



Certified Recommendation

Raleigh Planning Commission

CR# 11372

Case Information Z-8-10/Cross Link Rd.

<i>Location</i>	Cross Link Road, west side, at intersection with Dandridge Drive
<i>Size</i>	1.18 acres
<i>Request</i>	Rezone property from Buffer Commercial to Neighborhood Business Conditional Use

Comprehensive Plan Consistency

<i>Future Land Use Designation</i>	Low Density Residential
<i>Applicable Policy Statements</i>	Policy LU 1.3—Conditional Use District Consistency Policy LU 2.6—Zoning and Infrastructure Impacts Policy LU 10.6—Retail Nodes Policy UD 5.1—Contextual Design

Consistent

Inconsistent

Summary of Conditions

<i>Submitted Conditions</i>	<ol style="list-style-type: none"> 1. Lighting to be of full-cutoff design; directed away from residences. 2. Prohibited uses include automotive service/ repair, bar/ night club/ tavern/ lounge, civic/ convention center, day care (child or adult), hotel/ motel, indoor movie theater, parking lot/ deck, indoor recreational uses, school, and utility service/ substation. 3. Building height limited to 24 feet. 4. Building mass limited to two stories; materials restricted to brick/ masonry, EIFS, and/ or clapboard siding. Roofs to be sloped, with pitch between 4:12 and 12:12. Fenestration to be provided on all building sides. 5. Ground-mounted signage limited to 3½ feet in height. 6. Access limited to one driveway on Cross Link Road (no driveway to Dandridge Dr.). 7. Transit easement offered. 8. Additional retail and office capped at 4,000 square feet beyond that existing; total site retail and office maximum to be 7,600 square feet.
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Issues and Impacts

<i>Outstanding Issues</i>	<ul style="list-style-type: none"> ▪ Inconsistency with Future Land Use Map. ▪ Address building mass (façade articulation, maximum footprint), entrance orientation, fenestration pattern/ minimum percentage per side, and parking placement.
<i>Impacts Identified</i>	None identified.

Public Meetings

<i>Neighborhood Meetings</i>	<i>Public Hearing</i>	<i>Committee of the Whole</i>	<i>Planning Commission</i>
2-8-10 & 3-8-10	4-20-10	5-4-10 <i>Approve</i>	5-11-10 <i>Approve</i>

Valid Statutory Protest Petition

Attachments

1. Staff Report
2. Existing Zoning/Location Map
3. Future Land Use
4. Southeast Raleigh Streetscape Master Plan (excerpt—Sheet MP-1)
5. Southeast Raleigh Streetscape Master Plan (excerpt—Sheet MP-8)

Planning Commission Recommendation

<i>Recommendation</i>	The Planning Commission finds that this request is inconsistent with the Comprehensive Plan. However, based on the findings and reasons stated herein, the commission recommends that the request be approved in accordance with zoning conditions dated May 11, 2010.
<i>Findings & Reasons</i>	<p>(1) The request is inconsistent with the Comprehensive Plan. The Future Land Use Map designates the site for Low Density Residential (1 to 6 dwelling units per acre). However, the existing zoning would permit up to 10 units by right; the proposed rezoning would not increase that figure. Likewise under the present zoning, existing non-residential square footage on the site could be doubled through subdividing the parcel, and subsequently developing the second lot. The proposed rezoning, however, includes conditions which could mitigate impacts of site redevelopment.</p> <p>(2) The request is compatible with surrounding land uses and development patterns. The existing non-residential use has been in place for more than 25 years; two adjoining neighborhoods have been constructed around it. Rezoning would permit increased intensity of site use, but under conditions tempering impacts on adjacent neighborhoods.</p> <p>(3) The request is reasonable and in the public interest. Rezoning could provide additional goods and services at a walkable distance to surrounding neighborhoods; redevelopment will require existing site elements to be</p>

	brought up to current Code. Those aspects of Comprehensive Plan Policy UD 5.1—Contextual Design not addressed under the rezoning proposal can be addressed by future site plans, which are conditioned to go to public hearing.
<i>Motion and Vote</i>	<p>Motion: Bartholomew Second: Haq</p> <p>In favor: Anderson, Bartholomew, Batchelor, Butler, Fleming, Haq, Mattox, Mullins, Sterling</p>

This document is a true and accurate statement of the findings and recommendations of the Planning Commission. Approval of this document incorporates all of the findings of the attached Staff Report.

_____	_____	_____	_____
Planning Director	Date	5/12/10 Planning Commission Chairperson	Date

Staff Coordinator: Doug Hill; Doug.Hill@raleighnc.gov



Zoning Staff Report – Z-8-10

Conditional Use District

Request

<i>Location</i>	Cross Link Road, northeast corner of intersection with Dandridge Drive
<i>Request</i>	Rezone property from Buffer Commercial to Neighborhood Business Conditional Use
<i>Area of Request</i>	1.18 acres
<i>Property Owner</i>	Henry L. and Marjorie M. Niles
<i>PC Recommendation Deadline</i>	August 18, 2010

Subject Property

	<i>Current</i>	<i>Proposed</i>
<i>Zoning</i>	BC	NB CUD
<i>Additional Overlay</i>	N/A	N/A
<i>Land Use</i>	Retail	Retail
<i>Residential Density</i>	Maximum of 11 units	Maximum of 11 units

Surrounding Area

	<i>North</i>	<i>South</i>	<i>East</i>	<i>West</i>
<i>Zoning</i>	R-4	R-4; R-6 CUD	R-4	R-10
<i>Future Land Use</i>	Low Density Residential	Low Density Residential	Low Density Residential	Low Density Residential
<i>Current Land Use</i>	Vacant; single-family residences	Vacant; single-family residences	Vacant; single-family residences	Vacant; single-family residences

Comprehensive Plan Guidance

<i>Future Land Use</i>	Low Density Residential (1-6 du/acre)
<i>Area Plan</i>	N/A
<i>Applicable Policies</i>	Policy LU 1.3—Conditional Use District Consistency Policy LU 2.6—Zoning and Infrastructure Impacts Policy LU 10.6—Retail Nodes Policy UD 5.1—Contextual Design

Contact Information

<i>Staff</i>	Doug Hill, Doug.Hill@raleighnc.gov
<i>Applicant</i>	Henry L. and Marjorie M. Niles, Ronin2378@yahoo.com
<i>Citizens Advisory Council</i>	South: Norman Camp, 821-4138

Overview

The applicants request a rezoning from Buffer Commercial to Neighborhood Business Conditional Use. The property currently contains a single retail building of approximately 3,600 square feet. The rezoning would permit a total of 7,600 square feet of building area. The property is triangular in shape, and slopes from south to north.

Exhibit C & D Analysis

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

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

1.1 Future Land Use

The Future Land Use Map designates the property for Low Density Residential development (one to six dwelling units per acre). The current zoning, and that proposed, are inconsistent with this designation.

1.2 Policy Guidance

The following policy guidance is applicable with this request:

Policy LU 1.3 - Conditional Use District Consistency

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

The conditioned uses are inconsistent with the Comprehensive Plan. The request would permit non-residential and moderate-density uses, while the Plan envisions Low Density Residential development on the site.

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 zoning would permit increased floor area and intensity of use. Existing infrastructure is expected to retain sufficient capacity to accommodate such increases.

Policy LU 10.6 - Retail Nodes

Retail uses should concentrate in mixed-use centers and should not spread along thoroughfares in a linear "strip" pattern unless ancillary to office or high-density residential use.

The property is not located in a mixed use center, but mid-point between the centers designated at either end of Cross Link Road (i.e., at Rock Quarry Road and Garner Road). The site is situated amid low-density residential development.

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.

Components of “residential character” are defined by the City Code of Ordinances (Sec. 10-2002), as “Displaying an appearance typical of dwelling units, with respect to building height, building mass, building materials, roof form and pitch, and fenestration pattern, and may include landscaping, parking, and related site features.” The proposal addresses many of these elements. Parking is not addressed, however. Parking for the existing establishment is split between the area in front of the building and that behind the building. Building articulation (i.e., the extent to which façade planes are broken up by vertical offsets, reveals, or projections), as it defines building mass, also is not addressed, nor is note made of building entrance orientation. The existing building and all nearby residences face their respective streets. Fenestration is to be provided on all building sides, but to what extent (i.e., minimum percentage of wall area) and glazing pattern (e.g., storefront systems) are not noted.

1.3 Area Plan Guidance

The property is located within the area of the Southeast Raleigh Streetscape Master Plan. The Plan states (as specified on Sheet MP-1, excerpted below) that, at the Cross Link/ Dandridge intersection, there is a “landscape easement to be acquired at each quadrant of the intersection.” It further notes there should be transit easement provided, which would allow installation of “a shelter with integrated planting” following the design shown on Sheet MP-8 (excerpted below). The plan does not specify exact easement dimensions. The proposal offers a 20-foot by 15-foot transit easement.

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

The property currently exists as an island of Buffer Commercial zoning among various residential zoning districts. A large undeveloped property to the south and west of the subject parcel is zoned O&I-1. The applicant requests a rezoning to Neighborhood Business Conditional Use. The existing Buffer Commercial zoning district provides development maximums that constrain development. The applicant has provided conditions that will lessen the impact of development on neighboring properties.

This property would remain the only instance of retail zoning within one-half mile.

3. Public benefits of the proposed rezoning

The rezoning could provide additional goods and services to the surrounding neighborhoods at a walkable distance. Redevelopment would require site elements to be brought up to current Code (e.g., access, parking, landscaping, lighting); however, those improvements could also be accomplished without rezoning.

4. Detriments of the proposed rezoning

Given that site retail square footage could more than double under the proposal, site-generated traffic could similarly increase, especially under some permitted uses (e.g., bank, eating establishment). Future building footprints, orientation, façade articulation,

fenestration pattern, and parking lot size and location(s) are not addressed. As the site is less than 2 acres, all existing trees could be removed. Each such consideration could impact neighborhood appearance and character.

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

5.1 Transportation

Cross Link Road is classified as a collector street (2007ADT - 10,000 vpd) and is constructed with a 41-foot back-to-back curb and gutter section with sidewalks on one side within a 60-foot right-of-way. City standards call for 4' bicycle lanes to be striped on both sides of Cross Link Road. Dandridge Drive is also classified as a collector street and is constructed to City standards with a 41-foot back-to-back curb and gutter section with sidewalks on one side within a 60-foot right-of-way. The subject property is within the area of the Southeast Raleigh Streetscape Master Plan. The Cross Link Road corridor streetscape plan calls for landscaping, pedestrian enhancements, and intersection improvements at Cross Link Road and Dandridge Drive.

Impact Identified: No significant impact to the City's transportation system is expected from the approval this proposal.

5.2 Transit

A 20 foot by 15 foot transit easement is conditioned by the proposal.

Impact Identified: No negative impact to the City's transit system is expected due to this proposal.

5.3 Hydrology

<i>Floodplain</i>	No FEMA Floodplain present, no alluvial soils
<i>Drainage Basin</i>	Walnut Creek, no Neuse buffers
<i>Stormwater Management</i>	Subject to Part 10, Chapter 9
<i>Overlay District</i>	none

Impact Identified: No significant impact on the City's hydrology is expected due to this proposal.

5.4 Public Utilities

	<i>Maximum Demand (current)</i>	<i>Maximum Demand (proposed)</i>
<i>Water</i>	8,850 gpd	7,375 gpd
<i>Waste Water</i>	8,850 gpd	7,375 gpd

Impact Identified: The proposed rezoning will not impact the wastewater collection or water distribution systems of the City of Raleigh. There are existing sanitary sewer and water mains adjacent to the property which the property could connect to the public utilities systems.

5.5 Parks and Recreation

The subject tract is not adjacent to any greenway corridors. Park needs are met by Biltmore Hills Community Park.

Impact Identified: No impact on the City's greenways or parks is expected due to this proposal.

5.6 Urban Forestry

This commercial property is less than 2 acres and is not located along a thoroughfare; thus there are no Tree Conservation requirements.

Impact Identified: No major impact on the City's urban forest is expected due to this proposal.

5.7 Wake County Public Schools

The proposed zoning would result in the same or fewer students being added to the number possible under the current zoning conditions.

Impact Identified: There is no negative impact identified related to Wake County Schools. Non-residential uses permitted under the rezoning could decrease the potential school age population originating from this property.

5.8 Designated Historic Resources

There are no designated historic landmarks located on the site, or within 100 feet of the site.

Impact Identified: No impact on the City's historic resources is expected due to this proposal.

5.9 Impacts Summary

No significant impacts have been identified.

5.10 Mitigation of Impacts

(Not applicable.)

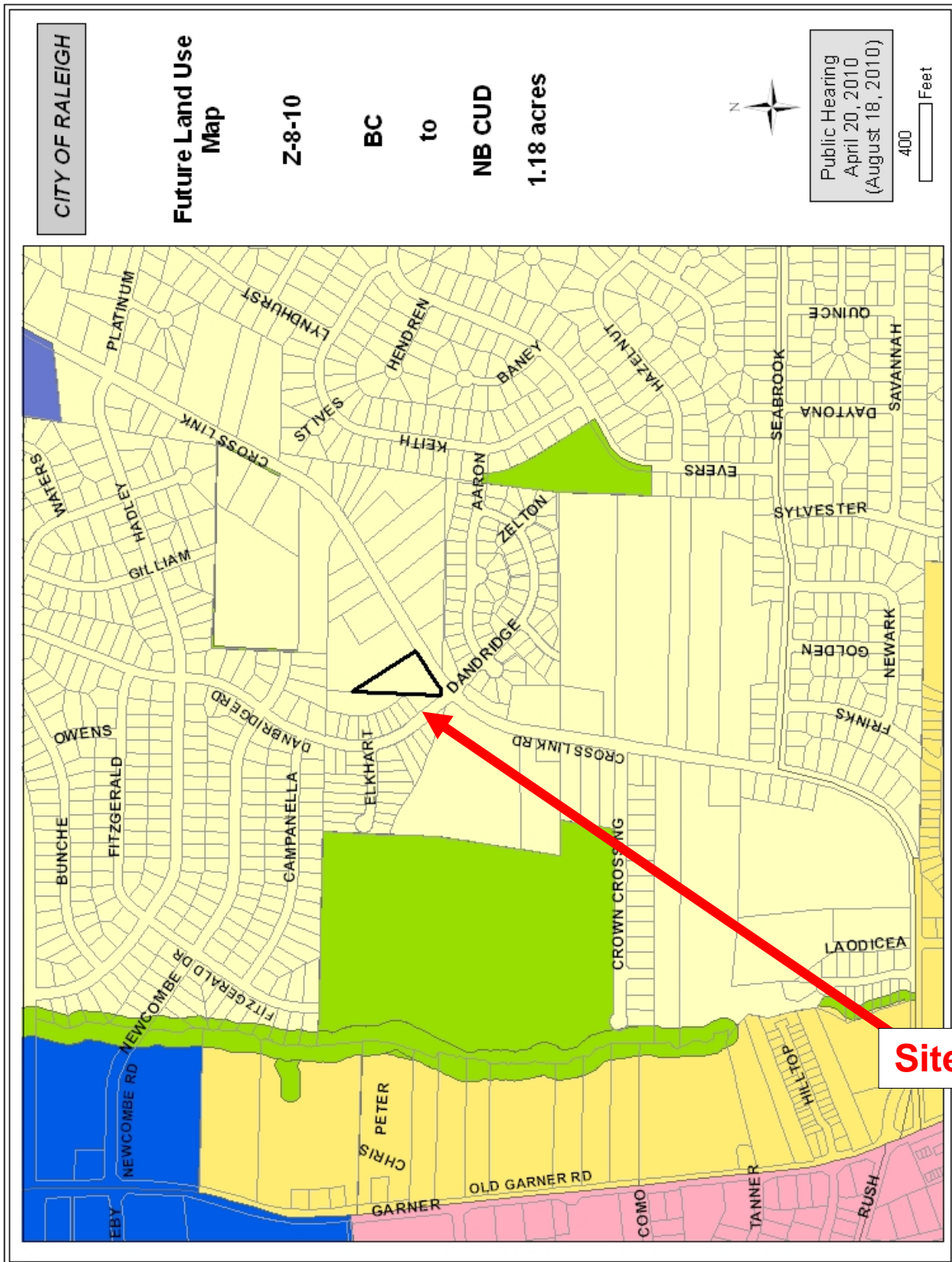
6. Appearance Commission

The proposal is not subject to Appearance Commission review.

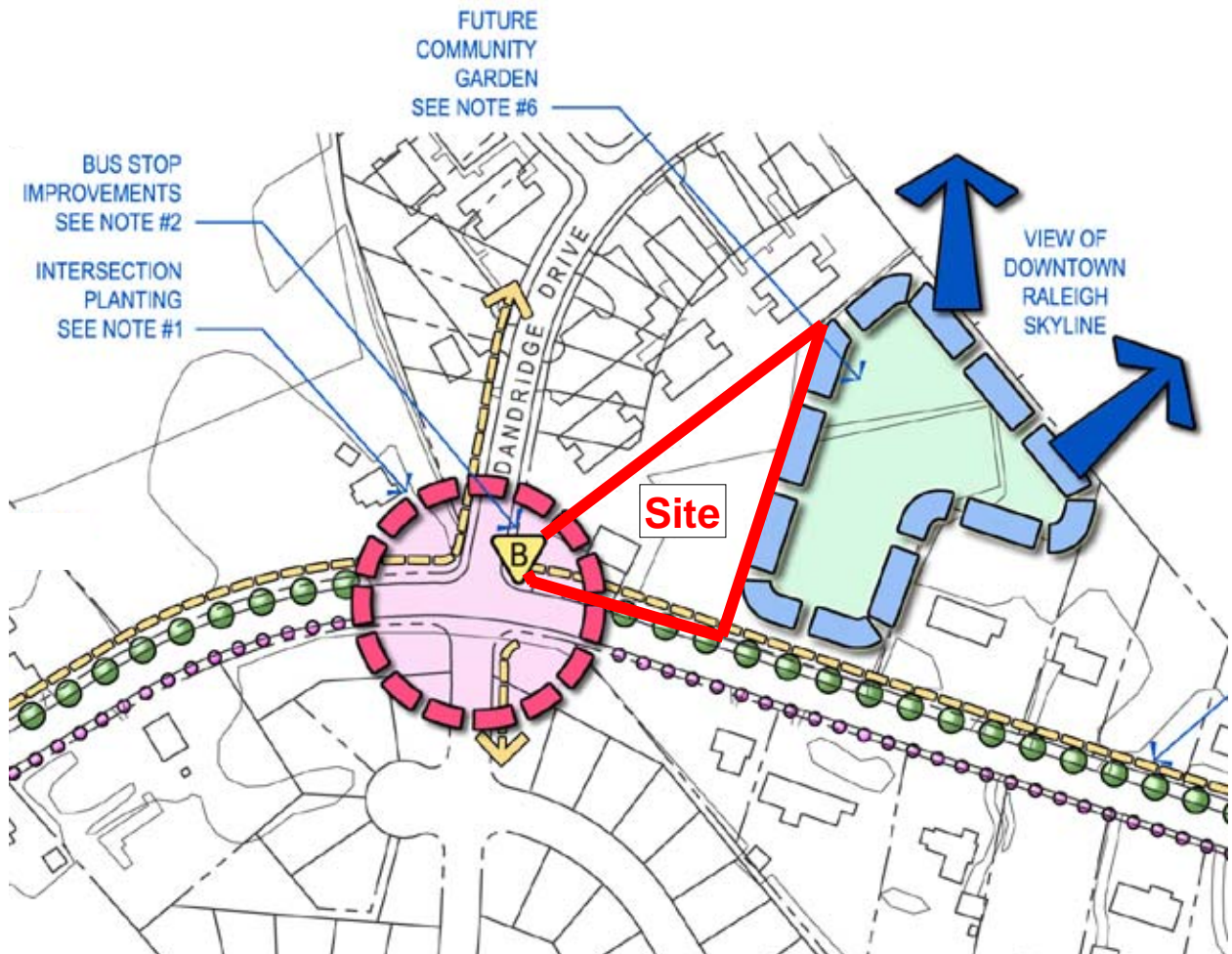
7. Conclusions

The request is inconsistent with the Future Land Use Map, which designates the site for residential use. Applicable policies cite the need for site and building designs compatible with the surrounding residential character; several such elements are addressed, but others are not.

Future Land Use Map



Southeast Raleigh Streetscape Master Plan (excerpt – Sheet MP-1)

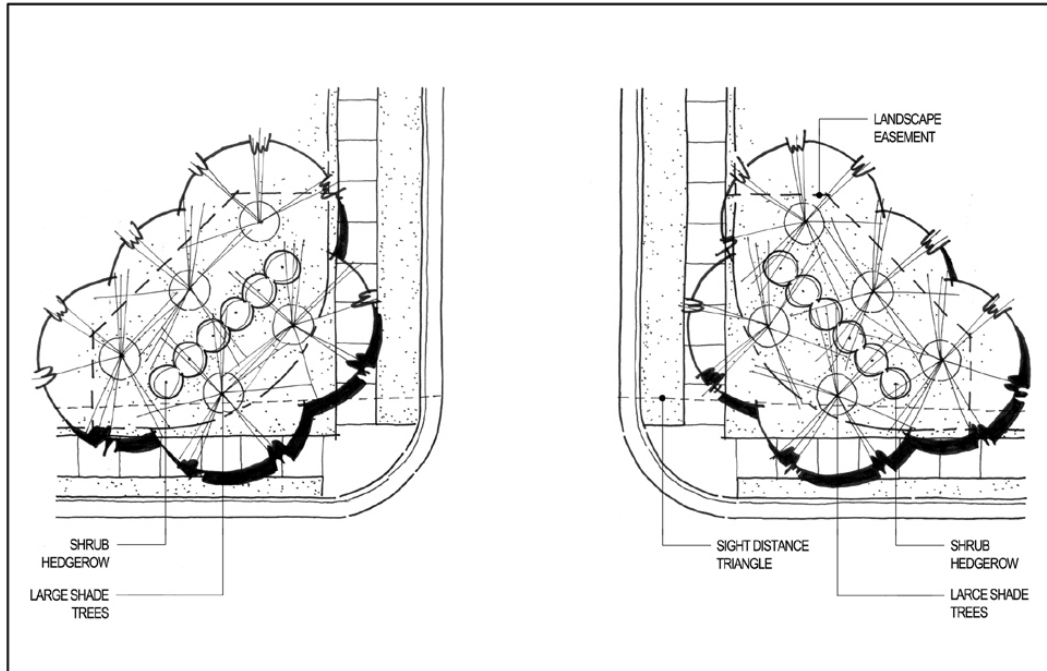


NOTES:

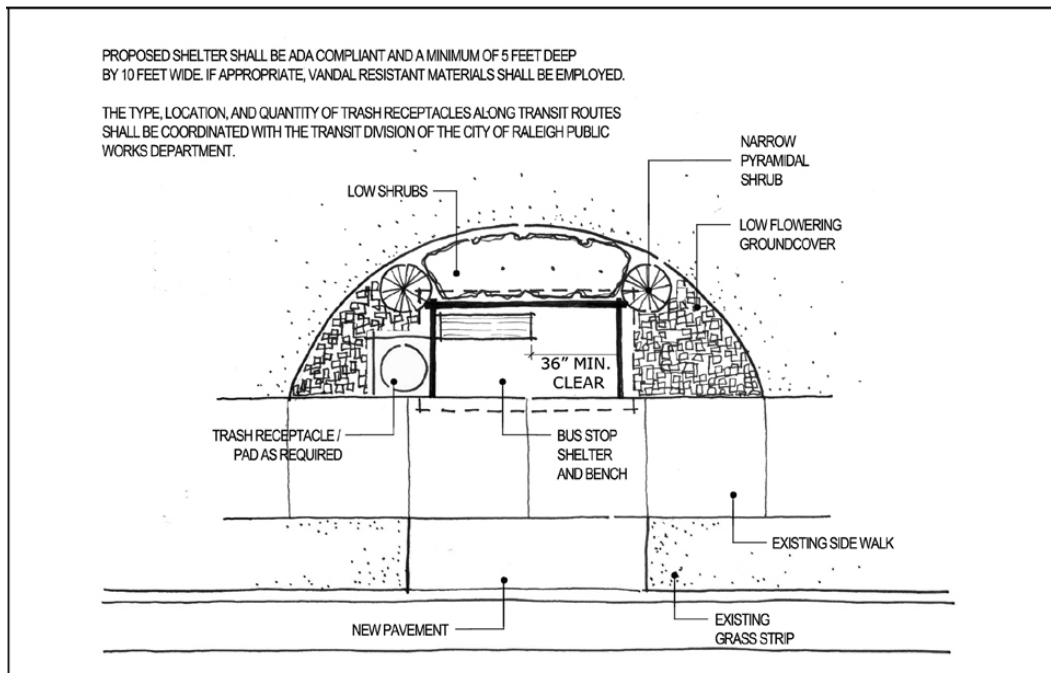
#1 LANDSCAPE EASEMENT TO BE ACQUIRED AT EACH QUADRANT OF THE INTERSECTION FOR A PLANTING CONSISTING OF MEDIUM SHADE TREES AND A HEDGEROW OF SHRUBS. A SUGGESTED INTERSECTION STREETScape PATTERN IS SHOWN ON SHEET MP-8. NOTE THAT SHRUBS SHALL BE PLACED OUTSIDE OF A TRIANGULAR SIGHT DISTANCE AREA MEASURED 20 FEET ALONG EACH RIGHT-OF-WAY LINE FROM THE INTERSECTION. THE PROPOSED PLANTING PATTERN MAY BE UNFEASIBLE AT SOME QUADRANTS OF THE INTERSECTION DUE TO EXTREME NATURAL FEATURES, EXISTING UTILITIES, AND/OR OTHER IMPROVEMENTS

#2 LANDSCAPE EASEMENT TO BE ACQUIRED AT EXISTING BUS STOP FOR IMPROVEMENTS INCLUDING A SHELTER WITH INTEGRATED BENCH AND PLANTING. A SUGGESTED BUS STOP PLANTING PATTERN IS SHOWN ON SHEET MP-8. THE SHELTER MATERIALS AND INSTALLATION SHALL MEET THE REQUIREMENTS OF CAPITAL AREA TRANSIT AND THE CITY OF RALEIGH.

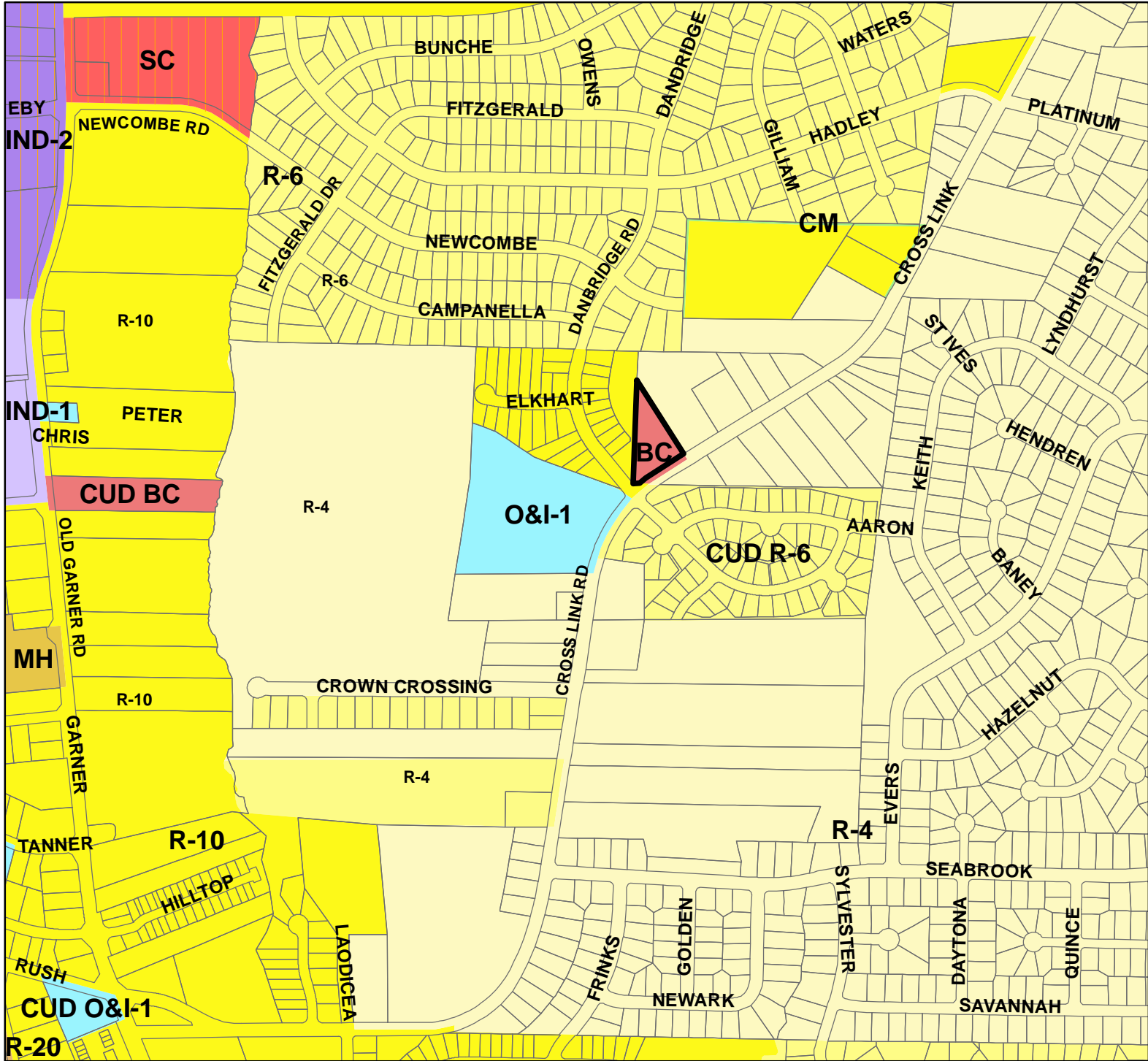
Southeast Raleigh Streetscape Master Plan (excerpts – Sheet MP-8)



INTERSECTION STREETSCAPE PATTERN



BUS STOP PATTERN



CITY OF RALEIGH

Existing Land Use Map

Z-8-10

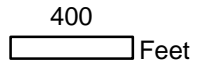
BC

to

NB CUD

1.18 acres

Public Hearing
 April 20, 2010
 (August 18, 2010)





Office Use Only
CITY OF RALEIGH
CITY PLANNING DEPT
Petition No. 2-8-10

2009 DEC 15 PM 2:01

Petition to Amend the Official Zoning Map

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

The petitioner seeks to show the following:

1. That, for the purposes of promoting health, morals, or the general welfare, the zoning classification of the property described herein must be changed.
2. That the following circumstance(s) exist(s):

- City Council has erred in establishing the current zoning classification of the property by disregarding one or a combination of the fundamental principles of zoning as set forth in the enabling legislation, North Carolina General Statutes Section 160A-381 and 160A-383.
- Circumstances have so changed since the property was last zoned that its current zoning classification could not properly be applied to it now were it being zoned for the first time.
- The property has not heretofore been subject to the zoning regulations of the City of Raleigh.

3. That the requested zoning change is or will be in accordance with the Raleigh Comprehensive Plan.
4. That the fundamental purposes of zoning as set forth in the N.C. enabling legislation would be best served by changing the zoning classification of the property. Among the fundamental purposes of zoning are:
 - 1) to lessen congestion in the streets;
 - 2) to provide adequate light and air;
 - 3) to prevent the overcrowding of land;
 - 4) to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements;
 - 5) to regulate in accordance with a comprehensive plan;
 - 6) to avoid spot zoning; and
 - 7) to regulate with reasonable consideration to the character of the district, the suitability of the land for particular uses, the conservation of the value of buildings within the district and the encouragement of the most appropriate use of the land throughout the City.

Please check boxes where appropriate

THEREFORE, petitioner requests that the Official Zoning map be amended to change the zoning classification of the property as proposed in this submittal, and for such other action as may be deemed appropriate.

Signature(s)	<u>Henry L. Niles Jr.</u>	Date:	<u>12-15-09</u>
	<u>Marjorie M. Niles</u>		<u>12-15-09</u>

Please type or print name(s) clearly:

<u>Henry L. Niles Jr.</u>	<u>12-15-09</u>
<u>Marjorie M. Niles</u>	<u>12-15-09</u>

EXHIBIT B. Request for Zoning Change

<i>Office Use Only</i>	
Petition No.	<u>Z-8-10</u>
Date Filed:	<u>12-15-09</u>
Filing Fee:	<u>pd 1028.00 by CR # 2136</u>

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

See instructions, page 6

1) Petitioner(s): Henry L. Niles 1130 Cross Link Rd, 919.247.4048
 Note: Conditional Use District Raleigh, NC 27610
 Petitioner(s) must be owner(s) of Marjorie M. Niles 1130 Cross Link Rd, 919.247.4048
 petitioned property. Raleigh, NC 27610
Ronin2378@yahoo.com

2) Property Owner(s): Henry L. Niles 1130 Cross Link Rd 919.247.4048
Raleigh, NC 27610
Marjorie M. Niles 1130 Cross Link Rd 919.247.4048
Raleigh, NC 27610 Ronin2378@yahoo.com

3) Contact Person(s): Kimberly J. Siran 537 E. Martin Street 919.833.7093
Raleigh, NC 27601 Kimberly@coalydesign.com

4) Property Description: Wake County Property Identification Number(s) (PIN): 1712270049
 Please provide surveys if proposed zoning boundary lines do not follow property lines.

General Street Location (nearest street intersections): Cross Link Road and Dandridge Drive

5) Area of Subject Property (acres): 1.18 acres

6) Current Zoning District(s)
Classification: BC -- Buffer Commercial
 Include Overlay District(s), if Applicable

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

PIN_NUM	OWNER	ADDR1	ADDR2
1712261718	STEWART, LANITA & SIM A	1001 AARON DR	RALEIGH NC 27610-4865
1712169685	NEWKIRK, JEFFREY A & CYNTHIA B	905 AARON DR	RALEIGH NC 27610-4819
1712261871	HARRIS, TIMOTHY EARL & CYNTHIA ANN	1005 AARON DR	RALEIGH NC 27610-4865
1712262833	YOHN, DONALD BRANDON	1009 AARON DR	RALEIGH NC 27610-4865
1712262895	WHITE, GERALDINE	1013 AARON DR	RALEIGH NC 27610-4865
1712178162	GRIFFIN, ALVIS E & ROSTINE D	2613 DANDRIDGE DR	RALEIGH NC 27610-4869
1712167994	OCAMPO, RAUL CAMACHO MARTINEZ, LEONOR SANCHEZ	2620 DANDRIDGE DR	RALEIGH NC 27610-4868
1712177395	DAVIS, NATHANIEL	2513 DANDRIDGE DR	RALEIGH NC 27610-4816
1712178098	RICHARDSON, TERESA	2617 DANDRIDGE DR	RALEIGH NC 27610-4869
1712260721	HAYWOOD, DAVID III & DIANE F	909 AARON DR	RALEIGH NC 27610-4819
1712169629	CORSS LINK TRACE HOME OWNERS ASSOC	PO BOX 98372	RALEIGH NC 27624-8372
1712260895	CROSS LINK TRACE HOME OWNERS ASSOC	PO BOX 98372	RALEIGH NC 27624-8372
1712179217	CAPITOL AREA DEVELOPMENTS INC	PO BOX 28005	RALEIGH NC 27611-8005
1712178136	BRASWELL, JOHN	2609 DANDRIDGE DR	RALEIGH NC 27610-4869
1712177390	FREEMAN, RUBEN & ANNIE M	4309 ROCKSIDE HILLS DR	RALEIGH NC 27603-6318
1712178205	PORCHER, IZALETTE MARIE	2601 DANDRIDGE DR	RALEIGH NC 27610-4869
1712178401	MACK, JOERETHIA CHARLENE	2509 DANDRIDGE DOWNS	RALEIGH NC 27610
1712178210	CHISLEY, DEWANN	2605 DANDRIDGE DR	RALEIGH NC 27610-4869
1712271332	SMITH, FABETTE TERESA	PO BOX 27922	RALEIGH NC 27611-7922
1712262965	LINK, AMOS E JR & CHRISTIANNA B	PO BOX 25216	RALEIGH NC 27611-5216
1712165735	LIGHTNER FUNERAL & CREMATION SERVIC	312 MARTIN LUTHER KING JR BLVD	RALEIGH NC 27601-2360
1712264919	NILES, HENRY L JR	1130 CROSS LINK RD	RALEIGH NC 27610-4843

EXHIBIT C. Request for Zoning Change

Office Use Only	
Petition No.	<u>Z-8-10</u>
Original Date Filed:	<u>12/15/09</u>
Amended Date:	<u>5/11/10</u>

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

1) Conditional Use Zone Requested: Neighborhood Business CUD _____

2) Narrative of conditions being requested:

1. All outdoor lighting fixtures shall be cut-off design and directed away from all adjacent residential properties.
2. The following allowable uses shall be prohibited:
 - Automotive service and repair facility
 - Bar, nightclub, tavern, lounge
 - Civic/Convention center
 - Day care facility (child or adult)
 - Hotel/Motel
 - Movie theater – indoor and outdoor
 - Parking lot, parking deck, parking garage including motor pool (principal or commercial use)
 - Recreational indoor use
 - Schools, all types
 - Utility service and substation
 - Any drive-through facility
 - Business or portions of businesses conducted in whole or in part outside the building
3. Buildings shall be limited to a maximum height of 24 feet, as calculated under Sec. 10-2076(b).
4. The building mass for the subject property shall be not more than two stories in height. The exterior building materials, except for any window, door or roof, shall be brick or masonry, EIFS, clapboard siding, singly or in combination. The roofs shall be sloped between 4/12 and 12/12 slope. Fenestrations (windows and/or doors) shall be provided on all sides of the structure(s).
5. The ground-mounted signage shall not exceed 3 1/2 feet in height.
6. The subject property shall be limited to no more than one driveway access onto Cross Link Road and no access to Dandridge Drive.
7. Prior to lot recordation or the issuance of any building permit, whichever shall first occur, the owner of the property shall deed to the City with a transit easement measuring twenty feet (20') long by fifteen feet (15') adjacent to the public right-of-way of Cross Link Road to support a bus stop for future transit services in the area. The location of the transit easement shall be reviewed and approved by the Transit Division of the City and the City Attorney or his designee shall approve the transit easement deed prior to recordation in the Wake County Registry.
8. The subject property shall be limited to a maximum of 4,000 square feet additional retail and office square footage. Since the existing building comprises 3,600 square feet; the maximum combined retail and office square footage permitted on the subject property shall be 7,600 square feet.
9. The non-administrative site plan approval process shall be required for development of the Property.

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

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

Printed Name: Henry L. Niles Jr. _____

Signature: Henry L. Niles Jr. _____ Date: 5-10-10

Printed Name: Marjorie M. Niles _____

Signature: Marjorie M. Niles _____ Date: 5-10-10

EXHIBIT D. Petitioner's Argument on Behalf of The Zoning Change Requested

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

This section is reserved for the applicant to state factual information in support of the rezoning request.

Required items of discussion:

The Planning Department is instructed not to accept any application for amending the official zoning map without a statement prepared by the applicant analyzing the reasonableness of the rezoning request. This statement *shall* address the consistency of the proposed rezoning with the Comprehensive Plan and any other applicable City-adopted plan(s), the compatibility of the proposed rezoning with the *property* and surrounding area, and the benefits and detriments of the proposed rezoning for the landowner, the immediate neighbors and the surrounding community.

Recommended items of discussion (where applicable):

1. An error by the City Council in establishing the current zoning classification of the property.
2. How circumstances (land use and future development plans) have so changed since the property was last zoned that its current zoning classification could not properly be applied to it now were it being zoned for the first time.
3. The public need for additional land to be zoned to the classification requested.
4. The impact on public services, facilities, infrastructure, fire and safety, parks and recreation, topography, access to light and air, etc.

PETITIONER'S STATEMENT:

I. Consistency of the proposed map amendment with the Comprehensive Plan (www.raleighnc.gov).

- A. Please state the recommended land use(s) for this property as shown on the Future Land Use Map and discuss the consistency of the proposed land uses:**

The subject property is located within the Southeast district planning area and the recommended land use by the Future Land Use Map for the property is residential. The current land use is retail and the subject property has been used as retail since 1984.

- B. Please state whether the subject property is located within any Area Plan or other City Council-adopted plans and policies and discuss the policies applicable to future development within the plan(s) area.**

The subject property is not located within any of the above listed Plans or other City Council-adopted plans and policies.

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 subject property is inconsistent with the current adopted future land use map. However, the subject property is currently used as retail, and has been used as retail since 1984. The intent of the rezoning is to continue to use the property as retail and increase the availability of small retail in the area to residents of the area.

UD 1.6, Using Zoning to Achieve Design Goals, speaks to using zoning and other regulatory techniques to promote high quality architectural features and site design. The subject property's rezoning would allow the site and architecture to be improved per City standards and improve pedestrian connection and accessibility.

In the Land Use section of the Comprehensive Plan, under the section 'Evaluating Zoning Proposals and Consistency with the Comprehensive Plan', there is a statement that addresses uses not consistent with the Future Land Use Map and whether the use would adversely alter the character of the area. The subject property would not adversely alter the character of the area, since the property is currently used as retail. The additional retail space would provide additional goods and services to the residents of the area.

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 current land uses in the surrounding area of the subject parcel are predominantly single family residential. The land use to the west and east of the subject parcel is vacant. The land use directly southwest of the subject parcel, across Dandridge Drive, is also a vacant use.

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

The existing zoning patterns are Residential (R-10 to the west, R-6 to the south and east,) and Office and Institutional-1. The current zoning for the subject parcel is Buffer Commercial.

The built environment is predominantly medium density residential. The properties directly west, east and southwest of the site are currently vacant/undeveloped. There is existing tree cover at the rear of the property to the east and significant slope to the property to the west. Existing building heights for the surrounding properties are two story residential.

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 subject parcel has an existing building on the site which is currently being utilized for retail as a convenience store and a barber shop. The proposed rezoning would allow for an increase in the square footage of retail allowed on site. The proposed retail uses would be compatible with the uses currently on site. The intended clients of the proposed retail establishments are the residents of the surrounding communities.

III. Benefits and detriments of the proposed map amendment.

A. For the landowner(s):

This rezoning would allow greater economic benefit for the landowners, while also upgrading the site to meet the current Raleigh development Code. The owners would also benefit by having an improved site appearance that conforms to the Raleigh City Code. Upgrades to the site would include parking, transportation access, fire access, landscape buffers, and stormwater management. These issues are currently not to a level deemed acceptable by the Raleigh City Code.

B. For the immediate neighbors:

The immediate properties that adjoin the subject property are currently vacant. The benefit to these properties, when developed at some point in the future, would be established landscape buffers, safe access to the subject property per DOT and City transportation standards, building heights compatible with a residential scale, and community oriented retail in the area.

The existing neighbors would have access (pedestrian and vehicular) to goods and services currently not provided in the immediate area.

The immediate neighbors would also benefit by the site improvements complying with the City Code.

C. For the surrounding community:

The surrounding community would benefit by having additional community retail in the immediate area which would reduce trip generation. The access to the site would be limited to one driveway along Cross Link Road, which improves safety by reducing turn movements. The off street parking would be upgraded to comply with the City Code. Landscape buffers will be established.

They would also benefit by having an improved site appearance that conforms to the Raleigh City Code. Upgrades to the site would include parking, transportation access, fire access, landscape buffers, and stormwater management. These issues are currently not to a level deemed acceptable by the Raleigh City Code.

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

The current use of the site is retail and the current zoning of the subject parcel is Buffer Commercial, which allows a maximum of 3,000 square feet of retail on site. There is currently 3,000 square feet of retail on site. The proposed rezoning of the subject parcel would provide a benefit to the community of additional local retail. The surrounding properties are currently zoned residential and the current land uses are residential and vacant. The conditions noted above would mitigate significant impacts to the site.

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

The existing characteristics of the subject property support the proposed map amendment because the site is currently used as retail. The site has been used as retail since 1984. The community nature of the additional retail proposed for the site is a reasonable request. A preliminary site plan has been drawn and the site can support the additional retail space and accompanying infrastructure. It would be in the public interest to provide additional retail for the surrounding community.

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 Buffer Commercial district is no longer being applied as a zoning classification. The Buffer Commercial zoning classification was originally intended to buffer commercial properties from adjacent low density residential uses. There are only a handful of sites throughout Raleigh that are still zoned Buffer Commercial. This district classification was made obsolete due to Conditional Use Zoning and the adoption of the Raleigh City Code. This application requests that the subject parcel be rezoned to Neighborhood Business – Conditional Use. The proposed zoning classification will allow for additional retail on site. The density of the surrounding development has increased since this property was first used a retail. The conditions listed on the pages above will insure the site remains compatible with how the site has historically been used.

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

The additional retail space proposed for the subject parcel is compatible with other Neighborhood Business zone classifications and uses in established Raleigh neighborhoods. In a situation similar to the subject parcel, if it was being rezoned for the first time, the Neighborhood Business zone would most likely be used.

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

The additional proposed retail space (not to exceed 4,000 sf) will not make a significant, negative impact on public services, facilities, infrastructure, fire and safety, parks and recreation, topography, or access to light and air.

The site will be improved to provide one, clear, safe access point along Cross Link Road, which will improve the current situation for both vehicles accessing the site to utilize the services, and for fire department apparatus access. The site will be improved to provide adequate and Code compliant off street parking. The site will also be improved to provide safe, pedestrian, and handicap access internally, and from the current City bus stop at the corner of Cross Link Road and Dandridge Drive to the proposed retail spaces.

The proposed additional retail use will improve the tenants and clients access to light, air, and vegetation by complying with the City's site development Code and the NC Building Code.

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

The rezoning for the subject parcel will allow the current use of the site to continue with added retail services for the surrounding community. Zoning's fundamental purpose is to regulate land uses to protect the quality of our air, water, and other natural resources. It is also used to make our City attractive, efficient, and livable. The proposed rezoning for the subject parcel is in keeping with the fundamental purpose of zoning listed above.

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

The Buffer Commercial zone has been made obsolete due to Conditional Use Zoning and the adoption of the Raleigh City Code. If the parcel were to be zoned today for the first time, the Neighborhood Business zone would be the best classification for the parcel. The site is located at a community cross roads and has historically been used for retail services. The proposed use is an extension of the current use and the additional retail proposed for the site will not negatively impact the existing community.