

2009 MAR -5 AM 11: 23



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)

Barbara Robinson
Johannie Sue Evans
Please type or print name(s) clearly:
Barbara Robinson
Barbarah Johannie Sue Evans
www.jsa

Date:

2-23-09

2/23/09

2-23-09

2/23/09

EXHIBIT B. Request for Zoning Change

| | |
|-----------------|-----------------------|
| Office Use Only | |
| Petition No. | 2-27-09 |
| Date Filed: | 3-5-09 |
| Filing Fee: | 21028.00 by C/KH 8034 |

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

See instructions, page 6

1) Petitioner(s):
Note: Conditional Use District
Petitioner(s) must be owner(s) of
petitioned property.

| Name(s) | Address | Telephone / E-Mail |
|-------------------|------------------------------------|--------------------|
| Barbara Robinson | 965 Nowell Rd Raleigh, NC 27607 | 919-851-3660 |
| Johnnie Sue Evans | 108 Cedar St. Raleigh, NC 27604 | 919-833-8866 |

**2) Property
Owner(s):**

| | | |
|-------------------|-------------------------------------|--------------|
| Barbara Robinson | 965 Nowell Rd. Raleigh, NC 27607 | 919-851-3660 |
| Johnnie Sue Evans | 108 Cedar St. Raleigh, NC 27604 | 919-833-8866 |

3) Contact Person(s):

| | | |
|-----------------|---|--------------|
| John Loureiro | 7424 Chapel Hill Rd. Raleigh, NC 27607 | 919-859-4190 |
| Niall Gillespie | 1801 White Oak Church Rd. Apex, NC 27523 | 919-422-1776 |

**4) Property
Description:**

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

Wake County Property Identification Number(s) (PIN):
0774834756

General Street Location (nearest street intersections): Nowell Rd., north of
Lincolnvile Rd. and south of Trinity Road

**5) Area of Subject
Property (acres):**

1.0 acres

**6) Current Zoning
District(s)**

R-4

Classification:

Include Overlay District(s), if
Applicable

**7) Proposed Zoning
District**

CU TD

Classification:

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

8) Adjacent Property Owners

The following are all of the person, firms, property owners, associations, corporations, entities or governments owning property adjacent to and within one hundred (100) feet (excluding right-of-way) of (front, rear, all sides and across any street) the property sought to be rezoned.

(Important: Include PIN Numbers 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 in the format illustrated in the first box. Please use this form only – form may be photocopied – please type or print.

[illegible]

For additional space, photocopy this page.

| | |
|-----------------|---------|
| Office Use Only | |
| Petition No. | Z-27-09 |
| Date Filed: | |

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:**

Southwest planning district

- 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.**

Property is within the arena small area plan and is within a designated employment area.

- C. Is the proposed map amendment consistent or inconsistent with the Comprehensive Plan and other City Council-adopted plans and policies?
Consistent with comprehensive plan because TD uses would be consistent with employment.

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):
Surrounded by TD land. South & west is vacant, north is being developed as office park.
- B. Description of existing Zoning patterns (zoning districts including overlay districts) and existing built environment (densities, building heights, setbacks, tree cover, buffer yards):
I-40 west employment area. R-4 with 1 or 2 story houses across street and 30' away to south.
- 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
TD CU with reasonable use is the same as or will be the same as surrounding properties.

III. Benefits and detriments of the proposed map amendment.

- A. For the landowner(s):
A rezoning to TD will make the property more compatible with the neighborhood and future development.
- B. For the immediate neighbors:
Property will be improved/renovated and property values will increase.
- C. For the surrounding community: The property will be pleasantly landscaped and the view will be improved. Employment may be available.

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

No. TD uses are available to surrounding properties.

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

The lot is now an R-4 island surrounded by TD, and it will be brought up to a TD standard, TD landscaped front yard etc.

V. Recommended items of discussion (where applicable).

- a. An error by the City Council in establishing the current zoning classification of the property.
- b. How circumstances (land use and future development plans) have so changed since the property was last zoned that its current zoning classification could not properly be applied to it now were it being zoned for the first time.
The neighborhood is transitioning to more commercial uses.
- c. The public need for additional land to be zoned to the classification requested.

A business will be operated at this site providing tax base and employment for the City of Raleigh citizens.

- d. The impact on public services, facilities, infrastructure, fire and safety, parks and recreation, topography, access to light and air, etc.
The property will be reasonably used and compatible with a low traffic business style. Most likely an office and support facility for a small construction company.

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



Certified Recommendation of the City of Raleigh Planning Commission

Case File: Z-27-09 Conditional Use; Nowell Road

General Location: West side of Nowell Road, southwest of its intersection with Conference Drive

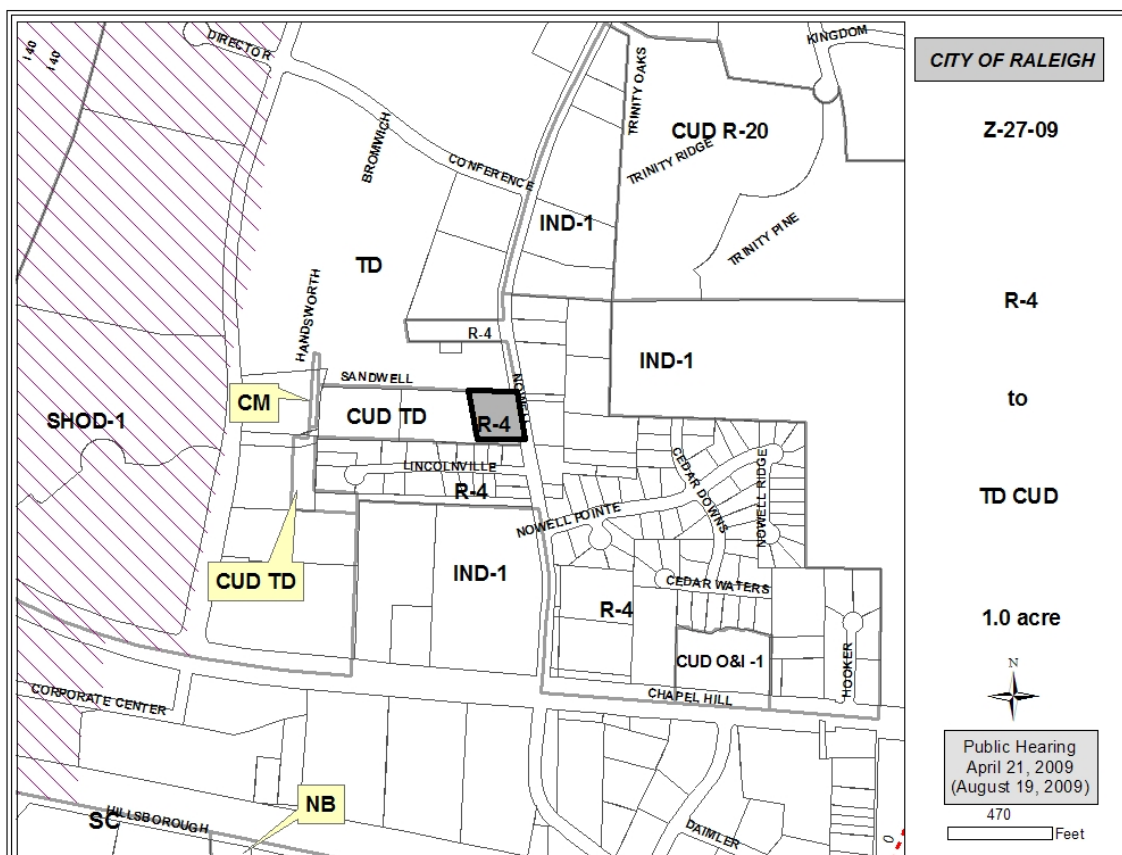
**Planning District
/ CAC:** Southwest / West

Request: Petition for Rezoning from Residential-4 to Thoroughfare CUD.

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

**Valid Protest
Petition (VSPP):** YES.

Recommendation: The Planning Commission finds that this request is consistent with the Comprehensive Plan and that this request be approved in accordance with conditions dated April 28, 2009.



CASE FILE: **Z-27-09 Conditional Use**

LOCATION: This site is located on the west side of Nowell Road, southwest of its intersection with Conference Drive

REQUEST: This request is to rezone approximately 1.0 acres, currently zoned Residential-4. The proposal is to rezone the property to Thoroughfare CUD.

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

RECOMMENDATION: **The Planning Commission finds that this request is consistent with the Comprehensive Plan and that this request be approved in accordance with conditions dated April 28, 2009.**

**FINDINGS
AND REASONS:**

- (1) That the request is consistent with the Comprehensive Plan. The site is located within an employment area designated by the Arena Small area Plan, where non-residential uses are encouraged
- (2) That the property is immediately surrounded to the north, west and south by similar zoning district and therefore, rendered compatible with the surrounding zoning and uses
- (3) That the zoning conditions offered prohibit certain uses, limit building height to 35 feet, specify building materials, signage, dumpster location and business hours of operation thereby, reducing any potential adverse impacts to the surrounding properties
- (4) That appropriate transition to the adjacent residential neighborhood to the further south is provided by the 30 foot undisturbed buffer retained by the TD strip to the immediate south of the subject property (established by Z-16-00)
- (5) That offers of cross-access to adjacent properties were not achievable given the relatively small size of the property and constraining zoning conditions of the immediate property to the west
- (6) That the request being consistent, compatible, and having no adverse impacts, could be considered reasonable and in serving the public interest.

To PC: 4/28/09

Case History:

To CC: 5/5/09

City Council Status: _____

Staff Coordinator: Dhanya Sandeep

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

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: 4/29/09



Zoning Staff Report: Z-27-09 Conditional Use

LOCATION: This site is located on the west side of Nowell Drive, southwest of its intersection with Conference Drive

AREA OF REQUEST: 1.0 acres

PROPERTY OWNER: Barbara Robinson & Johnnie Sue Evans

CONTACT PERSON: John Loureiro, 859-4190
Niall Gillespie, 422-1776

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

ZONING: Current Zoning

Residential-4

Current Overlay District

None

Proposed Zoning

Thoroughfare CUD

Proposed Overlay District

None

**ALLOWABLE
DWELLING UNITS:**

Current Zoning

4 DU

Proposed Zoning

None (parcel is less than 10 acres)

**ALLOWABLE OFFICE
SQUARE FOOTAGE:**

Current Zoning

Not permitted

Proposed Zoning

No max. specified

**ALLOWABLE RETAIL
SQUARE FOOTAGE:**

Current Zoning

Not permitted

Proposed Zoning

No max. specified

**ALLOWABLE
GROUND SIGNS:**

Current Zoning

Tract ID

Proposed Zoning

High Profile (Height = 15 feet; Area = 100 sq.ft.)

ZONING HISTORY: This property has been zoned R-4 for several years.

**SURROUNDING
ZONING:**

NORTH: Thoroughfare District
SOUTH: TD CUD, Residential-4
EAST: Residential-4
WEST: TD CUD (Z-16-00)

Zoning Conditions (Z-16-00)

1. All general uses and conditional uses allowed in the Thoroughfare District excluding the following: correctional/penal facility, adult establishment, bar, nightclub, tavern and lounge, retail, hotel or motel, restaurant, outdoor stadium/theater/racetrack, riding stable, rifle range, bottling plant, transitional housing except supportive housing, hospital, kennel/cattery, vehicle sales and rental, automotive service/repair, all uses classified as industrial under Sec. 10-2071 except warehouse/distribution when said use is part of an office building structure and does not exceed 20% of the total building area.
2. Any reimbursement for street right-of-way will be based on R-4 Zoning.
3. Stormwater management shall comply with C.R. 7107.
4. All stormwater (2 and 10 year storm) from any area outside of the undisturbed buffer yards designated by Cond. 7 and additional Cond. 1 (below) will be directed away from adjacent properties zoned R-4 via an underground storm pipe system.
5. Building setbacks will be no less than 100 feet from adjacent properties zoned R-4.
6. Site lighting shall be designed so that there will be no direct view of a light source from neighboring properties.
7. A minimum of 50-foot wide transition protective yard buffer shall be reserved along neighboring residential properties, with 40 feet of this protective yard remaining undisturbed.
8. A 6 ft. high closed wooden fence and landscaping meeting the standard of a type "C" transition yard or greater if required by Sec. 10-2082 shall be erected or planted in the transition yard buffer.
9. Area in subject property PIN 0774831755 located along Nowell Road between adjacent residential zoned properties PIN 0774835529 and PIN 0774834756 shall remain undisturbed buffer with no driveway access.
10. There shall be no driveway or street connection between subject properties PIN No's 0774838758 and 0774735115.

Additional Conditions for PIN 0774735115 include the following:

1. All general uses and conditional uses allowed in the Conservation Management District with travel lanes and parking lots allowed in the 25 ft. width adjacent to the property presently zoned Thoroughfare District.
2. All graded areas outside parking areas to be landscaped to the standard of a Type "B" transition yard buffer.

LAND USE: Residential use

SURROUNDING

LAND USE: NORTH: residential use, office use
SOUTH: undisturbed strip, residential use
EAST: residential use
WEST: vacant

**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 | Southwest |
| Urban Form | Employment Area |
| Specific Area Plan | Arena SAP |
| Guidelines | None |

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

The subject site is located in the Southwest Planning District and also within the I-40 West employment area designated by the Arena Small Area Plan. The request to rezone the property to Thoroughfare District CUD is consistent with the Comprehensive Plan in that, the property is recommended for employment uses. As currently conditioned, the rezoning would permit a mix of uses – office, retail, institutional and/or industrial uses on the site. Such mix of uses is encouraged within employment areas. Therefore, the subject rezoning is consistent with the recommendations of the Comprehensive Plan.

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

The subject site is surrounded predominantly by residential, industrial & vacant uses, with Thoroughfare District, Industrial-1 and Residential-4 zoning. To the immediate north of the subject property, a 350 unit apartment complex is under way to be developed at medium density (13.75 DU/acre) residential use. To the further north, at the intersection of Conference Drive are existing office uses. To the south is a mixture of vacant land and industrial uses with a few scattered single family homes. To the east are largely single family residential uses.

To the immediate west is a large vacant tract of land zoned TD CUD. This vacant tract was rezoned in 2000 (Z-16-00); the approval included a condition which specified that the strip of land between the subject property and the residential lot to the south would remain undisturbed with no driveway access. It should be noted that while the conditions of Z-16-00 provide for adequate buffer to the surrounding residential uses, it renders the large tract of land to the west & south (of the subject property) essentially landlocked. However, it should be noted that this impact to the surrounding property is not one triggered by the subject rezoning. Furthermore, the proposed conditions of the subject rezoning address building height & materials, signage & hours of operation, in an effort to negate potential adverse impacts to the surrounding properties.

Since the subject site is located in a designated employment area which permits mixed uses, the proposed request is consistent with the land use recommendations of the Comprehensive Plan and is compatible to the surrounding uses. In addition, the Arena SAP recommends that all development in

the area should respect the surrounding context of built and natural environments. The proposed conditions address height and building materials to render compatibility with the surrounding uses.

3. Public benefits of the proposed rezoning

The applicant notes that the rezoning would make the property more compatible with the neighborhood and future development in the area. That the property will be improved and renovated, thereby inducing an increase in property value. Furthermore, the proposed conditions of the subject rezoning address building height & materials, signage & hours of operation, in an effort to negate potential adverse impacts to the surrounding properties.

Given that the property is located in an area designated for employment uses, the proposed rezoning would encourage the effective use of the property in a manner consistent with the recommendations of the Comprehensive Plan.

4. Detriments of the proposed rezoning

The subject property is surrounded by Thoroughfare District zoning to its north and west. However, residential zoning exists to its east and south. While the conditions of the property to the west (Z-16-00) provide for adequate buffer to the surrounding residential uses, it renders the large tract of land to the west (of the subject property) essentially landlocked. Thus, a failure to address cross-access agreement/ shared driveway access through subject rezoning would be detrimental to the surrounding property to the west. However, it should be noted that this impact to the surrounding property is not one triggered by the subject rezoning. Additionally, continued residential use of the property once it is zoned Thoroughfare District would be rendered a legally non-conforming use.

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

TRANSPORTATION: Nowell Road is classified as a collector street and exists as a 2-lane ribbon paved road within a 60-foot right-of-way. City standards call for Nowell Road to be constructed with a 41-foot back-to-back curb and gutter section with sidewalk on a minimum of one side within the existing right-of-way.

The petitioner may wish to consider adding a condition stating that offers of cross-access will be provided to the adjacent property to the west.

TRANSIT: The petitioner has offered a condition to dedicate a transit easement.

HYDROLOGY: FLOODPLAIN: No
DRAINAGE BASIN: Richland
STORMWATER MANAGEMENT: Pt. 10 CH. 9 for stormwater compliance.
Down stream drainage complaints have been investigated for 2 properties on Lincolnville Rd.

PUBLIC UTILITIES:

| | Maximum Demand on Current Zoning | Maximum Demand on Proposed Zoning |
|-------------|-------------------------------------|--------------------------------------|
| Water | Approx. <u>2,000</u> gpd | Approx. <u>12,500</u> gpd |
| Waste Water | Approx. <u>2,000</u> gpd | Approx. <u>12,500</u> gpd |

The proposed rezoning would add approximately 10,500 gpd the City's wastewater collection or water distribution systems. There are existing sanitary sewer and water mains located adjacent to the zoning case's boundary.

PARKS AND

RECREATION: This property is not adjacent to any greenway corridors. This rezoning case does not impact the level of service for park facilities.

WAKE COUNTY

PUBLIC SCHOOLS: No impacts as residential uses will not be permitted under the proposed TD zoning since the parcels are less than 10 acres in size.

IMPACTS SUMMARY: No major impacts are associated with this request.

The petitioner may wish to consider adding a condition stating that offers of cross-access will be provided to the adjacent property to the west.

OPTIONAL ITEMS OF DISCUSSION

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

NA

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 applicant notes that the properties in this neighborhood have been transitioning to more commercial uses. Further, a business will be operated at this site providing tax base and employment for the City of Raleigh.

Given that the property is located in an area designated for employment uses, the proposed rezoning would encourage the effective use of the property in a manner consistent with the recommendations of the Comprehensive Plan. The rezoning would make the property more compatible with the neighborhood and future development anticipated for the area.

APPEARANCE

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

CITIZENS'

ADVISORY COUNCIL: DISTRICT: West
CAC CONTACT PERSON: Elizabeth Byrd, 233-8531
Mark Vander Borgh, 357-2454

SUMMARY OF ISSUES:

COMPREHENSIVE PLAN / COMPATIBILITY / ADVERSE IMPACTS:

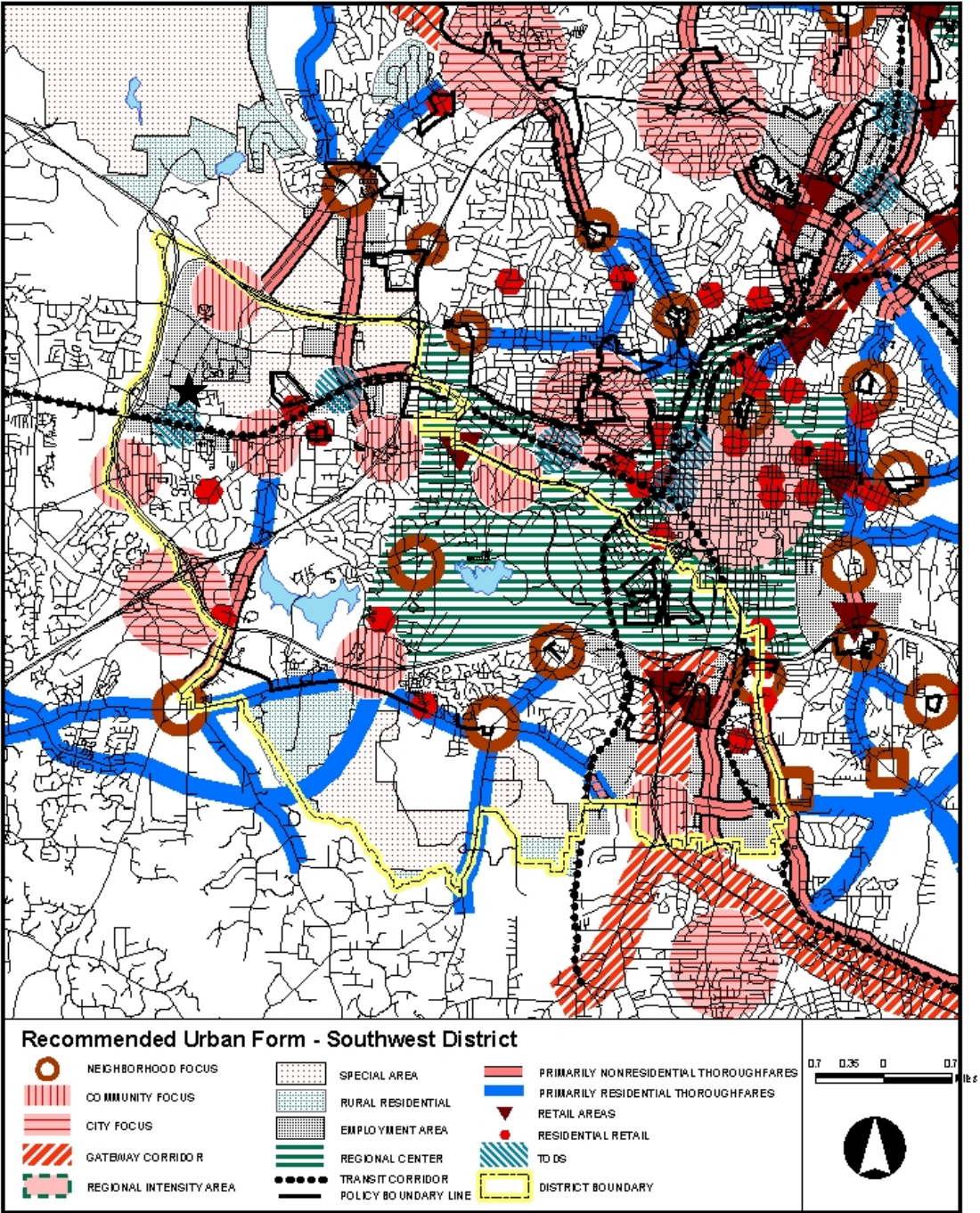
The request is consistent with the Comprehensive Plan.

1. Outstanding Issues

TRANSPORTATION:

The petitioner may wish to consider adding a condition stating that offers of cross-access will be provided to the adjacent property to the west.

• DE



8/05 Raleigh Comprehensive Plan

Southwest District 5-8.F

