

Z-42-08

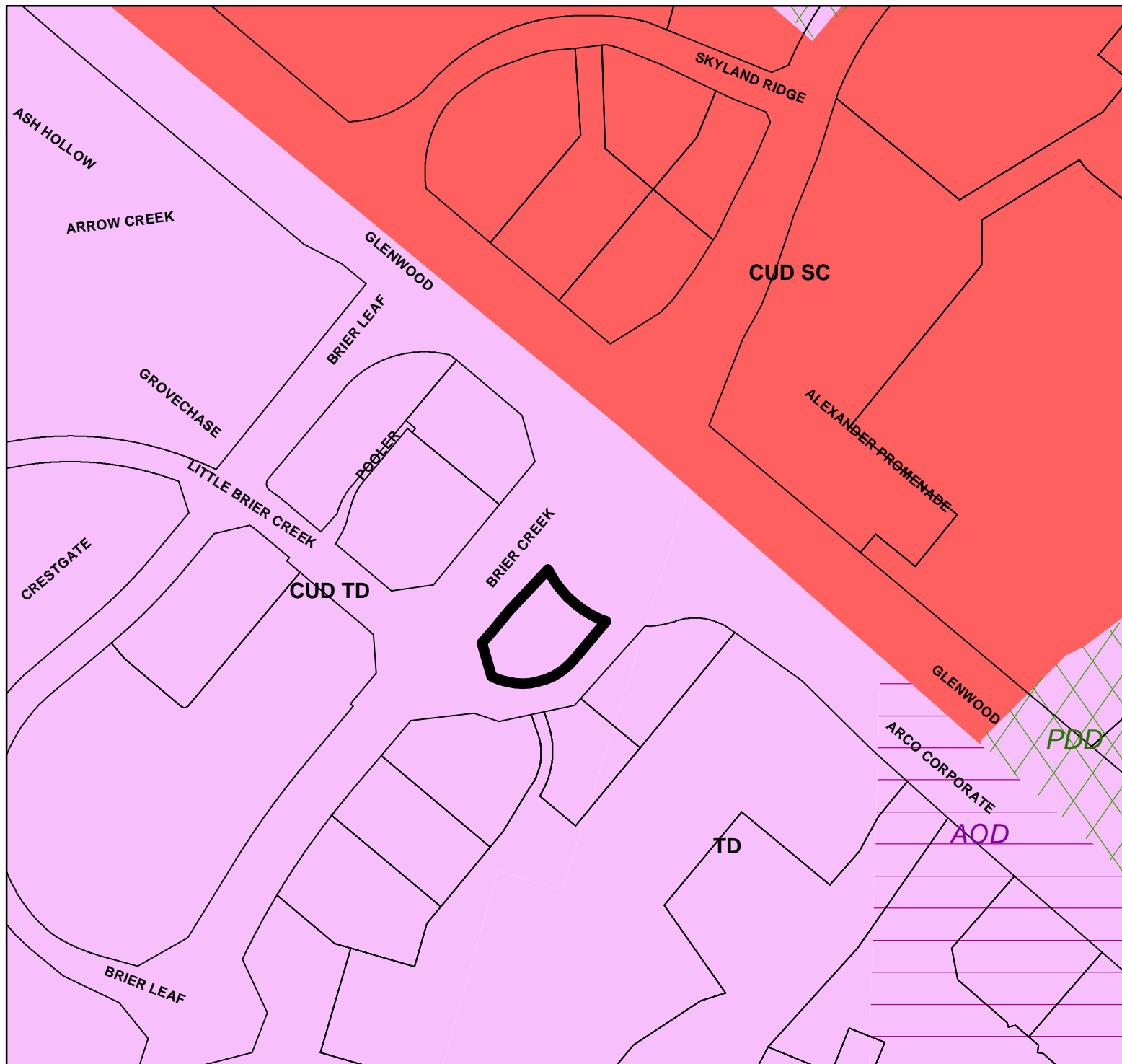
TD CUD
to
SC CUD

1.1 acres

Public Hearing
October 21, 2008
(February 18, 2009)

220

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:

Mack A. Paul and Jason L. Barron, Attorneys for the Petitioner

6/20/2008

CITY OF RALEIGH
CITY PLANNING DEPT

2008 JUN 20 AM 11:00

EXHIBIT B. Request for Zoning Change

Office Use Only	2-42-08
Petition No.	6-20-08
Date Filed:	Pa. CK# 783309
Filing Fee:	\$1,000.00

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

See Instructions, page 6

	Name(s)	Address	Telephone / E-Mail
1) Petitioner(s): Note: Conditional Use District Petitioner(s) must be owner(s) of petitioned property.	<u>Brier Creek Commons, LLC</u>	<u>3800 Arco Corporate Dr. Suite 350 Charlotte, NC 28273-3409</u>	
2) Property Owner(s):	<u>Brier Creek Commons, LLC</u>	<u>3800 Arco Corporate Dr. Suite 350 Charlotte, NC 28273-3409</u>	
3) Contact Person(s):	<u>Mack A. Paul and Jason L. Barron Kennedy Covington Lobdell & Hickman, L.L.P.</u>	<u>P.O. Box 17047 Raleigh, NC 27619-7047</u>	<u>919-743-7326 and 919-743-7343 mpaul@kennedycovingt on.com jbarron@kennedycoving ton.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): <u>0768-46-3694</u>		
	General Street Location (nearest street intersections): <u>Northeast quadrant of the intersection of Brier Creek Parkway and Arco Corporate Drive</u>		
5) Area of Subject Property (acres):	<u>1.1 acres</u>		
6) Current Zoning District(s) Classification: Include Overlay District(s), if Applicable	<u>Thoroughfare District – Conditional Use</u>		
7) Proposed Zoning District Classification: Include Overlay District(s) if Applicable. If existing Overlay District is to remain, please state.	<u>Shopping Center – Conditional Use</u>		

1-42-08

(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.

Wake Co. PIN #'s:

[illegible]

3

2-42-08

EXHIBIT B-1
Adjacent Property Owners

Bef Reit Inc. c/o Bob Evans Farms, inc. 3776 S. High Street Columbus, OH 43207-4012	0768-46-6576
AAC Rosedale Commons GP Limited Partnership 3800 Arco Corporate Drive, Suite 350 Charlotte, NC 28273-3409	0768-45-4921
Southlake Associates 3800 Arco Corporate Drive, Suite 200 Charlotte, NC 28273-3410	0768-46-4394
Marco Polo Inc. ATTN: Christopher Espineli 9100 Wilshire Boulevard, Suite 840E Beverly Hills, CA 90212-3424	0768-46-2322
Brier Creek Commons Limited Partnership c/o AAC Real Estate Service Inc. 3800 Arco Corporate Drive, Suite 350 Charlotte, NC 28273-3409	0768-46-0198
WD Development LLC 1775 Graham Avenue, Suite 201 Henderson, NC 27536-2997	0768-36-5472
Weingarten Realty Investors P.O. Box 450233 Atlanta, GA 31145-0233	0768-36-6740
HHP Raleigh LLC 820 S. Ogden Drive Los Angeles, CA 90036-4414	0768-46-0993
Wellesley Partners LLC 5006 Downing Creek Drive Charlotte, NC 28269-0311	0768-47-2133

2-92-08

Brier Gas LLC
2803 Slater Road, Suite 115
Morrisville, NC 27560-8463

0768-37-9151

Bank of America NA
Corporate Real Estate Assessments
101 N. Tryon Street
Charlotte, NC 28255-0001

0768-47-6520

Real Estate Redefined LLC
Michael Wang
3708 Carriage Manor Court
Wendell, NC 27591-7430

0768-47-4673

DDRTC Alexander Place LLC
c/o Developers Diversified Realty
3300 Enterprise Parkway
Beachwood, OH 44122-7200

0768-57-9777

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

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

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

Required items of discussion:

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

Recommended items of discussion (where applicable):

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

PETITIONER'S STATEMENT:

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

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

The subject property is located within the Umstead District Plan. The plan notes that this area can provide growth opportunities for transportation, travel related businesses, manufacturing, commerce and office uses. Moreover, the plan calls for large scale, high intensity development in order to make efficient use of the transportation system. According to the Recommended Urban Form map for this district, the subject property is located in the Airport City Focus and Triangle Regional Center.

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

The subject property is located within the Triangle Regional Center Plan. The plan map shows the subject property located at the center of the Airport City Focus. The Urban Form Terms and Policies section notes that regional centers contain the highest degree of economic activity and have concentrations of employment and retail that attract commerce from throughout the region. Also, these provisions of the Comprehensive Plan state that a city focus area is the most intense type of focus area and therefore recommend that a city focus area have higher intensity land uses.

The subject property was rezoned to Thoroughfare District – Conditional Use in 1996 as a part of case Z-65-96, involving the Airport Assemblage. The approved conditions attached to the nearly 2,000 acres of the assemblage contemplate an intense retail development.

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

The proposed map amendment is consistent with the Umstead District Plan, Triangle Regional Center Plan, and the Urban Form Terms and Policies applicable to the subject property. These provisions of the Comprehensive Plan recommend intense commercial development that can serve the region. The proposed map amendment allows for this type of development given the allowable uses and density in the Shopping Center district.

The proposed map amendment is also consistent with the Airport Assemblage rezoning and attached conditions that provide for an intense, retail development. The proposed map amendment permits the type and intensity of development provided for by rezoning case Z-65-96.

II. Compatibility of the proposed map amendment with the property and the surrounding area.

A. Description of land uses within the surrounding area (residential housing types, parks, institutional uses, commercial uses, large parking lots, thoroughfares and collector streets, transit facilities):

The subject property is surrounded by developed land. To the southwest along Brier Creek Parkway and to the southeast along U.S. 70, the subject property is bordered by a large shopping center with multiple strips and out-parcels of retail stores, including restaurants, a movie theater, and big-box retailers. A grocery store and other commercial uses are located west of the subject property, across Brier Creek Parkway. Three additional commercial buildings are located north of the subject property, across Brier Creek Parkway. Another cluster of commercial buildings is located north of the subject property, across U.S. 70. Two more big-box retailers and multiple retail out-parcels are located east of the subject property, across U.S. 70. All of these uses have large surface parking lots.

In addition to commercial uses, the subject property is surrounded on three sides by public rights-of-way: U.S. 70, which is designated a primary arterial per the Thoroughfare Plan; Brier Creek Parkway, a secondary arterial; and Arco Corporate Drive, a collector street.

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

The subject property is surrounded by three zoning districts: Thoroughfare District, Thoroughfare District – Conditional Use, and Shopping Center – Conditional Use. A small portion of the commercial center to the south of the subject property is zoned Thoroughfare District. The large commercial areas located east of the subject property, across U.S. 70, are zoned Shopping Center – Conditional Use. All other parcels surrounding the subject property are zoned Thoroughfare District – Conditional Use.

The existing built environment includes high intensity commercial centers with multiple out-parcels that share surface parking lots. There is limited tree cover in the surrounding area.

C. Explanation of how the proposed zoning map amendment is compatible with the suitability of the property for particular uses and the character of the surrounding area

The proposed zoning map amendment is compatible with the suitability of the property for the intense, commercial character of the surrounding area. The subject property is surrounded by zoning patterns and land uses that promote this type development. The proposed map amendment permits the subject property to be developed in a manner more consistent with the surrounding land uses and built environment.

III. Benefits and detriments of the proposed map amendment.

A. For the landowner(s):

The proposed map amendment benefits the landowner by permitting it to develop the property for its highest and best use, and in a manner consistent with the surrounding land uses. Further, rezoning the subject property greatly increases its developability. Under current zoning, there is a 50' building setback from any public right-of-way. Because the subject property is surrounded on three sides by public roads, the building envelope is greatly reduced. The proposed map amendment will permit greater flexibility in building design by reducing the minimum building setbacks to 15' from public rights-of-way.

B. For the immediate neighbors:

The proposed map amendment benefits the immediate neighbors by ensuring that the subject property is developed in accordance with the existing land uses and built environment.

C. For the surrounding community:

The proposed map amendment benefits the surrounding community by permitting development that will compliment and fit in with the existing land uses.

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

No, the rezoning of this property does not provide a significant benefit to the subject property that is not available to surrounding properties. Much of the property located east of the subject property, across U.S. 70 is already zoned Shopping Center. Also, the Thoroughfare District zoning classification allows a great number of the land uses permitted within the Shopping Center District. As a result, the surrounding parcels zoned Thoroughfare District have an equal or greater number of development possibilities.

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

The location of the subject property supports the proposed map amendment as reasonable and in the public interest. The subject property is located at the center of the Airport City Focus area, within a growing commercial center, and between a primary arterial, secondary arterial, and collector street. The proposed map amendment permits development in accord with the surrounding built environment and current zoning patterns, which is consistent with the type of development suggested for the subject property by the Comprehensive Plan.

V. Recommended items of discussion (where applicable).

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

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

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

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

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

There is a public need for additional land to be zoned to Shopping Center – Conditional Use in the surrounding area because the proposed zoning classification permits development in a manner more consistent with the Comprehensive Plan than allowed under the current zoning district. The proposed zoning district permits much of the same land uses while allowing intense commercial development on the subject property.

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

The applicant submits that proposed map amendment will not significantly impact the public services, facilities, infrastructure, fire and safety, parks and recreation, topography, or access to light and air.

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

The applicant does not have any other arguments on behalf of the map amendment at this time.

Z-42-08

SOSID: 0703002
Date Filed: 12/18/2003 2:30:00 PM
Effective: 1/1/2004
Elaine F. Marshall
North Carolina Secretary of State
C200335200062

State of North Carolina
Department of the Secretary of State

ARTICLES OF ORGANIZATION
INCLUDING ARTICLES OF CONVERSION

Pursuant to §§ 57C-2-21, 57C-9A-01, 57C-9A-03 and 59-73.22 of the General Statutes of North Carolina, the undersigned converting business entity does hereby submit these Articles of Organization Including Articles of Conversion for the purpose of forming a limited liability company.

1. The name of the limited liability company is BRIER CREEK COMMONS, LLC. The organization and internal affairs of the converting business entity shall be governed by the laws of the state of North Carolina. The limited liability company is being formed pursuant to a conversion of another business entity.
2. The name of the converting business entity is BRIER CREEK COMMONS LIMITED PARTNERSHIP, a North Carolina limited partnership and the organization and internal affairs of the converting business entity are governed by the laws of the state of North Carolina. A plan of conversion has been approved by the converting business entity as required by law.
3. The converting business entity is a limited partnership organized under the North Carolina Uniform Partnership Act.
4. The limited liability company is to have perpetual existence.
5. The names and addresses of the initial member of the limited liability company are as follows:

AAC Retail Property Development and Acquisition Fund, LLC
3800 Arco Corporate Drive, Suite 200
Charlotte, NC 28273
6. The name, address and capacity of each organizer executing these articles of organization is as follows:

Shannon P. O'Donnell
Anwalt, LLC
3800 Arco Corporate Drive, Suite 200
Charlotte, NC 28273
Capacity: Organizer
7. The street address and county of the initial registered office of the limited liability company is:

3800 Arco Corporate Drive
Suite 200
Mecklenburg County
Charlotte, NC 28273
8. The mailing address, *if different from the street address*, of the initial registered office is: N/A

9. The name of the initial registered agent is: Paul L. Herndon

10. Check one of the following:

☐ (i) *Member-managed LLC*: all members by virtue of their status as members shall be managers of this limited liability company.

☒ (ii) *Manager-managed LLC*: except as provided by N.C.G.S. Section 57C-3-20(a), the members of this limited liability company shall not be managers by virtue of their status as members.

11. These articles will be effective January 1, 2004.

This is the 15th day of December, 2003.

Shannon P. O'Donnell
Shannon P. O'Donnell, Organizer



Certified Recommendation of the City of Raleigh Planning Commission

Case File: **Z-42-08 Conditional Use; Brier Creek Parkway**

General Location: Southeast quadrant of the intersection of Brier Creek Parkway and Arco Corporate Drive

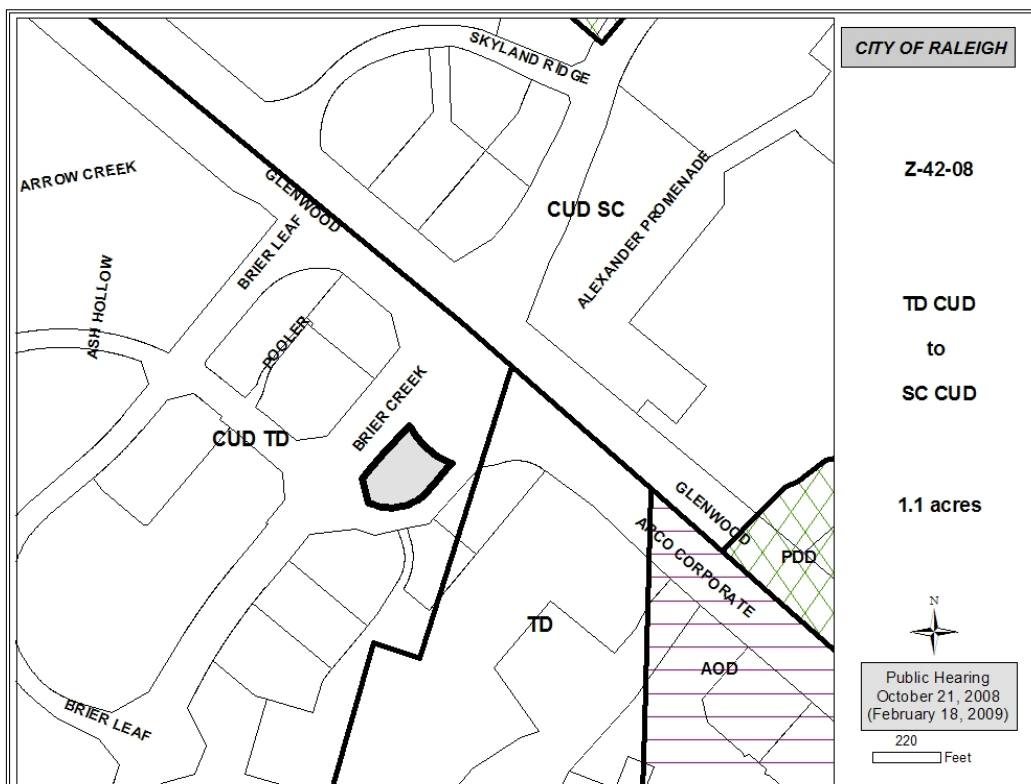
**Planning District
/ CAC:** Umstead / Northwest - Umstead

Request: Petition for Rezoning from **Thoroughfare CUD** to **Shopping Center CUD**.

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

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

Recommendation: The Planning Commission finds that the proposed rezoning is consistent with the Comprehensive Plan and that this request be approved in accordance with conditions dated December 9, 2008.



CASE FILE: Z-42-08 Conditional Use

LOCATION: This site is located on the southeast quadrant of the intersection of Brier Creek Parkway and Arco Corporate Drive

REQUEST: This request is to rezone approximately 1.1 acres, currently zoned **Thoroughfare CUD**. The proposal is to rezone the property to **Shopping Center CUD**.

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

RECOMMENDATION: The Planning Commission finds that the proposed rezoning is consistent with the Comprehensive Plan and that this request be approved in accordance with conditions dated December 9, 2008.

FINDINGS AND REASONS:

- (1) The rezoning request is consistent with the land use recommendations of the Comprehensive Plan. The Triangle Regional Center Plan designates the site for higher intensity, mixed uses.
- 2) The conditions and exhibit associated with this request address the dedication of right-of-way and slope easements along Brier Creek Parkway, thereby minimizing potential adverse impacts to its surrounding properties.
- 3) The request being consistent, compatible and having no adverse impacts, could be considered reasonable and in the public interest.

To PC: 10/28/08
Case History: Deferred by PC on 10/28/08; thereafter, applicant requested deferral; 12/9/08 PC voted approval

To CC: 01/06/09

City Council Status:

Staff Coordinator: Dhanya Sandeep

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

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: 12/11/08



Zoning Staff Report: Z-42-08 Conditional Use

LOCATION: This site is located on the southeast quadrant of the intersection of Brier Creek Parkway and Arco Corporate Drive

AREA OF REQUEST: 1.1 acres

PROPERTY OWNER: Brier Creek Commons, LLC

CONTACT PERSON: Mack A. Paul, 743-7326
Jason L. Barron, 743-7343

**PLANNING COMMISSION
RECOMMENDATION
DEADLINE:** *February 18, 2009*

ZONING: Current Zoning

Thoroughfare CUD

Current Overlay District

None

Proposed Zoning

Shopping Center CUD

Proposed Overlay District

None

**ALLOWABLE
DWELLING UNITS:**

Current Zoning

Not permitted (less than 10 acres)

Proposed Zoning

w / Staff approval: 16 DU
w / PC approval: 33 DU

**ALLOWABLE OFFICE
SQUARE FOOTAGE:**

Current Zoning

Permitted. No max. specified

Proposed Zoning

Permitted. No max. specified

**ALLOWABLE RETAIL
SQUARE FOOTAGE:**

Current Zoning

Not permitted. (The existing zoning conditions on the property caps retail uses for Tract C at 100 acres, which has already been developed leaving no room for additional retail uses)

Proposed Zoning

Permitted. No max. specified

**ALLOWABLE
GROUND SIGNS:**

Current Zoning

High Profile

Proposed Zoning

High Profile

ZONING HISTORY: This tract of land has been zoned Thoroughfare District CUD since 1986 (Z-65-96 CUD), as part of the airport assemblage. Conditions organize 2,200+ acres into four (4) sections and allocate maximum acreage which may be devoted to land use types within the individual sections. Other conditions designate open space areas, stormwater provisions, access limitations to US Hwy 70, and street and utility construction.

The subject property is located within Tract C, with the following land use designations in Acres (Adopted in 1996):

Land Use	Acreage
Total	298
Max. Residential	30
Max. Dwelling Units	450
Max. Office	100
Max. Commercial	100
Max. Industrial	200
Min. Open Space	20

In 2003, an amendment to this table was approved administratively that accommodated land use transfers between various tracts. The Tract C designations approved in 2003 is as follows:

Land Use	Acreage
Total	298
Max. Residential	23
Max. Dwelling Units	338
Max. Office	100
Max. Commercial	100
Max. Industrial	200
Min. Open Space	20

It should be noted that Tract C has been developed at the maximum specified retail acreage. Therefore, under the existing zoning conditions, the subject property could not be developed for additional retail uses, unless a transfer of uses is granted per the criteria specified in the Z-65-96 zoning conditions. The subject rezoning request will replace the previous conditions that existed on this property.

**SURROUNDING
ZONING:**

NORTH: SC CUD (Z-57-00)
SOUTH: Thoroughfare District Conditional Use (Z- 65-96)
EAST: SC CUD (Z-57-00), Thoroughfare District Conditional Use (Z- 65-96)
WEST: Thoroughfare District Conditional Use (Z- 65-96)

LAND USE: vacant

**SURROUNDING
LAND USE:**

NORTH: Retail uses (shopping center)
SOUTH: Retail uses (shopping center)
EAST: Retail uses (shopping center)
WEST: Retail uses (shopping center)

**DESIGNATED
HISTORIC
RESOURCES:**

None

EXHIBIT C AND D ANALYSIS:

**COMPREHENSIVE
PLAN SUMMARY**

TABLE:

In addition to the various systems plans (i.e. Transportation Plan, Parks and Recreation Plan, etc.) that are part of the City's adopted Comprehensive Plan the following table summarizes the other comprehensive plan elements that have been adopted by the City Council.

Element	Application to case
Planning District	Umstead
Urban Form	Regional Center, City Focus Area
Specific Area Plan	Triangle Regional Center Plan
Guidelines	NA

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

The proposed request is consistent with the Comprehensive Plan. The subject property is located within the Umstead Planning District, and within a designated City Focus area of the Triangle Regional Center Plan, where a concentration of high intensity and multiple uses are encouraged. The property is located within the core of the Airport City Focus area, which recommends for a major amount of retail activity, high density residential uses and a large concentration of both retail and non-retail jobs. The proposed rezoning of the property from Thoroughfare District CUD to Shopping Center CUD would permit the development of more intense retail development that is consistent with the land use recommendations for this urban form designation.

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

The site is surrounded by land developed for intense commercial uses. South of the subject property, along Brier Creek Parkway is bordered by a larger shopping center with a number of smaller retail outlets. Three commercial buildings are located north of the subject property, across Brier Creek Parkway that cater to convenience retail services. North and northeast of the property, across U.S.70 is bordered by more retail uses including restaurants, a movie theatre, and big box retailers. A grocery store and other commercial uses are located to the immediate west of the subject property, across Brier Creek Parkway. In addition to the surrounding commercial uses, the subject property is surrounded by three public streets - a Primary Arterial, a Secondary Arterial and a Collector Street.

The subject property is surrounded by compatible zoning districts – Thoroughfare District, Thoroughfare District CUD and Shopping Center CUD. The existing built environment includes high intensity commercial centers with multiple retail outlets of varying size. The large commercial areas located to the north and northeast of the subject property, across U.S.70 are zoned Shopping Center CUD. All other parcels surrounding the subject property are zoned TD CUD. The conditions on these surrounding parcels primarily limit the acreage of residential, office, institutional, commercial, industrial and open space uses within specified tracts that were part of the airport assemblage (Z-65-96). Given that the subject parcel is part of a larger tract of land with attached conditions, the applicant is encouraged to address the impacts of the proposed request on the subject tract

(of Z-65-96 assemblage) and its designated land uses. The proposed rezoning amendment that would permit development of more intense retail uses on the site is consistent and compatible with the surrounding land uses, zoning and built character.

3. Public benefits of the proposed rezoning

The applicant notes that the proposed map amendment benefits the landowner by permitting them to develop the property for its highest and best use, and in a manner consistent with the surrounding land uses. That the zoning greatly increases the developability of the land from what the existing zoning permits. Under the current zoning, there is a 50-foot building setback requirement from any public right-of-way. The buildable acreage of the subject property is reduced tremendously by these setback requirements, given that public roads exist on all sides, requiring 50 foot setbacks on all sides. The proposed rezoning request will provide greater flexibility in building design by reducing the minimum building setbacks to 15 feet from the public rights-of-way, thereby increasing the building envelope of the property. Provided no major impacts on infrastructure are projected, the rezoning amendment should benefit the immediate neighbors by permitting development that fits in with the existing land uses and zoning.

4. Detriments of the proposed rezoning

There are no significant detriments associated with this rezoning request. However, given that the subject parcel is part of a larger tract of land with attached conditions, the applicant is encouraged to address the impacts of the proposed request on the subject tract (of Z-65-96 assemblage) and its designated land uses.

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

TRANSPORTATION: Brier Creek Parkway is classified as a secondary arterial and exists as a 4-lane median divided roadway with dual turning lanes, 114-foot back-to-back curb and gutter cross section within 175-feet of right-of-way. City standards call for sidewalks to be constructed on both sides of Brier Creek Parkway within the existing right-of-way. Arco Corporate Drive is classified as a collector street and is constructed as a two lane roadway with curb and gutter on one side within a 70-foot right-of-way. City standards call for Arco Corporate Drive to be constructed as a 41-foot back-to-back curb and gutter cross section with sidewalk on one side fronting the subject property. Glenwood Avenue is classified as a principle arterial and exists as a 6-lane median facility, 145-foot edge of pavement with dual left turning lanes onto Brier Creek Parkway within a 330-foot right of way.

The Wake-Durham Comprehensive Street System Plan calls for Glenwood Avenue to be converted to a limited access freeway in the vicinity of this case. This plan calls for grade separated interchange on Glenwood Avenue at Brier Creek Parkway which may impact the subject property.

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

HYDROLOGY: FLOODPLAIN: no
DRAINAGE BASIN: Little brier creek
STORMWATER MANAGEMENT: Pt 10 Ch 9 compliance

PUBLIC UTILITIES:

	Maximum Demand on Current Zoning	Maximum Demand on Proposed Zoning
Water	Approx. <u>13,700</u> gpd	Approx. <u>4,900</u> gpd
Waste Water	Approx. <u>13,700</u> gpd	Approx. <u>4,900</u> gpd

The proposed rezoning would have no impact on the wastewater and water systems of the City. The property has sanitary sewer and water mains available to it.

**PARKS AND
RECREATION:**

This property is not adjacent to any park and or greenway projects. Park services are provided by Brier Creek Park and Community Center.

**WAKE COUNTY
PUBLIC SCHOOLS:**

The maximum number of dwelling units permitted under the proposed zoning would be 33, while the current zoning permits none. This would result in the following increase in school enrollment: 5 elementary, 3 middle and 2 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
Brier Creek	636	91.9%	641	92.6%
Leesville Road	1,317	109.3%	1,320	109.5%
Leesville Road	2,493	114.6%	2,495	114.7%

IMPACTS SUMMARY: The rezoning could increase school enrollment by 9 students. The future capacity at Brier Creek Elementary could increase from 91.9% to 92.6%, the capacity of Leesville Middle School could increase from 109.3% to 109.5%, and the capacity of Leesville High could increase from 114.6% to 114.7%.

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.

NA

APPEARANCE

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

**CITIZEN'S
ADVISORY COUNCIL:** DISTRICT: Northwest- Umstead
CAC CONTACT PERSON: Jay M. Gudeman, 789-9884
Nancy Murray, 845-8845

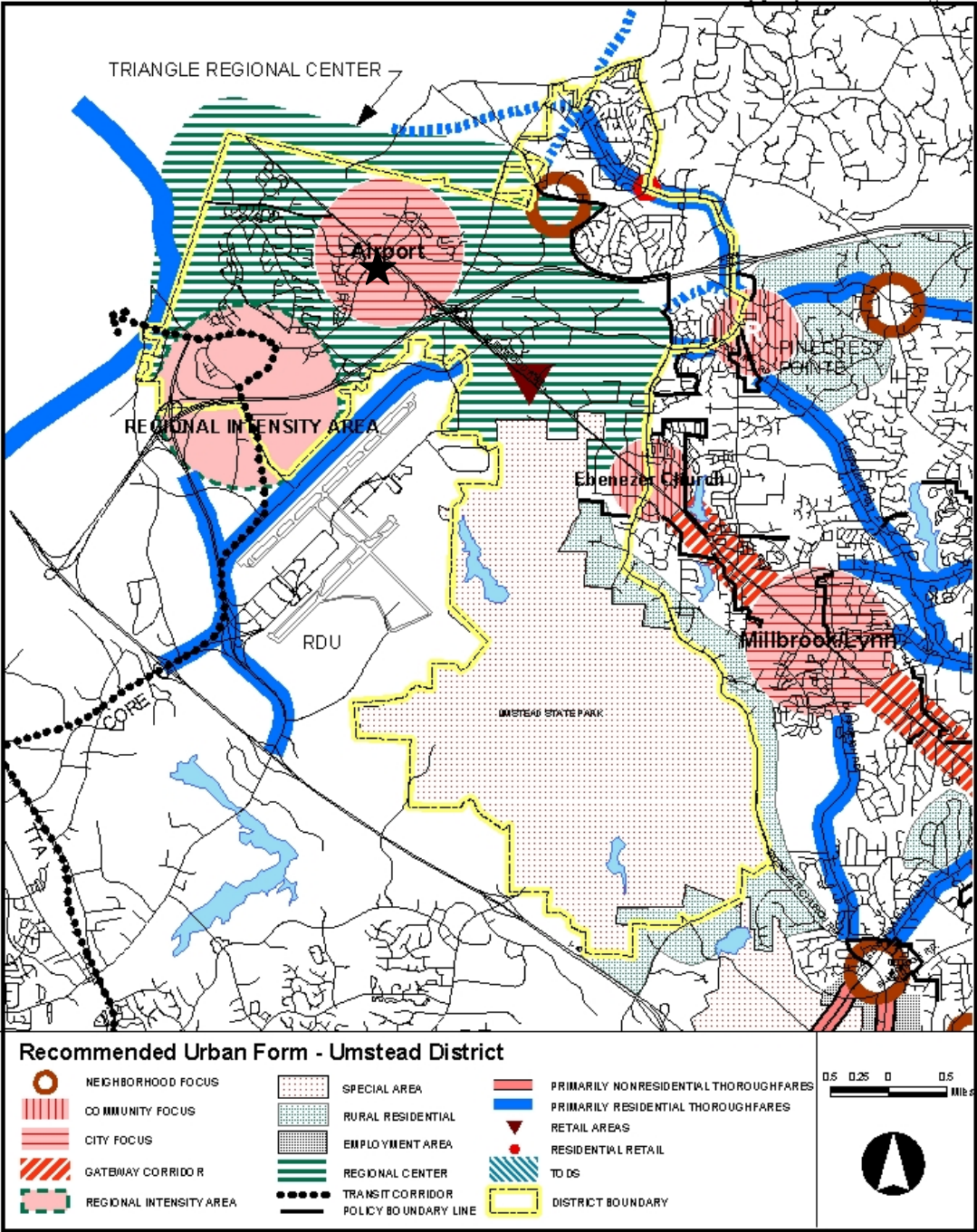
SUMMARY OF ISSUES:

COMPREHENSIVE PLAN / COMPATIBILITY / ADVERSE IMPACTS:

- This request is consistent with the Comprehensive Plan.

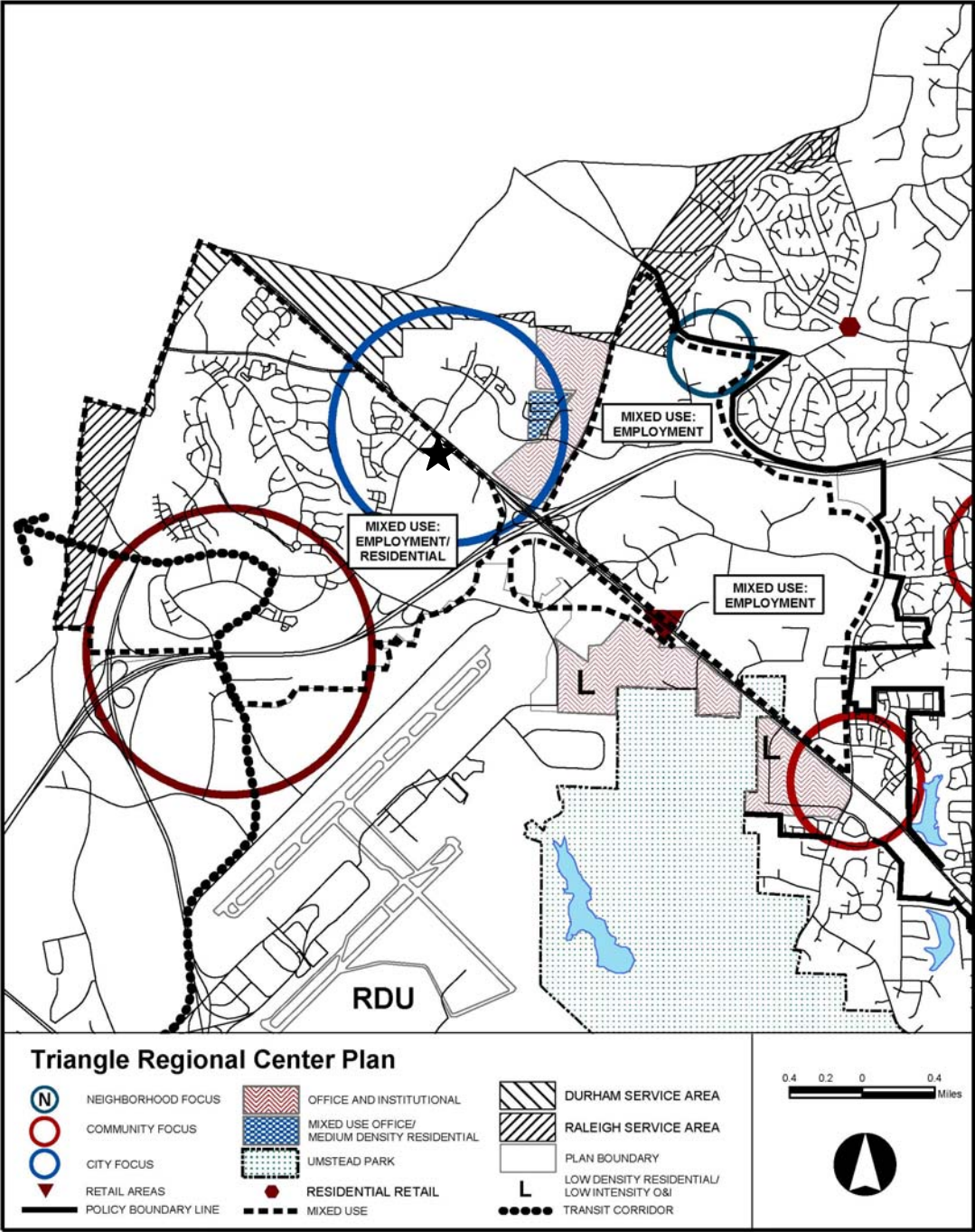
1. Outstanding issues

None.



8/05 Raleigh Comprehensive Plan

Umstead District 5-9.F



08/06 Raleigh Comprehensive Plan

Triangle Regional Center Plan 6-2.3