

CITY OF RALEIGH

**Z-22-09
MP-4-08**

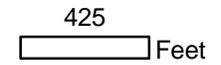
**PDD,
O&I-3,
O&I-1 CUD,
CM &
SHOD-2**

to

**Planned
Development
District
(50.53 acres) &**

**removing
SHOD-2
(6.89 acres)**

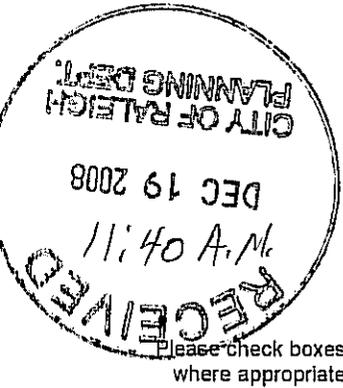
Public Hearing
April 21, 2009
(August 19, 2009)





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.

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:
12/18/08

Please type or print name(s) clearly:

Eric M. Braun, Attorney for the Petitioner

Michael Birch, Attorney for the Petitioner

EXHIBIT B. Request for Zoning Change

Office Use Only	
Petition No.	<u>7 - . 22 - 09</u>
Date Filed:	<u>12-19-08</u>
Filing Fee:	<u>pd 2570.00 by CLKH</u>

66-15
531

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

See instructions, page 6

	Name(s)	Address	Telephone / E-Mail
1) Petitioner(s) and Property Owners: Note: Conditional Use District Petitioner(s) must be owner(s) of petitioned property.	<u>North Hills East Master Developer, LLC</u>	<u>c/o Kane Realty Corp. P.O. Box 19107 Raleigh, NC 27619</u>	
	<u>Duke/Kane, LLC</u>	<u>c/o Duke Realty Corp. 1800 Perimeter Park Drive Suite 200 Morrisville, NC 27560</u>	
	<u>HCRI North Carolina Properties III, Limited Partnership</u>	<u>One Seagate, Suite 1500 P.O. Box 1475 Toledo, OH 43603-1475</u>	
	<u>North Hills East Retail I, LLC</u>	<u>c/o Kane Realty Corp. P.O. Box 19107 Raleigh, NC 27619</u>	
	<u>Church of the Apostles of Raleigh</u>	<u>333 St. Albans Drive Raleigh, NC 27609</u>	
2) Contact Person(s):	<u>Eric M. Braun and Michael Birch K&L Gates, L.L.P.</u>	<u>4350 Lassiter at North Hills Avenue, Suite 300 Raleigh, NC 27609</u>	<u>(919) 743-7315 (919) 743-7314 eric.braun@klgates.com michael.birch@klgates.com</u>

3) Property

Description:

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

Wake County Property Identification Number(s) (PIN): _____

See Attached Exhibit B-1 for list of PIN's.

General Street Location (nearest street intersections): Northeast quadrant of the intersection of Six Forks Road and the 440 Beltline.

4) Area of Subject Property (acres):

+/- 50.53 acres

5) Current Zoning District(s)

Classification:

Include Overlay District(s), if Applicable

Office & Institution-1, Shopping Center, Residential-4, Residential-10, Office & Institution-1 Conditional Use, with all preceding districts having a Planned Development District Overlay; and Office & Institution-1 Conditional Use with Special Highway Overlay District-2, Conservation Management with Special Highway Overlay District-2, Office & Institution-3 with Special Highway Overlay District-2.

6) Proposed Zoning District

Classification:

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

Office & Institution-1, Shopping Center, Residential-4, Residential-10, Office & Institution-1 Conditional Use, Office & Institution-3, and Conservation Management, with all preceding districts having a Planned Development District Overlay.

Exhibit B-1

North Hills East Master Developer, LLC, Duke/Kane, LLC, HCRI North Carolina Properties III, Limited Partnership and Church of the Apostles of Raleigh ("Petitioners and Owners")

Wake County Property Identification Numbers (PIN)

<u>PIN NUMBER</u>	<u>ACREAGE</u>
1706.19-60-4182	1.19
1705.07-69-6797	2.38
1706.19-60-8247	0.98
1705.07-69-6915	0.53
1706.19-60-6179	1.09
1705.07-79-0940	5.8
1705.07-79-0692	1.81
1705.07-79-2468	0.66
1705.07-79-0328	2.85
1705.08-79-5576	1.38
1705.07-79-4304	2.64
1705.08-79-5283	2.98
1705.08-79-6669	2.07
1705.08-79-8078	2.4
1705.08-89-0396	5.92
1705.08-89-3496	1.54
1705.08-89-4251	1.63
1705.08-89-7196	0.72
1705.08-99-1204	3.07
1705.08-79-9808	5.89
1705.08-89-5065	3.1

EXHIBIT B-2
Adjacent Property Owners

<u>Name and Address</u>	<u>PIN</u>
First Citizens Bank & Trust Company P.O. Box 27131 Raleigh, NC 27611-7131	1706-60-3584
First Citizens Bank & Trust Company P.O. Box 27131 Raleigh, NC 27611-7131	1706-60-6632
First Citizens Bank & Trust Company c/o Thomas B. Morris, VP P.O. 27131 Raleigh, NC 27611-7131	1706-60-7553
First Citizens Bank & Trust Company c/o Thomas B. Morris, VP P.O. 27131 Raleigh, NC 27611-7131	1706-60-7615
First Citizens Bank & Trust Company c/o Thomas B. Morris, VP P.O. 27131 Raleigh, NC 27611-7131	1706-60-6767
Silas T. Jordan, III Robin N. Jordan 4314 Camelot Drive Raleigh, NC 27609-5840	1706-60-8898
James Charles Dotson 4310 Camelot Drive Raleigh, NC 27609-5840	1706-60-9800
Elfrieda K. Turnage Clarence Turnage, Jr. 4306 Camelot Drive Raleigh, NC 27609-5840	1706-60-9742

<u>Name and Address</u>	<u>PIN</u>
Ann L. Calhoun 4300 Camelot Drive Raleigh, NC 27609-5840	1706-60-9548
Matthew K. Ronning & Maryanne Drake 105 Dartmouth Road Raleigh, NC 27609-5843	1706-70-0664
Michael N. Burnett Barbara Howe 306 Dartmouth Road Raleigh, NC 27609-5848	1706-70-1661
Maydell C. Forsythe Heirs c/o Haley R. Forsythe, Executrix P.O. Box 17922 Raleigh, NC 27619-7922	1706-70-2567
Edward K. Huang 1605 US Highway 64W Apex, NC 27523	1706-70-3553
Faye A. Pridgen 121 Dartmouth Road Raleigh, NC 27609-5843	1706-70-4448
Ronald M. & Ann Marie D. Loftin 125 Dartmouth Road Raleigh, NC 27609-5843	1706-70-5445
Jeanne B. Duncan 4201 Rockdale Drive Raleigh, NC 27609-5852	1706-70-6356
Mary Ann Olsen 1213 Kershaw Drive Raleigh, NC 27609-5574	1706-70-1375

<u>Name and Address</u>	<u>PIN</u>
William Jeffrey Furr 116 Dartmouth Road Raleigh, NC 27609-5844	1706-70-2370
David C. Monteleone 120 Dartmouth Road Raleigh, NC 27609-5844	1706-70-3243
Amy H. Shaffer Heirs Susan Jeanette Shaffer 126 Dartmouth Road Raleigh, NC 27609-5844	1706-70-4149
Roland D. Woodard 130 Dartmouth Road Raleigh, NC 27609-5844	1706-70-5178
Rust Properties LLC 200 Dartmouth Road Raleigh, NC 27609	1706-70-7069
Abdallah B. & Shereen Shammass 206 Dartmouth Road Raleigh, NC 27609-5846	1706-70-8085
Irene S. Howell 117 Walnut Creek Drive Goldsboro, NC 27534-8979	1705-79-9942
Robert James McMillen 3123 Eton Road Raleigh, NC 27608-1113	1705-89-0951
Jack A. Kilgore Marilyn S. Kilgore 220 Dartmouth Road Raleigh, NC 27609-5846	1705-89-1858
James D. & Carol A. Groves 300 Dartmouth Road Raleigh, NC 27609-5848	1705-89-3834

<u>Name and Address</u>	<u>PIN</u>
Michael Nash Burnette Barbara Anne Howe Burnette 306 Dartmouth Road Raleigh, NC 27609-5848	1705-89-4893
Appolonia E. Howe 310 Dartmouth Road Raleigh, NC 27609-5848	1705-89-5898
Barbara A. Howe 314 Dartmouth Road Raleigh, NC 27609-5848	1705-89-7901
Matthew K. Ronning & Maryanne Drake 4117 Lambeth Drive Raleigh, NC 27609-5873	1705-89-6774
Corey Reagan Crabtree Traci Rhyne Crabtree 4113 Lambeth Drive Raleigh, NC 27609-5873	1705-89-7616
Mary Ann Kohn 4109 Lambeth Drive Raleigh, NC 27609-5873	1705-89-8645
Peter & Sarah G. Williams 4105 Lambeth Drive Raleigh, NC 27609-5873	1705-89-9541
David Avery Sparrow & Jessica Sparrow 4100 Lambeth Drive Raleigh, NC 27609-5800	1705-89-9664
David C. & Mary H. Holmes 4104 Lambeth Drive Raeligh, NC 27609-5800	1705-99-0750

<u>Name and Address</u>	<u>PIN</u>
Jason S. Arnold P.O. Box 341 Cary, NC 27512-0341	1705-99-1773
Cathay Chachy Wang 4101 Windsor Place Raleigh, NC 27609-5963	1705-99-1552
Revera L. Nixon 4100 Windsor Place Raleigh, NC 27609-5964	1705-99-3237
Bennie R. & Ruth R. McMinis 4104 Windsor Place Raleigh, NC 27609-5964	1705-99-3461
Edna F. Eisnaugle 4108 Windsor Place Raleigh, NC 27609-5964	1705-99-3572
Veronica E. & Laurent X. Luccioni 501 Tufts Court Raleigh, NC 27609	1705-99-5303
Julianna Proctor Lang 500 Tufts Court Raleigh, NC 27609-6701	1705-99-5203
Stuart Craig Mallard & Heather K. Mallard 504 Tufts Court Raleigh, NC 27609-6701	1705-99-5133
James Pinckney Williams 1103 Avebury Court Raleigh, NC 27609-3974	1705-99-6017
Alex B. Andrews Heirs Mabel Andrews Cook, Trustee P.O. Box 3008 Raleigh, NC 27602-3008	1705-98-9505

<u>Name and Address</u>	<u>PIN</u>
Leonard S. Woodall, Jr. and Lucy F. Gaddy, Co-Trustees 2720 Toxey Drive Raleigh, NC 27609-7643	1705-98-1738
Lattimore & Associates LLC P.O. Box 10767 Raleigh, NC 27605-0767	1705-88-7383
Lattimore & Associates LLC P.O. Box 10767 Raleigh, NC 27605-0767	1705-88-5227
State Employees Credit Union 1000 Wade Avenue Raleigh, NC 27605-1157	1705-88-0219
Lowery & Webster Properties LLC 5204 Rembert Drive Raleigh, NC 27612-6244	1705-77-5957
Patricia Spencer Gregory 3726 Bellevue Road Raleigh, NC 27609-7108	1705-78-4077
Doris O. Walker 3724 Bellevue Road Raleigh, NC 27609-7108	1705-77-4944
Apostolos & Akatarine Avramidis 3727 Bellevue Road Raleigh, NC 27609-7107	1705-78-3001
Terry Rekeweg 724 Rosemont Avenue Raleigh, NC 27607-7208	1705-78-3112
Ramblewood Lantern LLC 3805 Bellevue Road Raleigh, NC 27609	1705-78-3352

Name and AddressPIN

Ramblewood 2005 LLC
c/o Kane Realty Corporation
P.O. Box 19107
Raleigh, NC 27619-9107

1705-78-2455

Dixon Kirby & Co., Inc.
1033 Wade Avenue, Suite 100
Raleigh, NC 27605-1155

1705-78-2233

Dixon Kirby & Co., Inc.
1033 Wade Avenue, Suite 100
Raleigh, NC 27605-1155

1705-78-2107

Bonner G. & Ashley B. Gaylord
3710 Rolston Drive
Raleigh, NC 27609-7227

1705-78-1181

Dixon Kirby & Co., Inc.
1022 Wade Avenue, Suite 100
Raleigh, NC 27605-1157

1705-78-0237

Sylvia W. Rowland
3721 Rolston Drive
Raleigh, NC 27609-7226

1705-78-0363

Robin Whitley Hood, II
P.O. Box 70
Benson, NC 27504-0070

1705-78-1410

Ramblewood Lantern LLC
Delta Durham Associates LLC
4321 Lassiter at North Hills Avenue
Suite 250
Raleigh, NC 27609-5782

1705-68-7361

Alpha Five LLC
P.O. Box 31108
Raleigh, NC 27622-1108

1705-68-6607

<u>Name and Address</u>	<u>PIN</u>
Alpha Five LLC P.O. Box 31108 Raleigh, NC 27622-1108	1705-68-5636
Ramblewood Lantern LLC 4321 Lassiter at North Hills Avenue, Suite 250 Raleigh, NC 27609-5782	1705-68-4442
City of Raleigh P.O. Box 590 Raleigh, NC 27602-0590	1705-68-4882
Afshin John & Karen L. Sarir 200 Ramblewood Drive Raleigh, NC 27609-6404	1705-68-3881
Michael L. Jordan Susan Wheless Jordan 208 Ramblewood Drive Raleigh, NC 27609-6404	1705-68-2789
Michael L. Jordan Susan Wheless Jordan 208 Ramblewood Drive Raleigh, NC 27609-6404	1705-68-2708
William Hooper Wilson & Jean G. Wilson 212 Ramblewood Drive Raleigh, NC 27609-6404	1705-68-1726
Anthony Wayne Freeman Cronin K. Byrd 300 Ramblewood Drive Raleigh, NC 27609-6406	1705-68-0761
Marcus C. & Deborah S. Martin 321 Northfield Drive Raleigh, NC 27609-5228	1705-68-0607

Name and Address**PIN**

Jean Lewis & Bertha Lewis
308 Ramblewood Drive
Raleigh, NC 27609-6406

1705-58-9645

Catherine M. Woodall
312 Ramblewood Drive
Raleigh, NC 27609-6406

1705-58-8662

Robert W. Safrit, Trustee
P.O. Box 18456
Raleigh, NC 27619-8456

1705-58-7664

Shirley M. Collins
2009 Reaves Drive
Raleigh, NC 27608-1640

1705-58-8732

Daniel W. Brinkley, III
Linda B. Brinkley
4008 Cardigan Place
Raleigh, NC 27609-6475

1705-58-9831

Louis N. Case & Anna L. Case Heirs
4012 Cardigan Place
Raleigh, NC 27609-6475

1705-58-8887

Marty C. Woodlief
4009 Cardigan Place
Raleigh, NC 27609-6475

1705-58-7888

Sylvia York Heirs
c/o Michael S. York, Executor
4005 Cardigan Place
Raleigh, NC 27609-6475

1705-58-6892

Henry Vance Barnette, III
Meredith Hart Barnette
4001 Cardigan Place
Raleigh, NC 27609-6475

1705-58-6740

Name and Address**PIN**

Alfred M. Demarest
Patricia Rose O'Grady
400 Ramblewood Drive
Raleigh, NC 27609-6408

1705-58-5713

Holly D. Wybel
312 W. Millbrook Road, Suite 129
Raleigh, NC 27609-4398

1705-58-6915

NHM Owner-1 LLC
c/o Kane Realty Corporation
P.O. Box 19107
Raleigh, NC 27619-9107

1705-59-7841

Target Corporation
ATTN: Property Tax Dept. T-1892
P.O. Box 9456
Minneapolis, MN 55440-9456

1705-69-0521

NHM Owner-1 LLC
c/o Kane Realty Corporation
P.O. Box 19107
Raleigh, NC 27619-9107

1705-69-2906

NHMOO LLC
P.O. Box 19107
Raleigh, NC 27619-9107

1706-50-9316

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

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

This section is reserved for the applicant to state factual information in support of the rezoning request.

Required items of discussion:

The Planning Department is instructed not to accept any application for amending the official zoning map without a statement prepared by the applicant analyzing the reasonableness of the rezoning request. This statement *shall* address the consistency of the proposed rezoning with the Comprehensive Plan and any other applicable City-adopted plan(s), the compatibility of the proposed rezoning with the *property* and surrounding area, and the benefits and detriments of the proposed rezoning for the landowner, the immediate neighbors and the surrounding community.

Recommended items of discussion (where applicable):

1. An error by the City Council in establishing the current zoning classification of the property.
2. How circumstances (land use and future development plans) have so changed since the property was last zoned that its current zoning classification could not properly be applied to it now were it being zoned for the first time.
3. The public need for additional land to be zoned to the classification requested.
4. The impact on public services, facilities, infrastructure, fire and safety, parks and recreation, topography, access to light and air, etc.

PETITIONER'S STATEMENT:

I. Consistency of the proposed map amendment with the Comprehensive Plan (www.raleighnc.gov).

A. Please state which District Plan area the subject property is located within and the recommended land use for this property:

The subject property is located within the North Hills District Plan. According to the Recommended Urban Form map for this district, the subject property is located within the North Hills City Focus area. Also, the subject property is located along Six Forks Road, designated a primarily nonresidential thoroughfare.

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 North Section of the Wake Forest Road Small Area Plan, as amended by Z-16-06/MP-6-05. The amended plan designates the portion of the subject property already subject to the PDD Master Plan as "mixed-use." The balance of the subject property, which is outside the PDD Master Plan area, is designated for office and institutional uses.

A large portion of the subject property is located within an approved Master Plan and Planned Development District area (Z-16-06/MP-6-05). Through Ordinance (2006) 95 ZC 592, the City Council

approved a rezoning and master plan petition covering approximately forty-five (45) acres of the subject property. As a condition of the prior rezoning request, the development of the subject property must be in accordance with the master plan approved in connection with the prior rezoning petition. The approved master plan provides for a pedestrian-oriented, mixed use development including residential, recreation, open space, office and institutional, retail, and other commercial uses.

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

The proposed map amendment is consistent with the Comprehensive Plan and other City Council-adopted plans and policies (Z-16-06/MP-6-05) because the proposed map amendment merely adds three immediately adjacent parcels into an existing planned development district. These three parcels are located in the North Hills City Focus area and are designated for office and institutional uses; the proposed map amendment and amended master plan permit development in accordance with these recommendations.

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 property is bordered to the north by institutional uses, specifically banks. To the west of the subject property, across Six Forks Road, is the North Hills shopping center and mixed use development. To the south, across Interstate 440, are office and institutional uses. Land immediately to the east of the subject property is currently vacant. Single family homes are located to the northeast and north of the subject property. Six Forks Road, which bounds the subject property to the west, is a primarily nonresidential thoroughfare and a secondary arterial. Interstate 440, the beltline, borders the subject property to the south and is a primary arterial. St. Albans Drive, which cuts through the subject property, is classified as a collector street.

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

The subject property is bordered to the north by an Office and Institution-1 district. The property to the west is zoned Shopping Center district. To the south, across the interstate, is property zoned Office and Institution-1 with a Special Highway Overlay District-2. The vacant property to the east is zoned Office and Institution-2 with a Special Highway Overlay District-2. The neighborhood to the north and northeast of the subject property is zoned Residential-4.

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 subject property for a pedestrian-oriented, mixed use, infill development. A portion of the property that is already subject to the master plan is being developed. A portion of the subject property outside of the planned development district is already developed as a church. Given the location of the North Hills mixed use shopping center across Six Forks Road from the subject property, and the need for additional mixed-use development in the area, the proposed map amendment is compatible with the character of the surrounding area.

III. Benefits and detriments of the proposed map amendment.

A. For the landowner(s):

The proposed map amendment allows the landowner to develop the subject property for its highest and best use. The addition of three parcels to the existing planned development district and master plan will permit the landowner to incorporate them into the mixed use development.

B. For the immediate neighbors:

The proposed map amendment benefits the immediate neighbors by permitting the landowner to provide the neighbors located north of the subject property with an adequate transition area and buffer from mixed-use development. Also, the addition of three parcels to the existing planned development district and master plan area will provide for a more unified development in the area.

C. For the surrounding community:

The proposed map amendment benefits the surrounding community by permitting the landowner to pursue a mixed use, infill development that can provide the surrounding community with needed amenities, additional housing opportunities, and proximate employment opportunities. The addition of the three parcels currently outside of the planned development district will also provide for a more unified and coordinated development of the area.

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 to the landowner which is not available to the surrounding properties.

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

The subject property is located in a city focus area at the intersection of a primary and secondary arterial. A majority of the subject property is within a planned development district and subject to an approved master plan. The proposed map amendment only attempts to subject three additional parcels to these plans. This proposal is reasonable and in the public interest because it permits the landowner to develop the additional parcels in accord with the balance of the mixed use development. It is also reasonable because it allows the landowner to use the entire subject property for the benefit of the project.

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 at this time.

- 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 at this time.

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

This recommended item of discussion is not applicable at this time.

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

The proposed map amendment will not have an appreciable impact on public services, facilities, infrastructure, fire and safety, parks and recreation, topography, or access to light and air. Given the existing planned development district and approved master plan, the addition of three parcels will not have an impact on the aforementioned matters.

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

The applicant has no other argument on behalf of the proposed map amendment at this time.



Certified Recommendation of the City of Raleigh Planning Commission

Case File: Z-22-09 / MP-4-08 PDD Conditional Use; Six Forks Rd.

General Location: East side, northeast quadrant of its intersection with I-440

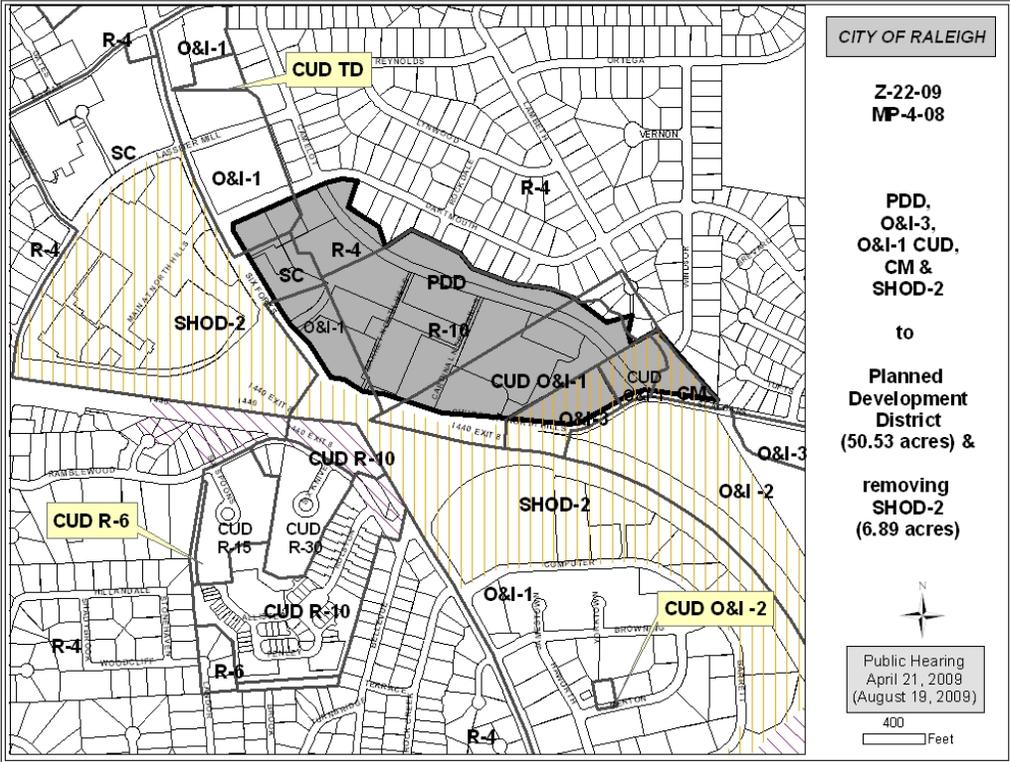
Planning District / CAC: North Hills/ Falls of Neuse

Request: Petition for Rezoning from PDD (over multiple base zoning districts), O&I-3, O&I-1 CUD & CM w/SHOD-2 to Amended PDD (over multiple base zoning districts removing SHOD-2).

Comprehensive Plan Consistency: The request is partly inconsistent with the Comprehensive Plan

Valid Protest Petition (VSPP): NO.

Recommendation: The Planning Commission finds that this request is partly inconsistent with the Comprehensive Plan. However, based on the findings and reasons stated herein, that this request be approved in accordance with zoning conditions dated December 18, 2008 and Master Plan document dated May 4, 2009.



CASE FILE: **Z-22-09 / MP-4-08 PDD Conditional Use; Six Forks Rd.**

LOCATION: This site is located on the east side of Six Forks Road, northeast of its intersection with I-440.

REQUEST: This request is to rezone approximately 50.53 acres, currently zoned PDD (over multiple base zoning districts), O&I-3, O&I-1 CUD & CM w/SHOD-2. The proposal is to rezone the property to Amended PDD (over multiple base zoning districts removing SHOD-2).

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

RECOMMENDATION: **The Planning Commission finds that this request is partly inconsistent with the Comprehensive Plan. However, based on the findings and reasons stated herein, that this request be approved in accordance with zoning conditions dated December 18, 2008 and Master Plan document dated May 4, 2009.**

**FINDINGS
AND REASONS:**

- (1) That majority of the request intended for mixed uses is consistent with the recommendations of the Comp Plan; that potential retail uses on the newly added tracts would be the only element lending part inconsistency with the Comp Plan.
- (2) That circumstances have so changed since the original adoption of the Wake Forest Road Small Area Plan in 1987 that revisions to the land use recommendations for this area are warranted. Redevelopment, new construction and population growth within and adjacent to this City Focus Area, as well as a proven acceptance of alternative living style within a mixed-use environment, support the changes to the land use recommendations for this quadrant of the Six Forks Road / I-440 intersection. The rezoning request proposes an expansion of the mixed-use commercial area currently designated by the small area plan and is justified based on its compatibility and adjacency to the existing PDD boundary.
- (3) That the Master Plan conditions offered in terms of height, mix of uses, densities, buffers & screening successfully transitions the proposed development from high intensity uses along the Six Forks Road corridor to the existing low density residential neighborhoods located to the north and east.
- (4) Notwithstanding the finding of inconsistency with the Comprehensive Plan, the proposal serves as a benefit to the community at large and in the public interest by redeveloping 50.53 acres of low intensity office and mixed uses into a cohesive, integrated urban mixed-use development which will provide alternative living and work environments less dependent on the automobile and may potentially support a greater use of public transportation in the future.
- (5) That although the proposal introduces higher office intensity, the retail square footage remains the same as previously approved at 450,000 sq.ft., thereby eliminating any adverse impacts to the surrounding uses.

(6) That for the reasons and findings stated above, the subject request appears to be reasonable and in serving the public interest and therefore, the Planning Commission recommends approval of the same.

To PC: 5/12/09

Case History: 4/28/09 PC applicant requested deferral.

To CC: 5/19/09

City Council Status: _____

Staff Coordinator: Dhanya Sandeep

Motion: Holt
Second: Bartholomew
In Favor: Bartholomew, Butler, Chambliss, Fleming, Haq, Harris Edmisten, Holt, Mullins, Smith, Vance
Opposed:
Excused: Gaylord

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: 5/13/09



Zoning Staff Report: Z-22-09 PDD Conditional Use

LOCATION: This site is located on the east side of Six Forks Road, northeast of its intersection with I-440.

AREA OF REQUEST: 50.53 acres

PROPERTY OWNER: North Hills East Master Developer LLC, Duke/Kane LLC, HCRI NC Properties, North Hills East Retail I LLC, Church of Apostles

CONTACT PERSON: Eric Braun, 743-7315
Michael Birch, 743-7314

**PLANNING COMMISSION
RECOMMENDATION
DEADLINE:** August 19, 2009

ZONING: Current Zoning

Multiple zoning districts, O&I-3,
O&I-1 CUD, CM

Current Overlay District

PDD & SHOD-2

Proposed Zoning

No changes are being proposed
to the underlying zoning districts.

Proposed Overlay District

PDD (removing SHOD-2)

**ALLOWABLE
DWELLING UNITS:**

Current Zoning

PDD: 1563 units
O&I-3: 0 units
O&I-1 CUD (0.72 acres): 18 units
CM (1.89 acres): allowable transfer of
35 units to 1.18 acres O&I-1CUD

TOTAL: 1616 units

Proposed Zoning

PDD: 2021 units

**ALLOWABLE OFFICE/
INSTITUTIONAL SQUARE
FOOTAGE:**

Current Zoning

PDD: 1,490,000 sq.ft.
O&I-1 CUD (1.9 acres @ 0.33 FAR):
27,312 sq.ft.
O&I-3 (3.1 acres @ 0.33 FAR):
44,562 sq.ft.

TOTAL: 1,561,874 sq.ft.

Proposed Zoning

PDD: 1,503,500 sq.ft.

**ALLOWABLE RETAIL
SQUARE FOOTAGE:**

Current Zoning

PDD: 450,000 sq.ft.

Proposed Zoning

Not to exceed a total of 450,000 sq.ft.
per conditions

**ALLOWABLE
GROUND SIGNS:**

Current Zoning

Uniform sign criteria

Proposed Zoning

Uniform sign criteria

SETBACKS:

No minimum front, side or rear setbacks.

**RETAIL
ALLOCATION:**

Within a Planned Development District, no more than 10% of the gross land area shall be devoted to retail uses unless evidence is provided upon which the City Council may make a finding that additional retail use allows the development to better achieve the purposes of the Planned Development District (i.e. promote transit usage, more usable open space, affordable housing, facilitate the more economic arrangement of buildings, preserve roadway corridors from strip development, contain innovative architectural elements and design, provide for community-wide public services and amenities).

The Master Plan proposes that a maximum of 450,000 square feet of the Master Plan development (50.53 acres) may be devoted to commercial/retail uses. This equates to approximately 20.44% of the total development. This same amount of retail was originally approved by the City Council under the old North Hills East PDD conditions.

CIRCULATION:

Access to and from the public street system shall be limited to following access points: one on Six Forks Road, three on Dartmouth Road, nine on St. Albans Drive and three on the public street segment of Church at North Hills Street.

OPEN SPACE:

Minimum 15% reserved as open space, which includes green spaces, tree conservation areas and plazas. May be shifted and reallocated between tracts with City Administration consent.

**TRAFFIC IMPACT
ANALYSIS:**

Updated Trip Generation data submitted.

PARKING:

At least 51% will be provided by parking structures. A reduction of 34 percent to the parking required by Code is justified in the Master Plan document.

SIGNAGE:

Unified sign criteria submitted with the Master plan.

**DESIGN
GUIDELINES:**

Key elements addressed in the Master Plan.

**LAND USE
INTENSITY:**

See North Hills East Maximum Height and Use Chart. Land use intensities subject to meeting trip generation capacities.

MAXIMUM HEIGHT AND USE CHART

<u>Tract</u>	<u>Acreage</u>	<u>Height from lowest FFE</u>	<u>Height per City Code</u>		<u>Retail sf</u>	<u>Residential units</u>	<u>Office sf</u>	<u>Hotel rooms</u>	<u>Congregate Care units</u>	<u>Church sf</u>
B	1.09	250	260		50,000	200	-	200		
C	2.75	285	305		40,000	100	300,000	-		
D	2.35	250	270		50,000	400	-	-		
H	0.98	95	100		10,000	100	-	-		
I	1.5	95	100		10,000	100	-	-		
J	1.95	95	100		80,000	150	-	-		
K	2.07	95	105		50,000	250	-	325		
M	5.95	30	35		-	-	-	-		
P	3.07	35	45		-	-	-	-		

<u>Tract</u>	<u>-</u>	<u>Height</u>	<u>Height</u>	<u>Option</u>	<u>Retail sf</u>	<u>Residential units</u>	<u>Office sf</u>	<u>Hotel rooms</u>	<u>Congregate Care units</u>	<u>Church sf</u>
A	1.19	285	300	I	70,000	-	350,000	250		
				II	70,000	500		250		
				III	70,000	250	200,000	250		

E	5.32	340	365	I	100,000	100	500,000	325		
				II	100,000	1,800		325		
				III	100,000	800	300,000	325		

F	7	285	295	I	70,000	750		325		
				II	70,000	-	350,000	325		
				III	70,000	600	250,000	325		

G	2.4	285	350	I	20,000	750		325		
				II	20,000	-	350,000	325		
				III	20,000	300	250,000	325		

L	9.09	195	225	I	20,000	0			350	
				II	50,000	1,500				

N	3.1	75	85	I			75,000			
				II						100,000
				III	10,000	100				

O	0.72	100	115	I	25,000		100,000			
				II	25,000					100,000
				III	25,000	100				
				IV	25,000			225		

1. Heights cannot shift between tracts. Height will be measured by the Code, and the FFE height is for illustrative purposes only.
2. Overall development intensity will be limited by the PM trip generation budget contained in the TIA submitted with this masterplan.
3. Subject to Section 10(D) of this Master Plan, overall residential density shall be determined by applicable provisions of the Raleigh City Code in effect at the time of site plan approval.
4. Per this master plan, in no event shall retail square footage be permitted exceed 450,000 square feet.

- 5. Tracts A, E, F, G, L,N, and O can independently change from one scenario to another (i. e. - Tract E can be changed to scenario 2 while Tract F stays in scenario 1)
- 6. Subject to the other provisions of this Master Plan, Developer reserves the right to construct exclusively retail buildings in the development.
- 7. Tract size and configuration subject to change in accordance with the Master Plan.

ZONING HISTORY: A major portion of this property was zoned with an overlay - PDD in 2006 (Z-16-06/MP-6-05). The subject rezoning includes 3 new parcels to the previously adopted PDD boundary and refines the Master Plan language.

- Existing Conditions of O&I-1 CUD (1.9 acres) of the subject property – Z-5-88:
- 1. The Conservation Buffer area will be conveyed without compensation to the City of Raleigh as a greenway.
 - 2. The maximum building height of all improvements shall not exceed 55 feet above existing grade elevation of 277.33 feet.
 - 3. No occupancy permit for any improvements constructed on the subject property will be used until a construction contract is awarded to extend New Hope Church Road from its existing terminus behind the Hilton Hotel on Wake Forest Road to St. Albans Drive, and until the portions of said road abutting the subject property are substantially complete.
 - 4. The floor area ratio and maximum building lot coverage of improvements constructed on the subject property shall not exceed O&I-III restrictions.

SURROUNDING ZONING:
NORTH: Residential-4
SOUTH: R-30 CUD, R-10 CUD, O&I-1 w/ SHOD-2
EAST: R-4 CUD, O&I-2 w/ PDD, SHOD-2
WEST: SC, O&I-1

LAND USE: Mixed Use Center – Planned Development District

SURROUNDING LAND USE:
NORTH: Residential
SOUTH: Residential, office
EAST: Residential, office
WEST: Shopping center

DESIGNATED HISTORIC RESOURCES: *None*

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	North Hills
Urban Form	City Focus Area
Specific Area Plan	Wake Forest Road SAP (North)
Guidelines	Retail Use

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

The subject request is partly inconsistent with the Comprehensive Plan. The site is located in the North Hills Planning District within the North Hills City Focus area. Specific land use polices are included in the Wake Forest Road Small Area Plan. A large portion (45 acres) of the subject property was rezoned in 2006 (Z-16-06/ MP-6-05) with a Planned Development District Overlay and an approved Master Plan. The approved Master Plan provides for a pedestrian-oriented, mixed-use development including residential, recreation, open space, office and institutional, retail, and other commercial uses. As part of that rezoning approval, a Comprehensive Plan amendment was concurrently adopted to designate the 45 acres of the PDD area for mixed uses within the Wake Forest Road SAP- North section. That portion of the subject property which falls within the mixed use area approved in 2006 is consistent with the Comprehensive Plan.

The inconsistency stems from the addition of approximately 6.89 acres to this PDD. These three new parcels (tracts N, O and P) are currently designated for office and institutional uses by the Wake Forest Road SAP. The retail allocation on tracts N & O would be inconsistent with the Comprehensive Plan. It should be noted, however, that the proposed amendment does not change the maximum 450,000 sq.ft. of retail approved as part of the earlier PDD, thereby maintaining consistency with the Retail Use Guidelines of the Comprehensive Plan.

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

The subject property is bordered to the north by largely low density residential uses and by office and institutional uses to the east, southeast, northwest and west. Across Six Forks Road, to the west of the subject property is the North Hills shopping center and mixed use development. To the southeast, across Interstate 440, are more office and institutional uses, while the property to the immediate east remains vacant while zoned for office uses. Single family homes are located to the northeast and north of the subject property.

The proposed zoning request intends to add three new parcels to an existing PDD boundary, while refining the language and clarifying certain conditions of the previously approved PDD. The overall Trip generation budget and maximum development intensities are not being changed from those approved originally in Z-16-06 & MP-6-05 cases. Retail uses retain the originally approved maximum of 450,000 sq.ft. to maintain consistency with the Retail Use Guidelines applicable to City Focus areas. The PDD intends to create transitions from the development to the existing residential uses. Maximum building heights have been established so the shorter buildings will be located along Camelot Drive (closer to residential uses). Tracts M & P create additional transition areas between the shortest buildings and the existing residences along the northern edge of the project by providing a large public open space, where only recreational activities and associated structures less than 35 feet in height can be built.

The property, with the exception of the three subject parcels, is currently under construction. The three new parcels to be added are immediately adjacent to the existing PDD boundary and are located with the focus area limit. They are bounded by St. Albans Street and I-440, thereby functioning as an appropriate edge to define the mixed uses designation within this focus area. The request is compatible with the suitability of this area for a pedestrian-oriented, mixed use, infill development. A portion of the subject property outside of the PDD is already developed as a church. The incorporation of the three parcels into the Planned Development District would be more compatible with the emerging mixed-use development pattern in this area.

3. Public benefits of the proposed rezoning

The applicant notes that the proposed rezoning would allow the landowner to add three parcels to the existing PDD and master plan, incorporate them into the mixed use development, thereby permitting the development of the property for its highest and best use. That the proposed map amendment benefits the surrounding community by permitting the landowner to pursue a mixed use, infill

development that can provide the surrounding community with needed amenities, additional housing opportunities, and private employment opportunities.

Staff assessment indicates that the three new parcels to be added are immediately adjacent to the existing PDD boundary and the only remaining parcels outside the PDD in the subject block that falls within the focus area limit. Of the three newly added tracts, one tract adjacent to the residential uses will be maintained as open space. Thus, the rezoning request will provide opportunities for a more unified and coordinated development in the area, while providing an appropriate transition to the surrounding residential properties.

4. Detriments of the proposed rezoning

There are no perceived detriments associated with this request. Given the existing planned development district and approved master plan, the addition of three parcels will have minimal impacts on its surrounding properties.

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

TRANSPORTATION: Six Forks Road is classified as a secondary arterial (2007 ADT - 49,000 vpd) and exists as a 6-lane undivided road with an 84-foot back-to-back curb section with sidewalks on both sides within 100-feet of right-of-way. City standards call for Six Forks Road to be constructed as a multi-lane facility within a minimum 110-foot right-of-way. St. Albans Drive is classified as a collector street and is constructed to City standards with a 41-foot back-to-back curb and gutter section with sidewalk on one side within a 60-foot right-of-way. Dartmouth Road is also classified as a collector street and is constructed to City standards as a multi-lane curb and gutter section with sidewalks on both sides within a variable right-of-way.

TRANSIT: NA

HYDROLOGY: FLOODPLAIN: no FEMA, some alluvial soils
 DRAINAGE BASIN: Big Branch and Crabtree
 STORMWATER MANAGEMENT: Part 10 Chapter 9 Stormwater Regulations would apply. There are some Neuse River Buffers present on site.

PUBLIC UTILITIES:

	Maximum Demand on Current Zoning	Maximum Demand on Proposed Zoning
Water	Approx. <u>631,625</u> gpd	Approx. <u>631,625</u> gpd
Waste Water	Approx. <u>631,625</u> gpd	Approx. <u>631,625</u> gpd

The proposed rezoning would not impact the wastewater or water treatment systems of the City. There are existing sanitary sewer and water mains in place which could serve the rezoning site.

PARKS AND RECREATION:

This property is adjacent to Tributary A of Big Branch. The applicant has previously dedicated greenway along this corridor. The subject property is sufficiently served by existing park facilities. There are no additional park search areas in this area.

**WAKE COUNTY
PUBLIC SCHOOLS:**

The maximum number of dwelling units permitted under the proposed zoning would be 2021, while the current zoning permits 1616. This would result in the following increase in school enrollment: 56 elementary, 34 middle and 24 high school. Base school assignments would be to the following schools, operating at the capacities indicated:

**Impacts on School
Capacity**

School name	Current enrollment	Current Capacity	Future Enrollment	Future Capacity
Douglas	624	98.9%	680	107.8%
Carroll	714	83.9%	748	87.9%
Sanderson	1,876	98.8%	1,900	100.1%

IMPACTS SUMMARY: The rezoning would result in potential increase of 114 student enrollment.

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 property applied to it now were it being zoned for the first time.**

N/A

**APPEARANCE
COMMISSION:**

This request has been reviewed by the Appearance Commission and the recommendations noted.

**CITIZENS'
ADVISORY COUNCIL:**

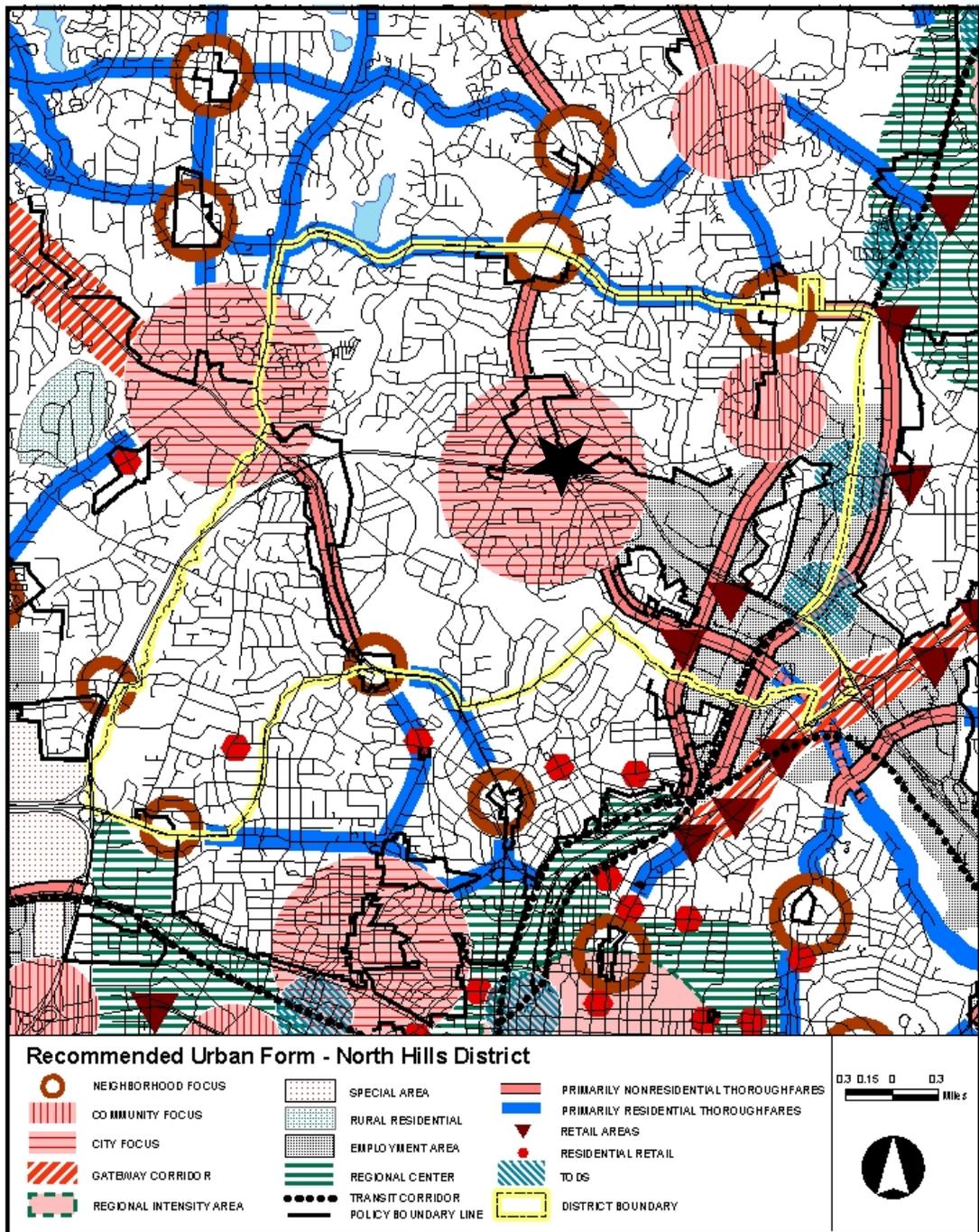
DISTRICT: Falls of Neuse
CAC CONTACT PERSON: Alan Wiggs, 872-5819

SUMMARY OF ISSUES:

COMPREHENSIVE PLAN / COMPATIBILITY / ADVERSE IMPACTS:

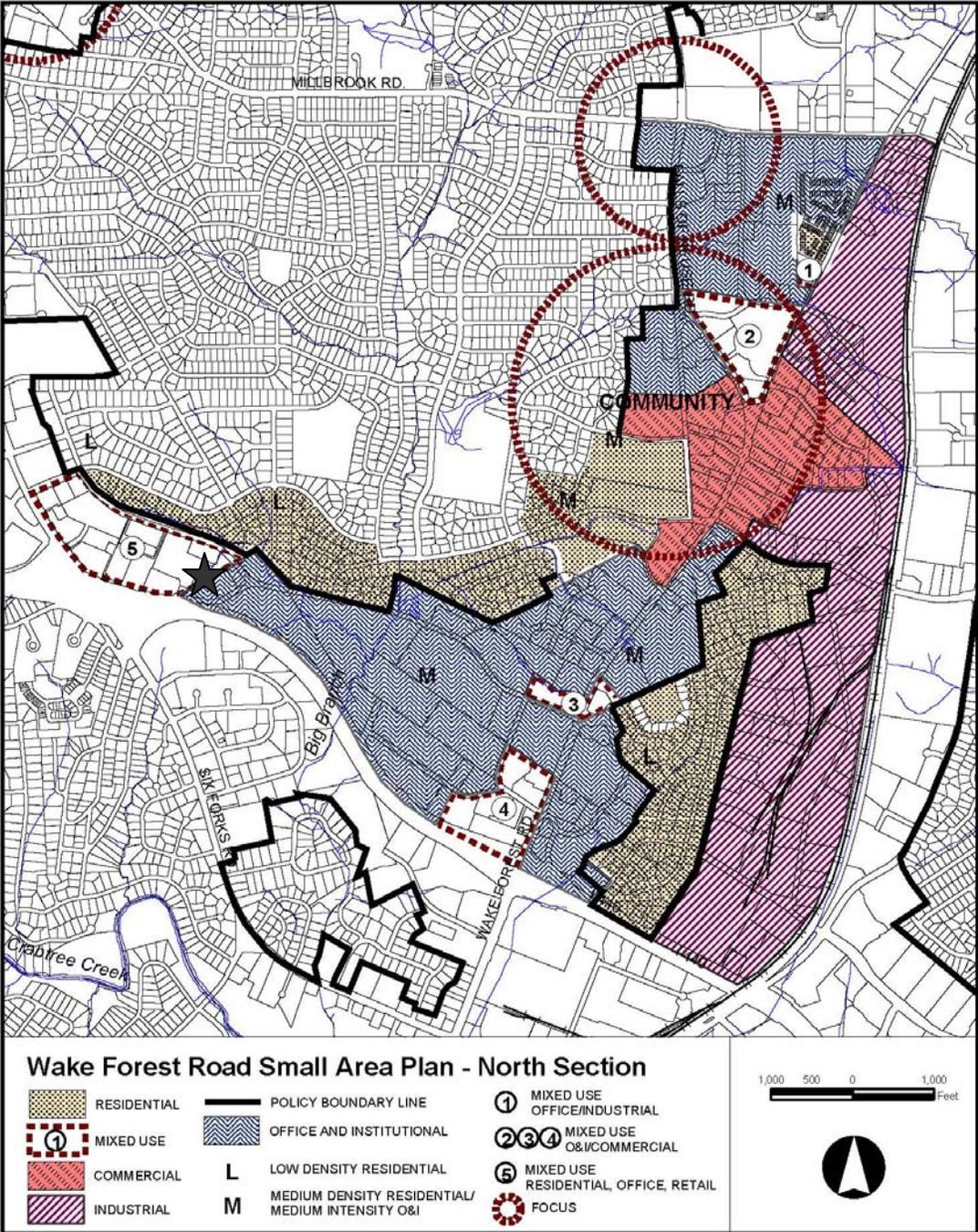
1. **Outstanding issues**

- The request is partly inconsistent with the Comprehensive Plan in that a portion of the site (new Tracts N&O), proposed for potential retail uses is designated for office and institutional uses in the Wake Forest Road SAP- North.



8/05 Raleigh Comprehensive Plan

North Hills District 5-6.F



MASTER PLAN (MP-6-2005-2008)

NORTH HILLS EAST

PROPOSED PLANNED DEVELOPMENT DISTRICT

**+ 4550.53 ACRES
NORTH HILLS EAST**

DEVELOPER:

Kane Realty Corporation

CONSULTANTS:

~~Lacy H. Reaves and Eric M. Braun and Michael Birch~~
~~Kennedy Covington Lobdell & Hickman, L.L.P.~~
K&L Gates, L.L.P.

John R. McAdams Co. – Land Planning and Civil Engineers

Kimley-Horn and Associates, Inc. – Transportation

~~Duda Paine Architects LLP – Architects~~

~~RTKL Associates Inc. Architects~~

Original Submittal Date December 1, 2005
First Resubmittal Date February 15, 2006
Second Resubmittal Date April 20, 2006
Third Resubmittal Date May 31, 2006
Fourth Resubmittal Date June 29, 2006
Fifth Resubmittal Date August 3, 2006
Sixth Resubmittal Date August 25, 2006
Seventh Resubmittal Date September 7, 2006
Eighth Resubmittal Date September 14, 2006
Amendment to Add Land Dated December 19, 2008

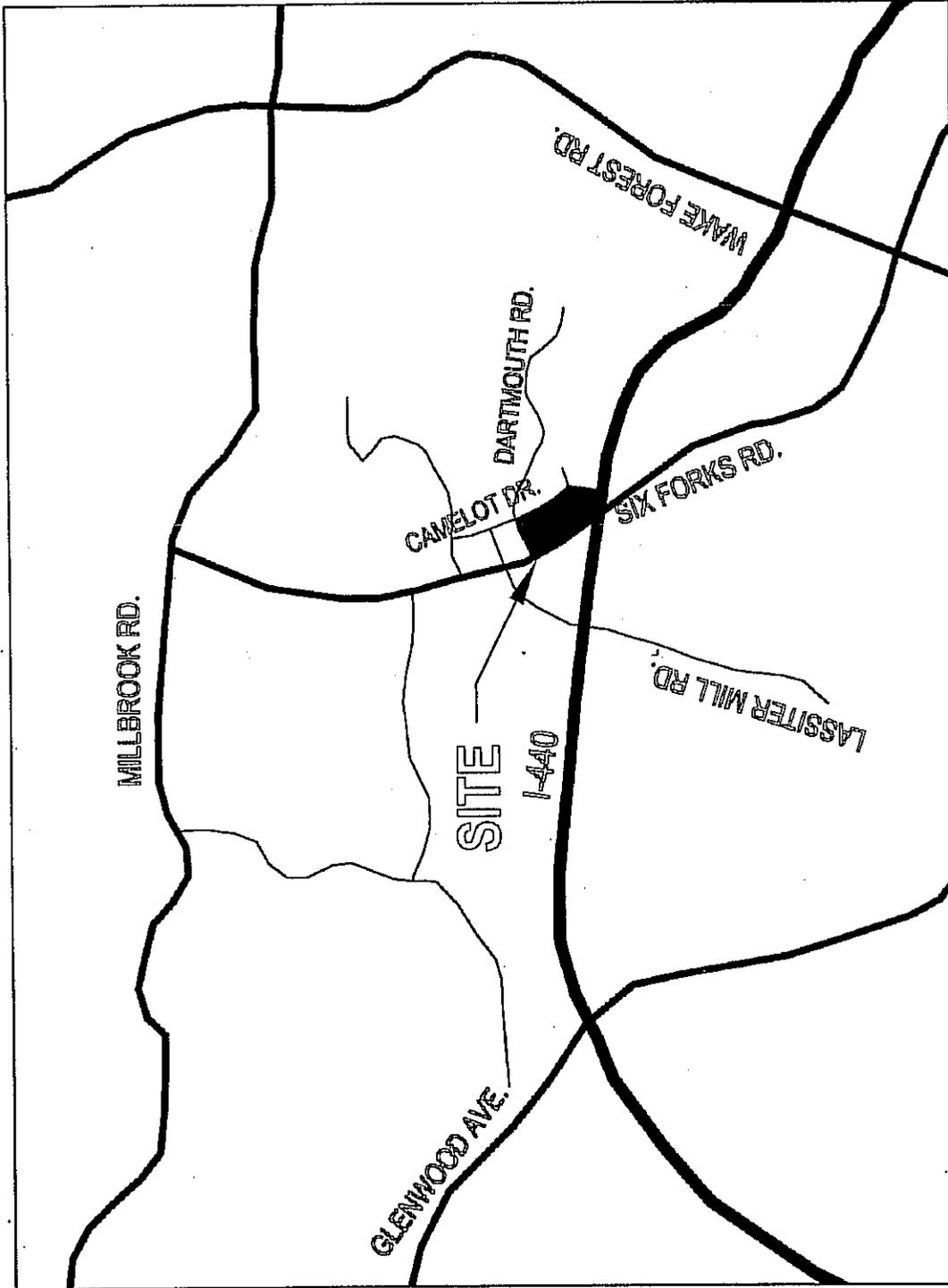
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1.

L. VICINITY MAP



NOT TO SCALE

VICINITY MAP

C:\Documents and Settings\halsey\My Documents\VICINITY MAP.dwg, 11/23/2005 11:15:44 AM, halsey, 1:0,488391

2.2. SUMMARY INFORMATION

- A. Name of Development: North Hills East
- B. Name of Owners: See attached List of Property Owners
- C. Applicant: Kane Realty Corporation
c/o T. J. Barringer
4321 Lassiter at North Hills Avenue
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919.833.7755
919.833.2473 (fax)
tbarringer@kanerealtycorp.com
- D. Attorneys: ~~Laey H~~**Eric M. Reaves Braun**
~~Kennedy Covington Lobdell & Hickman, L.L.P.~~
K&L Gates, L.L.P.
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~~ebraun@kennedycovington.com~~
michael.birch@klgates.com

INTRODUCTION

This document and the accompanying exhibits submitted herewith (collectively, the “Master Plan”) are provided pursuant to provisions of the Raleigh City Code (the “Code”) dealing with the Planned Development Overlay District (“PDD”) for North Hills East, a mixed-use community (the “Development”) proposed by Kane Realty Corporation, the developer of the revitalized North Hills (the “Developer”). The Development will be a pedestrian-oriented, urban development with complementary residential, recreation, open space, office, retail and other commercial land uses (as those terms are utilized in Section 10-2071 of the Code) at densities appropriate to the location of the Development, market conditions, the nature of land uses in the vicinity, and the City’s investment in existing infrastructure. Accordingly, subject to the express provisions of this Master Plan, uses proposed for this Development as described herein may be altered or eliminated.

2. 4-LOCATION AND CONTEXT

The Master Plan for the Development addresses the redevelopment of approximately ~~4550.53~~ acres located at the northeastern quadrant of the intersection of Six Forks Road and the 440 Beltline, bounded generally on the east by an existing water feature and Camelot Drive (the “Property”). For a graphic depiction of the area to be rezoned, please refer to the existing conditions exhibit submitted with this Master Plan (the “Existing Conditions”). The Property is currently the site of a variety of buildings, including a bank, restaurant, motel, single family dwellings, office buildings, and apartments. mixed use development under construction pursuant to an approved Rezoning (Z-16-06) and Master Plan (MP-6-05). The purpose of this Rezoning and Master Plan is to add additional land to the project (Tract N, O and P), as well as to refine and clarify certain aspects of the previously approved Master Plan. The

overall Trip Generation Budget and Maximum Development intensities are not being changed from those approved originally in Z-16-06 and MP-6-05.

The Property is within the North Hills City Focus Area. City Focus areas have city-wide or greater market areas justifying higher intensity land use, with regional shopping areas and a significant concentration of jobs. The highest intensity uses proposed for North Hills East lie within the existing policy boundary line of the North Hills District, as well as within the area covered by the Wake Forest Road Small Area Plan. According to these aspects of the Comprehensive Plan, this area is targeted for high-intensity urban development along the Six Forks Road non-residential thoroughfare.

To further these elements of the City's Comprehensive Plan, North Hills East will be a pedestrian oriented, mixed-use development providing a true live, work and shop environment. The Development will establish an urban character that will help foster an integrated community linking urban residential and retail uses with conveniently located employment opportunities.

3. 5. THE DEVELOPMENT CONCEPT

North Hills East will consist of ~~twelve~~fourteen (~~12~~14) development tracts and ~~one~~two (~~1~~2) open space ~~tract~~tracts. These tracts will be developed in a pedestrian friendly, mixed-use fashion designed to complement established commercial development in the vicinity, while also seeking to preserve the character of the adjacent Farris Hills neighborhood located on the eastern side of Camelot Drive. The proposed open space along the eastern boundary of the Property will serve as a convenient pedestrian connection to the Development, while also providing an effective transition between Farris Hills and the more intense land uses proposed along the Six Forks Road thoroughfare. In addition, this transitional open space will provide an opportunity for a connection to the City of Raleigh Greenway System.

The Development will be served by an internal street network which will reduce the number of existing connections to Six Forks Road. ~~A majority~~ At least fifty-one percent (51%) of the parking for the Development will be provided by parking structures to allow for higher intensity land uses on a more compact footprint.

A proposed Land Use Plan ("Land Use Plan") has been submitted with this Master Plan. It is intended to provide a general idea as to the development concept proposed by the Master Plan, but shall not be considered a literal depiction of the Development. Subject to open space areas and tree conservation areas, and the express limitations of this Master Plan, building dimensions (excluding heights), locations, numbers and orientation of structures to be built in the Development can be modified by the Developer.

4. ~~6-~~LAND USES

In order to implement this Master Plan, all residential, recreational, institution/civic/services, office, and commercial land uses (as those terms are utilized in Section 10-2071 of the Code) will be permitted within the Development at densities appropriate to the location of the Development, the nature of adjoining and nearby land uses, and the City and State's investment in existing infrastructure. All references in this Master Plan to "office" uses shall include institution/civic/services uses and recreational and commercial uses permitted in the Office and Institution-1 and 2 Districts. Further, all references to "retail" uses shall include all commercial uses (as that term is used in Section 10-2071 of the Code), excluding office and hotel uses, which shall be treated separately for purposes of this Master Plan.

5. ~~7-~~LAND USE DENSITY AND DESIGN CONTROL

Land use intensities for the Development are described in this Section ~~7~~5 and in the North Hills East Maximum Height and Use Chart submitted with this Master Plan. Tract sizes, general

building locations, along with maximum permitted building heights are shown on the Land Use Plan submitted with this Master Plan.

To guarantee the mixed use character of the Development, at full build-out, there shall be at least: (1) 200,000 square feet of office; (2) 120,000 square feet of retail; and (3) 400 residential dwelling units constructed within the Property subject to this Master Plan (the "Minimum Land Uses"). Compliance with this Minimum Land Use requirement shall be determined as follows: (1) certificates of occupancy for no more than 150,000 square feet of retail shall be issued prior to the issuance of building permits for development of one-third of the Minimum Land Uses; (2) certificates of occupancy for no more than 250,000 square feet of retail shall be issued prior to the issuance of building permits for development of two-thirds of the Minimum Land Uses; and (3) certificates of occupancy for no more than 350,000 square feet of retail shall be issued prior to the issuance of building permits for the development of the balance of the Minimum Land Uses.

The maximum development intensity for each Tract shown on the Land Use Plan shall be:

A. Tract A

1. **Uses and Density.** Tract A may be developed for up to 70,000 square feet of retail and 250 lodging units and either: (a) 350,000 square feet of office; (b) 500 residential dwelling units; or (c) 250 residential dwelling units and 200,000 square feet of office. Open space and/or recreational uses shall also be permitted.
2. **Building Height.** Buildings located in Tract A shall be limited to 300 feet in height.

B. Tract B

1. **Uses and Density.** Tract B may be developed for up to: 50,000 square feet of retail, 200 lodging units and 200 residential dwelling units. Open space and/or recreational uses shall also be permitted.
2. **Building Height.** Buildings located in Tract B shall be limited to 260 feet in height.

C. Tract C

1. **Uses and Density.** Tract C may be developed for up to: 40,000 square feet of retail; 100 residential dwelling units; and 300,000 square feet of office. Open space and/or recreational uses shall also be permitted.
2. **Building Height.** Buildings located in Tract C shall be limited to 305 feet in height.

D. Tract D

1. **Uses and Density.** Tract D may be developed for up to: 50,000 square feet of retail and 400 residential dwelling units. Open space and/or recreational uses shall also be permitted.
2. **Building Height.** Buildings located within Tract D shall be limited to 270 feet in height.

E. Tract E

1. **Uses and Density.** Tract E may be developed for up to 100,000 square feet of retail and 325 lodging units *and either*: (a) 100 residential dwelling units and 500,000 square feet of office; (b) 1,800 residential dwelling units; or (c) 800 residential dwelling units and 300,000 square feet of office. Open space and/or recreational uses shall also be permitted.
2. **Building Height.** Buildings located in Tract E shall be limited to 365 feet in height.

F. Tract F

1. **Uses and Densities.** Tract F may be developed for up to 70,000 square feet of retail, 325 lodging units *and either*: (a) 750 residential dwelling units; (b) 350,000 square feet of office; or (c) 600 residential dwelling units and 250,000 square feet of office. Open space and/or recreational uses shall also be permitted.
2. **Building Height.** Buildings located in Tract F shall be limited to 295 feet in height.

G. Tract G

1. **Uses and Densities.** Tract G may be developed for up to 20,000 square feet of retail and up to 325 lodging units *and either* (a) 750 residential dwelling units; (b) 350,000 square feet of office; or (c) 300 residential dwelling units and 250,000 square feet of office. Open space and/or recreational uses shall also be permitted.

2. **Building Height.** Buildings located in Tract G shall be limited to 350 feet in height.

H. Tract H

1. **Uses and Densities.** Tract H may be developed for up to 10,000 square feet of retail and 100 residential dwelling units. Open space and/or recreational uses shall also be permitted. Buildings that ~~front~~fronting along the proposed St. Albans Drive shall have residential facades.
2. **Building Height.** Buildings located in Tract H shall be limited to 100 feet in height.

I. Tract I

1. **Uses and Densities.** Tract I may be developed for up to 10,000 square feet of retail and 100 residential dwelling units. Open space and/or recreational uses shall also be permitted. Buildings that ~~front~~fronting along the proposed St. Albans Drive shall have residential facades.
2. **Building Height.** Buildings located in Tract I shall be limited to 100 feet in height.

J. Tract J

1. **Uses and Densities.** Tract J may be developed for up to 80,000 square feet of retail and 150 residential dwelling units. Open space and/or recreational uses shall also be permitted. Buildings that ~~front~~fronting along the proposed St. Albans Drive shall have residential facades.
2. **Building Height.** Buildings located in Tract J shall be limited to 100 feet in height.

K. Tract K

1. **Uses and Densities.** Tract K may be developed for up to 50,000 square feet of retail and ~~250 residential dwelling~~up to 325 lodging units. Open space and/or recreational uses shall also be permitted. Buildings that ~~front~~fronting along the proposed St. Albans Drive shall have residential facades.
2. **Building Height.** Buildings located in Tract K shall be limited to 105 feet in height.

L. Tract L

1. **Uses and Densities.** Tract L may be developed for up to either: (a) 20,000 square feet of retail and a congregate care facility containing 350

congregate units or (b) 50,000 square feet of retail and 1,500 residential dwelling units, which may include congregate units. Open space and/or recreational uses shall also be permitted.

2. **Building Height.** Buildings located in Tract L shall be limited to 225 feet in height.

M. Tract M

1. **Uses and Densities.** Tract M shall be developed only for those uses permitted within a City greenway, including without limitation, paved or unpaved greenway trails, picnic shelters, refuse containers, stormwater facilities and benches.
2. **Building Height.** Permitted structures shall not exceed 35 feet in height.

N. Tract N

1. **Uses and Densities.** Tract N may be developed for up to (a) 75,000 square feet of office, (b) a church, or (c) 100 residential units and 10,000 square feet of retail uses.
2. **Building Height.** Buildings located on Tract N shall be limited to 75 feet in height, except that a church steeple may be up to 200 feet in height.

O. Tract O

1. **Uses and Densities.** Tract O may be developed for up to 25,000 square feet of retail and either (a) 100,000 square feet of office, (b) 100 residential dwelling units, or (c) 225 lodging units.
2. **Building Height.** Buildings located on Tract O shall be limited to 100 feet in height.

P. Tract P

1. **Uses and Densities.** Tract P shall be developed for uses permitted in a City Greenway and may also be used without limitation for paved or unpaved greenway trails, picnic shelters, refuse containers, stormwater facilities and benches.
2. **Building Height.** Permitted structures shall not exceed 35 feet in height.

The final development intensity for this Master Plan shall not: (a) result in traffic generation that exceeds the total number of peak P.M. vehicle trips for the overall Development as reflected in the Trip Generation Table located within the Traffic Impact Analysis submitted with this Master Plan; (b) shall not violate a City Code provision; or (c) violate any term or condition of this Master Plan. Changes to the overall development intensity for this Master Plan shall be subject to the Amendment and Approval provisions of Section ~~108~~ below. In no event shall retail square footage permitted under this Master Plan exceed 450,000 square feet.

6. 8-STANDARDS AND CRITERIA APPLICABLE TO NORTH HILLS EAST

A. Building Height Justification

The building heights are reasonable and justified because this area is designated a City Focus area within the Comprehensive Plan. Higher intensity land uses and a more urban form are called for within City Focus areas. Further, given the development in the immediate area, including the First Citizens Building (formerly BTI Building), the proposed heights are consistent with the existing conditions. In addition, to achieve true urban densities, while providing adequate open space and a pedestrian-friendly environment, maximizing verticality is essential. Moreover, the proposed verticality will be compatible with existing development and provide an effective sound barrier for workers in the proposed office buildings, as well as residents in and around the Development by reducing the impact of traffic noise emanating from the I-440 Beltline and Six Forks Road.

Specifically, maximum building heights have been located such that there is a clear transition from the taller buildings along Six Forks Road to the shorter buildings along Camelot Drive. Moreover, Tract M ~~creates an~~ and P create additional transition ~~area~~areas between the

shortest buildings and the existing residences along the western edge of the project by providing a large public open space, where only recreational activities and associated structures can be built which do not exceed thirty-five (35) feet in height.

B. Protective Yards

1. Transitional Protective Yards.

Where required on the exterior portion of the Development, Transitional Protective Yards shall be provided. Otherwise, an alternative means of compliance is requested with regard to Transitional Protective Yards interior to the Development as provided for in Section 97 hereafter.

2. Street Protective Yards.

An alternative means of compliance is requested with regard to Street Protective Yards as provided for in Section 97 hereafter.

C. Building Setbacks

As shown in this Master Plan, and in furtherance of Urban Design Guidelines, the Developer shall be authorized to build structures adjacent to public rights-of-way, rather than complying with the typical setback requirements of the Code. There shall also be no minimum front yard setback required for buildings located on a private street. Further, no minimum side or rear yard building setbacks shall be required as part of this Master Plan unless required by the State Building Code. Provided, however, no building shall be placed within a sight distance triangle easement.

D. Building Separation

Building separation shall be provided in compliance with the State Building Code.

E. Transportation

1. Traffic Impact Analysis.

Please refer to the Traffic Impact Analysis with updated Trip Generation Letter submitted with this Master Plan and incorporated herein.

2. Circulation Plan.

Please refer to the circulation plan submitted with this Master Plan (the "Preliminary Circulation Plan"). The Applicant reserves the right to relocate and/or re-designate all public and private rights-of-way and access points shown on the Preliminary Circulation Plan, subject to the approval of the Raleigh Transportation Services Division of the Department of Public Works

("RDOT") and the Development Plan Review Group ("DPRG"). Subject to the approval of the RDOT, the Applicant also reserves the right to decrease the number of access points to the public street system shown on the Preliminary Circulation Plan. Planning Commission approval is required to increase the number of access points to the public street system.

At-grade pedestrian access to the development will be provided across Six Forks Road at the intersections of Six Forks Road and Dartmouth Road and Six Forks Road and Street A. Pedestrian push-buttons/signal heads and crosswalk striping will be provided at a minimum. Detailed crossing design and the potential for pedestrian refuges in the proposed median will be subject to the approval of all applicable governing bodies.

As an alternative to providing at-grade pedestrian crossings across and a median within Six Forks Road, the Applicant, in its sole and exclusive discretion, reserves the right to install a pedestrian bridge over Six Forks Road. The location, design and installation of this pedestrian bridge shall be subject to the approval of all applicable governing bodies. If the Applicant chooses to install a pedestrian bridge over Six Forks Road, then no at-grade crossings along Six Forks Road shall be required to be installed by the applicant.

A pedestrian crossing will be constructed over the stream to allow for pedestrian access from Farring Hills to the proposed development. This pedestrian crossing shall be constructed prior to the issuance of certificates of occupancy for 250,000 square feet of retail land uses permitted under this Master Plan.

Construction of either the at-grade pedestrian crossing across Six Forks Road or the pedestrian bridge across Six Forks Road will be commenced prior to the issuance of certificates of occupancy for 300,000 square feet of land uses permitted under this Master Plan.

3. Transit Easements and Transit Stops.

Please refer to Master Plan sheet C-4 and C-5 for dimensions and locations of proposed transit easements and transit stops to be provided under this Master Plan.

Construction of any and all transportation improvements shown on the Preliminary Circulation Plan are expressly contingent upon the Applicant receiving all necessary approvals from any governing body having jurisdiction thereof.

F. Public Utilities

All public water and sewer facilities are available to the Development. The location of public water and sewer mains are shown on the preliminary utility plan submitted with this Master Plan ("Preliminary Utility Plan").

G. Stormwater Management

1. Criteria.

The proposed development is located within the Neuse River basin and will comply with the stormwater management requirements set forth in Section 10, Chapter 9 of the City Code utilizing one or more of the approved techniques described below. Per City of Raleigh regulations, stormwater management on this site shall address two primary issues: (a) peak discharge rates and (b) water quality management.

- (a) **Peak Discharge Rates.** *The peak stormwater runoff leaving any site for the two-year and ten year storms shall be no greater for post-development conditions than pre-development conditions. The same methodologies used to calculate stormwater runoff must be*

used for both pre-development and post-development conditions (Section 10-9023a).

- (b) *Water Quality Management. No development nor any expansion of an existing development, use, facility, building, structure, nor any new or expanded vehicular surface area shall contribute a nitrogen export load exceeding three and six tenths (3.6) pounds per acre per year. Developers shall have the option of offsetting their nitrogen export load limitations by paying monies to the North Carolina Wetland Restoration Fund. For residential development, a one-time offset payment of three hundred thirty dollars (\$330.00) per pound may be paid to the North Carolina Wetland Restoration Fund to bring the nitrogen load from six (6) pounds per acre per year to three and six tenths (3.6) pounds per acre per year. Residential developments which exceed nitrogen export loads of six (6) pounds per acre per year and other developments which exceed ten (10) pounds per acre per year must install City approved stormwater control measures to reduce the nitrogen export load of their development to the applicable six (6) pounds per acre per year or ten (10) pounds per acre per year limitation to become eligible for payment offsets (Section 10-9022a-c).*

The development proposes to treat stormwater runoff using several techniques, all to meet or exceed the ordinance requirements as stated above.

2. Underground Sand Filters and Detention Systems.

In many areas of the site, the proposed use will not readily accept standard above-ground stormwater best management practices. There will not be the number and size of open space areas available to both appropriately site an above ground facility and have that facility be incorporated into the aesthetic design of the site. These areas will be prime candidates for an underground sand filter and detention system. The sand filter will be limited to five (5) acres of drainage (per current design criteria), and will be appropriately sized and designed to treat the runoff from the drainage basin to the facility. The sand filter will be designed to meet a standard of 85% total suspended solids (TSS) removal, and 35% nitrogen removal. In addition to the

underground sand filter, there will be a series of underground pipes and/or a vault system to detain runoff to pre-development peak flowrate conditions in the 2- and 10-year design storm events. This detention system will be placed upstream and inline with the sand filter component, and will have the additional benefit of providing “pre-treatment” of runoff before entering the sand filter itself.

3. Bioretention Areas.

In areas that are less intensely developed and where it will blend in with the overall landscape design components of the site, bioretention may be used as appropriate for water quality treatment. The bioretention areas will be limited to a maximum of five (5) acres of drainage to each facility. Bioretention areas will be sized and designed in accordance to the most recent and updated guidelines available from the City of Raleigh, the NC Division of Water Quality (DWQ), or information available from research being conducted at NC State University. Bioretention areas will be designed to meet a standard of 85% total suspended solids (TSS) removal, and 35% nitrogen removal, based on the most current information available from DWQ.

Bioretention is not suitable for use in attenuating peak flowrates. For this purpose, excess detention will be provided elsewhere in the overall project (with the net result being that there is no net increase leaving the site) or detention will be provided at this location in a separate above or below ground detention facility.

4. Extended Detention Wetland Areas.

In areas that are less intensely developed and where it will blend in with the overall landscape design components of the site, extended detention wetland areas may be used as appropriate for water quality and quantity control. These wetland areas will be designed per the most recent and updated guidelines available from the City of Raleigh, the NC Division of Water

Quality (DWQ), or information available from research being conducted at NC State University. Extended detention wetland areas will be planted with aggressive but varied vegetation, to provide for a heterogeneous plant population. This will result in a wetland that is less prone to invasive species, less prone to mosquito infestation, and better suited to survive disease and drought. Extended detention wetland areas will be designed to meet a standard of 85% total suspended solids (TSS) removal, and 40% nitrogen removal, based on the most current information available from DWQ.

Attenuation of peak flowrates can be accomplished in an extended detention wetland facility, much the same as would be done in a conventional wet detention pond system. The outlet structure design will be such that the outflow from the wetland area during a given design storm event would be such that detention for the site is obtained (in conjunction with all other detention devices on the site).

5. Other Stormwater Management Devices.

Other stormwater management practices may be utilized on this site, as may be appropriate. These may include, but not be limited to, wet detention ponds, grassed swales, filter strips, and pocket wetland areas. In using any of these devices, the end result would be satisfaction of the City's performance standards for water quality (nutrient control) and water quantity controls for the proposed development. Further, stormwater management infrastructure may change in size, shape and location at the time of submission of construction drawings. Stormwater collection systems in public rights-of-way shall conform to the City's standards and specifications. Collection systems on private property may include storage devices or other alternative design concepts.

H. Open Space and Tree Conservation

1. Open Space.

A minimum of fifteen percent (15%) of the Development will be reserved as open space, which will include green spaces, Tree Conservation areas and plazas. Open space totals may, with the consent of the City Administration, be shifted or reallocated between Tracts within the Development.

2. Tree Conservation.

As shown on plan sheets TC-1, TC-2 and TC-3, a minimum of ten percent (10%) tree preservation will be provided. The standards of the Tree Preservation Ordinance (Ordinance Number (2005) 762 TC 264 TC-7-04) shall be applied to the Property as a whole rather than on a Tract by Tract or lot by lot basis. All shifting of tree preservation areas will be shown on recorded subdivision plats. Perimeter tree preservation areas shall be defined with metes and bounds legal descriptions.

I. Vehicular Parking

Given the urban mixed-use, pedestrian friendly concepts of the Development, the parking requirements applicable to this Master Plan shall be reduced by thirty-four percent (34%) of required parking as set forth in Section 10-2081 of the Code. This reduction is justified in part because there will public transportation available within the Development. Additionally, horizontal and vertical mixing of uses reduces the demand for parking in such developments. For additional justification, please refer to the Reduced Parking Scenario Matrix attached to this Master Plan, along with a letter submitted with this Master Plan from Kimley-Horn and Associates dated May 31, 2006, analyzing the justification for this parking reduction.

J. Compliance with Urban Design Guidelines

Please refer to the Urban Design Compliance Chart submitted with this Master Plan addressing the City's Urban Design Guidelines.

K. Phasing

North Hills East will be developed in phases primarily determined by market conditions, economic considerations, and matters determined as field engineering and surveying progress. A Preliminary Phasing Plan is attached to this Master Plan showing the general location of preliminary development phases for North Hills East. Notwithstanding this Preliminary Phasing Plan, any tract or phase within this Master Plan may be developed or reconfigured at any time subject to the provisions of the Code, and provided that all necessary infrastructure is in place to serve such development. Further, retail phasing shall be determined based upon the requirements of TC-15-06 (73 TC 291).

L. SHOD Yard

In lieu of the SHOD Yard along the 440 Beltline, a ten (10) foot high closed wall made of concrete, masonry or equivalent material shall be constructed within the City's right of way in the general location shown on the Land Use Plan. The construction of this wall shall be contingent upon securing all necessary encroachment agreements and/or variances from the appropriate governing bodies.

M. Thoroughfare Zoning District as Default and Impact of Future Code Amendments

To the extent this Master Plan does not address a design standard or other regulated matter specifically, the standards and requirements for the City's Thoroughfare Zoning District in effect as of the date of final adoption of this Master Plan shall control. Further, after the date of

final adoption of this Master Plan, should any provision of the Code applicable to the Development be revised such that said revision is less restrictive than what is permitted under this Master Plan, then, in that event, the Code shall control over this Master Plan.

7. ~~9.~~ ALTERNATES REQUESTED PURSUANT TO CODE SECTION 10-2057 AND REQUIRED ENCROACHMENTS

The elements of this Master Plan proposed as alternative means of compliance with respect to the provisions of Code Section 10-2057, are as follows:

A. Street Section Designs

Due to the pedestrian oriented, urban mixed use character of North Hills East, the applicant is seeking to utilize street sections as shown on the Street Section Plan submitted with this Master Plan. These street sections will require the placement of plantings within the public right of way subject to entering in to appropriate encroachment agreements with the City. No reduction to standard street and sidewalk widths are being requested. Therefore, there shall be no impact to traffic flow of anticipated level of service.

B. Maximum Land Area for Exclusive Retail Use

North Hills East is located within a City Focus Area. City Focus Areas have city-wide or greater market areas justifying higher intensity uses with regional shopping areas and significant concentration of jobs. Accordingly, in order to develop an effective mixed use development, retail exceeding ten percent (10%) of the gross land area of the development is justified. This will compliment the substantial residential component of the Master Plan, as well as the residential development in the immediate vicinity. Further, the additional retail is justified under the Urban Design Guidelines as set forth in Urban Design Compliance Chart submitted with this Master Plan. Specifically, heightened street level activity will be generated by the proposed mix of uses

throughout the development. This street level activity will also be encouraged by the pedestrian orientation of the Development. Accordingly, ~~The, the~~ Development will draw a wide range of pedestrian activities such that additional commercial uses are justified. Therefore, up to twenty-five percent (25%) of the gross square footage of the Development (including residential dwelling units) shall be permitted to be developed for retail uses. As a result, the purposes of the PDD as set forth in Code Section 10-2011(b)(3)g are better achieved because: (1) roadway corridors will be protected from further strip development; (2) substantial community-wide amenities will be available to the general public; (3) innovative architectural elements and design will be used to maximize land uses through verticality, which will result in a smaller horizontal footprint; and (4) transit will be encouraged.

C. Transitional Protective Yards

Because the Development will be unified and generally comply with the City's Urban Design Guidelines, providing extensive internal Transitional Protective Yards is impractical and in many respects conflicts with developing an urban community. Furthermore, because this is a pedestrian-oriented development, it is not appropriate to break up the continuity and interconnectivity of the Development with Transitional Protective Yards. An alternative means of compliance is requested for interior Transitional Protective Yards. Accordingly, rather than providing Transitional Protective Yards on the interior of the Development, the Developer shall provide enhanced landscaping by installing street trees upsized from 3 inch caliper to 3.5 inch caliper adjacent those areas where a Transitional Protective Yard would have been required.

D. Street Protective Yards

Because the Development will be unified and generally comply with the City's Urban Design Guidelines, providing extensive Street Protective Yards is impractical and in many

respects conflicts with developing an urban community. Furthermore, because this is a pedestrian-oriented development, it is not appropriate to break up the continuity and interconnectivity of the Development with Street Protective Yards. As an alternative means of compliance, the Developer shall install street yard plantings within the public right-of-way as shown on the Street Sections contained on Sheet C-6, of the plans submitted with this Master Plan, provided that all necessary encroachment agreements are secured.

E. Off-Street Parking Requirements

Off-street parking shall be as provided for in the Master Plan using a mixture of surface and structured parking; provided, however, at least fifty-one percent (51%) of the required parking shall be located in structured parking facilities. Reduced parking is justified under this Master Plan because of the urban mixed-use nature of the Development. The design of the Development will foster pedestrian circulation that will reduce the need for parking when combined with the mixed-use aspects of the Development. As further justification for the parking as provided in this Master Plan, please refer to the Reduced Parking Scenario Matrix attached to this Master Plan, along with a letter from Kimley-Horn and Associates dated May 31, 2006. The letter and the Reduced Parking Scenario Matrix justify a reduction of thirty-four (34) percent to the parking required by code for the targeted intensities.

F. Vehicular Surface Areas

Due to the urban nature of the Development, the minimum planting area requirements in the Code for interior plantings required for vehicular surface areas shall not apply. Provided, however, required tree plantings shall be installed within irrigated ~~6'x6'~~ appropriately sized planting areas. Shrub plantings required for vehicular surface areas may be relocated throughout the Development.

G. Exceptions to Group Housing Standards

Exceptions to the Group Housing Standards of the Code shall be approved by upon completion of a Site Plan in accordance with § 10-2103(h) of the Code. Exceptions are justified in this case due to the urban nature of this Development. Excessive building separations and vehicular access points will reduce the pedestrian oriented nature of the Development. Further, due to the nature of the Development and the desire to create a unique mixed-use community, the Developer seeks to eliminate the public street requirement as well. This will provide for additional design flexibility to achieve the overall purpose of this Master Plan. Please refer to the Group Housing Exceptions Illustration attached to the Master Plan for specific details of the requested Group Housing Exceptions.

H. Signage

The Sign Criteria submitted with this Master Plan are hereby established for this Development. Further, signs shall be permitted within the Development pursuant to this Master Plan regardless of setbacks and parcel size, provided that all other applicable Code provisions are met.

I. SHOD

An encroachment agreement with the City and/or NCDOT will be required in order to construct the ten (10) foot high closed wall proposed in Section 86(L) above.

8. ~~10.~~ AMENDMENTS AND REVISIONS

A. By Property Owners Only

~~Only the parties owning property within North Hills East shall have the right to amend this Master Plan and the exhibits hereto, but only to the extent any such amendment applies to individual properties owned by such parties. Any property owners' association owning and/or~~

~~maintaining common open space and/or landscape amenities must join in all amendments to this Master Plan.~~

The Master Association or Declarant (during the Declarant Control Period) as set forth in the Master Declaration recorded in Book 12692, Page 209 of the Wake County Register of Deeds shall be authorized to unilaterally amend or revise the Master Plan and Exhibits thereto pursuant to this Paragraph 8.

B. Administrative Changes

1. Within the Development, City Administration will issue administrative site plan approvals and unity of development plans as development occurs.

2. City Administration may approve changes in the dimensions (but not increases in height), locations, numbers and orientation of structures to be built in the Development.

3. City Administration may approve changes to public and private street locations, typical street sections; parking facilities, stormwater facilities, landscaping, increases or decreases in the number of driveways permitted onto public streets, except that no additional curb cuts shall be permitted onto Six Forks Road and Dartmouth Road, other than those shown on sheets C-4 and C-5 of this Master Plan, driveway access locations, utilities and changes in street or sidewalk construction standards (including widths) that do not affect the traffic-carrying capacity of the respective streets or sidewalks.

4. Subject to the provisions of Section 75 of this Master Plan and other applicable Code provisions, City Administration may approve increases in the intensity of any uses proposed within the Development provided that the overall maximum development intensities: (a) are not in conflict with the North Hills East Parking Matrix submitted with this Master Plan; (b)

do not conflict with the North Hills East Maximum Height and Use Chart; and (c) do not result in any increase in the total peak P.M. vehicle trips set forth in the Traffic Impact Analysis submitted with this Master Plan and restated below.

5. City Administration may proportionately reduce the Minimum Land Uses required in Section 75 of this Master Plan to conform to overall reductions in the development intensity permitted under this Master Plan.

Land Use Code	Land Use	PM Peak Hour	
		In	Out
232	High-Rise Condominiums (1,400 d.u.)	304	173
253	Congregate Care (300 d.u.)	31	26
310	Hotel (210 rooms)	66	58
710	General Office (950,000 s.f.)	194	949
820	General Retail (280,000 s.f.)	593	642
	<i>Subtotal</i>	<i>1,188</i>	<i>1,862</i>
	<i>Internal Capture (15.73%)</i>	<i>-245</i>	<i>-245</i>
	<i>Pass-By Capture (9.43%)</i>	<i>-140</i>	<i>-150</i>
	<i>Existing Land Use</i>	<i>-141</i>	<i>-212</i>
	<i>New External Traffic</i>	<i>662</i>	<i>1,255</i>

6. City Administration may approve interim land uses for any development tract in this Master Plan for a period not to exceed ten (10) years.

C. Planning Commission Changes

The Planning Commission shall resolve any question of interpretation of this Master Plan and its exhibits that may arise in the administrative approval of any site plan upon the Development, and that is not resolved between City Administration and the owner. Either the Planning Director or the applicant may appeal the judgment of the Planning Commission to the City Council.

The Planning Commission may approve changes in this Master Plan or its Exhibits if such changes result in overall maximum development densities that result in an increase of no more than ten percent (10%) in the total peak P.M. vehicle trips set forth in the Trip Generation Table set forth in Section ~~108~~(B) above.

All changes made pursuant to this Section ~~108~~(C) shall be made pursuant to a site plan approved under Code Section 10-2132.2.

D. City Council Changes

The City Council, after a recommendation of the Planning Commission, shall approve any changes in this Master Plan or its Exhibits if such changes result in overall maximum development intensities that result in an increase of no more than fifteen percent (15%) in the total peak P.M. vehicle trips set forth in the Trip Generation Table set forth in Section ~~108~~(B) above.

Further, the Applicant acknowledges that the maximum residential density permitted under this Master Plan is currently 40 units per acre or a total of ~~1,563~~2,076 dwelling units. This density calculation ~~excludes Tract M since it is separated from the balance of the project by a public street.~~ is based on the 45.03 acres included in the previously approved Master Plan and the 6.89 acres (Tract N, O and P) added as a part of this Master Plan amendment.

taking into account the 1.39 acres of previously dedicated right-of-way. However, if within five (5) years of the final approval of this Master Plan, the permitted residential density within Code Section 10-2057 is increased above 40 dwelling units per acre, or the Code is otherwise amended to permit residential density to be transferred, then Council shall be permitted to authorize such higher residential densities so long as such changes are consistent with the other terms and conditions of this Master Plan and the City Code.

The City Council or the Board of Adjustment, in accordance with applicable provisions of the City Code, will approve all special use permits or variances that may be required for specific uses proposed in site-specific development plans.

All changes made pursuant to this Section ~~108~~(D) shall be made pursuant to a site plan approval under Code Section 10-2132.2.

PETITIONERS/ OWNERS*

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Harold P. Dew & Bettie P. Dew

North Hills East Master Developer, LLC

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1706608252; 1706608325; 1705894413

4209 Camelot Drive
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OM of Raleigh, Inc.
4220 Six Forks Road
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William T. Barker
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Commercial Net Lease Realty, Inc.
Successor by merger with
Captec Net Lease Realty, Inc.
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Raleigh, NC 27609-5838 19107
PIN 170602014 27619

PINs 1706-60-4182, 1706-60-6179, 1706-60-8247, 1705-69-6915, 1705-79-0692, 1705-79-0328, 1705-79-2468, 1705-79-4304, 1705-79-5576, 1705-79-5283, 1705-79-8078, 1705-89-4251, 1705-89-3496, 1705-89-7196, 1705-99-1204, 1705-79-9808, 1705-79-6669.

SSMH, LLC Duke/Kane, LLC

c/o Duke Realty Corp.
1800 Perimeter Park Drive, Suite 200
Morrisville, NC 27560

* Property Owners all c/o Kane Realty Corporation, c/o T. J. Barringer, 4321 Lassiter at North Hills Avenue, Suite 250, Raleigh, NC 27609

PIN 1705-69-6797

North Hills East Retail I, LLC

c/o Kane Realty Corp.

P.O. Box 19107

Raleigh, NC 27619

PIN 1705-79-0940

HCRI North Carolina Properties III, Limited Partnership

One Seagate, Suite 1500

P.O. Box 1475

Toledo, OH 43603

PIN 1705-89-0396

Church of the Apostles of Raleigh

~~100 Saint~~333 St. Albans Drive

Raleigh, NC ~~27609-5872~~

PIN ~~1705790274~~ 1705-89-5065

~~North Hills Terrace, LLC~~

~~5088 Oak Level Road~~

~~Rocky Mount, NC 27803-8321~~

~~PIN 1705798582~~

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Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

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