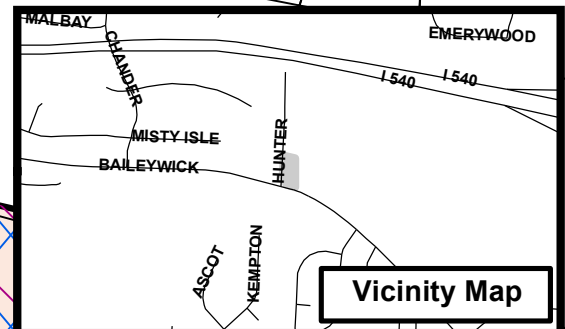
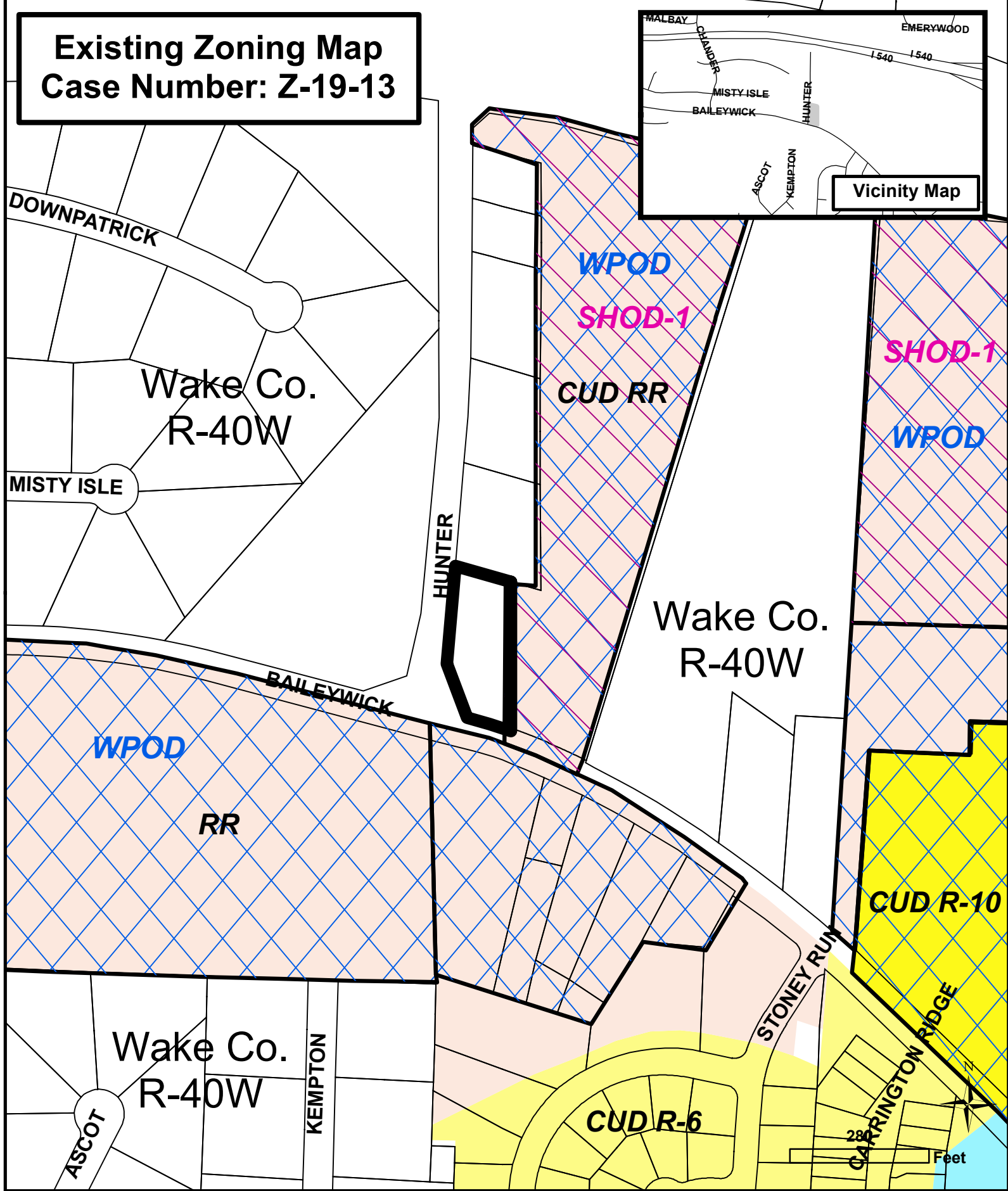


**Existing Zoning Map
Case Number: Z-19-13**



Request:

0.83 ac from Wake County R-40W to RR w/WPOD

City of Raleigh Public Hearing
April 16, 2013



Certified Recommendation

Raleigh Planning Commission

CR# 11532

Case Information Z-19-13 Baileywick Rd and Hunter Rd

<i>Location</i>	Northside, northeast quadrant of its intersection with Hunter Road
<i>Request</i>	Rezone property from Wake County R-40 W to RR w/ WPOD
<i>Area of Request</i>	0.83 acres
<i>Property Owner</i>	Elizabeth and Cynthia Hunter
<i>Applicant</i>	Travis Crane, 919-996-2556
<i>Citizens Advisory Council</i>	NA (outside of city limits, to be annexed into North CAC limits)
<i>PC Recommendation Deadline</i>	July 15, 2013

Comprehensive Plan Consistency

The rezoning case is ☒ **Consistent** ☐ **Inconsistent** with the 2030 Comprehensive Plan.

Future Land Use Map Consistency

The rezoning case is ☐ **Consistent** ☐ **Inconsistent** with the Future Land Use Map. ☒ **NA**

Comprehensive Plan Guidance

<i>FUTURE LAND USE</i>	NA (outside of city limits)
<i>CONSISTENT Policies</i>	LU 2.6 Zoning and Infrastructure Impacts PU 1.4 Addressing Insufficient Utilities Policy PU 2.1 Utility Service Extension Outside the City Policy PU 2.2 Utility Extension Beyond Raleigh's Jurisdiction Policy PU 2.3 Emergency Utility Extension Policy PU 2.4 Water and Sanitary Sewer Installation Policy PU 3.12 Water Service Adequacy
<i>INCONSISTENT Policies</i>	NA

Summary of Proposed Conditions

1. NA for general use case

Public Meetings

<i>Neighborhood Meeting</i>	<i>Public Hearing</i>	<i>Committee</i>	<i>Planning Commission</i>
NA	April 16, 2013	Date: Action	Date: 4/23/13 Approved

☐ **Valid Statutory Protest Petition**

Attachments

1. Staff report

Planning Commission Recommendation

<i>Recommendation</i>	The Planning Commission finds that the proposed rezoning is consistent with the Comprehensive Plan and recommends that this request be approved.
<i>Findings & Reasons</i>	<ol style="list-style-type: none">1. That the request is consistent with several policies of the Comprehensive Plan that address insufficiencies in water and sewer lines that threaten health, safety, and quality of life.2. That the request meets the criteria that justify emergency utility service extension to a property under imminent public health and safety threat.3. That the property is located just outside of the Falls Lake Watershed Plan area designated for Rural Residential w/ watershed restrictions. Therefore, the proposed Rural Residential w/ Watershed Protection Overlay District is compatible with all its surrounding properties.4. That the property was recently annexed into the City limits effective April 16, 2013 that requires the City to place an appropriate zoning category on the property within 60 days. The proposed rezoning serves to meet that requirement.5. That the request is reasonable and in the public interest as it protects and safeguards a property under imminent health and safety threat.
<i>Motion and Vote</i>	Motion: Mattox Second: Braun In favor: Braun, Butler, Buxton, Edmisten, Fleming, Fluhrer, Mattox, Schuster, Sterling-Lewis and Terando

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.

_____ Planning Director	_____ Date	_____ Planning Commission Chairperson	<u>4/23/13</u> Date
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Staff Coordinator: Dhanya Sandeep dhanya.sandeep@raleighnc.gov



Zoning Staff Report – Case Z-19-13

General Use District

Case Summary

Overview

The site is located to the north of Baileywick Road, in the northeast quadrant of its intersection with Hunter Road. The property is located outside of Raleigh's ETJ, in Wake County limits and zoned Wake County R-40W. The property is adjacent to, but not included in the Falls Lake Watershed Protection Overlay area that lies between Strickland Road and I-540. All properties to the immediate north and south of Baileywick Road within Raleigh's ETJ are zoned Rural Residential with WPOD. The remaining properties outside Raleigh's ETJ are zoned Wake County R-40W which allows 1 DU/acre.

Wake County R-40W District allows low-density residential development, as either single-family detached or attached dwellings on separate lots. R-40W zoning applies only to land within the watershed of an existing or planned source of public drinking water, and only to that part of the watershed beyond its critical area (generally beyond 1/2 mile plus 300 feet from the water supply source's flood pool elevation). Its standards are intended to ensure that residential development (and limited nonresidential development) occurs at intensities low enough to minimize pollution of the water supply source from stormwater runoff.

The proposed rezoning seeks to apply Rural Residential zoning and Watershed Protection Overlay District which are consistent and compatible to the adjacent properties and general area. Few of the properties to the north of Baileywick Road were brought into the City's ETJ in 2002. Few other properties including the subject property opted to remain in County limits served by private well and septic. The subject property, which was served by a well which has now dried up, has been without water supply for more than a month. The applicant has filed an emergency with the City requesting to be annexed and served by city water and sewer services.

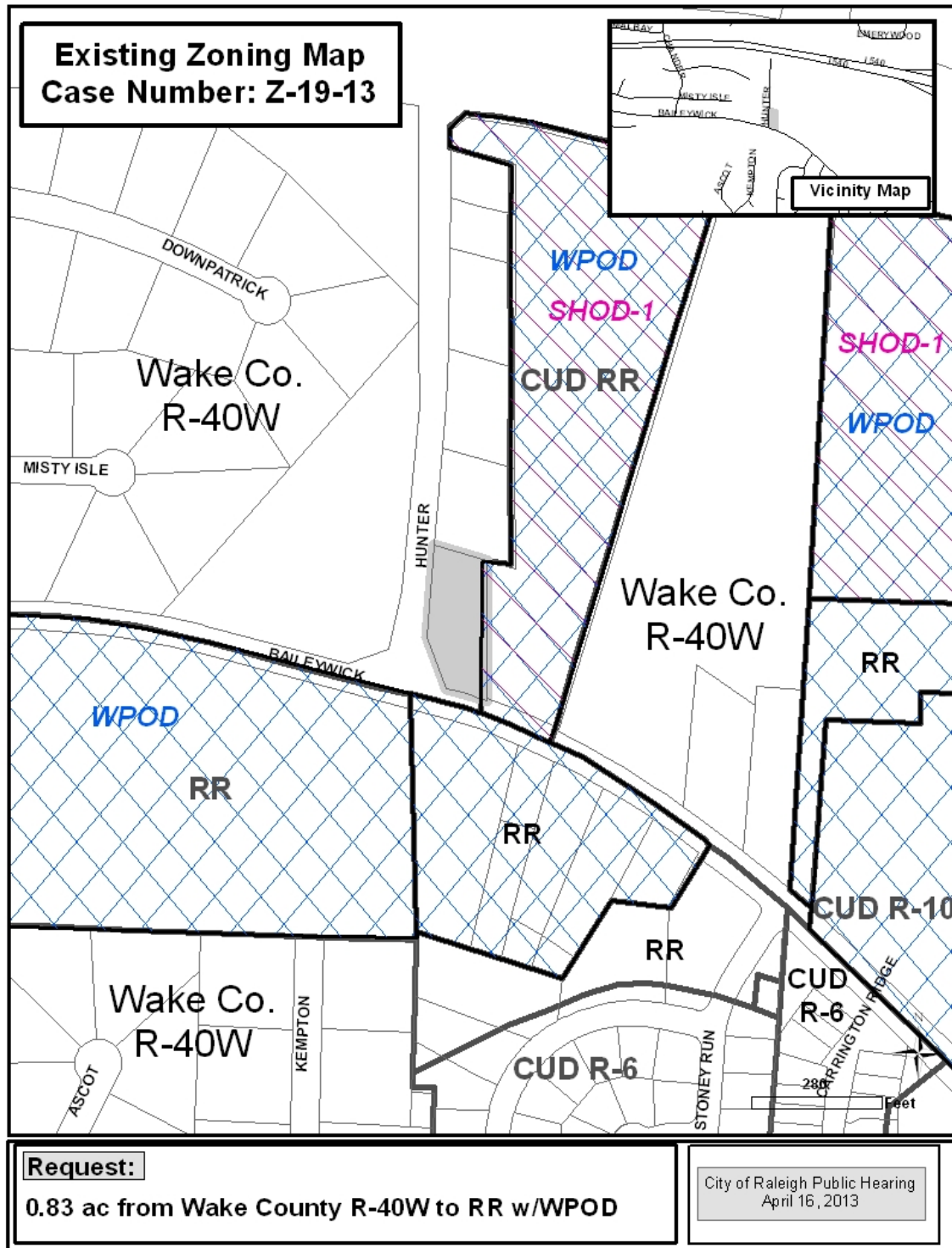
The city-initiated rezoning petition and annexation petition were heard at April 16th public hearing. The city has initiated the rezoning request, as obligated to protect the health and safety of the Raleigh property owner. Without needed connection to a water supply source, the property remains under imminent health and safety threat.

The annexation request for the property was approved by City Council as of April 16, 2013. Per State regulations, the City is obligated to place an appropriate zoning on the property within 60 days of the effective date of annexation.

Outstanding Issues

<i>Outstanding Issues</i>	NA	<i>Suggested Mitigation</i>	NA
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ZONING REQUEST



Rezoning Case Evaluation

1. Compatibility Analysis

1.1 Surrounding Area Land Use/ Zoning Summary

	Subject Property	North	South	East	West
<i>Existing Zoning</i>	Wake County R-40W	Wake County R-40W	Rural Residential	Rural Residential	Wake County R-40W
<i>Additional Overlay</i>	NA	NA	WPOD	WPOD	NA
<i>Future Land Use</i>	NA	NA	Public Facilities, Rural Residential	Institutional, Rural Residential	NA
<i>Current Land Use</i>	Single-family home	Single-family home	Single-family home	School	Single-family home

1.2 Current vs. Proposed Zoning Summary

	Existing Zoning	Proposed Zoning
<i>Residential Density:</i>	1 DU	1 DU
<i>Setbacks:</i>		
<i>Front:</i>	30 feet	40 feet
<i>Side:</i>	15 feet	10 feet
<i>Rear:</i>	30 feet	30 feet
<i>Retail Intensity Permitted:</i>	Not permitted	Not permitted
<i>Office Intensity Permitted:</i>	Not permitted	Not permitted

The proposed rezoning is:

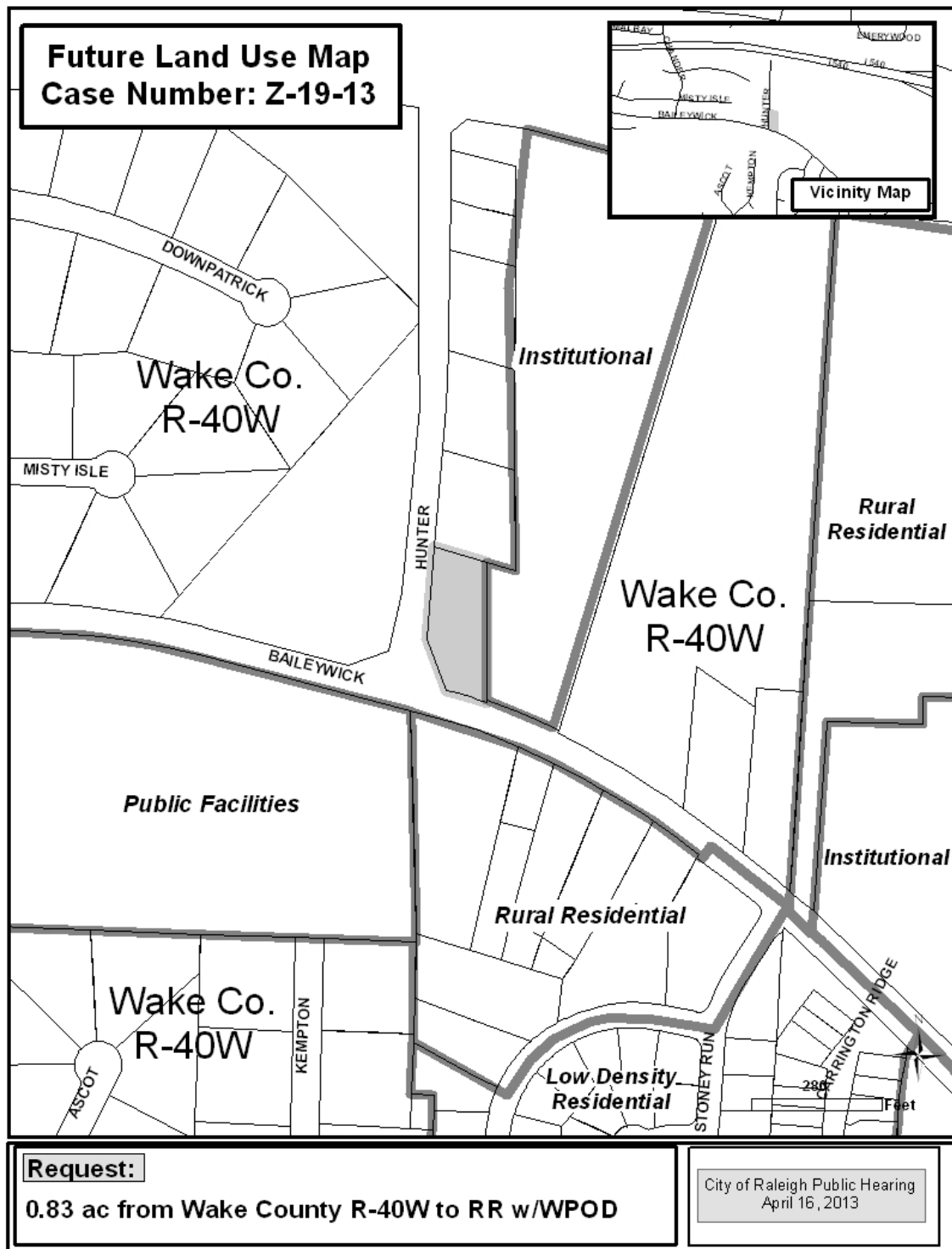
☒ **Compatible** with the property and surrounding area.

☐ **Incompatible.**

Analysis of Incompatibility:

NA

FUTURE LAND USE MAP



2. Comprehensive Plan Consistency Analysis

2.1 Future Land Use

Future Land Use designation:

The rezoning request is:

☒ **NA**

☐ **Consistent** with the Future Land Use Map.

☐ **Inconsistent**

Analysis of Inconsistency:

NA

2.2 Policy Guidance

The rezoning request is **inconsistent** with the following policies:

NA

2.3 Area Plan Policy Guidance

The rezoning request is **inconsistent** with the following Area Plan policies:

NA

3. Public Benefit and Reasonableness Analysis

3.1 Public Benefits of the Proposed Rezoning

- Protect the imminent health and safety of a Raleigh resident who has been without water for more than a month
- Provide a resolution to an emergency issue that poses an imminent health issue for the property owner

3.2 Detriments of the Proposed Rezoning

NA

4. Impact Analysis

4.1 Transportation

<u>Primary Streets</u>	<u>Classification</u>	<u>2009-2012 NCDOT Traffic Volume (ADT)</u>	<u>2035 Traffic Volume Forecast (CAMPO)</u>			
Baileywick Road	Minor Thoroughfare	5,381	15,730			
Street Conditions						
<u>Baileywick Road</u>	<u>Lanes</u>	<u>Street Width</u>	<u>Curb and Gutter</u>	<u>Right-of-Way</u>	<u>Sidewalks</u>	<u>Bicycle Accommodations</u>
Existing	2	30'	None	60'	None	None
City Standard	2	53'	Yes	80'	minimum 5' sidewalks on both sides	None
Meets City Standard?	Yes	No	No	No	No	Yes
Expected Traffic Generation [vph]	<u>Current Zoning</u>	<u>Proposed Zoning</u>	<u>Differential</u>			
AM PEAK	N/A	N/A	N/A			
PM PEAK	N/A	N/A	N/A			
Suggested Conditions/ Impact Mitigation:		Traffic Study Determination: Staff received a trip generation waiver request for Z-19-13 due to the nature of the zoning change. The waiver request has been approved.				
Additional Information:	Neither NCDOT nor the City of Raleigh has any roadway construction projects scheduled in the vicinity of this case.					

Impact Identified: none

4.2 Transit

This area is not currently served by transit. Neither the CAT Short Range Plan nor the Wake County 2040 Transit Plan identify it as a transit corridor therefore no transit improvements are requested.

Impact Identified: None

4.3 Hydrology

<i>Floodplain</i>	None present
<i>Drainage Basin</i>	Falls Lake

<i>Stormwater Management</i>	Subject to Part 10, Chapter 9
<i>Overlay District</i>	(Falls Lake) Watershed Protection Overlay District

Impact Identified: Site is subject to Falls Lake Watershed regulations regarding impervious restrictions and water quality (nitrogen and phosphorous loading) regulations under Part 10 Chapter 10 of Raleigh City code.

4.4 Public Utilities

	<i>Maximum Demand (current)</i>	<i>Maximum Demand (proposed)</i>
<i>Water</i>	625 gpd	625 gpd
<i>Waste Water</i>	625 gpd	625 gpd

Impact Identified: The proposed rezoning would not impact the City of Raleigh's wastewater collection or water distribution systems. There are currently sanitary sewer and water mains within the Baileywick Road right-of-way which would serve the property.

4.5 Parks and Recreation

Impact Identified: None

4.6 Urban Forestry

WPOD will require at least 40% of the area is to be set aside for trees, either by preserving wooded areas or planting in accordance with 10-10021 (g).

Impact Identified: None

4.7 Designated Historic Resources

There are no historic resources on this site.

Impact Identified: None

4.8 Community Development

Impact Identified: None

4.9 Appearance Commission

This request is not subject to Appearance Commission review.

4.10 Impacts Summary

None

4.11 Mitigation of Impacts

NA

Conclusions

The subject property is located outside of the city's ETJ limits, adjacent to the Falls Lake Secondary Watershed area that lies between Strickland Road and I-540. The property is within Wake County limits which was served by a private well, and has been without water supply for more than a month subsequent to the well drying up. The property owner has requested the city to annex and rezone the property so it can be connected to city water and sewer services. The rezoning request to Rural Residential is consistent with the Comprehensive Plan policies and compatible to the surrounding as the area is predominantly zoned RR and Wake County R-40W (which is equivalent to Raleigh's RR). The request also meets the public benefit in that it provides relief to a resident whose health is endangered due to lack of connection to a water supply, a basic need for every property owner's survival.



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:
 - a. to lessen congestion in the streets;
 - b. to provide adequate light and air;
 - c. to prevent the overcrowding of land;
 - d. to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements;
 - e. to regulate in accordance with a comprehensive plan;
 - f. to avoid spot zoning; and
 - g. 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.

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. All property owners must sign below for conditional use requests.

ALL CONDITIONAL PAGES MUST BE SIGNED BY ALL PROPERTY OWNERS

Signature(s) 

Print Name Kenneth Bowers

Date 2-20-13

EXHIBIT B. Request for Zoning ChangePlease use this form only – form may be photocopied. Please type or print. See instructions in *Filing Addendum***Contact Information**

	Name(s)	Address	Telephone/Email
Petitioner(s)	City of Raleigh	PO box 590	919-996-2656
(for conditional use requests, petitioners must own petitioned property)		Raleigh, NC	
Property Owner(s)	Elizabeth Hunter and Cynthia Hunter	9336 Baileywick Rd Raleigh, NC 27615	
Contact Person(s)	Travis Crane	PO Box 590 Raleigh, NC	919-996-2556

Property information

Property Description (Wake County PIN)	0798969339
Nearest Major Intersection	Baileywick Rd and Hunter Rd
Area of Subject Property (in acres)	0.83
Current Zoning Districts (include all overlay districts)	Wake County R-40W
Requested Zoning Districts (include all overlay districts)	RR w/ WPOD

EXHIBIT B. Request for Zoning Change

Please use this form only – form may be photocopied. Please type or print. See instructions in *Filing Addendum*

The following are all of the persons, firms, property owners, associations, corporations, entities or governments owning property adjacent to and within one hundred feet (excluding right-of-way) of the property sought to be rezoned. Please include Wake County PINs 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. If you need additional space, please copy this form.

Name	Street Address	City/State/Zip	Wake Co. PIN
0798959941			
DUNN, SOPHIA JENKINS HEIRS			
9337 BAILEYWICK RD			
RALEIGH NC 27615-1910			
0798962034			
WAKE COUNTY BOARD OF EDUCATION			
RE SERVICES DIRECTOR			
1551 ROCK QUARRY RD			
RALEIGH NC 27610-4145			
0798967507			
DULL, REBA & ARTHUR ECHOLS			
9408 BAILEYWICK RD			
RALEIGH NC 27615-1911			
0798969339			
HUNTER, ELIZABETH WOOD HUNTER, CYNTHIA FRANCINE			
9336 BAILEYWICK RD			
RALEIGH NC 27615-1909			
0798969632			
BURTON, SHAWN & AUDREY B			
9613 HUNTER RD			
RALEIGH NC 27615-1881			
1708051919			
MRE 10 LLC			
106 E LAURENBROOK CT			
CARY NC 27518-6844			
1708072123			
MAGELLAN EDUCATION FOUNDATION INC			
9324 BAILEYWICK RD			
RALEIGH NC 27615-1909			
0798959941			

FILING ADDENDUM: Instructions for filing a petition to amend the official Zoning Map of the City of Raleigh, North Carolina

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. **The property is currently not in the City Limits or ETJ, therefore there is no Future Land Use designation for the property. Nearby property in the ETJ is designated for Rural Residential development.**
- B. **The property is adjacent to but not included in the Falls Lake Small Area Plan. This plan was prepared in conjunction with Wake County when the County offered the City jurisdiction of the portion of the Falls Lake Secondary Watershed that lies between Strickland Road and I-540. At the time (2002), property owners who were interested in becoming part of the ETJ came forward and asked to be included in the ETJ. Other property owners opted out and remain in the County jurisdiction. The subject property of this rezoning was not brought into the ETJ at that time.**
- 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 annexation and zoning are in accord with the general municipal goal for the provision of health, safety and welfare. Also the proposal is supported by the following Comprehensive Plan policy.

FILING ADDENDUM: Instructions for filing a petition to amend the official Zoning Map of the City of Raleigh, North Carolina

Policy PU 2.3 Emergency Utility Extension Allow only existing development posing a specific threat to public health, safety, and welfare and to Raleigh's drinking water supply to connect to emergency utility extensions. (3)

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 property is surrounded on the west, north and south by large-lot (larger than one half acre) single family dwellings. To the southwest is Baileywick Elementary School. To the east is Magellan Charter School.

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

To the east, south and southeast, properties are in the Raleigh jurisdiction and are zoned Rural Residential (RR) with Watershed Protection Overlay (WPO). To the north and west, properties are in the Wake County jurisdiction and are zoned R-40W. The area generally has a rural character with heavily wooded properties and 1-2 story single family dwellings. The portion of Baileywick Elementary School near the subject property is also heavily wooded with no structures. The Magellan Charter School however is a monolithic two story masonry structure with an extensive paved surface parking lot.

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:

In character and use the subject property is very similar to properties to the north, west and south.

III. Benefits and detriments of the proposed map amendment.

A. For the landowner(s):

The landowner's well has run dry. Due to the nature of groundwater in the area, drilling a deeper well might provide no water at all or not enough to meet generally accepted standards. This is an emergency situation. Entry into the ETJ and into the City limits will expedite the landowner's ability to tap into an existing City water main in the Baileywick Road right-of-way, immediately adjacent to the south of her property.

B. For the immediate neighbors:

Lack of water availability would make the subject house uninhabitable. This could easily lead to a derelict property situation which would be harmful to all adjacent properties.

C. For the surrounding community:

FILING ADDENDUM: Instructions for filing a petition to amend the official Zoning Map of the City of Raleigh, North Carolina

The proposed rezoning would be in the interest of the City of Raleigh and the surrounding community by providing for an orderly expansion of the City's jurisdiction. The City has a long history of providing humanitarian relief to properties in similar situations, when health and welfare are threatened by well and/or septic system failures.

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

Properties to the north and west will remain for the foreseeable future in the County's jurisdiction and must rely on wells and septic systems rather than City services. This is, however, the circumstance found along much of Raleigh's city limits. City policies provide for voluntary annexation and orderly expansion of the water and wastewater systems into such areas currently adjacent to Raleigh's city limits.

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

The property is typical of areas zoned Rural Residential. The proposal to zone the property Rural Residential is well in keeping with the character of adjacent properties, and allows for orderly expansion of the City's jurisdiction.

V. Recommended items of discussion (where applicable).

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

Since the property has been up to this time in Wake County's jurisdiction, the Raleigh City Council has not previously established zoning on this property.

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.

Since the property has been in the Wake County jurisdiction and the County is unable to provide water and sewer services, it is incumbent on the City to zone the property pursuant to accepting the property into the ETJ and city limits. Rural Residential zoning is most in keeping with the zoning and character of the surrounding properties.

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

Not applicable.

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

The zoning of this single .83 acre parcel to Rural Residential will have very little effect on public services, while extending the City's responsibility to provide for the health, safety and welfare of its citizens.

FILING ADDENDUM: Instructions for filing a petition to amend the official Zoning Map of the City of Raleigh, North Carolina

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

The enabling legislation states:

Zoning regulations shall be designed to promote the public health, safety, and general welfare. To that end, the regulations may address, among other things, the following public purposes: to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to lessen congestion in the streets; to secure safety from fire, panic, and dangers; and to facilitate the efficient and adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. The regulations shall be made with reasonable consideration, among other things, as to the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout such city.

(Applicant's highlighting)

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

This rezoning request is part of a wider effort to provide the owner of this property with City water under emergency circumstances, given that her well has failed, City water is available in the street in front of her house, and she is adjacent to lands in the City's jurisdiction. Acting in the property owner's behalf, City staff has simultaneously submitted an application for the extension of the ETJ, incorporation into the City limits, and establishment of City zoning on the property to facility the provision of City services to the property.