

CITY OF RALEIGH

Existing Zoning Map

Z-5-11

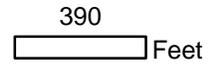
R-4

to

R-6 CUD

5.66 acres

Public Hearing
 April 19, 2011
 (July 18, 2011)





Certified Recommendation

Raleigh Planning Commission

CR# 11414

Case Information Z-5-11

<i>Location</i>	North Rogers Lane north of US 64
<i>Size</i>	5.66 acres
<i>Request</i>	Rezone property from R-4 to R-6 CUD

Comprehensive Plan Consistency

Consistent

Inconsistent

Consistent

<i>Future Land Use Designation</i>	<input checked="" type="checkbox"/>	Low density residential (1 to 6 dwellings per acre)
<i>Applicable Policy Statements</i>	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/>	Policy LU 1.3--Conditional Use District Consistency Policy LU 2.6—Zoning and Infrastructure Impacts Policy LU 5.6—Buffering Requirements Policy LU 6.4—Bus Stop Dedication Policy T 2.9—Curb Cuts Policy UD 3.8—Screening of Unsightly Uses

Summary of Conditions

<i>Submitted Conditions</i>	<ol style="list-style-type: none"> Residential density not to exceed 4 dwellings per acre. Buffering will be provided between the parcel in question and adjacent parcels. Only those uses permitted in R-4 and Rest Homes shall be permitted. Screening will be installed to buffer the view of parking areas and handicapped ramps from adjoining single family properties. No more than five buildings (exclusive of accessory buildings) shall be located on the site. All buildings other than accessory structures shall be designed to achieve residential compatibility A maximum of 36 patients shall live on the property R-4 setbacks will be maintained Prior to issuance of any building permit the property owner shall convey a transit easement to the City of Raleigh. Access shall be limited to two access driveways.
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Issues and Impacts

<i>Outstanding Issues</i>	1. Per the condition 2(f), "residential compatibility" wording is vague	<i>Suggested Conditions</i>	1. Explain the specifics of "residential compatibility" more thoroughly.
<i>Impacts Identified</i>	1. There is currently no sanitary sewer available to	<i>Proposed Mitigation</i>	1. The property owner, at his/her own expense, will

Staff Coordinator: James Brantley james.brantley@raleighnc.gov



Zoning Staff Report – Z-5-11

Conditional/General Use District

Request

<i>Location</i>	North Rogers Lane north of US 64
<i>Request</i>	Rezone property from R-4 to R-6 CUD
<i>Area of Request</i>	5.66 acres
<i>Property Owner</i>	Joanna J. Gaither
<i>PC Recommendation Deadline</i>	July 18, 2011

Subject Property

	<i>Current</i>	<i>Proposed</i>
<i>Zoning</i>	R-4	R-6 CUD
<i>Additional Overlay</i>	n/a	n/a
<i>Land Use</i>	Single family home	Single-family housing, rest home permitted
<i>Residential Density</i>	4 units per acre maximum	4 units per acre maximum

Surrounding Area

	<i>North</i>	<i>South</i>	<i>East</i>	<i>West</i>
<i>Zoning</i>	R-4	R-4	R-4	PDD
<i>Future Land Use</i>	Low density residential	Low density residential	Low density residential	Low density residential
<i>Current Land Use</i>	Low density residential	Low density residential	Low density residential	Low density residential

Comprehensive Plan Guidance

<i>Future Land Use</i>	Low 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 5.6—Buffering Requirements Policy LU 6.4—Bus Stop Dedication Policy T 2.9—Curb Cuts Policy UD 3.8—Screening of Unsightly Uses

Contact Information

<i>Staff</i>	James Brantley james.brantley@raleighnc.gov , 516-2651
<i>Applicant</i>	Robin T. Currin, P. O. Box 86, Raleigh NC 27602 (919) 832-1515, robincurrin@aol.com
<i>Citizens Advisory Council</i>	Southeast CAC, Bill Lynn, chairman

Case Overview

The subject property is located near the eastern edge of the Raleigh jurisdiction. Currently the property is occupied by a single family house that was constructed in 1968. The site is in a group of older houses on lots larger than ½ acre; houses to the north, east and south were mostly constructed in the 1970s. The house immediately adjacent to and south of the site is a single family house converted to a supportive housing residence. Adjacent to the site to the west, across North Rogers Lane, is the Lakeland Estates subdivision, whose houses were built around 2006. Also there are several nearby single family subdivisions that were constructed between 1990 and 2006, mostly with lots from .15 acres to .30 acres. The area generally saw a significant increase of development activity beginning around 1990.

Per the conditions offered, the allowed residential density is that of R-4, that is, unchanged from the current zoning. This would allow 22 dwellings on the 5.66 acre site if the site were developed for single family houses. The only other use allowed would be rest homes.

In the Raleigh Code of Ordinances (Sec. 10-2002. – Definitions) “rest home” is defined as

A health facility, however named, governmental or nongovernmental, which provides in-patient care to six (6) or more nonrelated persons for whom planned and continued medical or nursing attention, or both, are indicated in contrast to occasional or incidental care. A rest home may be designed and marketed specifically for the elderly, the physically handicapped, or both, but not specifically for the mentally ill persons who are dangerous to others as defined in G.S. 122C-3(11)(b). The number of occupants in a rest home is regulated in accordance with equivalent dwelling units.

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

The proposal is consistent with the Future Land Use Map which designates the site for low density residential uses, that is, from 1 to 6 dwellings per acre.

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

The proposal is consistent with this policy. The conditions provide for development that will be compatible with the surrounding land uses.

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.

The proposal is consistent with this policy. The proposed development will have minimal effect on the transportation and water systems. There is currently no sanitary sewer available to the property, however; the property owner will need to extend and connect to a sanitary sewer main.

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 this policy. The conditions provide for buffering between the parcel and adjacent parcels.

Policy LU 6.4—Bus Stop Dedication

The City shall coordinate the dedication of land for the construction of bus stop facilities within mixed-use centers on bus lines as part of the development review and zoning process.

The proposal is consistent with this policy. Conditions provide for conveyance of a transit easement prior to issuance of any building permit.

Policy T 2.9—Curb Cuts

The development of curb cuts along public streets—particularly on thoroughfares and arterials—should be minimized to reduce vehicular conflicts, increase pedestrian safety and improve roadway capacity.

The proposal is inconsistent with this policy. Transportation staff has requested a condition stating that access to Rogers Lane will be limited to no more than one access driveway. Conditions limit the number of curb cuts to two.

Policy UD 3.8—Screening of Unightly Uses

The visibility of trash storage, loading, and truck parking areas from the street, sidewalk, building entrances and corridors should be minimized. These services should not be located adjacent to residential units and useable open space.

The proposal is consistent with this policy. Conditions provide for screening of unsightly uses.

1.3 Area Plan Guidance

N/A

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

The proposed rezoning is generally compatible with the zoning of developed properties in the area, which are zoned R-4, R-6 and MH. The parcel size, location on a major thoroughfare, and configuration (the only possible access being onto the major thoroughfare) all indicate that a self-contained, low impact development would be appropriate. Also, the site is not part of a tightly-knit single family subdivision pattern such as is seen in the subdivision to the west, so a rest home or supportive housing facility would not be particularly incompatible.

3. Public benefits of the proposed rezoning

The proposal facilitates the efficient and adequate provision of transportation, water, sewerage, parks and other public requirements, and provides for compatibility with adjacent land uses.

The proposal takes advantage of existing infrastructure without requiring major extension of that infrastructure. Roads and utilities are already in place.

A public need will be served by providing housing for a special-needs population.

4. Detriments of the proposed rezoning

Special care should be taken that the functioning of a rest home facility be well-integrated into the surrounding neighborhood and not become a liability.

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

5.1 Transportation

<u>Primary Street(s)</u>	<u>Classification</u>	<u>Current Volume (ADT)</u>	<u>2035 Forecasted Volume (ADT)</u>		
Rogers Lane	Major Thoroughfare	10,000	19,535		
Street Conditions					
Rogers Lane	Lanes	Curb and Gutter	Right-of-Way	Sidewalks	Bicycle Accommodations
Existing	4	Back-to-back curb and gutter section	90'	5' sidewalks on both sides	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
Meets City Standard?	YES	YES	YES	YES	NO
Expected Traffic Generation [vph]	<u>Current Zoning</u>	<u>Proposed Zoning</u>	<u>Differential</u>		

AM PEAK	15	18	3		
PM PEAK	20	25	5		
Suggested Conditions/ Impact Mitigation:	The petitioner may wish to add a condition stating that access to Rogers Lane will be limited to no more than one (1) driveway. Traffic Study Determination: Staff has reviewed a trip generation report for this case and determined that a traffic impact analysis study is not recommended.				
Additional Information :	Neither NCDOT nor the City of Raleigh have any roadway construction projects scheduled in the vicinity of this case.				

5.2 Transit

Transit service might eventually be provided in the North Rogers Lane corridor

Impact Identified:

The site might generate transit use. A transit easement should be provided.

5.3 Hydrology

<i>Floodplain</i>	No FEMA Floodplain present
<i>Drainage Basin</i>	Neuse
<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>	11,320 gpd	19,810 gpd
<i>Waste Water</i>	11,320 gpd	10,810 gpd

Impact identified:

The proposed rezoning will add approximately 8,490 gpd to the wastewater collection and water distribution systems of the City. There is an existing twelve (12") water main within the N. Rogers Lane right-of-way. There is currently no sanitary sewer available to the property. The property owner will need to extend a sanitary sewer main and obtain any associated easement at the owner's costs.

5.5 Parks and Recreation

The subject tract is not located adjacent to a greenway corridor. Park and recreation services will be provided at Milburnie West Park

Impact identified: There will be no impacts to the level of recreation services with this rezoning case.

5.6 Urban Forestry / Tree Conservation:

<i>Applicable Code Sections</i>	>10-2082.14—Establishment of Tree Conservation Areas will apply when the property is developed under a new site plan or new subdivision. >10-2072—Tree disturbing activities except a minor tree removal activity establishes protected buffers around the property. Tree disturbance or removal is prohibited within those buffers except <i>minor tree removal</i> .
<i>Potential Code Conflicts</i>	The Type D transition yard is not a tree conservation area. It may conflict with establishment of tree conservation areas on the east side of the site.

5.7 Wake County Public Schools

School name	Current Enrollment	Current Capacity	Future Enrollment	Future Capacity
Hodge Road	630	85.7%	637	86.7%
East Wake	1,016	80.4%	1,018	80.5%
Knightdale	1,800	90.9%	1,802	91.0%

Impact Identified:

Development of the property with single family houses at an R-4 density could result in 7 additional elementary school students, and 2 each middle and high school students.

5.8 Designated Historic Resources

N/A

5.9 Impacts Summary

The rezoning would allow redevelopment of the site for a Rest Home. Infrastructure is already in place to support such a use. Conditions have been offered to provide buffering along the edges of the site that abut existing houses. Comprehensive Plan policies regarding the screening of unsightly uses have been addressed. There is a possibility of two curb cuts onto North Rogers Lane, a major thoroughfare. Transit might eventually be available on North Rogers Lane; conditions provide for a future transit easement.

5.10 Mitigation of Impacts

Staff has requested that there be a single curb cut onto North Rogers Lane.

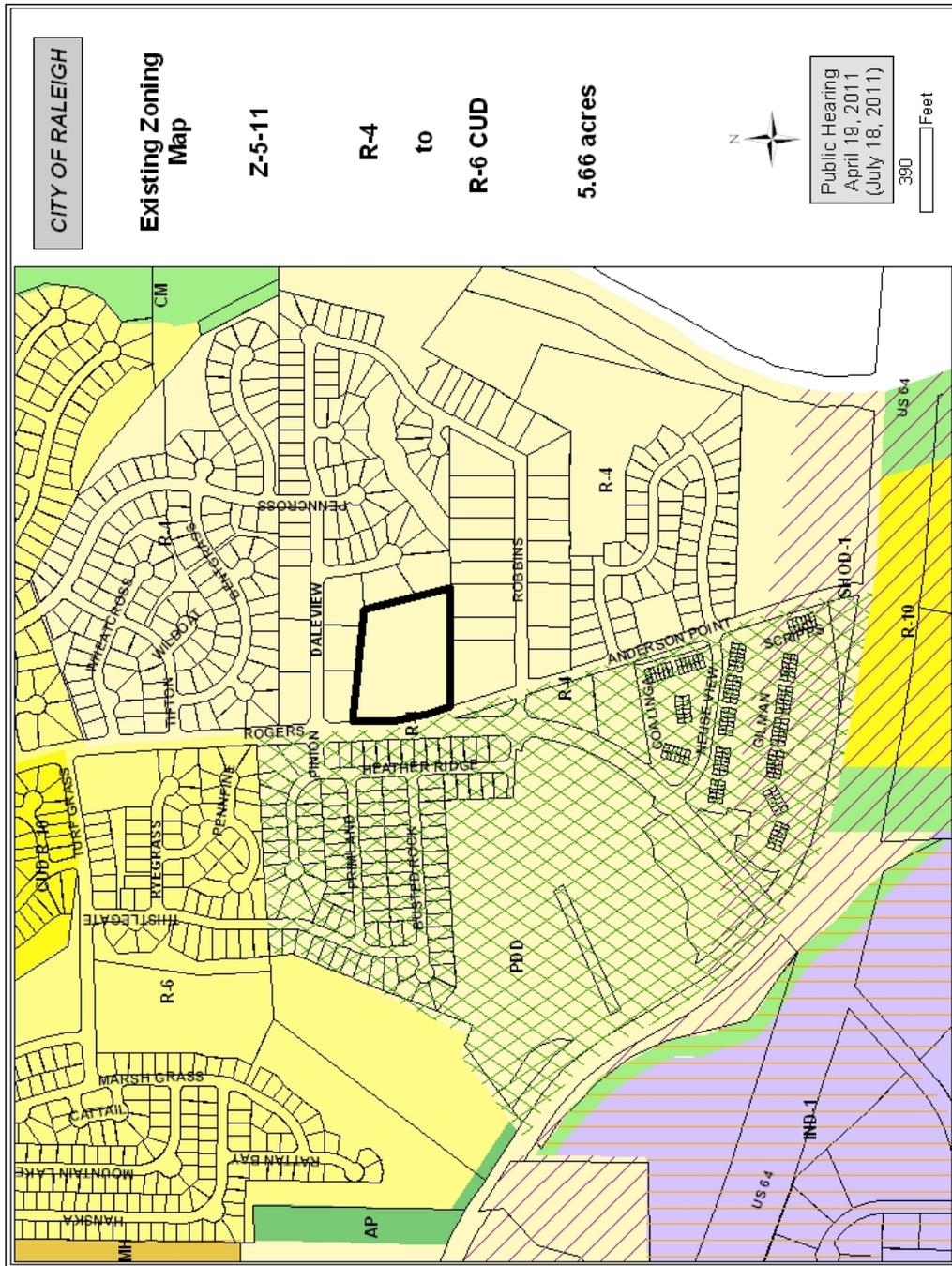
6. Appearance Commission

Not applicable

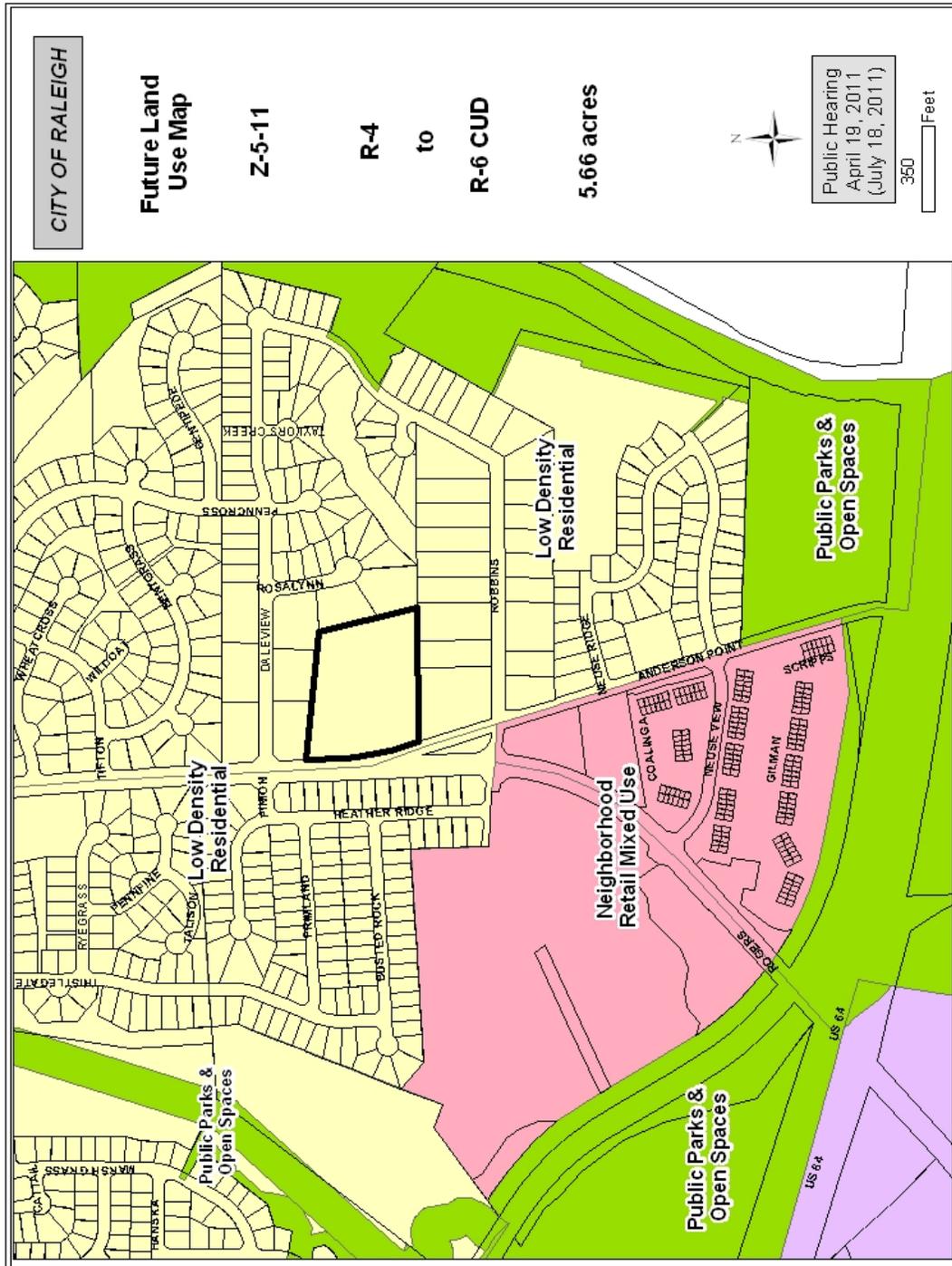
7. Conclusions

The proposed rezoning is consistent with the Future Land Use Map and several policies contained in the 2030 Comprehensive Plan. Conditions attached to the case provide for buffering along the property lines of adjoining existing houses.

Existing Zoning Map



Future Land Use Map



Office Use Only
Petition No. 2-5-11
Date Filed: 12-17-11

pt 1069.00 by ck 325249



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

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2010 DEC 17 AM 10:52

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) Joanna J. Gaither Date: 12-17-10

Please type or print name(s) clearly:
Joanna J. Gaither December 17, 2010

Office Use Only	
Petition No.	<u>Z-5-11</u>
Date Filed:	<u>12-17-11</u>

EXHIBIT B. Request for Zoning Change

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>Joanna J. Gaither</u>	<u>803 N. Race St.</u>	_____
	_____	<u>Statesville, NC 28677</u>	_____
	_____	_____	_____
2) Property Owner(s):	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
3) Contact Person(s):	<u>Robin T. Currin</u>	<u>P. O. Box 86, Raleigh, NC</u>	_____
	<u>Currin & Currin</u>	<u>27602</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>1733582963</u>

	General Street Location (nearest street intersections): <u>On East side of N. Rogers Lane, south of Daleviw Drive.</u>		

5) Area of Subject Property (acres):	_____		
	<u>5.66 Acres</u>		
6) Current Zoning District(s) Classification: Include Overlay District(s), if Applicable	_____		
	<u>R-4</u>		
7) Proposed Zoning District Classification: Include Overlay District(s) if Applicable. If existing Overlay District is to remain, please state.	_____		
	<u>R-6 CUD</u>		

Office Use Only	2-5-11
Petition No.	
Date Filed:	

EXHIBIT B-1

Burnie L. & Janice Brodie
 PIN# 1733-48-8621
 5317 Heather Ridge Lane
 Raleigh, NC 27610-2496

Roy & Alma Maxzine Drakeford
 PIN# 1733-48-8627
 5313 Heather Ridge Lane
 Raleigh, NC 27610-2496

Ogbonnaya U. Anyanso
 PIN# 1733-48-8723
 5309 Heather Ridge Lane
 Raleigh, NC 27610-2496

Sherese A. Daley
 PIN# 1733-48-8729
 5305 Heather Ridge Lane
 Raleigh, NC 27610-2496

Andrea Daniel-Canegata
 PIN# 1733-48-8814
 5301 Heather Ridge Lane
 Raleigh, NC 27610-2496

Shamar L. & Lakeisha M. Moore
 PIN# 1733-48-8910
 5225 Heather Ridge Lane
 Raleigh, NC 27610-2475

Philip & Paulette Deans
 PIN# 1733 48 8916
 5221 Heather Ridge Lane
 Raleigh, NC 27610-2475

Aaron B. Brown
 PIN# 1733-49-8012
 5217 Heather Ridge Lane
 Raleigh, NC 27610-2475

Eduardo S. Argueta
 PIN# 1733-49-8018
 5213 Heather Ridge Lane
 Raleigh, NC 27610-2475

Jack M. Given, Jr. & Frances S.
 Given
 PIN# 1733-49-8103
 5209 Heather Ridge Lane
 Raleigh, NC 27610-2475

Dennis Scott Woodard
 PIN# 1733-49-8109
 5205 Heather Ridge Lane
 Raleigh, NC 27610-2475

Wendell B. Smith &
 Alena D. Weldon
 PIN# 1733-49-8206
 5201 Heather Ridge Lane
 Raleigh, NC 27610-2475

Amerimann Partners III LLC
 Attn: Mr. Charles Manning III
 PIN# 1733-58-0426
 5801 Lease Lane
 Raleigh, NC 27617-4708

RWG Limited Partnership
 1733-58-2516
 10 Speen Street Ste 4
 Framingham, MA 01701-4661

Thomas Mack Brown, Jr. &
 Valencia Brown
 PIN# 1733-58-3594
 9732 Cypress Farm Dr.
 Zebulon, NC 27597-6700

C. Stephen Gaddy
 PIN# 1733-58-5612
 5309 Robbins Dr.
 Raleigh, NC 27610-2101

Charles Larry & Carol Ann Lee
 PIN# 1733-58-6545
 5311 Robbins Dr
 Raleigh, NC 27610-2101

Barbara L. & Bruce Dear
 PIN# 1733-58-6861
 108 Rosalynn Ct.
 Raleigh, NC 27610-2127

Francis & Mumtaz John
 PIN# 1733-59-0293
 5300 Daleview Dr
 Raleigh, NC 27610-2114

James E. & Mattie T. Goode
 PIN# 1733-59-3202
 5304 Daleview Dr
 Raleigh, NC 27610-2114

Pearlie Cabiness
 PIN# 1733-59-5091
 104 Rosalynn Ct.
 Raleigh, NC 27610-2127

Gene Faulcon
 PIN# 1733-59-5211
 P. O. Box 14587
 Raleigh, NC 27620-4587

Yufa & Yuying Mao Lu
 PIN# 1733-48-8535
 5321 Heather Ridge Lane
 Raleigh, NC 27610-2496

EXHIBIT C. Request for Zoning Change

Office Use Only	
Petition No.	2-5-11
Date Filed:	page 1 of 2

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

1) Conditional Use Zone Requested: R-6 CUD

2) Narrative of conditions being requested:

a) Residential density shall not exceed four (4) dwelling units or equivalent dwelling units per acre.

b) Upon development, a ten foot (10') wide buffer yard containing (i) at least one new or existing tree (which is at least six (6) feet in height or expected to grow to a height of six (6) feet within three (3) years of planting) and (ii) at least eight (8) new or existing evergreen shrubs (which are at least 2.5 feet in height or expected to grow to a height of 2.5 feet within three (3) years of planting) per ten (10) linear feet shall be maintained along the property's north and east property lines and a portion of the south property line abutting the following properties:

- PIN# 1733-59-0293 Deed Book 9069-1809
- PIN# 1733-59-3202 Deed Book 2695-647
- PIN# 1733-59-5211 Deed Book 3448-816
- PIN# 1733-59-5091 Deed Book 3496-738
- PIN# 1733-58-6861 Deed Book 3681-899
- PIN# 1733-58-5612 Deed Book 12516-613
- PIN# 1733-58-3594 Deed Book 11016-538

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MAY 31 PM 2:44

and along the property's frontage along N. Rogers Lane, provided, however that in the event of any conflict between the proposed buffer along N. Rogers Lane and the City required street yard or utility easements, the City required street yard and/or utility easements shall control and provided, further that the buffer along N. Rogers Lane may be crossed by driveways, utility lines and easements and other matters approved by the City of Raleigh,

provided further, however, that such plantings shall not conflict with the critical root zones of trees located in a Tree Conservation Area ("TCA") or other requirements of the tree conservation ordinance. In the event of any conflict with TCAs or critical root zones of TCAs, no plantings within such areas shall be required.

c) Only those uses permitted in R-4 Districts and Rest Homes shall be permitted on the property.

d) A visually modifying screen shall be installed upon development to buffer the view of all parking areas and handicapped ramps from adjoining single-family residential properties, including some combination of new evergreen vegetation and existing vegetation, fences, walls or earthen berms which (i) as to screens for parking areas, shall be at least three feet (3') in height or, in the case of plantings, shall be expected to grow to the height of three feet (3') within three (3) years of planting and spaced no more than four (4) feet on center; and (ii) as to vegetative screens for handicapped ramps, shall be expected to grow within three (3) years of planting at least as tall as the portion of the ramp being screened and shall be spaced no more than four (4) feet on center.

e) No more than five (5) buildings shall be located on the property.

I acknowledge that these restrictions and conditions are offered voluntarily and with knowledge of the guidelines stated on Page 7 through 9 of the Zoning Application Instructions.

Note: if additional space is necessary, attach extra page(s) of Exhibit C signed and dated by all property owners

Printed Name: Joanna J. Gaither

Signature: *Joanna J. Gaither*

Date: 5-27-11

Printed Name: _____

f) All buildings shall be designed to achieve residential compatibility with the surrounding area. As used herein, "residential compatibility" shall mean:

- (i) pitched, shingled roofs with a minimum pitch of 6:12;
- (ii) at least eighty percent (80%) of building siding, exclusive of roofs, windows, doors, soffits and trim, to be comprised of wood, brick, stone, or cementitious fiberboard such as Hardiplank (and shall not consist of aluminum or vinyl);
- (iii) double hung windows with muntins (except in kitchen(s), bath(s) and utility/laundry rooms) ; and
- (iv) at least three (3) of the following:
 - (A) Gable(s)
 - (B) Dormer(s)
 - (C) square or round columns
 - (D) window shutters;
 - (E) porch(es) or stoop(s)
 - (F) bay or bow window(s)

g) A maximum of thirty-six (36) patient residents shall live on the property at any one time. This maximum shall not include resident or non-resident medical personnel or day visitors who do not regularly stay overnight on the property. A maximum of 12 patient residents shall live in any single building on the property.

h) Setbacks shall be maintained at R-4 setback distances.

i) Prior to the issuance of any building permit for the property, the owner of the property shall convey to the City of Raleigh a transit easement deed measuring twenty (20) feet along Rogers Lane by fifteen (15) feet. The location of the easement shall be approved by the Public Works Department, Transit Division of the City and the City Attorney shall approve the transit easement deed prior to recordation.

j) Access from the Property to Rogers Lane shall be limited to a one driveway with a curb cut on to Rogers Lane.

k) The maximum building gross floor area of any building shall not exceed 6,000 square feet.

l) The maximum building height shall not exceed one ~~one and a half~~ story.

Note: if additional space is necessary, attach extra page(s) of Exhibit C signed and dated by all property owners

I acknowledge that these restrictions and conditions are offered voluntarily and with knowledge of the guidelines stated on Page 7 through 9 of the Zoning Application Instructions.

Printed Name: Joanna J. Gaither

Signature: *Joanna J. Gaither*

Date: 5-27-11

Printed Name: _____

Signature: _____

Date: _____

EXHIBIT D. Petitioner's Statement on Behalf of Zoning Change

Please use this form only – form may be photocopied. Please type or print. See instructions in *Filing Addendum*

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 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:

The subject property is located within the Southeast CAC. The recommended land use for such property is low density residential. The requested rezoning will limit development to low density residential and thus is consistent with the FLUM.

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 of the above-described Plans.

EXHIBIT D. Petitioner's Statement on Behalf of Zoning Change

Please use this form only – form may be photocopied. Please type or print. See instructions in *Filing Addendum*

- 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 consistent with the Comprehensive Plan.

The proposed map amendment is consistent with the Vision Themes (Sec. 2.3) of Economic Properties and Equity and Expanding Housing Crisis by providing for a better quality of life for disabled citizens.

The low density classification states "Clustered housing, duplexes and other housing types would be consistent with the designation as long as overall gross density not exceeding 6 units per acre was maintained," p. 32-33, A-1 Land Use Section, Low Density Residential 2030 Comprehensive Plan. The proposed map amendment is also consistent with the following plans: LU8.6 (Infill Procedures), LU9.4 (Health Care Industry), H3.4, H4.5 and CS 5.2 as it will permit better housing choices and services for the disabled.

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 surrounding the subject property is mostly single family residential or vacant single family townhouse or cluster subdivision lots; however, the house to the immediate south is a supportive housing facility.

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

The rezoning patterns in the area are low density residential, including R-4, R-6 and R-10 zoned properties located within one-third of a mile of the subject property. The existing built environment includes low and medium density attached and detached housing of one and two story homes.

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

The proposed zoning map amendment is compatible with the areas and characteristics of the surrounding area as it will continue to permit low density residential development including rest homes and a special care facility as proposed and will be compatible with the existing supportive housing facility to the south and also with traditional single family and townhouse development in the area.

III. Benefits and detriments of the proposed map amendment.

- A. **For the landowner(s):** The landowner received this land upon her mother's death. She resides in Statesville, NC and cannot use the property as a residence. This rezoning will permit a sale of the property.
- B. **For the immediate neighbors:** The closest neighbor to the south will benefit from the synergies of having another low density residential medical facility close by. The immediate neighbors will benefit from having an occupied residence rather than a vacant house nearby. The proposed development will not cause a material adverse impact on the neighbors.
- C. **For the surrounding community:** The community will benefit from this rezoning as it will permit the development of much needed residential facilities for brain injured people in a quiet neighborhood setting.

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

This rezoning to R-6 will permit the development of Rest Homes which use is not available to the surrounding properties zoned R-4; however, this petition has been conditioned in a way that caps residential density at R-4 levels.

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

This rezoning request is reasonable and in the public interest as it allows the development of necessary residential medical facilities to serve brain damaged patients in peaceful neighborhood setting.

V. Recommended items of discussion (where applicable).

- a. **An error by the City Council in establishing the current zoning classification of the property.** N/A.
- 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 Raleigh zoning was applied to the subject property, the City has adopted a new Comprehensive Plan which designates the subject property for low density residential including densities of up to 6 dwelling units per acre.

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

The public has a great need for additional land to be zoned in a way that permits the development of residential medical facilities to serve its brain injured citizens in a comfortable neighborhood setting.

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

Upon rezoning and redevelopment, the property will be annexed into the City and obtain City utility and other services which are adequate to serve the relatively small number of additional residents who will live on the subject property. Andrews Point, a City Park, Crabtree Creek and the Neuse River are located in close proximity to the subject property and offer recreational opportunities. The development will provide generous landscaped buffers such that there should be no impact to surrounding properties because of a deprivation of access to air and light.

- e. How the rezoning advances the fundamental purposes of zoning as set forth in the N.C. enabling legislation.

Based on North Carolina General Statute 160A-381, permitting R-6 zoning, which allows Rest Homes, promotes the general health, safety and welfare of the community by allowing the development of medical/residential housing for impaired citizens in a comfortable neighborhood setting. The development of such housing serves a clear public need to care for and house handicapped persons.

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

CURRIN & CURRIN

ATTORNEYS AT LAW

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POST OFFICE BOX 86
RALEIGH, NORTH CAROLINA 27602

December 17, 2010

Mr. Mitchell Silver, Director
Planning Department
City of Raleigh
Post Office Box 590
Raleigh, NC 27602

RE: **REPORT OF MEETING** Regarding Rezoning Petition of Joanna J. Gaither (the "Owner") for the Property known as 430 N. Rogers Lane, Raleigh, NC

Dear Mr. Silver:

In connection with the above referenced rezoning case and in accordance with the requirements of Raleigh City Code Sec. 10-2165, I submit this Report of Meeting for our Neighborhood Meeting held at Auston Grove Apartments, 1160 Auston Grove Drive, Raleigh, NC 27610 at 7:00 p.m. on the evening of Tuesday, December 14, 2010. By copy of this letter, I am sending a copy of this Report of Meeting to all of the persons and organizations notified of this meeting by letter sent by the City of Raleigh.

I am submitting this Report of Meeting in behalf of the Owner of the property which is the subject of this rezoning petition. In accordance with the above referenced ordinance of the Raleigh City Code, I report to you the following regarding this meeting:

1. **Persons/organizations contacted about the meeting.** Attached please find a complete list of all persons and/or organizations notified by the City of Raleigh on or about December 3, 2010.

2. **Manner and date of contact:** By letter to each addressee dated November 30, 2010, and provided to the City of Raleigh on December 1, 2010.

3. **The Neighborhood Meeting was held** on Tuesday, December 14, 2010 at Auston Grove Apartments, 1160 Auston Grove Drive, Raleigh, NC 27610 at 7:00 pm.

4. **Attendance roster:** In attendance at this meeting were the following persons:

Robin T. Currin Attorney for Owner/Contract Purchaser

David Burdette Contract Purchaser representatives

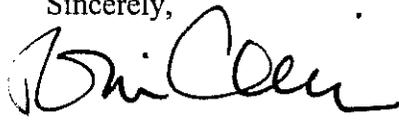
Rick Baker

James Williamson

Toby Prenoveau

Mr. Mitchell Silver
December 17, 2010
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- g. Setbacks. The neighbors requested R-4 or greater setbacks for the development. The prospective developer will consider increasing the required setbacks.
 - h. Value. The neighbors expressed concern that the proposed development would impact the values of their properties.
 - i. Safety. The neighbors expressed concerns about their personal safety in view of their perception of the types of residents which would live in the development. The development team responded by stating that Rest Homes, by definition, are not intended for those who are dangerous to others.
6. Additional Neighbor's Meetings. None have been scheduled at this time.
7. Changes to Petition. Although several changes to the petition were discussed and will be made as the case goes forward, no changes to the petition were made following the Neighbors' Meeting.

Sincerely,

Robin T. Currin