

CITY OF RALEIGH

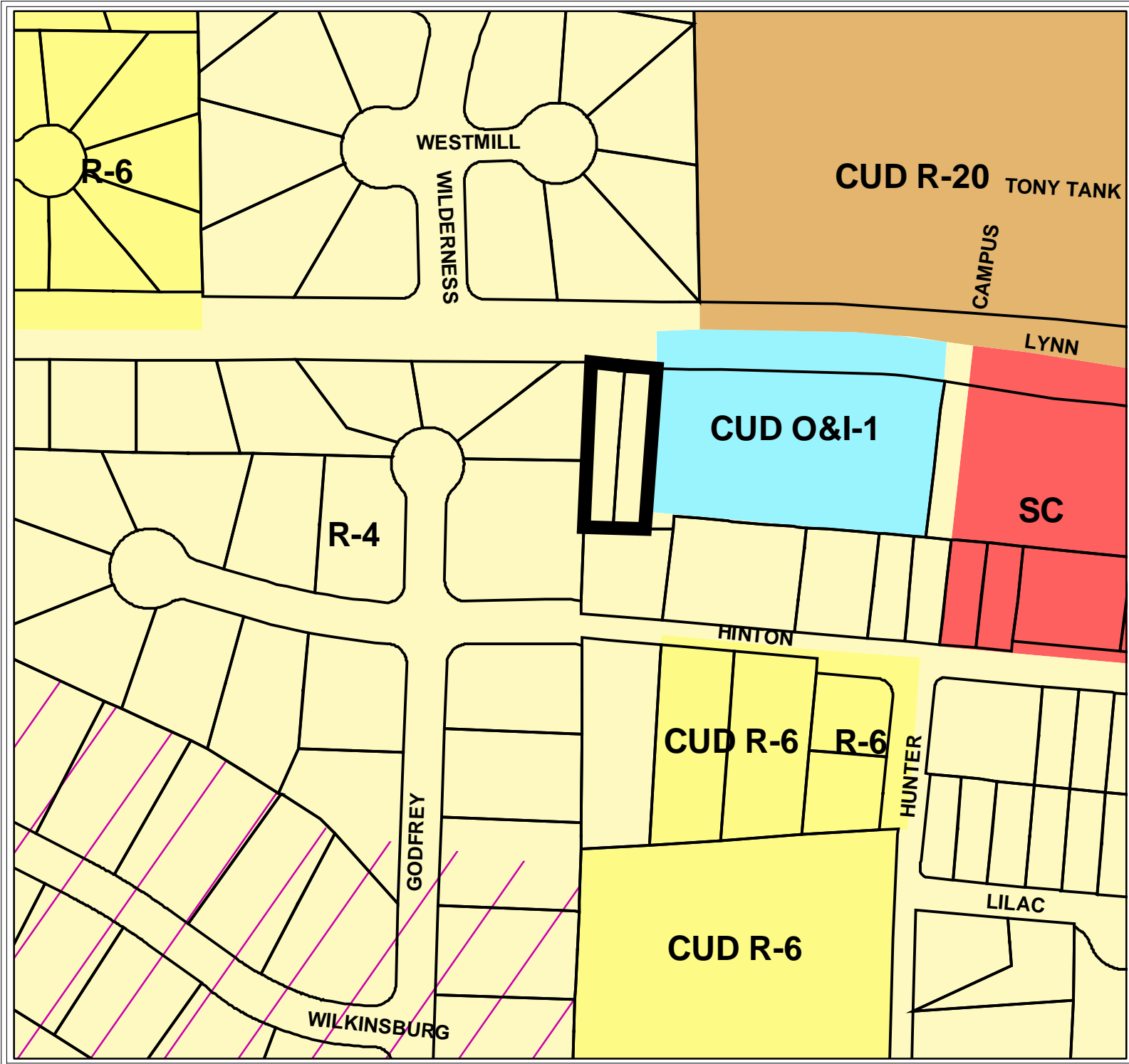
Z-34-08

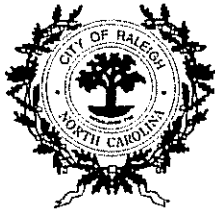
**R-4
to
O&I-1 CUD**

0.361 acre

Public Hearing
July 15, 2008
(Nov 12, 2008)

190
Feet





Petition to Amend the Official Zoning Map

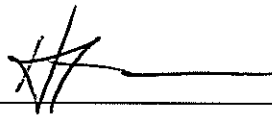
Before the City Council of the City of Raleigh, North Carolina

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)  Date: 3-18-08

Please type or print name(s) clearly:
Hunter Marshall, President March 18, 2008
America's Home Buyers, Inc.

EXHIBIT B. Request for Zoning Change

Office Use Only
Petition No. Z-34-08
Date Filed: 3-28-08
Filing Fee: \$1000.00 by check # 2710

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
<u>Hunter Marshall</u>	<u>PO Box 99548</u>	<u>919-255-0360</u>
<u>America's Home Buyers</u>	<u>Raleigh NC 27624</u>	<u>Hmarshall2@nc.rr.com</u>

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

<u>Hunter Marshall</u>	<u>PO Box 99548</u>	<u>919-255-0360</u>
<u>America's Home Buyers</u>	<u>Raleigh NC 27624</u>	<u>Hmarshall2@nc.rr.com</u>

3) Contact Person(s):

<u>Hunter Marshall</u>	<u>PO Box 99548</u>	<u>919-255-0360</u>
<u>America's Home Buyers</u>	<u>Raleigh NC 27624</u>	<u>Hmarshall2@nc.rr.com</u>

**4) Property
Description:**
Please provide surveys if proposed
zoning boundary lines do not follow
property lines.

Wake County Property Identification Number(s) (PIN): _____
Pin- 0797.14-32-9768 and Pin- 0797.14-32-9727

General Street Location (nearest street intersections): _____
This site is located on Lynn road, South West of intersection to Creedmoor road

**5) Area of Subject
Property (acres):** 0.3611

**6) Current Zoning
District(s)
Classification:** Residential - 4
Include Overlay District(s), if
Applicable

**7) Proposed Zoning
District
Classification:** Office and Institution 1, Conditional Use
Include Overlay District(s) if
Applicable. If existing Overlay
District is to remain, please state.

Office Use Only	2.34-08
Petition No.	
Date Filed:	3/20/08

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

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

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

Required items of discussion:

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

Recommended items of discussion (where applicable):

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

PETITIONER'S STATEMENT:

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

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

The subject property is located in the Northwest district. Current zoning is residential-4.

- B. Please state whether the subject property is located within any adopted Regional Center Plan, Small Area Plan, Corridor Plan, Neighborhood Plan, Watershed Plan, Streetscape Plan, Redevelopment Plan or other City Council-adopted plans and policies and discuss the policies applicable to future development within the plan(s) area.

The subject property is not located within any adopted plans.

- 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 inconsistent with the comprehensive plan because Lynn road is currently designated as a residential thoroughfare along which medium density residential uses are recommended. However this district is almost 14% of Raleigh's population and is expected to increase by 31% percent by 2030, therefore it is vital to have a strong mix of residential, office, and retail space in this area. In addition, the neighboring property Lynnbrooke Centre is zoned Office and Institution 1- Conditional Use.

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-20 Conditional Use (Edinborough Commons Apts), and Residential-4 (single family homes)

South: Residential-4 (single family homes)

East: Office and Institution 1 Conditional Use (Lynnbrooke Centre)

West: Residential-4 (single family homes)

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

No current or proposed overlay districts in place.

North: Lynn road, across road you have large buffer of pine trees

South: Large hardwood trees acting as buffer

East: Large retaining wall with miscellaneous shrubs, office building height is 40 feet

West: Tall privacy fence and hardwood trees as buffer

- 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 property is located a few hundred yards away from a very busy intersection off Lynn road and Creedmoor road. The traffic is too intense for this property to be zoned as it is currently for residential purposes. Therefore a small office building would be better suited for this lot and more compatible with the surrounding area.

III. Benefits and detriments of the proposed map amendment.

A. For the landowner(s):

No detriments. Benefits would be a more marketable and desirable community which offers a diverse mix of low density and medium density residential in addition to the conservative mix of office and retail space.

B. For the immediate neighbors:

The only detriment would be to the four residential homes surrounding this property. However with the proper building and landscape design the impact would be minimal. Benefits are having amenities more readily available to people in the surrounding communities.

C. For the surrounding community:

No detriments. The benefits would be the added services, and potential employment opportunities that would be provided.

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

Rezoning this parcel of land to Office and Institution 1-Conditional Use, would allow the Northwest district to keep pace with the rapid business development of the greater Raleigh area. The surrounding areas would have additional amenities and services that are not currently readily available.

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

This property resides on Lynn road a major thoroughfare which does not make this ideal for residential uses. This lot is adjacent to a small business complex. If zoning were changed to allow this property to be used for business purposes it would allow the neighboring community closer and convenient access to those business services.

V. Recommended items of discussion (where applicable).

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

The zoning was applicable when the previous structure was erected in 1945.

- 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 adjacent property Lynnbrooke Centre was recently developed with zoning of Office and Institution 1- Conditional Use the previous zoning was also Residential-4. There are many other pockets within this corridor that have recently allowed zone changing for small businesses.

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

Rezoning this land to Office and Institution 1- Conditional Use will allow for the continuance of business growth and development in the Northwest district. In addition further employment opportunities will be created for the surrounding areas.

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

There will be limited impact on public services if zoning is changed on this small 0.36 acre lot. If cross access is provided to the adjacent property to the east (LynnBrooke Centre) then no direct access to Lynn road would be required. The existing access point would be eliminated therefore lessening the traffic congestion on this major thoroughfare. The property is not located in a flood plain nor are there environmental issues associated with this land. This property is not adjacent to any existing or proposed parks or greenways. There are existing eight inch sanitary sewer and sixteen inch water mains in Lynn road which would have no problems serving the proposed zoning.

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

Z-34-08
Amended on 5-29-2008
Hunter Marshall HM



Certified Recommendation of the City of Raleigh Planning Commission

Case File: Z-34-08 Conditional Use; Lynn Rd.

General Location: Southside of Lynn Road, southwest of its intersection with Creedmoor Road.

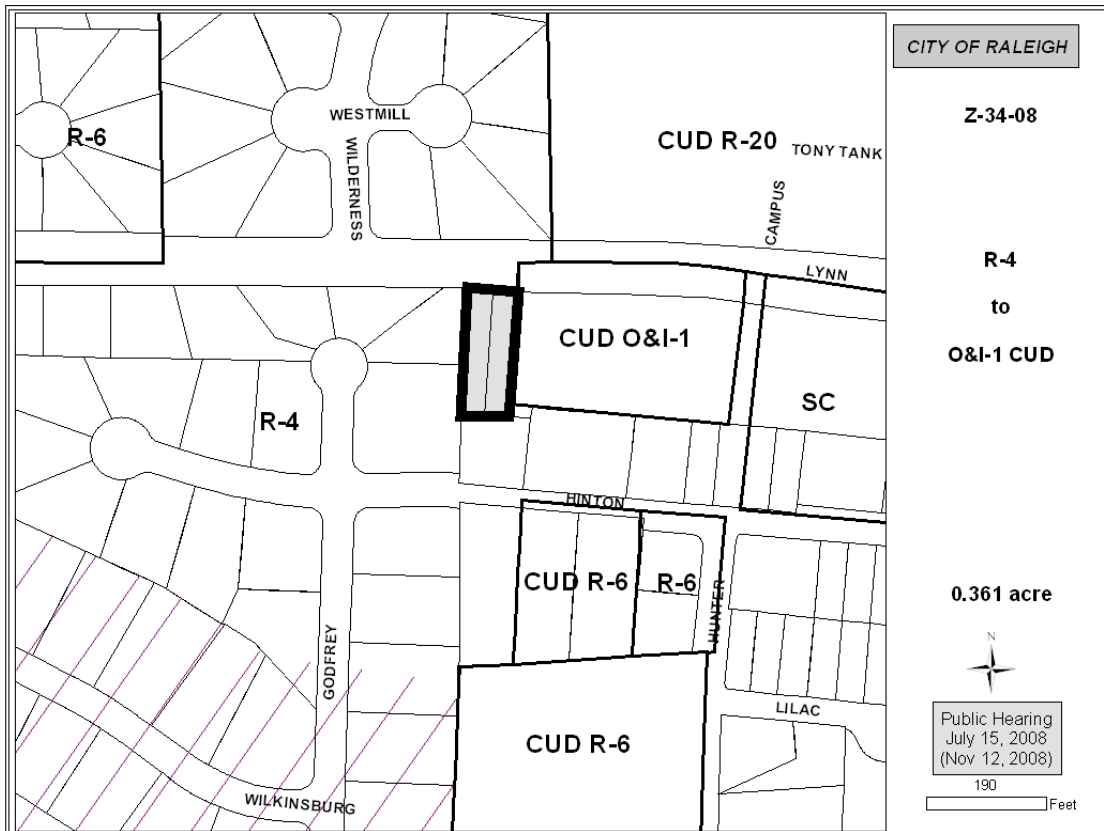
**Planning District
/ CAC:** Northwest / Northwest-Umstead

Request: Petition for Rezoning from Residential-4 to Office & Institution-1 Conditional Use District.

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

**Valid Protest
Petition (VSPP):** NO.

Recommendation: The Planning Commission finds that the request is inconsistent with the Comprehensive Plan and based on the Findings and Reasons of this report, recommends that this request be denied.



Motion: Mullins
Second: Holt
In Favor: Anderson, Bartholomew, Butler, Chambliss, 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: 8/15/08



Zoning Staff Report: Z-34-08 Conditional Use

LOCATION: This site is located on the south side of Lynn Road, southwest of its intersection with Creedmoor Road.

AREA OF REQUEST: 0.361 acres

PROPERTY OWNER: Hunter Marshall, America's Home Buyers

CONTACT PERSON: Hunter Marshall, 919-255-0360

PLANNING COMMISSION RECOMMENDATION DEADLINE: November 12, 2008

ZONING:	<u>Current Zoning</u>	<u>Proposed Zoning</u>
	Residential-4	Office & Institution – 1 CUD
	<u>Current Overlay District</u>	<u>Proposed Overlay District</u>
	None	None

ALLOWABLE DWELLING UNITS:	<u>Current Zoning</u>	<u>Proposed Zoning</u>
	1 dwelling unit	w / Staff approval: 5 dwelling units w / PC approval: 9 dwelling units

ALLOWABLE OFFICE SQUARE FOOTAGE:	<u>Current Zoning</u>	<u>Proposed Zoning</u>
	Not permitted	11,793 square feet (FAR 0.75)

ALLOWABLE RETAIL SQUARE FOOTAGE:	<u>Current Zoning</u>	<u>Proposed Zoning</u>
	Not permitted	Not permitted

ALLOWABLE GROUND SIGNS:	<u>Current Zoning</u>	<u>Proposed Zoning</u>
	Tract ID sign	Low Profile (Height=3.5 feet; Area=70 sq.ft.)

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

SURROUNDING ZONING:

NORTH: Residential-4 & Residential-20 CUD (Z-19-94)
 SOUTH: Residential-4 & Residential-6 CUD
 EAST: Office & Institution-1 CUD (Z-45-05) & Residential-4

Zoning Conditions – Z-45-05

- a. Reimbursement for future right-of-way dedication shall be based on R-4 values.
- b. Non-residential buildings on the Property shall be limited to a maximum building height of forty (40) feet.
- c. All exterior building and parking lot lighting fixtures directed toward residential properties shall be of full cut-off (shielded) design, and be a maximum of twenty (20) feet in height.
- d. Any building constructed on the Property shall have a pitched roof with a minimum slope of 6:12.
- e. Required transitional protective yards may not be reduced in width by the installation of a wall or fence.
- f. Cross-access will be provided to the 7 parcels encompassed in this petition in the event that they are not recombined into a single parcel.
- g. Vehicular access from Lynn Road will be limited to no more than (2) access points.

WEST: Residential-4

LAND USE: Vacant, wildy vegetated lot

SURROUNDING LAND USE:
 NORTH: Single family & multi-family residential uses
 SOUTH: Single family residential use
 EAST: Office use (Lynnbrooke Center)
 WEST: Single family residential uses

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	Northwest
Urban Form	Outside edges of a Neighborhood Focus Area; residential side of a PBL
Specific Area Plan	Creedmoor Road Corridor Plan
Guidelines	None

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

The rezoning sites are located in the Northwest Planning District, along a Residential thoroughfare, just outside the edges of a Neighborhood Focus area. The request is inconsistent with the Comprehensive Plan in that, the properties are located on the residential side of the Policy Boundary

Line and therefore, recommended for low density residential uses. The Policy Boundary Line is designated by the Neighborhood Focus Area at the intersection of Creedmoor and Lynn Roads per the Creedmoor Road Corridor Plan, and is applied to delineate residential from non-residential uses. The proposal to rezone the subject parcel to Office & Institution-1 with stated conditions would allow the development of low intensity office uses.

The Creedmoor Road Corridor Plan primarily provides policy recommendations for lots with frontage on Creedmoor Road. However, emphasis is given to encourage strengthening the edges of low-density residential areas, and providing for a clear separation of focus areas to preserve the integrity of residential areas. New development should not adversely impact adjoining residential properties as a result of stormwater run-off or noise caused by high levels of activity of service area functions. Adverse impacts on adjacent residential properties should not be created by new development as a result of bulk, scale, mass, fenestration or orientation of structures. The applicant has included a few conditions that address building height, building scale, vehicular access, signage and lighting specifications.

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

The parcels are located in an area surrounded predominantly by low density residential uses. To the immediate north, west and south are low density residential properties zoned Residential-4. Further to the south are a few properties zoned Residential-6 CUD. To the immediate east, the abutting large parcel was rezoned in 2005 to Office & Institution-1 CUD (Z-45-05) and developed for low density office uses (Lynnbrooke Center). Shopping Center zoning exists further east at the intersection of Lynn and Creedmoor Roads located within a designated focus area. To the northeast, to the north of Lynn Road is property with Residential-20 CUD zoning, which has been developed for multi-family residential uses (Edinburgh Common Apts.).

The proposal to rezone the subject parcel to Office & Institution-1 with stated conditions would allow the development of low intensity office uses. The applicant notes that the subject properties are located a few hundred yards away from a very busy intersection off Lynn Road and Creedmoor Road, and the traffic along Lynn Road is too intense for this property to be utilized for low density residential uses a permitted use under the existing zoning. The applicant further states that a rezoning to permit a small office building would be better suited for this lot and more compatible with this area.

The subject properties are the only two remaining properties in this block with frontage along Lynn Road, a residential thoroughfare with heavy traffic. Given the small size of the subject sites (0.36 acre), it is unpractical to utilize the subject property for single-family detached uses that will require direct access from Lynn Road, a busy thoroughfare. A driveway access to the Lynnbrooke Center located less than 100 feet from the subject property would encourage limiting any direct access from Lynn Road to one point. The most appropriate use would be low intensity office complex which utilizes cross- access. However, if direct access is acquired from Lynn Road, it should be implemented with minimal impacts on the abutting single family residential use. The applicant indicates that the rezoning would be appropriate with the surrounding area. The conditions offered would strengthen the edges of residential uses and protect the surrounding single family neighborhoods from any adverse impacts.

3. Public benefits of the proposed rezoning

The applicant notes that the benefits associated with this rezoning would be a more marketable and desirable community which offers a diverse mix of low and medium density residential in addition to the conservative mix of office and retail space. The Northwest District is experiencing growth and therefore, it is vital to have a strong mix of residential, office and retail space in this area.

The petitioner proposes to redevelop the property while maintaining a compatible scale and minimizing impacts to the low density residential neighborhood to the west and south. Proposed conditions reduce potential negative impacts on the adjoining single family properties to the west and south. The proposed rezoning and its uses would be complementary to the adjacent low intensity

office center to its east while still strengthening the edges of residential uses and protecting the surrounding single family neighborhoods from any adverse impacts.

4. Detriments of the proposed rezoning

As noted by the applicant, the only detriment perceived would be to the four single family lots abutting the western edge of the properties. However, by incorporating appropriate conditions that address scale, mass, bulk, parking, height & buffering, any negative impacts to these lots could be alleviated. With appropriate building and landscape design, impacts would be minimal, while the benefits rendered would be the additional amenities available to people in the surrounding communities, reduction of traffic conflicts, and better use of the property.

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

TRANSPORTATION: Lynn Road is classified as a major thoroughfare and is constructed to City standards as five-lane curb and gutter section with sidewalks on both sides within a varying 85-90-foot right of way. Neither NCDOT nor the City have any projects scheduled in the vicinity of this case.

TRANSIT: This site is within close proximity of **current and future** bus routes, but does not provide an **appropriate** space for a bus stop. No transit easement is needed.

HYDROLOGY: FLOODPLAIN: None
 DRAINAGE BASIN: Haresnipe
 STORMWATER MANAGEMENT: Pt. 10 Ch. 9

PUBLIC UTILITIES:

	Maximum Demand on Current Zoning	Maximum Demand on Proposed Zoning
Water	Approx. <u>722</u> gpd	Approx. <u>1,173</u> gpd
Waste Water	Approx. <u>722</u> gpd	Approx. <u>1,173</u> gpd

The proposed rezoning would add approximately 451 gpd of wastewater and water to the wastewater collection and water distribution systems of the City's utilities. There are existing water and sanitary sewer mains in the Lynn Road right-of-way which would serve the proposed rezoning area.

PARKS AND RECREATION:

This property is not adjacent to a greenway corridor. Existing recreation services are provided at Lake Lynn Park to meet the needs of this property

WAKE COUNTY PUBLIC SCHOOLS:

The maximum number of dwelling units permitted under the proposed zoning would be 9, while the current zoning permits 1 unit. This would result in the following increase in school enrollment: 1 elementary, 1 middle and 0 high school. Base school assignments would be to the following schools, operating at the capacities indicated:

Impacts on School Capacity

School name	Current enrollment	Current Capacity	Future Enrollment	Future Capacity
Lynn Road	472	74.3%	473	74.5%
Carroll	714	83.9%	715	84.0%
Sanderson	1,876	98.8%	1,876	98.8%

IMPACTS SUMMARY: The proposed zoning could result in the following increase in school enrollment:
1 elementary and 1 middle school (total of 2 new students).

No major impacts on infrastructure services have been noted for this case.

OPTIONAL ITEMS OF DISCUSSION

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

The zoning was applicable when the previous structure was built in 1945.

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

The Residential-4 zoning on the property was appropriate when the property was last developed. However, since that time, this area has experienced significant growth and the current zoning on the property would not be appropriate for low density residential uses, given its frontage onto Lynn Road, a busy residential thoroughfare. Since the properties were initially zoned R-4, Lynn Road has been converted into a busy 5 lane thoroughfare, experiencing an increase in traffic. This significant change in the circumstances in land use and traffic pattern make the parcels unsuitable for low density residential development allowed under the existing R-4 zoning category. Given the conditions attached to the petition, the development of these parcels as low intensity offices can be successfully integrated with the adjoining office uses, when carefully designed and provide for a transitional buffer between the high impact residential thoroughfares and the residential uses to the east.

APPEARANCE

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

CITIZEN'S

ADVISORY COUNCIL: DISTRICT: Northwest
CAC CONTACT PERSON: Jay M. Gudeman, 789-9884;
Nancy Murray, 845-8845

SUMMARY OF ISSUES:

COMPREHENSIVE PLAN / COMPATIBILITY / ADVERSE IMPACTS:

1. Outstanding issues

- The request is inconsistent with the Comprehensive Plan in that, it is recommended for low density residential uses.

