



# Certified Recommendation

Raleigh Planning Commission

CR# 11399

## Case Information Z-21-10/ Lake Wheeler Rd

<i>Location</i>	East side of Lake Wheeler Road, south of its intersection with Kirkland Drive.
<i>Size</i>	4.27 acres
<i>Request</i>	Rezone property from Residential-4 with Special Highway Overlay District-2 to Shopping Center Conditional Use with Special Highway Overlay District-2

## Comprehensive Plan Consistency

<i>Future Land Use Designation</i>	Moderate Density Residential
<i>Applicable Policy Statements</i>	Policy LU 1.3 – Conditional Use District Consistency Policy LU 2.6 – Zoning and Infrastructure Impacts Policy LU 4.5 – Connectivity Policy LU 5.6 – Buffering Requirements Policy LU 7.4 – Scale and Design of New Commercial Uses

Consistent

Inconsistent

## Summary of Conditions

<i>Submitted Conditions</i>	<ul style="list-style-type: none"> <li>• Prohibition of certain uses</li> <li>• Density limitation of 14 du/acre</li> <li>• Maximum building height of 50 feet</li> <li>• Ground signs limited to low profile</li> <li>• 50' transitional protective yard to adjacent residential</li> <li>• Lighting limited to full cutoff fixtures</li> <li>• Building materials along Lake Wheeler Road</li> <li>• Types of fencing permitted</li> <li>• Transit Easement</li> <li>• Cross Access</li> <li>• Limited vehicular access</li> </ul>
-----------------------------	--

## Issues and Impacts

<i>Outstanding Issues</i>	1. Inconsistency with the Comprehensive Plan	<i>Suggested Conditions</i>	N/A
<i>Impacts Identified</i>	1. Applicant has mitigated all identified impacts.	<i>Proposed Mitigation</i>	N/A





# Zoning Staff Report – Case Z-21-10

## Conditional Use District

### Request

<i>Location</i>	East side of Lake Wheeler Road, south of its intersection with Kirkland Drive.
<i>Request</i>	Rezone property from Residential-4 with Special Highway Overlay District-2 to Shopping Center Conditional Use with Special Highway Overlay District-2
<i>Area of Request</i>	4.27 acres
<i>Property Owner</i>	Annie Mae Andrews, Heirs
<i>PC Recommendation Deadline</i>	February 16, 2011

### Subject Property

	<i>Current</i>	<i>Proposed</i>
<i>Zoning</i>	Residential-4	Shopping Center Conditional Use
<i>Additional Overlay</i>	SHOD-2	SHOD-2
<i>Land Use</i>	Vacant Land	All Shopping Center District Uses except those prohibited by zoning conditions (condition 1).
<i>Residential Density</i>	17 dwelling units	59 units (14 du/acre per zoning conditions)

### Surrounding Area

	<i>North</i>	<i>South</i>	<i>East</i>	<i>West</i>
<i>Zoning</i>	R-4, IND-1 CUD, IND-1	O&I-1, R-4	R-4	CM, SC
<i>Future Land Use</i>	General Industrial	Moderate Density Residential	Moderate Density Residential	Medium Density Residential, Public Parks/Open Space
<i>Current Land Use</i>	Vacant land, I440 interchange	Single and Multifamily Residential	Multifamily Residential	Multifamily residential across Lake Wheeler

### Comprehensive Plan Guidance

<i>Future Land Use</i>	Moderate Density Residential
<i>Area Plan</i>	N/A
<i>Applicable Policies</i>	Policy LU 1.3 – Conditional Use District Consistency Policy LU 2.6 – Zoning and Infrastructure Impacts Policy LU 4.5 – Connectivity

	Policy LU 5.6 – Buffering Requirements Policy LU 7.4 – Scale and Design of New Commercial Uses
--	---

## Contact Information

<i>Staff</i>	Stan Wingo – (919)516-2663 <a href="mailto:stan.wingo@raleighnc.gov">stan.wingo@raleighnc.gov</a>
<i>Applicant</i>	Carl Simmons – (919)833-0830
<i>Citizens Advisory Council</i>	Southwest – Jason Hibbets

## Overview

The site is located at the southeast corner of Lake Wheeler Road and Kirkland Drive. The property is currently vacant and heavily wooded. The property is adjacent to single and multi family residential to the south, industrial to the north, and multifamily residential across Lake Wheeler. The property has been zoned Residential-4 since being brought into the City of Raleigh jurisdiction in 1960.

The request is to rezone approximately 4.27 acres from Residential-4 with Special Highway Overlay District-2 to Shopping Center Conditional Use with Special Highway Overlay District-2. The property is located at the intersection of Lake Wheeler Road and Kirkland Drive. The proposed conditions prohibit certain uses, limit residential density to 14 units per acre, limit signage, building height and site lighting. Conditions also provide a 50' Transitional Protective Yard to adjacent residential.

## Exhibit C & D Analysis

Staff examines consistency with the Comprehensive Plan, compatibility with the surrounding area, public benefits and detriments of the proposal, and summarizes any associated impacts of the proposal.

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

#### 1.1 Future Land Use

This site falls within an area designated as being appropriate for Moderate Density Residential. The proposal to rezone the subject property to Shopping Center Conditional Use is inconsistent with the Future Land Use designation.

#### 1.2 Policy Guidance

The following policy guidance is applicable with this request

#### **Policy LU 1.3 - Conditional Use District Consistency**

All conditions proposed as part of a conditional use district (CUD) should be consistent with the Comprehensive Plan

All proposed zoning conditions are consistent with the Comprehensive Plan.

#### **Policy LU 2.6 - Zoning and Infrastructure Impacts**

Carefully evaluate all amendments to the zoning map that significantly increase permitted density or floor area to ensure that impacts to infrastructure capacity resulting from the projected intensification of development are adequately mitigated or addressed

There could be a significant increase in traffic associated with this request. Due to the proposed change in land use intensity which includes retail uses, a traffic impact analysis is recommended for this case.

**Policy LU 4.5 - Connectivity**

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

The proposal is consistent with Policy LU 4.5. Applicant has offered a zoning condition that would grant cross access to adjacent property.

**Policy LU 5.6 - Buffering Requirements**

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

The proposal is consistent with Policy LU 5.6. The applicant has offered a zoning condition that would require a 50' transitional protective yard to all adjacent residential uses. The conditions also specify larger setbacks, additional landscape buffers and height restrictions.

**Policy LU 7.4**

**Scale and Design of New Commercial Uses**

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

The proposal is consistent with this policy as conditioned. The applicant has provided conditions that limit use, building height, signage and materials. The conditions also provide additional buffering to adjacent residential.

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

The current zoning on the property is Residential-4. The proposal to rezone the property to Shopping Center Conditional Use would increase the allowable residential density on the property as well as introduce a number of higher impact uses such as office development and retail. The zoning to the north of the property is primarily Industrial, with Residential-4 to the east and south. The property is also adjacent to Office and Institution-1 to the south, and Shopping Center to the west, both of which are currently developed as multifamily residential.

The primary land use to the north is light industrial, with multifamily residential to the east. Single family residential and multifamily residential border the property to the south, with a large multifamily apartment complex across Lake Wheeler Road to the west.

**3. Public benefits of the proposed rezoning**

The applicant states that due to the Industrial traffic on Kirkland, and the surrounding uses, the proposal to rezone this property would serve as an appropriate transition and buffer use to the residential properties adjacent to the south.

The applicant has offered several conditions to mitigate any impact of commercial development on the properties to the south. This proposal could also provide an active retail use along Lake Wheeler Road, in an area that is predominantly Industrial and Residential in character.

**4. Detriments of the proposed rezoning**

There are no known detriments associated with this request.

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

**5.1 Transportation**

<u>Primary Streets</u>	<u>Classification</u>	<u>Current Volume (ADT)</u>	<u>2035 Future Volume (ADT)</u>		
Lake Wheeler Road	Major Thoroughfare	15,000	26,606		
Kirkland Road	Commercial Street	N/A	N/A		
<b>Street Conditions</b>					
Lake Wheeler Road	<u>Lanes</u>	<u>Curb and Gutter</u>	<u>Right-of-Way</u>	<u>Sidewalks</u>	<u>Bicycle Accommodations</u>
Existing	2	West side of the street	120'	5' sidewalks on west side of the street	None
City Standard	4	Back-to-back curb and gutter section	90'	minimum 5' sidewalks on both sides	4' striped bicycle lanes on both sides
<b>Meets City Standard?</b>	<b>NO</b>	<b>NO</b>	<b>YES</b>	<b>NO</b>	<b>NO</b>
Kirkland Road	<u>Lanes</u>	<u>Curb and Gutter</u>	<u>Right-of-Way</u>	<u>Sidewalks</u>	<u>Bicycle Accommodations</u>
Existing	2	North side of the street	60'	None	None
City Standard	2	Back-to-back curb and gutter section	60'	minimum 5' sidewalks on one side	N/A
<b>Meets City Standard?</b>	<b>YES</b>	<b>NO</b>	<b>YES</b>	<b>NO</b>	<b>N/A</b>
<b>Expected Traffic Generation [vph]</b>	<u>Current Zoning</u>	<u>Proposed Zoning</u>	<u>Differential</u>		
AM PEAK	13	98	85		
PM PEAK	17	381	364		
<b>Suggested Conditions/Impact Mitigation:</b>		Traffic Study Determination: Due to the proposed change in land use intensity which includes retail uses, a traffic impact analysis is recommended for this case. The petitioner may wish to add a condition stating that offers of cross-access will be provided to adjacent property to the south zoned O&I.			
<b>Additional Information:</b>	Neither NCDOT nor the City of Raleigh have any projects scheduled in the vicinity of this case.				

**5.2 Transit**

There is an existing bus stop on Lake Wheeler approximately 100' south of Kirkland.

Impact Identified: The rezoning will intensify development potential of the property, and in turn, increase transit use in the vicinity. A 15x20' transit easement should be granted at this location for future use.

**5.3 Hydrology**

<i>Floodplain</i>	no
<i>Drainage Basin</i>	Walnut Creek
<i>Stormwater Management</i>	Subject to Part 10, Chapter 9
<i>Overlay District</i>	none

Impact Identified: none.

**5.4 Public Utilities**

	<i>Maximum Demand (current)</i>	<i>Maximum Demand (proposed)</i>
<i>Water</i>	8,540 gpd	19,215 gpd
<i>Waste Water</i>	8,540 gpd	19,215 gpd

The proposed rezoning would add approximately 10,675 gpd to the wastewater collection and water distribution systems of the City. There are existing sanitary sewer and water mains located within the rights-of-way of Lake Wheeler and Kirkland Roads adjacent to the proposed rezoning property.

Impact Identified: None

**5.5 Parks and Recreation**

The subject property is not located adjacent to a Capital Area Greenway corridor. It is not located in a park search area. The property is served by Carolina Pines Community Park.

Impact Identified: None

**5.6 Urban Forestry**

There is no impact on Urban Forestry with the proposed rezoning of R-4 to SC-CUD.

Impact Identified: None

**5.7 Wake County Public Schools**

<b>School name</b>	<b>Current Enrollment</b>	<b>Current Capacity</b>	<b>Future Enrollment</b>	<b>Future Capacity</b>
Penny Road	826	110.6%	834	111.6%
Apex	1,072	104.8%	1,077	105.3%
Apex	2,248	107.6%	2,252	107.8%

Impact Identified: None

**5.8 Designated Historic Resources**

This site is not located within a registered historic district and does not contain any historic landmarks.

Impact Identified: None

### **5.9 Impacts Summary**

1. Due to the proposed change in land use intensity which includes retail uses, this rezoning could cause an increase in traffic.
2. The change in land use intensity could increase transit ridership in this location.

### **5.10 Mitigation of Impacts**

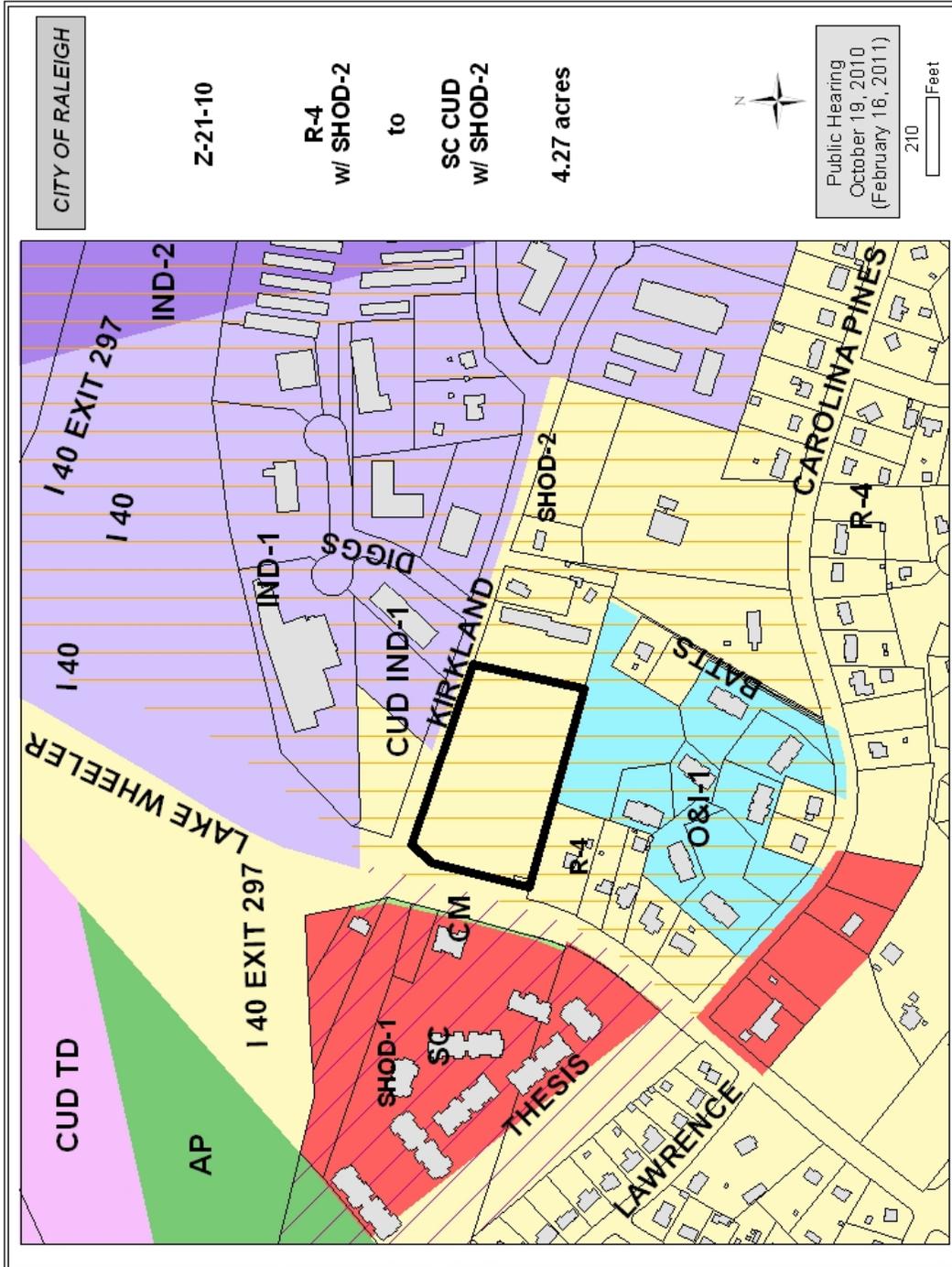
1. Applicant has mitigated all identified impacts through revised zoning conditions.

## **6. Conclusions**

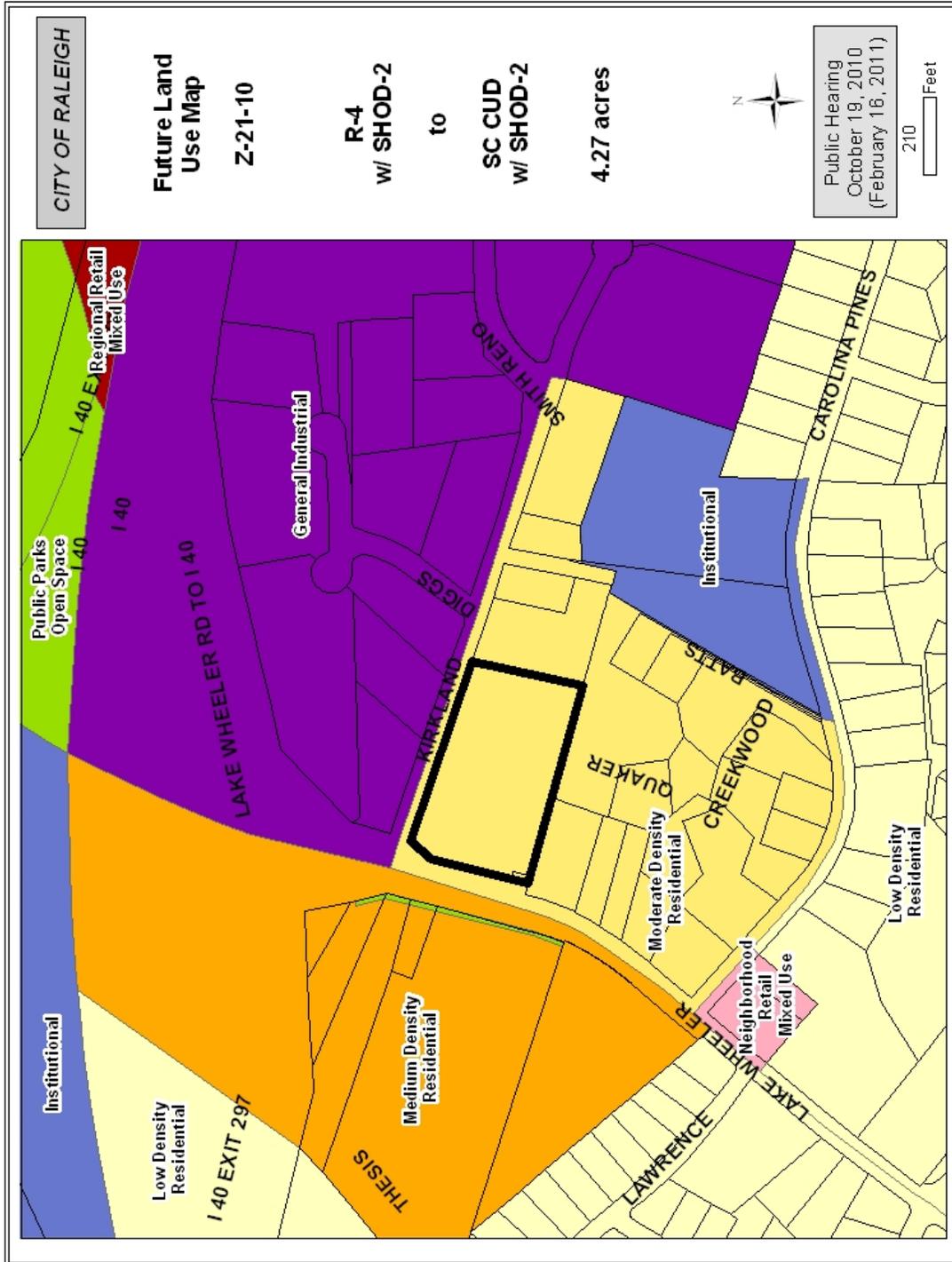
As proposed this rezoning request is inconsistent with the Comprehensive Plan. The Future Land Use Map designates this site as being appropriate for Moderate Density Residential. The proposal to rezone to Shopping Center Conditional Use would introduce the potential to develop higher intensity uses, which would be inconsistent with this designation. Residential development associated with proposal would be consistent with the Future Land Use on the property, as the petitioner has conditioned density to no more than 14 dwelling units per acre.

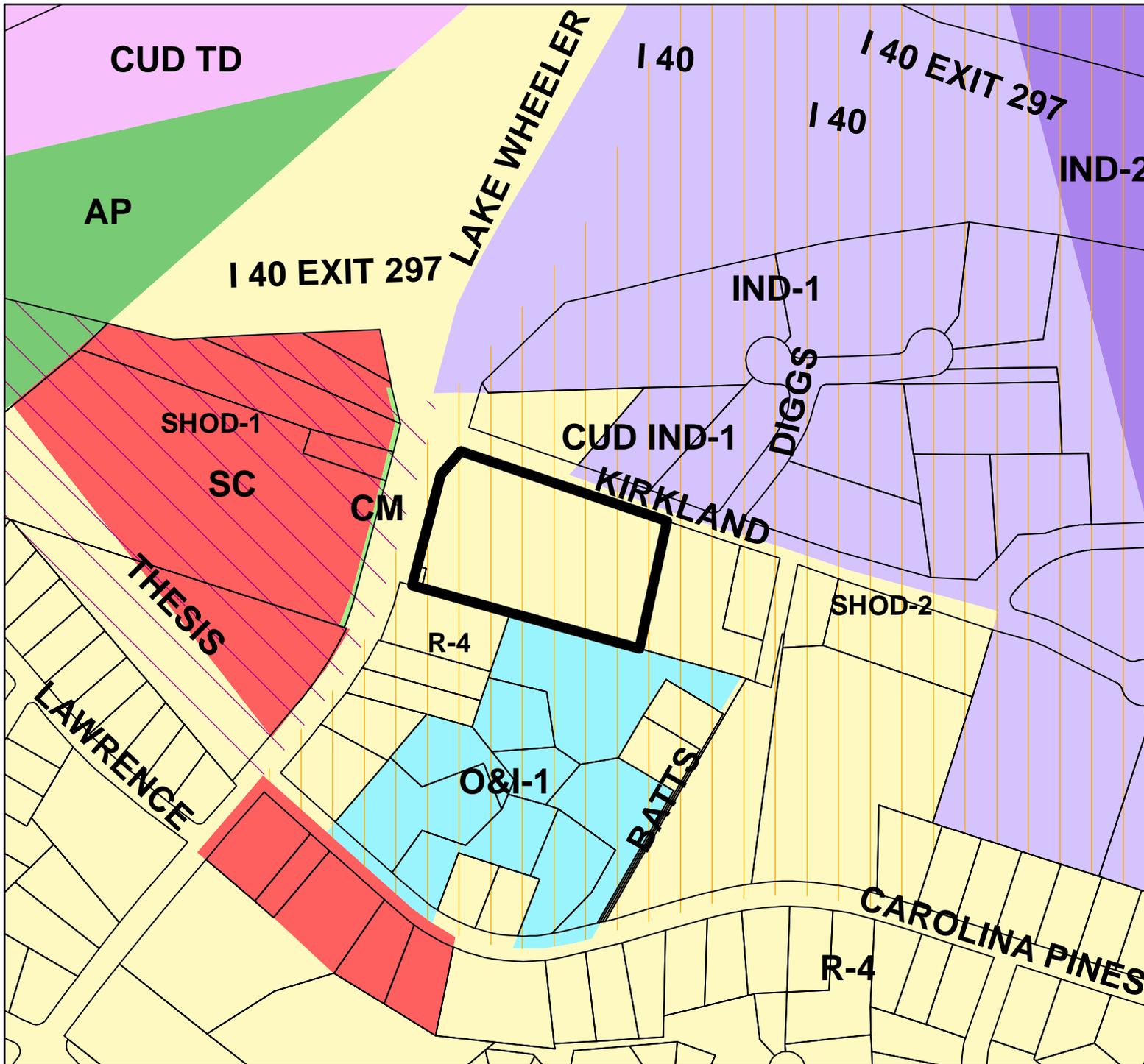
However, the request is consistent and compatible with the surrounding area and is also compatible with Policy LU 5.6 Buffering Requirements. Rezoning to Shopping Center Conditional Use would provide an appropriate transition in zoning, from adjacent Residential to Industrial to the north. The applicant has also provided additional buffering conditions to adjacent residential uses.

# Existing Zoning Map



# Future Land Use Map





**CITY OF RALEIGH**

**Z-21-10**

**R-4  
w/ SHOD-2**

to

**SC CUD  
w/ SHOD-2**

**4.27 acres**

Public Hearing  
October 19, 2010  
(February 16, 2011)

210

— Feet

2010 JUN 18 AM 9:30

Office Use Only  
Petition No. 2-21-10



# 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 consistent with the Raleigh Comprehensive Plan.

4. That the fundamental purposes of zoning as set forth in the N.C. enabling legislation would be best served by changing the zoning classification of the property. Among the fundamental purposes of zoning are:

- 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.

*Ample Storage I Ltd.*

Signature(s)

*Doug Lampe G.P.*

Date:

*6-15-2010*

Please type or print name(s) clearly:

*Doug Lampe*

# EXHIBIT B. Request for Zoning Change

Office Use Only	
Petition No.	2-21-10
Date Filed:	6-18-10
Filing Fee:	pd 1028.00 by CLH 21459

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

See instructions, page 9

	Name(s)	Address	Telephone / E-Mail
<b>1) Petitioner(s):</b> Note: Conditional Use District Petitioner(s) must be owner(s) of petitioned property.	<u>Ample Storage 1 Limited</u> <u>NCGP</u>	<u>P.O. Box 608</u> <u>Smithfield, NC 27577</u>	<u>(919) 934-3041</u> <u>guvl@lampmanagement.com</u>

<b>2) Property Owner(s):</b>	<u>Annie Mae Andrews, Heirs</u>	<u>4800 Jacqueline Ln.</u>	<u>(919) 389-7125</u>
	<u>c/o Rock E. Bonawitz</u>		<u>rockrolltattoo@aol.com</u>

<b>3) Contact Person(s):</b>	<u>Carl Simmons</u>	<u>5 W. Hargett St., Ste. 202</u>	<u>(919) 833-0830</u> <u>carl@cmsengineering.net</u>
	<u>Terry Wethington</u>	<u>146 Willis Rd., New Bern</u>	<u>(252) 670-2664</u> <u>t.wethington@suddenlink.net</u>

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

Wake County Property Identification Number(s) (PIN): 0792.08-99-3630  
& PIN 0792.08-99-0504, 2007 Lake Wheeler Road

General Street Location (nearest street intersections): south east corner of  
Intersection of Lake Wheeler Road and Kirkland Drive

**5) Area of Subject Property (acres):** Total 4.27 Acres (0792-99-3630 = 4.24 Ac; 0792-99-0504 = 0.03 Ac)

**6) Current Zoning District(s)**  
**Classification:** R-4, SHOD-2  
Include Overlay District(s), if Applicable

**7) Proposed Zoning District**  
**Classification:** SC-CUD, SHOD-2  
Include Overlay District(s) if Applicable. If existing Overlay District is to remain, please state.



Office Use Only	
Petition No.	Z-21-10
Original Date Filed:	
Amended Date:	11/4/10

# EXHIBIT C Request for Zoning Change

Please use this form only – form may be photocopied – please type or print. See instruction, page 8.

pg 1 of 6

1) Conditional Use Zone Requested: SC-CUD

2) Narrative of conditions being requested:

1. The following uses shall be prohibited:
  - a. Automotive service and repair facilities and carwashes
  - b. All retail sales including, but not limited to, food stores and shops
  - c. Banks
  - d. Bars, nightclubs, taverns, lounges or adult establishments
  - e. Day care facility (child or adult)
  - f. Indoor/Outdoor movie theatres
  - g. Parking decks and garages
  - h. Office
  - i. Schools (public or private)
  - j. Congregate care facilities and special care facilities
  - k. Heliports
  - l. Landfills
  - m. Manufacturing—custom and manufacturing-specialized
  - n. Telecommunications towers
  - o. Kennel/cattery
  - p. Correctional facilities (governmental and non-governmental)
2. Residential density shall be limited to 14 units per acre.
3. All structures limited to a maximum building height of 50'.
4. Any ground mounted signs shall be of low profile design.
5. A 50' transitional protective yard shall be provided adjacent to any residential zoned properties.
6. Exterior of building along Lake Wheeler Rd. to be brick, glass or combination thereof.
7. No chain link fence to be installed along Lake Wheeler Road or Kirkland Road right of way.
8. Building setback line a minimum of 90', measured from the new Lake Wheeler Rd. right-of-way.
9. Parking areas along Lake Wheeler Road to be screened with landscaping consistent with a Type D Transitional Protective Yard Buffer with a minimum of 60 evergreen shrubs and 6 trees per 100 feet. This buffer will begin 185' south of the Kirkland Rd. right-of-way line and continue to the side yard buffer along the southern property line adjoining Wake PIN 0792-99-0462, Deed Book 7653 Page 893.
10. The subject property shall be limited to one vehicular access point onto Kirkland Road. Direct vehicular access to Lake Wheeler Road shall be prohibited.
11. Prior to lot recordation or issuance of any building permit, whichever shall first occur, an offer of cross-access shall be provided to the property to the south (Deed Book 7653 Page 893) of this site.
12. Prior to lot recordation or 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 of Lake Wheeler Road to support a bus stop for future transit services in the area. The location of the transit easement shall be reviewed and approved by the Transit Division, and the City Attorney or his designee shall approve the transit easement deed prior to recordation in the Wake County Registry.



I acknowledge that these restrictions and conditions are offered voluntarily and with knowledge of the guidelines stated on Page 9 through 13 of the Zoning Application Instructions.

Printed Name: Bobbie A. RAFLAND

Signature: Bobbie A. Rafland

Date: 11-3-10

Printed Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Office Use Only	2-21-10
Petition No.	
Original Date Filed:	
Amended Date:	

# EXHIBIT C. Request for Zoning Change

Please use this form only – form may be photocopied – please type or print. See instruction, page 8.

pg 2 of 6

1) Conditional Use Zone Requested: SC-CUD

2) Narrative of conditions being requested:

1. The following uses shall be prohibited:
  - a. Automotive service and repair facilities and carwashes
  - b. All retail sales including, but not limited to, food stores and shops
  - c. Banks
  - d. Bars, nightclubs, taverns, lounges or adult establishments
  - e. Day care facility (child or adult)
  - f. Indoor/Outdoor movie theatres
  - g. Parking decks and garages
  - h. Office
  - i. Schools (public or private)
  - j. Congregate care facilities and special care facilities
  - k. Heliports
  - l. Landfills
  - m. Manufacturing—custom and manufacturing-specialized
  - n. Telecommunications towers
  - o. Kennel/cattery
  - p. Correctional facilities (governmental and non-governmental)
2. Residential density shall be limited to 14 units per acre.
3. All structures limited to a maximum building height of 50'.
4. Any ground mounted signs shall be of low profile design.
5. A 50' transitional protective yard shall be provided adjacent to any residential zoned properties.
6. Exterior of building along Lake Wheeler Rd. to be brick, glass or combination thereof.
7. No chain link fence to be installed along Lake Wheeler Road or Kirkland Road right of way.
8. Building setback line a minimum of 90', measured from the new Lake Wheeler Rd. right-of-way.
9. Parking areas along Lake Wheeler Road to be screened with landscaping consistent with a Type D Transitional Protective Yard Buffer with a minimum of 60 evergreen shrubs and 6 trees per 100 feet. This buffer will begin 185' south of the Kirkland Rd. right-of-way line and continue to the side yard buffer along the southern property line adjoining Wake PIN 0792-99-0462, Deed Book 7653 Page 893.
10. The subject property shall be limited to one vehicular access point onto Kirkland Road. Direct vehicular access to Lake Wheeler Road shall be prohibited.
11. Prior to lot recordation or issuance of any building permit, whichever shall first occur, an offer of cross-access shall be provided to the property to the south (Deed Book 7653 Page 893) of this site.
12. Prior to lot recordation or 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 of Lake Wheeler Road to support a bus stop for future transit services in the area. The location of the transit easement shall be reviewed and approved by the Transit Division, and the City Attorney or his designee shall approve the transit easement deed prior to recordation in the Wake County Registry.

I acknowledge that these restrictions and conditions are offered voluntarily and with knowledge of the guidelines stated on Page 9 through 13 of the Zoning Application Instructions.

Printed Name: Cynthia M. Carter \_\_\_\_\_

Signature: Cynthia M. Carter \_\_\_\_\_ Date: 11-3-10

Printed Name: Joseph L. Carter \_\_\_\_\_

Signature: Joseph L. Carter \_\_\_\_\_ Date: 11/3/10

Office Use Only  
Petition No. 7-21-10  
Original Date Filed: \_\_\_\_\_  
Amended Date: \_\_\_\_\_

# EXHIBIT C. Request for Zoning Change

Please use this form only – form may be photocopied – please type or print. See instruction, page 8.

pg 3 of 6

1) Conditional Use Zone Requested: SC-CUD

## 2) Narrative of conditions being requested:

1. The following uses shall be prohibited:
  - a. Automotive service and repair facilities and carwashes
  - b. All retail sales including, but not limited to, food stores and shops
  - c. Banks
  - d. Bars, nightclubs, taverns, lounges or adult establishments
  - e. Day care facility (child or adult)
  - f. Indoor/Outdoor movie theatres
  - g. Parking decks and garages
  - h. Office
  - i. Schools (public or private)
  - j. Congregate care facilities and special care facilities
  - k. Heliports
  - l. Landfills
  - m. Manufacturing—custom and manufacturing-specialized
  - n. Telecommunications towers
  - o. Kennel/cattery
  - p. Correctional facilities (governmental and non-governmental)
2. Residential density shall be limited to 14 units per acre.
3. All structures limited to a maximum building height of 50'.
4. Any ground mounted signs shall be of low profile design.
5. A 50' transitional protective yard shall be provided adjacent to any residential zoned properties.
6. Exterior of building along Lake Wheeler Rd. to be brick, glass or combination thereof.
7. No chain link fence to be installed along Lake Wheeler Road or Kirkland Road right of way.
8. Building setback line a minimum of 90', measured from the new Lake Wheeler Rd. right-of-way.
9. Parking areas along Lake Wheeler Road to be screened with landscaping consistent with a Type D Transitional Protective Yard Buffer with a minimum of 60 evergreen shrubs and 6 trees per 100 feet. This buffer will begin 185' south of the Kirkland Rd. right-of-way line and continue to the side yard buffer along the southern property line adjoining Wake PIN 0792-99-0462, Deed Book 7653 Page 893.
10. The subject property shall be limited to one vehicular access point onto Kirkland Road. Direct vehicular access to Lake Wheeler Road shall be prohibited.
11. Prior to lot recordation or issuance of any building permit, whichever shall first occur, an offer of cross-access shall be provided to the property to the south (Deed Book 7653 Page 893) of this site.
12. Prior to lot recordation or 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 of Lake Wheeler Road to support a bus stop for future transit services in the area. The location of the transit easement shall be reviewed and approved by the Transit Division, and the City Attorney or his designee shall approve the transit easement deed prior to recordation in the Wake County Registry.

I acknowledge that these restrictions and conditions are offered voluntarily and with knowledge of the guidelines stated on Page 9 through 13 of the Zoning Application Instructions.

Printed Name: Laura M. Earnhart

Signature: Laura M. Earnhart

Date: 11/3/10

Printed Name: JONATHAN R. D EARNHART

Signature: Jonathan RD Earnhart

Date: 11/3/10

Office Use Only	Zalio
Petition No.	
Original Date Filed:	
Amended Date:	

# EXHIBIT C. Request for Zoning Change

Please use this form only – form may be photocopied – please type or print. See instruction, page 8.

pg 4 of 6

1) **Conditional Use Zone Requested:** SC-CUD

2) **Narrative of conditions being requested:**

1. The following uses shall be prohibited:
  - a. Automotive service and repair facilities and carwashes
  - b. All retail sales including, but not limited to, food stores and shops
  - c. Banks
  - d. Bars, nightclubs, taverns, lounges or adult establishments
  - e. Day care facility (child or adult)
  - f. Indoor/Outdoor movie theatres
  - g. Parking decks and garages
  - h. Office
  - i. Schools (public or private)
  - j. Congregate care facilities and special care facilities
  - k. Heliports
  - l. Landfills
  - m. Manufacturing–custom and manufacturing-specialized
  - n. Telecommunications towers
  - o. Kennel/cattery
  - p. Correctional facilities (governmental and non-governmental)
2. Residential density shall be limited to 14 units per acre.
3. All structures limited to a maximum building height of 50'.
4. Any ground mounted signs shall be of low profile design.
5. A 50' transitional protective yard shall be provided adjacent to any residential zoned properties.
6. Exterior of building along Lake Wheeler Rd. to be brick, glass or combination thereof.
7. No chain link fence to be installed along Lake Wheeler Road or Kirkland Road right of way.
8. Building setback line a minimum of 90', measured from the new Lake Wheeler Rd. right-of-way.
9. Parking areas along Lake Wheeler Road to be screened with landscaping consistent with a Type D Transitional Protective Yard Buffer with a minimum of 60 evergreen shrubs and 6 trees per 100 feet. This buffer will begin 185' south of the Kirkland Rd. right-of-way line and continue to the side yard buffer along the southern property line adjoining Wake PIN 0792-99-0462, Deed Book 7653 Page 893.
10. The subject property shall be limited to one vehicular access point onto Kirkland Road. Direct vehicular access to Lake Wheeler Road shall be prohibited.
11. Prior to lot recordation or issuance of any building permit, whichever shall first occur, an offer of cross-access shall be provided to the property to the south (Deed Book 7653 Page 893) of this site.
12. Prior to lot recordation or 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 of Lake Wheeler Road to support a bus stop for future transit services in the area. The location of the transit easement shall be reviewed and approved by the Transit Division, and the City Attorney or his designee shall approve the transit easement deed prior to recordation in the Wake County Registry.

I acknowledge that these restrictions and conditions are offered voluntarily and with knowledge of the guidelines stated on Page 9 through 13 of the Zoning Application Instructions.

Printed Name: Kimberly L Altman

Signature: [Handwritten Signature]

Date: 11.3.10

Printed Name: Pam Altman

Signature: [Handwritten Signature]

Date: 11-3-10.

Office Use Only	
Petition No.	<u>Z-21-10</u>
Original Date Filed:	_____
Amended Date:	_____

# EXHIBIT C. Request for Zoning Change

Please use this form only – form may be photocopied – please type or print. See instruction, page 8.

*pg 5 of 6*

1) **Conditional Use Zone Requested:** SC-CUD

2) **Narrative of conditions being requested:**

1. The following uses shall be prohibited:
  - a. Automotive service and repair facilities and carwashes
  - b. All retail sales including, but not limited to, food stores and shops
  - c. Banks
  - d. Bars, nightclubs, taverns, lounges or adult establishments
  - e. Day care facility (child or adult)
  - f. Indoor/Outdoor movie theatres
  - g. Parking decks and garages
  - h. Office
  - i. Schools (public or private)
  - j. Congregate care facilities and special care facilities
  - k. Heliports
  - l. Landfills
  - m. Manufacturing—custom and manufacturing-specialized
  - n. Telecommunications towers
  - o. Kennel/cattery
  - p. Correctional facilities (governmental and non-governmental)
2. Residential density shall be limited to 14 units per acre.
3. All structures limited to a maximum building height of 50'.
4. Any ground mounted signs shall be of low profile design.
5. A 50' transitional protective yard shall be provided adjacent to any residential zoned properties.
6. Exterior of building along Lake Wheeler Rd. to be brick, glass or combination thereof.
7. No chain link fence to be installed along Lake Wheeler Road or Kirkland Road right of way.
8. Building setback line a minimum of 90', measured from the new Lake Wheeler Rd. right-of-way.
9. Parking areas along Lake Wheeler Road to be screened with landscaping consistent with a Type D Transitional Protective Yard Buffer with a minimum of 60 evergreen shrubs and 6 trees per 100 feet. This buffer will begin 185' south of the Kirkland Rd. right-of-way line and continue to the side yard buffer along the southern property line adjoining Wake PIN 0792-99-0462, Deed Book 7653 Page 893.
10. The subject property shall be limited to one vehicular access point onto Kirkland Road. Direct vehicular access to Lake Wheeler Road shall be prohibited.
11. Prior to lot recordation or issuance of any building permit, whichever shall first occur, an offer of cross-access shall be provided to the property to the south (Deed Book 7653 Page 893) of this site.
12. Prior to lot recordation or 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 of Lake Wheeler Road to support a bus stop for future transit services in the area. The location of the transit easement shall be reviewed and approved by the Transit Division, and the City Attorney or his designee shall approve the transit easement deed prior to recordation in the Wake County Registry.

I acknowledge that these restrictions and conditions are offered voluntarily and with knowledge of the guidelines stated on Page 9 through 13 of the Zoning Application Instructions.

Printed Name: Rock Bonawitz

Signature: *[Handwritten Signature]*

Date: 11/03/10

Printed Name: Deborah M. Bonawitz

Signature: *[Handwritten Signature]*

Date: 11/3/10

# EXHIBIT C. Request for Zoning Change

Office Use Only	
Petition No.	<u>Z-21-10</u>
Original Date Filed:	_____
Amended Date:	_____

pg 6 of 6

Please use this form only – form may be photocopied – please type or print. See instruction, page 8.

1) Conditional Use Zone Requested: SC-CUD

2) Narrative of conditions being requested:

1. The following uses shall be prohibited:
  - a. Automotive service and repair facilities and carwashes
  - b. All retail sales including, but not limited to, food stores and shops
  - c. Banks
  - d. Bars, nightclubs, taverns, lounges or adult establishments
  - e. Day care facility (child or adult)
  - f. Indoor/Outdoor movie theatres
  - g. Parking decks and garages
  - h. Office
  - i. Schools (public or private)
  - j. Congregate care facilities and special care facilities
  - k. Heliports
  - l. Landfills
  - m. Manufacturing—custom and manufacturing-specialized
  - n. Telecommunications towers
  - o. Kennel/cattery
  - p. Correctional facilities (governmental and non-governmental)
2. Residential density shall be limited to 14 units per acre.
3. All structures limited to a maximum building height of 50'.
4. Any ground mounted signs shall be of low profile design.
5. A 50' transitional protective yard shall be provided adjacent to any residential zoned properties.
6. Exterior of building along Lake Wheeler Rd. to be brick, glass or combination thereof.
7. No chain link fence to be installed along Lake Wheeler Road or Kirkland Road right of way.
8. Building setback line a minimum of 90', measured from the new Lake Wheeler Rd. right-of-way.
9. Parking areas along Lake Wheeler Road to be screened with landscaping consistent with a Type D Transitional Protective Yard Buffer with a minimum of 60 evergreen shrubs and 6 trees per 100 feet. This buffer will begin 185' south of the Kirkland Rd. right-of-way line and continue to the side yard buffer along the southern property line adjoining Wake PIN 0792-99-0462, Deed Book 7653 Page 893.
10. The subject property shall be limited to one vehicular access point onto Kirkland Road. Direct vehicular access to Lake Wheeler Road shall be prohibited.
11. Prior to lot recordation or issuance of any building permit, whichever shall first occur, an offer of cross-access shall be provided to the property to the south (Deed Book 7653 Page 893) of this site.
12. Prior to lot recordation or 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 of Lake Wheeler Road to support a bus stop for future transit services in the area. The location of the transit easement shall be reviewed and approved by the Transit Division, and the City Attorney or his designee shall approve the transit easement deed prior to recordation in the Wake County Registry.

I acknowledge that these restrictions and conditions are offered voluntarily and with knowledge of the guidelines stated on Page 9 through 13 of the Zoning Application Instructions.

Printed Name: L. Hampton Astum III

Signature: [Handwritten Signature]

Date: 11-3-10

Printed Name: L. A. Astum III

Signature: [Handwritten Signature]

Date: 11-3-10

## 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](http://www.raleighnc.gov)).**

- A. Please state the recommended land use(s) for this property as shown on the Future Land Use Map and discuss the consistency of the proposed land uses:** Recommended use is Moderate Density Residential. SC zoning allows residential development as well as other land uses. The proposed restrictions for the conditional use will be to limit the residential density to 14 units per acre. Some of the other allowable uses in SC zoning are supportive to residential development.
  
- B. Please state whether the subject property is located within any Area Plan or other City Council-adopted plans and policies and discuss the policies applicable to future development within the plan(s) area.**

The subject property is not located within any area plan.

- C. **Is the proposed map amendment consistent or inconsistent with the Comprehensive Plan and other City Council-adopted plans and policies? All references to Comprehensive Plan policies should include both the policy number (e.g. LU 4.5) and short title (e.g. "Connectivity").** The proposed map amendment is inconsistent with the Future Land Use Map classification. However, the map amendment is consistent with the following Comprehensive Plan policies and actions:

LU 3.2 Location of Growth – The property is within the City limits & has existing infrastructure.

LU 5.5 Transition & Buffer Zone Districts – SC zoning offers a transition between residential & industrial

LU 5.6 Buffering Requirements – one of the proposed conditional uses is to provide a 50' Transitional Yard for residential adjoiners

EP 3.12 Mitigating Stormwater Impacts - Any development on the property will comply with all City & State stormwater requirements.

## **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 property fronts on Lake Wheeler Rd., a major thoroughfare and is approximately 300' from the entrance ramp to I-40. It also fronts on Kirkland Drive which is a cul-de-sac street. Diggs Drive and Smith Reno Road are cul-de-sac streets which intersect with Kirkland Drive to the east of the subject property. The adjacent property to the east has a 15 unit apartment building which was built in 1973. To the south is a residential property with a very small rental house built in 1958 and a vacant 2.37 ac lot zoned O&I-1. On the north side of Kirkland Dr. at Lake Wheeler Rd. there is a small vacant lot zoned R-4. To the east of that lot is a lot zoned CUD IND-1 which has only a parking lot on it, with room to build a building. The next property to the east is zoned IND-1 and is used for warehousing and distribution of electrical supplies. There are two small houses on the south side of Kirkland and one vacant R-4 lot. There are also two homes on Smith Reno Rd. where the zoning is IND-1. The remaining properties along Kirkland Drive, as well as those on Diggs Drive and Smith Reno Road, are zoned IND-1 or IND-2 and have commercial uses. One of the properties is a large trucking terminal which has a large number of tractor trailer trucks entering and exiting the site on a daily basis. Across Lake Wheeler Road there is a large apartment complex.
- B. **Description of existing Zoning patterns (zoning districts including overlay districts) and existing built environment (densities, building heights, setbacks, tree cover, buffer yards):** The existing zoning of the subject property as well as the 4 properties to the east and one to the south is R-4. This residential zoning was in place before I-40 was built. Given the proximity to the highway, many of the properties in the area have been rezoned to IND-1, IND-2 or O&I-1 and currently have commercial uses. The property across Lake Wheeler Road is zoned SC and an apartment complex has been built there.

- 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:**  
 Rezoning of the subject lot to SC-CUD will provide a buffer between the existing industrial uses and the residential uses to the south and west. The conditions will require significant screening in the form of transitional protective yards.

**III. Benefits and detriments of the proposed map amendment.**

**A. For the landowner(s):**

With the SC-CUD there will be more uses available for the property to allow for development of the property.

**B. For the immediate neighbors:**

The neighbors to the south would benefit from the larger buffers. The northern neighbors would benefit by having more compatible land use as a transition.

**C. For the surrounding community:**

The larger surrounding community should not see any adverse effects with the change in zoning. Depending on the actual use for the property, the community may have a development that will create fewer trips when compared to moderate residential use. When the site is developed, the City will have the benefit of more tax base.

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

Yes, the rezoning offers a buffer between the existing industrial properties, and the traffic generated by these properties, and the residential properties.

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

This site is located on a major thoroughfare and is close to a major interchange with I-40. Kirkland Drive is the only access for a large industrial area and there is a high volume of truck traffic on the street. More residential uses on the street may be impacted by the noise of the truck traffic and the early hours of operation. With the Kirkland access, a moderate commercial use would blend in with the industrial and offer a transition to moderate residential to the south.

**V. Recommended items of discussion (where applicable).**

- a. **An error by the City Council in establishing the current zoning classification of the property.**
  
- b. **How circumstances (land use and future development plans) have so changed since the property was last zoned that its current zoning classification could not properly be applied to it now were it being zoned for the first time.** Since this property was last zoned, many of the lots in the area have been rezoned and developed for industrial Use. Since Kirkland Drive is a cul-de-sac street, all of the traffic for the industrial type Uses on Kirkland Drive and Diggs Drive has to pass directly by the subject property. One Of the adjacent lots to the south has been rezoned to O&I-1, and the property directly across Lake Wheeler Rd. has been rezoned to SC.
  
- c. **The public need for additional land to be zoned to the classification requested.** The SC-CUD on the site offers more uses that would be supportive for the surrounding community such as possible retail, eating, mini storage, service and other related businesses. Due to the traffic on Kirkland and Lake Wheeler these uses are more compatible and would help the transition to moderate residential.
  
- d. **The impact on public services, facilities, infrastructure, fire and safety, parks and recreation, topography, access to light and air, etc.**
  
- e. **How the rezoning advances the fundamental purposes of zoning as set forth in the N.C. enabling legislation.**  
The requested zoning will serve the public health, safety and welfare by providing residential opportunities as well as alternate land uses that could provide support services to the surrounding residential, commercial and industrial sites. Some of the non-residential uses could reduce the length of trips for residents in the neighborhood. Also, some of the allowable uses may generate less traffic than moderate density residential.

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