



Certified Recommendation

Raleigh Planning Commission

CR# 11391

Case Information Z-19-10 New Bern Avenue

<i>Location</i>	East of the intersection of New Bern Avenue with I-440.
<i>Size</i>	18.71 acres
<i>Request</i>	Rezone property from Industrial-1 and Neighborhood Business with Special Highway Overlay District-1 to Thoroughfare District Conditional Use with Special Highway Overlay District-1.

Comprehensive Plan Consistency

<i>Future Land Use Designation</i>	Office/Research Development
<i>Applicable Policy Statements</i>	LU 1.3 – Conditional Use District Consistency LU 2.6 – Zoning and Infrastructure Impacts LU 4.5 – Connectivity LU 10.3 – Ancillary Retail Uses

Consistent

Inconsistent

Summary of Conditions

<i>Submitted Conditions</i>	<ul style="list-style-type: none"> • Prohibited uses • Offers of cross access • Residential density limited to 250 units • Commercial limitation of 50,000 sq. ft. • Location of Commercial Uses • Comprehensive Plan Amendment
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Issues and Impacts

<i>Outstanding Issues</i>	<ul style="list-style-type: none"> • Inconsistency with the Comprehensive Plan <ul style="list-style-type: none"> ○ The request is inconsistent with the Future Land Use Map of the Comprehensive Plan. The Office/Research and Development category does not envision substantial retail or any residential uses. As currently conditioned, these uses would be allowed. • Allowance of residential, primary retail uses
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Suggested Conditions and Proposed Mitigation

<i>Suggested Conditions</i>	<ol style="list-style-type: none"> 1. The petitioner may wish to add a condition that would prohibit residential uses on the property. 2. The petitioner may wish to consider a condition that would restrict retail uses on the property.
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Public Meetings

<i>Neighborhood Meeting</i>	<i>Public Hearing</i>	<i>Committee</i>		<i>Planning Commission</i>	
6/4/2010	7/20/2010	10/5/2010	Split Vote	10/12/10	Approval

Valid Statutory Protest Petition

Attachments

1. Staff report
2. Existing Zoning/Location Map
3. Future Land Use

Planning Commission Recommendation

<i>Recommendation</i>	The Commission finds that this case is inconsistent with the Comprehensive Plan, however based on the findings and reasons stated herein, recommends that the case be approved in accordance with zoning conditions dated October 13th, 2010.
<i>Findings & Reasons</i>	<ul style="list-style-type: none"> • The request is compatible with surrounding land uses and development. Adjacent property is zoned Industrial, but primarily developed as single family residential. Industrial uses are located further to the east, and Retail uses to the north along New Bern Avenue. Introducing residential development to this site would be consistent and compatible with this mix of surrounding land uses. • The property has remained undeveloped for a number of years, and has no direct access permitted to New Bern Avenue. These issues have hindered the ability of this property to be developed for office, retail or industrial land uses. • This request is reasonable and in the public interest. It will allow for the introduction of residential uses, which will help facilitate the development of the property. The proposed Thoroughfare District zoning is a more appropriate zoning district for this site.
<i>Motion and Vote</i>	<p>Motion: Mullins Second: Smith</p> <p>In favor: Butler, Haq, Mattox, Mullins, Smith</p> <p>Opposed: Bartholomew, Batchelor, Harris Edmisten, Sterling</p>

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 attached Staff Report.

	Date	10/12/10	Date
Planning Director		Planning Commission Chairperson	

Staff Coordinator: Stan Wingo stan.wingo@raleighnc.gov



Zoning Staff Report – Case Z-19-10

Conditional Use District

Request

<i>Location</i>	East of the intersection of New Bern Avenue with I-440.
<i>Request</i>	Rezone property from Industrial-1 and Neighborhood Business with Special Highway Overlay District-1 to Thoroughfare District Conditional Use with Special Highway Overlay District-1.
<i>Area of Request</i>	18.71 acres
<i>Property Owner</i>	Debnam Properties, LLC
<i>PC Recommendation Deadline</i>	November 17 th , 2010

Subject Property

	<i>Current</i>	<i>Proposed</i>
<i>Zoning</i>	Industrial-1 and Neighborhood Business	Thoroughfare District Conditional Use
<i>Additional Overlay</i>	SHOD-1	SHOD-1
<i>Land Use</i>	Vacant wooded land	All Thoroughfare District Uses except those prohibited by zoning <i>condition (a)</i> .
<i>Residential Density</i>	17 dwelling units (NB portion of site)	250 dwelling units (per zoning conditions)

Surrounding Area

	<i>North</i>	<i>South</i>	<i>East</i>	<i>West</i>
<i>Zoning</i>	NB	IND-1, O&I-1 CUD, SHOD-1	IND-1, NB, R-6	IND-1, SHOD-1
<i>Future Land Use</i>	Office/Research Development, Community Mixed Use	Medium Density Residential	Business Commercial Services	General Industrial, Medium Density Residential, Community Mixed Use
<i>Current Land Use</i>	Retail Uses	Highway Interchange, Multi Family Residential	Single and Multi Family Residential	Highway Interchange, Industrial Uses

Comprehensive Plan Guidance

<i>Future Land Use</i>	Office/Research Development
<i>Area Plan</i>	N/A
<i>Applicable Policies</i>	LU 1.3 – Conditional Use District Consistency LU 2.6 – Zoning and Infrastructure Impacts LU 4.5 – Connectivity LU 4.10 – Development at Freeway Interchanges LU 10.3 – Ancillary Retail Uses EP 2.5 – Protection of Water Features

Contact Information

<i>Staff</i>	Stan Wingo (919)516-2663 stan.wingo@raleighnc.gov
<i>Applicant</i>	Mack Paul (919)743-7326 mack.paul@klgates.com
<i>Citizens Advisory Council</i>	Northeast CAC – Paul Brant (919)875-1114

Overview

The request is to rezone approximately 18.71 acres from Industrial-1 and Neighborhood Business to Thoroughfare District Conditional Use. The property is directly adjacent to the I440/New Bern Avenue interchange. The proposed zoning conditions limit a number of prohibited uses, offers of cross access and a density limitation of 250 residential dwelling units. The rezoning to Thoroughfare District would introduce significant residential development on the subject parcel.

Exhibit C & D Analysis

Staff examines consistency with the Comprehensive Plan, compatibility with the surrounding area, public benefits and detriments of the proposal, and summarizes any associated impacts of the proposal.

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

1.1 Future Land Use

This site is within an area designated as being appropriate for Office/Research and Development land uses. As proposed, this request would be inconsistent with the Future Land Use Map and the policy guidance in the Comprehensive Plan. The Office/Research and Development classification specifically states, “*This category identifies major employment centers where housing is not considered an appropriate future land use.*” This proposal has the potential to introduce as many as 250 residential dwelling units on this site as conditioned. The request would also permit substantial retail, a use not envisioned in the ORD category.

1.2 Policy Guidance

The following policy guidance is applicable with this request

Policy LU 1.3 - Conditional Use District Consistency

All conditions proposed as part of a conditional use district (CUD) should be consistent with the Comprehensive Plan

All conditions currently proposed by the applicant are consistent with the Comprehensive Plan. As proposed, the allowance of residential and retail development on this site is inconsistent with this guidance in the Comprehensive Plan.

Policy LU 2.6 - Zoning and Infrastructure Impacts

Carefully evaluate all amendments to the zoning map that significantly increase permitted density or floor area to ensure that impacts to infrastructure capacity resulting from the projected intensification of development are adequately mitigated or addressed.

While this proposal would limit a significant number of uses compared to the current zoning, it would also introduce a very large increase in permitted residential density. This request has the potential to develop up to 250 residential dwelling units. That is an increase of over 230 units when compared to the 1.73 acres of Neighborhood Business zoning currently which would permit a total of 17 dwelling units. The vast majority of this site is zoned Industrial-1, which does not permit residential land uses.

Policy LU 4.5 - Connectivity

New development and redevelopment should provide pedestrian and vehicular connectivity between individual development sites to provide alternative means of access along corridors.

The request is consistent with this policy. Zoning conditions provide cross access as suggested.

Policy LU 10.3 - Ancillary Retail Uses

Ancillary retail uses in residential and office developments located in areas designated High Density Residential, Office Residential Mixed Use and Office/Research and Development should not be larger in size than is necessary to serve primarily the residents, employees, visitors and patrons of the primary uses in the area, should preferably be located within a mixed-use building, and should be sited to minimize adverse traffic, noise and visual impacts on adjoining residential uses.

The request, as currently proposed, provides for a wide range of allowed uses, including retail. The conditions do not specify a maximum amount of retail for the property. As conditioned, retail could be a primary use on the property.

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

The current zoning on the subject property is primarily Industrial-1 with a portion of Neighborhood Business. The proposal to rezone the property to Thoroughfare District

Conditional Use would remove many Industrial uses as being permitted, but has the potential to introduce as many as 250 multi family dwelling units on the property. The property is primarily surrounded by Industrial zoning to the east and west, with Office and Institution zoning to the south across the I-440 interchange. There are also small sections of Residential-6 zoning to the east as well as Neighborhood Business to the north. The property is bordered by the I-440 interchange to the west and south, the majority of directly adjacent properties are zoned Industrial-1.

The adjacent property to the north is currently developed as a hotel use, and properties to the east are vacant or developed as single family residential. Directly adjacent to the north and west is the I-440/New Bern Avenue interchange. The proposal, as currently conditioned is not compatible with the surrounding area. The majority of the site is bounded by either highway right of way or Industrial zoning. Large scale multi family would not be a suggested use based on surrounding land uses or zoning.

3. Public benefits of the proposed rezoning

There is very little public benefit associated with this request. Some of the allowed uses would be inconsistent with the Comprehensive Plan future land use designation.

4. Detriments of the proposed rezoning

The proposed rezoning has the potential to introduce 250 dwelling units on this site. Access to the site is limited, as all points of access are unimproved, unpaved rural roads, with the exception of Hillcrest which has a rear access point to the adjacent hotel use on New Bern Avenue.

As currently zoned the subject property could be developed in accordance with the Future Land Use guidelines set forth in the Comprehensive Plan. The introduction of residential uses or primary retail uses on this site would be inconsistent with the Comprehensive Plan.

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

5.1 Transportation

New Bern Avenue is classified as a principal arterial (2007 ADT - 49,000 vpd) and exists as a 6-lane median roadway with a curb and gutter section with sidewalk on one side within 140 feet of right-of-way. City standards call for New Bern Avenue to be constructed with 8-lanes with sidewalks on both sides and wide outside lanes for bicycle accommodation. The subject project is located adjacent to the I-440/NCDOT right-of-way. Interstate 440 is classified as a principal arterial and borders the subject property to the south and west. The subject property currently has no existing driveway access onto New Bern Avenue or other streets that intersect the property. The petitioner may wish with describe how the property will be accessed.

By the year 2030 traffic volumes along New Bern Avenue near the subject property are forecasted to increase to 81,737 vehicles per day an increase of 67% over current traffic volume.

Impact Identified: Due to the potential increase in land use intensity associated with the proposed zoning a trip generation report is recommended for this case. Neither NCDOT nor the City have any projects currently scheduled in the vicinity of this case.

5.2 Transit

This request will not have an impact on transit facilities in the area.

Impact Identified: None

5.3 Hydrology

<i>Floodplain</i>	FEMA Floodplain is present
<i>Drainage Basin</i>	Crabtree Creek
<i>Stormwater Management</i>	Subject to Part 10, Chapter 9
<i>Overlay District</i>	

Impact Identified: Neuse River Buffer on site.

5.4 Public Utilities

	<i>Maximum Demand (current)</i>	<i>Maximum Demand (proposed)</i>
<i>Water</i>	221,375 gpd	233,875 gpd
<i>Waste Water</i>	221,375 gpd	233,875 gpd

The proposed rezoning will add approximately 12,500 gpd to the wastewater collection and water distribution systems of the City. There is an existing eight (8") inch sanitary sewer main within an easement on the property and a twenty-four (24") inch water main in New Bern Avenue. The property would use these mains to make connection to the City's public utilities.

5.5 Parks and Recreation

The subject property is not located adjacent to any greenway corridors. The subject property does not increase the recreation level of service in the area.

Impact Identified: None

5.6 Urban Forestry

The proposed rezoning will not adversely affect the overall impact of the tree conservation ordinance on this property.

Impact Identified: None

5.7 Wake County Public Schools

School name	Current Enrollment	Current Capacity	Future Enrollment	Future Capacity
Partnership	331	111.4%	363	122.2%
Moore Square	490	86.9%	509	90.2%
Southeast Raleigh	1,866	92.4%	1,880	93.1%

Impact Identified: There would be potential for an increase in all assigned school populations. The assigned Elementary school could see an increase of over 30 students increasing its capacity level to over 120%.

5.8 Designated Historic Resources

This site is not located within a designated historic district and does not contain any historic landmarks.

Impact Identified: None

5.9 Impacts Summary

There are no known additional impacts to surrounding infrastructure associated with this case.

6. Appearance Commission

This request is not subject to review by the Appearance Commission.

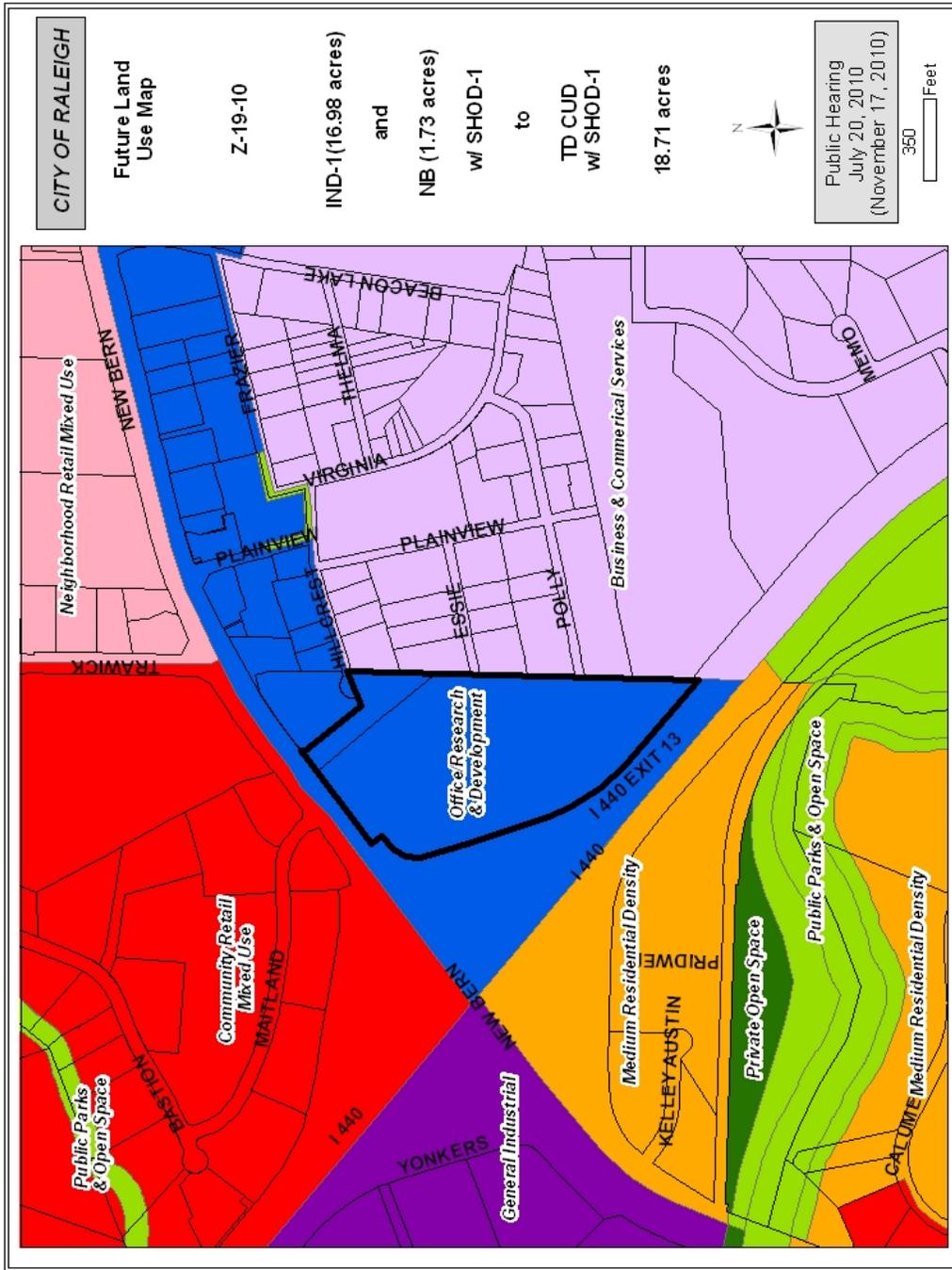
7. Conclusions

This site is within an area designated as being appropriate for Office/Research and Development land uses. As proposed, this request would be inconsistent with the Future Land Use Map and the policy guidance in the Comprehensive Plan. The applicant may wish to consider a prohibition of **residential uses on this property, and limiting retail uses to ancillary, in accordance with policy LU 10.3**. The proposal, as currently conditioned is not compatible with the surrounding area. The majority of the site is bounded by either highway right of way or Industrial zoning. Large scale multi family would not be a suggested use based on surrounding land uses or zoning. As many as 250 dwelling units could be introduced with this request and access to the site is limited.

Existing Zoning



Future Land Use Map



CITY OF RALEIGH

Z-19-10

IND-1(16.98 acres)

and

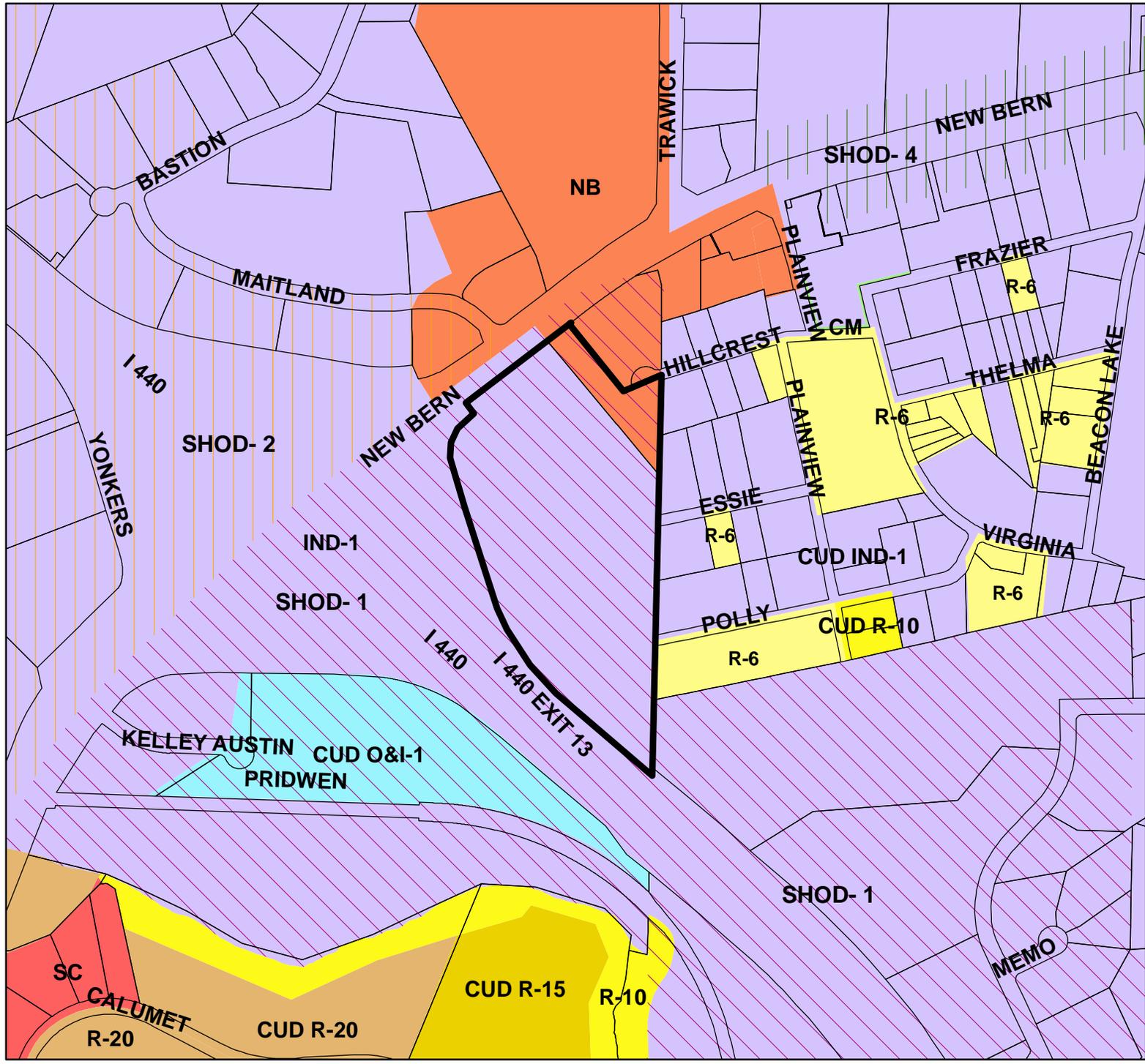
NB (1.73 acres)

w/ SHOD-1

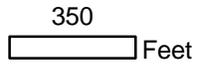
to

**TD CUD
w/ SHOD-1**

18.71 acres



Public Hearing
July 20, 2010
(November 17, 2010)



CITY OF RALEIGH
CITY PLANNING DEPT



2010 APR -9 PM 3:35

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 consistent 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:

4.09.10

Please type or print name(s) clearly:

Mack A. Paul, IV and Michael Birch, Attorneys for the Petitioner

EXHIBIT B. Request for Zoning Change

Office Use Only	
Petition No.	<u>Z-19-10</u>
Date Filed:	<u>4-9-10</u>
Filing Fee:	<u>pol 1028." by CLK# 1107930</u>

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

See instructions, page 9

	Name(s)	Address	Telephone / E-Mail
1) Petitioner(s): Note: Conditional Use District Petitioner(s) must be owner(s) of petitioned property.	<u>Debnam Properties, LLC</u>	<u>2319 Laurelbrook Street</u> <u>Raleigh, NC 27604</u>	
2) Property Owner(s):	<u>Same as above</u>	<u>Same as above</u>	
3) Contact Person(s):	<u>Mack A. Paul, IV and Michael Birch K&L Gates, LLP</u>	<u>P.O. Box 17047</u> <u>Raleigh, NC 27619</u>	<u>(919) 743-7326 and Mack.Paul@klgates.com</u> <u>(919) 743-7314 and Michael.Birch@klgates.com</u>

4) Property Description: Wake County Property Identification Number(s) (PIN): 1724-44-7360 and
Please provide surveys if proposed zoning boundary lines do not follow property lines. 1724-44-9824

General Street Location (nearest street intersections): Southeast quadrant of the intersection of Interstate 440 and New Bern Avenue

5) Area of Subject Property (acres): +/- 18.71 acres

6) Current Zoning District(s)
Classification: Industrial-1 and Neighborhood Business, all with Special Highway Overlay District-1
Include Overlay District(s), if Applicable

7) Proposed Zoning District
Classification: Thoroughfare District – Conditional Use, with Special Highway Overlay District-1
Include Overlay District(s) if Applicable. If existing Overlay District is to remain, please state.

Exhibit B-1

List of Adjacent Property Owners

<u>Name and Address</u>	<u>PIN</u>
VIMAL LLC 3618 New Bern Avenue Raleigh, NC 27610-1233	1724-44-9959
Peggy Mayo Harris 3704 Hillcrest Drive Raleigh, NC 27610-1309	1724-54-2767
Rickey L. Boney 3733 Hillcrest Drive Raleigh, NC 27610-1308	1724-54-2934
HOPCO Construction Co. Inc. 2124 Jarman Drive Raleigh, NC 27604-3611	1724-54-2448
Floyd S. Jr. and Helen L. Johnson 9232 Old Cascade Drive Garner, NC 27529-9785	1724-54-3542
Verlin G. Murray, Jr. P.O. Box 1487 Raleigh, NC 27602-1487	1724-54-2270
Mary Frances Wilkerson 2505 Old Milburnie Road Raleigh, NC 27604-9649	1724-54-3052
Hillcrest Baptist Church 3800 Hillcrest Drive Raleigh, NC 27610-1567	1724-53-5801
Beacon Lake Industrial Commons LLC 5112 Departure Drive Raleigh, NC 27616-1814	1724-63-4609
City of Raleigh P.O. Box 590 Raleigh, NC 27602-0590	1724-52-6228

2-18-10

City of Raleigh P.O. Box 590 Raleigh, NC 27602-0590	1724-52-2200
Wakeridge LLC 500 Spring Garden Street Greensboro, NC 27401-2744	1724-33-9176
Wakeridge LLC 500 Spring Garden Street Greensboro, NC 27401-2744	1724-33-3690
Wakeridge LLC 500 Spring Garden Street Greensboro, NC 27401-2744	1724-33-1347
Lawrence C. & Lori P. Allen PO Box 1838 Goldsboro, NC 27533-1838	1724-23-3771
Carolina Power and Light Company Progress Energy Inc. Real Est. Mgr. Progress Energy Building 411 Fayetteville Street Mall Raleigh, NC 27601-1748	1724-24-8007
Tri Point Land LLC 1204 Shining Water Lane Raleigh, NC 27614-7270	1724-24-7496
Paris Golf Development Co. 6232 Rushingbrook Drive Raleigh, NC 27612-6542	1724-14-7666
Mark Adler 3410 Yonkers Road Raleigh, NC 27604-3656	1724-24-6864
Tower Improvements LLC DLC Management Corp. 580 White Plains Road, Floor 3 Tarrytown, NY 10591-5198	1724-45-8973
Beacon Properties Inc. c/o Oh Brians of Raleigh 1905 D2 Ashwood Court Greensboro, NC 27455	1724-45-5199

2-19-10

Rong Hua LLC 310 Barthel Drive Cary, NC 27513-1736	1724-45-3033
Stavros of Wake County LLC 5013 Knob View Trail Winston-Salem, NC 27104-5122	1724-35-9035
Motel 6 Operating Limited Partnership 4001 International Parkway Carrollton, TX 75007-1914	1724-35-5019
Storage Trust Properties LP Dept-PT-NC 28064 PO Box 25025 Glendale, CA 91221-5025	1724-35-1257

EXHIBIT C. Request for Zoning Change

Office Use Only
Petition No. <u>Z-19-10</u>
Original Date Filed: _____
Amended Date: <u>11/3/10</u>

Please use this form only – form may be photocopied – please type or print. See instruction, page 8.

1) Conditional Use Zone Requested: Thoroughfare District

2) Narrative of conditions being requested:

As used herein, the “Property” refers to those certain tracts or parcels of land containing approximately 18.71 acres located in the southeast quadrant of the intersection of Interstate 440 and New Bern Avenue in Raleigh, North Carolina, having Wake County PIN 1724-44-7360 (described in deed recorded at Deed Book 11830, Page 1286) and 1724-44-9824 (described in deed recorded at Deed Book 12133, Page 2356).

(a) The following uses shall be prohibited upon the Property:

- adult establishment
- airfield or landing strip
- bar, nightclub, tavern or lounge
- correctional/penal facility
- riding stable
- pawn shop
- rifle range – indoor
- landfill
- movie theater – indoor and outdoor



(b) Prior to map recordation or issuance of a building permit, whichever shall first occur, the owner of the Property shall cause to be recorded in the Wake County Registry a offer of cross-access establishing vehicular and pedestrian access over the Property in favor of the owner(s) of all or any portion of the property abutting the eastern boundary of the Property with Wake County Parcel Identification Number 1724-44-9959 and is described by deed recorded at Deed Book 8475, Page 607 of the Wake County Registry.

(c) For the purposes of calculating the amount of residential density allowed on the Property, no more than two hundred and fifty (250) dwelling units, equivalent dwelling units or combination thereof shall be constructed on the Property.

(d) The maximum amount of floor area gross dedicated to commercial land uses, as listed in the Schedule of Permitted Land Uses in Zoning Districts, shall not exceed 50,000 square feet.

(e) Any commercial use, as listed in the Schedule of Permitted Land Uses in Zoning Districts, shall be located no further than 800 feet from the New Bern Avenue public right-of-way.

I acknowledge that these restrictions and conditions are offered voluntarily and with knowledge of the guidelines stated on Page 9 through 13 of the Zoning Application Instructions.

Note: if additional space is necessary, attach extra page(s) of Exhibit C signed and dated by all property owners

Debnam Properties, LLC

By: [Signature]

Date: 11/3/10

Printed Name: C. Dean Debnam

Title: Manager

EXHIBIT C. Request for Zoning Change

Office Use Only
Petition No. <u>2-19-10</u>
Original Date Filed: _____
Amended Date: <u>11/3/10</u>

Please use this form only – form may be photocopied – please type or print. See instruction, page 8.

pg 2 of 2

(f) Within 10 business days following the approval of this rezoning ordinance, the Property owner will cause to be filed a Comprehensive Plan Amendment petition for the area described as “Area A” on the attached “Exhibit 1.”

(g) The owner of the Property shall cause to be recorded in the Wake County Registry a restrictive covenant that allocates allowable residential dwelling units and commercial square footage upon the subject property to all existing lots of record comprising the Property. Such restrictive covenant shall be submitted to the City Attorney within 30 days following approval of this rezoning case by the City Council and shall be approved by the City Attorney or his designee prior to recordation. Such restrictive covenant shall provide that it may be amended or terminated only with the prior written consent of the City Attorney or his designee, which consent shall not be unreasonably withheld.

(h) For any site plan (or that site plan, when considered with other site plans approved for other portions of the Property) that proposes development that would generate more than 2000 daily vehicle trips according to the most recent edition of the Institute of Transportation Engineers' Trip Generation manual, such site plan shall require approval by the Planning Commission, which shall ensure: (1) that the site plan complies with Raleigh City Code section 10-2132.2(d), and (2) the adequacy of the then-existing street network.

I acknowledge that these restrictions and conditions are offered voluntarily and with knowledge of the guidelines stated on Page 9 through 13 of the Zoning Application Instructions.

Note: if additional space is necessary, attach extra page(s) of Exhibit C signed and dated by all property owners

Debnam Properties, LLC

By: *C. Debnam*

Date: 11/3/10

Printed Name: C. Debnam Debnam

Title: Manager

EXHIBIT 1

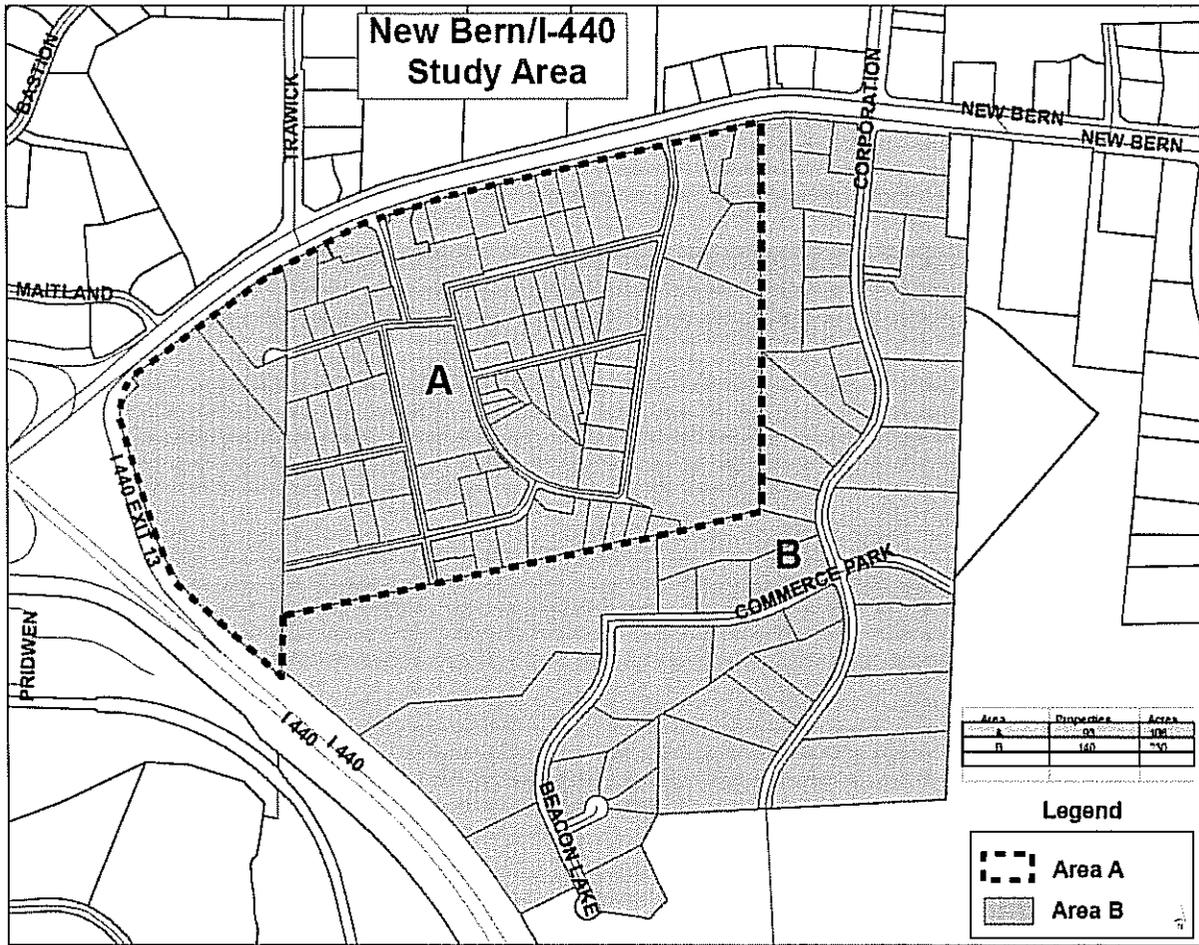


EXHIBIT D. Petitioner's Argument on Behalf of The Zoning Change Requested

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 the recommended land use(s) for this property as shown on the Future Land Use Map and discuss the consistency of the proposed land uses:

The subject properties are designated "Office Research and Development" on the Future Land Use Map. According to the Land Use Element of the Comprehensive Plan, the Office and Research Development category recommends such principal uses as office parks, free-standing office buildings, banks, research and development uses, hotels, flex space, and office-distribution uses. This element also notes that many of these areas are currently zoned Thoroughfare District. The land uses permitted by the proposed zoning district (Thoroughfare District) are consistent with those recommended by the Future Land Use Map and Comprehensive Plan.

B. Please state whether the subject property is located within any Area Plan or other City Council-adopted plans and policies and discuss the policies applicable to future development within the plan(s) area.

The subject properties are not located within any Area Plan or other City Council-adopted plan.

- C. Is the proposed map amendment consistent or inconsistent with the Comprehensive Plan and other City Council-adopted plans and policies? All references to Comprehensive Plan policies should include both the policy number (e.g. LU 4.5) and short title (e.g. "Connectivity").**

The proposed map amendment is consistent with the Comprehensive Plan. Specifically, the proposed map amendment complies with Policy LU 1.2 "Future Land Use Map and Zoning Consistency" and Policy LU 1.3 "Conditional Use District Consistency" because the land uses permitted by the Thoroughfare District coincide with land uses encouraged by the Office and Research Development future land use category, and the proposed zoning conditions are consistent with the Comprehensive Plan. Also, the proposed map change is consistent with Policy LU 4.10 "Development at Freeway Interchanges" because the property abuts a primary arterial, but will gain access from an existing driveway and series of collector streets, thereby limiting driveway connections to the thoroughfare. Policy LU 11.1 "Preserving Industrial Land" and Policy LU 11.4 "Rezoning/Development of Industrial Areas" are satisfied by the proposed map amendment because the subject properties are located at the intersection of two major transportation corridors and the Thoroughfare District permits the light industrial uses that these policies attempt to protect, while prohibiting development of more intense industrial uses that cannot be supported by existing infrastructure and are inconsistent with the Future Land Use Map.

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 subject properties are bounded on the west by Interstate 440 (primary arterial) and to the north by New Bern Avenue (primary arterial; multi-modal corridor). The subject properties are accessed from Plainview Drive, a collector street. A hotel and gas station are located east along New Bern Avenue, with surface parking lots abutting the street. Also to the east of the subject properties are single family dwellings, vacant lots, and institutional uses. Vacant land and a manufacturing use are located to the south of the subject properties, east of Interstate 440. The Tower Shopping Center and many other commercial/retail uses with large surface parking lots are located to the north of the subject properties, across New Bern Avenue. Apartment complexes are located west of the subject properties, across Interstate 440.

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

Properties to the east are zoned Neighborhood Business, Industrial-1 Conditional Use and Residential-6. Properties to the south are zoned Industrial-1 with Special Highway Overlay District-1. Properties to the west, across Interstate 440 are zoned Office & Institution-1 Conditional Use with Special Highway Overlay District-1, Industrial-1 with Special Highway Overlay District-1, Residential-15 Conditional Use and Residential-20 Conditional Use. Properties to the north, across New Bern Avenue, are zoned Neighborhood Business and Industrial-1.

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 particular uses because the proposed zoning map amendment prohibits those heavy industrial uses that are no longer viable on the property given the access and infrastructure issues, while permitting light industrial and other uses that can take advantage of the location of the subject properties at a freeway interchange. Also, the topography and environmental aspects lend the subject properties to these types of nonresidential uses or residential uses. The proposed map amendment is also compatible with the character of the surrounding area, in that the proposed map amendment permits residential and nonresidential uses, and the subject properties are surrounded by commercial uses to the north and northeast, and adjacent to properties that are vacant or developed for low to medium residential uses although zoned for nonresidential uses. Given the site constraints, topography and access limitations, the residential and nonresidential uses that could practically be developed on the subject properties would be compatible with the suitability of the property and the character of the surrounding area.

III. Benefits and detriments of the proposed map amendment.

A. For the landowner(s):

The proposed map amendment benefits the landowner by opening up the possibility that the subject property zoned Industrial-1 can be developed for residential land uses.

B. For the immediate neighbors:

The proposed map amendment benefits immediate neighbors by prohibiting the more intense industrial uses permitted under the current zoning that would be incompatible with the existing infrastructure, surrounding land uses and the Future Land Use Map.

C. For the surrounding community:

The proposed map amendment benefits the surrounding community by prohibiting the more intense industrial uses permitted under the current zoning, while still permitting those that can contribute to the City's economy and be consistent with the Future Land Use Map. Also, the proposed map amendment will benefit the surrounding community by facilitating development of this currently vacant and underutilized property, thereby increasing the City's tax base.

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

No, the rezoning of this property does not provide a significant benefit which is not available to surrounding properties. Many of the surrounding properties are currently zoned Industrial-1, which allows the most intense land uses. For the parcel currently zoned Industrial-1, the proposed rezoning represents a down-zoning of the property, in that the proposed zoning district permits fewer nonresidential land uses than the current zoning district.

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

The subject properties are located in close proximity to a freeway interchange, but have limited-to-no access onto New Bern Avenue; therefore, many of the intense industrial uses are not appropriate for that site. Moreover, such intense industrial uses are not compatible with the surrounding uses, particularly those to the east. The proposed map amendment is reasonable and in the public interest because it prohibits these intense industrial uses while still preserving the potential to develop the subject properties for uses recommended by the Office and Research Development category.

V. Recommended items of discussion (where applicable).

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

This recommended item of discussion is 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.**

This recommended item of discussion is not applicable.

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

This recommended item of discussion is not applicable.

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

This recommended item of discussion is not applicable.

- e. How the rezoning advances the fundamental purposes of zoning as set forth in the N.C. enabling legislation.**

The proposed map amendment advances the fundamental purposes of zoning as set forth in the state enabling legislation by rezoning the subject properties to a zoning district consistent with the Future Land Use Map category and applicable Comprehensive Plan policies and by permitting the development of the subject properties for uses compatible with surrounding uses.

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

There are no other arguments on behalf of the requested map amendment at this time.