



# Certified Recommendation of the City of Raleigh Planning Commission

**Case File: Z-11-09 Conditional Use; Hogan Lane**

**General Location:** Hogan Lane, south side, between Royal Street and Wilcox Street

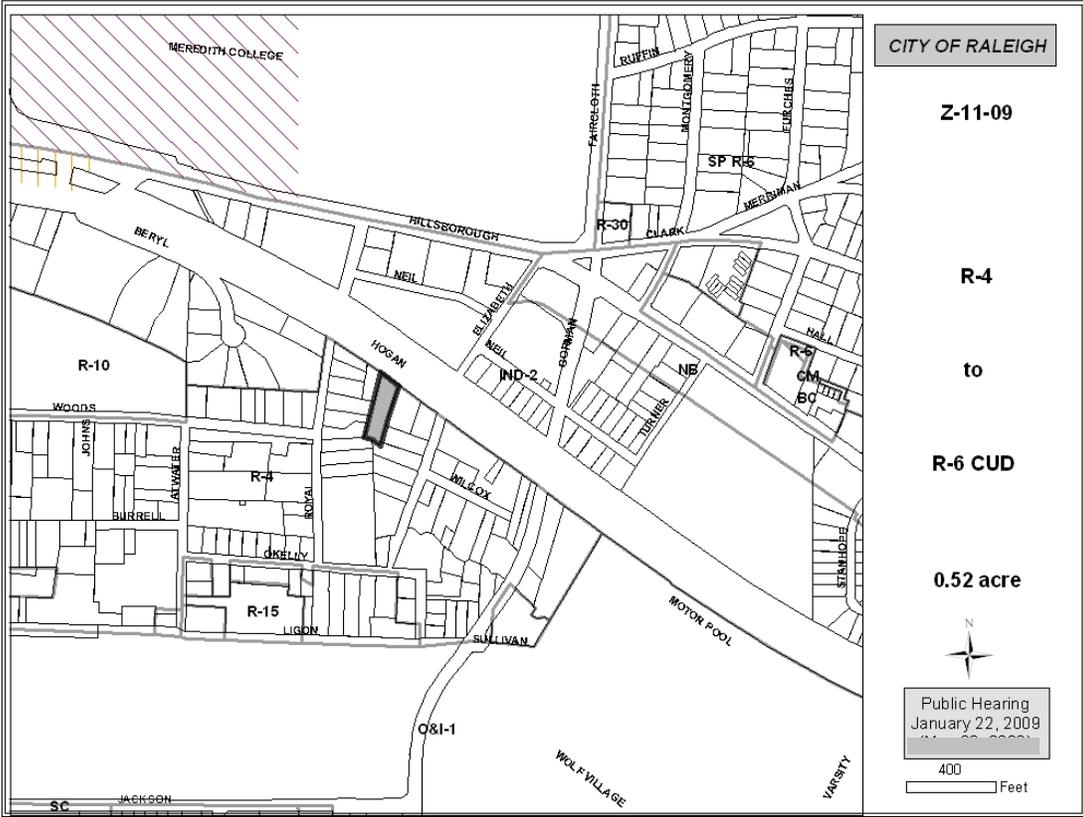
**Planning District / CAC:** Southwest / West

**Request:** Petition for Rezoning from Residential-4 to Residential-6 Conditional Use District.

**Comprehensive Plan Consistency:** The proposal is consistent with the Comprehensive Plan.

**Valid Protest Petition (VSP):** No.

**Recommendation:** The Planning Commission finds that this request is consistent with the Comprehensive Plan. However, based on the Findings and Reasons stated below, the Planning Commission recommends that the proposed rezoning be denied.



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**CASE FILE:**    **Z-11-09 Conditional Use**

**LOCATION:**       This site is located on the south side of Hogan Lane, between its intersections with Royal Street and Wilcox Street.

**REQUEST:**       This request is to rezone approximately 0.52 acre, currently zoned **Residential-4**. The proposal is to rezone the property to **Residential-6 Conditional Use District**.

**COMPREHENSIVE PLAN CONSISTENCY:**    **The proposal is consistent with the Comprehensive Plan.**

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**RECOMMENDATION:**   **The Planning Commission finds that this request is consistent with the Comprehensive Plan. However, based on the Findings and Reasons stated below, the Planning Commission recommends that the proposed rezoning be denied.**

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**FINDINGS AND REASONS:**

- (1) The rezoning request is consistent with the land use recommendations of the Comprehensive Plan. The Method Small Area Plan designates the subject property for low-density residential development. Both the current and proposed zoning are considered low density residential uses.
  - (2) The request pertains to a single half-acre parcel; all adjacent and nearby residential property would remain zoned R-4. The proposed zoning would thus be in isolation.
  - (3) Access to the site would be problematic. Hogan Lane, a City-maintained gravel street, is located within the right-of-way of the North Carolina Railroad. Any street improvements could be subject to future removal at the discretion of the railroad, and at the City's expense. The City has currently no plans for improving the street.
  - (4) Provision of water and sewer to the site would be problematic. While the City and railroad have an agreement permitting extension of such lines into the railroad right-of-way, any improvements could be subject to future removal at the discretion of the railroad, and at the City's expense. The City has currently no plans for extending water or sewer lines to the property.
  - (5) The cost of needed improvements could undermine the rezoning's stated goal of providing affordable housing.
  - (6) That for the stated reasons, the Planning Commission finds that the proposed rezoning would not provide a public benefit to the larger community beyond that provided by the current zoning and recommends denial of the request.
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**To PC:**            2/24/09  
**Case History:**   2/24/09 (deferred); 5/12/09 (time extension requested); 5/26/09

**To CC:**            5/19/09 (time extension granted); 6/2/09

**City Council Status:** \_\_\_\_\_

**Staff Coordinator:**   Doug Hill

**Motion:** Chambliss  
**Second:** Harris Edmisten  
**In Favor:** Butler, Chambliss, Fleming, Gaylord, Haq, Harris Edmisten, Vance  
**Opposed:** Bartholomew, Fleming, Smith  
**Excused:**

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 Staff Report attached.

**Signatures:** (Planning Dir.) (PC Chair)

\_\_\_\_\_  
date: \_\_\_\_\_ date: 5/27/09



## Zoning Staff Report: Z-11-09 Conditional Use

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**LOCATION:** This site is located on the south side of Hogan Lane, between Royal Street and Wilcox Street.

**AREA OF REQUEST:** 0.52 acre

**PROPERTY OWNER:** Corbin Family Partnership

**CONTACT PERSON:** Diane Corbin, 835-3688; Rhonda Angerio, 743-0778

**PLANNING COMMISSION RECOMMENDATION DEADLINE:** July 21, 2009

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<b>ZONING:</b>	<b><u>Current Zoning</u></b>	<b><u>Proposed Zoning</u></b>
	Residential-4	Residential-6 CUD
	<b><u>Current Overlay District</u></b>	<b><u>Proposed Overlay District</u></b>
	n/a	n/a

<b>ALLOWABLE DWELLING UNITS:</b>	<b><u>Current Zoning</u></b>	<b><u>Proposed Zoning</u></b>
	2 units	3 units

<b>ALLOWABLE OFFICE SQUARE FOOTAGE:</b>	<b><u>Current Zoning</u></b>	<b><u>Proposed Zoning</u></b>
	Not permitted.	Not permitted.

<b>ALLOWABLE RETAIL SQUARE FOOTAGE:</b>	<b><u>Current Zoning</u></b>	<b><u>Proposed Zoning</u></b>
	Not permitted.	Not permitted.

<b>ALLOWABLE GROUND SIGNS:</b>	<b><u>Current Zoning</u></b>	<b><u>Proposed Zoning</u></b>
	Tract ID	Tract ID

**ZONING HISTORY:** This property has been zoned R-4 since 1973 (Z-74-73).

**SURROUNDING ZONING:**

NORTH: Industrial-2  
SOUTH: Residential-4  
EAST: Residential-4  
WEST: Residential-4

**LAND USE:** Vacant

**SURROUNDING**

**LAND USE:** NORTH: Railroad right-of-way  
SOUTH: Vacant; low-density residential (single family dwellings)  
EAST: Vacant  
WEST: Low-density residential (single family dwellings)

**DESIGNATED  
HISTORIC**

**RESOURCES:** None on site; none within 100 feet of site. The property is proximate to the historic Method community. The neighborhood is on the National Register Study List, but on "Reconsider" status. The Berry O'Kelly Agricultural School, a Raleigh Historic Landmark, is located 1,800 feet from the site.

**EXHIBIT C AND D ANALYSIS:**

**COMPREHENSIVE  
PLAN SUMMARY**

**TABLE:** In addition to the various systems plans (i.e. Transportation Plan, Parks and Recreation Plan, etc.) that are part of the City's adopted Comprehensive Plan the following table summarizes the other comprehensive plan elements that have been adopted by the City Council.

<b>Element</b>	<b>Application to case</b>
Planning District	Southwest
Urban Form	Low density residential
Specific Area Plan	Method Small Area Plan
Guidelines	n/a

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

The proposal is consistent with the Comprehensive Plan. The site is located on the residential side of the Policy Boundary Line that encircles the Method community. The Method Small Area Plan designates the site and immediately surrounding area for low-density residential uses. Both the existing and proposed zoning are defined as low-density.

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

The site and nearby properties currently exhibit a pattern of development associated with the neighborhood's once-rural status. Hogan Lane itself is unpaved, as are Wilcox Street and Wilcox Place. While the right-of-way of Wilcox Street is acknowledged by the lot lines of the adjacent parcels, south of its intersection with Wilcox Place the street right-of-way is unimproved and wooded over; Hogan Lane currently provides the sole means of access to the subject site. Many nearby properties are undeveloped and fully wooded. Of those which are developed, most contain dwellings that are one-story, single-family, and of modest size. Multi-story (and multi-family) residences are largely confined to the area south of O'Kelly Street, 550 feet from the subject property. The largest building in the subject block (north of O'Kelly Street) is Freedom Temple Church, which also stands on the largest parcel on the block (approx. 2 acres). A 200-foot wide railroad right-of-way separates Hogan Lane and all properties to its south from the non-residential, mixed-use properties to the north, which transition to Hillsborough Street and the Meredith College campus beyond.

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

The public benefits of the rezoning are not clear. The proposal would permit a more intensive use of the property in relative proximity to employment and academic centers, but it would do so in isolation, affecting one parcel and one parcel only; the closest residentially-zoned property of any density greater than the subject property’s current R-4 zoning is more than 500 feet away. Additionally, while the petition states that the proposed housing will be affordable, no conditions or other provisions are offered toward achieving that outcome.

**4. Detriments of the proposed rezoning**

Development of the property could require public investment (e.g., street/ sidewalk construction, water/ sewer lines) not currently contained in the City’s Capital Improvement plans, and most likely located within the railroad right-of-way—land neither owned nor available for ownership by the City. Associated costs could be met by the applicant, but under a 1967 agreement with the railroad, should the railroad ever wish to expand the use if its right-of-way, the City would be obligated to remove any public improvements within the railroad’s easement at the City’s expense.

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

**TRANSPORTATION:** Hogan Lane is classified as a minor residential street and exists as a 16-foot edge-to-edge gravel road. City standards call for Hogan Lane to be constructed with a 26-foot back-to-back curb and gutter section with sidewalk on a minimum of one side within at 45-foot right-of-way. Hogan Street exists within North Carolina Railroad right-of-way. Fees in lieu of the street and sidewalk improvements can be paid along the subject property fronting Hogan Street.

**TRANSIT:** This site is within close proximity of current or future bus routes but does not provide an appropriate space for a bus stop. No transit easement is needed upon subdivision approval.

**HYDROLOGY:** FLOODPLAIN: Flood-prone soils along back of lot.  
 DRAINAGE BASIN: Rocky  
 STORMWATER MANAGEMENT: Site is subject to Part 10, Chapter 9 – Stormwater Regulations. No Buffer. No WSPOD.

**PUBLIC UTILITIES:**

	<b>Maximum Demand on Current Zoning</b>	<b>Maximum Demand on Proposed Zoning</b>
<b>Water</b>	<b>Approx. 1,040 gpd</b>	<b>Approx. 1,820 gpd</b>
<b>Waste Water</b>	<b>Approx. 1,040 gpd</b>	<b>Approx. 1,820 gpd</b>

The proposed rezoning would add approximately 780 gpd to the City’s wastewater collection or water distribution systems. There are no existing sanitary sewer or water mains located adjacent to the zoning case’s boundary. The petitioner would be required to extend the required sanitary sewer and water mains to the subject property. Conversely, the petitioner could request the City to extend the utilities to the property and be assessed since the property is located within the city limits. The utilities would serve the property through Hogan Lane. Hogan is an unimproved section of right-of-way within railroad right-of-way. An existing easement agreement permits the location of utilities within the railroad right-of-way; however, the railroad may request that the utilities be removed to accommodate rail corridor expansion. In this scenario, the removal and relocation costs would be borne by the City.

**PARKS AND RECREATION:**

This property is not adjacent to a greenway corridor and does not impact park services.

**WAKE COUNTY PUBLIC SCHOOLS:**

The maximum number of dwelling units permitted under the current zoning is 2; the proposed rezoning could permit 3. This would result in an estimated net increase in school enrollment of 1 student. The current base schools for the site, and their respective capacities, are indicated below:

School name	Current enrollment	Current capacity	Future enrollment	Future capacity
Weatherstone	907	110.7%	907	110.7%
Davis Drive	1,210	111.6%	1,210	111.6%
Athens Drive	1,909	109.3%	1,909	109.3%

**IMPACTS SUMMARY:**

The proposed rezoning would add approximately 780 gpd to the City's wastewater collection or water distribution systems, and there are no existing sanitary sewer or water mains located adjacent to the site. One new student could be added to one of the base schools, each of which is currently operating over capacity.

**OPTIONAL ITEMS OF DISCUSSION**

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

N/A

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 be properly applied to it now were it being zoned for the first time.**

N/A

**APPEARANCE COMMISSION:**

This request is not subject to Appearance Commission review.

**CITIZENS' ADVISORY COUNCIL:**

DISTRICT: West  
CAC CONTACT PERSON: Mark Vander Borgh, 357-2454

**SUMMARY OF ISSUES:**

**COMPREHENSIVE PLAN / COMPATIBILITY / ADVERSE IMPACTS:**

1. **Outstanding issues**

A. **ZONING.**

The proposed rezoning pertains only to a single half-acre parcel, in isolation from any other similarly-zoned parcel. While the potential density is consistent with the Comprehensive Plan, as presented the rezoning would only marginally advance Plan purposes beyond what is afforded by the existing zoning. The reasonableness of the request and its expression of the public interest require further clarification.

B. PROVISION OF CITY INFRASTRUCTURE.

Existing Conditions:

- The subject property is located inside the City limits, and within the Utility Service Area.
- To be developed, the property is required to obtain water and sewer services.
- Hogan Lane is currently maintained by the City of Raleigh as an unimproved public street.
- City waterlines (except for large mains) are typically installed within public road rights-of-way.
- Under an easement agreement reached with the North Carolina Railroad (NCRR) in 1967, the City could install an 8" water line and an 8" sanitary sewer line within the railroad right-of-way along Hogan Lane.
- There is no evidence that the City has ever acted upon the NCRR agreement. There are no water or sewer lines along Hogan Lane today, and the City has no plans at the present time to improve Hogan Lane or install public utility lines near the property.
- Under the agreement, the NCRR retains the right to have any such City improvements removed at the City's expense, if the railroad's purposes preclude such improvements being there (e.g., if NCRR seeks to increase the number of tracks, and widen the railbed accordingly).

Options – Hogan Lane Improvement:

The railroad has indicated that access can be provided to the subject parcel via Hogan Lane; however, if Hogan Lane is removed, alternative access must be contemplated. Additionally, since the accepted right-of-way of Hogan Lane is wholly contained within the railroad right-of-way (i.e., the edge of the railroad right-of-way extends beyond the edge of the street right-of-way), any driveway connection from the subject parcel to Hogan Lane will require an agreement with the railroad. Within that context, the following represent options for provision of roadway access to the subject site:

- 1) *Full improvement.* Hogan Lane is improved to meet City standards (paved, with curb and gutter, and sidewalk on one side) in its current location, at City expense, with the understanding that the roadway could be removed at the railroad's request at any time. The City would maintain the roadway.
- 2) *Street relocation.* The City relocates Hogan Lane either to the edge of the NCRR right-of-way, or to an alternative location completely outside of the railroad right-of-way. Any portion of the roadway within right-of-way would remain subject to potential removal. For relocation of the street outside the railroad right-of-way, the City would have to undertake condemnation proceedings of private property. In either case, the new street would have to meet City standards. The City would maintain the roadway.
- 3) *Status quo.* Hogan Lane remains an unimproved roadway, maintained as such by the City (until such time as the NCRR may decide to increase the number of its tracks, and have the road removed). *Note: A water line could be installed within the public road right-of-way without road improvements.*

Options – Water & Sewer Access:

The following represent options for provision of water and sewer access to the site:

- 1) *City-funded improvement.* The property owner can request the City Council to provide sanitary sewer and water to the property. Council would approve or disapprove the request. If Council approved the request, the City would have up to two (2) years to provide the sanitary sewer and water to the property and the property would be assessed for the extensions. The owner would be responsible for installing utility mains internally on the property at the owner's cost. Again, the NCRR would have the right to have any improvements within its right-of-way removed at the City's expense.
- 2) *Owner-funded improvement.* If the owner cannot wait for the City, the owner could pay the full cost of extending the sanitary sewer and water to the property along Hogan Lane from the closest existing line(s) (Royal Street or Wilcox Street for water; Royal Street for sewer). The owner would be responsible for installing internal utilities on the property all at the owner's cost. The NCRR would retain the right to have any improvements within its right-of-way removed at the City's expense.

- 3) *Relocation.* If, as noted above, the NCRR and the City pursue realigning Hogan Lane to the south so that the Hogan Lane shares a common easement edge with the railroad, that action should take place prior to the City installing sanitary sewer and water mains. The utility easement in the existing Hogan Lane would need to be exchanged if Hogan Lane is relocated outside the railroad right-of-way. Either the City or property owner would cover costs, as per Option 1 or 2 above.
- 4) *Alternative sewer access.* There is a sewer line traversing the middle of the subject block, from Royal Street to Wilcox Street. The subject property could alternatively connect to this sewer line, but to do so the property owner would need to secure easements from affected adjacent property owners.
- 5) *Status quo.* Water and sewer access are required for development of the property. However, City Council could deny extension of existing lines. In such case, the property owner could still petition Wake County to be allowed to install a well and a septic system (such permission has been granted in some previous instances). If both the City and the County deny installation, however, no dwelling units can be built on the property.

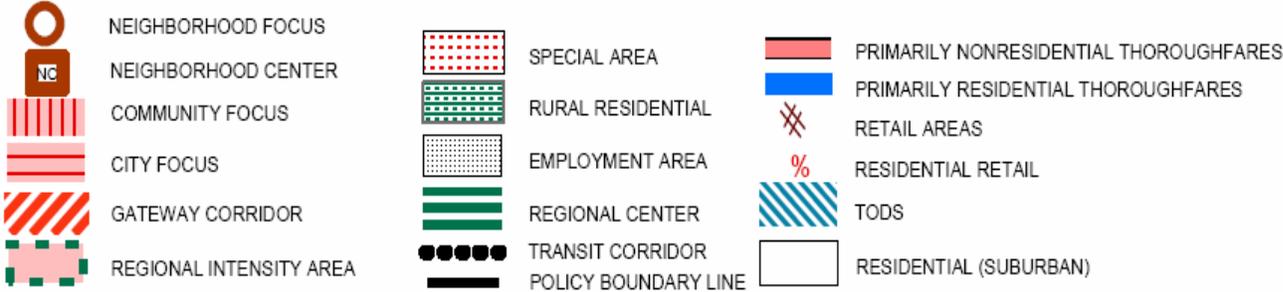
## **2. Suggested conditions**

- Define how the rezoning will provide affordable housing.

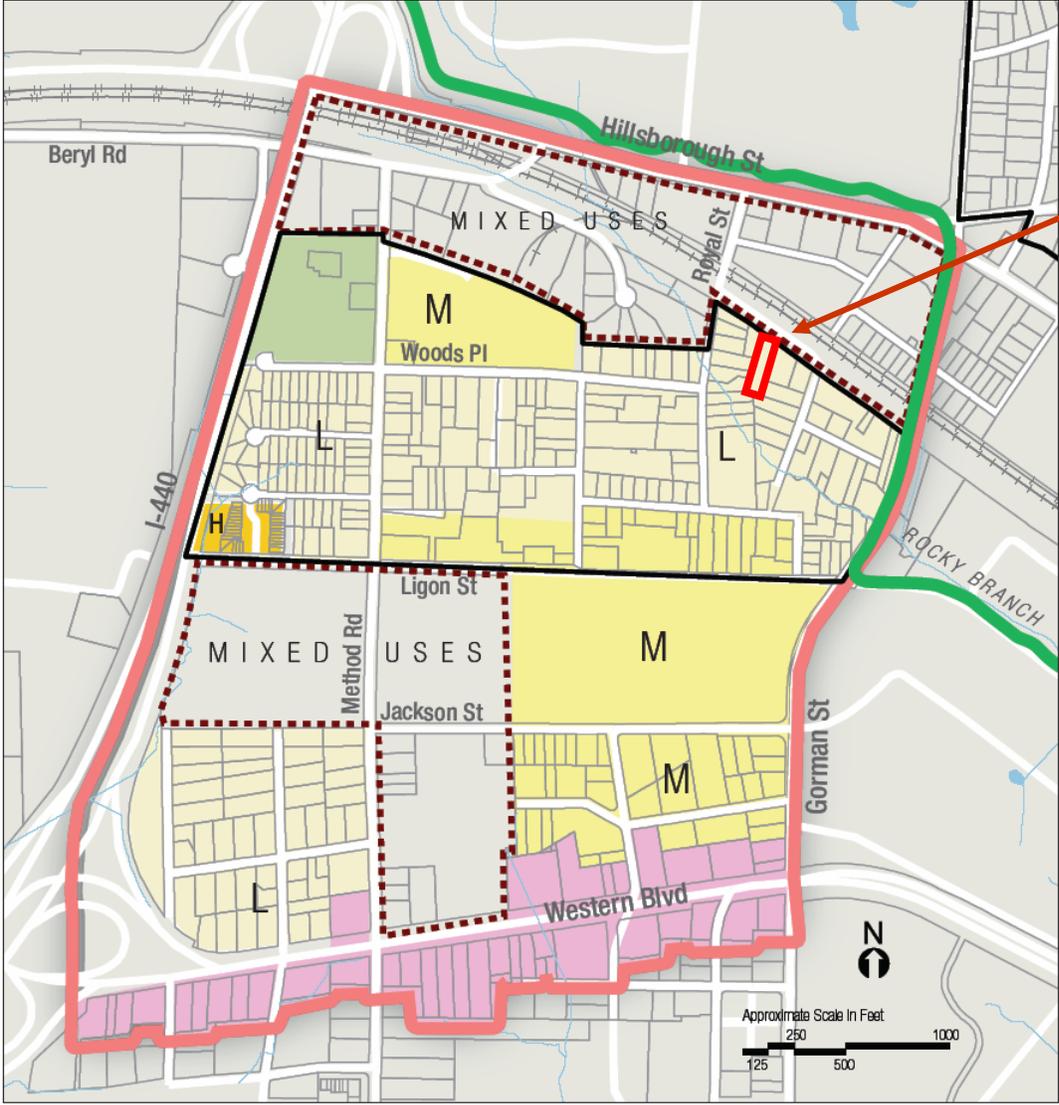
# Urban Form— West District Plan



**Site**



# Urban Form— Method Small Area Plan



**Site**

 Park/  
Special Area

 L Low Density  
Residential

 Policy  
Boundary Lin

 Mixed Uses

 M Medium Density  
Residential

 Plan  
Boundary

 Commercial

 H High Density  
Residential

 Greenway  
Trail