

R-10

SC

NB

O&I-1

SPR-6

DAISY

DIXIE

BAGWELL

HILLSBOROUGH

CONCORD

PBOD
PDD

NB

CUD
NB

PBOD

NB

BC

IND-2

FRIENDLY

O&I-2

O&I-1

CUD
O&I-2

DAN ALLEN

Summary of Conditions

<i>Submitted Conditions</i>	<p>The following conditions are being offered:</p> <ul style="list-style-type: none"> • Prohibit certain type of uses • Minimum building height of 3 occupied stories or 75 feet; building above 3 stories stepped back 8 feet from Hillsborough Street edge • All properties subject to the Stanhope Village Streetscape and Parking Plan dated November 19, 2002, amended of September 15, 2009, and as proposed • Residential density not to exceed 70 DU • Uses on ground floor shall be retail uses • Dedicate 10% open space for development • The ground floor (upto 12' above sidewalk) of building edge along Hillsborough Street and Friendly Drive will have 40% transparency • Transit easement to be provided to the City prior to site plan approval • Drive-through window or stacking lane not to be visible from Hillsborough Street at street level • Surface parking adjacent to Hillsborough Street to be stepped back 20 feet min. from sidewalk edge and landscape specified • Specifies criteria for trip generation and TIA • Prohibits parking deck
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Issues and Impacts

<i>Outstanding Issues</i>	<ol style="list-style-type: none"> 1. Inconsistency with Future Land Use Map recommended densities 2. Addressing staff recommended condition on drive-through uses 	<i>Suggested Conditions</i>	Include a prohibition of drive-through uses
<i>Impacts Identified</i>	1. Potential increase in transit usage	<i>Proposed Mitigation</i>	Transit easement is being offered as condition

Public Meetings

<i>Neighborhood Meeting</i>	<i>Public Hearing</i>	<i>Committee</i>	<i>Planning Commission</i>
June 2, 2011	July 19, 2011	Date: 8/2/11 COW approved recommending revisions	Date: 8/9/11, approved

Valid Statutory Protest Petition

Attachments

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



Zoning Staff Report – Z-12-11

Conditional Use District

Request

<i>Location</i>	South side of Hillsborough Street, northwest of its intersection with Friendly Drive
<i>Request</i>	Rezone property from NB (0.32 acre) and NB CUD w/PBOD (0.32 acre) to NB CUD w/PBOD
<i>Area of Request</i>	0.64 acres
<i>Property Owner</i>	Mullet Row, Inc.; Courtland Apartments, LLC; Melton E. Valentine, Jr.
<i>PC Recommendation Deadline</i>	October 17, 2011

Subject Property

	<i>Current</i>	<i>Proposed</i>
<i>Zoning</i>	NB (0.32 acre) & NB CUD w/PBOD (0.32 acre)	NB CUD w/PBOD
<i>Additional Overlay</i>	PBOD (0.32 acre)	PBOD (0.64 acre)
<i>Land Use</i>	Commercial uses	Mix of uses
<i>Residential Density</i>	NB – 3 total units NB CUD w/PBOD – 102 total units (could be lower if 3 story ht. limit applies)	70 DU (per zoning conditions)

Surrounding Area

	<i>North</i>	<i>South</i>	<i>East</i>	<i>West</i>
<i>Zoning</i>	NB	NB, O&I-2	NB	NB
<i>Future Land Use</i>	Neighborhood Mixed Use	Neighborhood Mixed Use	Neighborhood Mixed Use	Neighborhood Mixed Use
<i>Current Land Use</i>	Commercial uses	Approved PDD mixed use dev. to be constructed	Commercial uses	Approved PDD mixed use dev. to be constructed

Comprehensive Plan Guidance

<i>Future Land Use</i>	Neighborhood Mixed Use
<i>Area Plan</i>	Stanhope Village SAP
<i>Applicable Policies</i>	Policy LU 2.6 Zoning and Infrastructure Impacts Policy LU 4.4 Reducing VMT through Mixed Use Policy LU 4.5 Connectivity Policy LU 4.6 Transit Oriented Development Policy LU 4.7 Capitalizing on Transit Access Policy LU 5.1 Reinforcing the Urban Pattern Policy LU 6.4 Bus Stop Dedication

	Policy LU 7.4 Scale and Design of New Commercial Uses Policy LU 7.5 High-Impact Commercial Uses Policy LU 7.6 Pedestrian Friendly Development Policy LU 10.1 Mixed Use Retail Policy T 1.2 ROW Reservation Policy T 4.4 ROW Reservation for Transit Policy ED 5.3 Creating Attractive Development Sites Policy UD 2.1 Building Orientation Policy UD 2.3 Activating the Street Policy UD 2.6 Parking Location and Design Policy UD 3.11 Parking Structures Policy UD 3.5 Visually Cohesive Streetscapes Policy UD 4.3 Improving Streetscape Design Policy UD 4.5 Improving the Street Environment Policy UD 5.1 Contextual Design Policy UD 6.1 Encouraging Pedestrian Oriented Uses Policy UD 6.2 Ensuring Pedestrian Comfort and Convenience Policy UD 7.3 Design Guidelines Policy AP – SV 1 Hillsborough Street Building Frontages Policy AP – SV 4 Residential Uses Policy AP-SV 10 Pedestrian Access Within Stanhope Village
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Contact Information

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Case Overview

The subject properties front on Hillsborough Street, a major thoroughfare with primary pedestrian orientation. The request seeks to rezone three properties from NB and NB CUD w/PBOD to NB CUD w/PBOD. The University Village streetscape plan currently applies to two of the properties, while the third property is the only one in the vicinity south of Hillsborough Street that does not have the PBOD overlay. The conditions primarily seek to bring the lots in conformity to the streetscape standards of the block, increases building height to a max. 75 feet, prohibits certain type of uses, caps residential density to 70 DU, provides ground level retail uses and 10 % open space, 40% façade transparency, transit easement, non-visible drive-through, stepped back and landscaped surface parking, and TIA specifications. The existing buildings on the subject properties and those in the vicinity have little or no front yard setback. The NB zoning designation requires a 30' front yard setback, while the proposed PBOD overlay would require zero setbacks. The rezoning seeks to provide the PBOD overlay so that the existing setback can be standardized, additional residential density can be attained and property can be redeveloped consistent with others in the area.

	Existing NB & NB CUD	Proposed NB w/PBOD
<i>Residential Density</i>	105 DU Total (or) 73 DU Total (3 story cap& assumptions)	70 DU Total
<i>Setbacks</i>	Front – 30' Side – 0'	With PBOD zero setback

	Rear – 0'	
Retail Use	Not specified	Not specified

Exhibit C & D Analysis

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

1.1 Future Land Use

The subject request is inconsistent with its Future Land Use map designation. The properties are designated for Neighborhood Mixed Use on the Future Land Use map. The proposed Neighborhood Business Conditional use zoning with the associated Pedestrian Business Overlay District permits neighborhood oriented mixed uses to be developed on the site, and promotes a pedestrian environment along Hillsborough Street. The inconsistency is with the proposed increased residential density introduced by the PBOD, which would permit density @109 DU/acre. The Neighborhood Mixed Use category envisions up to 40 DU/acre for qualifying walking streets.

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 proposed conditions are consistent with the Comprehensive Plan policies.

The following additional Comprehensive Plan policies also apply to this rezoning request:

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 proposed rezoning request retains the base Neighborhood Business zoning along with a PBOD overlay. This request does not change the permitted density for 2 of the properties that already an established PBOD. However, it increases the residential density for one parcel of 0.32 acres from 3 units to possibly 102 units. Staff has computed a trip generation differential for this case and determined that the expected increase in AM & PM peak period trips is less than 80 vehicles/hour. A traffic impact analysis study is not recommended. Transit easement is being offered as a condition.

Policy LU 4.4 Reducing VMT through Mixed Use
 Promote mixed-use development that provides a range of services within a short distance of residences as a way to reduce the growth of vehicle miles traveled.

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 proposed NB CUD zoning with PBOD promotes the mix of uses and walkability encouraged for mixed use centers, as a way to reduce the growth of vehicle miles travelled. The PBOD and the streetscape plan elements ensure mixed uses and pedestrian connectivity between individual lots.

Policy LU 4.6 Transit Oriented Development

Promote transit-oriented development around planned transit stations through appropriate development regulation, education, station area planning, public-private partnerships, and regional cooperation.

Policy LU 4.7 Capitalizing on Transit Access

Sites within a half-mile of planned and proposed fixed guideway transit stations should be developed with intense residential and mixed-uses to take full advantage of and support the City and region's investment in transit infrastructure.

The site is located within half-mile radius of proposed transit stations and thus the proposed rezoning request with its increased density and mixed uses supports transit-oriented development patterns encouraged in these areas. The request is consistent with these policies.

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.

To achieve consistency with this policy, proposed zoning conditions provide for transit easement.

Policy LU 5.1 Reinforcing the Urban Pattern

New development should be visually integrated with adjacent buildings, and more generally with the surrounding area. Quality design and site planning is required so that new development opportunities within the existing urban fabric of Raleigh are implemented without adverse impacts on local character and appearance.

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 subject request seeks to incorporate the existing Stanhope Village Streetscape Plan for the 3 properties. The rezoning would allow application of visually cohesive streetscape elements and features that would lend compatibility with the surrounding uses on this block. The zoning conditions provide for building setback provisions and façade transparency to adapt to a more pedestrian friendly scale and environment.

Policy LU 7.5 High-Impact Commercial Uses

Ensure that the City's zoning regulations limit the location and proliferation of fast food restaurants, sexually-oriented businesses, late night alcoholic beverage establishments, 24-hour mini-marts and convenience stores, and similar high impact commercial establishments that generate excessive late night activity, noise, or otherwise affect the quality of life in nearby residential neighborhoods.

The proposed zoning conditions prohibit high impact commercial uses. The applicant is encouraged to include a prohibition of drive-through uses to ensure that the uses remain consistent and supportive of a truly pedestrian oriented development. The offered

conditions provide for drive-through window or stacking lane serving the property that shall not be visible from Hillsborough Street at street level.

Policy LU 7.6 Pedestrian-Friendly Development

New commercial developments and redeveloped commercial areas should be pedestrian-friendly.

The proposed request includes a pedestrian business overlay district for which streetscape elements along Hillsborough Street and Friendly Drive are defined by a Streetscape and Parking plan. The Streetscape plan provides for additional street-level pedestrian amenities as this area becomes a more pedestrian and transit-friendly node of commercial development, providing for pedestrian and vehicular connectivity throughout the Stanhope Village area. The request is consistent with this policy.

Policy LU 10.1 Mixed-Use Retail

Encourage new retail development in mixed-use developments.

The conditions provide for ground level retail uses thus lending consistency with this policy.

Policy T 1.2 Right-of-Way Reservation

Support the early identification and acquisition of land for future transportation corridors through land use planning and development permitting.

Policy T 4.4 R.O.W Reservation for Transit

Preserve right-of-way for future transit and require that new development and redevelopment provide transit easements for planned alignments, rail stations, and bus stops within existing and planned transit corridors as identified in the Regional Transit Vision Plan.

The City has planned capital improvement project to construct a major streetscape project along Hillsborough Street from Gardner Street to Rosemary Street. This project includes a proposed roundabout at the intersection of Hillsborough Street and Dixie Trail. Access to the subject property will need to account for this planned improvement. A transit easement is being provided as part of the rezoning conditions.

Policy ED 5.3 Creating Attractive Development Sites

Create attractive and functional sites for new and growing businesses through streetscape improvements and other public realm investments.

The two easternmost properties are currently subject to the University Village Streetscape plan. The westernmost parcel is not included in any streetscape plan. The subject rezoning proposes to subject all three of these properties to the Stanhope Village Streetscape and Parking Plan. This would make promote conditions for a unified redevelopment consistent with the goals of the Stanhope Village Small Area Plan.

Policy UD 2.1 Building Orientation

Buildings in mixed-use developments should be oriented along streets, plazas and pedestrian ways. Their facades should create an active and engaging public realm.

Policy UD 2.3 Activating the Street

New retail and mixed-use centers should activate the pedestrian environment of the street frontage in addition to internal pedestrian networks and connections.

The Stanhope Center Streetscape plan notes that buildings with frontage along Hillsborough Street will have ground floor retail and a mix of uses. The zoning conditions also provide for ground level retail oriented to the street to ensure support for a truly pedestrian environment.

Policy UD 2.6 Parking Location and Design

New surface parking lots should be avoided within mixed-use centers. Instead, shared parking garages with active ground floor uses and architectural treatments for all facades visible from a public right-of-way should be used.

Policy UD 3.11 Parking Structures

Encourage creative solutions including landscaping and other aesthetic treatments to design and retrofit parking structures to minimize their visual prominence. Where feasible, the street side of parking structures should be lined with active and visually attractive uses to lessen their impact on the streetscape.

The Streetscape Plan notes that parking may be provided as on-street, off-street and/or in a parking deck. The conditions offered prohibit parking decks on the property.

Policy UD 3.5 Visually Cohesive Streetscapes

Create visually cohesive streetscapes using a variety of techniques including landscaping, undergrounding of utilities, and other streetscape improvements along street frontages that reflect adjacent land uses.

Policy UD 5.1 Contextual Design

Proposed development within established neighborhoods should create or enhance a distinctive character that relates well to the surrounding area.

Policy UD 4.3 Improving Streetscape Design

Improve the appearance and identity of Raleigh's streets through the design of street lights, paved surfaces, landscaped areas, bus shelters, street "furniture," and adjacent building facades.

Policy UD 4.5 Improving the Street Environment

Create attractive and interesting commercial streetscapes by promoting ground level retail and desirable street activities, making walking more comfortable and convenient, ensuring that sidewalks are wide enough to accommodate pedestrian traffic, minimizing curb cuts and driveways, and avoiding windowless facades and gaps in the street wall.

The proposed rezoning is consistent with these policies in that it seeks to apply a visually cohesive streetscape plan across an entire block to promote a truly pedestrian environment. The streetscape plan provides for ground level retail uses and wide sidewalks. The conditions address building facades, transparency and height setbacks to ensure support for a true pedestrian environment.

Policy UD 6.1 Encouraging Pedestrian-Oriented Uses

New development, streetscape, and building improvements in Downtown and mixed-use corridors and centers should promote high intensity, pedestrian-oriented use and discourage automobile-oriented uses and drive-through uses.

The proposed rezoning request allows neighborhood oriented commercial services and the zoning conditions prohibit higher impact uses. The applicant is encouraged to include conditions that prohibit drive-through uses that will promote a true pedestrian oriented environment.

Policy UD 6.2 Ensuring Pedestrian Comfort and Convenience

Promote a comfortable and convenient pedestrian environment by requiring that buildings face the sidewalk and street area. On-street parking should be provided along the pedestrian streets and surface parking should be in the rear. This should be applied in new development, wherever feasible, especially on transit and urban corridors and in mixed-use centers.

The request is consistent with this policy. Per the streetscape plan, buildings will be oriented with frontage along Hillsborough Street and on-street parking will be provided with additional off-site parking options.

Policy UD 7.3 Design Guidelines

Table UD-1 shall be used to review rezoning petitions and development applications for mixed-use developments or developments in mixed-use areas such as pedestrian Business Overlays, including preliminary site and development plans, petitions for the application of the Pedestrian Business or Downtown overlay districts, Planned Development Districts, and Conditional Use zoning petitions.

The text below lists each respective Design Guideline, applicants note and related staff comments.

Elements of Mixed-Use Areas

1. *All Mixed-Use Areas should generally provide retail (such as eating establishments, food stores, and banks), office, and residential uses within walking distance of each other.*

Applicant Response: The proposed PBOD is consistent with the Stanhope Small Area Plan (SAP) which envisions residential as well as retail and commercial. Existing uses in the area include restaurants and night clubs. Potential uses include retail, office, institutional (educational) as well as residential.

Staff Comment: Consistent. The streetscape plan provides for ground level retail and a mix of uses including high density residential uses in close proximity to each other.

2. *Within all Mixed-Use Areas buildings that are adjacent to lower density neighborhoods should transition (height, design, distance and/or landscaping) to the lower heights or be comparable in height and massing.*

Applicant Response: The proposed height and uses immediately to the west offer appropriate transitions to nearby residential uses. Note that existing residential uses are one or more blocks to the west. The proposed 5 story height limit is proposed to transition to the 7-10 story developments to the south and east.

Staff Comment: Consistent.

3. *A mixed use area's road network should connect directly into the neighborhood road network of the surrounding community, providing multiple paths for movement to and through the mixed use area. In this way, trips made from the surrounding residential neighborhood(s) to the mixed use area should be possible without requiring travel along a major thoroughfare or arterial.*

Applicant Response: The subject property is adjacent to the Stanhope Center Planned Development District (PDD). The approved Stanhope Center Master Plan provides appropriate pedestrian, bicycle and vehicular connections to adjacent properties.

Staff Comment: Consistent.

4. *Streets should interconnect within a development and with adjoining development. Cul-de-sacs or dead-end streets are generally discouraged except where topographic conditions and/or exterior lot line configurations offer no practical alternatives for connection or through traffic. Street stubs should be provided with development adjacent to open land to provide for future connections. Streets should be planned with due regard to the designated corridors shown on the Thoroughfare Plan.*

Applicant Response: Existing roads will be maintained, no dead end streets are proposed. Pedestrian, bicycle and vehicular cross connections will be provided north-south and east-west in accordance with the Stanhope Village SAP and the Stanhope Center Master Plan.

Staff Comment: Consistent.

5. *Block faces should have a length generally not exceeding 660 feet.*

Applicant Response: The existing block length is close, but a little bit less than 660 feet.

Staff Comment: Consistent.

Site Design/Building Placement

6. *A primary task of all urban architecture and landscape design is the physical definition of streets and public spaces as places of shared use. Streets should be lined by buildings rather than parking lots and should provide interest especially for pedestrians. Garage entrances and/or loading areas should be located at the side or rear of a property.*

Applicant Response: The Stanhope Village SAP, the Stanhope Center Streetscape and Parking Plan and the Stanhope Center Master Plan effectively address building placement and parking in this area. All these documents encourage building fronting on Hillsborough Street with parking in nearby parking decks. A limited amount of surface parking is envisioned.

Staff Comment: Consistent.

7. *Buildings should be located close to the pedestrian street (within 25 feet of the curb), with off-street parking behind and/or beside the buildings.*

Applicant Response: The purpose of the requested PBOD overlay is to allow development fronting on public streets. This will allow development to be urban in nature as noted above. Parking will be adjacent to or behind buildings.

Staff Comment: Consistent.

8. *If the building is located at a street intersection, the main building or part of the building placed should be placed at the corner. Parking, loading or service should not be located at an intersection.*

Applicant Response: The PBOD is proposed to allow re-development of several adjacent parcels in accordance with this goal. Existing guidelines and restrictions on parking locations in the Stanhope SAP, the Stanhope Center Master Plan and the Stanhope Center Streetscape and Parking Plan will assure an urban streetscape.

Staff Comment: Consistent.

Site Design/Urban Open Space

9. *To ensure that urban open space is well-used, it is essential to locate and design it carefully. The space should be located where it is visible and easily accessible from public areas (building entrances, sidewalks). Take views and sun exposure into account as well.*

Applicant Response: The PBOD requires a 14 ft sidewalks on all public streets and a minimum of 5% open space. The Stanhope Center PDD requires a minimum of 15% open space. Sun exposure and views will be addressed during the Preliminary Site Plan Approval process.

Staff Comment: Consistent. Zoning conditions provide for 10% open space.

10. *New urban spaces should contain direct access from the adjacent streets. They should be open along the adjacent sidewalks and allow for multiple points of entry. They should also be visually permeable from the sidewalk, allowing passersby to see directly into the space.*

Applicant Response: Again, the purpose of requesting the PBOD overlay is to allow development of active uses fronting on public streets.

Staff Comment: Consistent.

11. *The perimeter of urban open spaces should consist of active uses that provide pedestrian traffic for the space including retail, cafés, and restaurants and higher-density residential.*

Applicant Response: See responses above. The SAP, the PDD and the Streetscape Plan are all geared to achieving these objectives.

Staff Comment: Consistent.

12. *A properly defined urban open space is visually enclosed by the fronting of buildings to create an outdoor "room" that is comfortable to users.*

Applicant Response: The approved Small Area Plan, Master Plan and Streetscape Plan have all considered this objective and incorporated appropriate guidance accordingly.

Staff Comment: Consistent.

Site Design/Public Seating

13. *New public spaces should provide seating opportunities.*

Applicant Response: Public benches are required by the Stanhope Center Streetscape and Parking Plan.

Staff Comment: Consistent.

Site Design/Automobile Parking and Parking Structures

14. *Parking lots should not dominate the frontage of pedestrian-oriented streets, interrupt pedestrian routes, or negatively impact surrounding developments.*

Applicant Response: The majority of parking will, by default, be in structured parking. This is in accordance with the SAP, the Master Plan and the Streetscape Plan. All previously prepared guidance documents envisioned a more-or-less continuous pedestrian oriented commercial frontage on Hillsborough Street with somewhat less intense pedestrian oriented development on the intersecting streets. Continuity of pedestrian routes is explicit in all the above referenced documents.

Staff Comment: Consistent.

15. *Parking lots should be located behind or in the interior of a block whenever possible. Parking lots should not occupy more than 1/3 of the frontage of the adjacent building or not more than 64 feet, whichever is less.*

Applicant Response: The SAP, the Master Plan and the Streetscape Plan comply with this guideline.

Staff Comment: Consistent.

16. *Parking structures are clearly an important and necessary element of the overall urban infrastructure but, given their utilitarian elements, can give serious negative visual effects. New structures should merit the same level of materials and finishes as that a principal building would, care in the use of basic design elements can make a significant improvement.*

Applicant Response: The SAP, the Master Plan and the Streetscape and Parking Plan envision parking structures 'wrapped' with active uses for all sides fronting on public streets or major private connectors. Any façade not wrapped by an active use must utilize the same building material and design features applicable to principal structures.

Staff Comment: The zoning conditions prohibit parking decks on the site.

Site Design/Transit Stops

17. *Higher building densities and more intensive land uses should be within walking distance of transit stops, permitting public transit to become a viable alternative to the automobile.*

Applicant Response: Hillsborough Street is served by Cat, TTA, and the Wolf Line. Stops are in close proximity to the subject property. The potential for mixed use development offers opportunities for internal capture of people walking to these services.

Staff Comment: Consistent.

18. *Convenient, comfortable pedestrian access between the transit stop and the building entrance should be planned as part of the overall pedestrian network.*

Applicant Response: No part of the subject property will be more than a block from a transit stop.

Staff Comment: Consistent.

Site Design/Environmental Protection

19. *All development should respect natural resources as an essential component of the human environment. The most sensitive landscape areas, both environmentally and visually, are steep slopes greater than 15 percent, watercourses, and floodplains. Any development in these areas should minimize intervention and maintain the natural condition except under extreme circumstances. Where practical, these*

features should be conserved as open space amenities and incorporated in the overall site design.

Applicant Response: The subject property has been previously developed and is highly urbanized. Re-development will provide street trees, open space and other features that will improve environmental impacts over the existing conditions.

Staff Comment: Consistent.

Street Design/General Street Design Principles

20. It is the intent of these guidelines to build streets that are integral components of community design. Streets should be designed as the main public spaces of the City and should be scaled for pedestrians.

Applicant Response: The PBOD and Streetscape and Parking Plan offer 14' sidewalks, street trees public benches, bicycle racks and trash receptacles on all public streets. The stated goal of these documents is to implement this goal.

Staff Comment: Consistent.

21. Sidewalks should be 5-8 feet wide in residential areas and located on both sides of the street. Sidewalks in commercial areas and Pedestrian Business Overlays should be a minimum of 14-18 feet wide to accommodate sidewalk uses such as vendors, merchandising and outdoor seating.

Applicant Response: The minimum Code requirements for a PBOD addresses this objective.

Staff Comment: Consistent.

22. Streets should be designed with street trees planted in a manner appropriate to their function. Commercial streets should have trees which compliment the face of the buildings and which shade the sidewalk. Residential streets should provide for an appropriate canopy, which shadows both the street and sidewalk, and serves as a visual buffer between the street and the home. The typical width of the street landscape strip is 6-8 feet. This width ensures healthy street trees, precludes tree roots from breaking the sidewalk, and provides adequate pedestrian buffering. Street trees should be at least 6 1/4" caliper and should be consistent with the City's landscaping, lighting and street sight distance requirements.

Applicant Response: Incorporating the requirements of the Stanhope Center Streetscape and Parking Plan addresses this goal.

Staff Comment: Consistent.

Street Design/Spatial Definition

23. Buildings should define the streets spatially. Proper spatial definition should be achieved with buildings or other architectural elements (including certain tree plantings) that make up the street edges aligned in a disciplined manner with an appropriate ratio of height to width.

Applicant Response: The SAP, the Master Plan and the Streetscape Plan incorporate design criteria designed to achieve spatial definition of the street environment.

Staff Comment: Consistent. To soften the increased building height at street frontage, appropriate setbacks, and facade transparency is being provided as part of zoning conditions.

Building Design/Facade Treatment

24. *The primary entrance should be both architecturally and functionally on the front facade of any building facing the primary public street. Such entrances shall be designed to convey their prominence on the fronting facade.*

Applicant Response: Code requirements for PBOD's establish minimum facade requirements. Additionally, re-development of this property will, by default, be required to obtain Preliminary Site Plan approval for any significant retail or commercial development. The architectural and functional detail identified by this criteria will, more appropriately, be required and provided at that point.

Staff Comment: Consistent. To be evaluated during site plan review process.

25. *The ground level of the building should offer pedestrian interest along sidewalks. This includes windows entrances, and architectural details. Signage, awnings, and ornamentation are encouraged.*

Applicant Response: Again, Code requirements for PBOD's establish minimum requirements. The Stanhope Center Streetscape and Parking Plan also provide some guidelines for these items. As stated above, it is our goal, in requesting the PBOD overlay to develop a pedestrian oriented product in this area.

Staff Comment: Zoning conditions provide for transparency on the building frontage.

Building Design/Street Level Activity

26. *The sidewalks should be the principal place of pedestrian movement and casual social interaction. Designs and uses should be complementary to that function.*

Applicant Response: It is our goal, in requesting the PBOD overlay to develop a pedestrian oriented product in this area.

Staff Comment: Consistent.

1.3 Area Plan Guidance

The site falls within the limits of the Stanhope Village Small Area Plan. The following policies apply to this site:

Policy AP-SV 1 Hillsborough Street Building Frontages
Hillsborough Street should have an identifiable and relatively continuous building frontage, punctuated by focal point buildings and accessory plazas notched in at mid-block with pedestrian passageways to parking behind.

The request is consistent with this policy as the proposed rezoning seeks to apply a visually cohesive streetscape along the entirety of this block, and integrates the streetscape on frontage properties along Hillsborough Street.

Policy AP-SV 4 Residential Uses
Residential uses should be predominant, particularly for the upper floors of mixed-use buildings and within the interior of the plan area.

The proposed request permits a mix of uses on the site which includes residential, retail and office uses. The PBOD seeks to introduce higher density residential uses on the site than what would be permitted under the base NB zoning, thus achieving consistency with this policy.

Policy AP-SV 10 Pedestrian Access Within Stanhope Village
Pedestrian and bicycle access to and within Stanhope Village is crucial and should be a central focus of the circulation system. New and existing streets should have narrow travel lanes, very low vehicular speeds, and clear preference given to pedestrians at pedestrian/auto crossings.

The addition of the PBOD, with its improved sidewalk and setback criteria will support and encourage pedestrian and bicycle access in the area. The request is consistent with this policy.

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

The proposed rezoning primarily seeks to increase building height from three to five stories along with increased residential density. The subject properties currently serve small scale commercial uses. Most of the immediately surrounding properties on either side of the subject properties have long been small scaled pedestrian oriented businesses. The Stanhope Center, a new student housing project, is currently under construction behind the property and approved for a height of 102 feet. The existing Lulu building on the west side of Concord Street is 2 stories in height. The height limit on the mixed use building immediately to the west is 3 stories. Older single family residences exist behind the retail uses on the north side of Hillsborough Street and west of the site. The subject property is ideally suited for pedestrian oriented development and the proposed 5 story mixed use building would be compatible to the surrounding uses. The proposed zoning, with conditions and PBOD would be compatible with the surrounding uses. In order to maintain a pedestrian scale and appropriate height proportion, the applicants have provided façade transparency and setbacks for building height greater than 3 stories. This would help achieve a more appropriate scale for pedestrians along Hillsborough Street.

3. Public benefits of the proposed rezoning

The rezoning offers the following benefits:

- Bring all lots in one block in conformity with similar streetscape standards
- The PBOD overlay will legalize the existing building setback and allow redevelopment of this property in combination with adjacent properties
- The PBOD offers parking reduction, thus supporting a more pedestrian and transit oriented development
- Increased height will allow denser urban style development in this area
- The Streetscape plan will enhance the pedestrian environment and encourage more walkability in this area

4. Detriments of the proposed rezoning

There are no major detriments associated with this request. The only perceived detriment will be the increased height allowance which will not be available to adjacent properties fronting on Hillsborough Street. However, taller buildings exist within one block of the site and to the south, within the Stanhope PDD center.

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>2009 NCDOT Traffic Volume (ADT)</u>				
Hillsborough Street	Major Thoroughfare	21,000				
Friendly Drive	Commercial Street	N/A				
Street Conditions						
<u>Hillsborough Street</u>	<u>Lanes</u>	<u>Street Width</u>	<u>Curb and Gutter</u>	<u>Right-of-Way</u>	<u>Sidewalks</u>	<u>Bicycle Accommodations</u>
Existing	3 - 4	37' - 48'	Back-to-back curb and gutter section	46' - 65'	minimum 5' sidewalks on both sides	None
City Standard	5	65'	Back-to-back curb and gutter section	90'	minimum 14' sidewalks on both sides	Striped bicycle lanes on both sides
Meets City Standard?	NO	NO	YES	NO	NO	NO
<u>Friendly Drive</u>	<u>Lanes</u>	<u>Street Width</u>	<u>Curb and Gutter</u>	<u>Right-of-Way</u>	<u>Sidewalks</u>	<u>Bicycle Accommodations</u>
Existing	2	36'	Back-to-back curb and gutter section	36' - 42'	None	None
City Standard	2	41'	Back-to-back curb and gutter section	60'	minimum 14' sidewalks on both sides	N/A
Meets City Standard?	YES	NO	YES	NO	NO	N/A
Expected Traffic Generation [vph]	<u>Current Zoning</u>	<u>Proposed Zoning</u>	<u>Differential</u>			
AM PEAK	68	119	51			
PM PEAK	119	173	54			
Suggested Conditions/ Impact Mitigation:		<p>Traffic Study Determination: Staff has reviewed a trip generation differential for this case. Staff has determined that the expected increase in AM & PM peak period trips is less than 60veh/hour. A traffic impact analysis study is not recommended. The applicant has agreed to dedicate land for public right-of-way sufficient to accommodate the future roundabout at Hillsborough St and Friendly Dr upon submittal of a site plan to the City. Building permits will not be issued until the additional land for public right-of-way is recorded in the Wake County Registry by plat or deed.</p>				
Additional Information:	City of Raleigh has a planned major streetscape project along Hillsborough Street in the vicinity of this case.					

Impact Identified: None

5.2 Transit

1. Please dedicate a 15x20' transit easement
2. The bench should be located at the transit stop
3. This will likely increase transit use in the corridor

Impact Identified: None. Transit easement is being offered as a zoning condition.

5.3 Hydrology

<i>Floodplain</i>	None
<i>Drainage Basin</i>	Rocky Branch
<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>	4,000 gpd	4,000 gpd
<i>Waste Water</i>	4,000 gpd	4,000 gpd

The proposed rezoning would not impact the wastewater collection or water distribution treatment systems of the City. There are existing sanitary sewer and water mains in Hillsborough Street and Friendly Drive which would serve the properties.

5.5 Parks and Recreation

The subject property is not adjacent to a Capital Area Greenway corridor nor is it located within a park search area. Park and recreation level of service is not affected.

Impact Identified: None

5.6 Urban Forestry

No tree conservation will be required on this site. It is less than 2 acres in size and a basal area of 30 or more does not exist along Hillsborough Street.

5.7 Wake County Public Schools

The maximum number of dwelling units permitted under the proposed zoning would be 70, while the current zoning permits 105. Thus, there will be reduced impacts to the school capacity.

Impact Identified: None

5.8 Designated Historic Resources

There are no historic resources located on this site.
Impact Identified: None

5.9 Impacts Summary

The development may result in an increase to transit usage.

5.10 Mitigation of Impacts

Transit easement is being offered as a zoning condition to address increased transit usage.

6. Appearance Commission

The site is being proposed for a Pedestrian Business Overlay District and is hence subject to review by the Appearance Commission. AC review discussed this case on June 21, 2011. The comments are noted below:

1. Given the existing and anticipated street widths, and existing building heights on the north side of Hillsborough Street, the committee recommends that building heights step back a minimum of eight feet at three stories along each sidewalk (as per Sec. 3.3.3.B. of the proposed unified Development Ordinance).
Revised conditions provide for this.
2. Specify in the Streetscape Plan how all site building façades will meet Sec. 10-2055(e)(7).
3. Provide that at minimum all ground level facades consist of 60-percent transparent fenestration (as per Sec. 3.2.7.F. of the proposed Unified Development Ordinance), with all ground level interior spaces committed to sidewalk-accessible, active uses.
Revised conditions provide for 40% transparency.

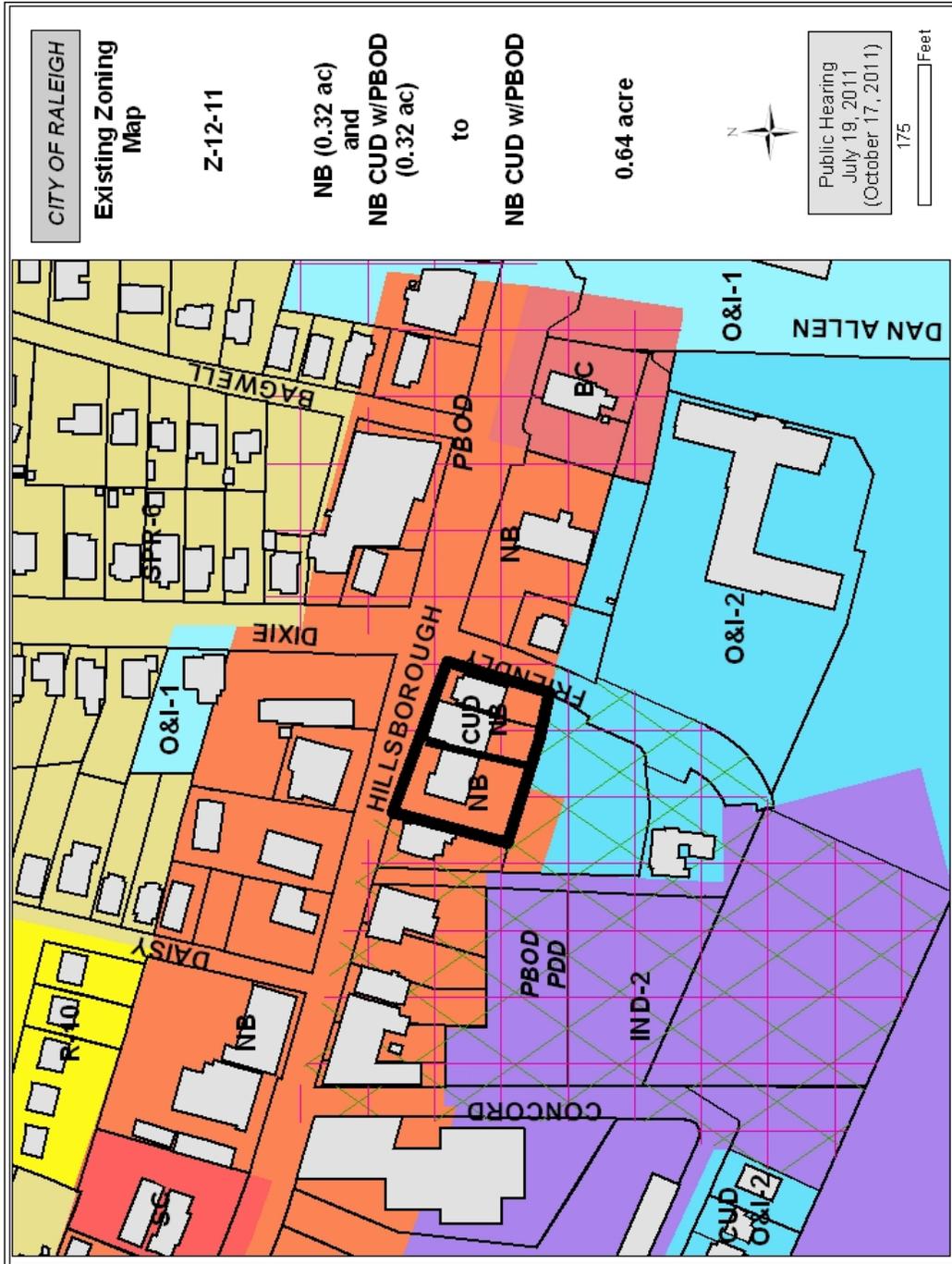
7. Conclusions

The request is inconsistent with the Future Land Use map densities. The proposed PBOD overlay would introduce higher density residential uses within this neighborhood mixed use area intended for medium density. The proposed maximum height of five stories will limit densities to a certain extent. While properties directly across from the subject parcels are 3 stories in height, taller buildings exist within one mile of the block. With the proposed increase in building height, suitable building setbacks and fenestrations should be included along the frontage. The proposed rezoning and Streetscape and Parking plan would bring the 3 subject properties in conformance with the others in the block and promote a more pedestrian-friendly environment.

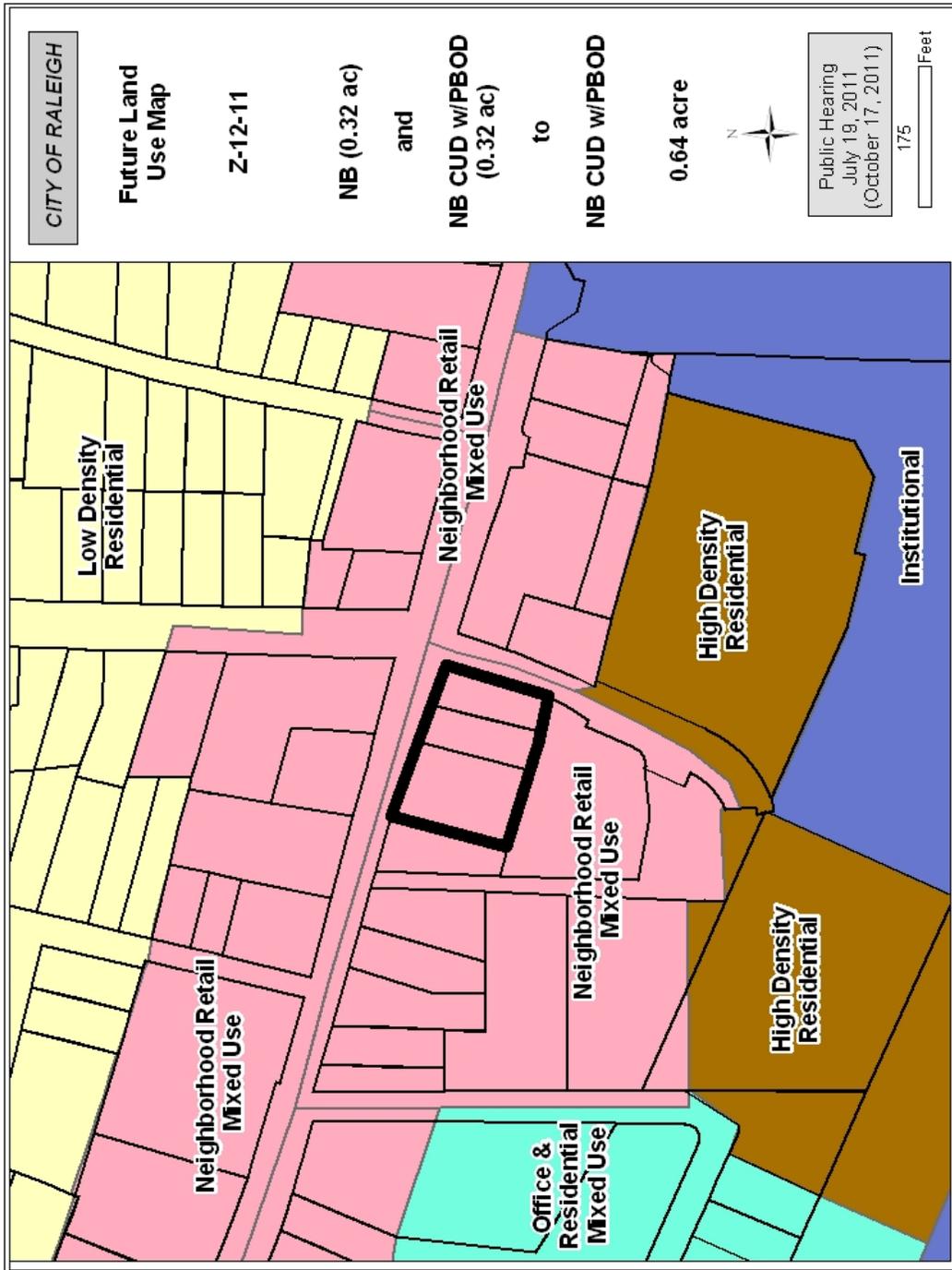
Outstanding Issues:

- Inconsistency with Future Land Use map recommended densities
- Provide condition that prohibits drive-through uses

Existing Zoning Map



Future Land Use Map





RALEIGH APPEARANCE COMMISSION

Planning Department • PO Box 590 • Raleigh, North Carolina 27602

MEMORANDUM

TO: City Council
FROM: Raleigh Appearance Commission
RE: Rezoning case Z-12-11
DATE: July 19, 2011

As per the provisions of North Carolina General Statutes §160A-452 and City of Raleigh Code of Ordinances §10-1021 and §10-2055, on June 21, 2011 the Raleigh Appearance Commission reviewed rezoning proposal Z-12-11.

At the meeting, representatives of the case offered an overview of the proposal, with discussion following. At the conclusion of commission's discussion, the commission moved by acclamation that the applicants consider amending their proposal to include the following additional provisions:

1. That, given the existing and anticipated street widths, and the existing building heights on the north side of Hillsborough Street, building heights be stepped back a minimum of eight feet at a height of three stories above each sidewalk (as per Sec. 3.3.3.B. of the proposed Unified Development Ordinance).
2. That the Streetscape Plan specify how all site building façades will meet Code Sec. 10-2055(e)(7) [exterior building walls].
3. That, at minimum, all ground level facades consist of 60-percent transparent fenestration (as per Sec. 3.2.7.F. of the proposed Unified Development Ordinance), with all ground level interior spaces committed to sidewalk-accessible, active uses.

Thank you for the opportunity to provide these comments.

For the Raleigh Appearance Commission,

Vincent Whitehurst, Chair

Ted Van Dyk, Vice-Chair



CITY OF RALEIGH
CITY PLANNING DEPT.
Petition to Amend the Official Zoning Map
Before the City Council of the City of Raleigh, North Carolina

The following items are required with the submittal of rezoning petition. For additional information on these submittal requirements, see the *Filing Instructions* addendum.

Rezoning Application Submittal Package Checklist

- Completed Rezoning Application which includes the following sections:**
 - Signatory Page**
 - Exhibit B**
 - Exhibit C (only for Conditional Use filing)**
 - Exhibit D**
 - Map showing adjacent property owner names with PIN's**

- Application Fee**
 - \$532 for General Use Cases**
 - \$1064 for Conditional Use Cases**
 - \$2659 for PDD Master Plans**

- Neighborhood Meeting Report (only for Conditional Use filing)**

- Receipt/ Verification for Meeting Notification Mail out**

- Traffic Impact Generation Report OR written waiver of trip generation from Raleigh Transportation Services Division**

- (General Use ONLY) if applicant is not the petitioner must provide proof of notification to the adjacent property owners per G.S. 160A-384**

2-12-11



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
x	Eva Mettrey for: Mullet Row, Inc.	6/2/11
x	Melton E. Valentine, Jr. (as Owner)	6/2/11
x	Melton E. Valentine, Jr. for Courtland Apartments, LLC	6/2/11



Petition to Amend the Official Zoning Map

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 - f. to avoid spot zoning; and
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Signature(s)	Print Name	Date
x	Eva Mettrey for: Mullet Row, Inc.	
x <i>Melton E. Valentine Jr.</i>	Melton E. Valentine, Jr. (as Owner)	4/2/11
x <i>Melton E. Valentine Jr.</i>	Melton E. Valentine, Jr. for Courtland Apartments, LLC	6/2/11

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) (for conditional use requests, petitioners must own petitioned property)			
Property Owner(s)	Mullett Row, Inc	222 Old Causeway Rd Atlantic Beach, NC 28512	
	Courtland Apartments, LLC	3021 Hillsborough St Raleigh, NC 27607	
	Melton E. Valentine, Jr.	3021 Hillsborough St Raleigh, NC 27607	
Contact Person(s)	Robin T. Currin Currin & Currin, Attorneys at Law	127 W. Hargett Street Suite 500 Raleigh, NC 27601	(919) 832-1515 robincurrin@aol.com

Exhibit B-1

2-12-11

COURTLAND APARTMENTS LLC
PIN # 0794526187
3021 Hillsborough Street
Raleigh, NC 27607-5434

TRELLIS ENTERPRISES LLC
PIN # 0794621216
105 Friendly Drive
Raleigh, NC 27607-5463

COURTLAND APARTMENTS LLC
PIN # 0794529395
3021 Hillsborough Street
Raleigh, NC 27607-5434

FARRIS INC.
PIN # 0794529555
232 Old Causeway Road
Atlantic Beach, NC 28512-7322

COURTLAND APARTMENTS LLC
PIN # 0794527474
3021 Hillsborough Street
Raleigh, NC 27607-5434

MULLET ROW INC
PIN# 0794529317
232 Old Causeway Rd.
Atlantic Beach, NC 28512- 7322

COURTLAND APARTMENTS LLC
PIN # 0794529213
3021 Hillsborough Street
Raleigh, NC 27607-5434

CAPETANOS HOLDINGS LLC
PIN # 0794622276
3608 Pinnacle Drive
Cary, NC 27518-8922

DONALD LEWIS COATES
PIN # 0794621486
734 Crabtree Crossing Pkwy
Cary, NC 27513-3475

THE COMPLETE COMPUTER STORE
OF RALEIGH INC.
PIN # 0794528662
3016 Hillsborough Street
Raleigh, NC 27607-5446

COURTLAND APARTMENTS LLC
PIN # 0794526361
3021 Hillsborough Street
Raleigh, NC 27607-5434

JAMES M WILSON JR. & KAREN B
WILSON
PIN# 0794621594
1065 Mills St.
Raleigh, NC 27608- 1833

UNIVERSITY TOWERS
RALEIGH, LLC
PIN # 0794621075
16 Horne Street
Raleigh, NC 27607-7200

MELTON E. VALENTINE, Jr.
PIN # 0794620333
114 Friendly Drive
Raleigh, NC 27607-5400

DIXIE HILL GROUP LLC
PIN # 0794620632
2200 Summit Park Lane
Suite 2000
Raleigh, NC 27612-4653

COURTLAND APARTMENTS LLC
PIN # 0794528451
3021 Hillsborough Street
Raleigh, NC 27607-5434

COURTLAND APARTMENTS LLC
PIN# 0794528155
3021 Hillsborough Street
Raleigh, NC 27607-5434

FERGUSON PROPERTIES LLC
PIN# 0794623404
2230 Whitman Rd.
Raleigh, NC 27607- 6649

EXHIBIT C. Request for Zoning Change

Z-12-11
8/8/11
pg 1 of 2

Conditional Use District requested: NB w/PBOD-CUD

Narrative of conditions being requested:

- 1) The following uses shall be prohibited:
 - (a) Automotive service and repair facilities;
 - (b) landfills of all types;
 - (c) manufacturing of all types;
 - (d) mini-warehouse storage facility; and
 - (e) all Special Uses which must be approved by the Board of Adjustment or City Council under Sections 10-2144 and 10-2145, except for Yard Reductions.
- 2) Building height shall include a minimum of three occupied stories but shall not exceed a maximum of seventy-five feet (75'); provided that any portion of the building exceeding three stories in height shall be stepped back at least eight (8) feet from the front edge of the building along Hillsborough Street.
- 3) The subject property shall be subject to the Stanhope Village Streetscape and Parking Plan dated as of November 19, 2002, as amended September 15, 2009, and as amended by that amendment attached hereto as Exhibit C-1.
- 4) Residential density shall not exceed seventy (70) dwelling units or equivalent dwelling units per acre.
- 5) Uses on the ground floor of any building constructed on the subject property shall be retail uses.
- 6) Following development, the subject property shall contain at least ten percent (10%) Open Space, as defined in City Code Section 10-2055(d)(4).
- 7) The ground floor (measured between zero (0) feet and twelve feet (12) feet above the adjacent sidewalk) of any building constructed on the subject property shall achieve a level of transparency of at least forty (40%) of the surface of such facades along Hillsborough Street and Friendly Drive. That portion of a surface which is covered by either non-opaque glass window(s) and/or non-opaque glass door(s) shall be deemed to have achieved transparency.
- 8) Prior to the subdivision of the property or the issuance of a building permit for the property, whichever shall occur first, a transit easement measuring twenty (20) feet along Hillsborough Street by fifteen (15) feet shall be granted to the City pursuant to a transit easement deed approved by the City Attorney and recorded in the Wake County Registry. This easement may be located in whole or in part within the area to be dedicated as right-of-way (to the extent not used for road construction) or dedicated or reserved for sidewalks.

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	Date
X	Melton E. Valentine, Jr for: Courtland Apartments, LLC (formerly owned by Mullet Row, Inc.)	8/8/11
X	Melton E. Valentine, Jr. (as Owner)	8/9/11
X	Melton E. Valentine, Jr. for Courtland Apartments, LLC	8/9/11

EXHIBIT C. Request for Zoning Change

Z-12-11
8/8/11
pg 2 of 2

- 9) Any drive-through window or stacking lane serving the subject property shall not be visible from Hillsborough Street at street level.
- 10) Any surface parking adjacent to Hillsborough Street located on the subject property shall be stepped back at least twenty feet (20) from the south edge of the sidewalk along Hillsborough Street, and the twenty-foot (20') setback area shall be landscaped with the following per twenty-five (25) linear feet adjacent to the surface parking: at least ten (10) shrubs measuring at least two feet (2') tall at planting and one (1) shade tree or understory tree measuring at least eight feet (8') in height and at least two and one-half inches (2.5") in caliper at planting. All plantings shall be in accordance with the Stanhope Village Streetscape and Parking Plan.
- 11) The Applicant acknowledges that the Trip Generation Report ("TGR") prepared for the subject property which is attached hereto as Exhibit C-2 predicts approximately 51 new AM peak hour external trips and 54 new PM peak hour trips . Based on the assumed uses shown thereon, the Applicant agrees that it will not change the uses from the assumed uses prior to either (a) producing and providing to the Public Works Department a new TGR which shows that the increase in peak hour traffic trips based on the changed uses does not increase the new external trips by more than twenty-five percent (25%) or (b) if the new TGR shows an increase of more than twenty-five percent (25%), then prior to obtaining a building permit for the changed uses, the Applicant will perform a Traffic Impact Analysis for the subject property and use reasonable efforts to promote the safe, efficient and convenient vehicular and pedestrian traffic for the site.
- 12) Parking decks shall be prohibited on the subject property.
- 13) Copies of City Code Sections referenced herein are attached hereto as Exhibit C-3.

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

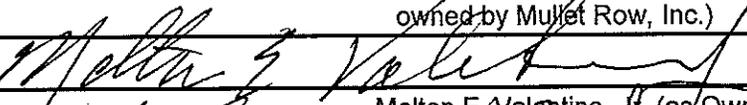
Signature(s)	Print Name	Date
X 	Melton E. Valentine, Jr for: Courtland Apartments, LLC (formerly owned by Mullet Row, Inc.)	8/8/11
X 	Melton E. Valentine, Jr. (as Owner)	8/8/11
X 	Melton E. Valentine, Jr. for Courtland Apartments, LLC	8/8/11

EXHIBIT D. Request for 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 Future Land Use Map designates this area as Neighborhood Mixed Use. Under the current Code, Neighborhood Business with Pedestrian Business Overlay District zoning is the most consistent combination of zoning designations which will further the goals of the Comprehensive Plan. The guidance from the Neighborhood Mixed Use category in the Comprehensive Plan recommends that building heights should generally be limited to 3 stories but five stories could be appropriate on traditional "walking" streets. Hillsborough Street is a classic example of a "walking" street. We are proposing to allow building heights of up to five stories.

- 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 subject to the Stanhope Village Area Plan. The proposed zoning designation is consistent with the Stanhope Area Plan's stated goal "to provide a consensus framework for a compact, diverse, and pedestrian-oriented urban redevelopment". The two easternmost properties are currently subject to the University Village Streetscape Plan. The westernmost parcel is not included in any streetscape plan. This rezoning petition proposes to subject all three of these properties to the

EXHIBIT D. Request for Zoning Change

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

Stanhope Village Streetscape and Parking Plan. This would make it easier to keep any proposed redevelopment consistent with the Stanhope Village Area Plan.

Policy AP-SV 1 Hillsborough Street Building Frontages: Adding the PBOD to the parcel that does not currently have that overlay designation and unifying the streetscape plan applicable to all three properties will encourage the goals of this policy.

Policy AP-SV 10 Pedestrian Access Within Stanhope Village: The addition of the PBOD, with its attendant sidewalk and setback criteria will support and encourage pedestrian and bicycle access in the area.

Note: the Stanhope Village policies not addressed here do not apply to these properties.

- 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. It is also consistent with the following Comprehensive Plan policies as well as many other Comprehensive Plan policies:

- LU 1.1 Future Land Use Map Purpose***
- LU 1.2 Future Land Use Map and Zoning***
- LU 1.3 Conditional Use District Consistency***
- LU 4.4 Reducing VMT Through Mixed Use***
- LU 4.5 Connectivity***
- LU 4.6 Transit Oriented Development***
- LU 4.7 Capitalizing on Transit Access***
- LU 4.9 Corridor Development***
- LU 6.1 Composition of Mixed Use Centers***
- LU 6.2 Complementary Uses and Urban Vitality***
- LU 7.4 Scale and Design of New Commercial Uses***
- LU 7.5 High-Impact Commercial Uses***
- LU 7.6 Pedestrian Friendly Development***
- LU 8.2 Neighborhood Revitalization***
- LU 8.3 Conserving, Enhancing and Revitalizing Neighborhoods***
- LU 8.14 Student Oriented Housing***
- LU 9.2 Coordinating Institutional Growth***
- ED 1.1 Corridor Revitalization***
- ED 1.2 Mixed Use Redevelopment***
- ED 1.3 Gateway Reinvestment***
- ED 2.1 Neighborhood Reinvestment***
- PU 1.1 Linking Growth and Infrastructure***
- UD 3.4 Enhanced Sidewalks***
- UD 3.5 Visually Cohesive Streetscapes***
- UD 5.4 Neighborhood Character and Identity***
- UD 6.1 Encouraging Pedestrian Oriented Uses***
- UD 6.2 Ensuring Pedestrian Comfort and Convenience***
- UD 6.3 Pedestrian Scale Lighting***
- UD 6.4 Appropriate Street Tree Selection***

2-12-11

EXHIBIT D. Request for Zoning Change

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

In addition, responses to each of the Urban Design Guidelines objectives are included on attached Exhibit D-1.

Design Guidelines for Mixed Use Areas

RALEIGH COMPREHENSIVE PLAN

Policy UD 7.3

Design Guidelines

The design guidelines in **Table UD-1** [listed below] shall be used to review rezoning petitions and development applications for mixed-use developments or developments in mixed-use areas such as Pedestrian Business Overlays, including preliminary site and development plans, petitions for the application of the Pedestrian Business or Downtown overlay districts, Planned Development Districts, and Conditional Use zoning petitions.

Elements of Mixed-Use Areas

1. All Mixed-Use Areas should generally provide retail (such as eating establishments, food stores, and banks), office, and residential uses within walking distance of each other.

RESPONSE: The proposed PBOD is consistent with the Stanhope Small Area Plan (SAP) which envisions residential as well as retail and commercial. Existing uses in the area include restaurants and night clubs. Potential uses include retail, office, institutional (educational) as well as residential.

2. Within all Mixed-Use Areas buildings that are adjacent to lower density neighborhoods should transition (height, design, distance and/or landscaping) to the lower heights or be comparable in height and massing.

RESPONSE: The proposed height and uses immediately to the west offer appropriate transitions to nearby residential uses. Note that existing residential uses are one or more blocks to the west. The proposed 5 story height limit is proposed to transition to the 7-10 story developments to the south and east.

3. A mixed use area's road network should connect directly into the neighborhood road network of the surrounding community, providing multiple paths for movement to and through the mixed use area. In this way, trips made from the surrounding residential neighborhood(s) to the mixed use area should be possible without requiring travel along a major thoroughfare or arterial.

RESPONSE: The subject property is adjacent to the Stanhope Center Planned Development District (PDD). The approved Stanhope Center Master Plan provides appropriate pedestrian, bicycle and vehicular connections to adjacent properties.

4. Streets should interconnect within a development and with adjoining development. Cul-de-sacs or dead-end streets are generally discouraged except where topographic conditions and/or exterior lot line configurations offer no practical alternatives for connection or through traffic. Street stubs should be provided with development adjacent to open land to provide for future connections. Streets should be planned with due regard to the designated corridors shown on the Thoroughfare Plan.

RESPONSE: Existing roads will be maintained, no dead end streets are proposed. Pedestrian, bicycle and vehicular cross connections will be provided north-south and east-west in accordance with the Stanhope Village SAP and the Stanhope Center Master Plan.

5. Block faces should have a length generally not exceeding 660 feet.

RESPONSE: The existing block length is close, but a little bit less than 660 feet.

Site Design/Building Placement

6. A primary task of all urban architecture and landscape design is the physical definition of streets and public spaces as places of shared use. Streets should be lined by buildings rather than parking lots and should provide interest especially for pedestrians. Garage entrances and/or loading areas should be located at the side or rear of a property.

RESPONSE: The Stanhope Village SAP, the Stanhope Center Streetscape and Parking Plan and the Stanhope Center Master Plan effectively address building placement and parking in this area. All these documents encourage building fronting on Hillsborough Street with parking in nearby parking decks. A limited amount of surface parking is envisioned.

7. Buildings should be located close to the pedestrian street (within 25 feet of the curb), with off-street parking behind and/or beside the buildings.

RESPONSE: The purpose of the requested PBOD overlay is to allow development fronting on public streets. This will allow development to be urban in nature as noted above. Parking will be adjacent to or behind buildings.

8. If the building is located at a street intersection, the main building or part of the building placed should be placed at the corner. Parking, loading or service should not be located at an intersection.

RESPONSE: The PBOD is proposed to allow re-development of several adjacent parcels in accordance with this goal. Existing guidelines and restrictions on parking locations in the Stanhope SAP, the Stanhope Center Master Plan and the Stanhope Center Streetscape and Parking Plan will assure an urban streetscape.

Site Design/Urban Open Space

9. To ensure that urban open space is well-used, it is essential to locate and design it carefully. The space should be located where it is visible and easily accessible from public areas (building entrances, sidewalks). Take views and sun exposure into account as well.

RESPONSE: The PBOD requires a 14 ft sidewalks on all public streets and a minimum of 5% open space. The Stanhope Center PDD requires a minimum of 15% open space. Sun exposure and views will be addressed during the Preliminary Site Plan Approval process.

10. New urban spaces should contain direct access from the adjacent streets. They should be open along the adjacent sidewalks and allow for multiple points of entry. They should also be visually permeable from the sidewalk, allowing passersby to see directly into the space.

RESPONSE: Again, the purpose of requesting the PBOD overlay is to allow development of active uses fronting on public streets.

11. The perimeter of urban open spaces should consist of active uses that provide pedestrian traffic for the space including retail, cafés, and restaurants and higher-density residential.

RESPONSE: See responses above. The SAP, the PDD and the Streetscape Plan are all geared to achieving these objectives.

12. A properly defined urban open space is visually enclosed by the fronting of buildings to create an outdoor "room" that is comfortable to users.

RESPONSE: The approved Small Area Plan, Master Plan and Streetscape Plan have all considered this objective and incorporated appropriate guidance accordingly.

Site Design/Public Seating

13. New public spaces should provide seating opportunities.

RESPONSE: Public benches are required by the Stanhope Center Streetscape and Parking Plan.

Site Design/Automobile Parking and Parking Structures

14. *Parking lots should not dominate the frontage of pedestrian-oriented streets, interrupt pedestrian routes, or negatively impact surrounding developments.*

RESPONSE: *The majority of parking will, by default, be in structured parking. This is in accordance with the SAP, the Master Plan and the Streetscape Plan. All previously prepared guidance documents envisioned a more-or-less continuous pedestrian oriented commercial frontage on Hillsborough Street with somewhat less intense pedestrian oriented development on the intersecting streets. Continuity of pedestrian routes is explicit in all the above referenced documents.*

15. *Parking lots should be located behind or in the interior of a block whenever possible. Parking lots should not occupy more than 1/3 of the frontage of the adjacent building or not more than 64 feet, whichever is less.*

RESPONSE: *The SAP, the Master Plan and the Streetscape Plan comply with this guideline.*

16. *Parking structures are clearly an important and necessary element of the overall urban infrastructure but, given their utilitarian elements, can give serious negative visual effects. New structures should merit the same level of materials and finishes as that a principal building would, care in the use of basic design elements can make a significant improvement.*

RESPONSE: *The SAP, the Master Plan and the Streetscape and Parking Plan envision parking structures 'wrapped' with active uses for all sides fronting on public streets or major private connectors. Any façade not wrapped by an active use must utilize the same building material and design features applicable to principal structures.*

Site Design/Transit Stops

17. *Higher building densities and more intensive land uses should be within walking distance of transit stops, permitting public transit to become a viable alternative to the automobile.*

RESPONSE: *Hillsborough Street is served by Cat, TTA, and the Wolf Line. Stops are in close proximity to the subject property. The potential for mixed use development offers opportunities for internal capture of people walking to these services.*

18. *Convenient, comfortable pedestrian access between the transit stop and the building entrance should be planned as part of the overall pedestrian network.*

RESPONSE: *No part of the subject property will be more than a block from a transit stop.*

Site Design/Environmental Protection

19. *All development should respect natural resources as an essential component of the human environment. The most sensitive landscape areas, both environmentally and visually, are steep slopes greater than 15 percent, watercourses, and floodplains. Any development in these areas should minimize intervention and maintain the natural condition except under extreme circumstances. Where practical, these features should be conserved as open space amenities and incorporated in the overall site design.*

RESPONSE: *The subject property has been previously developed and is highly urbanized. Re-development will provide street trees, open space and other features that will improve environmental impacts over the existing conditions.*

Street Design/General Street Design Principles

20. *It is the intent of these guidelines to build streets that are integral components of community design. Streets should be designed as the main public spaces of the City and should be scaled for pedestrians.*

RESPONSE: The PBOD and Streetscape and Parking Plan offer 14' sidewalks, street trees public benches, bicycle racks and trash receptacles on all public streets. The stated goal of these documents is to implement this goal.

- 21. Sidewalks should be 5-8 feet wide in residential areas and located on both sides of the street. Sidewalks in commercial areas and Pedestrian Business Overlays should be a minimum of 14-18 feet wide to accommodate sidewalk uses such as vendors, merchandising and outdoor seating.

RESPONSE: The minimum Code requirements for a PBOD addresses this objective.

- 22. Streets should be designed with street trees planted in a manner appropriate to their function. Commercial streets should have trees which compliment the face of the buildings and which shade the sidewalk. Residential streets should provide for an appropriate canopy, which shadows both the street and sidewalk, and serves as a visual buffer between the street and the home. The typical width of the street landscape strip is 6-8 feet. This width ensures healthy street trees, precludes tree roots from breaking the sidewalk, and provides adequate pedestrian buffering. Street trees should be at least 6 1/4" caliper and should be consistent with the City's landscaping, lighting and street sight distance requirements.

RESPONSE: Incorporating the requirements of the Stanhope Center Streetscape and Parking Plan addresses this goal.

Street Design/Spatial Definition

- 23. Buildings should define the streets spatially. Proper spatial definition should be achieved with buildings or other architectural elements (including certain tree plantings) that make up the street edges aligned in a disciplined manner with an appropriate ratio of height to width.

RESPONSE: The SAP, the Master Plan and the Streetscape Plan incorporate design criteria designed to achieve spatial definition of the street environment.

Building Design/Facade Treatment

- 24. The primary entrance should be both architecturally and functionally on the front facade of any building facing the primary public street. Such entrances shall be designed to convey their prominence on the fronting facade.

RESPONSE: Code requirements for PBOD's establish minimum facade requirements. Additionally, re-development of this property will, by default, be required to obtain Preliminary Site Plan approval for any significant retail or commercial development. The architectural and functional detail identified by this criteria will, more appropriately, be required and provided at that point.

- 25. The ground level of the building should offer pedestrian interest along sidewalks. This includes windows entrances, and architectural details. Signage, awnings, and ornamentation are encouraged.

RESPONSE: Again, Code requirements for PBOD's establish minimum requirements. The Stanhope Center Streetscape and Parking Plan also provide some guidelines for these items. As stated above, it is our goal, in requesting the PBOD overlay to develop a pedestrian oriented product in this area.

Building Design/Street Level Activity

- 26. The sidewalks should be the principal place of pedestrian movement and casual social interaction. Designs and uses should be complementary to that function.

RESPONSE: It is our goal, in requesting the PBOD overlay to develop a pedestrian oriented product in this area.

EXHIBIT D. Request for Zoning Change

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

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

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

The subject property fronts on Hillsborough Street, a major thoroughfare on the City's Thoroughfare Plan. Most of the existing nearby properties on both sides of Hillsborough Street have a long history as small pedestrian oriented businesses. These businesses are largely supported by students, staff and faculty from the nearby NCSU campus. There are ± 60,000 students, staff and support personnel on the NCSU campus within a one mile radius of the subject property. The Stanhope Center, a new 10 story student housing project, is currently under construction behind the property. Student housing at the University Towers student housing building is within one block of the site. An additional ±4365 students are housed within 3-4 blocks of the site on NCSU property. Older single family residences exist behind the retail uses on the north side of Hillsborough Street and west of the site. The subject property is ideally suited for pedestrian oriented development. The proposed zoning designation is compatible with existing land uses in the immediate vicinity.

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

One of the subject properties is the only property in the immediate vicinity south of Hillsborough Street that does not have the PBOD overlay. The existing buildings on this lot, as well as other lots on both sides of Hillsborough Street, have little or no front yard setback. The NB zoning designation requires a 30' front yard setback. However, a zero setback is allowed with the PBOD overlay. The purpose of this rezoning request is to provide the PBOD overlay so the existing setback is legalized and the property can be redeveloped consistent with other properties in the area. The proposed zoning designation would allow redevelopment of this property consistent with building heights and setbacks anticipated in the Comprehensive Plan. The proposed 5 story building height will provide an appropriate transition in this area. The existing Lulu building on the west side of Concord Street is 2 stories. The height limit on the mixed use building immediately to the west is 3 stories. The University Towers building, one block to the southeast is 8 stories. The height limit on the property immediately to the south is ±7 stories. The proposed 5 story limit on the subject properties provides an appropriate transition from the 8 story University Towers building and the future ±7 story building to the south and the 3 story mixed use building on the corner of Stanhope and Concord. The application of the Stanhope Village Streetscape and Parking Plan will add appropriate requirements for street trees, bicycle racks and other amenities.

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 addition of the PBOD overlay will legalize the existing zero front yard setback and encourage redevelopment with buildings fronting on Hillsborough Street with wide pedestrian sidewalks. This is consistent with existing development in this area in the sense that the majority of existing buildings already front directly on Hillsborough Street. This will encourage the redevelopment of this property with dense, pedestrian oriented vertical mixed uses.

III. Benefits and detriments of the proposed map amendment.

A. For the landowner(s):

EXHIBIT D. Request for Zoning Change

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

The advantage is that the PBOD overlay will legalize the existing building setback and allow redevelopment of this property in combination with adjacent properties that are not required to have a 30' front yard setback. The addition of the PBOD also allows a reduction in the parking requirement. Increasing the allowable height on Hillsborough Street will allow the dense urban style development mandated by the property values in this area. The disadvantages for the property owners are that the PBOD carries additional requirements in the form of required open space, sidewalk widths, street trees and prohibitions on the location of parking areas between the front face of the building and the street ROW.

B. For the immediate neighbors:

The benefits for immediate neighbors are that the proposed rezoning will encourage redevelopment of existing properties that are, arguably, not assets to the neighborhood. It will also allow and encourage redevelopment of this property in combination with adjacent properties. Redevelopment of these properties will enhance the property values in the area. Development within the PBOD with the streetscape plan requirement to install wide sidewalks, street trees bike racks and benches will enhance the overall area. The proposed redevelopment will not be a detriment to the immediate neighbors except that redevelopment, in the short term, will disrupt traffic and have all the other negative effects associated with any construction project.

C. For the surrounding community:

The surrounding community will benefit as the proposed map amendment will facilitate the redevelopment of this area into a pedestrian oriented mixed use area. The redevelopment will promote convenient access to goods and services and will be more aesthetically appealing.

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

No. The surrounding properties on the south side of Hillsborough Street are all zoned NB and are subject to the Pedestrian Business Overlay District. The 5 story height allowance is not available to adjacent properties fronting on Hillsborough Street in the immediate vicinity; however, there are two existing taller building within one block of the site and the Stanhope Center PDD allows us to 7 stories on the property immediately to the south. The 5 story height limit provides an appropriate transition from proposed or exiting 7-8 story to properties to the south and east and the proposed 3 story building to the west.

EXHIBIT D. Request for Zoning Change

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

The existing property use is consistent with the proposed PBOD designation in that the existing uses front directly on Hillsborough Street. Redevelopment with the proposed zoning designation will encourage a mixture of pedestrian oriented uses consistent with the Stanhope Village Small Area Plan. Redevelopment of this area, with the type of dense vertical mixed uses allowable under the proposed zoning designation, is supported by the frontage on Hillsborough Street, a pedestrian oriented major thoroughfare, service from three bus lines, The Wolf Line, TTA and Cat, and is within ¼ mile of the proposed transit stop at NCSU.

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.

The property was constructed before the current zoning designation and many of the required setbacks were implemented. Since that time the PBOD designation has been applied to two of the subject parcels, providing relief in setback and parking requirements; however, the PBOD applicable to these two lots differs from the PBOD applicable to other property in the same block. Consequently, it is desirable to place all three properties under the Stanhope PBOD such that they all have PBOD requirements and benefits and that they are all governed by the same Streetscape and Parking Plan.

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

The existing zoning on the parcel without the PBOD is inconsistent with existing land uses as well as the Future Land Use Map. Rezoning this property with a consistent Streetscape requirement is consistent with the policies stated in the Stanhope Small Area Plan as well the FLUM and various policies in the Comprehensive Plan. Therefore, the public has a need to rezone this property to bring it into compliance with the Comprehensive Plan. In addition, the public has a need to have more property zoned to accommodate pedestrian oriented, mixed use development, especially in the NCSU area.

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

There are adequate existing public services and facilities to support the uses contemplated by the proposed zoning. The properties front on Hillsborough Street, a major thoroughfare; they are served by three bus lines: the Wolf, TTA and CAT lines; there are adequate existing water, sanitary sewer and storm drainage systems in place to serve the properties. Fire Access to the property from Hillsborough Street and/or Dixie Trail is excellent. Construction within the parameters allowed under the proposed zoning will not unnecessarily block adjacent properties access to light, air, etc. The existing topography

FILING ADDENDUM: Instructions for filing a petition to amend the official Zoning Map of the City of Raleigh, North Carolina

is amenable to developing these properties for uses contemplated by the proposed zoning. The site is within easy walking or biking distance of existing recreational facilities such as Clark & Merriman Park, Pollock Park, Pullen Park, the Reedy Creek Trail and the Rock Branch Trail.

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

The proposed rezoning advances the fundamental purposes in the NC enabling legislation by permitting the much needed redevelopment of an old and run down site with a pedestrian oriented mixed use development. The prospective mixed use development will encourage mass transit and facilitate the efficient use of land and infrastructure and will be in accordance with the Comprehensive Plan.

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

EXHIBIT C-1

AMENDMENT TO

Stanhope Center

Pedestrian Business Overlay District

Streetscape and Parking Plan

adopted November 19, 2002,
amended September 15, 2009
(SSP-3-11)



Prepared by:

The Site Group, PLLC
Stanhope Center
Pedestrian Business Overlay District
Streetscape and Parking Plan
3 August 2011

Introduction

The Stanhope Center Pedestrian Business Overlay District and the Stanhope Center Pedestrian Business Overlay District Streetscape and Parking Plan dated as of November 19, 2002 and amended September 15, 2009 (the "SSP") are hereby modified to include this modification document which will apply only to the subject 0.64 acre tract of property which includes tax parcels 0794.19.52.9317, 0794.19.52.9395 and 0794.19.62.0333 as described on Exhibit "A" (the "Stanhope Annexed Area").

This modification document includes many of the provisions as set forth in the original SSP, but to avoid confusion on the applicability of various provisions, this document specifies the only SSP provisions which will apply to the Stanhope Annexed Area and that this Amendment will apply to the Stanhope Annexed Area only.

The Stanhope Annexed Area is not a part of the Master Plan referenced in the "SSP," however Stanhope Annexed Area will be complementary to the properties within the Master Plan and will share many design objectives.

Buildings within the Stanhope Annexed Area shall be mixed use buildings, with ground floor retail and shall include at least two uses which may include retail, office, institutional and/or residential uses. Such building(s) shall have a maximum height of five (5) stories or seventy-five feet (75').

On street parking shall not be required if there is not sufficient land area within the site. Parking reductions may be requested in accordance with the City Code PBOD provisions.

The minimum width for sidewalks along both Hillsborough Street and Friendly Drive shall be increased to fourteen (14) feet.

Use of the Pedestrian Business Overlay District enhances the ability to create a vibrant streetscape that is unique to this development. This Amendment to the Stanhope Center Streetscape and Parking Plan proposes streetscape modifications to existing streets and integrates amenities that improve pedestrian quality and experience. These streetscape elements are shown conceptually on Exhibit B.

Existing on- and off-site parking, landscaping, buildings and/or signage will not be made to conform to this Amendment to the Stanhope Center Streetscape and Parking Plan and the provisions of the PBOD shall not take effect until the Stanhope Annexed Area is re-developed.

Hillsborough Street & Friendly Drive (Stanhope Annexed Area)

The Stanhope Annexed Area, fronts onto the Hillsborough Street right-of-way. Per the City Code, the front yard setback for this PBOD shall be zero, provided that the minimum sidewalk width of fourteen (14) feet is provided. One parcel has Friendly Drive as a corner lot side yard. Building(s) will have a maximum height of 75' and be a maximum of five stories. Each building(s) shall include at least two of the following uses: retail, office, institutional and/or residential.

Streetscape Elements

Streetscape elements are per the Stanhope Center Streetscape and Parking Plan, and include:

On-street Parking

On-street parallel parking places along Hillsborough Street are encouraged, but not required. On-street parking along this portion of Friendly Drive is not anticipated.

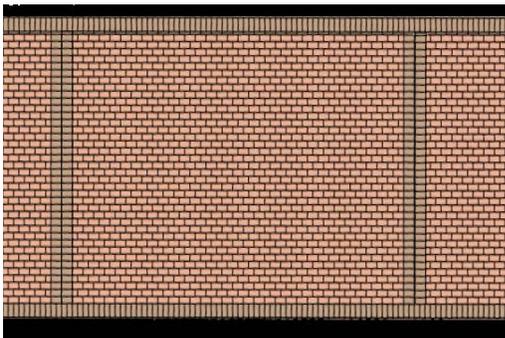
Parking Areas

Parking may be provided as on-street, off-street and/or in an off-site parking deck, provided that on-street parking may not be used to satisfy City Code off-street parking requirements. Parking reductions may be requested in accordance with the City Code PBOD provisions. The on-street and off-street parking may adjoin a private street or a public street. Parking spaces shown on the Master Plan as on-street public parking are illustrative. It is recognized that the Raleigh City Council approves the use of on-street parking.

Sidewalks

The minimum unobstructed sidewalk width along Hillsborough Street and Friendly Drive is fourteen (14) feet. Sidewalks of varying widths (minimum 14) extend from the back of curb to the proposed building fronts. Portions of the sidewalks may be beyond the Hillsborough Street and Friendly Drive right-of-ways.

Sidewalk pavers will be Pine Hall Brick Field Pavers. The primary color of the sidewalk paver will be Pathway Red, which closely matches the older pavers already in place along portions of Hillsborough Street. The accent sidewalk paver color will be English Edge Dark Accent.



Paver patterns will be running bond. A single header course of Accent Sidewalk Pavers will be used against building wall and curbs. A double-row of header-patterned pavers composed of the Sidewalk Accent will be used to define the sidewalk panels.

Signage and Canopies

Signage will be restricted to lettering displayed on the canopies or awnings, under-canopy signs and wall signs. No ground signs will be permitted.

Canopies and awning heights shall be a minimum of 9.0' above sidewalk grade or such other minimum as may be required by the North Carolina Building Code. Canopies/awnings may or may not be backlit, may be retractable and will be made of canvass, vinyl or translucent materials. The colors will be compatible with the building materials and colors.

Under-canopy signs will be permitted for pedestrian identification of individual businesses. Under-canopy signs will be hung a minimum of 9.0', unobstructed, above the grade of the sidewalk, will not exceed a height of 12" and not exceed the width of the canopy or such other minimum and maximum heights as may be required by the North Carolina Building Code.

Walls signs will be permitted. Total maximum wall sign area per establishment is two (2) square feet per linear foot of the side of the building facing any street or as otherwise permitted or limited thereunder by City Code. Area of copy (height x length) of a wall sign will not exceed 75% of the total sign area.

Canopies/awnings and under-canopy signs, which extend into public rights-of-way, will require an encroachment permit from the City of Raleigh.

Street Signs

Street signage will consist of standard City of Raleigh street sign fastened to a 4-mil powder coated (dark green) aluminum tube post. The property owners association will maintain street signs and mounting poles.

Street Trees



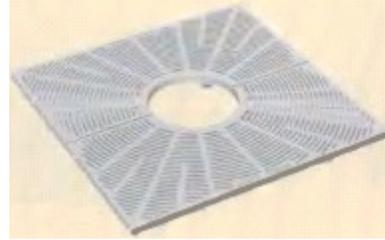
Street tree varieties recommended for both public and private streets within Stanhope Center include Panache Shumard Oak (*Quercus shumardii* 'QSTFC'), Highbeam Overcup Oak (*Quercus lyrata* 'QSFTC'), and Valynor Trident Maple (*Acer buergerianum* 'Valynor').

These species, selected for their shape, size and adaptation to urban settings, will be planted at a minimum of 3" caliper measured at 6" above grade. Street tree quantities are calculated at the rate of one street tree per 50 LF of roadway.

Flowering tree varieties include Crape Myrtle, Savannah Holly, and Goldenrain Tree. Flowering trees will define limits of parking, frame sidewalks, and create a pedestrian scale to the upper canopy of the landscape. Flowering trees will be a minimum of 2" caliper at planting as measured 6" above grade for a single trunk, or as multi-trunked, per species. Flowering trees quantities are calculated at the rate of one per 50 LF of roadway.

Tree grates

Tree grates will be either 48" square or 48"x 96" rectangular grates, both with a 16" diameter expandable opening and .25" slot openings. Tree grates will be black. Tree grates will be limited to tree plantings within pedestrian way, along sidewalks and streets.



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painted
the



Benches

Benches will be provided at a rate of one bench per 200 LF of sidewalk and will be Landscape Forms "Austin" series Flat Bench with two (2) end arms and one (1) center arm. The powder coat finish contains no heavy metals and is a hard, yet flexible, finish that resists rusting, chipping, peeling and fading

Bicycle Racks

Bicycle storage includes both a secured area within structured parking and surface mounted bicycle racks.



Bicycle racks will be provided at a rate of one rack per 20 parking spaces of the parking spaces provided or one rack per 5,000 square feet of the non-residential uses within the Overlay District, whichever is greater. Bike racks will be similar to Landscape Forms style 'Flo' bike rack'. The color is stainless steel. This design is made of 91% recycled material and is 100% recyclable. Bike racks will be placed within structured parking, parking islands bump outs, and open space areas.

Trash Receptacles

Trash receptacles will be located near seating and will be similar Landscape Forms style "Chase Park" receptacles. The 36-gallon side opening litter receptacle has a closed top which will assist in keeping out rain water

Lighting



Lighting consists of two types: Street Lighting and Pedestrian Lighting. Street lighting will utilize a 30' RTS Round Tapered Steel pole; Pedestrian lighting will utilize a 16' RTS Round Tapered Steel pole. The Poles will be unfinished steel. Light fixtures will be similar to 'The Edge Round Luminaire', by BETA Lighting. The LED Luminaire will be contained in a Silver Bronze colored fixture.

All lighting will conform to local codes and ordinances.

Streetscape Maintenance

The city will maintain the following streetscape elements:

- Curb and gutter
- Street paving
- Crosswalk striping and signals
- Bus stops (except trimming of any vegetation and clean-up of the grounds at or around the transit easement area and the removal of trash from trash receptacles and litter from the transit easement area)
- On-street parking space striping
- Parking meters
- Street lights

A not-for-profit Property Owners Association established for the Stanhope Center development will maintain:

- Street trees, tree grates, and tree guards
- Trash receptacles
- Specialty lighting and lighting attached to buildings
- Encroachments within public right-of-way
- Sidewalks
- Awnings and canopies
- Bike racks
- Benches

Individual businesses will maintain business signs.

2-12-11
Pg 1 of 2

June 22, 2011

Mr. Bowman Kelly, PE, PTOE
 Transportation Engineer, Office of Transportation Planning
 One Exchange Plaza, Suite 727
 PO Box 590
 Raleigh, North Carolina 27602

Re: Hillsborough Street and Friendly Drive Property Rezoning (Z-12-11) Trip Generation Comparison

Dear Mr. Kelly:

Kimley-Horn and Associates, Inc. (Kimley-Horn) has prepared a trip generation comparison for the proposed rezoning (Z-12-11) of the parcels located at the southwest corner of Hillsborough Street and Dixie Trail/Friendly Drive in the City of Raleigh. The real estate PIN numbers for the subject parcels are 0794.52.9317, 0794.52.9395, and 0794.62.0333. Based on existing zoning, up to 13,000 square feet of retail space and 26,000 square feet of office space on a total of three (3) floors would be permitted. The proposed build-out totals requested in the rezoning will allow up to 15,000 square feet of retail space and 60,000 square feet of office space on a total of five (5) floors. In order to assist the City in determining the effect of the increase in square footage on the trip generation potential of the subject property, Kimley-Horn has prepared the following trip generation comparison tables. Table 1 below summarizes the trip generation potential for the existing zoning. Table 2 below summarizes the trip generation potential for the development totals requested in the rezoning. The Institute of Transportation Engineers' publication *Trip Generation*, 8th Edition was utilized to obtain the trip generation rates and equations for the studied uses.

Land Use Code	Land Use	Daily			AM Peak Hour			PM Peak Hour		
		In	Out	Total	In	Out	Total	In	Out	Total
710	26,000 s.f. General Office	237	237	474	35	5	40	7	32	39
820	13,000 s.f. Retail (Shopping Center)	902	902	1,804	28	18	46	79	83	162
Existing Zoning Unadjusted Trips		1,139	1,139	2,278	63	23	86	86	115	201
Reduction for Office Internal Capture ⁽¹⁾		-27	-36	-63	0	0	0	-2	-2	-4
Reduction for Retail Internal Capture ⁽¹⁾		-36	-27	-63	0	0	0	-2	-2	-4
20% Retail Pass-by Reduction ⁽²⁾		0	0	0	0	0	0	-15	-16	-31
10% Reduction for Office Non-Auto Trips		-21	-20	-41	-4	-1	-5	-1	-3	-4
30% Reduction for Retail Non-Auto Trips		-260	-263	-523	-8	-5	-13	-19	-20	-39
Existing Zoning Total External Trips		795	793	1,588	51	17	68	47	72	119

Notes: (1) - ITE's publication *Trip Generation Handbook*, 2nd Edition does not contain guidance for internal capture during the AM Peak Hour, therefore internal capture for the AM Peak Hour was not calculated.
 (2) - ITE's publication *Trip Generation Handbook*, 2nd Edition contains an average pass-by capture rate of 34% for retail uses (LUC 820) in the P.M. Peak Hour, however due to unique conditions of the subject property a 20% pass-by capture rate was utilized.

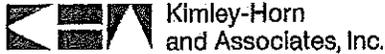


Table 2
ITE Trip Generation - Build-Out Totals after Rezoning
(Vehicles)

Land Use Code	Land Use	24 Hour			AM Peak Hour			PM Peak Hour		
		In	Out	Total	In	Out	Total	In	Out	Total
710	60,000s.f. General Office	450	450	900	82	11	93	15	74	89
820	15,000s.f. Retail	990	990	1,980	31	19	50	87	91	178
Build-Out Unadjusted Trips		1,440	1,440	2,880	113	30	143	102	165	267
Reduction for Office Internal Capture ⁽¹⁾		-30	-40	-70	0	0	0	-3	-2	-5
Reduction for Retail Internal Capture ⁽¹⁾		-40	-30	-70	0	0	0	-2	-3	-5
20% Retail Pass-by Reduction ⁽²⁾		0	0	0	0	0	0	-17	-18	-35
10% Reduction for Office Non-Auto Trips		-42	-41	-83	-8	-1	-9	-1	-7	-8
30% Reduction for Retail Non-Auto Trips		-285	-288	-573	-9	-6	-15	-20	-21	-41
Build-Out Total External Trips		1,043	1,041	2,084	96	23	119	59	114	173
Reduction for Existing Zoning Uses		-795	-793	-1,588	-51	-17	-68	-47	-72	-119
Build-Out Total New External Trips		248	248	496	45	6	51	12	42	54

Notes: (1) - ITE's publication *Trip Generation Handbook*, 2nd Edition does not contain guidance for internal capture during the AM Peak Hour, therefore internal capture for the AM Peak Hour was not calculated.
 (2) - ITE's publication *Trip Generation Handbook*, 2nd Edition contains an average pass-by capture rate of 34% for retail uses (LUC 820) in the P.M. Peak Hour, however due to unique conditions of the subject property a 20% pass-by capture rate was utilized.

As summarized in Table 1 above, the trip generation potential for the existing zoning is 1,588 daily trips, 68 AM Peak Hour trips, and 119 PM Peak Hour trips. As summarized in Table 2, the trip generation potential for the proposed uses after rezoning is 2,084 daily trips, 119 AM Peak Hour trips, and 173 PM Peak Hour trips. Therefore, as summarized in Table 2, the increase in trip generation potential related to the proposed rezoning is 496 daily trips, 51 AM Peak Hour trips, and 54 PM Peak Hour trips. It should be noted that the trip generation calculations for both scenarios were based on "External Trips" after reductions were taken for internal capture, pass-by, and non-auto trips (i.e. pedestrian, bicycle, public transportation, etc.)

If you have any questions concerning our analysis, please call me at 919-677-2062.

Sincerely,

R. Michael Horn, P.E.

Principal

KIMLEY-HORN AND ASSOCIATES

NC License # F-0102



See §10-2075 for other yard areas required by this Code, method of calculating, exceptions and reductions to yard areas, and illustrations.

Cross reference: Required width of pedestrian ways §10-2055(e)(5)

(3) Height.

Buildings and structures may be constructed to any height established in the Streetscape Plan or Streetscape and Parking Plan. If the height regulations of the underlying district conflict with the height regulations of the Streetscape Plan or Streetscape and Parking Plan, the Plan shall control. Whenever the Streetscape Plan or Streetscape and Parking Plan fails to adopt height limitations, those of the underlying zoning district shall be applied to the property.

See §10-2075 for method of height calculation, exceptions, and illustrations.

(Ord. No. 2000-740-TC-190, TC-1-99, §1, 2-18-00)

10-2055(d)(4)

(4) Required open space.

For the purposes of this subsection, and subsection 10-2051(d)(1)c.6., above, "open space" shall include greenways and any common outdoor landscaped and recreation spaces (excluding vehicular surface areas), outdoor decks, roof gardens and other similar outdoor community space accessible to and available for use by all residents, employees and/or visitors of the development.

The minimum "open space" provided on the site shall be five (5) per cent of the total land area of the development, excluding dedicated rights-of-way unless density transfer is allowed from the right-of-way.

The minimum required open space area shall be required to conform to the following standards:

a. Sidewalk widening.

Where the property lies adjacent to a public street right-of-way with an existing sidewalk width of eighteen (18) or less feet, sidewalk widening shall be required based on the following:

<u>Existing walkway condition</u>	<u>Construct to a minimum of</u>
0-14 feet	14 feet
>14-18 feet	18 feet
>18 feet	No sidewalk construction required

Additional right-of-way dedication shall not be required to accommodate the sidewalk

widening set forth herein. However, for any sidewalk widening provided to comply with these minimum requirements and located on private property, the property owner shall be required to grant to the City a public access easement. The newly constructed sidewalk shall be of compatible paving materials with the public sidewalk and shall conform to any applicable adopted streetscape plan. The sidewalk widening shall occur along the entirety of the public street frontage with no permanent obstructions, other than those that may be required by the City Code and structural columns supporting overhangs or upper-story structures creating an arcade or recessed covered area in which case the columns shall be spaced a minimum of five (5) feet from both the building facade and the individual columns; and

b. Courtyard, roof garden, dining, recreation space.

One-half (1/2) of the required open space shall be in one (1) continuous part with a minimum length and width dimension of twenty (20) feet.

Street level open spaces proposed to meet the requirements of subsection (ii) above located adjacent to proposed sidewalk widening may utilize the portion of the proposed sidewalk located on private property to meet the minimum twenty (20) foot dimension stated above. In the event that required sidewalk widening located on private property represents greater than two and one-half (2 1/2) percent of the total land area of the development, the minimum percentage requirement established by subsection (ii) shall be reduced accordingly such that no more than five (5) per cent of the total land area of the development shall be required to be devoted to open space required by this §10-2051(e).

No open space shall be required for any of the following:

- Rehabilitation of buildings or portions of buildings to sixteen (16) or fewer dwelling units or congregate care or congregate living units, per building.
- Single family detached dwellings or duplex dwellings on their own lot, where "open space" equivalent to the greater of twenty (20) per cent of the area of the lot or four

hundred thirty-five and six-tenths (435.6) square feet per *dwelling* or *rooming unit* is provided.

For rehabilitation of buildings or portions of buildings for all other uses, the designated approving authority as specified by §10-2132.2(c) *may* approve an alternate method of compliance for the required open space. The approved alternate method of compliance *may* be less than five (5) per cent of the total land area of the development. Alternate methods of compliance include, but are not limited to, private balconies and decks, indoor recreation areas, meeting rooms and community space accessible to and available for use by the residents, employees and/or visitors.

The minimum open space required by this Code for developments located in a Pedestrian Business Overlay District *may* be reduced as part of the subdivision or *site plan* approved by the Planning Commission or the *City Council* in accordance with §10-2132.2 after a finding that such reduction in open space is in accordance with the general plans for the physical development of the *City* as embodied in the Comprehensive Plan and after a finding that the *site plan* complies with the procedures and standards of §10-2132.2(c) and (d).

Editor's note: Prior to December 1, 2007, all high density residential projects approved in accordance with §10-2051(d)(1) *shall* be required to provide the following minimum "open space" requirement: The minimum "open space" provided on the site *shall* be fifteen (15) per cent of the total land area of the development, excluding dedicated rights-of-way unless density transfer is allowed from the right-of-way, but not to exceed four hundred thirty-five and six-tenths (435.6) square feet per unit or in the case of *congregate care* or *congregate living structures*, not to exceed two hundred eighteen (218) square feet per *dwelling* or *rooming unit*. In no case *shall* less than ten (10) per cent of the total land area of the development, excluding dedicated rights-of-way unless density transfer is allowed from that right-of-way, be devoted to common outdoor open space accessible to all residents.

Cross reference: Open space is required for any *cluster unit development*, *congregate care structure* or *congregate living structure*, *group housing development*, *life care community*, *manufactured home park*, *multi-family dwelling development*, *residential unit ownership (condominiums)* and *townhouse development*, Part 10, chapter 2, Article F. (Ord. No. 1992-88-TC-401, §24, TC-4-92, 11-4-92; Ord. No. 1997-137-TC-153, §36, TC-18-96, 6-17-97; Ord. No. 2008-450-TC-316, §4, TC-11-08, 9-2-08; Ord. No. 2010-706-TC-331, §§11, 12, TC-1-10, 2-16-10)

(e) Supplementary Regulations.

All uses and activities are also subject to Article H, overlay zoning districts, conditional use zoning districts, and supplementary regulations of Article E. Supplementary regulations include:

(1) Off-street parking.

The minimum number of off-street parking spaces required for commercial and recreational land uses *shall* be based upon the ratios and coordinating strategies recommended by the adopted Streetscape and Parking Plan for the subject area of the Overlay District subject to compliance with the construction improvements required by the Streetscape and Parking Plan. In no case *shall* a Streetscape and Parking Plan adopt parking strategies which are less restrictive than that specified below. Where a Streetscape Plan had previously been adopted, but no Streetscape and Parking Plan has been subsequently adopted, the minimum number of off-street parking spaces *shall* be the number of spaces required below subject to compliance with the construction improvements required by the Streetscape Plan.

Except for *site plans* approved pursuant to Section 10-2051(d)(1) or for projects in the Transit Orientated Development Overlay District, the minimum number of off-street parking spaces required for new structures, additions or expansions to existing structures or changes in use *shall* be one (1) space per four hundred (400) square feet of *building floor area* or the minimum number of parking spaces set forth in §10-2081(a), SCHEDULE OF OFF-STREET PARKING STANDARDS, whichever is less, with the exception of the following land uses:

- a. Projects with sixteen (16) or fewer *dwelling units* per *building* *shall* not be required to provide any off-street parking spaces for the *dwelling units*. Projects with seventeen (17) or more *dwelling units* per *building* *shall* not be required to provide off-street spaces for the first sixteen (16) *dwelling units*, but *shall* be required to provide at least one (1) off-street parking space per unit in excess of sixteen (16) units; with the exception that, units occupied by no more than two (2) residents not related by blood, marriage or adoption sixty-two (62) years and older *shall* provide a minimum of one-half (1/2) space per unit. For residential developments or the residential portion of a mixed-use development, no more than two (2) parking spaces per *dwelling unit* *shall* be located on the site. However, proposed expansions or modifications to existing developments with on-site parking *shall* be required to retain a minimum of one (1) on-site parking space devoted to persons with disabilities.

**Sec. 10-2143.
VARIANCE.**

(a) In accordance with §10-2141, the Board of Adjustment will hear and decide requests for variances from the requirements of Part 10 chapter 2. Before a variance request is granted the Board must find all of the following:

- (1) That practical difficulties or unnecessary hardship would result if the strict letter of the zoning law were followed.
- (2) That the variance is in accordance with the general purpose and intent of the ordinance.
- (3) That public safety and welfare have been secured and that substantial justice done.
- (4) No change in permitted uses *may* be authorized by variance.
- (5) Appropriate conditions, which must be reasonably related to the conditions or circumstances that give rise to the need for a variance, *may* be imposed on any approval issued by the board.

The Board *may* not grant a variance which is not in accordance with the statutory and decisional law of *this state*.

The Board *may* not, absent specific authority, grant a variance which would modify, alter, change, or suspend the requirements of §§10-2144 and 10-2145, and §10-2146.3, or would change the district boundary or zoning classification of the *property* in question.

In granting a variance, the Board of Adjustment is authorized to attach safeguards and conditions to the approval as is necessary and appropriate in order to protect established *property* values in the *affected area* or to promote the public safety and general welfare. Those conditions *may* include limitations listed in §10-2141(c).

Cross reference: Variances to preliminary *site plans* approved by the *City Council* in accordance with §10-2132.2(c) require the reapproval of the *City Council*, §10-2132.2(f)(3)p. (Ord. No. 194-TC-312, §4, TC-7-88, 6-26-88; Ord. No. 2005-939-TC-276, §2, 12-6-05)

**Sec. 10-2144.
SPECIAL USE PERMITS APPROVED BY THE
BOARD OF ADJUSTMENT.**

Special use permits - alphabetical listing:

- *Adult establishment.*

- *Airfield or landing strip.*
(Ord. No. 2008-405-TC-312, §10, TC-3-08, 6-3-08)
- *Bed and breakfast inn.*
- *Day care facility* (child or adult).
- *Garage for five (5) or more motorized vehicles accessory to a single-family detached or duplex dwelling.*
(Ord. No. 1997-137-TC-153, §100, TC-18-96, 6-17-97)
- *Ground signs for double frontage lots with parallel opposite one-way streets, or lots with frontage on two (2) or more median-divided thoroughfares.*
- *Guest house.*
- *Kennel and cattery.*
- *Limited home business.*
- *Manufacturing - specialized.*
- *Other professional or service offices, studios, or agencies not otherwise listed as permitted in the office and institution and Residential Business Districts.*
(Ord. No. 1997-137-TC-153, §2, TC-18-96, 6-17-97)
- *Outdoor storage of recyclable material.*
(Ord. No. 1997-137-TC-153, §101, TC-18-96, 6-17-97)
- *Outdoor storage yard for unlicensed, uninspected, wrecked, crushed, dismantled, or partially dismantled vehicles.*
(Ord. No. 1997-137-TC-153, §101, TC-18-96, 6-17-97)
- *Parking (off-street) reduction for conversions or alteration of a building.*
- *Plant nursery, and fruit and vegetable stand.*
- *Recreational outdoor use - commercial.*
(Ord. No. 1996-877-TC-130, §5, TC-2-96, 5-7-96)
- *Recreational use restricted to membership - not for profit.*
- *Retail sales* not otherwise listed as permitted in the Residential Business and Buffer Commercial Districts.
- *Riding stable.*
- *Rooming house, boarding house, lodging house, tourist home.*
- *School, church or government building adaptively reused as an office or studio, operating on a not for profit basis, for a professional, business, political, or labor association or agency.*
(Ord. No. 1997-137-TC-153, §2, TC-18-96, 6-17-97)
- *Schools - private/parochial.*
- *Special care facility.*
(Ord. No. 2004-647-TC-248, §11, TC-4-04, 6-1-04)
- *Specialty school as a limited home business.*
- *Veterinary hospital* in conjunction with a kennel/cattery.

- Yard encroachments.

- Yard reductions.

(Ord. No. 1993-134-TC-47, §4, TC-1-93, 2-2-93; Ord. No. 1993-247-TC-63, §10, TC-17-93, 8-3-93; Ord. No. 1993-248-TC-64, §6, TC-18-93, 8-3-93; Ord. No. 1994-365-TC-71, §19, TC-22-93, 4-5-94; Ord. No. 1994-408-TC-75, §7, TC-9-94, 6-7-94; Ord. No. 1996-855-TC-129, §5, TC-4-96, 4-2-96; Ord. No. 1999-616-TC-181, §81, TC-3-99, 8-3-99; Ord. No. 2003-373-TC-231, §11, TC-23-02, 2-4-03)

Editor's note: Ord. No. 1993-248-TC-64, §6, TC-18-93, adopted Aug. 8, 1993, repealed the special use permit alphabetical listing for "Dish antenna" and, in subsection 10-2144(b), repealed the *dish antenna* category, which had derived from Ord. No. 349-TC-217, §4, TC-264, 5-20-84. Additionally, Ord. No. 669-TC-142, TC-6-81, adopted May 19, 1981, permitted a group care facility, but this land use was removed by Ord. No. 1994-365-TC-71, §§19, 20, TC-22-93, adopted April 5, 1994. [Prior to its repeal, the category "group care facility" had been amended by Ord. No. 622-TC-245, §5, TC-16-85, adopted Aug. 6, 1985; Ord. No. 600-TC-242, §4, TC-13-85, adopted July 2, 1985; Ord. No. 220-TC-201, §1, TC-216, adopted Nov. 3, 1983; Ord. No. 438-TC-226, §7, TC-275, adopted Nov. 12, 1984; Ord. No. 810-TC-268, §17, TC-6-86, adopted June 22, 1986; Ord. No. 500-TC-350, §3, TC-1-90, adopted April 2, 1990; Ord. No. 1991-868-TC-378, §7, TC-9-91, adopted March 1, 1992; Ord. No. 1993-206-TC-58, §3, adopted June 1, 1993.] Ord. No. 1997-137-TC-153, §104, TC-18-96, adopted June 17, 1997, repealed the special use permit alphabetical listing for "trade show and temporary retail activity within a hotel or motel" and, in subsection 10-2144(b), repealed the "trade show..." category. Ord. No. 1999-616-TC-181, §81, TC-3-99, adopted Aug. 3, 1999, repealed the special use permit alphabetical listing for "Nonresidential related service (general)" and in subsection 10-2144(b) repealed the "Nonresidential..." category.

(a) Special Use Permits Approved.

In performing its functions and duties under this chapter, the Board of Adjustment *following* the submittal of a plan containing the information required in §10-2132.1(b) and after making the necessary findings is authorized to issue special use permits to allow the enumerated *buildings*, uses, and designs in the districts specified in subsection (b) below. The districts referred to herein apply to general use and conditional use districts unless the applicable conditional use district ordinance specifically states otherwise.

(Ord. No. 600-TC-242, §6, TC-13-85, 7-2-85; Ord. No. 029-TC-294, §2, TC-14-87, 12-1-87)

(b) Special Use Permits Enumerated.

Adult establishment.

To permit an *adult establishment* in industrial districts, Shopping Center, Neighborhood Business, Business Zone, and Thoroughfare Districts after the Board finds that the evidence presented at the hearing establishes each of the *following*:

(1) Off-street parking.

Each facility *shall* provide off-street parking in accordance with §10-2081.

(2) Advertisements.

Except for *on-premise* and *off-premise signs* permitted under this chapter, advertisements, displays or other promotional materials *shall* not be visible to the public from pedestrian sidewalks or walkways.

(3) Overconcentration.

No more than one (1) *adult establishment* is located in any two thousand (2,000) foot radius (determined by a straight line and not *street* distance). *Adult establishments* which, because of their very nature, are recognized as having serious objectionable operational characteristics upon adjacent neighborhoods, particularly when they are concentrated. Special regulation of these establishments is necessary to insure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. To prevent an overconcentration of *adult establishments* and the creation of a de facto downgrading or blighting of surrounding neighborhoods; this radius requirement is necessary, unless otherwise determined under subparagraph (5) below.

(4) Residential proximity.

No *adult establishment* is located within a two thousand (2,000) foot radius (determined by a straight line and not *street* distance) of any place of worship, school (public or private), *specialty school*, day-care facility, or any residential, O&I-1, O&I-2 and Buffer Commercial zoning districts. *Adult establishments*, because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when they are located near a *residential zoning district* or certain other districts which permit residential uses. Special regulation of these establishments is necessary to insure that these adverse effects will not contribute to a downgrading or blighting of surrounding *residential districts* or certain other districts which permit residential uses, unless otherwise, determined by subparagraph (5) below.

(5) Variances.

The Board of Adjustment *shall* vary the radius requirements in subparagraphs (3) and (4) above when it finds that:

- a. Practical difficulties or unnecessary hardships would result from the strict enforcement of the radius requirements.

- b. The proposed use will not be injurious to *property* or improvements in the *affected area*.
 - c. The proposed use will not enlarge or encourage the development of a "skid row" area.
 - d. The permitting of an *adult establishment* in the area will not be contrary to any governmental program of neighborhood conservation, rehabilitation, improvement, or revitalization.
 - e. All other applicable provisions of this chapter will be observed.
- (6) The proposed use will not adversely impact public services and facilities such as parking, traffic, police, etc., and that the secondary effects of such uses will not adversely impact on adjacent *properties*. The secondary effects would include but not be limited to noise, light, stormwater runoff, parking, pedestrian circulation and safety.

When determining preponderance of adult materials, only those objects which have equal access and visibility *shall* be considered.

Annotation: Adult establishment. When computing distances the term "*adult establishment*" includes the entire *property* such as parking area *used for* required off-street parking. A-73-82 Murray, Board of Adjustment (May 10, 1982). (Ord. No. 153-TC-190, §10, 7-29-83, TC-233; Ord. No. 647-TC-7, TC-104, 12-1-77; Ord. No. 1992-15-TC, §§1, 2, TC-393, 2-4-92; Ord. No. 1996-793-TC-125, §§3, 4, TC-28-95, 12-5-95)

Airfield or landing strip.

To permit a government or nongovernment air field or landing strip in all zoning districts other than Conservation Management, and except in a *primary reservoir watershed protection area*, after the Board finds that the evidence presented at the hearing establishes each of the *following*:

- (1) The use is not injurious to surrounding *properties*.
- (2) For airplane use:
 - a. Proof of air space clearance from F.A.A. is required.
 - b. The minimum landing strip length is one thousand eight hundred (1,800) feet. The length *shall* be increased twenty (20) per cent for each one (1) per cent gradient. The minimum width is one hundred fifty (150) feet.
 - c. The minimum runway length is one thousand six hundred (1,600) feet, and the minimum width is seventy-five (75) feet for sod, forty (40) feet for a paved surface.

- d. The maximum gradient for a runway is two (2) per cent.
- e. The approach slope *shall* begin at least two hundred (200) feet beyond end of runway, and be at least a 20:1 slope.
- f. The length of the clear zone to be controlled and maintained by the airfield developer (no *buildings* allowed) such that future construction is prohibited (*streets*, lakes, etc.), is one thousand (1,000) feet.
- g. There *shall* be a planted area at least twenty-five (25) feet wide on both sides of the landing strip, provided and maintained by the airfield *owner(s)* in such a manner as to minimize noise, dust and hazard from the field, in areas where in the opinion of the Board such protection is found to be desirable.
- h. Except in areas properly zoned for such uses there *shall* be no *prima facie* business, repair, or advertisement, except for the sale of gasoline to the planes based at the field.
- i. Any structures must be so designed and placed that they will not be detrimental to adjoining *properties*.
- j. The area *shall* be so fenced as to prevent trespassing by animals or unauthorized *persons*.

Cross reference: Helicopter operations inside the *City*, §13-2005. (Ord. No. 105-TC-304, §10, TC-24-87, 1-10-88; Ord. No. 1996-851-TC-128, §3, TC-23-95, 4-2-96; Ord. No. 2008-405-TC-312, §11, TC-3-08, 6-3-08)

Bed and breakfast inn.

To permit a *bed and breakfast inn* in Residential-10, Residential-15, Residential-20, Special Residential-30, Residential-30, Residential Business, Office and Institution-1 Districts, and the Planned Development Conditional Use Overlay District, after the Board finds that the evidence presented at the hearing establishes each of the *following*:

- (1) The inn is located within one (1) or more of the *following*:
 - a. An Historic Overlay District.
 - b. A *property* designated in accordance with §10-1053 as a *historic landmark*.

- c. A *property* listed on the National Register of Historic Places.
 - d. A *property* identified as a contributing structure within a National Register Historic District, as defined in the Code of Federal Regulations, as amended.
- (2) The inn is located in a structure which was originally constructed as a *single-family dwelling* or otherwise lawfully constructed for a use permitted within the zoning district.
 - (3) The total number of *persons* occupying the inn does not exceed the maximum residential density permitted in the district.
 - (4) There is no exterior advertising in a *residential districts* except a small unlighted announcement sign not to exceed two (2) square feet in area and three and one-half (3½) feet in height. In the Residential Business and Office and Institution-1 District, the inn is permitted all signage allowed other uses in the District, consistent with any limitations imposed by this special use permit or any other permit issued by the *City*.
 - (5) There is no *rooming house, boarding house, tourist home, or bed and breakfast inn* located within four hundred (400) feet (determined by a straight line and not *street* distance) of the facility.
 - (6) The *owner* of the inn or a resident manager is domiciled on the *premise*.
 - (7) Breakfasts served on the *premise* are only for guests of the inn, and no other meals are provided on the *premise*.
 - (8) Off-street parking for the use will be provided in accordance with §10-2081.
 - (9) Any prohibited exterior element as provided by §10-2052(e)(4) shall be removed from the structure prior to its use as a *bed and breakfast inn*.
 - (10) Any interior modification shall be described in the application and shall not be injurious to the historic character of the structure, woodwork, stairways, fireplaces, windows and doors, cornices, festoons, moldings, chairrails, or light fixtures.

Cross references: *Equivalent dwelling units*, §10-2073. Special use permit issued by the *City Council* in accordance with §10-2145(b) is required when a given number/density of *equivalent dwelling units* is exceeded in Special Residential-30 District, §10-2024 and Office and Institution-1 District, §10-2035. Minimum housing standards, §10-6123(b).

(Ord. No. 320-TC-213, TC-262, 4-3-84; Ord. No. 438-TC-226, §7, TC-275, 11-12-84; Ord. No. 600-TC-242, §4, TC-13-85, 7-2-85; Ord. No. 1991-868-TC-378, §7, TC-9-91, 3-1-92; Ord. No. 1992-29-TC-395, §5, TC-

12-92, 8-4-92; Ord. No. 1992-30-TC-396, §3, TC-13-92, 8-4-92; Ord. No. 1995-760-TC-122, §44, TC-20B-95, 11-21-95; Ord. No. 2001-26-TC-208, §10, TC-5-01, 6-19-01)

Day care facility (child or adult).

To permit a *day care facility* in any *residential district* except in an Airport Overlay District or *primary reservoir watershed protection area* after the Board finds that the evidence presented at the hearing establishes each of the following:

- (1) The use will not be injurious to *property* or improvements in the *affected area*.
- (2) The following minimum land areas per enrollee shall apply:
 - a. Rural Residential, Residential-2, and Residential-4 Districts - one thousand three hundred (1,300) square feet.
 - b. Residential-6, Manufactured Home, Special Residential-6 Districts - eight hundred (800) square feet.
 - c. Residential-10 and districts of lower residential classification - three hundred (300) square feet.

Notwithstanding the requirements in the *preceding* sentences, each facility may increase enrollment twenty (20) per cent to provide for absenteeism of enrollees of a *day care facility*.

- (3) In the case of a *day care facility* for children, there shall be a minimum of seventy-five (75) square feet of fenced outdoor play area per child older than eighteen (18) months of age. When a *day care facility* is approved for thirty (30) or more children, there shall be provided seventy-five (75) square feet per child of fenced outdoor play area for at least one-half (½) of the total number children for which the facility is approved; provided that, the minimum amount of space on the outdoor play area must be enough to accommodate at least thirty (30) children, and the total number of children using the area at any one (1) time does not exceed the number the outdoor space will accommodate at seventy-five (75) square feet per child.
- (4) The structure housing the secular facility is similar in appearance to the area.
- (5) Off-street parking shall be provided in accordance with §10-2081.

- (6) Access to the facility from nearby *streets* will be adequate based upon the projected number of participants to attend the facility.

Cross reference: Residential *street* and *collector streets*, Street, Sidewalk and Driveway Access Handbook, on file with the City Clerk.

- (7) The landscaping of the facility will adequately blend it into the area, screen its purely functional aspects from the *street* and absorb and deflect any excessive noise.
- (8) No excessive light will be generated at the facility in any manner which will annoy residents of the surrounding structures.
- (9) The Board of Adjustment *may* allow in any residential district one (1) unlighted announcement sign not to exceed two (2) square feet in area and three and one-half (3½) feet in height and an equivalent-sized permanent vehicular sign.
- (10) Only one (1) vehicle used in connection with the day care facility in residential zoning districts will be parked or stored on the premises, or residential street.

This special use permit shall not be required for the day care facility in a residential zoning district if the facility is approved by the Planning Commission or City Council in accordance with all the provisions of §10-2072, Residential Institution in a residential zoning district, and the Planning Commission or City Council find that standards (2) through (10) above are met.

Cross reference: Site plan requirements for residential institutions, §10-2132.2(b)(5).
 (Ord. No. 671-TC-359, TC-9-90, 11-11-90; Ord. No. 230-TC-202, TC-247B, 11-15-83; Ord. No. 230-TC-202, TC-247A, 11-15-83; Ord. No. 622-TC-245, §4, TC-16-85, 8-6-85; Ord. No. 946-TC-86, §47, TC-29-86, 7-1-87; Ord. No. 105-TC-304, §9, TC-24-87, 1-10-88; Ord. No. 870-TC-86, TC-121, 9-12-78; Ord. No. 279-TC-113, TC-149, 12-18-79; Ord. No. 1992-43-TC-397, §60, TC-10-92, 9-1-92; Ord. No. 1995-760-TC-122, §45, TC-20B-95, 11-21-95; Ord. No. 1999-570-TC-178, § 1, TC-5-99, 6-1-99; Ord. No. 1999-616-TC-181, §80, TC-3-99, 8-3-99; Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00; Ord. No. 2004-647-TC-248, §12, TC-4-04, 6-1-04)

Garage for five (5) or more motorized vehicles accessory to a single-family detached or duplex dwelling.

To permit a garage for five (5) or more motorized vehicles in residential zoning districts, if the Board finds that the evidence presented at the hearing establishes that such a facility will not be injurious to property or improvements in the affected area and street traffic.

(Ord. No. 1994-408-TC-75, §7, TC-9-94, 6-7-94; Ord. No. 1997-137-TC-153, §100, TC-18-96, 6-17-97)

Ground signs for double frontage lots with parallel opposite one-way streets, or lots with frontage on two (2) or more median-divided thoroughfares.

To permit a premise to contain one (1) additional ground sign, after the Board finds that the evidence presented at the hearing establishes each of the following:

- (1) The premise fronts on parallel streets which are one-way in opposite directions, or the premise fronts on two (2) or more median-divided thoroughfares.
- (2) The premise does not have and will not have any tract identification signs.
- (3) The sum of the area of both ground signs does not exceed one hundred (100) square feet.
- (4) The combined height of both ground signs does not exceed either fifteen (15) feet if the premise has a total street frontage from all streets of one hundred (100) or more feet, or seven (7) feet if the premise has a total street frontage from all streets of less than one hundred (100) feet.
- (5) If it is zoned an office and institution zoning district, the total height of each ground sign does not exceed three and one-half (3½) feet.
- (6) In the case of parallel one-way streets, each ground sign must generally face one (1) of the streets such that both signs are generally not simultaneously visible to motorists. In the case of two (2) or more intersecting median-divided thoroughfares, each ground sign must generally face one (1) of the thoroughfares and be spaced as far apart on the premise as possible to reduce the possibility of both signs being seen simultaneously.
- (7) Each ground sign conforms with all provisions of this Code.
- (8) In the case of median-divided thoroughfares, an additional ground sign is warranted due to the difficulty of seeing the premise caused by the thoroughfare width and speeds permitted.

Cross reference: Signs to comply with sight triangles, §10-2086.

(Ord. No. 152-TC-189, §3, TC-238, 7-19-83; Ord. No. 217-TC-200, TC-252, 11-3-83; Ord. No. 946-TC-286, §48, TC-29-85, 4-7-87; Ord. No. 1993-247-TC-63, §§ 10, 11, TC-17-93, 8-3-93; Ord. No. 1995-760-TC-122, §46, TC-20B-95, 11-21-95)

Guest house.

To permit a guest house in Residential-10, Residential-15, Residential-20, Special Residential-30, and Residential-30, and Office and Institution-1 District, and Planned Develop-

ment Conditional Use Overlay District, except in any Airport Overlay District, after the Board finds that the evidence presented at the hearing establishes each of the following:

- (1) All portions of *buildings* housing a *dwelling unit* shall be located within two hundred (200) feet from the closest *vehicular surface area* which is accessible by fire truck, as measured around both sides of the *building* and not through the *building*; or, that an alternate plan for fire truck access, or *building* construction methods for fire control, or any combination thereof shall be approved by the City's Fire Chief and Transportation Director.
- (2) The number of *dwelling units* in the *guest house* conforms to the density requirements permitted by the zoning district.
- (3) Off-street parking is provided in accordance with §10-2081.
- (4) Any *apartment house* complex containing two (2) or more *guest homes* in two (2) separate *dwelling* structures on a single *property* conforms to the requirements of §10-2103.
- (5) No more than the lesser of sixty (60) units or twenty-five (25) per cent of the total number of units contained in the apartment complex may be devoted to *guest house* apartments.
- (6) There will be no external advertising or identification of the *guest house* in a *residential zoning district* visible from the right-of-way except for a tract identification *sign* which is a portion of the tract identification signage for the apartment com-

plex allowed in §10-2083.2. In the Office and Institution-1 District, the *guest house* is permitted signage that is allowed for other uses in that zone.

Cross reference: Special use permit issued by the *City Council* in accordance with §10-2145(b) is required when a given number/density of *dwelling units* is exceeded in Special Residential-30, §10-2024 and Office and Institution-1 District, §10-2035.

(Ord. No. 913-TC-163, §2, TC-210, 6-1-82; Ord. No. 622-TC-245, §5, TC-16-85, 8-6-85; Ord. No. 600-TC-242, §4, TC-13-85, 7-2-85; Ord. No. 438-TC-226, §7, TC-275, 11-12-84; Ord. No. 1991-868-TC-478, §7, TC-9-91, 3-1-92; Ord. No. 1995-673-TC-111, §3, TC-12-95, 7-5-95; Ord. No. 1998-370-TC-167, §30, TC-3-98, 7-7-98)

Kennel and cattery.

To permit a cattery or kennel, as those terms are defined in §12-3004, in Agricultural Productive, Rural Residential, Shopping Center, Neighborhood Business, Business Zone, and Thoroughfare Districts, after the Board finds that the evidence presented at the hearing establishes each of the following:

- (1) The use will not be detrimental or injurious to *property* or improvements in the *affected area*.
- (2) No part of any *building*, structure or run in which animals are housed *shall* be closer than one hundred fifty (150) feet from any *property* line, except *property* owned or *occupied* by an *owner* or operator of the kennel or cattery; provided, that the minimum distance referred to above *shall* not apply if all portions of the facility in which animals are enclosed is located wholly within a *building*.
- (3) Any kennel or cattery which is not wholly enclosed within a *building shall* be enclosed by a security fence at least six (6) feet in height, which *shall* be in addition to the primary enclosures or runs.

Cross reference: Fences and walls, §10-2085. Sight triangles for fences, §10-2086.

- (4) Off-street parking *shall* be provided in accordance with §10-2081.
- (5) The principal function of the operation is to board animals and not to provide services such as grooming or the sale of merchandise.
- (6) There *shall* be no on-premise external advertising or identification in any manner in a Rural Residential and Agricultural Productive Districts, except for one (1) unlighted announcement *sign* not exceeding nine (9) square feet in area and three and one-half (3½) feet in height or in lieu thereof an equivalent-sized permanent vehicular *sign*.

Cross reference: Kennels and catteries inside the *City*, Part 12, chapter 3, Article D.

(Ord. No. 946-TC-286, §22, TC-29-85, 4-7-87; Ord. No. 153-TC-190, §11, TC-233, 7-29-83; Ord. No. 647-TC-70, TC-103, 12-1-77)

Limited home business.

To permit, except in Conservation Management Districts, a *limited home business* carried on by a *resident* in his *dwelling* after the Board finds that the evidence presented at the hearing establishes each of the following:

- (1) It will not be injurious to *property* or improvements in the *affected area*.
- (2) No display of goods, products or services will be visible from outside of the *dwelling*.
- (3) There will be no external advertising or identification of the occupation displayed in any manner on the *premises* except for one (1) unlighted announcement *sign* not to exceed two (2) square feet in area and three and one-half (3½) feet in height or in lieu thereof an equivalent sized permanent vehicular *sign*.
- (4) Such use will not exceed twenty-five (25) per cent of the livable portion of the *dwelling* or five hundred (500) square feet, whichever is less.
- (5) Internal or external alterations will not substantially deviate from construction features customarily found in *dwelling*s.
- (6) Resale of items, such as, but not limited to, antiques, jewelry and clothing *may* be permitted in addition to handmade items produced in the home.
- (7) No equipment or process will be used in connection with the *limited home business* which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the *premises*. In the case of electrical interference, no equipment or process *shall* be used which creates visual or audible interference in any radio, *dish antenna*, computer, or television receivers off the *premises*.
- (8) Automobile parking *shall* be provided in accordance with the **Schedule of Off-street Parking Standards**, §10-2081 for the type of *limited home business* maintained; provided however, no parking areas other than driveways *may* be located in the required *front yard* setback, and the off-street spaces required for the *limited home business shall* be maintained in addition to the space or spaces required for the *residence* itself.
- (9) Only one (1) vehicle used in connection with the *limited home business* will be parked or stored on

the premises; provided however, the vehicle will not be a truck, such as, but not limited to, a dump truck, a fuel oil delivery truck or a wrecker.

- (10) A maximum of two (2) outside employees will be employed.
- (11) Except within the primary reservoir watershed protection area, specialty school services, such as, but not limited to, dance instructions, crafts or music lessons may be provided for a group no larger than twenty-five (25) persons.
- (12) If within an industrial district, Office and Institution-3 District, and Airport Overlay District, the business is located in an existing dwelling.
- (13) The requirements for shipping and receiving of materials in connection with the business does not create excessive noise or adversely affect residential traffic, especially with regard to the size of commercial vehicles involved and frequency of deliveries.
- (14) No person shall be allowed to operate a limited home business for the purpose of conducting a business as a gun or firearms dealer. Any limited home business permitted by the Raleigh Board of Adjustment for the purpose of conducting a business as a gun or firearms dealer which have been made a nonconforming use by this section shall be discontinued no later than May 1, 1999.

Annotation: Employees. In approving a limited home business, any partner is an outside employee. A-131-81 Keane, Board of Adjustment (Aug. 10, 1981). (Ord. No. 528-TC-353, §4, TC-3-90, 4-22-90; Ord. No. 230-TC-202, §1, TC-247A, 11-15-83; Ord. No. 1994-484-TC-91, §1, TC-23-94, 9-20-94)

Manufacturing - specialized.

To permit facilities for the design, assembly, testing, or repair of: scientific measuring or analyzing instruments; semiconductor and related solid state devices including but not limited to integrated microcircuits; jewelry, medical, musical instruments, photographic or optical instruments; and timing instruments, watches, in office and institution districts and the Buffer Commercial District after the Board finds that the evidence presented at the hearing establishes each of the following:

- (1) The facility (including storage of materials, components, or products) occupies no more than ten (10) per cent of the floor area gross in the building in which it is located, or fifteen hundred (1,500) square feet, whichever is greater. Storage

of materials, components, or products shall not exceed ten (10) per cent of the floor area gross allowed above.

- (2) In office and institution districts, shipping and receiving demands and space requirements do not exceed those normally found in office uses and are not detrimental to surrounding uses.
- (3) No machines are used which may create noises, odors or noxious fumes or vapors or in any other way be detrimental to surrounding office and institution operations.
- (4) In office and institution districts, no retail sales take place on the premises and no retail or other showroom display areas or displays exist.
- (5) No manufacturing is performed other than assemblage of components, repair work, and testing.
- (6) No undue impact to adjoining uses is caused by noise, dirt, dust, vibration, heat, fumes, or odors.
- (7) Off-street parking shall be provided in accordance with §10-2081.

(Ord. No. 884-TC-278, §§3, 4, TC-17-86, 11-4-86; Ord. No. 847-TC-155, §1, TC-204, 2-16-82; Ord. No. 2002-265-TC-224, §1, TC-13-02, 8-6-02)

Other professional or service offices, studios, or agencies not otherwise permitted in the office and institution and Residential Business Districts.

To permit professional or service offices, studios, or agencies in any Residential Business and office and institution zoning districts, not otherwise listed as allowable as a general or conditional use, after the Board finds that the evidence presented at the hearing establishes each of the following:

- (1) No sales floor spaces, show-rooms, or display windows are open for or visible from the street.
- (2) No such use shall be permitted in an office and institution district if prohibited in that office district listing in Article C, nor shall such use be permitted in any Residential Business District if prohibited in the Residential Business District listing in Article C.
- (3) In the Residential Business District, the services are destined for consumption by pedestrian trade existing in the area, and the operation is not injurious to affected residences because of noise, traffic, or other conditions.
- (4) In the Residential Business District the maximum floor area gross requirement is met.

- (5) In the *office and institutional districts*, the *floor area ratio* and *building lot coverage* requirements are met; see: office, agency or studio of a professional or business agent, or political, labor or service association, §10-2072.
 - (6) In the *office and institution zones*, the operation is not injurious to *properties* in the *affected area* because of noise, traffic and other conditions, such as *floor area ratio*.
- (Ord. No. 1997-137-TC-153, §2, TC-18-96, 6-17-97)

Outdoor storage of *recyclable material*.

To permit in the Industrial-1 and Industrial-2 Districts, except in any Airport Overlay District, an outdoor storage yard for *recyclable materials* which are to be reprocessed on-site or transported to other locations for recycling and reclamation, after the Board of Adjustment finds that the evidence presented at the hearing establishes each of the following:

- (1) There is a plan for shipping or reprocessing each class of *recyclable material* regularly, such that the size of the storage yard is minimized in relationship to the amount of *recyclable material* estimated to be received. In no event *shall* any *recyclable material* remain on-site for a period exceeding one (1) year.
- (2) No pile of stored material *shall* exceed twelve (12) feet in height. Height is to be calculated in the same manner as §10-2076(b).
- (3) The storage area is enclosed by a twelve-foot high *closed fence* or solid wall except along that portion of a *lot* boundary adjacent to railway tracks where a *loading area* exists. A *closed fence* or solid wall less than twelve (12) feet high *shall* be permitted if the Board of Adjustment determines that a lesser height will not have an adverse effect in the *affected area*. The *closed fence* or solid wall *shall* comply with the requirements of §10-2082.3(f).
Cross references: Fences and walls, §10-2085; sight triangles for fences, §10-2086.
- (4) The facility contains adequate measures to control windblown stored material.
- (5) No part of the storage yard is located within four hundred (400) feet of a *residential zoning district*, or the *lot* line of any *lot* containing any *dwelling*, *congregate care* or *congregate living structure*, or the right-of-way line of an existing or proposed *thoroughfare* or *major access corridor*.

- (6) A plan is approved by the *City* for permanent soil erosion control devices.
- (7) Off-street parking *shall* be provided in accordance with §10-2081.
- (8) The outdoor storage yard *shall* comply with all applicable State and Federal regulations.
- (9) The impact of the storage yard, including its size, equipment and machinery used, hours of operation, and appearance, will not be injurious to *property* or improvements in the *affected area*.

Cross reference: Reapproval for changes to a special use permit, §10-2144(c)(2). (Ord. No. 1992-87-TC-400, §7, TC-6-92, 11-4-92)
(Ord. No. 1997-137-TC-153, §101, TC-18-96, 6-17-97)

Outdoor storage yard for unlicensed, uninspected, wrecked, crushed, dismantled, or partially dismantled vehicles.

To permit in Industrial-1 and Industrial-2 Districts a storage yard for unlicensed, uninspected, wrecked, crushed, dismantled or partially dismantled vehicles after the Board of Adjustment finds that the evidence presented at the hearing establishes each of the following:

- (1) The maximum storage pile height *shall* not exceed twelve (12) feet. Height *shall* be calculated in the same manner as set forth in §10-2076(b).
- (2) The yard is operated by someone engaged in the wrecker or towing business.
- (3) The storage area, except along that portion of a *lot* boundary adjacent to railway tracks where a *loading area* exists, is enclosed by a *closed fence* or solid wall which *shall* be at least twelve (12) feet tall, unless the Board of Adjustment determines that a lesser height will not be adverse to *property* or improvements in the *affected area*.
Cross reference: Fences and walls, §10-2085. Sight triangles for fences, §10-2086.
- (4) Off-street parking *shall* be provided in accordance with §10-2081.
- (5) The storage yard is *used* exclusively for vehicle storage and that no parts from stored vehicles are sold at wholesale or retail on that site.
- (6) The proposed storage yard is not closer than one (1) mile (determined by straight line and not *street* distances) from another storage yard.

- (7) The impact of the storage yard, including its size, equipment and machinery used, hours of operation, and appearance will not be injurious to *property* or improvements in the *affected area*.

Cross reference: Reapproval for changes to a special use permit, §10-2144(c)(2). (Ord. No. 1986 837-TC-271, §§ 1, 2, TC-5-86, 9-5-96; Ord. No. 1986 799-TC-267, §§28, 29, TC-21-85, 1-1-87; Ord. No.1993-134-TC-47, §§5—7 TC-1-93, 2-2-93) (Ord. No. 1997-137-TC-153, §102, TC-18-96, 6-17-97)

Parking (off-street) reduction for conversion or alteration of a *building*.

To permit reduction in the number of required off-street parking spaces for the alteration or conversion of an existing *building* after the Board finds that the evidence presented at the hearing establishes each of the *following*:

- (1) The proposed use is directed primarily toward pedestrian trade existing in the area.
- (2) The character of existing development of *properties* within four hundred (400) feet prohibit the acquisition of land for parking.

(Ord. No. 1992-43-TC-397, §59, TC-10-92, 9-1-92)

Plant nursery, and fruit and vegetable stand.

To permit in the Rural Residential District, except in *primary reservoir watershed protection areas*, plant nurseries, fruit and vegetable stands, and related sales offices (wholesale or retail), after the Board finds that the evidence presented at the hearing establishes each of the *following*:

- (1) Sales offices *shall* be limited to one hundred (100) square feet of floor area per acre of land area, not to exceed one thousand (1,000) square feet of floor area.
- (2) Sales *shall* be limited to:
 - a. Plants produced or nurtured on the *premises*;
 - b. Hand-held nonmotorized garden tools;
 - c. Fertilizer, mulch, and similar items normally associated with nursery or gardening operations.
- (3) Signing *shall* be limited to one (1) unlighted announcement *sign* not to exceed twelve (12) square feet in area, or be higher than three and one-half (3½) feet above the ground elevation or in lieu thereof an equivalent-sized permanent vehicular *sign*.
- (4) No *building shall* be located nearer than fifty (50) feet from any *property* line.

- (5) Off-street parking *shall* be provided in accordance with §10-2081; provided that, a minimum of five (5) off-street parking places *shall* be provided.

- (6) No illumination when measured off the site, *shall* exceed four-tenths (0.4) maintained footcandle of lighting.

- (7) The use will not be injurious to *property* or improvements in the *affected area*.

(Ord. No. 105-TC-304, §10, TC-24-87, 1-10-88; Ord. No. 230-TC-202, §1, TC-247A, 11-15-83; Ord. No. 820-TC-84, TC-117, 7-20-78; Ord. No. 1997-137-TC-153, §103, TC-18-96, 6-17-97)

Recreational outdoor use - commercial.

To permit in *residential districts*, except in the *primary reservoir watershed protection area*, *recreational outdoor use - commercial* after the board finds that the evidence presented at the hearing establishes each of the *following*:

- (1) Recreation is limited to the *following* uses: driving ranges and golf courses; and *accessory uses* of miniature golf, putt-courses, swimming pools, tennis courts and associated buildings.
- (2) The use will not be injurious to *property* or improvements in the *affected area*.
- (3) The use is not noxious or offensive by reason of emission of odors, gas, fumes, vibration or noise.
- (4) The street capacity adjacent to the property to be so used is sufficient to safeguard the public health, comfort and convenience as may be required for the preservation of the general character of the neighborhood in which such use is to be conducted.
- (5) Off-street parking *shall* be provided in accordance with §10-2081.
- (6) No illumination, when measured off the recreation site, *shall* exceed four-tenths (0.4) maintained footcandle of lighting. All lighting *shall* be shielded from direct exposure to adjoining residential zones.
- (7) Only the sale of merchandise associated with the recreational use is permitted. No merchandise or advertisement thereof will be visible from the public right-of-way.
- (8) There *shall* be no *on-premise* external advertising or identification in any manner in a *residential district*, except for tract identification *sign(s)* approved by the Board of Adjustment that do(es) not exceed the standards of §10-2083.2, Tract Identification *Signs*.

(9) The board *shall* set the time of operation.
(Ord. No. 1996-877-TC-130, §6, TC-2-96, 5-7-96; Ord. No. 2005-869-TC-268, §2, TC-11-05, 7-5-05)

Recreational use restricted to membership - not for profit.

To permit in Agricultural Productive, Residential Business, and *residential districts*, except in the *primary reservoir watershed protection area*, *recreation uses restricted to membership* after the Board finds that the evidence presented at the hearing establishes each of the *following*:

- (1) Recreation is limited to the *following* uses: athletic league fields, campgrounds, country clubs, docks, gymnasiums, health clubs and health spas, including clubhouse facilities, pedestrian and equestrian trails, *play courts* such as basketball, racquetball, and tennis courts, golf courses, driving ranges, *play fields*, playgrounds, swimming pools, tanning facilities, weight and exercise rooms.
- (2) The use will not be injurious to *property* or improvements in the *affected area*.
- (3) The use is not noxious or offensive by reason of emission of odors, gas, fumes, vibration or noise.

- (4) The *street* capacity adjacent to the *property* to be so used is sufficient to safeguard the public health, comfort, convenience as *may* be required for the preservation of the general character of the neighborhood in which such *building* is to be placed or such use is to be conducted.
- (5) No swimming pool or wading pool, diving area, outdoor *play court* such as a tennis or basketball court, *play field*, play or equipment area, or other active recreational use nor any driveway or parking area for such facilities *shall* be established without first providing *transitional protective yards* which conform to §10-2082.9 for medium impact uses.
Cross reference: Fencing of outdoor swimming pools inside the *City* limits. §13-2028.
- (6) Off-street parking *shall* be provided in accordance with §10-2081.
- (7) No illumination, when measured off the recreation site, *shall* exceed four-tenths (0.4) maintained footcandle of lighting.
- (8) The land area of the use is not needed to satisfy the minimum site size of a development according to §10-2073.
- (9) Payments, if any, for the use of recreational facilities are made on an installment basis of not less than monthly, rather than on any pay for use, hourly, daily, or weekly basis.
- (10) The sale of merchandise is allowed as a *residential related service* restricted to members.

Recreational use restricted to membership - not for profit, is permitted in a *primary reservoir watershed protection area* in accordance with a special use permitted issued by the *City Council*, §10-2145.

Cross reference: Tract identification *signs* permitted, §10-2083.2. Recreational uses of the *City* of Raleigh in a *primary reservoir watershed protection area* are required to obtain a special use permit from the Board of Adjustment in accordance with §10-2145, standards for recreational use of a governmental entity in a *primary reservoir watershed protection area*. (Ord. No. 779-TC-83, TC-118, 6-2-78; Ord. No. 272-TC-111, TC-146, 12-4-79; Ord. No. 799-TC-267, §38, TC-21-85, 1-1-87; Ord. No. 415-TC-343, TC-1-89, §7, 8-1-89; Ord. No. 105-TC-304, §12, TC-24-87, 1-10-88; Ord. No. 1993-207-TC-59, §18, TC-12-93, 6-1-93; Ord. No. 1996-877-TC-130, §7, TC-2-96, 5-7-96; Ord. No. 1996-901-TC-131, §17, TC-3-96, 5-21-96)

Retail sales not otherwise listed as permitted in the Residential Business and Buffer Commercial Districts.

To permit *retail sales* not otherwise allowed as a general or conditional use in the Residential Business and Buffer Commercial Districts, after the Board finds that evidence presented at the hearing establishes each of the *following*:

- (1) The business is retail.
- (2) In the Residential Business District, the business handles sales of goods or services customarily destined for consumption by pedestrian trade existing in the area.
- (3) In the Buffer Commercial District, the business handles sales of goods customarily destined for family consumption.
- (4) The use will not be injurious to *property* or improvements in the *affected area*.

Riding stable.

To permit a horse riding stable including the boarding of horses in Rural Residential, Agricultural Productive, Shopping Center, Neighborhood Business, and Business Zone Districts, except in Primary Reservoir Watershed Protection Overlay Districts, after the Board finds that the evidence presented at the hearing establishes each of the *following*:

- (1) The use will not be injurious or *unhealthy* to *property* or improvements in the *affected area*.
- (2) No part of any *building* or structure in which animals are housed *shall* be closer than two hundred (200) feet from any existing *residence*, except for *property* owned or *occupied* by an *owner* or operator of the riding stable.
- (3) All horses connected with the riding stable *shall* be enclosed by appropriate fencing so that horses *shall* not be permitted to run at large.
- (4) Off-street parking *shall* be provided in accordance with §10-2081.
- (5) Only one (1) mature horse *may* be kept on a lot less than one (1) acre. For lots from one (1) to five (5) acres in size, a maximum of three (3) mature horses per acre *may* be kept. For lots greater than five (5) acres, up to ten (10) horses per acre *may* be boarded if the setbacks as listed in subparagraph (6) below are increased to two hundred (200) feet from the *property* line.
- (6) *Buildings*, stables and riding rings *may* not be placed closer than fifty (50) feet to any *property* line. However, the main manure storage area *shall* be no closer than one hundred fifty (150) feet to any *property* line.

- (7) Lighting shall be shaded or directed so that light intensity will not disturb surrounding dwelling or congregate living or congregate care structures.
- (8) There shall be no on-premise external advertising or identification in any manner in a Rural Residential and Agricultural Productive District, except for one (1) unlighted announcement sign not exceeding nine (9) square feet in area and three and one-half (3½) feet in height or in lieu thereof an equivalent-sized permanent vehicular sign.
- (9) The board may require a setback for the grazing area from the property line to assure that such areas do not pose a nuisance or give rise to unsanitary or unsafe conditions with regard to adjacent properties.

Cross reference: Stables and holding facilities inside the City, §12-3031 et seq. Horse stables as an accessory to a dwelling(s), §10-2071, Schedule of Permitted Land Uses in Zoning Districts. (Ord. No. 46-TC-172, §2, TC-220, 12-21-82; Ord. No. 781-TC-151, §4, TC-198, 11-3-81; Ord. No. 230-TC-202, §1, TC-247A, 11-15-83; Ord. No. 153-TC-190, §9, TC-233, 7-29-83; Ord. No. 105-TC-304, §10, TC-24-87, 1-10-88)

Rooming house, boardinghouse, lodging house, tourist home.

To permit a rooming house, boardinghouse, lodging house or tourist home in Residential-10, Residential-15, Residential-20, Special Residential-30, Residential-30, Residential Business, and Office and Institution-1 Districts after the Board finds that the evidence presented at the hearing establishes each of the following:

- (1) The dwelling unit was constructed originally as a single-family dwelling.
- (2) The total number of persons occupying the dwelling does not exceed the residential density permitted by this Code, §10-2073.
- (3) There is no exterior advertising except one (1) unlighted announcement sign not to exceed two (2) square feet in area.
- (4) No more than one (1) rooming house, boardinghouse, lodging house or tourist home in any one thousand two hundred (1,200) foot radius (determined by a straight line and not street distance) shall be permitted.
- (5) Off-street parking shall be provided in accordance with §10-2081.
- (6) The rooming house, boarding house, lodging house, or tourist home will not or is not injurious to property or improvements in the affected area.

- (7) That rooming houses, boarding houses, lodging houses or tourist homes approved after December 1, 1991, are required to apply for renewal of the special use permit by the Board of Adjustment within twelve (12) months following the date of approval. Failure to apply within the specified time period shall render the special use permit null and void.

Cross references: Special use permit issued by the City Council required when a given number/density of dwelling units is exceeded in Special Residential-30 District, §10-2145; minimum housing standards for rooming houses, §10-6123(b); equivalent dwelling unit, §10-2073.

Editor's note: This regulation first became applicable on December 1, 1991 (Ord. No. (1991) 867-TC-377) (Code 1959, §24-9(c); Ord. No. 523-TC-61, TC-92, 5-3-77; Ord. No. 438-TC-226, §7, TC-275, 11-12-84; Ord. No. 600-TC-242, §4, TC-13-85, 7-2-85; Ord. No. 867-TC-377, TC-14-91, 12-1-91)

School, church, or government building adaptively re-used as an office, agency or studio, operating on a not for profit basis, for a professional, business agent, political, labor or service association.

To permit the office(s), agencies, or studio of a professional or business, political, labor or service association, such as a business or trade organization, chamber of commerce, elected political subdivision, political, religious, social service, or youth organization, operating on a not for profit basis in an existing community facility building located in any residential district after the Board finds that the evidence presented at the hearing establishes each of the following:

- (1) The community facility building was originally constructed and occupied by one (1) of the following specified uses: school; church; federal, state or local government.
- (2) The building is a permanent structure which cannot economically or reasonably be converted to residential uses or moved to an alternate site.
- (3) The use will not be injurious to property or improvements in the affected area.
- (4) There shall be no advertisement in a residential district except for one (1) unlighted announcement sign not to exceed six (6) square feet in area and three and one-half (3½) feet in height or in lieu thereof an equivalent-sized permanent vehicular sign.
- (5) There shall be no flood lighting which beams directly into nearby residential areas.
- (6) Off-street parking shall be provided in accordance with §10-2081.

- (7) *Transitional protective yards* which conform to §10-2082.9 for low impact uses *shall* be installed.
- (8) When located within a Reservoir Watershed Protection Overlay District other possible impacts upon that watershed are no greater than those of the previous use.

(Ord. No. 230-TC-202, §1, TC-247A, 11-15-83; Ord. No. 318-TC-211, TC-257, 4-8-84; Ord. No. 318-TC-211, §§2, 3, TC-257, 4-8-84; Ord. No. 105-TC-304; §11, TC-27-87, 1-10-88; Ord. No.799-TC-267, §37, TC-21-85, 1-1-87)

Schools - private/parochial.

To permit a nongovernmental school or parochial school meeting the curricular teaching certification of instruction approved by the State Board of Education, in *residential districts*, except in an Airport Overlay District or *primary reservoir watershed protection area*, after the Board finds that the evidence presented at the hearing establishes each of the following:

- (1) The use will not be injurious to *property* or improvements in the *affected area*.
- (2) There shall be a minimum of five hundred (500) square feet of total land area per enrolled pupil.

This special use permit shall not be required if the school is approved by the Planning Commission or *City Council* in accordance with the provisions of §10-2072, *Residential Institution* in a *residential zoning district*, and the Planning Commission or *City Council* finds that there is a minimum of five hundred (500) square feet of total land area per enrolled pupil.

Cross reference: *Site plan requirements for residential institutions*, §10-2132.2(b)(5).
(Ord. No. 105-TC-304, §9, TC-24-87, 1-10-88; Ord. No. 622-TC-245, §4, TC-16-85, 8-6-85; Ord. No. 1992-43-TC-397, §60, TC-10-92, 9-1-92; Ord. No. 1999-616-TC-181, §82, TC-3-99, 8-3-99)

Special care facility.

To permit a *special care facility* in any *residential district* except in an Airport Overlay District or *primary reservoir watershed protection area* after the Board finds that the evidence presented at the hearing establishes each of the following:

- (1) The use will not be injurious to *property* or improvements in the *affected area*.
- (2) The following minimum land areas per enrollee shall apply:
 - a. Rural Residential, Residential-2, and Residential-4 Districts - one thousand three hundred (1,300) square feet.
 - b. Residential-6, Manufactured Home, Special Residential-6 Districts - eight hundred (800) square feet.
 - c. Residential-10 and districts of lower residential classification - three hundred (300) square feet.

Notwithstanding the requirements in the preceding sentences, each facility may increase enrollment twenty (20) per cent to provide for absenteeism of enrollees of a *special care facility*.

- (3) The structure housing the secular facility is similar in appearance to the area.
- (4) Off-street parking shall be provided in accordance with §10-2081.
- (5) Access to the facility from nearby *streets* will be adequate based upon the projected number of participants to attend the facility.
Cross reference: *Residential street and collector streets, Street, Sidewalk and Driveway Access Handbook*, on file with the City Clerk.
- (6) The landscaping of the facility will adequately blend it into the area, screen its purely functional aspects from the *street* and absorb and deflect any excessive noise.
- (7) No excessive light will be generated at the facility in any manner which will annoy residents of the surrounding structures.
- (8) The Board of Adjustment may allow in any *residential district* one (1) unlighted announcement sign not to exceed two (2) square feet in area and three and one-half (3½) feet in height and an equivalent-sized permanent vehicular sign.
- (9) Only one (1) vehicle used in connection with the *special care facility* in *residential zoning districts* will be parked or stored on the *premises*, or *residential street*.
- (10) No *special care facility* shall be located within one thousand two hundred (1,200) feet (determined by straight line from *property* line to *property* line) of any other *special care facility*.

This special use permit shall not be required for the *special care facility* in a *residential zoning district* if the facility is approved by the Planning Commission or *City Council* in accordance with all the provisions of §10-2072, *Residential Institution* in a *residential zoning district*, and the Planning Commission or *City Council* find that standards (2) through (10) above are met.

(Ord. No. 2004-647-TC-248, §13, TC-4-04, 6-1-04; Ord. No. 2004-721-TC-260, §6, TC-16-04, 10-5-04)

Cross reference: *Site plan requirements for residential institutions*, §10-2132.2(b)(5).

Specialty school as a limited home business.

Except within an Airport Overlay District or *primary reservoir watershed protection area*, a specialty school is permitted in *residential districts* in accordance with a special use permit for a *limited home business*, issued under this section, §10-2144(b).

Veterinary hospital in conjunction with a kennel/cattery.

To permit a *veterinary hospital*, as an adjunct use to a kennel/cattery in the Rural Residential and Agricultural Productive District, after the Board finds that the evidence presented at the hearing establishes each of the following:

- (1) The use will not be detrimental or injurious to *property* or improvements in the *affected area*.
- (2) The use is not noxious or offensive by reason of emission of odors and noise.
- (3) Off-street parking *shall* be provided in accordance with §10-2081.
- (4) The *street* capacity adjacent to the *property* to be so used is sufficient to safeguard the public health, comfort and convenience as *may* be required for the preservation of the general character of the neighborhood in which such a use is to be conducted.
- (5) No part of any *building*, structure or run in which animals are housed *shall* be closer than one hundred fifty (150) feet from any *property* line, except *property* owned or *occupied* by an *owner* or operator of the veterinary hospital; provided, that the minimum distance referred to above *shall* not apply if all portions of the facility in which animals are enclosed is located wholly within a *building*.
- (6) Only the sale of merchandise associated with the *veterinary hospital* is permitted. No merchandise will be visible from the public right-of-way. The principal function of the operation is the rendering of medical services and not the sale of merchandise.
- (7) There *shall* be no on-premise external advertising or identification in any manner in a Rural Residential and Agricultural Productive Districts, except for one (1) unlighted announcement sign not exceeding nine (9) square feet in area and three and one-half (3½) feet in height or in lieu thereof an equivalent-sized permanent vehicular *sign*.
- (8) No illumination, when measured off the site *shall* exceed four-tenths (0.4) maintained footcandle of lighting.
- (9) A special use permit from the Board of Adjustment has been obtained for a kennel/cattery for the *property*.

(Ord. No. 1996-855-TC-129, §6, TC-4-96, 4-2-96)

(1) Encroachments over *front* and *rear yard areas*.

- a. To permit encroachments in any zoning district over *front* and *rear yard areas* as determined by §10-2075(b), for the following types of structures:
 1. awnings, *marquees*, *projecting signs*, porches, decks, *eaves*, stairways and carports, completely open except for reasonable supports, to extend into or over more than twenty (20) per cent of the required district *front yard* or *rear yard* setback; and
 2. canopies no higher than fifteen (15) feet, and which are completely open except for reasonable supports, to extend into or over more than twenty (20) per cent of the required district *front yard* or *rear yard* setback.
 Cross reference: Open structures allowed to extend into up to twenty (20) per cent of the *front* or *rear yard* setbacks; see Schedule of Permitted Land Uses Within Types of Yard Areas, §10-2075(e), note m.
- b. These encroachments are to be permitted only after the Board finds that the evidence presented at the hearing establishes each of the following:
 1. Special conditions and/or circumstances exist on the same block or nearest block adjacent thereto or across the same *street* therefrom.
 2. The special conditions and/or circumstances do not result from actions of the applicant, and therefore, strict application of the yard setbacks provisions would deprive the applicant of rights commonly enjoyed by other *properties* in the immediate vicinity and in the same zoning district.
 3. Granting the reduction is the minimum exception that will make possible the reasonable use on the land, *building*, or structure.
 4. Granting the reduction will not be injurious to *property* on improvements in the *affected area*.
 5. The encroachment is not into a minimum *yard area* established for a *lot* on a new *block face*, platted after application of this regulation*, in the Special

Yard encroachments.

Residential-6, Residential-6, Residential-10, Residential-15, Residential-20, and Residential-30.

*Editor's note: This regulation first became applicable on July 21, 1991 (Ord. No. 823-TC-371, §12, TC-11-91).

6. If the canopy is within thirty (30) feet of an adjacent *street*, highway, or expressway right-of-way, no *ground sign* shall be permitted on the *premise*.
7. The canopy, awning, *marquee*, *projecting sign*, deck or porch, if part of a planned nonresidential development, is consistent with approved *unity of development* guidelines, as required in §10-2132.2(d)(5).

Yard reductions.

As a prerequisite to the approval of a special use permit allowing any of the *following* district yard setback reductions the Board *shall* first find that the evidence submitted at the hearing establishes that such reductions will not be injurious to *property* or improvements in the *affected area*.

(1) **Yard reductions at corners and next to open spaces.**

To permit yard reductions on *corner lots* or *lots* opposite or adjoining permanent open spaces, including parks and playgrounds.

(2) **Front yard reduction.**

To permit reductions in *front yard* setbacks where there are irregularities in depths of existing *front yard* setbacks on a *block face* provided the reduction equals any one (1) of the depths of the existing *front yard* setbacks on that side of the *street*.

(3) **Yard reductions for topography or solar access.**

To permit reductions in *front*, *side* and *rear yard* setbacks if necessary because of topography or solar access.

(Ord. No. 348-TC-216, TC-261, 5-20-84)

Editor's note: The provisions of former §10-2073(c)(4), which pertained to special exceptions for residential parking in redevelopment areas, included an expiration date of *May 20, 1989*. The subsection has been deleted at the direction of the *City*. Ord. No. 146-TC-107 (TC-3-79) removed §24-49(c)(3), which permitted, where a zoning boundary split a *lot*, a use from either district on the *lot*. In addition, the *following* special use permits were discontinued as part of Ordinance No. (1991) 869-TC-379: §10-2073(c) (1), (5), (10) and (11). The *following* special use permit was relocated to §10-2146.3(3)b.: §10-2073(c)(2). (Code 1959, §§24-49(1)(B)-(E); Ord. No. 348-TC-216, TC-261, 5-20-84; Ord. No. 2003-373-TC-231, §11, TC-23-02, 2-4-03)

(c) **Limits on use classification, changes to approved special uses, and abandonment.**

- (1) Whenever the Board of Adjustment approves a special use permit, such approval *shall* not change the use classification of the *property* nor give it any status as a *zoning nonconformity*, such as is referred to in §10-2146.
- (2) Whenever the Board of Adjustment approves a special use permit, such approved special use *shall* not without the prior approval of the Board:
 - a. Change to another use for more than thirty (30) days; or
 - b. Increase its density or intensity; or
 - c. Enlarge, expand, or increase its size; or
 - d. Increase the requirements for off-*street* parking spaces; or
 - e. Substantially change the exterior appearance of the *building*; or
 - f. Add new outdoor equipment and machinery.
- (3) Any special use permit approved by the Board of Adjustment, including special use permits approved prior to the application of this subsection, that are either changed to another use for more than thirty (30) days, other than that for which the special use permit was issued, or discontinued or ceased for a continuous period of three hundred sixty-five (365) days or more is null and void and *may* not resume without the reapproval of the Board of Adjustment.

(Ord. No. 1992-87-TC-400, §8, TC-6-92, 11-4-92)

(d) All special use permits approved by the Board of Adjustment *shall* contain a statement that such special use is contingent upon the payment of any applicable facility fees and the approval of either a *site plan* or *plot plan*, if required by this Code.

Editor's note: This provision was first applied to special use permits issued by Board of Adjustment on December 5, 1985. (Ord. No. 684-TC-257, §4, TC-31-85, 12-3-85; Ord. No. 31-TC-296, §81, TC-16-87, 12-1-87)

Sec. 10-2145. SPECIAL USE PERMITS APPROVED BY CITY COUNCIL.

Special use permits - alphabetical listing:

- Commercial surface parking lot as a principal use located within a Transit Oriented Development Overlay District.

- Correctional/penal facility (governmental and non-governmental).
- Heliport.
- *Mulch or compost processing facility.*
- Outdoor stadium, outdoor theater, outdoor race tract, of more than two hundred and fifty (250) seats, and outdoor movie theaters.
- Parking facility - off-site, for a *residential institution in residential zoning districts.*
- Recreational use of a governmental entity and not for profit private recreational camp, in a *primary reservoir watershed protection area.*
- *Recreational use restricted to membership - not for profit, in a primary reservoir watershed protection area.*
- *Retail sales* exceeding fifty thousand (50,000) square feet of *floor area gross* in a single establishment located within a Transit Oriented Development Overlay District.
- *Retail sales - highway* located within a Transit Oriented Development Overlay District.
- Telecommunication tower.

(Ord. No. 1992-87-TC-400, §7, TC-6-92, 11-4-92; Ord. No. 1992-88-TC-401, §25, TC-4-92, 11-4-92; Ord. No. 1993-133-TC-46, §16, TC-11-92, 2-2-93; Ord. No. 1993-134-TC-47, §8, TC-1-93, 2-2-93; Ord. No. 1993-187-TC-56, §12, TC-13B-93, 5-4-93; Ord. No. 1995-673-TC-111, §4, TC-12-95, 7-5-95; Ord. No. 1997-137-TC-153, §105, TC-18-96, 6-17-97; Ord. No. 1998-370-TC-167, §31, TC-3-98, 7-7-98; Ord. No. 2004-596-TC-245, §11, TC-14-03, 4-6-04; Ord. No. 2008-405-TC-312, §12, TC-3-08, 6-3-08; Ord. No. 2009-669-TC-328, §7, TC-8-09, 11-3-09)

Editor's note: Ord. No. 1995-673-TC-111, §§4, 5, adopted July 5, 1995, set out provisions repealing "More than eight (8) *dwelling or rooming units* per floor for *multi-family and group housing structures, townhouse, congregate care and congregate living structures, life care communities* and condominium developments" from the listing of special use permits and also from §10-2145(b). "More than eight (8)..." as set out in §10-2145(b) derived from Ord. No. 319-TC-335, TC-29-88, adopted Jan. 26, 1989; Ord. No. 1997-137-TC-153, §105, TC-18-96, adopted June 17, 1997, set out provisions repealing the following special uses (derivation of same in parentheses): "Additional *floor area ratio (F.A.R.)* allowances for office *buildings* in Office and Institution-1 and -2 Districts" (Ord. No. 942-TC-283, TC-1-87; Ord. No. 1991-868-TC-378, §5, TC-9-91, adopted March 1, 1992; Ord. No. 1992-43-TC-397, §61, TC-10-92, Sept. 1, 1992; Ord. No. 1997-137-TC-153, §2, TC-18-96, June 17, 1997); "Downtown Residential Housing and Pedestrian Business Overlay Districts - additional density, conversions of *buildings to dwellings, net lot area* reduction for *dwellings*, and housing within underlying industrial zoning districts" (Ord. No. 366-TC-218, §5, TC-265, June 24, 1984; Ord. No. 509-TC-230, §4, TC-278, Sept. 5, 1985; Ord. No. 880-TC-277, §§1-4, 8, TC-18-86, Oct. 27, 1986; Ord. No. 76-TC-302, §1, TC-23-87, Nov. 9, 1987; Ord. No. 310-TC-331, §§1-3, TC-30-88, Feb. 12, 1989; Ord. No. 1992-88-TC-401, §27, TC-4-92, Nov. 4, 1992; Ord. No. 1996-931-TC-138, §9, TC-27-95, July 2, 1996); "*Hotel and motel* in Office and Institution-2 District" (Ord. 867-TC-276, §1, 5, TC-14-86, adopted Jan. 1, 1987; Ord. No. 691-TC-360, §1, TC-12-90, adopted Dec. 16, 1990; Ord. No. 1996-931-TC-138, §10, TC-27-95, adopted July 2, 1996); "Interim uses in Residential

Business Districts within redevelopment areas" (Ord. No. 735-TC-364, TC-2-91, adopted Feb. 24, 1991); "Outdoor storage of *recyclable material*" (Ord. No. 1992-87-TC-400, §7, TC-6-92, adopted Nov. 4, 1992); "Outdoor storage yard for unlicensed, uninspected, wrecked, crushed, dismantled, or partially dismantled vehicles" (Ord. No. 837-TC-271, §§1, 2, TC-5-86, Sept. 5, 1986; Ord. No. 799-TC-267, §§27, 28, TC-21-85, adopted Jan. 1, 1987; Ord. No. 1993-134-TC-47, §§5-7, TC-1-93, adopted Feb. 2, 1993); "Parking facility, off-site, in a Residential Business District for special use residential housing projects" (Ord. No. 166-TC-308, TC-2-88, adopted May 5, 1988; Ord. No. 1992-88-TC-401, §28, TC-4-92, adopted Nov. 4, 1992; Ord. No. 1994-520-TC-96, §4, TC-12-94, adopted Dec. 13, 1994); "*Shopping centers and shopping areas* in Thoroughfare and Industrial-1 and 2 Districts that are located within four hundred (400) feet of any major *thoroughfare or major access corridor*" (Ord. No. 869-TC-379, §7, TC-16-91, adopted Dec. 1, 1991); "Special Highway Overlay Districts - alternative designs" (Ord. No. 847-TC-273, §5, TC-16-86, adopted Sept. 2, 1987; Ord. No. 1993-133-TC-46, §§16, 28, 29, TC-11-92, adopted Feb. 2, 1993; Ord. No. 1995-760-TC-122, §47, TC-20B-95, adopted Nov. 21, 1995); "Special Residential-30, residential density greater than twenty (20) *dwelling units* per net acre or three (3) or more *dwelling units on a lot*" (Ord. No. 438-TC-226, TC-275, adopted Dec. 11, 1984; Ord. No. 600-TC-242, §4, TC-13-85, adopted July 2, 1985; Ord. No. 799-TC-267, §36, TC-21-85, adopted Jan. 1, 1987); "Thoroughfare District - alternative designs" (Ord. No. 799-TC-267, §21, TC-21-85, adopted Jan. 1, 1987; Ord. No. 1995-760-TC-122, §48, TC-20B-95, adopted Nov. 21, 1995); "*Thoroughfare protective yard* reductions for projects in Thoroughfare Districts traversed by more than one (1) mile of continuous public *thoroughfare*"; Ord. No. 1998-370-TC-167, §31, TC-3-98, adopted July 7, 1998, set out provisions repealing the special use "Additional residential density in Office and Institution-2, Shopping Center, and Thoroughfare Districts," which derived from Ord. No. 1985-509-TC-230, TC-278; Ord. No. (1985) 675-TC-254; Ord. No. 675-TC-254, §§5, 6, 7, TC-17-85, adopted May 1, 1986; Ord. No. 133-TC-305, §9, TC-27-87; Ord. No. 1991-868-TC-378, §5, TC-9-91, adopted March 1, 1992.

(a) Special Use Permits Approved.

In performing its functions and duties under this chapter, the *City Council*, after making the necessary findings, is authorized to issue special use permits to allow the enumerated *buildings*, uses and designs in the districts specified in subsection (b) below. The districts referred to herein apply to general use and conditional use districts unless the applicable conditional use district ordinance specifically states otherwise. The Planning Director *shall* determine the information required to be submitted for application for a special use permit. If the proposed *buildings* or uses require a preliminary *site plan* to be submitted for approval, the Planning Director *may* require submittal of a preliminary *site plan*, meeting the standards of §10-2132.2(d), prior to accepting a special use permit application.

(b) Special Use Permits Enumerated.

Commercial surface parking lot as a principal use located within a Transit Oriented Development Overlay District.

To permit a commercial surface parking lot as a principal use within a Transit Oriented Development

Overlay District after the *City Council* finds that the evidence presented at the hearing establishes each of the following:

1. The parking lot must be necessary to provide parking for specified projects that are located within and in conformance with the adopted transit station area plan, or for the *passenger transit station or stop*.
2. The parking lot is on an interim basis, not to exceed a period of five (5) years, and that more permanent parking supplies in the form of a parking deck, structure or garage are anticipated for later development which would offer replacement when the use approved herein is discontinued and a replacement use in conformance with the transit station area plan is erected on the site.
3. No parking lighting shall exceed twenty (20) feet in height.
4. All vehicular surface area is paved and is in conformance with §10-2081 unless specified otherwise by the applicable adopted transit station area plan and Transit Oriented Development Overlay District.
5. All vehicular surface area is landscaped in conformance with §10-2082.6 unless specified otherwise by the applicable adopted transit station area plan and Transit Oriented Development Overlay District.
6. The design and screening of the proposed surface parking lot, as viewed from adjacent streets and properties, is in accordance with the regulations of the applicable adopted transit station area plan and Transit Oriented Development Overlay District.
7. The proposed surface parking lot and site design is in accordance with the regulations of the applicable adopted transit station area plan and Transit Oriented Development Overlay District.
8. The site plan protects the public from unsafe and inefficient vehicular, pedestrian and bicycle circulation, parking, and loading/unloading operations.
9. Such parking lot shall not be injurious to property or improvements in the affected area.

(Ord. No. 2004-596-TC-245, §12, TC-14-03, 4-6-04)

Correctional/penal facility (Governmental and Non-governmental).

To permit a correctional/penal facility (governmental) in Office & Institutional, Buffer Commercial, Shop-

ping Center, Neighborhood Business, Thoroughfare, and Industrial Districts, and a correctional/penal facility (nongovernmental) in Industrial Districts, if the Council finds that the evidence presented at the hearing establishes each of the following:

- (1) There shall be no flood lighting which beams directly into nearby residential areas.
 - (2) The street capacity adjacent to the site is sufficient to safeguard the public health, especially with regard to the size and frequency of commercial vehicles involved with the transportation of inmates and for the shipping and receiving of materials in connection with the facility.
 - (3) Transitional protective yards which conform to §10-2082.9 for high impact uses shall be installed.
 - (4) The use is in accord with development criteria established by City Council-adopted plans and policies such as the Comprehensive Plan and redevelopment plans, and if there is a conflict between plans and Code provisions, the more restrictive shall apply.
 - (5) The use will not be injurious to property or improvements in the affected area.
- (Ord. No. 1993-187-TC-56, §13, TC-13B-93, 5-4-93)

Heliport

To permit a heliport after the *City Council* finds that the evidence presented at the hearing establishes each of the following:

1. Any structures must be so designed and placed that they will not be detrimental to adjoining properties nor shall the heliport be injurious to surrounding properties or to any properties within a one thousand (1,000) foot radius of the heliport site as measured from the center of the final approach and takeoff area.
2. In addition to any transitional protective yard for high impact uses that shall be required in accordance with §10-2082.9, evergreen shrub plantings adjacent to the security fence surrounding any ground-level heliport safety area shall be required to be provided. These plantings shall be required to obscure at least seventy-five (75) per cent of the security fence at the time of planting to a height of twenty-four (24) inches and all shrub plantings shall be expected to reach a height of five (5) feet or greater within five (5) years of planting.

3. Proof of Air Space Clearance from the Federal Aviation Agency is required prior to the issuance of a certificate of occupancy or zoning permit.
4. In addition to the requirements of §10-2141 the applicant for a heliport special use permit *shall* notify by first class mail all property owners within a one thousand (1,000) foot radius of the center of the proposed final approach and takeoff area. This notice *shall* be posted at least thirty (30) days prior to the date of the hearing on the request. This notice *shall* contain the same information as the notice required by §10-2141(a)(4).
(Ord. No. 2008-405-TC-312, §13, TC-3-08, 6-3-08)

Mulch or compost processing facility.

To permit a *mulch or compost processing facility* within the Agriculture Productive, Industrial-1 and Industrial-2 districts after the *City Council* finds that evidence presented at the hearing establishes each of the following:

- (1) No part of the *mulch or compost processing facility* is located within a 300 hundred (300) foot radius (determined by a straight line and not *street* distance) of a *residential zoning district*, or the *lot* line of any *lot* containing any *dwelling, congregate care or congregate living structure, church, synagogue or religious education building, school (public or private), specialty school or day care facility* with the exception of a residence of a caretaker or watchman *accessory* to a permitted industrial use.
- (2) No storage pile or windrows *shall* exceed fifteen (15) feet in height or thirty (30) feet in width. The length of windrows *shall* not be restricted so long as emergency fire equipment can adequately navigate the site.
- (3) A plan is approved by the *City* for permanent soil erosion control devices. No storage pile or windrows *shall* be located within seventy-five (75) feet of any watercourse and a minimum 50-foot vegetated area *shall* be provided adjacent to any watercourse to prevent unfiltered runoff of organics into the watercourse.
- (4) The impact of the *mulch or compost processing facility*, including its size, equipment and machinery used, hours of operation, odor and appearance will not be injurious to *property* or improvements in the *affected area*.

(Ord. No. 2009-669-TC-328, §8, TC-8-09, 11-3-09)

Outdoor stadium, outdoor theater, outdoor amphitheatre, outdoor race track, of more than two hundred and fifty (250) seats, and outdoor movie theatres.

To permit outdoor stadiums, outdoor theaters, outdoor race tracks, and outdoor amphitheaters of more than two hundred fifty (250) seats, and outdoor movie theatres, in any *residential, office and institution, Residential Business, Buffer Commercial, Shopping Center, Neighborhood Business, Planned Development Conditional Use Overlay District, and Business Zone, Thoroughfare, Industrial-1 and Industrial-2 Districts* after the *City Council* finds that the evidence presented at the hearing establishes each of the *following*:

1. The facility and activities requested to be conducted therein will not have a substantial adverse impact on surrounding *properties* including without limitation, stormwater, dust, smoke or vibration.
2. The practical limits of public facilities and services such as stormwater, water and sewer lines, *streets*, fire, public safety, and trash collection are considered and respected.
3. The traffic generated to and from the site will not create unsafe or inefficient parking, loading, vehicular and pedestrian circulation patterns with consideration, among other things, to: the physical character of roads, the classification of roads, accident experience near the site, traffic volumes existing and projected from approved *site plans* and subdivisions, interference with any other driveway, and response time of nearby emergency services such as fire and hospital.
4. The visual separation of buffers are provided which lessen the perceived height and bulk of proposed structures as seen from nearby residential neighborhoods.
5. The nearby *properties* are protected from sound amplification and lighting.
6. The facility and activities conducted therein will not be injurious to *property* or improvements in the *affected area*.
7. The off-*street* parking in accordance with §10-2081 is provided in the amount of one (1) space for every five (5) seats or every five (5) *persons* of the designated capacity of the assembly place.

8. The site is not located in a *primary watershed protection area*.

Stadiums, theaters, race tracks, and amphitheaters which were already in existence prior to application of this special use provision which otherwise conform to this chapter are not made nonconforming by this provision. Events and activities conducted in these existing facilities are likewise grandfathered from the effects of this ordinance; provided, the *property owner* can prove that the event and activity occurred within three (3) *years* immediately prior to application of this provision. However, any expansion of such facility which singularly or collectively exceeds five (5) per cent of the seating capacity existing at the time of application of the ordinance or the holding of any event or activity not conducted in the facility three (3) *years* immediately *preceding* application of this ordinance *shall* not be lawful unless and until this special use permit is issued for the expansion or new activity.

Editor's note: This special use permit was first made applicable on June 19, 1990 (Ord. No.(1990) - 607-TC-356, TC-8-90) (Ord. No. 1991-868-TC-378, §6, TC-9-91, 3-1-92; Ord. No. 1997-137-TC-153, §105, TC-18-96, 6-17-97)

Parking facility, off-site, in a Residential Business District for special use residential housing projects.

To permit in a Residential Business District parking spaces, off-site, on a different *lot* as the *principal building(s)* after the *City Council* finds that the evidence presented at the hearing establishes each of the *following*:

- (1) Such parking facilities support a residential housing project approved by the *City Council* as part of a special use permit in the Downtown Residential Housing Overlay District.
- (2) Legal assurances are made that such parking facilities will be used solely for the specified *dwelling units* and that maintenance responsibilities for the parking facilities are clearly assigned.
- (3) Such parking facilities provide for safe traffic movements and safe pedestrian access to and from the *dwelling units*.
- (4) The project will not be injurious to *property* or improvements in the *affected area*.
- (5) The parking facilities meet all applicable requirements of this Code.
- (6) Such parking facility will tend to relieve traffic congestion on the *streets* at or near the *premises* in question or reduce the number of parked vehicles on residential *streets*.

Cross references: In the Residential Business District, off-street parking can also be permitted as a special use for interim uses within a redevelopment area, §10-2145; impact classification for required landscaping, transitional protective yard, §10-2082.9.

(Ord. No. 166-TC-308, TC-2-88, 5-5-88; Ord. No. 1992-88-TC-401, §28, TC-4-92, 11-4-92; Ord. No. 1994-520-TC-96, §4, TC-12-94, 12-13-94)

Parking facility - off-site, for a residential institution in residential zoning districts.

To permit in all *residential zoning districts* off-site, off-street parking spaces on a *lot* different from the *principal building* of a *residential institution*, after the *City Council* finds that the evidence presented at the hearing establishes each of the *following*:

- (1) Such parking facility is located on a *lot* contiguous with that of the *principal building* or on a *lot* opposite the principal site, unless it can be demonstrated that other existing permanent parking arrangements in nonresidential districts are available and that such parking will be utilized.
- (2) Such parking facility is for a use permitted in the zoning district.
- (3) Such parking facility will tend to relieve traffic congestion on the *streets* at or near the *premises* in question or reduce the number of parked vehicles on residential *streets*.

- (4) Points of egress from such parking facility will not adversely affect any use.
- (5) Such parking facility will not be injurious to *property* or improvements in the *affected area*.
- (6) Such parking facilities provide for safe traffic movements and safe pedestrian access to and from the *principal use*.
- (7) Legal assurances are made that such parking facilities will be used solely for the specified *buildings* and that maintenance responsibilities for the parking facilities are clearly assigned.

Cross reference: Impact classification for required landscaping, transitional protective yard, §10-2082.9 (Ord. No. 415-TC-343, TC-1-89, §6, 8-1-89; Ord. No. 1994-520-TC-96, §4, TC-12-94, 12-13-94)

Recreational use of a governmental entity and not for profit private recreational camp, in a *primary reservoir watershed protection area*.

To permit governmental recreation uses and not-for-profit, nongovernmental recreation camps to be located within the *primary reservoir watershed protection areas* after the *City Council* finds that the evidence presented at the hearing establishes each of the following:

- (1) The use will not be injurious to *property* or improvements in the *affected area*.
- (2) The use does not pose direct or indirect adverse impact on the reservoir watershed by reason of location, arrangement, utilization of chemicals, stormwater runoff, or other considerations affecting the ability of the reservoir to meet its purposes as established by §10-2011(b)(3), Reservoir Watershed Protection Area Overlay District.

If the *City* is the applicant, the Board of Adjustment rather than the *City Council* shall make these findings. (Ord. No. 105-TC-304, §13, TC-24-87, 1-10-88)

Recreational use restricted to membership - not for profit, in a *primary reservoir watershed protection area*.

To permit in Agricultural Productive, Residential Business, and *residential districts*, located in a *primary reservoir watershed protection area*, recreation uses restricted to membership not for profit after the *City Council* finds that the evidence presented at the hearing establishes each of the following:

- (1) Recreation is limited to the following uses: Athletic league fields, campgrounds, country clubs,

docks, gymnasiums, health clubs and health spas, including clubhouse facilities, pedestrian and equestrian trails, *play courts* such as basketball, racquetball, and tennis courts, unlighted golf courses (including driving ranges as an accessory use), *play fields*, playgrounds, swimming pools, tanning facilities, weight and exercise rooms.

- (2) The use will not be injurious to *property* or improvements in the *affected area*.
- (3) The use is not noxious or offensive by reason of emission of odors, gas, fumes, vibration or noise.
- (4) The *street* capacity adjacent to the *property* to be so used is sufficient to safeguard the public health, comfort, convenience as *may* be required for the preservation of the general character of the neighborhood in which such *building* is to be placed or such use is to be conducted.
- (5) No swimming pool or wading pool, diving area, outdoor *play court* such as a tennis or basketball court, *play field*, play or equipment area, or other active recreational use nor any driveway or parking area for such facilities shall be established without first providing *transitional protective yards* which conform to §10-2082.9 for medium impact uses.

Cross reference: Fencing of outdoor swimming pools inside the *City Limits*, §13-2028.

- (6) Off-*street* parking shall be provided in accordance with §10-2081.
- (7) No illumination, when measured off the recreation site, shall exceed four-tenths (0.4) maintained footcandle of lighting.
- (8) The recreational facility in a watershed protection area, will:
 - a. Not adversely impact the reservoir watershed by reason of location, arrangement, utilization of chemicals, stormwater runoff, or other considerations affecting the ability of the reservoir to meet its purposes as established by §10-2011(b)(3), Reservoir Watershed Protection Overlay District.
 - b. Conform to all applicable provisions of §10-2056 of this Code.
- (9) The sale of merchandise is allowed as a residential related service restricted to members.

Cross references: Tract identification signs permitted §10-2083.2; recreational uses restricted to membership - not for profit outside a *primary reservoir watershed protection area* is permitted in *residential districts*, Agricultural Productive and Residential Business Districts in accordance with a special use permit, §10-2144.

(Ord. No. 105-TC-304, §12, 1-10-88, TC-24-87; Ord. No. 1993-207-TC-59, §19, TC-12-93, 6-1-93; Ord. No. 1996-901-TC-131, §18, TC-3-96, 5-21-96)

Retail sales exceeding fifty thousand (50,000) square feet of floor area gross in a single establishment located within a Transit Oriented Development Overlay District.

To permit *retail sales* exceeding fifty thousand (50,000) square feet of *floor area gross* in a single establishment in a Transit Oriented Development Overlay District after the *City Council* finds that the evidence presented at the hearing establishes each of the following:

1. The use is located within a station area core, as defined by the applicable adopted transit station area plan.
2. The architecture and design enhances the image of the transit station area as a unique and pedestrian-oriented development.
3. The use is located within a multi-story building with no single floor devoted to the use exceeding fifty thousand (50,000) square feet.
4. The site plan protects the public from unsafe and inefficient vehicular, pedestrian and bicycle circulation, parking, and loading/unloading operations.
5. The proposed use and site design is in accordance with the regulations of the applicable adopted transit station area plan and Transit Oriented Development Overlay District.
6. The business and activities conducted therein will not be injurious to *property* or improvements in the *affected area*.

(Ord. No. 2004-596-TC-245, §14, TC-14-03, 4-6-04)

Retail sales - highway located within a Transit Oriented Development Overlay District.

To permit a *retail sales - highway* use within a Transit Oriented Development Overlay District after the *City Council* finds that the evidence presented at the hearing establishes each of the following:

1. No *retail sales - highway* use shall be located within any *station area core*, as defined by the applicable adopted transit station area plan.
2. The design is in conformance with the transit station area plan and provides a necessary service to employees and residents within the transit station area plan due to the lack of such services in the surrounding area.

3. The architecture and design enhances the image of the transit station area as a unique and pedestrian-oriented development.
4. With the exception of petroleum product sales, no portion of the business shall be conducted outside of the building.
5. The outdoor service area for petroleum sales shall be as small as practical.
6. The design complies with all requirements of the transit station area plan with the exception of the requirement that *vehicular surface areas* shall not occupy more than the equivalent of one-third ($\frac{1}{3}$) of the linear frontage of the adjacent *building* or no more than sixty-four (64) linear feet of frontage, whichever is less.
7. The total *floor area gross* on the lot does not exceed five thousand (5,000) square feet.
8. The proposed use and site design is in accordance with the regulations of the applicable adopted transit station area plan and Transit Oriented Development Overlay District.
9. The site plan protects the public from unsafe and inefficient vehicular, pedestrian and bicycle circulation, parking, and loading/unloading operations.
10. The facility and activities conducted therein will not be injurious to *property* or improvements in the *affected area*.

(Ord. No. 2004-596-TC-245, §13, TC-14-03, 4-6-04)

Telecommunication tower.

To permit in all zoning districts, except Conservation [Management], telecommunication towers not otherwise meeting the standards of a general use or a conditional use; including relay stations, for commercial operations such as cablevision, radio telephones, radio and television stations after the *City Council* finds that the evidence presented at the hearing establishes each of the following:

- (1) Radio or television or similar reception for adjoining *properties* will not be disturbed or diminished.
- (2) The height of the tower does not exceed five hundred ten (510) feet
- (3) The lighting of the tower does not exceed the minimum standards of the Federal Aviation Administration (FAA) for red obstruction lighting system contained in Advisory Circular No. 70/7460-IF dated 27 September, 1978, as the same may be amended.

- (4) The minimum yard setback from the outside dimensions of the tower, not from guy anchors, are as follows:
- a. Twenty (20) feet from the *property* line of any adjoining *lot* or *lot* across a public *street* which is vacant and zoned a *nonresidential district* or any adjoining *lot* or *lot* across a public *street* which is developed without a *dwelling, congregate care* or *congregate living structure*, unless increased by subparagraph b. or c. below.
 - b. One hundred (100) per cent of the tower height, but no less than fifty (50) feet, from the *property* line of either any *lot* which is developed at an average residential density of less than fifteen (15) *dwelling units* per acre or vacant *lot* located in a *residential zoning district*.
 - c. Fifty (50) per cent of the tower height from the *property* line of any *lot* which is developed at an average residential density equal to or greater than fifteen (15) *dwelling units* per acre.

The setbacks required by subsections b. and c. above *shall* not be applicable to any residential *dwelling(s)* that is not a permitted use in the zoning district, or the *residence* of a caretaker or watchman accessory to a permitted industrial use.

If one or more existing telecommunications towers is to be removed concurrently and replaced by a new tower, then that portion of the required setback exceeding one hundred (100) feet in subsections b. and c. above *may* be reduced by fifteen (15) per cent for each additional telecommunication user in excess of the existing tower.

For towers exceeding a height of two hundred and fifty (250) feet, or where one or more existing telecommunications towers is concurrently being removed and replaced with a new tower containing additional telecommunication users, this setback *may* be reduced by the *City Council*. In the case of a replacement tower, the *City Council* *shall* make a finding that the lesser setback will reduce the number of towers in the area. In all cases, *City Council* *shall* also make a finding that the lesser setback will not be injurious to *property* or improvements in the *affected area*. In no case *shall* the setback be reduced to less than fifty (50) per cent of the tower height.

The provisions in this subsection are supplemental to the yard regulations in §10-2075 and do not lessen or diminish those regulations.

- (5) The base of the tower and each guy anchor are surrounded by a fence or wall at least eight (8) feet in height unless the tower and all guy anchors are mounted entirely on a *building* over eight (8) feet in height. Except for fence and wall entrances, all fences and walls *shall* be screened with plant material so that no more than two-thirds ($\frac{2}{3}$) of the surface of the fence or wall is visible, within three (3) *years* after erection of the structure, from a public *street* or from any adjoining *lot* which contains a *dwelling, congregate care* or *congregate living structure*, or is zoned a *residential district*.

Cross reference: Fences and walls, §§10-2085 and 10-2086.

- (6) The area adjoining *street* rights-of-way *shall* contain a minimum *street protective yard* of twenty (20) feet wide as measured perpendicular to the public *street* rights-of-way. This *street protective yard* *shall* comply with the requirements of §10-2082.5. No *street yard* *shall* be required along *street* frontage located a distance from the tower of more than twice the height of the tower.

In addition to this *street protective yard*, a *transitional protective yard* which contains the same plantings required in §10-2082.9 for low impact uses *shall* be installed within all the *yard areas* required in subparagraph (4) above, which adjoin a *lot* containing a *dwelling, congregate care*, or *congregate living structure*, or zoned a *residential district*. The installation of any fence, wall, planting or *earthen berm* *shall* not reduce or lessen this requirement.

In instances where a telecommunication tower is locating on a developed *lot* in accordance with §10-2088 of this Code, and the existing physical development on the *lot* precludes the full installation of the aforementioned *protective yards*, the

City Council *may* approve an alternate method of compliance as set forth under the conditions of §10-2082.4 of this Code.

- (7) The output power from the tower *shall* not exceed federally approved levels for exposure to electronic magnetic force (EMF).
- (8) If determined by the *City* that the proposed tower is situated in a location which will benefit the *City's* telecommunication systems, then, the tower *shall* be engineered and constructed to accommodate the additional telecommunicating equipment beneficial to the public system.
- (9) If the proposed tower is located on *property* that is zoned a *residential district* at the time of the special use hearing, the tower *shall* be either less than seventy-five (75) feet in height or located no closer than one thousand and five hundred (1,500) feet (determined by straight line and not *street* distance) to a tower greater than seventy-five (75) feet in height which was constructed after the effective date of this ordinance.

If the proposed tower is located on *property* that is zoned a *nonresidential district* at the time of the special use hearing, the tower *shall* be either less than one hundred (100) feet in height or located no closer than one thousand (1,000) feet to a tower greater than one hundred (100) feet in height which was constructed after the effective date of this ordinance.

The *City Council* *may* approve the construction of a tower which does not meet the above standards if evidence is provided which demonstrates that reasonable effort has been made to lease space on an existing tower or that no existing tower will technically satisfy the applicant's specific needs.

Editor's note: This ordinance first became effective on August 6, 1995.

- (10) If the tower is located within an Historic Overlay District or Metro Park Protection Overlay District, the tower does not exceed the maximum *building* height allowed within the underlying zoning district.
- (11) No tower *shall* be approved unless evidence is presented that at least one telecommunication user will occupy the tower. If the tower is between one hundred (100) feet and one hundred fifty (150) feet in height, the tower *shall* be engineered and constructed to accommodate a minimum of two telecommunication users. If the tower equals or exceeds one hundred fifty (150) feet in height but is less than one hundred eighty (180) feet in height, the tower *shall* be engineered and constructed to

accommodate a minimum of three telecommunication users. If the tower equals or exceeds one hundred eighty (180) feet in height, but is less than 200 feet in height, the tower *shall* be engineered and constructed to accommodate a minimum of four telecommunication users. If the tower equals or exceeds two hundred (200) feet in height, the tower *shall* be engineered and constructed to accommodate a minimum of five telecommunication users.

- (12) Unless enclosed by a *closed fence* at least eight (8) feet in height, the exterior appearance of all *buildings*, located in a *residential district* look like a residential *dwelling*, including without limitation, pitched roof(s) and frame or brick veneer construction. For each potential telecommunication user to occupy the tower, there *shall* be a minimum of six hundred (600) square feet reserved on the plans for associated building(s) and equipment, unless the applicant provides evidence that less space is necessary.
- (13) That the applicant has provided evidence that the proposed tower meets FAA requirements, and is in accordance with all the tower requirements and standards of the Raleigh Durham Airport Authority.
- (14) Associated *buildings* located in any *residential district* *may* not be used as an employment center for any worker. This provision does not prohibit the periodic maintenance or periodic monitoring of equipment and instruments.
- (15) The use will not be injurious to *property* or improvements in the *affected area*.
- (16) Unless otherwise specified by this permit, that within six (6) months of approval of this special use permit, a grading permit, building permit, or zoning permit is obtained, and within one year of approval of this special use permit the tower is installed and operational, or the special use permit *shall* be void.

For any telecommunication tower approved after application of this regulation*, which is discontinued, unused, or unoccupied by the telecommunication user for a continuous period of three hundred and sixty-five (365) days or more, the tower *shall* be removed within thirty (30) days of notification by the Chief Zoning Inspector.

*Editor's note: This regulation first became applicable on February 15, 2000 (Ord. No. 2000-732-TC-188, TC-17-99).

Cross reference: Discontinuance or nonuse of a telecommunication tower for three hundred sixty-five (365) days or more, §10-2145(c)(3).

(Ord. No. 724-TC-263, §1, TC-4-86, 2-4-86; Ord. No. 75-TC-177, §§2, 3, TC-228, 3-1-83; Ord. No. 664-TC-358, TC-10-90, 10-16-90; Ord. No. 1994-372-TC-72, §3, TC-3-94, 4-19-94; Ord. No. 1994-427-TC-76, §1, TC-6-94, 6-21-94; Ord. No. 1995-692-TC-113, §§6, 7, TC-15-95, 8-1-95; Ord. No. 2000-732-TC-188, TC-17-99, §§10-15, 2-15-00)

(c) Limits on use classification, changes to approved special uses and abandonment.

- (1) Whenever the *City Council* approves a special use permit, such approval *shall* not change the use classification of the *property* nor give it any status as a *zoning nonconformity*, such as is referred to in §10-2146.
- (2) Whenever the *City Council* approves a special use permit, such approved special use *shall* not without the prior approval of the *City Council*:
 - a. Change to another use for more than thirty (30) days; or
 - b. Increase its density or intensity; or
 - c. Enlarge, expand, or increase its size; or
 - d. Increase the requirements for off-street parking spaces; or
 - e. Substantially change the exterior appearance of the *building*; or
 - f. Add new outdoor equipment and machinery.
- (3) Any special use permit approved by the *City Council*, including special use permits approved prior to the application of this subsection, that are either changed to another use for more than thirty (30) days, other than that for which the special use permit was issued, or discontinued or ceased for a continuous period of three hundred sixty-five (365) days or more is null and void and *may* not resume without the reapproval of the *City Council*.

(d) All special use permits approved by the *City Council* shall contain a statement that such special use is contingent upon the payment of any applicable facility fees and the approval of either a *site plan* or *plot plan*, if required by this Code.

Editor's note: This provision was first applied to special use permits issued by the *City Council* on January 1, 1992. (Ord. No. 684-TC-257, §4, TC-31-85, 12-3-85; Ord. No. 31-TC-296, §81, TC-26-87, 12-1-87; Ord. No. 1992-87-TC-410, §8, TC-6-92, 11-4-92)

**Sec. 10-2146.
NONCONFORMITIES.**

**Sec. 10-2146.1.
INTRODUCTION AND DEFINITIONS.**

The policy of this chapter is to allow the continuation of *zoning nonconformities* except those covered by an amortization period and to allow ordinary maintenance, repair and *renovations of zoning nonconformities*. However, any alter-

ation; expansion; and extraordinary renovations, maintenance and repair; rebuilding, reconstruction, extensions, resumption, or change of use or relocation of a nonconformity will need a special use permit.

Activities which are allowed without a special use permit are listed in §§10-2146.2 or 10-2146.5. Activities not in §§10-2146.2 or 10-2146.5, if allowed at all, require a special use permit from the Board of Adjustment. See §10-2026.3. If an activity is not listed in §§10-2146.2 through 10-2146.5 it is not allowed. Before any special use permit is processed, the Board of Adjustment will determine whether the activity will be injurious to *property* or improvement in the *affected areas*. §10-2146.4 describes how the Board of Adjustment makes its determination. If a proposal will have an injurious impact, it will be denied. If it will not, a special use permit will be issued to allow it. However, conditions and safeguards *may* be attached to the special use permit to require that the nonconformity be brought into compliance with the regulations of this chapter or that any potential hazards or problems be mitigated.

Procedures and standards are established to insure that the rights and interests of the *owner* of the *zoning nonconformity*, of the *owners* of *properties* in the *affected area*, and of the public will be weighed in making these determinations.

Unless specifically stated otherwise, §10-2146.2 through §10-2146.4 are inapplicable to nonconforming *accessory uses or structures*, fences, signs, *vehicular surface areas*, private accessory points, and outdoor lighting which are regulated by §10-2146.5.

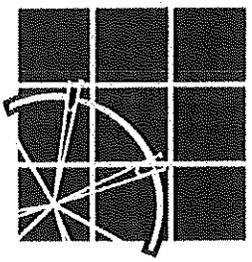
Certain terms used in §10-2146 *et seq.* are defined in §10-2002. The terms "altering", "expanding" and "changes" are not defined; as used in §10-2146 *et seq.* these terms *shall* be liberally construed. Other terms used in §10-2146 *et seq.* are defined as follows:

Casualty. A *casualty* is damage or destruction which is caused by the exercise of the power of eminent domain; man-made acts, such as riot, fire, accident, explosion; or flood, lightning, wind, or other calamity or act of nature.

Expansion of a zoning nonconformity. *Expansion of a zoning nonconformity* is any improvement that alters or expands or enlarges the land area, extent or intensity of a *zoning nonconformity*. *Expansions of a zoning nonconformity* include: the addition to, construction of, or enlargement of bay windows, attic or basement spaces, attached carports or storage buildings, canopies, *marquees*, exterior chimneys, decks, patios, porches, and exterior facilities or structures not otherwise allowed as renovations; the enclosing of decks, porches, and patios; or the installing of additional vehicular surfaces to serve a *zoning nonconforming use*, including nonconforming *principal use* parking facilities, or illuminating a *nonconforming sign*.

2-12#11

VVSHVC



MEMORANDUM



Company: City of Raleigh
Office of Transportation Planning
Attention: Eric J. Lamb, P.E.
From: Ed Sconfienza, P.E.

2 June 2011

Reference: Hillsborough Street Rezoning Trip Generation Report

The subject property consists of three parcels. All three parcels are zoned NB. Two of the parcels have the PBOD overlay and comprise 50% of the total land area. The third property does not have the PBOD overlay and consequently would have to observe the 30' front yard setback. It is my opinion that the addition of the PBOD to the third lot would allow a 30% floor plate increase on this lot (15% overall). The proposed zoning allows a variety of uses including retail, office, institutional and residential. For the purpose of this analysis, I have made conservative assumptions on potential uses and assumed that some parking will be provided off site. The following lists my assumptions on the development potential for this property:

EXISTING ZONING

Ground Floor Retail: 13,000 SF
2nd & 3rd floor general office 26,000 SF

WITH PBOD

Ground Floor Retail: 15,000 SF
2nd & 3rd floor general office 30,000 SF

WITH 5 STORY HEIGHT

Ground Floor Retail: 15,000 SF
2nd - 5TH floor general office 60,000 SF

With these criteria in mind, we have generated the following weekday traffic generation projections based on Specialty Retail (814) and General Office (710) uses. The percent increase from the existing zoning condition is listed in parenthesis.

EXISTING ZONING	<u>Retail</u>	<u>Office</u>	<u>Total</u>
Average Trip Ends	529	507	1,036
AM Peak	83	67	150
PM Peak	64	69	133
WITH PBOD	<u>Retail</u>	<u>Office</u>	<u>Total</u>
Average Trip Ends	610	565	1,175 (+13%)
AM Peak	96	75	171 (+14%)
PM Peak	74	77	151 (+14%)
WITH 5 STORY HEIGHT	<u>Retail</u>	<u>Office</u>	<u>Total</u>
Average Trip Ends	610	954	1,564 (+51%)
AM Peak	96	128	224 (+49%)
PM Peak	74	128	202 (+52%)

2-12-11

Ms. Dhanya Sandeep
June 3, 2011
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-2-

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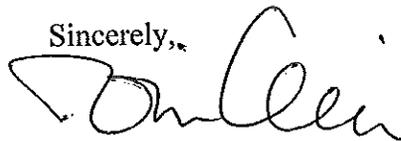
OFFICE
THE PROFESSIONAL BUILDING
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RALEIGH, NORTH CAROLINA 27601

5. **Summary of issues discussed:** After addressing preliminary matters concerning the rezoning process and the timetable for this case, there was a general discussion about property and the rezoning. Only one neighbor attended. He indicated that he had no opposition to the proposed rezoning and that he would view it as a positive change to the area.

6. **Additional Neighbor's Meetings.** None have been scheduled at this time.

7. **Changes to Petition.** No changes to the petition were requested or discussed.

Sincerely,



Robin T. Currin