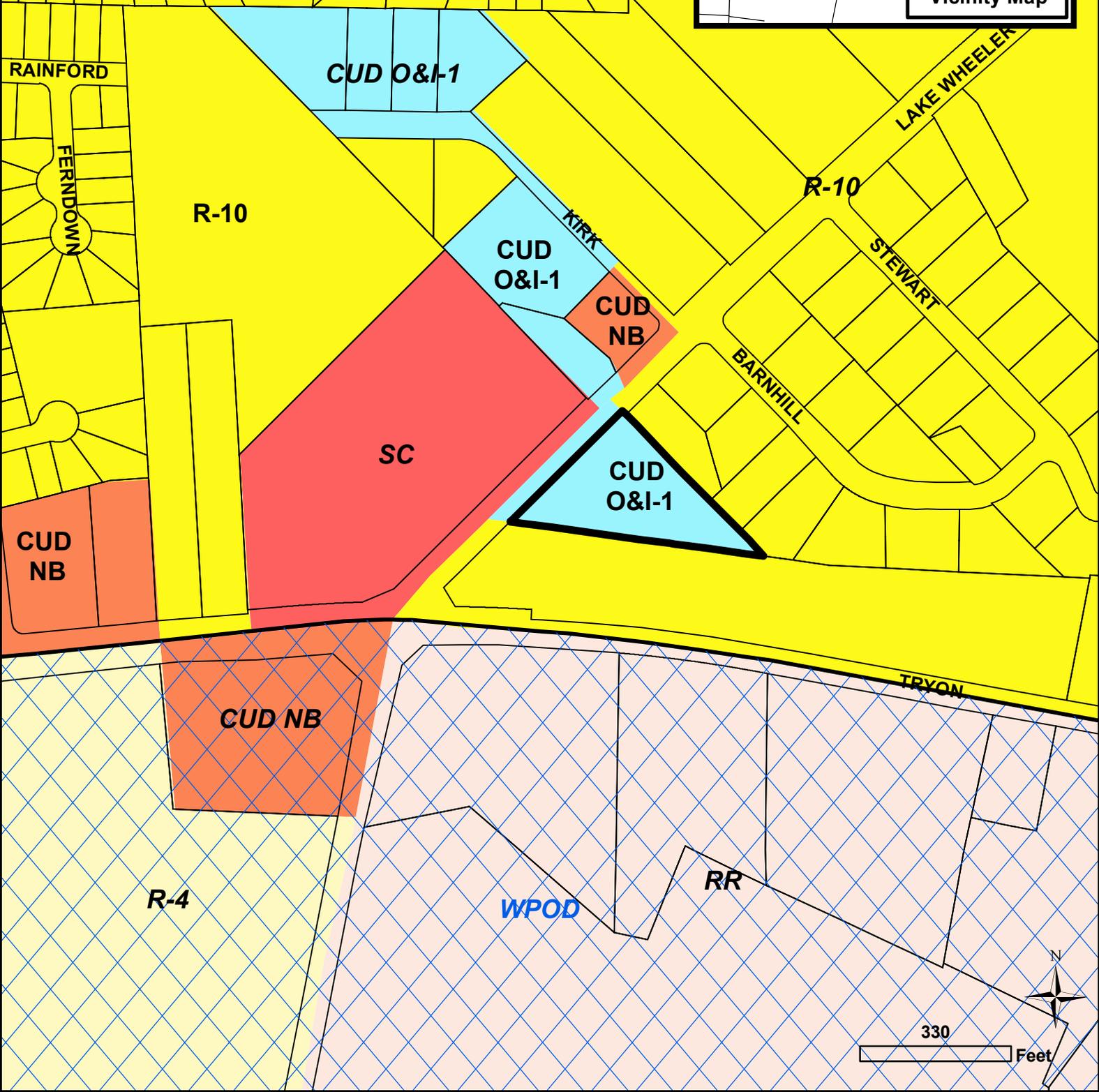
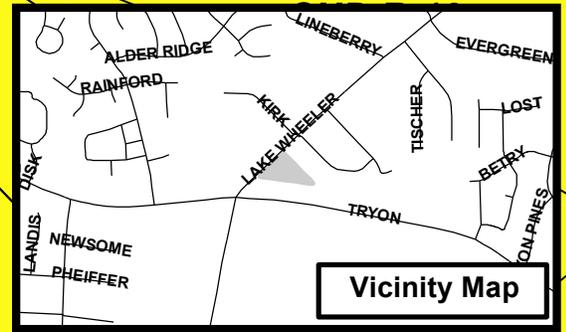


Existing Zoning Map

Case Number: Z-26-12



Request:

1.71 ac from O&I-1 CUD to NB CUD

City of Raleigh Public Hearing
July 17, 2012
(October 15, 2012)





Certified Recommendation

Raleigh Planning Commission

CR# 1483

Case Information Z-26-12 Lake Wheeler Rd

<i>Location</i>	East side of Lake Wheeler Road, north of its intersection with Tryon Road
<i>Size</i>	1.71 acres
<i>Request</i>	Rezone property from Office and Institution-1 Conditional Use to Neighborhood Business Conditional Use

Comprehensive Plan Consistency

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

A checked box signifies consistency with the applicable 2030 Comprehensive Plan policy

Consistent

<i>Future Land Use Designation</i>	<input checked="" type="checkbox"/>	Neighborhood Mixed Use
<i>Applicable Policy Statements</i>	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	Policy LU 1.3 – Conditional Use District Consistency Policy LU 2.6 – Zoning and Infrastructure Impacts Policy LU 4.5 – Connectivity Policy LU 5.4 – Density Transitions Policy LU 5.6 – Buffering Requirements Policy LU 7.4 – Scale and Design of New Commercial Uses Policy UD 2.4 – Transitions in Building Intensity Policy UD 7.3 – Design Guidelines

Summary of Conditions

<i>Submitted Conditions</i>	<ul style="list-style-type: none"> • Prohibited uses • Reduced building height • Construction of fence • Lighting • Offers of cross access • Transit easement • Retail square footage limitation
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Issues and Impacts

<i>Outstanding Issues</i>	1. None	<i>Suggested Conditions</i>	1. N/A
<i>Impacts Identified</i>	1. Potential increase in traffic.	<i>Proposed Mitigation</i>	1. Applicant has mitigated potential traffic impacts by limiting retail square footage.

Public Meetings

<i>Neighborhood Meeting</i>	<i>Public Hearing</i>	<i>Committee</i>	<i>Planning Commission</i>
3/5/12	7/17/12	Date: Action	8/14/12: Approval

Valid Statutory Protest Petition

Attachments

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

Planning Commission Recommendation

<i>Recommendation</i>	The Planning Commission finds that this case is consistent with the Comprehensive Plan and recommends that this case be approved in accordance with zoning conditions dated August 14 th , 2012.
<i>Findings & Reasons</i>	<ol style="list-style-type: none"> 1. The request is consistent with guidelines set forth in the Comprehensive Plan. The Future Land Use Map designates this area as being appropriate for Neighborhood Mixed Use. The proposed zoning is consistent with this designation. 2. The request is reasonable and in the public interest. The Applicant has provided several zoning conditions that mitigate impacts associated with the proposal. Therefore rezoning to Neighborhood Business Conditional Use as conditioned will have no additional impact on surrounding infrastructure, and will provide the applicant a broader range of uses for redevelopment. 3. The proposal is consistent and compatible with the surrounding area. While the property is also adjacent to residential, the applicant has provided conditions to help ensure an appropriate transition with adequate buffering.
<i>Motion and Vote</i>	Motion: Haq Second: Terando In Favor: Butler, Buxton, Fleming, Fluhrer, Harris Edmisten, Haq, Mattox, Schuster, Sterling Lewis, Terando

This document is a true and accurate statement of the findings and recommendations of the Planning Commission. Approval of this document incorporates all of the findings of the attached Staff Report.

Planning Director

Date

Planning Commission Chairperson

Date

Staff Coordinator:

Stan Wingo stan.wingo@raleighnc.gov



Zoning Staff Report – Case Z-26-12

Conditional Use District

Request

<i>Location</i>	East side of Lake Wheeler Road, north of its intersection with Tryon Road
<i>Request</i>	Rezone property from Office and Institution-1 Conditional Use to Neighborhood Business Conditional Use
<i>Area of Request</i>	1.71 acres
<i>Property Owner</i>	LWR Properties, LLC
<i>PC Recommendation Deadline</i>	October 15, 2012

Subject Property

	<i>Current</i>	<i>Proposed</i>
<i>Zoning</i>	Office and Institution-1 Conditional Use	Neighborhood Business Conditional Use
<i>Additional Overlay</i>	None	None
<i>Land Use</i>	Single Family Residential	Residential, Office or Retail
<i>Residential Density</i>	17 dwelling units (conditions)	17 dwelling units

Surrounding Area

	<i>North</i>	<i>South</i>	<i>East</i>	<i>West</i>
<i>Zoning</i>	SC, O&I-1 CUD, NB CUD, R-10	R-10	R-10	SC, O&I-1-CUD
<i>Future Land Use</i>	Neighborhood Mixed Use, Office Residential Mixed Use	Neighborhood Mixed Use	Office Residential Mixed Use	Neighborhood Mixed Use
<i>Current Land Use</i>	Retail, Residential	Vacant undeveloped land	Residential	Retail

Comprehensive Plan Guidance

<i>Future Land Use</i>	Neighborhood Mixed Use
<i>Area Plan</i>	None
<i>Applicable Policies</i>	Policy LU 1.3 – Conditional Use District Consistency Policy LU 2.6 – Zoning and Infrastructure Impacts Policy LU 4.5 – Connectivity Policy LU 5.4 – Density Transitions

	Policy LU 5.6 – Buffering Requirements Policy LU 7.4 – Scale and Design of New Commercial Uses Policy UD 2.4 – Transitions in Building Intensity Policy UD 7.3 – Design Guidelines
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Contact Information

<i>Staff</i>	Stan Wingo, (919)516-2663
<i>Applicant</i>	Chad Essick, (919)783-2896, cessick@poyners.com
<i>Citizens Advisory Council</i>	Southwest CAC

Case Overview

The subject property is located along Lake Wheeler Road north of its intersection with Tryon Road. The property is bordered on the north, east and south by Residential-10 zoning currently developed as single family residential, with the southern adjacent property being vacant and undeveloped. Shopping Center and Office & Institution zoning is located across Lake Wheeler Road to the west, developed as retail and institutional. Surrounding Future Land Use designations include Office & Residential Mixed Use to the east, with Neighborhood Mixed Use to the north, west and south of the property.

The rezoning request proposes amending the current zoning from Office and Institutional-1 Conditional Use to Neighborhood Business Conditional Use.

Exhibit C & D Analysis

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

1.1 Future Land Use

The subject property is designated as being appropriate for Neighborhood Mixed Use on the Future Land Use Map. Neighborhood Mixed Use areas typically include small retail and commercial uses as well as small professional offices and similar uses that serve the immediately surrounding neighborhood. The request to rezone the subject property to Neighborhood Business Conditional Use is consistent with this Future Land Use designation.

1.2 Policy Guidance

The following policy guidance is applicable with this request:

Policy LU 1.3 - Conditional Use District Consistency All conditions proposed as part of a conditional use district (CUD) should be consistent with the Comprehensive Plan
--

Proposal is consistent with this policy. Conditions proposed by the applicant are consistent with the Comprehensive Plan.

Policy LU 2.6 – Zoning and Infrastructure Impacts Carefully evaluate all amendments to the zoning map that significantly increase permitted density or floor area to ensure that impacts to infrastructure capacity resulting from the projected intensification of development are adequately mitigated or addressed.

Proposal is consistent with this policy. Potential increases in traffic have been identified as an impact associated with this request. In response, the applicant has limited overall retail square footage in accordance with the Traffic Impact Analysis.

Policy LU 4.5 - Connectivity

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

Proposal is consistent with this policy. Zoning conditions proposed by the applicant include offers of vehicular and pedestrian cross access.

Policy LU 5.4 – Density Transitions

Low to medium density residential development and/or low-impact office uses should serve as transitional densities between lower-density neighborhoods and more intensive commercial and residential uses. Where two areas designated for significantly different development intensity abut on the Future Land Use Map, the implementing zoning should ensure that the appropriate transition occurs on the site with the higher intensity.

Proposal is consistent with this policy. Zoning conditions limit building height and prohibit several uses.

Policy LU 5.6 – Buffering Requirements

New development adjacent to areas of lower intensity should provide effective physical buffers to avoid adverse effects. Buffers may include larger setbacks, landscaped or forested strips, transition zones, fencing, screening, height and/or density step downs, and other architectural and site planning measures that void potential conflicts.

Proposal is currently consistent with this policy. Applicant has offered zoning conditions that include reduced building height as well as the construction of a fence along property line adjacent to single family residential uses.

Policy LU 7.4 – Scale and Design of New Commercial Uses

New uses within commercial districts should be developed at a height, mass, scale and design that is appropriate and compatible with surrounding areas.

Proposal is consistent with this policy. Proposed conditions include a reduction in building height.

Policy UD 2.4 – Transitions in Building Intensity

Establish gradual transitions between large-scale and small-scale development. The relationship between taller, more visually prominent buildings and lower, smaller buildings (such as single family or row houses) can be made more pleasing when the transition is gradual rather than abrupt. The relationship can be further improved by designing larger buildings to reduce their apparent size and recessing the upper floors of the building to relate to the lower scale of the adjacent properties planned for lower density.

Proposal is currently consistent with this policy. Applicant has offered zoning conditions that limit building height to two stories. Doing so ensures an appropriate transition in building intensity to the surrounding residential.

Proposal is consistent with applicable Urban Design Guidelines.

Elements of Mixed-Use Areas

1. *All Mixed-Use Areas should generally provide retail (such as eating establishments, food stores, and banks), office, and residential uses within walking distance of each other.*

Applicant Response: The rezoning request permits retail, office and residential uses, and the property is surrounded by existing retail, office and residential uses that are within walking distance.

Mixed-Use Areas /Transition to Surrounding Neighborhoods

2. *Within all Mixed-Use Areas buildings that are adjacent to lower density neighborhoods should transition (height, design, distance and/or landscaping) to the lower heights or be comparable in height and massing.*

Applicant Response: This property is adjacent to single family residential homes and vacant land. An existing shopping center is directly across the street from the property. The applicant has proposed a zoning condition that would require a closed fence along the northern property line that abuts the single family detached homes. Further, this design guideline can be better addressed at the site plan approval stage, to the extent site constraints will allow.

Mixed-Use Areas / The Block, The Street and The Corridor

3. *A mixed use area’s road network should connect directly into the neighborhood road network of the surrounding community, providing multiple paths for movement to and through the mixed use area. In this way, trips made from the surrounding residential neighborhood(s) to the mixed use area should be possible without requiring travel along a major thoroughfare or arterial.*

Applicant Response: The applicant has included a zoning condition that offer cross-access to the vacant property to the South that fronts along Tryon Road, This design guideline can be better addressed at the site plan approval stage; however the applicant intends to comply with this guideline to the extent site constraints will allow.

4. *Streets should interconnect within a development and with adjoining development. Cul-de-sacs or dead-end streets are generally discouraged except where topographic conditions and/or exterior lot line configurations offer no practical alternatives for connection or through traffic. Street stubs should be provided with development adjacent to open land to provide for future connections. Streets should be planned with due regard to the designated corridors shown on the Thoroughfare Plan.*

Applicant Response: The applicant has included a zoning condition that offer cross-access to the vacant property to the South that fronts along Tryon Road, Given the size of this site, no cul-de-sacs or dead-end streets will be located within the site. Further, this design guideline can be better addressed at the site plan approval stage; however the applicant intends to comply with this guideline to the extent site constraints will allow.

5. *Block faces should have a length generally not exceeding 660 feet.*

Applicant Response: No side of this property adjacent to the public right-of-way exceeds 660 feet.

Site Design/Building Placement

6. *A primary task of all urban architecture and landscape design is the physical definition of streets and public spaces as places of shared use. Streets should be lined by buildings rather than parking lots and should provide interest especially for pedestrians. Garage entrances and/or loading areas should be located at the side or rear of a property.*

Applicant Response: This design guideline can be better addressed at the site plan approval stage; however the applicant intends to comply with this guideline to the extent it is applicable and site constraints will allow.

7. *Buildings should be located close to the pedestrian street (within 25 feet of the curb), with off-street parking behind and/or beside the buildings.*

Applicant Response: This design guideline can be better addressed at the site plan approval stage; however the applicant intends to comply with this guideline to the extent it is applicable and site constraints will allow.

8. *If the building is located at a street intersection, the main building or part of the building placed should be placed at the corner. Parking, loading or service should not be located at an intersection.*

Applicant Response: This property is not located at a street intersection.

Site Design/Urban Open Space

9. *To ensure that urban open space is well-used, it is essential to locate and design it carefully. The space should be located where it is visible and easily accessible from public areas (building entrances, sidewalks). Take views and sun exposure into account as well.*

Applicant Response: Given the location and size of this site, this guideline is inapplicable.

10. *New urban spaces should contain direct access from the adjacent streets. They should be open along the adjacent sidewalks and allow for multiple points of entry. They should also be visually permeable from the sidewalk, allowing passersby to see directly into the space.*

Applicant Response: Given the location and size of this site, this guideline is inapplicable.

11. *The perimeter of urban open spaces should consist of active uses that provide pedestrian traffic for the space including retail, cafés, and restaurants and higher-density residential.*

Applicant Response: Given the location and size of this site, this guideline is inapplicable.

12. *A properly defined urban open space is visually enclosed by the fronting of buildings to create an outdoor "room" that is comfortable to users.*

Applicant Response: Given the location and size of this site, this guideline is inapplicable.

Site Design/Public Seating

13. *New public spaces should provide seating opportunities.*

Applicant Response: Given the location and size of this site, this guideline is inapplicable.

Site Design/Automobile Parking and Parking Structures

14. *Parking lots should not dominate the frontage of pedestrian-oriented streets, interrupt pedestrian routes, or negatively impact surrounding developments.*

Applicant Response: This design guideline can be better addressed at the site plan approval stage; however the applicant intends to comply with this guideline to the extent it is applicable and site constraints will allow.

15. *Parking lots should be located behind or in the interior of a block whenever possible. Parking lots should not occupy more than 1/3 of the frontage of the adjacent building or not more than 64 feet, whichever is less.*

Applicant Response: This design guideline can be better addressed at the site plan approval stage; however the applicant intends to comply with this guideline to the extent it is applicable and site constraints will allow.

16. *Parking structures are clearly an important and necessary element of the overall urban infrastructure but, given their utilitarian elements, can give serious negative visual effects. New structures should merit the same level of materials and finishes as that a principal building would, care in the use of basic design elements can make a significant improvement.*

Applicant Response: Given the location and size of this site, this guideline is inapplicable.

Site Design/Transit Stops

17. *Higher building densities and more intensive land uses should be within walking distance of transit stops, permitting public transit to become a viable alternative to the automobile.*

Applicant Response: Given the location and size of this site, this guideline is inapplicable.

18. *Convenient, comfortable pedestrian access between the transit stop and the building entrance should be planned as part of the overall pedestrian network.*

Applicant Response: Given the location and size of this site, this guideline is inapplicable.

Site Design/Environmental Protection

19. *All development should respect natural resources as an essential component of the human environment. The most sensitive landscape areas, both environmentally and visually, are steep slopes greater than 15 percent, watercourses, and floodplains. Any development in these areas should minimize intervention and maintain the natural condition except under extreme circumstances. Where practical, these*

features should be conserved as open space amenities and incorporated in the overall site design.

Applicant Response: It is our understanding that no such sensitive features are on the site, such that this guideline is inapplicable.

Street Design/General Street Design Principles

20. *It is the intent of these guidelines to build streets that are integral components of community design. Streets should be designed as the main public spaces of the City and should be scaled for pedestrians.*

Applicant Response: Given the location and size of this site, this guideline is inapplicable.

21. *Sidewalks should be 5-8 feet wide in residential areas and located on both sides of the street. Sidewalks in commercial areas and Pedestrian Business Overlays should be a minimum of 14-18 feet wide to accommodate sidewalk uses such as vendors, merchandising and outdoor seating.*

Applicant Response: This design guideline can be better addressed at the site plan approval stage; however the applicant intends to comply with this guideline to the extent it is applicable and site constraints will allow.

22. *Streets should be designed with street trees planted in a manner appropriate to their function. Commercial streets should have trees which compliment the face of the buildings and which shade the sidewalk. Residential streets should provide for an appropriate canopy, which shadows both the street and sidewalk, and serves as a visual buffer between the street and the home. The typical width of the street landscape strip is 6-8 feet. This width ensures healthy street trees, precludes tree roots from breaking the sidewalk, and provides adequate pedestrian buffering. Street trees should be at least 6 1/4" caliper and should be consistent with the City's landscaping, lighting and street sight distance requirements.*

Applicant Response: This design guideline can be better addressed at the site plan approval stage; however the applicant intends to comply with this guideline to the extent it is applicable and site constraints will allow.

Street Design/Spatial Definition

23. *Buildings should define the streets spatially. Proper spatial definition should be achieved with buildings or other architectural elements (including certain tree plantings) that make up the street edges aligned in a disciplined manner with an appropriate ratio of height to width.*

Applicant Response: This design guideline can be better addressed at the site plan approval stage; however the applicant intends to comply with this guideline to the extent it is applicable and site constraints will allow.

Building Design/Facade Treatment

24. *The primary entrance should be both architecturally and functionally on the front facade of any building facing the primary public street. Such entrances shall be designed to convey their prominence on the fronting facade.*

Applicant Response: This design guideline can be better addressed at the site plan approval stage; however the applicant intends to comply with this guideline to the extent it is applicable and site constraints will allow.

25. *The ground level of the building should offer pedestrian interest along sidewalks. This includes windows entrances, and architectural details. Signage, awnings, and ornamentation are encouraged.*

Applicant Response: This design guideline can be better addressed at the site plan approval stage; however the applicant intends to comply with this guideline to the extent it is applicable and site constraints will allow.

Building Design/Street Level Activity

26. *The sidewalks should be the principal place of pedestrian movement and casual social interaction. Designs and uses should be complementary to that function.*

Applicant Response: This design guideline can be better addressed at the site plan approval stage; however the applicant intends to comply with this guideline to the extent it is applicable and site constraints will allow.

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

This site is located along Lake Wheeler Road within close proximity of the intersection at Tryon Road. The property is bordered by residential to the north and east, with a large vacant residential tract to the south. The Raleigh Oaks shopping center is adjacent to the west across Lake Wheeler Road. While the majority of surrounding property is zoned and developed as residential, the Future Land Use Map recommends higher intensity land uses in these areas. The properties adjacent to the north and east are designated as Office & Residential Mixed Use, while the vacant parcel to the south is designated as Neighborhood Mixed Use.

Zoning conditions offered by the applicant provide adequate buffering to surrounding residential, reduced building height, restricted lighting and several prohibited uses. Due to the proposed conditions, retail in this location would be consistent and compatible with the surrounding area.

3. Public benefits of the proposed rezoning

The request as proposed is consistent with the recommended Future Land Use designation on the Future Land Use Map. The proposal also provides several zoning conditions that ensure compatibility with the surrounding area. Conditions offered by the applicant also provide adequate buffers to surrounding residential uses while including offers of pedestrian and vehicular cross access to the adjacent southern property.

4. Detriments of the proposed rezoning

The rezoning request is consistent with the Comprehensive Plan, and compatible with surrounding land uses and zoning. However, a potential increase in traffic has been identified as an outstanding issue, and could be considered a detriment to surrounding infrastructure. It has been requested of the applicant to submit a Traffic Impact Analysis.

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

5.1 Transportation

<u>Primary Street(s)</u>	<u>Classification</u>	<u>2009 NCDOT Traffic Volume (ADT)</u>	<u>2035 Traffic Volume Forecast (CAMPO)</u>			
Lake Wheeler Road	Major Thoroughfare	12,000	16,800			
Street Conditions						
<u>Lake Wheeler Road</u>	<u>Lanes</u>	<u>Street Width</u>	<u>Curb and Gutter</u>	<u>Right-of-Way</u>	<u>Sidewalks</u>	<u>Bicycle Accommodations</u>
Existing	3	45'	Curb and gutter on the west side of street	75'	5' sidewalks on west side of the street	None
City Standard	4	65'	Back-to-back curb and gutter section	90'	minimum 5' sidewalks on both sides	Striped bicycle lanes on both sides
Meets City Standard?	NO	NO	NO	NO	NO	NO
<u>Expected Traffic Generation [vph]</u>	<u>Current Zoning</u>	<u>Proposed Zoning</u>	<u>Differential</u>			
AM PEAK	27	54	27			
PM PEAK	25	129	104			
Suggested Conditions/ Impact Mitigation:		<p>Traffic Study Determination: Staff has reviewed a traffic impact analysis for this case. Staff has reviewed a traffic impact analysis for this case. The TIA proposes development of 17,100 sq. ft. of retail space on the subject property. This development would generate 54 trips during the AM peak hour and 195 trips during the PM Peak hour. Delays at the intersection of Lake Wheeler Road and Tryon Road on average will be 65 to 70 seconds per vehicle; equivalent to LOS E. Left turns exiting this site will have the lowest priority and must yield to the higher order movements. It is doubtful that left turns will be able to safely maneuver onto southbound Lake Wheeler Rd for most of the PM peak. There will be sufficient gaps in the northbound Lake Wheeler traffic stream for right turns to exit the site with little delay. Staff concurs with the recommended roadway improvements provided in the traffic impact analysis report. Staff recommends that build-out of the site be capped at 17,100 sq. ft. of retail land use.</p>				
Additional Information:	The City of Raleigh has a current street improvement project planned along Lake Wheeler Road. This project will introduce left turn lanes at two intersection along Lake Wheeler Road as well as provide pedestrian accommodations along the western side of the roadway corridor from just north of Tryon Road to Centennial Parkway.					

Impact Identified: Traffic Impact Analysis report requested.

5.2 Transit

The change in zoning could provide an increase in transit ridership. The applicant has offered a condition to dedicate a transit easement along Lake Wheeler Road.

Impact Identified: None, easement included in conditions.

5.3 Hydrology

<i>Floodplain</i>	None
<i>Drainage Basin</i>	Walnut Creek
<i>Stormwater Management</i>	Subject to Part 10, Chapter 9
<i>Overlay District</i>	None

Impact Identified: none.

5.4 Public Utilities

	<i>Maximum Demand (current)</i>	<i>Maximum Demand (proposed)</i>
<i>Water</i>	5,558	unknown
<i>Waste Water</i>	5,558	unknown

A number of uses are permitted under the proposed Neighborhood Business zoning. Due to this, maximum demand is unknown at this time. There is an existing water main located within the Lake Wheeler Road right-of-way and a sanitary sewer within an easement on the property at this time. Down stream sanitary sewer improvements may be required, by the City, of the applicant depending upon the actual use.

5.5 Parks and Recreation

Impact Identified: None

5.6 Urban Forestry

10-2132.2(b)(20) requires a Natural Protective Yard on lots less than 2 acres along a thoroughfare and that have a basal area of 30 sq. ft. or more.

Impact Identified: Trees are located in the front 50 ft. of the property

5.7 Designated Historic Resources

There are no historic districts or designated landmarks on this property.

Impact Identified: None

5.8 Community Development

The subject property is not within a designated redevelopment area.

Impact Identified: None

5.9 Impacts Summary

- Potential increase in traffic.

5.10 Mitigation of Impacts

- Applicant has mitigated potential impact by limiting retail square footage.

6. Appearance Commission

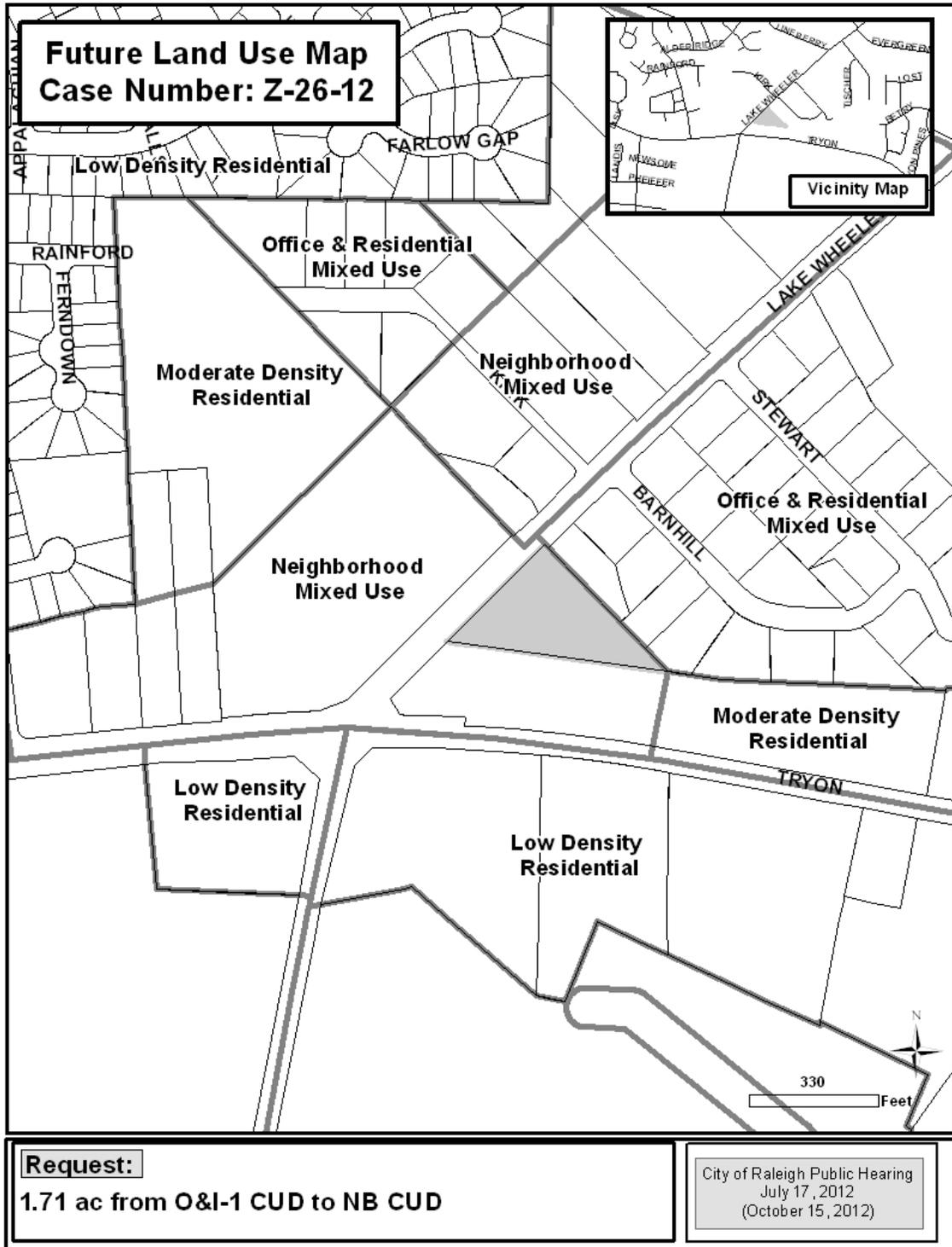
This request is not subject to review by the appearance commission.

7. Conclusions

The proposed rezoning request is consistent with the Future Land Use Map as well as several applicable Comprehensive Plan policies. The subject property is located on a heavily traveled thoroughfare and is designated as being appropriate for Neighborhood Mixed Use. The request to rezone this property to Neighborhood Business is consistent with the Comprehensive Plan.

The subject property is surrounded to the north, east and south by single family residential zoning. To ensure appropriate buffering and transitions the applicant has included several conditions to help alleviate the potential impacts of adjacent commercial zoning. Included in the proposed zoning conditions are reduced building heights, several prohibited uses as well as a provision for the construction of a fence. In doing so the applicant has met all applicable Comprehensive Plan policies. The applicant also limited overall retail square footage in response to potential impacts associated with traffic.

Future Land Use Map



2-26-12



Petition to Amend the Official Zoning Map

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

The following items are required with the submittal of rezoning petition. For additional information on these submittal requirements, see the *Filing Instructions* addendum.

Rezoning Application Submittal Package Checklist

Completed Rezoning Application which includes the following sections:

- Signatory Page
- Exhibit B
- Exhibit C (only for Conditional Use filing)
- Exhibit D
- Map showing adjacent property owner names with PIN's

Application Fee

- \$540 for General Use Cases
- \$1081 for Conditional Use Cases
- \$2702 for PDD Master Plans

Neighborhood Meeting Report (only for Conditional Use filing)

Receipt/ Verification for Meeting Notification Mail out

Traffic Impact Generation Report OR written waiver of trip generation from Raleigh Transportation Services Division

(General Use ONLY) if applicant is not the petitioner must provide proof of notification to the adjacent property owners per G.S. 160A-384

CITY OF RALEIGH
CITY PLANNING DEPT
2012 FEB 14 PM 2:57

2-26-12



Petition to Amend the Official Zoning Map

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CITY OF RALEIGH
CITY PLANNING DEPT

2-26-12



Petition to Amend the Official Zoning Map

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

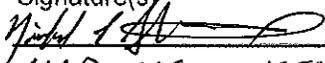
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21310

The petitioner seeks to show the following:

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

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

ALL CONDITIONAL PAGES MUST BE SIGNED BY ALL PROPERTY OWNERS

Signature(s)	Print Name	Date
	MICHAEL L. STEWART	3/14/12
LWR LLC	MEMBER - MANAGER	

2-26-12

EXHIBIT B. Request for Zoning Change

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

Contact Information

	Name(s)	Address	Telephone/Email
Petitioner(s)	LWR Properties, LLC	319 Chapanoke Rd., Suite 106	
<small>(for conditional use requests, petitioners must own petitioned property)</small>			
Property Owner(s)	Same as above		
Contact Person(s)	Chad W. Essick	301 Fayetteville Street, Suite 1900 Raleigh, NC 27601	919.783.2896 cessick@poyners.com

Property information

Property Description (Wake County PIN)	0792-55-3777
Nearest Major Intersection	Lake Wheeler Road & Tryon Road
Area of Subject Property (in acres)	1.71 acres
Current Zoning Districts (include all overlay districts)	Office & Institutional – 1 CUD
Requested Zoning Districts (include all overlay districts)	Neighborhood Business CUD

EXHIBIT B. Request for Zoning Change

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

The following are all of the persons, firms, property owners, associations, corporations, entities or governments owning property adjacent to and within one hundred feet (excluding right-of-way) of the property sought to be rezoned. Please include Wake County PINs with names, addresses and zip codes. Indicate if property is owned by a condominium property owners association. Please complete ownership information in the boxes below. If you need additional space, please copy this form.

Name	Street Address	City/State/Zip	Wake Co. PIN
LWR Properties, LLC	319 Chapanoke Rd., Suite 106	Raleigh, NC 27603-3433	0792553777
Abbott, Theodore H. & Daisy N.	1453 Green Hill Rd.	Franklinton, NC 27525- 9377	0792565021
Smith, Harold L. & Jacqueline	2219 Barnhill Drive	Raleigh, NC 27603-3003	0792557734
Barbour, Joel L. & Sue M.	2227 Barnhill Drive	Raleigh, NC 27603-3003	0792556910
Stephens, Michael Len	2627 Lake Wheeler Rd.	Raleigh, NC 27603-2617	0792554970
Grimm, Edward A. & Waja	6150 Turkey Run Ct.	Manassas, VA 20112- 3024	0763710967
Allen, George W. & Carol C.	3305 Hall Pl.	Raleigh, NC 27607-7052	0794437413
Price, Donald R. & Julia	2223 Barnhill Drive	Raleigh, NC 27603-3003	0792556861
Shree Rama LLC	2618 Lake Wheeler Rd.	Raleigh, NC 27603-2683	0792563136
Patel Lake Wheeler LLC	308 Versailles Dr.	Cary, NC 27511-6011	0792562111
Jeffreys Limited Partnership c/o Ziff Properties Inc.	200 Wingo Way, Suite 100	Mt. Pleasant, SC 29464- 1816	0792457889
Upchurch, Gettis B.	8218 Bar Harbor Ln.	Charlotte, NC 28210-4212	0792558531

EXHIBIT C. Request for Zoning Change

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Conditional Use District requested: Neighborhood Business - Conditional Use

pg 1 of 2

Narrative of conditions being requested:

As used herein, the "Property" means and refers to that certain tract or parcel of land containing approximately 1.71 acres, located near the intersection of Lake Wheeler Road and Tryon Road, in the City of Raleigh, NC, and having Wake County Parcel Identification Number: 0792-55-3777 (Deed Book 10089, Page 1005).

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

- adult establishment
- hotel/motel
- bar, night club, tavern, lounge
- riding stable
- automotive service and repair facility
- emergency shelter type A and emergency shelter type B
- landfill, all types
- mini-warehouse storage facility
- special care facility
- telecommunication tower
- kennel/cattery
- sorority and fraternity house
- apartments
- townhouse developments

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CITY PLANNING DEPT
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(b) All exterior lighting installed after the effective date of this rezoning shall be full cut-off (shielded) design and directed away from any adjacent residential uses.

(c) Prior to the issuance of any building permit or subdivision of the rezoned land, whichever occurs first, an offer of cross-access, both vehicular and pedestrian shall be provided to the property to the south (Wake County Parcel Identification Number: 0792558531, Deed Book 13328, Page 2411) .

I acknowledge that these restrictions and conditions are offered voluntarily and with knowledge of the guidelines stated in the *Filing Addendum*. If additional space is needed, this form may be copied. Each page must be signed by all property owners.

ALL CONDITIONAL PAGES MUST BE SIGNED BY ALL PROPERTY OWNERS

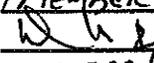
Signature(s)	Print Name	Date
	MICHAEL L. STEWART	8/8/12 FOR LWR
MEMBER - MANAGER	FOR LWR PROPERTIES	
	HERBERT D. PROCTOR JR	8/8/12 FOR LWR
MEMBER / MANAGER	FOR LWR PROPERTIES	

EXHIBIT C. Request for Zoning Change

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

pg 2 of 2

- (d) Maximum building height shall be two stories or thirty (30) feet.
- (e) Developer will construct a closed fence at least six feet (6') in height along the northern property line of the Property, adjacent to those parcels with Wake County Parcel Identification Numbers 0792-55-4970 (Lot 12 on BM 1964, PG 48), 0792-55-6861 (Lot 9 on BM 1964, PG 48) and 0792-55-7734 (Lot 8 on BM 1964, PG 48). The closed fence shall be constructed and completed prior to the issuance of a certificate of occupancy.
- (f) Prior to subdivision of the Property or the issuance of a building permit for the Property, whichever shall occur first, a transit easement measuring twenty (20) feet along Lake Wheeler Road by fifteen (15) feet shall be granted to the City pursuant to a transit easement deed approved by the City Attorney and recorded in the Wake County Registry.
- (g) The amount of floor area gross for commercial uses shall not exceed 17,100 square feet.

I acknowledge that these restrictions and conditions are offered voluntarily and with knowledge of the guidelines stated in the *Filing Addendums*. If additional space is needed, this form may be copied. Each page must be signed by all property owners.

ALL CONDITIONAL PAGES MUST BE SIGNED BY ALL PROPERTY OWNERS

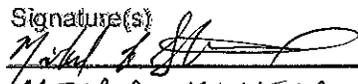
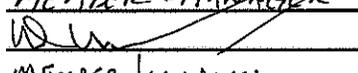
Signature(s)	Print Name	Date
	MICHAEL L. STEWART	8/8/12
MEMBER-MANAGER	FOR LWR PROPERTIES	
	HERBERT H. PROCTOR, JR.	8/8/12
MEMBER-MANAGER	FOR LWR PROPERTIES	

EXHIBIT D. Request for Zoning Change

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

Required items of discussion:

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

Recommended items of discussion (where applicable):

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

PETITIONER'S STATEMENT:

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

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

The Property is designated "Neighborhood Mixed Use" on the Future Land Use Map. This category recommends retail uses that serve the surrounding neighborhood, such as corner stores, restaurants, drug stores, dry cleaners and small professional offices. The category description notes that many areas mapped with a Neighborhood Mixed Use designation are zoned Neighborhood Business. The Neighborhood Business district permits those commercial uses envisioned by the Neighborhood Mixed Use category. The proposed zoning district is consistent with the Future Land Use Map designation for the Property.

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

The subject property is not located within any Area Plan or subject to any City Council-adopted plans or policies.

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

The proposed map amendment is consistent with Policy LU 1.2 "Future Land Use Map and Zoning Consistency" and Policy LU 1.3 "Conditional Use District Consistency" because the Neighborhood

EXHIBIT D. Request for Zoning Change

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Business district permits those commercial uses envisioned by the Future Land Use Map. The proposed map amendment furthers the goal of Policy LU 4.4 “Reducing VMT Through Mixed Use” by permitted retail uses in close proximity residential uses. The proposed map amendment is consistent with Policy LU 7.1 “Encouraging Nodal Development” by permitting retail uses at a commercial node developed, zoned and planned for nonresidential uses. Based on the proposed map amendment’s consistency with the Future Land Use Map and numerous policy statements, the proposed map amendment is consistent with the Comprehensive Plan.

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):

North: Residential – Single Family Detached
West: Commercial uses
South: Vacant
East: Vacant / Residential

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

North: Residential-10
West: Shopping Center, Neighborhood Business CUD, and Office & Institution-1 CUD
South: Residential-10
East : Residential-10

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 subject property is located near a major intersection (Tryon Road and Lake Wheeler Road), with access to Lake Wheeler Road. It is currently zoned for office uses and surrounded by medium density residential and commercial uses. The proposed map amendment permits additional uses on the Property, which would be compatible with the surrounding uses and consistent with the character of the area.

III. Benefits and detriments of the proposed map amendment.

A. For the landowner(s):

The proposed map amendment benefits the property owner by permitting a wider range of uses that are consistent with the Future Land Use Map category.

B. For the immediate neighbors:

The proposed map amendment could benefit the immediate neighbors by providing convenience commercial uses within walking distance.

C. For the surrounding community:

EXHIBIT D. Request for Zoning Change

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The proposed map amendment could benefit the surrounding community by providing convenience commercial uses within walking distance to many surrounding residential uses. The vast majority of the property to the north is designated as Office and Residential Mixed Use on the Future Land Use Map.

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

Yes, the proposed map amendment would provide additional retail uses in addition to those already located adjacent to the property.

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

Because the request is consistent with the comprehensive plan, the Property is located near a major intersection (Tryon Road and Lake Wheeler Road), has access to Lake Wheeler, and is adjacent to commercial uses, the proposed map amendment that permits additional commercial uses is reasonable and in the public interest.

V. Recommended items of discussion (where applicable).

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

Not applicable.

- b. **How circumstances (land use and future development plans) have so changed since the property was last zoned that its current zoning classification could not properly be applied to it now were it being zoned for the first time.**

Not applicable.

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

Not applicable.

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

Not applicable.

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

The proposed map amendment advance the fundamental purposes of zoning by regulating in accordance with the comprehensive plan and with reasonable consideration to the character of the surrounding area and the suitability of the property for particular uses.

EXHIBIT D. Request for Zoning Change

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

None at this time.

EXHIBIT D

SUMMARY OF DISCUSSION ITEMS

On Monday, March 5, 2012, at 5:30 p.m., a neighborhood meeting was held for the property owners adjacent to the parcel subject to the proposed rezoning. The following items were discussed:

1. Current zoning and use of the property
2. Current zoning conditions on the property
3. Future land use map classification of the property
4. Future land use map classification of surrounding properties
5. Retail uses allowed in Neighborhood Business zoning district
6. Zoning process and upcoming dates

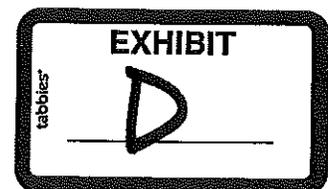


EXHIBIT E

NEIGHBORHOOD MEETING ATTENDEES

Sue M. Barbour
Joel L. Barbour
2227 Barnhill Drive
Raleigh, NC 27603

Chad Essick, Project Attorney

Wesley Cook, Project Engineer

