



20 AM 11:03

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)

[Signature]

Date:

6/20/08

Please type or print name(s) clearly:

Eric M. Braun, Attorney for the Petitioner

Michael Birch, Attorney for the Petitioner

EXHIBIT B. Request for Zoning Change

Office Use Only	<u>Z-50-08</u>
Petition No.	<u>10/20/08</u>
Date Filed:	<u>10/20/08</u>
Filing Fee:	<u>\$1000.00 CK</u>

183264

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>Longview House</u> <u>Incorporated</u>	<u>2019 Fairview Road</u> <u>Raleigh, NC 27608</u>	
	<u>Clark Smith and wife,</u> <u>Diane B. Smith</u>	<u>2019 Fairview Road</u> <u>Raleigh, NC 27608</u>	
2) Property Owner(s):	<u>Longview House</u> <u>Incorporated</u>	<u>2019 Fairview Road</u> <u>Raleigh, NC 27608</u>	
	<u>Clark Smith and wife,</u> <u>Diane B. Smith</u>	<u>2019 Fairview Road</u> <u>Raleigh, NC 27608</u>	
3) Contact Person(s):	<u>Eric M. Braun and</u> <u>Michael Birch</u> <u>Kennedy Covington</u> <u>Lobdell & Hickman, L.L.P.</u>	<u>P.O. Box 17047</u> <u>Raleigh, NC 27619-7047</u>	<u>919-743-7315 and</u> <u>919-743-7314</u> <u>ebraun@kennedycoving</u> <u>ton.com</u> <u>mbirch@kennedycoving</u> <u>on.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>1723-19-4205,</u> <u>1723-19-6662, 1723-19-8650, 1723-19-7363, 1723-18-9891, 1723-29-0362,</u> <u>1723-29-0574, 1723-19-5472</u>		
	General Street Location (nearest street intersections): <u>Southeast corner of the</u> <u>intersection of Luther Road and Falstaff Road</u>		
5) Area of Subject Property (acres):	<u>18.46 acres</u>		
6) Current Zoning District(s) Classification: Include Overlay District(s), if Applicable	<u>Residential-6, Office and Institution-1, and Office and Institution-1 CUD</u>		
7) Proposed Zoning District Classification: Include Overlay District(s) if Applicable. If existing Overlay District is to remain, please state.	<u>Office and Institution-2 CUD</u>		

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.

Name(s): Street Address(es): City/State/Zip: Wake Co. PIN #'s:

SEE EXHIBIT B-1
ATTACHED HERETO

Rezoning Petition
Form Revised December 21, 2007

EXHIBIT B-1

Z-50-08

PIN Nos. 1723-19-7363, 1723-19-6662, 1723-19-5472, 1723-19-4205, 1723-18-9891, 1723-19-8650, 1723-29-0574, & 1723-29-0362 (Poe Drive and Luther Road) Adjacent Property Owners	
Trentley P. & Melinda B. Lovick 4309 Willow Lake Road Raleigh, NC 27616-8723	1723-19-0289
Trentley P. & Melinda B. Lovick 4309 Willow Lake Road Raleigh, NC 27616-8723	1723-19-1220
Trentley P. & Melinda B. Lovick 4309 Willow Lake Road Raleigh, NC 27616-8723	1723-19-1256
Trentley P. & Melinda B. Lovick 4309 Willow Lake Road Raleigh, NC 27616-8723	1723-19-1390
Trentley P. & Melinda B. Lovick 4309 Willow Lake Road Raleigh, NC 27616-8723	1723-19-2255
Trentley P. & Melinda B. Lovick 4309 Willow Lake Road Raleigh, NC 27616-8723	1723-19-1135
Trentley P. & Melinda B. Lovick 4309 Willow Lake Road Raleigh, NC 27616-8723	1723-19-1151
Trentley P. & Melinda B. Lovick 4309 Willow Lake Road Raleigh, NC 27616-8723	1723-19-2039
Trentley P. & Melinda B. Lovick 4309 Willow Lake Road Raleigh, NC 27616-8723	1723-19-1054

Z-50-08

Peifeng & Ying Qian Ren 206 Wedgemere Street Cary, NC 27519-5130	1723-19-1040
Peifeng & Ying Qian Ren 206 Wedgemere Street Cary, NC 27519-5130	1723-18-1966
David L. Jeter 223 Donald Ross Drive Raleigh, NC 27610-2809	1723-18-1962
David L. Jeter 223 Donald Ross Drive Raleigh, NC 27610-2809	1723-18-1898
Rose Hill Enterprises Otha E. Herring 150 Moye Court Rocky Mount, NC 27803-1448	1723-18-5705
Poe Properties LLC P.O. Box 6126 Raleigh, NC 27628-6126	1723-18-7503
Carlton L. Gray Funeral & Cremation P.O. Box 14447 Raleigh, NC 27610	1723-18-6310
Poe Properties LLC c/o William D. Poe, Jr. P.O. Box 6126 Raleigh, NC 27628-6126	1723-18-8069
Garden Spring Housing Association LLC 7706 Six Forks Road Raleigh, NC 27615-5067	1723-28-2117
Poe Properties LLC P.O. Box 6126 Raleigh, NC 27628-6126	1723-28-4247

Z-50-08

Wake County c/o Wake County Attorneys Office P.O. Box 550 Raleigh, NC 27602-0550	1723-28-6218
Wake County c/o Wake County Attorneys Office P.O. Box 550 Raleigh, NC 27602-0550	1723-28-6609
Wake County c/o Wake County Attorneys Office P.O. Box 550 Raleigh, NC 27602-0550	1723-29-7087
Wake County c/o Wake County Attorneys Office Wake County Courthouse Building 1100 Raleigh, NC 27602-0550	1723-29-7309
Reliant Investments LLC 333 Fayetteville Street Mall Suite 505 Raleigh, NC 27601-1742	1723-29-1499
WakeMed P.O. Box 14465 Raleigh, NC 27620-4465	1724-20-2593
Alliance Medical Ministry Inc. 8310 Bandford Way Raleigh, NC 27615-2752	1723-19-2900
Ronald S. Gaither 130 Luther Road Raleigh, NC 27610-1804	1723-19-3883
Malissa B. Obase 136 Luther Road Raleigh, NC 27610-1804	1723-19-3790
Preston Bethea, Jr. 142 Luther Road Raleigh, NC 27610-1804	1723-19-3546

250-08

Moses C. Cole & Frederica A. Deigh 148 Luther Road Raleigh, NC 27610-1804	1723-19-2429
Willie Wright, Jr. 154 Luther Road Raleigh, NC 27610-1804	1723-19-1406
Wilbert L. Hinton, Sr. Donnie D. Hinton 119 Donald Ross Drive Raleigh, NC 27610-1805	1723-19-0599
Walter M. & Clarice Yvonne Hicks 2601 Spicewood Trail NE Huntsville, AL 35811-2605	1723-19-1710

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 East District Plan. The recommended land use for the three parcels to the west of the policy boundary line is residential. The recommended land use for the five parcels to the east of the policy boundary line is an employment area. However, the East District Plan text does not specifically address the subject property.

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 Wake Medical Center Small Area Plan. The small area plan prefers office and institutional uses in this area, and suggests preserving the architecturally significant structure across from Wake Medical Center. The plan notes that the employment area should continue to grow. Moreover, the plan suggests that the medical center and associated uses should develop to the south of the existing site, and that such areas present opportunities for transitional uses.

A policy boundary line runs through the subject property, designating the western portion as residential and the eastern portion as an employment area.

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

The proposed map amendment is consistent with the Comprehensive Plan as to the portion of the subject property that is located to the east of the policy boundary line and currently zoned Office & Institution-1. The proposal allows for the continued development of office and institutional uses to compliment the medical center and for the expansion of the growing employment area. The subject property is located south of the medical center site, precisely where the Comprehensive Plan recommends such development to occur. Also, the proposed map amendment provides additional ways to preserve the architecturally significant structure located on the site.

The proposed map amendment is inconsistent with the Comprehensive Plan as to the portion of the subject property located to the west of the policy boundary line. The Comprehensive Plan designates the three parcels to the west of the policy boundary line for residential uses. However, the proposed map amendment concerning these three parcels is reasonable and in the public interest given their location and proximity to the medical center and its associated uses.

The proposed map amendment would functionally move the policy boundary line to the west, along Luther Road. As a result, all of the property to the west of Luther Road would remain residential, and all of the property east of Luther Road would be designated for office and institutional uses. Instead of intangible property lines serving as the demarcation line for the policy boundary line, the physical nature of Luther Road renders it a more appropriate barrier between residential and nonresidential uses. The width of Luther Road and the buffer provided by the conditions of the proposed map amendment will continue to serve the purpose of the policy boundary line in its current location. Alteration of the policy boundary line allows the subject property to be developed to its highest and best use, while still providing an adequate transition from the more intense medical center to the less intense residential area.

Only one rental home currently sits on the three parcels of the subject property fronting along Luther Road. These parcels are no longer appropriate for residential use due to the expanding medical center and surrounding institutional uses. Instead, these three parcels are more suited for meeting the need of additional office space in the existing employment area. Although the proposed map amendment is inconsistent with the Comprehensive Plan in regard to the three parcels west of the policy boundary line, it is reasonable and in the public interest.

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 bordered by Luther Road to the northwest and by Falstaff Road to the north. Both streets are classified as collector streets.

The land uses within the surrounding area are predominantly institutional and commercial. Wake Medical Center is located to the north and northeast of the subject property, across Falstaff Road. Along Luther Road and Falstaff Road, the Wake Medical Center land is used for surface and structured parking. Commercial uses, including another surface parking lot to serve the hospital, are located at the intersection of Falstaff Road and New Bern Avenue. To the northwest of the subject property, across

Luther Road, is a church structure used for commercial purposes. To the northwest and west of the subject property, across Luther Road, are seven single family homes sitting on .5 to .75 acre lots. To the west of the subject property are ten buildings housing townhouse units. To the southwest and south of the subject property is a retirement home. Raleigh Country Club is located to the southwest, across Donald Ross Drive. To the south is an office and a funeral home. To the southeast and east of the subject property are office buildings and large surface parking lots owned by Wake County. To the northeast of the subject property is an office building.

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 to the north, east, and south by parcels zoned Office and Institution-1. Parcels immediately adjacent to the west are zoned Residential-6. Seven parcels located to the northwest across Luther Road from the subject property are zoned Residential-4.

A Neighborhood Conservation Overlay District exists to the west of the subject property, across Donald Ross Drive. This overlay district is a part of the King Charles Neighborhood Plan, which is located to the west of Donald Ross Drive and Peartree Lane. No other overlay districts are present 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 map amendment is compatible with the suitability of the property for particular uses and the character of the surrounding area because of the property's proximity to the medical center and existing accessory uses. The proposed zoning map amendment would permit the landowner to develop offices on the subject property and provide the landowner with additional means to preserve the historic Poe House. The offices would serve as accessory uses to Wake Medical Center, located just across Falstaff Street. The subject property is already surrounded by similar accessory uses, both commercial and institutional. The physical buffer provided by Luther Road would preserve the residential character of the neighborhood to the northwest of the subject property.

III. Benefits and detriments of the proposed map amendment.

A. For the landowner(s):

The proposed map amendment benefits the landowner by allowing it to develop the land for its highest and best use. Currently, the parcels constituting the subject property are mostly vacant, except for one single family residence and the historic Poe House. The subject property is located between a regionally significant employment area and the downtown regional intensity area. The highest and best use for this property is office and institution.

B. For the immediate neighbors:

The proposed map amendment provides the neighbors with a transitional use from the high intensity employment area of Wake Medical Center to the single family residential and townhouse development. Moreover, Luther Road will still act as a physical buffer between nonresidential and residential uses. The proposed map amendment also allows for the preservation of the Poe House. Currently, this historical and architecturally significant structure is not well maintained. The permitted uses of the proposed zoning district provide opportunities to renovate and maintain this building.

C. For the surrounding community:

The proposed map amendment benefits the surrounding community by providing additional office space in a heavily institutionalized area, which is located between a regionally significant employment area and a regional intensity area, thereby supporting the employment needs of the community. The surrounding community would also benefit from the preservation of the Poe House. Although it is not currently well maintained, the proposed map amendment provides alternatives for protecting this structure. Also, the subject property is currently underutilized. The proposed map amendment would benefit the community by permitting development that would increase the city's tax base.

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 which is not available to the surrounding properties because the majority of the surrounding property is already zoned and developed for office and institutional uses. Also, the few parcels that are still zoned Residential-4 across Luther Road have the same right to petition the City Council for a zoning change consistent with the Comprehensive Plan.

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

The location, surrounding zoning and land use patterns, and the proposed use of the subject property support the proposed map amendment as reasonable and in the public interest. The subject property is located directly south of the Wake Medical hospital. As the Comprehensive Plan suggests, this area is ripe for an expansion of the employment area through the development of uses accessory to the hospital. It is in the public interest to provide additional office space to allow for the expansion of accessory uses in such close proximity to a regionally significant medical center. Also, it is reasonable to permit the landowner additional means to preserve the Poe House through uses allowed under the Office and Institution-2 zoning district that are not allowed under the current zoning district.

V. Recommended items of discussion (where applicable).

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

This item of discussion is 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.**

The subject property was last zoned in 1988 as a part of a large rezoning that included all of the Wake Medical land (Z-36-1988). Since that time, Wake Medical expanded, accessory uses for the hospital have developed, and Wake County built offices to the east of the subject property. Since 1988, the surrounding employment area has grown and other office and institutional uses have developed around the subject property. Also, more dense residential development has occurred to the west and south in the form of townhouses and garden apartments. As a result of continuous growth over twenty years, especially given the proximity to the growing employment area, the portion of the subject property currently zoned for low density residential uses could not properly be zoned as such if it were being zoned for the first time.

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

The Comprehensive Plan suggests that the employment area should continue to grow and that the uses associated with the medical center should continue to develop to the south of the existing site. Wake Medical Center is a regionally-significant employer, and the need persists for accessory uses in close proximity to the site. Also, the subject property is just east of the downtown regional intensity area. Large employers continue to look to locate in the downtown area, and additional office space would help meet current demand and provide more opportunities for employers. Additionally, there is a public need for the maintenance of the historically and architecturally significant Poe House.

The proposed map amendment aims to fulfill the public need for additional office space by proposing a zoning district that permits more intense development than is allowed under the current zoning district. Also, Office and Institution-2 allows for a hotel use that is not permitted as a general use or conditional use under the current zoning district. The proposed map amendment provides for the potential conversion of the deteriorating historical structure into a hotel use.

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

There will be no extraordinary impact on 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.

There are no other arguments on behalf of the proposed map amendment at this time.



Certified Recommendation of the City of Raleigh Planning Commission

Case File: **Z-50-08 Conditional Use; Falstaff Rd.**

General Location: Southeast quadrant of the intersection of Falstaff Drive and Luther Road, extending south to Kidd Road.

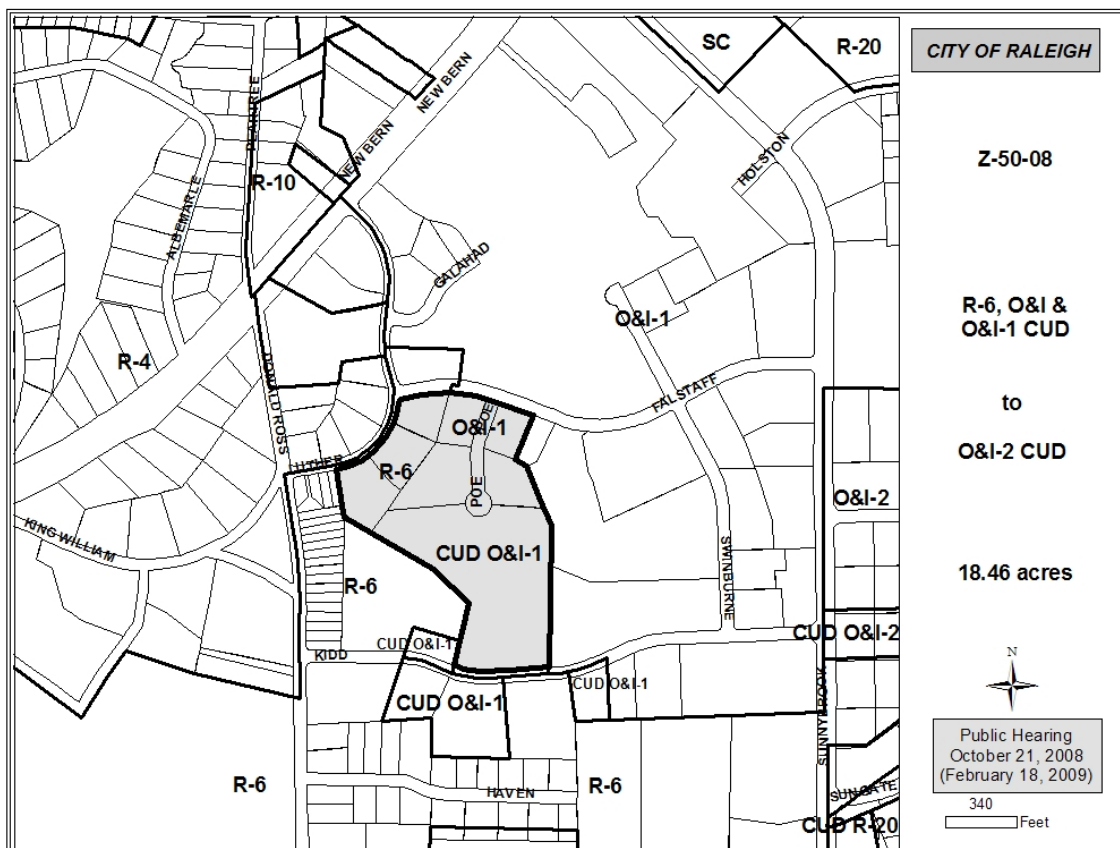
**Planning District
/ CAC:** East / East

Request: Petition for Rezoning from **Residential-6, Office & Institution-1, and Office & Institution-1 Conditional Use District** to **Office & Institution-2 Conditional Use District**.

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

**Valid Protest
Petition (VSPP):** None.

Recommendation: The Planning Commission finds that this request is inconsistent with the Comprehensive Plan. However, based on the findings and reasons stated herein, that this request be approved in accordance with zoning conditions dated January 29, 2009.



CASE FILE: Z-50-08 Conditional Use

LOCATION: This site is located in the southeast quadrant of the intersection of Falstaff Drive and Luther Road, extending south to Kidd Road.

REQUEST: This request is to rezone approximately 18.46 acres, currently zoned **Residential-6, Office & Institution-1, and Office & Institution-1 Conditional Use District**. The proposal is to rezone the property to **Office & Institution-2 Conditional Use District**.

COMPREHENSIVE

PLAN CONSISTENCY: This request is inconsistent with the Comprehensive Plan.

RECOMMENDATION: The Planning Commission finds that this request is inconsistent with the Comprehensive Plan. However, based on the findings and reasons stated herein, that this request be approved in accordance with zoning conditions dated January 29, 2009.

**FINDINGS
AND REASONS:**

- (1) This request is inconsistent with the Comprehensive Plan. The three northwest parcels of the subject property, adjacent to Luther Road, are located on the residential side of a Policy Boundary Line.
 - (2) The zoning conditions provided on the entire site, including prohibited uses, transit easements, and height limitations, reduce potential development impacts.
 - (3) The zoning conditions proposed for the Poe House ("Longview")—building maintenance, use of compatible materials, compatibility of future additions, and provision of public design review—adequately provide for its preservation.
 - (4) The zoning conditions pertaining to the three properties fronting Luther Road—minimum roof pitch, façade materials and fenestration, building setback, height limitations, and access—provide a transition to the existing residential properties across Luther Road.
 - (5) In seeking to mitigate potential development impacts, the request can be considered reasonable and in the public interest.
-

To PC: 10/28/08
Case History: 10/28/08 (deferred); 1/27/09

To CC: 2/3/09

City Council Status: _____

Staff Coordinator: Doug Hill

Motion: Mullins

Second: Butler

In Favor: Anderson, Bartholomew, Butler, Chambliss, Gaylord, Haq, Harris Edmisten, Mullins

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: 1/29/09



Zoning Staff Report: Z-50-08 Conditional Use

LOCATION: This site is located in the southeast quadrant of the intersection of Falstaff Drive and Luther Road, extending south to Kidd Road.

AREA OF REQUEST: 18.46 acres

PROPERTY OWNERS: Longview House Incorporated; Clark Smith and wife, Diane B. Smith

CONTACT PERSONS: Eric M. Braun, 743-7315
Michael Birch, 743-7314

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

ZONING:	<u>Current Zoning</u>	<u>Proposed Zoning</u>
	Residential-6, Office & Institution-1, and Office & Institution-1 CUD	Office & Institution-2 CUD
	<u>Current Overlay District</u>	<u>Proposed Overlay District</u>
	n/a	n/a
ALLOWABLE DWELLING UNITS:	<u>Current Zoning</u>	<u>Proposed Zoning</u>
	w / Staff approval: 244 units w / PC approval: 393 units	w / Staff approval: 276 units w / PC approval: 738 units
ALLOWABLE OFFICE SQUARE FOOTAGE:	<u>Current Zoning</u>	<u>Proposed Zoning</u>
	R-6: Office uses not permitted O&I-1: 485,476 square feet (0.75 FAR)	804,117 square feet (1.0 FAR)
ALLOWABLE RETAIL SQUARE FOOTAGE:	<u>Current Zoning</u>	<u>Proposed Zoning</u>
	R-6: Retail uses not permitted O&I-1: Limited retail uses (maximum of 10%) permitted in association with an office building exceeding 30,000 square feet	O&I-2: Limited retail uses (maximum of 10%) permitted in association with an office building exceeding 30,000 square feet
ALLOWABLE GROUND SIGNS:	<u>Current Zoning</u>	<u>Proposed Zoning</u>
	R-6: Tract ID Sign O&I-1: Low Profile Sign (Height = 3.5 feet; Area = 70 sq.ft.)	Low Profile Sign (Height = 3.5 feet; Area = 70 sq.ft.)

ZONING HISTORY: These properties received their present zoning at varying dates.

The majority of the site, Wake County PINs 1723189891, 1723197363, and 172390362, was zoned O&I-1 CUD in 1988 (Z-36-88) with the following conditions:

- 1) The existing 5000+ square foot structure and façade ["Longview," the Clarence Poe house] shall be maintained in its present condition, including siding type, window style and roof material.
- 2) All structures built on and accessed from Poe Drive shall be a maximum of two stories or 45 feet to the top of the pitch, the maximum building height, and shall have pitched roofs designed in a residential character.
- 3) Compliance shall be made with stormwater requirements in accordance with the City of Raleigh interim policy for rezoning requests as outlined in CR 7107 from City of Raleigh Planning Commission, or in accordance with existing superceding *[sic]* stormwater requirements current at time of development.

The two properties fronting Falstaff Road were zoned O&I-1 in 1983 (Z-32-83).
The three properties fronting Luther Road were zoned R-6 in 1955 (Z-46-55).

**SURROUNDING
ZONING:**

NORTH: Office & Institution-1, Residential-6

SOUTH: Residential-6; Office & Institution-1 CUD (Z-69-99):

Conditions: (8/11/99)

- A. The property will be developed in accordance with Planning Commission Certified Requirement 7107.
- B. Any right-of-way required to be dedicated for future improvements or adjacent roadways shall qualify for reimbursement at R-4 values.
- C. A tree protection area of not less than thirty feet (30') in width shall be established adjacent to the properties with PIN's 1723185013 (Stewart), 1723186023 (Perry), 1723177972 (Morgan), 1723178971 (Hood), 1723179971 (McCullers), and 1723270991 (Hamilton). The area will remain undisturbed except for:
 1. Storm drainage facilities, erosion control devices, private driveways, electric, telephone, cable television and similar installations (fiber optic cable, etc.), gas and/or water, sanitary sewer installations, and similar utilities approved by the appropriate local government authority. Any such construction shall be designed and undertaken so as to create as little disturbance of the area as possible while still honoring public service, health and safety requirements.
 2. The planting of new vegetation, construction of fences, walls, berms or similar construction which tends to enhance the area's visual appeal, or sight and noise screening characteristics.
 3. Treatment or removal of nuisance or diseased vegetation as certified by city arborist or other public official designated by the Raleigh City Manager. To illustrate, but not limit, the foregoing: Trees which encroach upon property boundaries or whose limbs hang over adjacent properties, overhead electric lines, streets or drives may be removed; pine trees infested with or threatened by pine bark beetles or similar pests may be removed.
Not more than thirty percent (30%) of the tree protective yard may be disturbed by those exceptions noted in paragraphs 1-2 of this condition.
- D. Buildings on the subject properties shall not exceed three stories (forty-five feet (45')) in height.
- E. Exterior lighting shall be aimed downward and shielded so as to prevent direct view of the light source from adjacent residential properties. Freestanding light poles within twenty feet of transition yards adjacent to residentially zoned properties shall not exceed 18 feet in height.

- F. Refuse containers and heating and air-conditioning units shall be maintained within wooden or masonry enclosures or otherwise screened from direct view from adjacent residentially zoned lots.
- G. The following uses otherwise permitted in the O&I-1 zoning district shall not be allowed:
 - 1. Cemetery
 - 2. Dance, recording, music studio
 - 3. Telecommunications tower
 - 4. Airfield, landing strip, and heliport
 - 5. Correctional/penal facility
 - 6. Outdoor stadium, outdoor theater, outdoor racetrack, outdoor movie theater.
 - 7. Emergency Shelter Type B
- H. Dwellings, as the same are defined by Raleigh City Code 10-2002, shall not be permitted on the subject property, unless in conjunction with a congregate care, rest home, nursing home, hospital or similar medical care facility.

EAST: Office & Institution-1

WEST: Residential-6, Office & Institution-1 CUD (Z-47-92)

Conditions (eff. 10/6/92):

- 1) Allowable residential density would remain R-6.
- 2) All structures built on and accessed from Kidd Road shall be a maximum of two stories or 45 feet to the top of the pitch, and shall have pitched roofs designed in a residential character.
- 3) Agricultural, recreation, commercial or industrial uses otherwise allowable pursuant to reformatted Raleigh Zoning Code Section 10-2071, shall not be permitted.

LAND USE: Vacant; single-family residential; single-family residential with business

SURROUNDING

LAND USE:

NORTH: Parking (surface and 7-story deck) for Wake Medical Center complex

SOUTH: Retirement home; vacant; funeral home

EAST: Office; vacant; surface parking

WEST: Low density residential (single family and townhouse)

**DESIGNATED
HISTORIC**

RESOURCES:

The Clarence Poe House ("Longview"), 108 Poe Drive, is on the Study List of the National Register of Historic Places, and could also qualify for designation as a Raleigh Historic Landmark.

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	East
Urban Form	Employment Area (northeast/east parcels of site)

Specific Area Plan	Wake Medical Center Small Area Plan
Guidelines	Office Use Floor Area Ratio and Building Lot Coverage Guidelines

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

The proposal is inconsistent with the Comprehensive Plan. The East District Plan shows the properties bordering Poe Drive, on the eastern portion of the site, to be within an Employment Area, a designation by definition suited to office development. However, the plan divides those properties from properties adjacent to Luther Road in placing a Policy Boundary Line along the Luther Road parcels' eastern edge. The latter properties are designated for residential development.

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

The subject site is located along an area of transition from the intensive office and institutional uses (associated with the Wake Medical Center) to the north and east, to the suburban residences and low-rise institutional uses to the west and south. The former properties feature large, multi-story buildings, structured parking facilities, and large surface parking lots. The latter area includes single-story group housing, large-lot single family homes, low-rise institutional uses, and some vacant land. The east side of Donald Ross Drive (formerly Peartree Lane), is lined with a series of two-story, small-lot duplexes. The west side of Donald Ross Drive forms the easternmost portion of the King Charles Neighborhood Conservation Overlay District, in which buildings are limited to two stories in height. South of that is the open expanse of the Raleigh Country Club.

The subject site is mostly undeveloped and heavily wooded. This condition reflects its history. Most of the site is associated with Longview, the 1925 suburban estate of businessman/ publisher Clarence Poe. The Poe House is positioned prominently on a hilltop, at the center of large lawns, which are in turn surrounded by dense woods. Other than the Poe House, only one of the lots which are part of the proposal has been developed; it fronts Luther Road, and reflects the pattern of development on the west side of the street—large lot, deep setback, and single-family residence. The existing house is one story in height, and is set back 75 feet from the street. In the proposed rezoning, the maximum height conditioned overall for the site—95 feet, or 5 stories—would be permitted no closer than 150 feet from the street; however, properties along the east side of Luther Road rise up from the street toward the hilltop location of the Poe House, increasing the potential visual impact of future buildings.

No height mitigation is proposed adjacent to the R-6 properties to the southwest. The adjacent O&I-1 property on the southwest, on the north side of Kidd Road, is conditioned to “a maximum of two stories or 45 feet to the top of the pitch, and shall have pitched roofs designed in a residential character.” The O&I-1 properties on the opposite side of Kidd Road are conditioned such that their buildings “shall not exceed three stories (forty-five feet (45')) in height.”

3. Public benefits of the proposed rezoning

The request notes that the site “is currently underutilized.” At present, however, the site is mostly undeveloped. Nearly half a million square feet of office development is possible under the existing zoning, as are almost 400 dwelling units. The preservation of Longview is cited in the proposal as a benefit; however, such action is required under the existing zoning, which provides that “the existing 5000+ square foot structure and façade shall be maintained in its present condition, including siding type, window style and roof material” (Condition 1. of Z-36B-88). The proposed rezoning does state that house would “not be torn down,” but permits introduction of new façade materials (with the exception only of vinyl siding) of undetermined impact on the property’s historical character. Conditions also permit “freestanding” addition(s) to the house, again, of undetermined impact.

4. Detriments of the proposed rezoning

The proposal would introduce development of higher intensity than that permitted on adjoining properties, potentially resulting in a near doubling of the allowable number of dwelling units and office square footage, with possible impacts on traffic, neighborhood character, and, given the extensive existing tree cover, the area environment. As noted above, it also could potentially impact the historic integrity of Longview.

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

TRANSPORTATION: Falstaff Road is classified as a collector and is constructed to City standards as a 41-foot back-to-back curb and gutter section with sidewalk on one side within a 60-foot right-of-way. Poe Drive is classified as a minor residential street as is also constructed to city standards as a 41-foot back to back curb and gutter section with sidewalk on one side within a 60-foot right-of-way. Kidd Road is classified as a collector street and is also constructed to City standards as a 41-foot back-to-back curb and gutter section with sidewalk on one side within a 60-foot right-of-way. Neither NCDOT nor the City has currently scheduled roadway projects in the vicinity of this case.

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, and commit to installation of a transit shelter. 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 FEMA. No flood-prone soils.
DRAINAGE BASIN: Crabtree
STORMWATER MANAGEMENT: Site is subject to Part 10, Chapter 9 – Stormwater Regulations. There appear to be no Neuse Riparian Buffers present on site. No WSPOD. No downstream drainage complaints found on file.

PUBLIC UTILITIES:

	Maximum Demand on Current Zoning	Maximum Demand on Proposed Zoning
Water	Approx. <u>60,745</u> gpd	Approx. <u>138,450</u> gpd
Waste Water	Approx. <u>60,745</u> gpd	Approx. <u>138,450</u> gpd

The proposed rezoning would add approximately 77,705 gpd to the wastewater and water treatment systems of the City. There are currently sanitary sewer and water mains available at the properties for connection to the City's utilities systems.

PARKS AND RECREATION:

This property is not adjacent to a greenway corridor. In the future residents of this site will be served by an undeveloped park located on Sunnybrook Road.

WAKE COUNTY PUBLIC SCHOOLS:

The maximum number of dwelling units permitted under the current zoning is 393; the proposed rezoning could permit 738. This would result in an estimated net increase in school enrollment of 97. The current base schools for the site, and their respective capacities, are indicated below:

School name	Current enrollment	Current Capacity	Future Enrollment	Future Capacity
Dillard Drive	677	117.3%	725	125.6%
Dillard Drive	1,167	121.2%	1,196	124.2%
Enloe	368	78.0%	389	82.4%

IMPACTS SUMMARY: The proposed rezoning could increase elementary and middle school overcrowding of base schools (by 48 and 29 students respectively). The proposed rezoning would add approximately 77,705 gpd to the wastewater and water treatment systems of the City. Park facilities which would serve the site are not yet developed.

OPTIONAL ITEMS OF DISCUSSION

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

N/A

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

The rezoning request notes the extensive development of recent years associated with the expansion of the Wake Medical Center complex. However, the statement that “the portion of the subject property currently zoned for low density residential uses could not properly be zoned as such were it being zoned for the first time” is not supported by the Wake Medical Center Small Area Plan, which designates those properties for “Low Density Residential” development (six or fewer dwelling units per acre), and affirms that status with the placement of the Policy Boundary Line along their eastern edge.

The properties currently zoned for office use are mostly undeveloped; under that zoning, nearly half a million square feet of office uses could be built on the site. Condition 2. of the present zoning does limit “all structures built on and accessed Poe Drive” to a “maximum of two stories or 45 feet to the top of the pitch.” However, the northernmost two properties are not governed by this limit as they were not part of the 1988 CUD zoning. The southernmost parcel abuts Kidd Road, such that any future development that would not require Poe Drive access might also exceed the currently conditioned height limits.

This same Condition of the existing zoning also acknowledges the contextual significance of the Poe House, the cultural importance of which is affirmed by a separate Condition of the current zoning, which states “the existing 5000+ square foot structure and façade shall be maintained in its present condition, including siding type, window style and roof material.” The proposed rezoning does state that house would “not be torn down,” but could permit modification through introduction of new “compatible” façade materials, “including but not limited to wood and masonry,” and/or construction of “freestanding” additions to the house. It is not determined whether such provisions might compromise the building’s architectural integrity, and potential National Register and Raleigh Historic Landmark status.

APPEARANCE

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

CITIZENS’

ADVISORY COUNCIL: DISTRICT: East
CAC CONTACT PERSON: Lynette Pitt, 833-9247

SUMMARY OF ISSUES:

COMPREHENSIVE PLAN / COMPATIBILITY / ADVERSE IMPACTS:

1. Outstanding issues

- The proposal is inconsistent with the Comprehensive Plan. The northwest parcels of the site (fronting Luther Road) are on the residential side of a Policy Boundary Line. The Wake Medical Center Small Area Plan states “employment area should continue to develop, while established neighborhoods remain stable.”
- Modifications to the Poe House possible under the proposed conditions could impact its historic character.
- No setback/ height transition measures are provided toward residential properties to the south and southwest.
- The proposed rezoning could increase elementary and middle school overcrowding of base schools (by 48 and 29 students respectively).
- The proposed rezoning would add approximately 77,705 gpd to the wastewater and water treatment systems of the City.
- Park facilities which would serve the site are not yet developed.

2. Suggested conditions

- Retain the existing Policy Boundary Line and residential zoning in their present locations.
- Qualify building materials which, through consultation with State of North Carolina and City of Raleigh historic preservation staff and officials, are determined appropriate to the rehabilitation of the Poe House; commit to courtesy review by the Raleigh Historic Districts Commission of any exterior modifications to the Poe House; provide for a minimum amount of open space around the building (in recognition of that open space’s significance to the house’s historic character).
- Provide for setback/ height mitigation to properties adjacent on the south and southwest.
- Include a condition designed to mitigate potential impacts on the wastewater and water treatment systems of the City (i.e., provide for on-site water conservation).

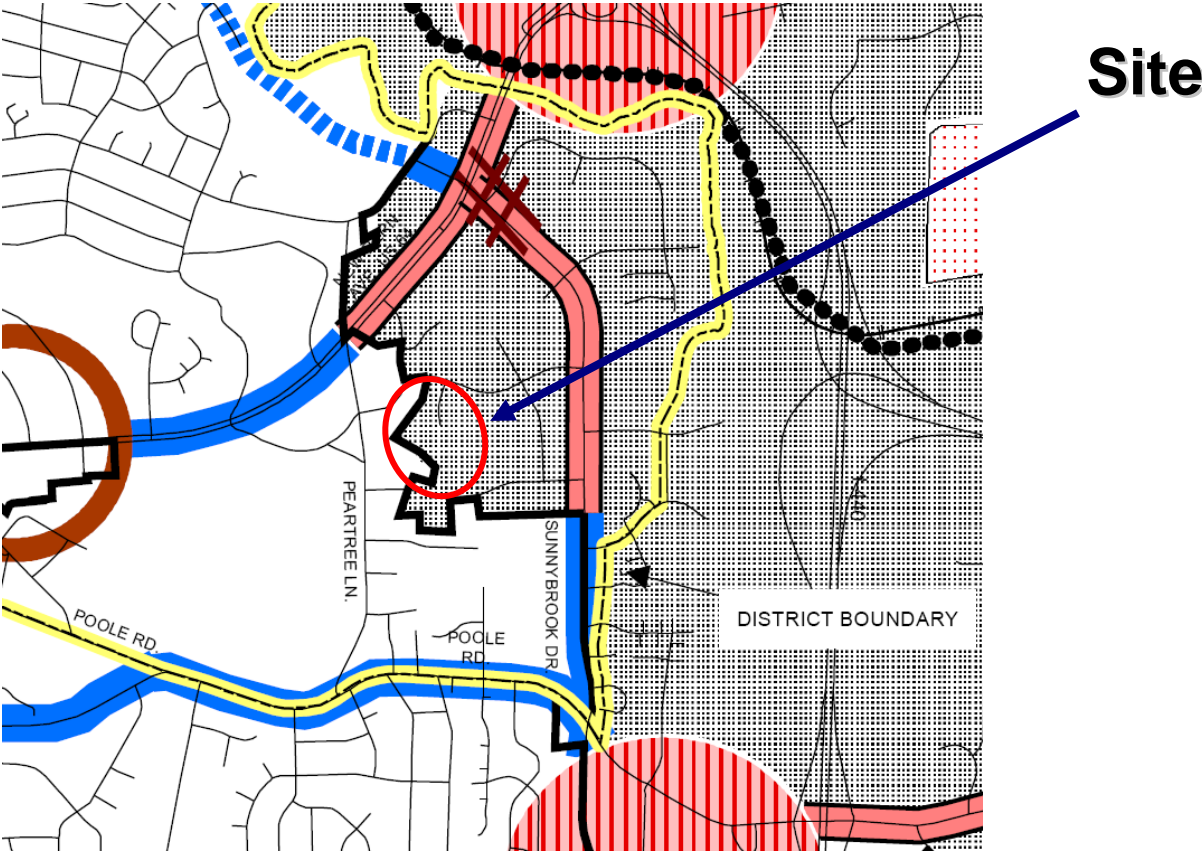
DEVELOPMENT REGULATIONS:

- Consider including a condition stating that a bus shelter will be constructed in association with the transit easements, if requested by the City at the time of site plan review.

DEPUTY CITY ATTORNEY:

- Add an exception to the first sentence of Condition 2(e) for casualties; for example: “except when one more casualties damage the Clarence Poe House in excess of fifty percent of its tax value.”
- In Condition 2(g) between the word “located” and the word “within,” insert the words “on the Property.”
- Confirm that the setbacks will be measured from the future right-of-way line of Luther Road.

Urban Form— East District Plan



Recommended Urban Form - East District

