





# Certified Recommendation

Raleigh Planning Commission

CR# 11417

## Case Information Z-6-11

<i>Location</i>	North side of Thornton Road, East of its intersection with Thornton Commons.
<i>Size</i>	64.63 acres
<i>Request</i>	Amend conditions for property zoned Residential-6 Conditional Use and Conservation Management

## Comprehensive Plan Consistency

Consistent

Inconsistent

### Consistent

<i>Future Land Use Designation</i>	<input checked="" type="checkbox"/>	Low Density Residential and Public Parks and Open Space
<i>Applicable Policy Statements</i>	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input 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 EP 2.2 – Environmentally Sensitive Development Policy EP 2.5 – Protection of Water Features Policy EP 3.4 – Low Impact Systems for Parking Policy EP 3.12 – Mitigating Stormwater Impacts Policy EP 4.2 – Floodplain Conservation Policy EP 4.3 – Development in the Floodplain

## Summary of Conditions

<i>Submitted Conditions</i>	<ul style="list-style-type: none"> <li>• Limitation on permitted uses</li> <li>• Additional stormwater retention</li> <li>• Site debris removal</li> <li>• Transitional Buffer/Berm</li> <li>• Trip generation</li> </ul>
-----------------------------	---

## Issues and Impacts

<i>Outstanding Issues</i>	1. Comprehensive Plan policies related to development within the floodplain.	<i>Suggested Conditions</i>	1. Consider increased stormwater mitigation.
---------------------------	--	-----------------------------	--

## Public Meetings

<i>Neighborhood Meeting</i>	<i>Public Hearing</i>	<i>Committee</i>	<i>Planning Commission</i>
12/16/2010	4/19/2011	Date: Action	5/24/11–Recommend Approval

**Valid Statutory Protest Petition**

### Attachments

1. Staff report
2. Existing Zoning/Location Map
3. Future Land Use

## Planning Commission Recommendation

<i>Recommendation</i>	The Commission finds that this case is consistent with the Comprehensive Plan and recommends that this case be approved in accordance with zoning conditions dated May 25 <sup>th</sup> , 2011.
<i>Findings &amp; Reasons</i>	<ol style="list-style-type: none"> <li>1. The request is consistent with guidelines set forth in the Comprehensive Plan. The Future Land Use Map designates this area as being appropriate for Low Density Residential and Public Parks &amp; Open Space. The proposed zoning will match these designations and be consistent with this designation.</li> <li>2. The request is reasonable and in the public interest. The proposed zoning conditions will have no additional impact on this site, and will enable the applicant to develop multi-family residential dwellings. Allowing for this type of development could lessen the impact on this site. The applicant has also provided additional conditions that would limit trip generation and provide for clean up of the site.</li> <li>3. The proposal is consistent and compatible with the surrounding area. The site is located in an area of mixed housing types and the proposal to introduce multi-family development to this property would be compatible.</li> </ol>
<i>Motion and Vote</i>	<p>Motion: Anderson Second: Haq</p> <p>In Favor: Anderson, Bartholomew, Batchelor, Butler, Haq, Harris Edmisten, Mattox, Schuster, Smith, Sterling Lewis</p>

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 attached Staff Report.

\_\_\_\_\_ 5/24/11  
 Planning Director Date Planning Commission Chairperson Date

Staff Coordinator: Stan Wingo [stan.wingo@raleighnc.gov](mailto:stan.wingo@raleighnc.gov)



# Zoning Staff Report – Z-6-11

## Conditional Use District

### Request

<i>Location</i>	North side of Thornton Road, East of its intersection with Thornton Commons.
<i>Request</i>	Amend conditions for properties zoned Residential-6 Conditional Use and Conservation Management.
<i>Area of Request</i>	64.63 acres
<i>Property Owner</i>	ProDev VIII LLC
<i>PC Recommendation Deadline</i>	July 18 <sup>th</sup> , 2011

### Subject Property

	<i>Current</i>	<i>Proposed</i>
<i>Zoning</i>	Residential-6 Conditional Use and Conservation Management	Residential-6 Conditional Use and Conservation Management
<i>Additional Overlay</i>	N/A	N/A
<i>Land Use</i>	Vacant Land	Residential Development
<i>Residential Density</i>	180 dwelling units per conditions	387 dwelling units

### Surrounding Area

	<i>North</i>	<i>South</i>	<i>East</i>	<i>West</i>
<i>Zoning</i>	Residential-4, Thoroughfare District	Residential-4	Residential-4	Residential-4, O&I-2 Conditional Use
<i>Future Land Use</i>	Low Density Residential	Low Density Residential, Public Parks and Open Space	Low Density Residential, Public Parks and Open Space	Low Density Residential, Public Parks and Open Space
<i>Current Land Use</i>	Vacant Land	Vacant Land, Future Park Location, Single Family	Future Park Location, Vacant Land	Single Family Residential Subdivision, Vacant Land

### Comprehensive Plan Guidance

<i>Future Land Use</i>	Low Density Residential, Public Parks and Open Space
<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 EP 2.2 – Environmentally Sensitive Development

	Policy EP 2.5 – Protection of Water Features Policy EP 3.4 – Low Impact Systems for Parking Policy EP 3.12 – Mitigating Stormwater Impacts Policy EP 4.2 – Floodplain Conservation Policy EP 4.3 – Development in the Floodplain
--	--

## 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>	Mack Paul – (919)743-7326, Michael Birch – (919)743-7314
<i>Citizens Advisory Council</i>	Northeast – Paul Brant

## Case Overview

This site is located on the north side of Thornton Road, east of its intersection with Thornton Commons Drive. The property is in close proximity to the Neuse River and is located almost entirely within the 100 year floodplain. The property is currently undeveloped, and is a mixture of wooded areas and wetlands. The site is bordered by Meryton Subdivision to the west, a waste transfer station and single family residential to the south, vacant land to the east, and the Neuse River to the north.

The rezoning proposal requests a change in current zoning conditions on the property. The property was recently rezoned in 2008 (Z-22-08). The current Conservation Management zoning on site would remain, as would the majority of the zoning conditions. The applicant proposes to remove zoning conditions that would limit development to single family detached, and removal of the current restriction on density of 180 dwelling units. Conditions also limit the number of vehicle trips generated from development of the site.

## 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 area is designated as being appropriate for Low Density Residential and Public Parks and Open Space on the Future Land Use map. The Conservation Management zoning would not be amended, and would remain consistent with the Future Land Use Map. The allowable density for the proposed zoning district of Residential-6 Conditional Use would be the maximum allowed within the Low Density designation. While six units per acre is consistent with this designation, given the location and environmental constraints on the site, the applicant should consider less residential density to help mitigate environmental impacts.

## 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

Proposal is consistent with this policy.

**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.

Proposal is consistent with this policy. Applicant has offered a zoning condition by recommendation of the Transportation Division to ensure that there will be no net increase in traffic.

**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 void potential conflicts.

Proposal is consistent with this policy. The subject property is located adjacent to an industrially zoned parcel and the applicant has offered conditions that would provide transitional buffering between the two properties.

**Policy EP 2.2 – Environmentally Sensitive Development**  
Ensure Raleigh's growth and land development practices are compatible with the City's natural form, vegetation, topography, and water bodies and streams. This will decrease erosion, reduce stormwater run-off and flooding, improve water quality, protect wildlife habitat, and provide buffers and transitions between land uses.

Applicant should consider additional conditions to mitigate impacts. As currently proposed, the rezoning request would be inconsistent with this policy.

**Policy EP 2.5 – Protection of Water Features**  
Lakes, ponds, rivers, streams, and wetlands should be protected and preserved. These water bodies provide valuable stormwater management and ecological, visual, and recreational benefits.

Applicant should consider additional conditions to mitigate impacts. As currently proposed, the rezoning request would be inconsistent with this policy.

**Policy EP 3.4 – Low Impact Systems for Parking**  
Well maintained pervious pavement or other low impact systems for parking areas should be encouraged throughout the City, especially in environmentally sensitive areas and floodplains, as appropriate.

Applicant should strongly consider the guidance of this policy. As this development will be almost entirely within the 100-year floodplain, a zoning condition requiring pervious paving materials will help to mitigate the impact of additional stormwater runoff from parking areas.

**Policy EP 3.12 Mitigating Stormwater Impacts**

Potential stormwater impacts from new development on adjoining properties should mimic pre-development conditions and control the rate of runoff so as to avoid erosion of stream banks, inundation of natural waterways and to allow the recharging of groundwater. The intent is to avoid environmental and economic damage to the adjacent properties and City infrastructure.

Applicant should consider additional stormwater control measures to help mitigate impacts. As currently proposed, the rezoning request would be inconsistent with this policy.

**Policy EP 4.2 – Floodplain Conservation**

Development should be directed away from the 100-year floodplain.

Proposal is inconsistent with this policy just based on its location. Nearly the entirety of this property is within the 100-year floodplain. The Zoning Code allows development of up to 50% of the 100-year floodplain.

**Policy EP 4.3 – Development in the Floodplain**

Pursue regulatory approaches that avoid the future expansion of the floodplain. Floodplain development should not abridge the natural role of the floodplains to absorb water, recharge the groundwater and avoid flooding downstream.

Proposal is inconsistent with this policy; however, conditions could be offered to help mitigate impacts to the floodplain. Applicant should consider pervious paving and additional stormwater control measures.

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

The site is bordered to the north and east by vacant, undeveloped Residential-4 zoning. Industrial-1 Conditional Use zoning is adjacent to the south, and is developed with a waste transfer facility. Residential-4 zoning is located across Thornton Road to the south. The property to the west is vacant undeveloped Thoroughfare District zoning, undeveloped Residential-4, and Office and Institution-2 Conditional Use zoning which is developed as the Meryton Subdivision. The site is also in close proximity to the Neuse River and the majority of the property is within the 100-year floodplain. There are also low-lying wetland areas on site, which are currently zoned Conservation Management.

If additional zoning conditions are proposed by the applicant, the request for rezoning could be compatible with the surrounding area. Due to the location and environmental constraints, conditions to help mitigate any additional impacts associated with grading and developing this site should be strongly considered. At a little over 64 acres, over 30 acres of this site could be graded and filled for development.

### 3. Public benefits of the proposed rezoning

The proposal requests to remove zoning conditions that currently limit development to single family detached, and a total of 180 units. This would allow for the potential development of multifamily residential on this site, with significantly more density. While this would require parking lots and significant amounts of impervious surface, additional zoning conditions could help mitigate the potential increased impacts associated with the removal of these conditions. The introduction of multifamily development could also encourage the consolidation of density, which would lessen the amount of land area affected by grading and fill. Additional stormwater provisions could actually decrease the impact of potential development on this site, and would therefore be considered a benefit to the surrounding area. Applicant should consider limiting impervious surfaces and increased stormwater measures.

### 4. Detriments of the proposed rezoning

As currently proposed, the request does not meet several policies related to stormwater mitigation, and its location within the floodplain. The development of this site without increased measures for stormwater retention and impervious surfaces could negatively impact the surrounding area. As noted previously, the majority of the site is within the 100 year floodplain.

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

<u>Primary Streets</u>	<u>Classification</u>	<u>Current Volume (ADT)</u>	<u>2035 Forecasted Volume (ADT)</u>		
Thornton Road	Collector	N/A	N/A		
<b>Street Conditions</b>					
<b><u>Thornton Road</u></b>	<b><u>Lanes</u></b>	<b><u>Curb and Gutter</u></b>	<b><u>Right-of-Way</u></b>	<b><u>Sidewalks</u></b>	<b><u>Bicycle Accommodations</u></b>
Existing	2	None	60'	None	none
<u>City Standard</u>	<u>2</u>	<u>Back-to-back curb and gutter section</u>	<u>60'</u>	<u>5' sidewalks on minimum of one side</u>	<u>N/A</u>
<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	135	281	<b>146</b>		
PM PEAK	178	356	<b>178</b>		
<b>Suggested Conditions/ Impact Mitigation:</b>		Traffic Study Determination: Staff has reviewed a trip generation report for this case. Based on the increase of development intensity proposed on the subject property a traffic impact analysis is recommended for this case. The traffic impact analysis will need to evaluate the intersections on Capital Blvd at Thornton Road and Durant Road. The traffic impact analysis will also need to include the existing multi-modal level of service.			
<b>Additional Information:</b>	Neither NCDOT nor the City of Raleigh have any roadway construction projects scheduled in the				

	vicinity of this case.
--	------------------------

**5.1 Transportation**

Impact Identified: Applicant has offered a zoning condition that ensures that there will be no net increase in traffic.

**5.2 Transit**

This area is not slated for transit in the mid range transit plan. Therefore, no transit easements or amenities are requested.

Impact Identified: None

**5.3 Hydrology**

<i>Floodplain</i>	FEMA Floodplain present (majority of site)
<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>	226,205 gpd	226,205 gpd
<i>Waste Water</i>	226,205 gpd	226,205 gpd

The proposed rezoning will not affect the wastewater collection or water distribution systems of the City. There is an existing forty-two (42") inch sanitary sewer traversing the property within an existing easement. The proposed sanitary sewer mains of the subsequent development can only make connection to the City's sanitary sewer system at the existing manholes of the forty-two (42") inch sanitary sewer main. The owner will need to extend the existing twelve (12") inch water main, which terminates just west of the requested properties, along the properties' road frontage within the Thornton Road right-of-way. All sanitary sewer and water mains required by the proposed development will be at the owner's costs.

**5.5 Parks and Recreation**

The subject tract is not located adjacent to greenway corridor. Recreation services for the subject tract will be provided at the Thornton Road Park site.

Impact Identified: This rezoning case does not impact the level of recreation service of the area.

**5.6 Urban Forestry**

Impact Identified:  
If the rezoning and the zoning lines stay the same, there will not be any impact on the tree conservation requirements.

**5.7 Wake County Public Schools**

School name	Current Enrollment	Current Capacity	Future Enrollment	Future Capacity
Wildwood Forest	1,025	119.2%	1,079	125.5%
East Millbrook	1,116	95.3%	1,148	98.0%
Wakefield	2,626	93.4%	2,649	94.2%

Impact Identified: Proposal could potentially increase elementary school enrollment to over 125% capacity. The additional number of units could increase middle school enrollment to 98%, and high school enrollment to over 94%.

### **5.8 Designated Historic Resources**

This site is not located within a Historic District, and does not contain any Historic Landmarks.

Impact Identified: None

### **5.9 Impacts Summary**

- There were no known impacts identified.

### **5.10 Mitigation of Impacts**

- Impacts have been mitigated through zoning conditions.

## **6. Appearance Commission**

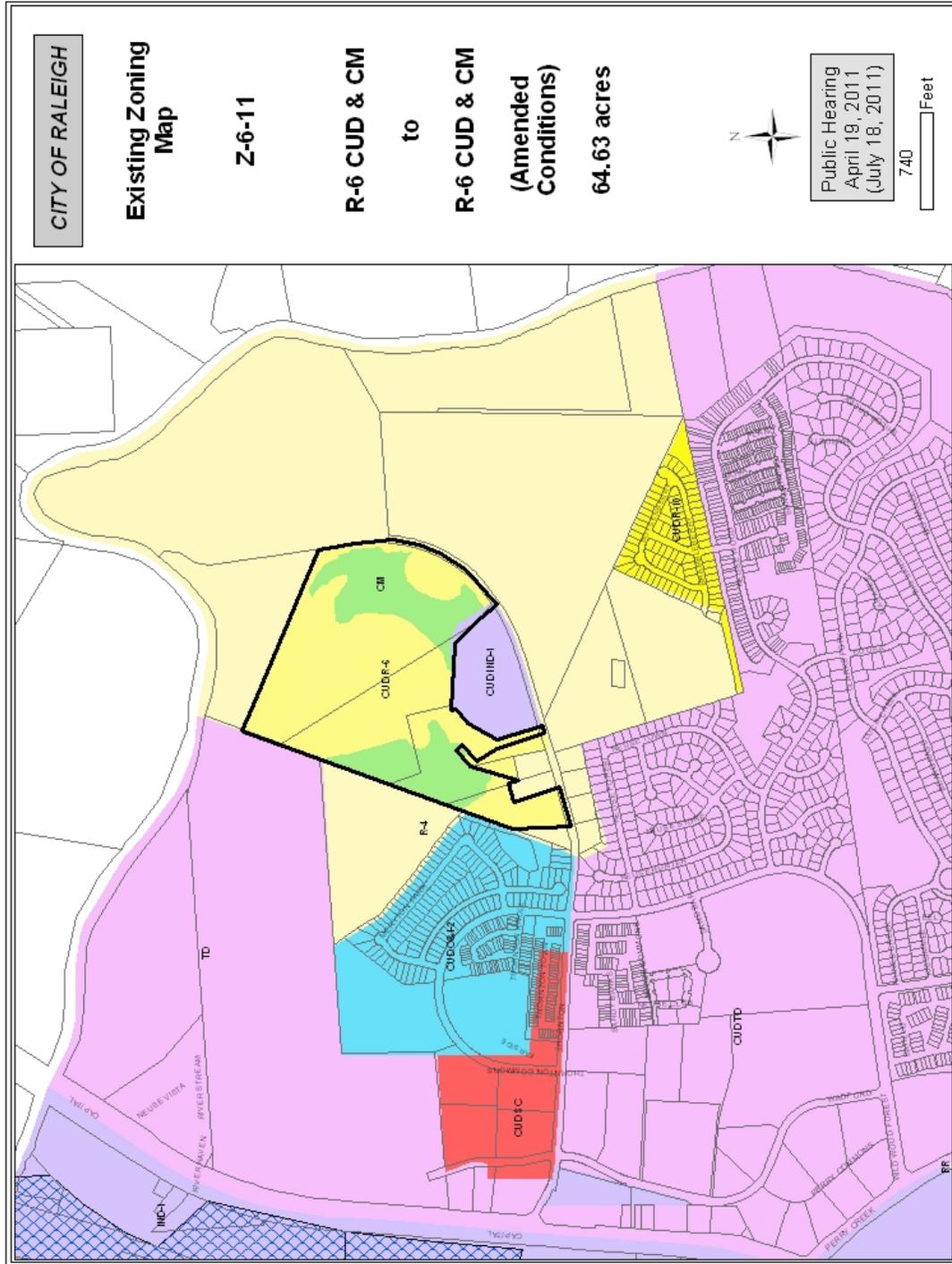
This proposal would not be subject to review by the Appearance Commission.

## **7. Conclusions**

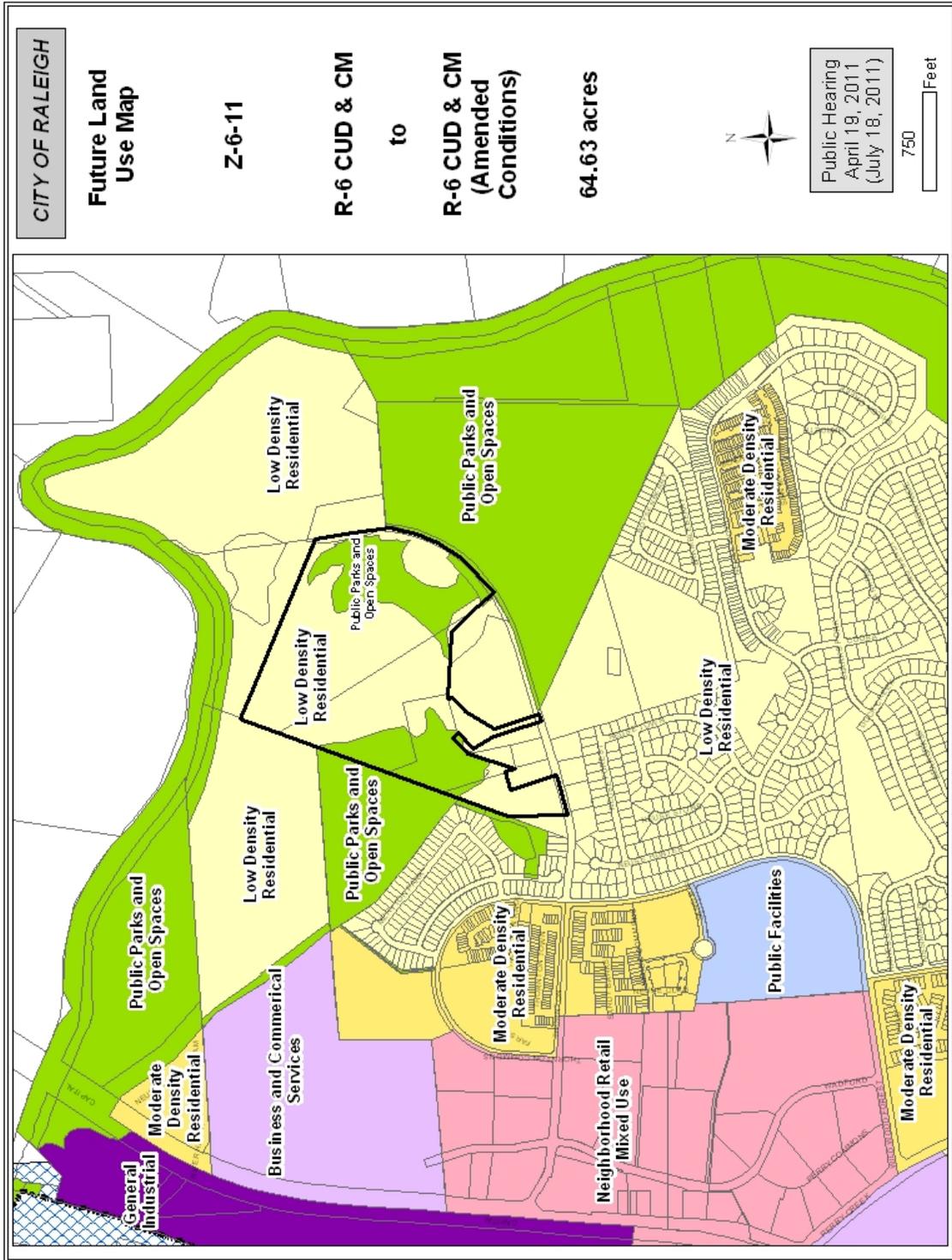
As proposed this rezoning request is consistent with the Comprehensive Plan. The Future Land Use Map designates this area as being appropriate for Low Density Residential, and Public Parks & Open Space. Both designations are consistent with the proposed zoning as amended. Although the request is consistent overall with the Comprehensive Plan's vision for this area, there are several outstanding policy items that should be noted. These applicable guidance policies are primarily within the Environmental Protection element of the Comprehensive Plan.

As this site is covered in majority by the 100-year floodplain, several policies would be applicable to help lessen any impacts associated with development. As currently conditioned, the proposed amendment would not be consistent with the above mentioned policies. With additional zoning conditions the proposal could mitigate any potential additional impacts to the environment, while potentially lowering the current development impact potential. Consolidating density, decreasing impervious surfaces and increasing stormwater retention would significantly reduce the impact of development on this site.

# Existing Zoning Map



# Future Land Use Map





# Petition to Amend the Official Zoning Map

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

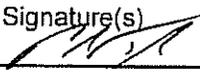
2-6-11  
12-17-11  
at 1064.00 by C LA 0971

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:
  - a. to lessen congestion in the streets;
  - b. to provide adequate light and air;
  - c. to prevent the overcrowding of land;
  - d. to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements;
  - e. to regulate in accordance with a comprehensive plan;
  - f. to avoid spot zoning; and
  - g. 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.

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. All property owners must sign below for conditional use requests.

**ALL CONDITIONAL PAGES MUST BE SIGNED BY ALL PROPERTY OWNERS**

Signature(s)	Print Name	Date
	G. PAUL FOGLE, C.D.O., First Mount Vernon, I LA	12/15/10



# 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:
  - a. to lessen congestion in the streets;
  - b. to provide adequate light and air;
  - c. to prevent the overcrowding of land;
  - d. to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements;
  - e. to regulate in accordance with a comprehensive plan;
  - f. to avoid spot zoning; and
  - g. 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.

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. All property owners must sign below for conditional use requests.

**ALL CONDITIONAL PAGES MUST BE SIGNED BY ALL PROPERTY OWNERS**

Signature(s)	Print Name	Date
	<u>BURRILL PRODUCTIONS</u>	<u>12-16-2010</u>

# EXHIBIT B. Request for Zoning Change

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

## Contact Information

	Name(s)	Address	Telephone/Email
Petitioner(s)	ProDev VIII LLC	5501 Thornton Rd. Raleigh, NC 27616	
(for conditional use requests, petitioners must own petitioned property)	First Mount Vernon Industrial Loan Association	6019 Tower Court Alexandria, VA 22304	
Property Owner(s)	Same As Above	Same As Above	
Contact Person(s)	Mack Paul and Michael Birch K&L Gates LLP	4350 Lassiter at North Hills Ave., Suite 300 Raleigh, NC 27609	(919) 743-7326 Mack.Paul@klgates.com (919) 743-7314 Michael.Birch@klgates.com

## Property information

Property Description (Wake County PIN)	1738-42-0406, 1738-42-4901, 1738-43-6486 and 1738-53-3664
Nearest Major Intersection	Thornton Road and Thornton Commons Drive
Area of Subject Property (in acres)	64.63 acres
Current Zoning Districts (include all overlay districts)	Residential-6 Conditional Use District and Conservation Management
Requested Zoning Districts (include all overlay districts)	Residential-6 Conditional Use District and Conservation Management

**EXHIBIT B. Request for Zoning Change**Please use this form only – form may be photocopied. Please type or print. See instructions in *Filing Addendum*

The following are all of the persons, firms, property owners, associations, corporations, entities or governments owning property adjacent to and within one hundred feet (excluding right-of-way) of the property sought to be rezoned. Please include Wake County PINs 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. If you need additional space, please copy this form.

<b>Name</b>	<b>Street Address</b>	<b>City/State/Zip</b>	<b>Wake Co. PIN</b>
City of Raleigh	P.O. Box 590	Raleigh, NC 27602-0590	1738-33-7537
APP Pharmaceuticals LLC	1501 E. Woodfield Rd., Suite 300E	Schaumburg, IL 60173-6029	1738-13-7922
Michelle S. & James E. Ricks	5510 Thornton Road	Raleigh, NC 27616-5728	1738-54-4591
City of Raleigh	P.O. Box 590	Raleigh, NC 27602-0590	1738-64-7227
City of Raleigh	P.O. Box 590	Raleigh, NC 27602-0590	1738-62-3451
Rosabelle Thornton Wilson Thornton Thornton, Jr.	5514 Thornton Road	Raleigh, NC 27616-5728	1738-41-9889
W. Reginald Brooks	5501 Thornton Road	Raleigh, NC 27616-5727	1738-42-3077
Tassie T. Brooks	2004 Forestville Road	Wake Forest, NC 27587-8130	1738-41-2909
Mary T. & William Kemp, Jr.	2910 Magnus Lane	Richmond, VA 23223	1738-41-0915
Bich V. & Annie Lam Tran	5253 Thornton Road	Raleigh, NC 27616-5721	1738-32-6182
Lemuel H. & Hazel R. Thornton	5325 Thornton Road	Raleigh, NC 27616-5723	1738-32-7114
City of Raleigh	P.O. Box 590	Raleigh, NC 27602-0590	1738-32-6265
Lemuel H. Thornton	5325 Thornton Road	Raleigh, NC 27616-5723	1738-32-7292
Meryton Homeowners Association Inc. Tillett Development Company Inc.	6729 Falls of Neuse Rd.	Raleigh, NC 27615-5287	1738-32-6494
City of Raleigh	P.O. Box 590	Raleigh, NC 27602-0590	1738-32-9737
Karen M. Nyreen	5234 Meryton Park Way	Raleigh, NC 27616	1738-32-7614
Johnny Felipe Ortiz & Yoselin Batista	5230 Meryton Park Way	Raleigh, NC 27616-9048	1738-32-6681
Charles B. & Jamila A. Petite	5226 Meryton Park Way	Raleigh, NC 27616	1738-32-6548
Jason Lefflear	5238 Meryton Park Way	Raleigh, NC 27616	1738-32-7656
William E. & Sylvia P. Hack	5242 Meryton Park Way	Raleigh, NC 27616	1738-32-8609

# EXHIBIT B. Request for Zoning Change

Z-6-11

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

Thomas & Karyn Harmon	2535 Harlington Lane	Charlotte, NC 28270-0511	1738-32-8724
Brian Napoleon Johnson	5250 Meryton Park Way	Raleigh, NC 27616	1738-32-8768
Evelyn D. Whitley	5254 Meryton Park Way	Raleigh, NC 27616	1738-32-8874
Sergei Volkov	5415 Thornton Road	Raleigh, NC 27616-5725	1738-42-2302
Tassie Thornton Brooks	2004 Forestville Road	Wake Forest, NC 27587-8130	1738-42-3363
Jerry W. Carter	5300 Meryton Park Way	Raleigh, NC 27616	1738-32-8889
Dynasty Holdings LLC	225 Weathers Court, Suite 111	Youngsville, NC 27596-7852	1738-42-9684
Roberto Alejandro Diaz	5304 Meryton Park Way	Raleigh, NC 27616	1738-32-8914
ProDev VIII LLC	5501 Thornton Road	Raleigh, NC 27616	1738-53-3664 1738-42-4901
First Mount Vernon ILA	6019 Tower Court	Alexandria, VA 22304	1738-42-0406 1738-43-6486

Z-6-4

# EXHIBIT C. Request for Zoning Change

Please use this form only - form may be photocopied. Please type or print. See instructions in *Filing Addendum* CITY OF RALEIGH CITY PLANNING DEPT

2011 MAY 27 PM 3:48

Conditional Use District requested: **Residential-6 Conditional Use**

Narrative of conditions being requested:

As used herein, the "Property" means and refers to all of those certain tracts or parcels of land containing an aggregate of approximately 64.63 acres, located along Thornton Road in the City of Raleigh, NC, and having Wake County Parcel Identification Numbers: 1738-45-0406 (Deed Book 13542, Page 2150), 1738-43-6486 (DB 13542, PG 2150), 1738-42-4901 (DB 12876, PG 398) and 1738-53-3664 (DB 12876, PG 398).

(a) Uses. The following uses shall be prohibited on the Property:

- church, synagogue, or religious education building
- civic club
- library, art gallery, or museum - governmental

(b) Stormwater Retention. Stormwater control devices shall be constructed to provide retention of stormwater to maintain existing (pre-development) peak discharge rates for the two (2) year, ten (10) year and fifteen (15) year storms.

(c) Clean-Up. To the extent any dump material is located on the Property, the property owner shall remove all such material from the Property prior to issuance of a building permit, but in any event such clean-up shall occur no less than 120 days following the adoption of this rezoning ordinance.

(d) Buffer. In the event the owner of the adjacent parcel, an approximately 9.85 acre parcel more particularly described in a deed recorded at Book 13204 Page 806 in the Wake County Registry and designated as "New Lot 3" on a recombination plat recorded at Book of Maps 2007, Page 2838 in the Wake County Registry, does not provide a Type A transitional protective yard on its property, the owner of the Property, prior to issuance of a certificate of occupancy, shall provide a Type A transitional protective yard located between any residential lot located on the Property that is adjacent to that approximately 9.85 acre parcel referenced above.

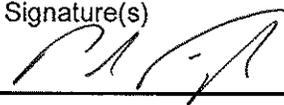
(e) Berm. The Type A transitional protective yard required in condition (d) of this rezoning ordinance shall include a berm of at least five (5) feet in height.

(f) Trip Generation. The total volume of trips generated by development on the Property shall not exceed 1786 total daily trips, 135 total AM Peak trips or 178 total PM Peak trips, based on the most current Institute of Transportation Engineers trip generation manual.

(g) Density. Subject to the trip generation limitation stated in condition (f) of this rezoning ordinance, the maximum residential density permitted on the Property is 295 dwelling units or equivalent dwelling units.

I acknowledge that these restrictions and conditions are offered voluntarily and with knowledge of the guidelines stated in the *Filing Addendum*. If additional space is needed, this form may be copied. Each page must be signed by all property owners.

**ALL CONDITIONAL PAGES MUST BE SIGNED BY ALL PROPERTY OWNERS**

Signature(s)	Print Name <i>Paul Fogle</i>	Date
	<i>On behalf of ProDev VIII, LLC</i>	<i>5-24-11</i>

Z-6-11

# EXHIBIT C. Request for Zoning Change

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

Conditional Use District requested: **Residential-6 Conditional Use**

Narrative of conditions being requested:

As used herein, the "Property" means and refers to all of those certain tracts or parcels of land containing an aggregate of approximately 64.63 acres, located along Thornton Road in the City of Raleigh, NC, and having Wake County Parcel Identification Numbers: 1738-45-0406 (Deed Book 13542, Page 2150), 1738-43-6486 (DB 13542, PG 2150), 1738-42-4901 (DB 12876, PG 398) and 1738-53-3664 (DB 12876, PG 398).

(a) Uses. The following uses shall be prohibited on the Property:

- church, synagogue, or religious education building
- civic club
- library, art gallery, or museum – governmental

(b) Stormwater Retention. Stormwater control devices shall be constructed to provide retention of stormwater to maintain existing (pre-development) peak discharge rates for the two (2) year, ten (10) year and fifteen (15) year storms.

(c) Clean-Up. To the extent any dump material is located on the Property, the property owner shall remove all such material from the Property prior to issuance of a building permit, but in any event such clean-up shall occur no less than 120 days following the adoption of this rezoning ordinance.

(d) Buffer. In the event the owner of the adjacent parcel, an approximately 9.85 acre parcel more particularly described in a deed recorded at Book 13204 Page 806 in the Wake County Registry and designated as "New Lot 3" on a recombination plat recorded at Book of Maps 2007, Page 2838 in the Wake County Registry, does not provide a Type A transitional protective yard on its property, the owner of the Property, prior to issuance of a certificate of occupancy, shall provide a Type A transitional protective yard located between any residential lot located on the Property that is adjacent to that approximately 9.85 acre parcel referenced above.

(e) Berm. The Type A transitional protective yard required in condition (d) of this rezoning ordinance shall include a berm of at least five (5) feet in height.

(f) Trip Generation. The total volume of trips generated by development on the Property shall not exceed 1786 total daily trips, 135 total AM Peak trips or 178 total PM Peak trips, based on the most current Institute of Transportation Engineers trip generation manual.

(g) Density. Subject to the trip generation limitation stated in condition (f) of this rezoning ordinance, the maximum residential density permitted on the Property is 295 dwelling units or equivalent dwelling units.

I acknowledge that these restrictions and conditions are offered voluntarily and with knowledge of the guidelines stated in the *Filing Addendum*. If additional space is needed, this form may be copied. Each page must be signed by all property owners.

**ALL CONDITIONAL PAGES MUST BE SIGNED BY ALL PROPERTY OWNERS**

Signature(s) AG Bennett Print Name ARTHUR G. BENNETT Date 5/24/11  
Arthur Bennett on behalf of First Mount 5-24-11  
Vernon I.L.A

# 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](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:**

The recommended land use for this property as shown on the Future Land Use Map is "Low Density Residential." This Future Land Use Map classification envisions residential development of up to 6 units per acre. The proposed map amendment is consistent with the Future Land Use Map recommendation for this property because the proposed map amendment proposes rezoning the property to Residential-6.

##### **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 property is not located within any Area Plan or other City Council-adopted 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 consistent with the Comprehensive Plan, based on the proposed map amendment's consistency with the recommended future land use and the applicable plan policies. The proposed map amendment is consistent with Policy LU 1.2 Future Land Use Map and Zoning Consistency as discussed in above section I.A. The rezoning is also consistent with Policy LU 1.3

# 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*

Conditional Use District Consistency based on the conditions offered with the petition. The proposed rezoning is consistent with policies EP 2.5 Protection of Water Features and EP 4.2 Floodplain Conservation because the wetland areas are designated as Conservation Management district. Although much of the site is within the 100 year floodplain area, the City Code does allow some development in the floodplain and a recent text change that attempted to further restrict development in the floodplain was denied. This rezoning attempts to remove conditions allowing only 180 single-family detached dwellings on the property, thereby allowing different residential product types that can be more easily clustered to reduce the impact on the environmentally sensitive areas.

## 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 is bounded to the south by Thornton Road. Also, the parcels between the property and Thornton Road are developed for three single family dwellings, a service garage and a waste transfer station. The property is bounded to the east by Thornton Road. Across Thornton Road to the east are large forested properties owned by the City of Raleigh and planned for a future park site. Located to the west of the property are single-family, townhouse and apartment units. The Neuse River is located to the north of the property. Also, the property is bounded to the north by a cell tower, pharmaceutical plant and vacant parcels.

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

Parcels to the south of the property are zoned Residential-4 and Industrial-1 Conditional Use District (Z-59-89). Parcels to the east of the property are zoned Residential-4. Parcels to the west of the property are zoned Residential-4, Thoroughfare District and Office & Institution-2 Conditional Use District (Z-30-99). These parcels are developed for low- to moderate density residential uses, including townhouses and apartments. Parcels to the north of the property are zoned Residential-4 and Thoroughfare District. There are no overlay districts 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 property is suitable for the uses and density proposed by the map amendment. Much of the property is within the 100 year floodplain; however the City Code permits filling of up to 50% of the floodplain. The location of Conservation Management zones practically necessitates the clustering of a development that will further mitigate any impact on the property.

Also, the proposed map amendment permits uses that are compatible with the character of the surrounding area. The property is surrounded by very different uses – industrial and residential. The residential uses are developed at densities comparable to what is permitted by the proposed map amendment. Also, the proposed map amendment includes conditions that require buffering from the adjacent industrial use and protect the environmentally sensitive areas within and adjacent to the property.

# 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*

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

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

The proposed map amendment would benefit the landowner by permitting the development of additional residential density and a different residential product type.

#### B. For the immediate neighbors:

The proposed map amendment benefits the immediate neighbors by permitting development consistent with the surrounding residential land uses and facilitates clustering of development to preserve more land.

#### C. For the surrounding community:

The proposed map amendment benefits the surrounding community by providing a variety of housing type in the rapidly growing area of Raleigh, and in close proximity to Capital Boulevard and a City park.

### 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. Much of the surrounding property currently permits residential uses in the low-to moderate density range. In fact, the area immediately west of the property is developed at a density comparable to, if not in excess of, what is proposed by the rezoning.

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

The subject property is located in a growing part of the City, surrounded by residential land uses and environmentally sensitive areas. The proposed map amendment conserves much of the environmentally sensitive area within the boundaries of the property and permits development at a density comparable to what is permitted and developed in the surrounding area. Additionally, the rezoning request is consistent with the Future Land Use Map classification.

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

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

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.**

Not applicable.

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

Not applicable.

## 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*

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

Not applicable.

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

The rezoning advances the fundamental purposes of zoning by regulating the use of land consistent with the comprehensive plan and with consideration for the suitability of the property for residential uses.

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

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

**EXHIBIT D****SUMMARY OF DISCUSSION ITEMS**

On Thursday, December 16, 2010, at 6:30 p.m., the applicant held a neighborhood meeting for the property owners adjacent to the parcel subject to the proposed rezoning. The following matters were discussed:

1. Types of Residential Uses
2. Location of Residential Uses
3. Future Extension of Thornton Road
4. Future of City Park Improvements
5. Public School Capacity
6. Tree Preservation
7. Wildlife
8. Size of Proposed Residential Units
9. Access to Property
10. Relocation of Salvaged Cars
11. Clean Up of Property
12. Drainage Way from Meryton Pond

**EXHIBIT E**

**NEIGHBORHOOD MEETING ATTENDEES**

Karen Nyreen  
5234 Meryton Parkway  
Raleigh, NC