

CITY OF RALEIGH

Z-15-09

R-4 w/NCOD

to

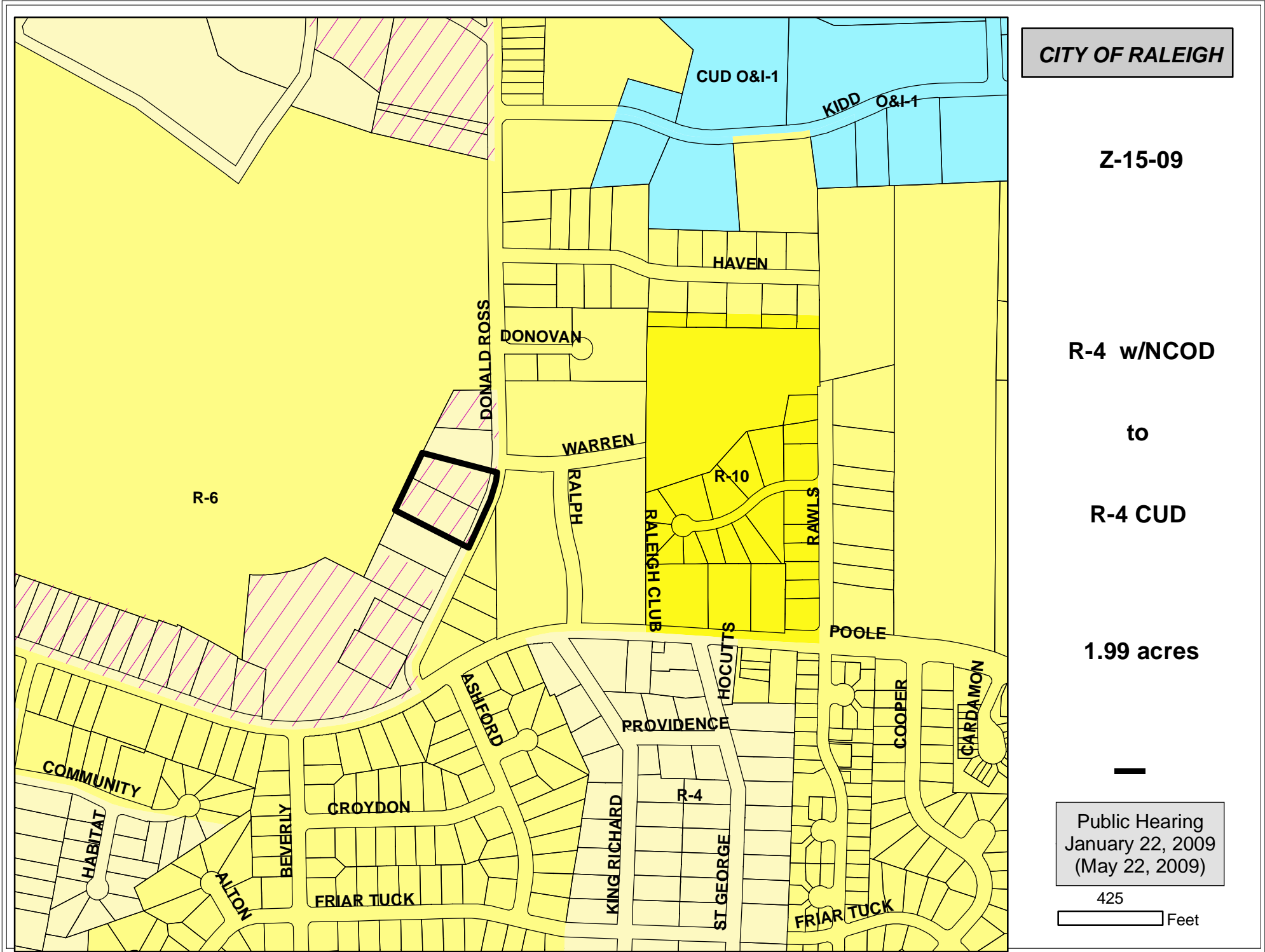
R-4 CUD

1.99 acres

Public Hearing
January 22, 2009
(May 22, 2009)

425

Feet





SEP 19 AM 11:53

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)

Tommy H. Oates

Date:

9/19/08

Please type or print name(s) clearly:

Tommy H. Oates

9/19/08

EXHIBIT B. Request for Zoning Change

Office Use Only
Petition No. <u>2-15-09</u>
Date Filed: <u>9-19-08</u>
Filing Fee: <u>pd 1028 by Clerk #11044</u>

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

See instructions, page 6

Name(s)	Address	Telephone / E-Mail
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1) **Petitioner(s):** Tommy H Oates 3317 Trenton Rd 919-868-8500

Note: Conditional Use District
Petitioner(s) must be owner(s) of
petitioned property.

Raleigh, NC 27607 e_tommy@bellsouth.net

2) **Property**

Owner(s): Elizabeth L Grady 501 E Whitaker Mill Rd 919-839-8669
Raleigh, NC 27608

3) **Contact Person(s):** Tommy H Oates 919 868-6500

Janet Grady PO Box 51823 919-968-0326

Durham, NC 27717 jgrady4211@aol.com

4) **Property**

Description:

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

Wake County Property Identification Number(s) (PIN):
1723069918 and 1723068854

General Street Location (nearest street intersections): 512 & 604 Donald Ross
Drive between intersections w/ Poole Rd & Warren Avenue

5) **Area of Subject**

Property (acres): 0.94A & 1.05A = 1.99A

6) **Current Zoning**

District(s)

Classification:

Include Overlay District(s), if
Applicable

R-4 with the Southern NCOD of the King Charles
Neighborhood Plan

7) **Proposed Zoning**

District

Classification:

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

R-6 CUP

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.

[illegible]

For additional space, photocopy this page.

Office Use Only	
Petition No.	2-15-09
Date Filed:	9-17-08

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 in the East Planning District.
Higher density infill is encouraged which can reduce urban sprawl and enhance the living environment.**

- 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 is located within the King Charles Neighborhood Plan. This plan states: "Encourage appropriate infill development and redevelopment within the neighborhoods consisting of single family homes." 8-20.4

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

The petitioner maintains that the proposed map amendment for R-6 is consistent with the Comprehensive Plan and it's desire for higher density single family infill.

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):**

Currently there are 70 rental units on 11.7 adjacent acres across the street. The house and lot to the left is owned by Raleigh Country Club and is used for golf cart storage. The house to the right is owned by Raleigh Country Club and is being rented. RCC Acquisitions has bought many properties around the golf course and is positioned for redevelopment. Further east on Donald Ross Drive are duplex units.

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

There is R-10, R-6 and R-4 in a (4) four block surrounding area. The largest piece of land is the R-6 Country Club which is also a semi-private park. A Catholic Church is located on the corner of Donald Ross Drive and Poole Road.

- 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 proposed zoning map amendment is compatible with the suitability of the property for residential use as higher density residential infill while matching the zoning behind and in front.

III. Benefits and detriments of the proposed map amendment.

- A. For the landowner(s): The proposed map amendment will allow for the highest and best use of the owner's property while being consistent with the land uses around it.**
- B. For the immediate neighbors: The proposed map amendment will allow an increase in density that will promote upscale housing that will be compatible with improvements that have been done at the Raleigh Country Club. This would increase property values for the immediate neighbors.**
- C. For the surrounding community: This change in zoning could be the jump start to a revitalization of the community around the Raleigh Country Club. The proposed map amendment would lead to increased housing in the downtown area beside the golf course and close to Wake Medical Center which are needs in this area. There are no known detriments of the proposed map amendment.**

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

No The proposed zoning amendment provides the subject property with the same benefits of density which the majority of surrounding properties have.

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

The proposed map amendment is reasonable and in the public interest because it permits the property to be developed in a manner that is consistent with the density of surrounding properties while encouraging single family residences.

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.

The NCDO has not encouraged revitalization efforts that positively affect the neighborhood plan area. The most recent development was duplex units that are rooming houses.

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

The proposed zoning change to the subject property would fill a public need for housing near Wake Medical Center and the downtown area.

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

To the best of the petitioners knowledge there would be no significant impact on public services, facilities, infrastructure, fire and safety, parks and recreation, topography or access to light and air due to the proposed rezoning

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

Avoiding spot zoning is a fundamental purpose of zoning as stated in 4.6 on page (1) one of this petition. The property adjacent, behind and in front of this property is currently R-6 and the NCOD does not apply to them. The adjacent properties on either side have had the NCOD removed. At this point the subject property seems to be spot zoned and the proposed zoning map amendment would negate that.



Certified Recommendation of the City of Raleigh Planning Commission

Case File: **Z-15-09 Conditional Use; Donald Ross Drive**

General Location: This site is located on the west side of Donald Ross Drive, northwest of its intersection with Poole Road.

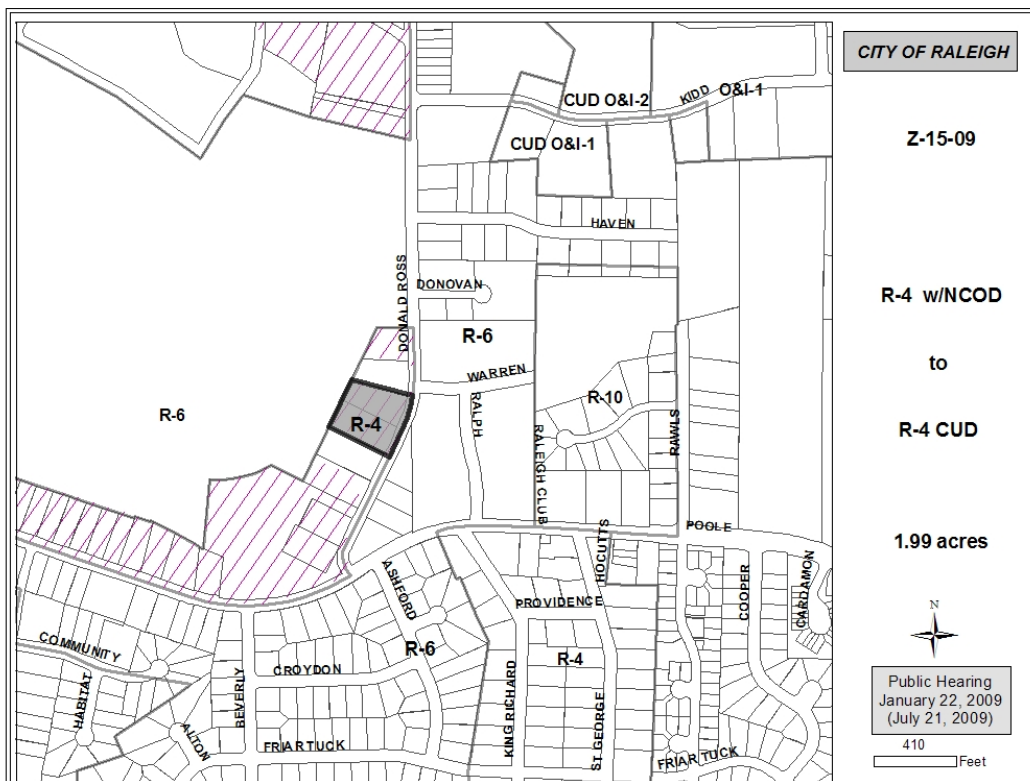
**Planning District
/ CAC:** East / East

Request: Petition for Rezoning from **Residential-4 w/NCOD** to **Residential-4 Conditional Use**.

**Comprehensive Plan
Consistency:** This request is inconsistent with the Comprehensive Plan.

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

Recommendation: The Planning Commission finds that this request is inconsistent with the Comprehensive Plan and based on the findings and reasons of this report should be denied.



CASE FILE: Z-15-09 Conditional Use

LOCATION: This site is located on the west side of Donald Ross Drive, northwest of its intersection with Poole Road.

REQUEST: This request is to rezone approximately 1.99 acres, currently zoned Residential-4 with Neighborhood Conservation Overlay District. The proposal is to rezone the property to Residential-4 Conditional Use.

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

RECOMMENDATION: The Planning Commission finds that this request is inconsistent with the Comprehensive Plan and based on the findings and reasons of this report should be denied.

**FINDINGS
AND REASONS:**

- (1) The request is inconsistent with the Comprehensive Plan. Removal of the King Charles Neighborhood Conservation Overlay District would not be consistent with the guidelines set forth in the Comprehensive Plan.
- (2) The proposal would have very little public benefit. Removal of the NCOD would not be in the best interest of the surrounding neighborhood or community. Properties were included in the NCOD to help conserve and protect the overall character of the neighborhood. Property could be redeveloped as currently zoned.
- (3) Based on the above stated reasons that this request should be denied.

To PC: 1/27/09
Case History: 1/27/09 Referred to COW
5/5/09 COW- Applicant requests time extension
6/2/09 COW
6/7/09 Planning Commission

To CC: 6/16/09 **City Council Status:** _____
Staff Coordinator: Stan Wingo

Motion: Bartholomew
Second: Holt
In Favor: Anderson, Bartholomew, Butler, Chambliss, Fleming, Gaylord, Haq, Harris
Edmisten, Holt, Mullins, Smith, Vance
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: 6/10/09



Zoning Staff Report: Z-15-09 Conditional Use

LOCATION: This site is located on the west side of Donald Ross Drive, northwest of its intersection with Poole Road.

AREA OF REQUEST: 1.99 acres

PROPERTY OWNER: Elizabeth Grady

CONTACT PERSON: Tommy Oates 868-6500

**PLANNING COMMISSION
RECOMMENDATION
DEADLINE:** May 22nd, 2009

ZONING: Current Zoning

Residential-4

Current Overlay District

NCOD

Proposed Zoning

Residential-4 Conditional Use

Proposed Overlay District

None

**ALLOWABLE
DWELLING UNITS:**

Current Zoning

2 dwelling units

Proposed Zoning

6 dwelling units per conditions

**ALLOWABLE OFFICE
SQUARE FOOTAGE:**

Current Zoning

Office uses not permitted.

Proposed Zoning

Office uses not permitted.

**ALLOWABLE RETAIL
SQUARE FOOTAGE:**

Current Zoning

Retail uses not permitted.

Proposed Zoning

Retail uses not permitted.

**ALLOWABLE
GROUND SIGNS:**

Current Zoning

Tract ID Sign

Proposed Zoning

Tract ID Sign

ZONING HISTORY:

This property was rezoned to be included in the King Charles Neighborhood Conservation Overlay in 2004 (Z-73-04)

Southern NCOD

- Minimum lot size: 0.77 acres
- Minimum front yard setback: 76 feet
- Minimum lot width: 144 feet
- Maximum house height: no more than two stories

SURROUNDING

ZONING: NORTH: R-4
SOUTH: R-4
EAST: R-6
WEST: R-6

LAND USE: Single Family

SURROUNDING

LAND USE: NORTH: Single Family
SOUTH: Single Family
EAST: Multi Family Apartments
WEST: Golf Course

DESIGNATED HISTORIC RESOURCES: *This site is not located within a historic district and does not contain any historic landmarks.*

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	East
Urban Form	Residential Suburban
Specific Area Plan	King Charles Neighborhood Plan
Guidelines	N/A

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

This site is located in the East Planning District within an area designated as appropriate for suburban residential. However, the property is also located within the King Charles Neighborhood Plan which outlines building setback, lot size and height. The plan also encourages appropriate infill development while promoting single family, owner occupied housing. With this rezoning proposal the subject properties would be removed from the neighborhood conservation overlay. Retention of the base zoning, Residential-4, ensures single family development.

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

Applicant states that the proposed map amendment is compatible with the suitability of the property for residential use as higher density residential infill while matching the zoning to the rear and in front.

The rezoning proposal would be compatible with surrounding zoning. Properties to the north and south are currently zoned Residential-4 and they were not included within the King Charles NCOD. However, the subject properties are both developable as single family residential under their current zoning classification.

3. Public benefits of the proposed rezoning

Applicant states that the change in zoning could be the jump start to a revitalization of the community around the Raleigh Country Club. The proposed map amendment would lead to increased housing in the downtown area beside the golf course and close to the Wake Medical Center which are needs in this area.

Staff agrees in part with the applicant's assessment. Improved housing development is needed in this area in the form of appropriate infill development. However, this can be accomplished with the current zoning designation while remaining part of the Neighborhood Conservation Overlay District.

4. Detriments of the proposed rezoning

The removal of the King Charles Neighborhood Overlay District will remove neighborhood regulations on setbacks, lot size and building height, all of which help to conserve and protect the overall character of the neighborhood. Removing this overlay could set a precedent and encourage incompatible development in this area.

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

TRANSPORTATION: Donald Ross Drive is classified as a collector street and exists as 2-lane road with a 41-foot back-to-back curb and gutter section within a 60-foot right-of-way. City standards call for Donald Ross Drive to have sidewalk constructed on a minimum of one side within the existing right-of-way. Neither NCDOT nor the City have any projects scheduled on any of these roadways in the vicinity of this case.

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

HYDROLOGY: FLOODPLAIN: None.
DRAINAGE BASIN: Crabtree
STORMWATER MANAGEMENT: Site is subject to Part 10, Chapter 9 – Stormwater Regulations. No buffer. No WSPD.

PUBLIC UTILITIES:

	Maximum Demand on Current Zoning	Maximum Demand on Proposed Zoning
Water	Approx. <u>3,980</u> gpd	Approx. <u>6,965</u> gpd
Waste Water	Approx. <u>3,980</u> gpd	Approx. <u>6,965</u> gpd

The proposed rezoning would add approximately 2,985 gpd to the City's wastewater collection or water distribution systems. There are existing sanitary sewer and water mains located adjacent to the zoning case's boundary.

PARKS AND

RECREATION: This property is not adjacent to a greenway corridor and there is not impact on existing park services in the area.

WAKE COUNTY

PUBLIC SCHOOLS:

There will be very little impact on area public schools. The proposal will increase potential site development by 1 dwelling unit.

School name	Current enrollment	Current Capacity	Future Enrollment	Future Capacity
Oak Grove	865	115.2%	865	115.2%
Dillard Drive	1,167	121.2%	1,167	121.2%
Enloe	368	78.0%	368	78.0%

IMPACTS SUMMARY:

This rezoning request would have very little impact on current infrastructure in this area.

OPTIONAL ITEMS OF DISCUSSION

[Only address if the applicant has]

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.

Applicant states the NCOD has not encouraged revitalization efforts that positively affect the neighborhood plan area. The most recent development was the construction of duplex units that are used as rooming houses.

Staff disagrees with the applicant's assessment, the NCOD was put in place to help preserve and protect the character of the neighborhood.

APPEARANCE

COMMISSION:

This request is not subject to Appearance Commission review.

CITIZENS'

ADVISORY COUNCIL:

DISTRICT: East

CAC CONTACT PERSON: Mark Turner 741-6329

SUMMARY OF ISSUES:

COMPREHENSIVE PLAN / COMPATIBILITY / ADVERSE IMPACTS:

1. Outstanding issues

- Inconsistent with the Comprehensive Plan

