

CITY OF RALEIGH

Z-23-09

R-6 w/ SHOD-1

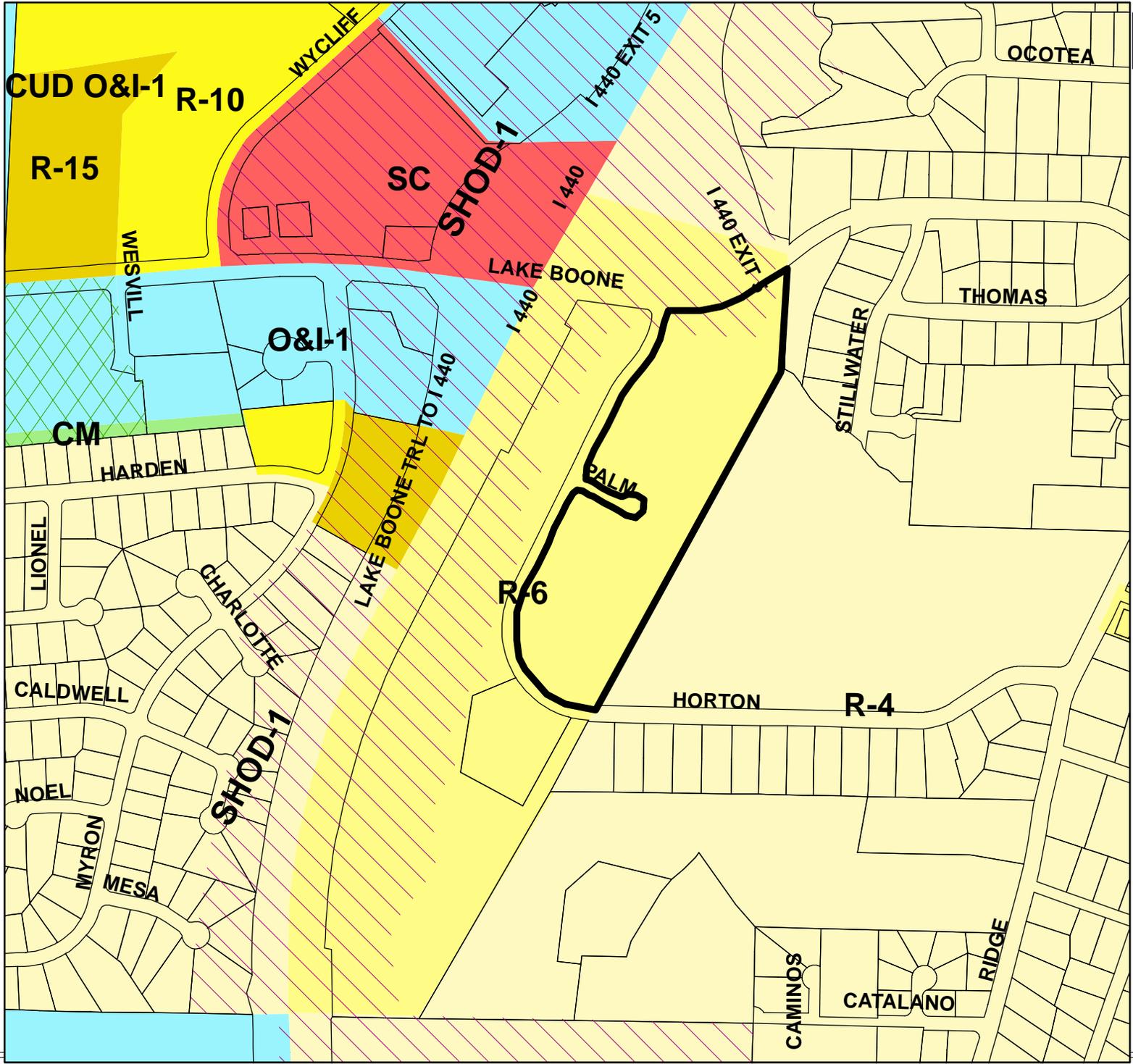
to

R-15 CUD
w/ SHOD-1

15.34 acres

Public Hearing
April 21, 2009
(October 18, 2009)

330
Feet





2009 MAR 23 PM 2:08

Petition to Amend the Official Zoning Map

Before the City Council of the City of Raleigh, North Carolina

The petitioner seeks to show the following:

1. That, for the purposes of promoting health, morals, or the general welfare, the zoning classification of the property described herein must be changed.
2. That the following circumstance(s) exist(s):
 - City Council has erred in establishing the current zoning classification of the property by disregarding one or a combination of the fundamental principles of zoning as set forth in the enabling legislation, North Carolina General Statutes Section 160A-381 and 160A-383.
 - Circumstances have so changed since the property was last zoned that its current zoning classification could not properly be applied to it now were it being zoned for the first time.
 - The property has not heretofore been subject to the zoning regulations of the City of Raleigh.
3. That the requested zoning change is or will be in accordance with the Raleigh Comprehensive Plan.
4. That the fundamental purposes of zoning as set forth in the N.C. enabling legislation would be best served by changing the zoning classification of the property. Among the fundamental purposes of zoning are:
 - 1) to lessen congestion in the streets;
 - 2) to provide adequate light and air;
 - 3) to prevent the overcrowding of land;
 - 4) to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements;
 - 5) to regulate in accordance with a comprehensive plan;
 - 6) to avoid spot zoning; and
 - 7) to regulate with reasonable consideration to the character of the district, the suitability of the land for particular uses, the conservation of the value of buildings within the district and the encouragement of the most appropriate use of the land throughout the City.

Please check boxes where appropriate

THEREFORE, petitioner requests that the Official Zoning map be amended to change the zoning classification of the property as proposed in this submittal, and for such other action as may be deemed appropriate.

Signature(s)

x R Gordon Grubb

Date:

March 23, 2009

Please type or print name(s) clearly:

GRUBB PALMS, LLC, a North Carolina limited liability company

March 23, 2009

By: R. Gordon Grubb
Title: Member/Manager

EXHIBIT B. Request for Zoning Change

Office Use Only	
Petition No.	<u>Z-23-09</u>
Date Filed:	<u>12/19/08 (REV 3/23/09)</u>
Filing Fee:	_____

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

See instructions, page 6

	Name(s)	Address	Telephone / E-Mail
1) Petitioner(s): Note: Conditional Use District Petitioner(s) must be owner(s) of petitioned property.	<u>Grubb Palms, LLC</u>	<u>3700 Glenwood Avenue</u> <u>Suite 510</u> <u>Raleigh, NC 27612</u>	<u>919-786-9905</u>
	_____	_____	_____
2) Property Owner(s):	<u>Grubb Palms, LLC</u>	<u>3700 Glenwood Avenue</u> <u>Suite 510</u> <u>Raleigh, NC 27612</u>	_____
	_____	_____	_____
3) Contact Person(s):	<u>Thomas C. Worth, Jr.</u>	<u>P. O. Box 1799</u> <u>Raleigh, NC 27602</u>	<u>919-831-1125</u>
	<u>Isabel Worthy Mattox</u>	<u>P. O. Box 946</u> <u>Raleigh, NC 27602</u>	<u>919-828-7171</u>
4) Property Description: Please provide surveys if proposed zoning boundary lines do not follow property lines.	Wake County Property Identification Number(s) (PIN): <u>0795 21 1105</u>		

	General Street Location (nearest street intersections): <u>Southeast quadrant of the</u> <u>intersection of Lake Boone Trail and Horton Street</u>		

5) Area of Subject Property (acres):	<u>15.34 acres, more or less</u>		
6) Current Zoning District(s) Classification: Include Overlay District(s), if Applicable	<u>R-6 with SHOD-1 overlay</u>		
7) Proposed Zoning District Classification: Include Overlay District(s) if Applicable. If existing Overlay District is to remain, please state.	<u>R-15 CUD with SHOD-1 overlay in location consistent with existing SHOD-1</u> <u>overlay</u>		

Grubb Palms, LLC
PIN #0795 10 3418
3700 Glenwood Avenue, Suite 510
Raleigh, NC 27612

Edward T. Pope and Jean M.
PIN #0795 10 8166
3429 Horton Street
Raleigh, NC 27607-3414

Joyce A. Kekas and Denis H.
PIN #0795 20 0106
3425 Horton St.
Raleigh, NC 27607-3414

Neal Thomas Robertson
PIN #0795 21 7447
1801 Stillwater Dr.
Raleigh, NC 27607-6741

Norman Mustafa
PIN #0795 21 7798
1813 Stillwater Dr.
Raleigh, NC 27607-6741

City of Raleigh
PIN #0795 22 5240
P. O. Box 590
Raleigh, NC 27602-0590

Wycliff Ventures, LLC
PIN #0795 12 7649
P. O. Box 18771
Raleigh, NC 27619-8771

LAKE BOONE MELCO LLC
PIN #0795 12 2003
c/o Melco Associates
123 Grove Ave., Ste. 120
Cedarhurst, NY 11516-2302

Wake County Board of Education
PIN #0795 20 8717
3600 Wake Forest Rd.
Raleigh, NC 27609-7329

Gerald Milton White & Lula B.
PIN #0795 21 7558
1805 Stillwater Dr.
Raleigh, NC 27607-6741

Peter P. Williams and Ruth L.
PIN #0795 02 9381
Lake Boone Shopping Center
P. O. Box 10007
Raleigh, NC 27605-0007

City of Raleigh
PIN #0795 10 5272
P. O. Box 590
Raleigh, NC 27602-0590

W. T. Ragland
PIN #0795 23 6177
P. O. Box 31343
Raleigh, NC 27622-1343

City of Raleigh
PIN #0795 22 6294
P. O. Box 590
Raleigh, NC 27602-0590

GRUBB PALMS, LLC
PIN #0795 21 1105
3700 Glenwood Ave., Ste. 510
Raleigh, NC 27612

Thomas P. Finnerty & Lynda H.
PIN #0795 21 7679
1809 Stillwater Dr.
Raleigh, NC 27607-6741

Office Use Only	
Petition No.	Z-23-09
Date Filed:	12/19/08

REV. 2/23/09

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 within the North Hills District. The subject property is within a Neighborhood Focus Area which calls for higher density residential, low intensity office and neighborhood retail uses.

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 property is subject to the Special Highway Overlay District-I requirements which mandate a 50-foot buffer with designated plantings along I-440 and a height limit of five (5) above ground stories.

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's designation of this area as a Neighborhood Focus Area.

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 surrounded by residential and office uses, a Wake County middle school, the I-440 Beltline, and greenway property. The property abuts a major arterial thoroughfare, a minor thoroughfare, and a neighborhood street. The property is located on a CAT bus route and Petitioner has offered an easement for a transit stop in this petition.

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

Northwest: SC with SHOD-1; Lake Boone Shopping Center
North: R-4 with SHOD-1; greenway and I-440 Beltline
East: R-4; Martin Middle School, and single family residential
South: O&I-1 and R-4 both with SHOD-1; vacant and single family residential
West: R-15, R-4 and O&I-1 all with SHOD-1; office condos, office, residential condos and single family residential

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 redevelopment of medium density residential uses and low intensity offices is compatible with the adjacent arterial and minor thoroughfare and the many surrounding office, institutional and residential uses. The character of the area is dominated by the Rex Hospital employment area. The proposed uses are in keeping with the character of the area and both will support the employment center.

III. Benefits and detriments of the proposed map amendment.

A. For the landowner(s):

The proposed map amendment will permit the redevelopment of the property in a more efficient and financially viable manner.

B. For the immediate neighbors:

The proposed map amendment will allow an older apartment community to be redeveloped in a way that is more aesthetically pleasing.

C. For the surrounding community:

The proposed map amendment will allow the subject property to use the public street and greenway network in a more effective way by placing more residential density and additional employment opportunities within a Neighborhood Focus Area adjacent to major roadways and greenways.

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

The proposed rezoning will permit office development and a higher residential density than that which is permitted on the adjacent properties to the east, south and southwest, but will permit similar development opportunities as are available upon the properties to the west and northwest.

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

The requested zoning is reasonable and in the public interest as the subject property, located within a Neighborhood Focus Area at the intersection of a major arterial thoroughfare and a minor thoroughfare, and in close proximity to an employment center, transit lines and a city greenway, is extremely well suited for office and medium density residential uses.

V. Recommended items of discussion (where applicable).

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

N/A

- 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 property was last zoned and developed over 30 years ago, prior to the relocation of Rex Hospital to Lake Boone Trail and the development of Lake Boone Shopping Center. The development in this area in the past 30 years strongly supports medium density residential and office uses in this location.

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

The public has a need for more property to be rezoned to accommodate higher density residential and office uses in an area which has great accessibility to the I-440 Beltline, a major hospital, an employment center and retail goods and services.

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

The property can be easily serviced by existing fire and EMS services, City parks and greenways and major roadways. The proposed height and massing of buildings and separations from neighboring properties is such that no neighboring properties will be deprived of air and light as a result of the redevelopment which will be permitted by approval of this rezoning case.

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



Certified Recommendation of the City of Raleigh Planning Commission

Case File: Z-23-09 Conditional Use; Lake Boone Trail

General Location: Lake Boone Trail, south side, east of Horton Street

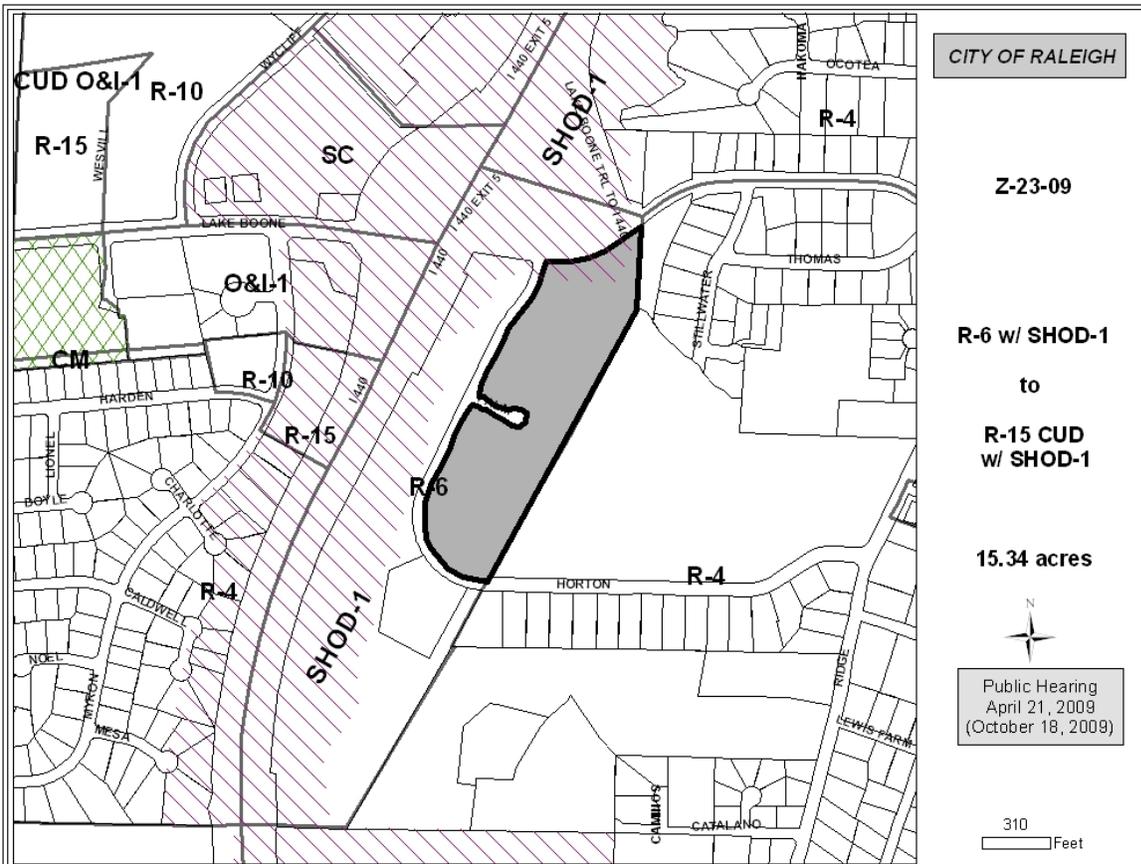
**Planning District
/ CAC:** North Hills / Glenwood

Request: Petition for Rezoning from Residential-6 w/ Special Highway Overlay District-1 to Residential-15 Conditional Use w/ Special Highway Overlay District-1.

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

**Valid Protest
Petition (VSPP):** Application deadline date: April 16, 2009

Recommendation: The Planning Commission finds that the proposed rezoning is consistent with the Comprehensive Plan and based on the findings and reasons stated herein, that this request be approved in accordance with zoning conditions dated September 9, 2009.





Zoning Staff Report: Z-23-09 Conditional Use

LOCATION: This site is located on the south side of Lake Boone Trail, east of its intersection with Horton Street.

AREA OF REQUEST: 15.34 acres

PROPERTY OWNER: Grubb Palms, LLC

CONTACT PERSON: Thomas C. Worth, Jr., 919-831-1125

PLANNING COMMISSION RECOMMENDATION DEADLINE: August 19, 2009

ZONING:	<u>Current Zoning</u>	<u>Proposed Zoning</u>
	R-6	R-15 Conditional Use
	<u>Current Overlay District</u>	<u>Proposed Overlay District</u>
	Special Highway-1	Special Highway-1

ALLOWABLE DWELLING UNITS:	<u>Current Zoning</u>	<u>Proposed Zoning</u>
	92 Units (6 units per acre) 188 Units (Approved Cluster Dev. w/ Density Transfer)	230 Units

ALLOWABLE OFFICE SQUARE FOOTAGE:	<u>Current Zoning</u>	<u>Proposed Zoning</u>
	None	None

ALLOWABLE RETAIL SQUARE FOOTAGE:	<u>Current Zoning</u>	<u>Proposed Zoning</u>
	None	None

ALLOWABLE GROUND SIGNS:	<u>Current Zoning</u>	<u>Proposed Zoning</u>
	Tract ID	Tract ID

ZONING HISTORY: This property has been zoned Residential-6 since being brought into the City's jurisdiction (Z-33-63).

SURROUNDING ZONING:
 NORTH: Residential-6
 SOUTH: Residential-6
 EAST: Residential-4

WEST: Residential-6

LAND USE: Multi-family housing

SURROUNDING

LAND USE: NORTH: Single-family & Open Space
SOUTH: Vacant & Open Space
EAST: Leroy Martin Junior High School
WEST: Multi-family residential & Open Space

DESIGNATED HISTORIC RESOURCES: N/A

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	Neighborhood Focus Area
Specific Area Plan	N/A
Guidelines	N/A

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

The request is consistent with the Comprehensive Plan. The subject property is located in the Northeast District, which shows the property as part of a Neighborhood Focus Area.

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

Development northeast of the subject property is primarily low density, single-family residential. Single-family residential development is located to the north, while a combination of city owned greenway and multi-family development is located to the west of the subject property. Leroy Martin Junior High School is located east of the subject property, and property to the south consists of vacant land located in the FEMA floodplain.

The proposed rezoning is consistent with the Comprehensive Plan, but there is a clear change in the type of the development that occurs west of the I-440 bridge, and the development that occurs to the east. The development to the west consists of retail, office, and high density multi-family uses, while the development to the east consists of low to medium density residential development. Based on the transition that appears to be taking shape in this area, the requested rezoning to Residential-15 appears to be compatible with the surrounding area.

It should be noted that the owner of the subject property also owns the property directly to the west across Horton Street. While the properties have maintained the R-6 zoning classification, a cluster subdivision was approved in 2007. Current subdivision regulations allow property under common ownership to transfer density between adjacent parcels when bisected by right-of-way, typically to accommodate a parcel which is environmentally constrained.

The subject of this rezoning request was the recipient of a density transfer, receiving additional density from the property to the west. The western adjacent property is largely encumbered with the 100-year flood plain. The petitioner has added a condition which specifies that the subject property will not receive a density transfer from an adjacent property. A condition has not been offered, however, which would restrict a density transfer from the subject property back to the western property.

3. Public benefits of the proposed rezoning

The petitioner indicates that the proposed rezoning is a public benefit because it will encourage the older multi-family development that currently occupies the property to be redeveloped to be more aesthetically pleasing, and that the rezoning will lend to more efficient and financially viable redevelopment.

Allowing this property to be rezoned does not guarantee that the redevelopment that may take place on the property will be more aesthetically pleasing because the applicant has not provided any conditions that would provide any foresight into the appearance of future development. If the conditions provided information regarding building materials, orientation, parking regulations, and landscaping there would be more predictability regarding the appearance of future development.

4. Detriments of the proposed rezoning

The subject property is located in a flood prone area containing a Neuse Riparian Buffer, and is adjacent to a major thoroughfare in close proximity to the I-440 exit ramps.

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

TRANSPORTATION: Lake Boone Trail is classified as a minor thoroughfare (2007 ADT - 9,000 vpd) and exists as a 4-lane undivided road with a curb and gutter section and sidewalk on one side adjacent to the I-440/NCDOT right-of-way. City standards call for Lake Boone Trail to be constructed as a multi-lane curb and gutter section with sidewalks on both sides. Interstate 440 is classified as a principal arterial and borders the subject property to the west. While the property does not have direct access to I-440, the eastbound entrance and exit ramps at Lake Boone Trail are located directly across from the subject property. Horton Drive is classified as a collector street and exists as a 2-lane curb and gutter section with sidewalks on both sides within a 50-foot right-of-way. City standards call for Horton Drive to be constructed with a 41-foot back-to-back curb and gutter section with sidewalk on a minimum of one side within a 60-foot right-of-way.

A traffic impact analysis has been submitted by the applicant and reviewed by staff, and staff has concluded that approval of the requested rezoning would result in traffic impacts identical to the surrounding areas when compared to the existing apartment development.

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

HYDROLOGY: FLOODPLAIN: FEMA – Site is subject to Part 10, Chapter 4 flood prone area regulations.
 DRAINAGE BASIN: House Creek
 STORMWATER MANAGEMENT: Site is subject to Part 10, Chapter 9, Stormwater Control and Watercourse Buffer Regulations. Neuse Riparian Buffer is present on site.
 No WSPOD.

PUBLIC UTILITIES:

	Maximum Demand on Current Zoning	Maximum Demand on Proposed Zoning
Water	Approx. <u>53,690</u> gpd	Approx. <u>120,802</u> gpd
Waste Water	Approx. <u>53,690</u> gpd	Approx. <u>120,802</u> gpd

The proposed rezoning would add approximately 67,112 gpd to the wastewater collection and water distribution systems of the City. There are presently existing sanitary sewer and water mains available for the rezoning area to connect to the City's utilities.

PARKS AND RECREATION:

This property is adjacent to the House Creek Greenway corridor. There is a section on which the applicant will be required to dedicate the required greenway unless it is included as a condition of this rezoning case. There are sufficient park facilities in this area to meet the current level of service for the area. This rezoning case might increase the number of residents by 42.

WAKE COUNTY PUBLIC SCHOOLS:

Based on the Wake County data, students living in this area may be assigned to attend either: Lacy Elementary, Martin Middle or Broughton High. Development of the subject property at the requested rezoning could potentially yield the following increases: Lacy Elementary may increase by 6 students, Martin Middle may increase by 3 students, and Broughton High may increase by 3 students.

School name	Current enrollment	Current Capacity	Future Enrollment	Future Capacity
Lacy	723	108.4%	729	109.3%
Martin	1,023	106.1%	1,026	106.4%
Broughton	2,174	106.3%	2,177	106.5%

IMPACTS SUMMARY: Based on the location of the requested rezoning the applicant will be required to dedicate land for the greenway in this area. Due to the size of the subject property and allowable land use density associated with the proposed zoning a traffic impact analysis is recommended.

OPTIONAL ITEMS OF DISCUSSION

- 1. An error by the City Council in establishing the current zoning classification of the property.**
 N/A
- 2. How circumstances (land use and future development plans) have so changed since the property was last zoned that its current zoning classification could not be properly applied to it now were it being zoned for the first time.**

The petitioner has indicated that the subject property was last zoned and developed over 30 years ago, prior to the relocation of Rex Hospital to Lake Boone Trail and the development of Lake Boone Shopping Center, and these recent development changes support the increased residential density and development of office uses on the subject property.

While the development of the area west of I-440 and the subject property has significantly changed since the subject property was last rezoned, the area east of I-440 has developed as primarily single-family residential which provides evidence that the property's current zoning classification could be properly applied to it if it were being zoned for the first time.

APPEARANCE

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

CITIZENS'

ADVISORY COUNCIL:

DISTRICT: Glenwood

CAC CONTACT PERSON: Richard Bostic, 919-781-0497

SUMMARY OF ISSUES:

COMPREHENSIVE PLAN / COMPATIBILITY / ADVERSE IMPACTS:

1. Outstanding Issues

A Cluster Subdivision approved in 2007 could allow for the subject property to be developed to exceed the density allowed in Residential-15 zoning by using a transfer of density based on environmental constraints. (*Issue has been resolved with conditions 'a' and 'f'.*)

2. Suggested conditions

- a. Consider adding a condition that encourages structures along the northern portion of the site to address Lake Boone Trail with either a front or side façade treatment.
- b. Consider adding a condition that requires parking to be constructed to the side or rear any new development on the subject property.

