai Historic Park, Antique store
WEST: SF detached residential use

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	Central
Urban Form	None
Specific Area Plan	Mordecai Neighborhood Plan
Guidelines	Neighborhood Conservation Overlay District Regulations

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

The subject property is located within the Central Planning District, just outside the edges of a Neighborhood Focus area and within the limits of an established Neighborhood Conservation Overlay District area (the Mordecai NCOD). The Mordecai Small Area Plan specifies the NCOD regulations that apply to this section of the Neighborhood Conservation District. While the plan has no specific land use recommendations for the subject site, it calls for a mixture of low density residential and low intensity office and institutional uses on both east and west sides of Person Street and Wake Forest

Road, to the south of the property, up to the edge of Sasser and Mimosa Streets. Therefore, it can be interpreted that low intensity office uses may be appropriate for this site, which is within a transition area and such a use may be compatible with the surrounding uses. Moreover, emphasis on preserving and sensitively rehabilitating existing residential structures wherever possible as either residential or office uses is recommended by the Plan. The proposed request is consistent with the Comprehensive Plan in that low intensity office uses are compatible to the surrounding land uses and, by including appropriate conditions, the request attempts to address the scale and character of the proposed building.

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

The site is located along a major thoroughfare and is surrounded by low to medium density residential and institutional uses. To the immediate north is a well-maintained single family residence on property zoned SP R-6. The block to the further north is zoned O&I-1, where the old Mary Elizabeth Hospital is situated. Across from the hospital is a converted apartment complex on property zoned R-10 CUD. Directly across the subject property, on the other side of Wake Forest Road is the Mordecai Historic Park and other properties zoned SP R-6. A residential scale antique store operates at the northwest corner of the intersection of Wake Forest Road and Cedar Street. To the east of the property is a mix of moderately sized rental houses that are zoned SP R-6 and R-10. To the immediate south is an existing O&I-1 lot with a residential structure converted for office use. To the south of this office building, on the same block is situated the Salvation Army Community Center which has an extensive outdoor play area and large parking lots. The existing zoning pattern in this area is largely SP R-6 and O&I-1. While the zoning on the Mordecai Historic Park and the Salvation Army Facility is SP R-6, these are not put to residential use. The remaining structures in the vicinity are all single family uses.. The proposed residential scale office use is therefore, compatible to the surrounding zoning and uses. As noted by the applicant, the proposed rezoning will lend a compatible and better use to this property, which being situated along a busy thoroughfare may be inappropriate for a single-family detached use.

3. Public benefits of the proposed rezoning

The applicant notes that the landowners will benefit by allowing an appropriate use for the busy corridor, making the property useable in a way consistent with its surrounding and location. That the neighbors will benefit, as the rezoning will preserve the scale and character of the existing fabric, while offering uses more in keeping with its location along a heavily traveled corridor. The property that has remained vacant for a few years can be utilized for a better use with the proposed rezoning while keeping it compatible with the surrounding uses. The site also provides adequate buffer and transition of use and intensity from the busy thoroughfare to the residential neighborhoods to the east.

4. Detriments of the proposed rezoning

The applicant notes that the rezoning will not provide any unfair benefit to the property owners that are not available to surrounding owners. There are no detriments associated with this case since the proposed rezoning intends to retain the residential scale and character of the existing building while rendering a compatible and better use of the property. The impacts on the infrastructure are negligible and justified by its adjacency to an existing similar and compatible use.

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

TRANSPORTATION: Wake Forest Road is classified as a secondary arterial thoroughfare (2005 ADT - 16,900 vpd) and currently exists as a four lane curb and gutter section on 60 feet of right-of-way with sidewalk on one side. City Standards call for Wake Forest Road to provide six travel lanes on 110 feet of right-of-way with curb and gutter and sidewalk on both sides. Glascock Street is classified as a minor thoroughfare and exists as a 36-foot back-to-back curb and gutter section on 46 feet of right-of-way. City standards call for Glascock Street to provide a 53-foot back-to-back curb and gutter section on 80 feet of right-of-way with sidewalks on both sides.

Cedar Street exists as a minor residential street and is constructed to City standards as 26-foot back-to-back curb and gutter section on 60 feet of right-of-way with sidewalk on one side. Neither NCDOT nor the City have any projects scheduled on any of the above mentioned streets within the vicinity of this case.

TRANSIT: This site is within close proximity of **current** bus routes but does not provide an **appropriate** space for a bus stop. No transit easement is needed.

HYDROLOGY: FLOODPLAIN: none
DRAINAGE BASIN: Pigeon House
STORMWATER MANAGEMENT: Part 10, Chapter 9 Stormwater Regulations apply. Downstream flooding complaints have been found on record. No Neuse Riparian Buffers appear to be on the site.

PUBLIC UTILITIES: The proposed rezoning would not impact the wastewater or 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.

PARKS AND RECREATION: This property is not adjacent to any greenway corridors.

WAKE COUNTY PUBLIC SCHOOLS: The maximum number of dwelling units permitted under the proposed zoning would be 8, while the current zoning permits 1 unit. This would result in the following increase in school enrollment: 2 elementary, 1 middle and 1 high school. Base school assignments would be to following schools, operating at the capacities indicated:

Impacts on School Capacity

School name	Current enrollment	Current Capacity	Future Enrollment	Future Capacity
Conn	549	125%	551	126%
Leesville	1,266	105%	1,267	105%
Broughton	2,180	105%	2,181	105%

IMPACTS SUMMARY: The impacts on public services, utilities, infrastructure and other city systems will be negligible, as the structure is currently 2200 square feet in total heated square footage, and the site is approximately 0.22 acre total area.

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.**

The applicant notes that the original use of the residential structures on the block were to provide housing for staff at the old Saint Elizabeth’s hospital. Since then, Wake Forest Road, like other roads in Raleigh’s core area has grown from modest dimensions to a 4-lane road carrying thousands of cars per day. The current SP R-6 zoning on the property allows for only modest scale duplex units or single family. The proposed office uses are more reasonable and appropriate for properties with frontage along this busy thoroughfare. The applicant further notes that there is a need for small-scale

office spaces, which will attract other professionals to this area and help with safety, prosperity, and appearance of the neighborhood.

APPEARANCE

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

CITIZEN'S

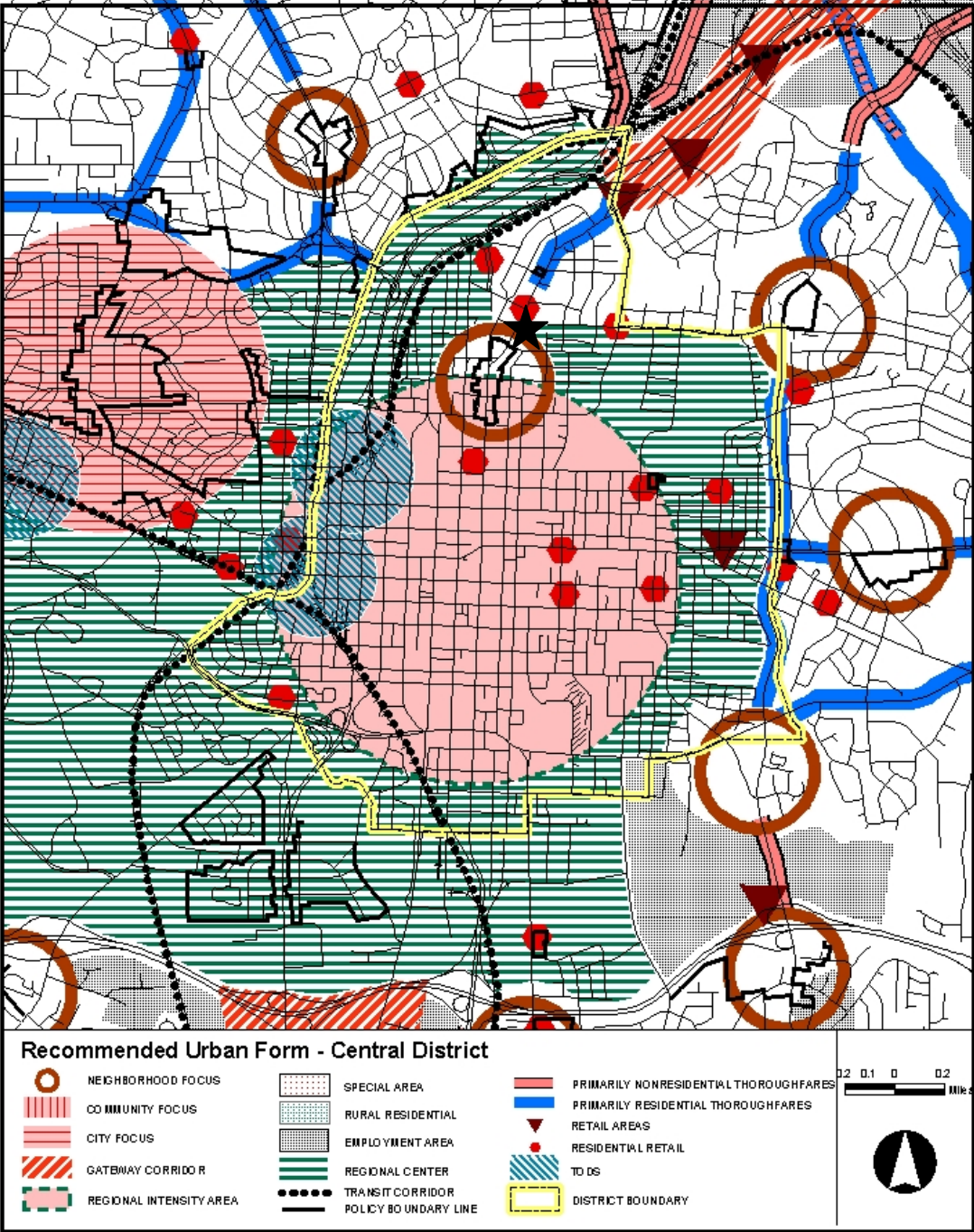
ADVISORY COUNCIL: DISTRICT: Mordecai
CAC CONTACT PERSON: Chris Bradley, 919-832-8029;
Richard Graham-Yooll, 919-386-0272

SUMMARY OF ISSUES:

COMPREHENSIVE PLAN / COMPATIBILITY / ADVERSE IMPACTS:

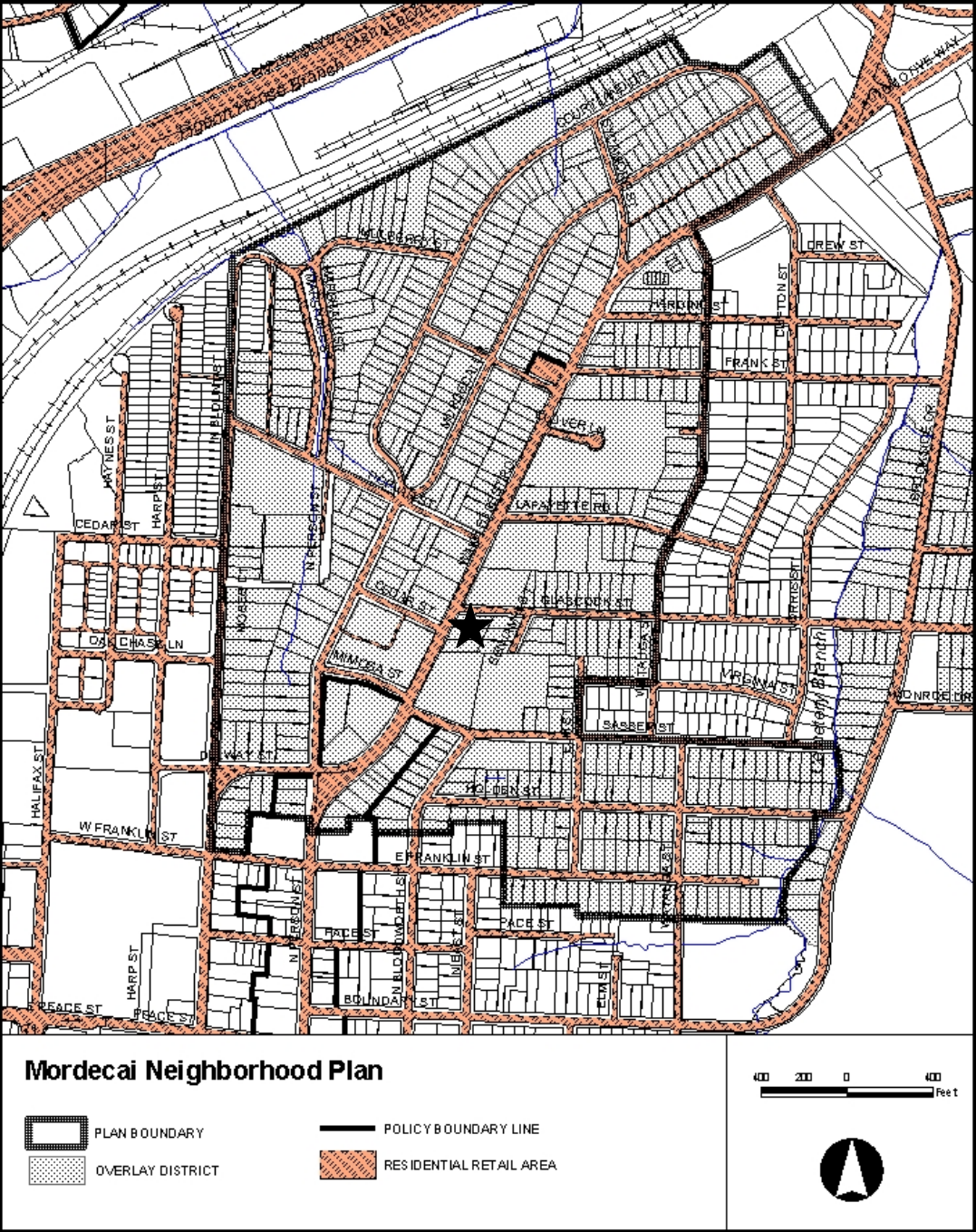
STORMWATER:

- Downstream flooding complaints have been found on record.



4/04 Raleigh Comprehensive Plan

Central District 5-1.F



Mordecai Neighborhood Plan 8-7.4

Raleigh Comprehensive Plan 10/02