

# CITY OF HIGH POINT

## AGENDA ITEM



**Title:** Zoning Map Amendment 16-22  
(Dale Britt & Jeff Rives)

**From:** Lee Burnette, Planning & Development  
Director

**Meeting Date:** November 21, 2016

**Public Hearing:** Yes

**Advertising Date:** November 9 & 16, 2016

**Advertised By:** Planning & Development

**Attachments:** A. Planning and Zoning Commission Recommendation  
B. Staff Report  
C. Zoning Ordinance

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### PURPOSE:

A request by Dale Britt & Jeff Rives to rezone approximately 10.6 acres from a Conditional Use Residential Multifamily 12 (CU RM-12) District to a Conditional Zoning Residential Multifamily 12 (CZ RM-12) District. The site is lying south of W. Hartley Drive, approximately 25 feet east of Ingleside Drive.

### BACKGROUND:

Staff report and the Planning & Zoning Commission's recommendation is enclosed.

### BUDGET IMPACT:

There is no budget impact.

### RECOMMENDATION / ACTION REQUESTED:

- A. Staff recommended *approval* of this request, as outlined in the attached staff report.
- B. On October 25, 2016, a public hearing was held before the Planning and Zoning Commission regarding Zoning Map Amendment 16-22. The Planning & Zoning Commission recommended *approval* of this request, by a vote of 5-1, as outlined in the staff report and recommended by staff.

## PLANNING AND ZONING COMMISSION RECOMMENDATION

**Dale Britt & Jeff Rives**

**Zoning Map Amendment 16-22**

At its October 25, 2016 public hearing, the Planning and Zoning Commission reviewed a request to rezone approximately 10.6 acres to a Conditional Zoning Residential Multifamily 12 (CZ RM-12) District. All members of the Commission were present except for Mr. Jim Armstrong and Mr. John McKenzie. Mr. Herbert Shannon, Senior Planner, presented the case and recommended approval of the request as outlined in the staff report.

### Speaking in favor of the request:

Speaking in favor of the request, on behalf of the applicant, was Tom Terrell; an attorney with Smith Moore Leatherwood Attorneys at Law, 300 N. Greene Street, Suite 1400, Greensboro, N.C. He emphasized that there is currently no buyer, no developer and no site plan for the rezoning site. The primary reason for the rezoning is to make the property more marketable.

It was also stated by Mr. Terrell that the current density restriction of 40 units was imposed on the site in 1995 when the only means of access was from Ingleside Drive. He stated that the density restriction is no longer appropriate with the recent construction of the W. Hartley Drive extension. He also pointed out on the zoning map the other multifamily zoning and multifamily developments that have been established in this area.

Also speaking in favor of the request, was the applicant, Dale Britt, 2012 Shepard Street, Morehead City, N.C.

### Speaking in opposition to the request:

Speaking in opposition of were Ms. Sandra Dill, president of the Avalon Subdivision Homeowners Association, 815 Hartley Hill Court, High Point, and Mr. Von Miller, 408 W. Parris Avenue, High Point. Ms. Dill spoke on behalf of the homeowner's association which has about 20 members present. Those in opposition to the request had the following comments and concerns:

- Increased traffic: It was suggested that the estimated trip generation in the staff report is severely underestimated.
- Overcrowded schools: There was concern that higher density development would put an additional burden on schools already close to or exceeding maximum capacity.
- Low-income housing: Concern was expressed that the applicants may already have a buyer lined up that will purchase the property and development low-income housing.
- Increased crime: There was concern development would contribute to an increase in criminal activity in the area surrounding the rezoning site.
- Density too high: Statements were made that the proposed density is too high for the area and should not be altered from the current restrictions.
- Environmental impact: There was concern that the development of the site would add additional run off to the Rich Fork Creek, add increased pollutants to the water, and have a detrimental impact on local wildlife.
- Prefer delayed action: It was suggested that it would be preferable if the rezoning was delayed until there was a specific buyer in mind so everyone knows exactly what is being considered.

In response to concerns noted by speakers in opposition, the Commission posed a question to the applicant as to whether there could be a compromise between the current limit of 40 units and the

maximum allowable 127 dwelling units. Mr. Terrell noted that his client would be willing to offer a condition limiting the site to a maximum of 95 dwelling units.

### **Planning & Zoning Commission Action**

The Planning & Zoning Commission recommended approval of Zoning Map Amendment 16-22, as recommended by staff and with the additional condition offered by the applicant restricting the site to a maximum of 95 dwelling units. The recommendation was approved by a vote of 5-1 with Mr. McInnis voting against the motion.

Upon making its recommendation, the Planning & Zoning Commission stated that its approval of Zoning Map Amendment 16-22, with the density restrictions, would be consistent with the City's adopted plans. Additionally, the Commission concurred with the staff report and found its approval recommendation reasonable and in the public interest because:

- 1) The request is generally consistent with the City's Land Use Plan and the development pattern along W. Hartley Drive;
- 2) The request will promote an orderly growth pattern and encourage higher residential densities at appropriate locations as supported by Goal #5 and Objective #8 of the Land Use Plan; and
- 3) Based on conditions offered by the applicant to install road improvements to permit access from W. Hartley Drive, development of the site will be compatible with the surrounding area.

**CITY OF HIGH POINT  
PLANNING AND DEVELOPMENT DEPARTMENT**

**STAFF REPORT  
ZONING MAP AMENDMENT ZA-16-22  
November 14, 2016  
(Revised)**

<b>Request</b>	
<b>Applicant:</b> Dale R. Britt and Jefferson H. Rives	<b>Owner(s):</b> Dale R. Britt and Jefferson H. Rives
<b>Zoning Proposal:</b> To rezone approximately 10.6 acres	<b>From:</b> CU RM-12 Conditional Use Residential Multifamily-12 District
	<b>To:</b> CZ RM-12 Conditional Zoning Residential Multifamily-12 District

<b>Site Information</b>	
<b>Location:</b>	The site is lying south of W. Hartley Drive and east of Ingleside Drive.
<b>Tax Parcel Numbers:</b>	Guilford County tax parcel 0197233
<b>Site Acreage:</b>	Approximately 10.6 acres
<b>Current Land Use:</b>	Undeveloped
<b>Physical Characteristics:</b>	The site is heavily wooded with a moderate to severely sloping terrain. A perennial stream impacts the south eastern portion of the site.
<b>Water and Sewer Proximity:</b>	A 12-inch City water line lies adjacent to the site along W. Hartley Drive. An 8-inch City sanitary sewer line, running in a north-to-south direction, runs through the eastern portion of the site.
<b>General Drainage and Watershed:</b>	The site drains in a southeasterly direction and is within the Yadkin Pee-Dee (non-water supply) watershed. Based upon the total acreage and allowable development intensity, stormwater controls may be required to be provided.
<b>Overlay District(s):</b>	None

<b>Adjacent Property Zoning and Current Land Use</b>			
<b>North:</b>	CU RM-8	Conditional Use Residential Multifamily-8 District	Multifamily dwelling units ( <i>across W. Hartley Drive</i> )
<b>South:</b>	RS-15	Residential Single Family-15 District	Undeveloped
<b>East:</b>	RS-15	Residential Single Family-15 District	Undeveloped
<b>West:</b>	CU-PDR	Conditional Use Planned Unit Development-Residential District	Undeveloped ( <i>common area Avalon Subdivision</i> )

<b>Relevant Land Use Policies and Related Zoning History</b>	
<b>Community Growth Vision Statement</b>	Obj. 1B: Preserve and link environmentally sensitive lands such as floodplains, wetlands and steep slopes.

<b>Land Use Plan Map Classification:</b>	The site has a Moderate-Density Residential land use designation. This classification includes a variety of detached or attached dwellings, generally including single family homes, cluster homes, duplexes and townhouses. Development densities shall range from five to eight dwelling units per gross acre.
<b>Land Use Plan Goals, Objectives &amp; Policies:</b>	<p>The following goals and objective of the Land Use Plan are relevant to this request:</p> <p>Goal #3: Provide a wide range of housing opportunities for families of all income levels.</p> <p>Goal #5: Promote an urban growth pattern that occurs in an orderly fashion and conserves the land resources of the city and its planning area.</p> <p>Obj. #8. Stimulate more efficient use of the City's land resources by encouraging in-fill, mixed-use, cluster development and higher residential densities at appropriate locations.</p>
<b>Relevant Area Plan:</b>	None
<b>Zoning History:</b>	<p><u>Zoning Case 95-25:</u> The parcel associated with this current zoning application was part of a 17.6-acre zoning case that was approved in January 1996. Development conditions outlined in Z95-25, divided the total 17.6 acres into two tracts. Tract 1 is lying at the northeast corner of Ingleside Drive and W. Hartley Drive and was granted a Conditional Use Residential Multifamily-8 District (CU RM-8) District zoning. Tract 2, the subject zoning site, is lying at the southeast corner of Ingleside Drive and W. Hartley Drive, and was granted a Conditional Use Residential Multifamily-12 District (CU RM-12) District zoning.</p> <p><u>Zoning Case 02-21:</u> This zoning case involves a site that lies to the west of this current zoning application. It included 62 acres lying at the northwestern, southwestern and southeastern corners of the intersection of W. Hartley Drive and Ingleside Drive (Avalon Subdivision). This zoning approval was for a PUD zoning district, which established a 54-acre single family tract and an 8-acre multifamily tract.</p> <p><u>Zoning Case 14-04:</u> A request was submitted to rezone the current property to a Conditional Zoning Residential Multifamily-12 (CZ RM-12) District in 2014. This application was withdrawn.</p> <p><u>Zoning Case 16-05 (Z16-05):</u> In May 2016 approximately 7.8 acres lying north of W. Hartley Drive and west of Ingleside Drive, was granted a CZ RM-18 District zoning to allow residential multifamily uses.</p>

<b>Transportation Information</b>			
<b>Adjacent Streets:</b>	<b>Name</b>	<b>Classification</b>	<b>Approx. Frontage</b>
	W. Hartley Drive	Major Thoroughfare	763 ft.
<b>Vehicular Access:</b>	Vehicular access to will be from W. Hartley Drive		
<b>Traffic Counts:</b> (Average Daily Trips)	W. Hartley Drive	4,000 ADT (2014, City of High Point DOT Traffic Count)	

<b>Estimated Trip Generation:</b>	Developed at its highest intensity, the site would permit up to 127 multifamily dwelling units. Such a development is estimated to produce approximately 837 average daily trips during a 24-hour period. High peak hour trips will be in the morning with approximately 65 peak hour a.m. (morning) trips.		
<b>Traffic Impact Analysis:</b>	<b>Required</b>		<b>Pedestrian Access:</b>
	<u>Yes</u>	<u>No</u> X	Development of the site is subject to the sidewalk requirements of the Development Ordinance.
<b>Transportation Department Comments:</b>	<p><u>Access</u> This site will be allowed one (1) point of access to W. Hartley Drive with a corner clearance of 250 feet from Ingleside Drive. The ingress and egress shall each be 24 feet in width, separated by a center island 15 feet in width.</p> <p><u>Roadway and Intersection Improvements</u> A right turn lane with 100 feet of storage and 150 feet of taper are required by the Development Ordinance</p> <p><u>W. Hartley Drive @ Site Access Point:</u> The Developer shall install an eastbound right turn lane at this intersection with a minimum of 100 feet of storage and 150 feet of bay taper.</p>		

<b>School District Comment</b>				
<b>Guilford County School System</b>				
<b>Local Schools:</b>	<b>Enrollment: (Fall 2016)</b>	<b>Maximum Design Capacity:</b>	<b>Mobile Classrooms:</b>	<b>Projected Additional Students:</b>
Oak View Elementary	520	737	7	35 - 36
Ferndale Middle School	659	1,213	0	18 - 19
High Point Central High	1,474	1,392	0	16 - 17
<b>School District Remarks:</b>		High Point Central high school is over capacity.		

### **Details of Proposal**

The subject site was granted a Conditional Use Residential Multifamily-12 (CU RM-12) District zoning in January 1996 under Conditional Use Zoning Case 95-25 (Z95-25), which restricts access and development density on the property. The applicant submitted for a new Conditional Zoning Residential Multifamily-12 (CZ RM-12) District to remove the density and access restrictions imposed by the 1995 zoning approval.

When Z95-25 was approved, the Land Use Plan designated the zoning site and surrounding area as High Density Residential, which permits all types of multi-family housing, including mid-rise and high-rise apartment buildings at a density between 8 to 26 dwelling units per acre. At that time, W. Hartley Drive was not constructed, and Ingleside Drive terminated a few hundred feet north of W. Hartley Drive. Since the only access to this area was through the existing single family neighborhoods along Ingleside Drive and Westover Drive, the applicant agreed to limit the development intensity for the entire 17.6 acres (both Tracts 1 & 2) to 100 dwelling units and required access to tracts 1 & 2 from Ingleside Drive.

Since 1996, there has been significant development in this area. Tract 1 (Hartley Square Condominiums) was developed with 60 multifamily dwelling units (16 units per acre), leaving only 40 additional units permitted to be constructed on Tract 2 (current zoning site). In 2002, the Avalon

Subdivision was granted a PUD zoning to permit a higher density single family development as well as multifamily dwellings. As part of the construction of this subdivision, Ingleside Drive was extended southward. However, it was not aligned to provide public street frontage to the zoning site as was intended under its 1995 zoning approval. Finally, in 2013, the W. Hartley Drive extension was completed and opened for public use.

For this new zoning district, the applicant is requesting the density as allowed under the RM-12 District without restrictions. Also, since the property only has frontage on W. Hartley Drive, the applicant is requesting access from that street.

### Staff Analysis

Section 9-3-13 of the Development Ordinance states that the Planning & Zoning Commission and the City Council shall be guided by the purposes and intent of the Development Ordinance, and shall give consideration to the following in the review and discussion of any Conditional Zoning application. Based on the applicant's submittal and proposed conditions, as they existed on the date of this report, the Planning and Development Department offers the following comments relative to these ordinance considerations.

#### **Consistency with Adopted Plans:**

**The proposed Conditional Zoning District is appropriate for its proposed location and is consistent with the purposes, goals, objectives and policies of relevant comprehensive land use or area plans**

#### **Staff Comments:**

The proposal is generally consistent with the moderate density and medium density residential development in the area. The proposed density is similar to the existing and recently approved multifamily development at this intersection on the north side of W. Hartley Drive (Hartley Square Condominium, 16 dwelling units per acre and Winfield Property Multifamily project, 10 to 14 units per acre). It's also similar to adjacent multifamily development to the east along the W. Hartley Drive corridor (Franklin Ridge Apartments, 9 dwelling units per acre and Fox Follow Apartments, 13 dwelling units per acre). This request meets the goals and objectives of the Land Use Plan that encourage higher residential densities at appropriate locations in the city.

#### **Review Factors:**

**The applicant's proposed Conditional Zoning District, including the proposed use(s), written conditions and Conditional Zoning Plan, satisfactorily meets or addresses the following:**

<b><u>Factor #1</u></b>	<b>Produces a development that is compatible with surrounding development character and land uses;</b>
	<p><b><u>Staff Comments:</u></b></p> <ul style="list-style-type: none"><li>❖ A current zoning condition on the site prohibits access from W. Hartley Drive and requires access to be from Ingleside Drive. Since the zoning site does not have direct frontage on Ingleside Drive this condition cannot be met. This new zoning application proposes to have vehicular access from W. Hartley Drive. If approved, traffic from the proposed multifamily development will be separated from the adjacent single family neighborhood, thus ensuring this updated zoning district will be compatible with the surrounding area.</li></ul>

	❖ The existing development pattern along the W. Hartley Drive corridor, from N. Main Street westward to Horneytown Road, consists of single family development, and moderate to medium density townhome and multifamily developments. The allowance of an updated multifamily zoning district on this parcel is consistent with the Land Use Plan and with the development pattern that has been established in this area during the past 20 years.
<b><u>Factor #2</u></b>	<b>Minimizes or effectively mitigates any identified adverse impact on adjacent and nearby property, such as that caused by traffic, parking, noise, lighting, trash, loading areas, etc.;</b> <i>Staff Comments:</i> ❖ The common area of the abutting Avalon Subdivision separates the single family lots of that development from the zoning site. ❖ Transportation conditions offered by the applicant to allow vehicular access to the site from W. Hartley Drive will effectively mitigate any adverse impacts on adjacent properties.
<b><u>Factor #3</u></b>	<b>Minimizes or effectively mitigates any identified adverse environmental impact on water and air resources, minimizes land disturbance, preserves trees and protects habitat;</b> <i>Staff Comments:</i> A perennial stream impacts the southeastern portion of the site. Environmental protection standards of the Development Ordinance will ensure minimal impact on environmentally sensitive areas. Stream buffer standards of the ordinance provide for a protective buffer adjacent to this stream and will limit grading and disturbance of vegetation near the stream.
<b><u>Factor #4</u></b>	<b>Minimizes or effectively mitigates any identified adverse impact on municipal facilities and services, such as streets, potable water and wastewater facilities, parks, police and fire; and;</b> <i>Staff Comments:</i> The site is within an area currently served by City of High Point utilities and municipal services and the submittal has no known impacts on municipal services.
<b><u>Factor #5</u></b>	<b>Minimizes or effectively mitigates any identified adverse effect on the use, enjoyment or value of adjacent properties.</b> <i>Staff Comments:</i> ❖ The access condition offered by the applicant that proposes access to the zoning site from W. Hartley Drive effectively mitigates the traffic impact on adjacent property owners. ❖ Where the zoning site abuts the single family development to the west (Avalon Subdivision), the Development Ordinance requires a Type C Planting Yard be installed consisting of 5 trees and 17 shrubs every 100 linear feet. This required planting yard will assist in mitigating impact by filter the view of development as viewed from the abutting single family subdivision.



**Changes in the Area:**

**There have been changes in the type or nature of development in the area of the proposed Conditional Zoning District that support the application.**

**Staff Comments:**

When this property was rezoned in 1996, this was a rural to low density area near the western limits of the City with access only from Westover Drive. Starting in the mid-1990s, there have been multiple annexations that have extended the City limits approximately 1½ miles westward to Horneytown Road. Also, during the past two decades, there have been multiple rezoning applications approved and projects developed that have established smaller lot single family, townhome and multifamily developments in this area. In addition, the primary east-west access is no longer from Westover Drive, but is now from W. Hartley Drive, which has been upgraded to a 4-lane major thoroughfare upon which this property fronts.

**Development Patterns:**

**The proposed Conditional Zoning District would result in development that promotes a logical, preferred and orderly development pattern.**

**Staff Comments:**

The key issue pertaining to this application is not if multifamily zoning should be established, as it is already permitted, but the allowable density of development. The Land Use Plan has supported multifamily development in this area since the mid-1990s and the current development pattern along W. Hartley Drive, from N. Main Street westward to Horneytown Road, consists of several moderate to medium density townhome and multifamily developments. With the extension and upgrading of W. Hartley Drive, there is now direct access to the N. Main Street corridor, so vehicles are no longer limited to using a neighborhood street, such as Ingleside Drive or Westover Drive. Therefore, the allowance of an updated multifamily zoning district on this parcel is consistent with the development pattern that has been established in this area during the past 20 years and consistent with Objective 8 of the Land Use Plan, which speaks to stimulating more efficient use of the City's land resources by encouraging in-fill, mixed-use, cluster development and higher residential densities at appropriate locations.

**Reasonableness/Public Interest:**

**An approval of the proposed Conditional Zoning District is considered reasonable and in the public interest.**

**Staff Comments:**

In this case, staff suggests that the approval of the applicant's request is reasonable and in the public interest because:

- 1) The request is generally consistent with the City's Land Use Plan and the development pattern along W. Hartley Drive;
- 2) The request will promote an orderly growth pattern and encourage higher residential densities at appropriate locations as supported by Goal #5 and Objective #8 of the Land Use Plan; and
- 3) Based on conditions offered by the applicant to install road improvements to permit access from W. Hartley Drive, development of the site will be compatible with the surrounding area.

### Recommendation

**Staff Recommends Approval:**

As addressed in the Staff Analysis section of this report, conditions offered by the applicant address objectives of the Land Use Plan and will ensure development of the zoning site will be compatible with adjacent uses. The Planning & Development Department recommends approval of the request to rezone this 10.6-acre parcel to the CZ RM-12 District. As conditioned, the request will be compatible with the surrounding area and in conformance with adopted plans.

### Required Action

**Planning and Zoning Commission:**

The NC General Statutes require that the Planning and Zoning Commission place in the official record a statement of consistency with the City's adopted plans when making its recommendation. This may be accomplished by adopting the statements in the Staff Analysis section of this report or by adopting its own statement.

### Required Action

**Planning and Zoning Commission:**

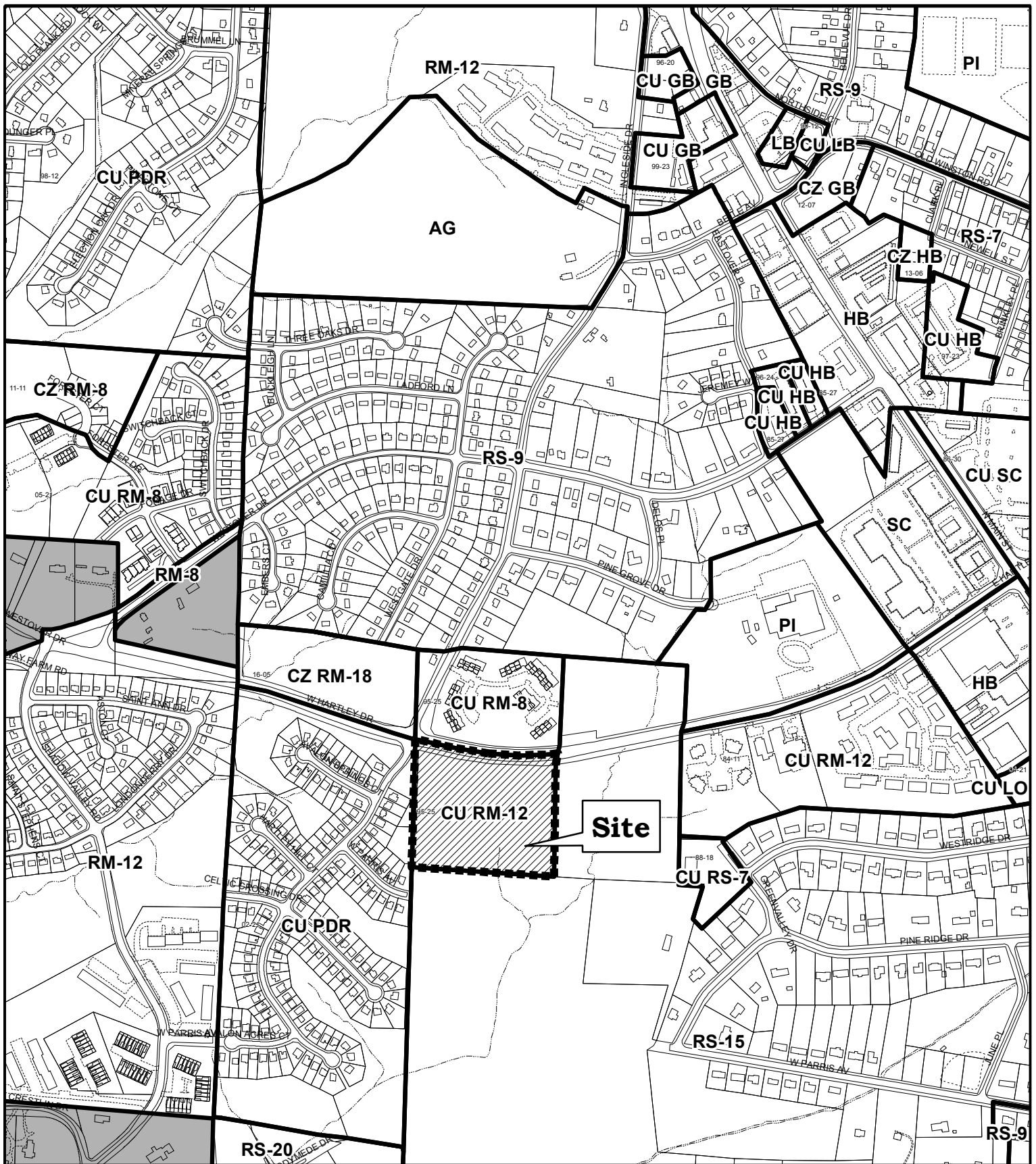
The NC General Statutes require that the Planning and Zoning Commission place in the official record a statement of consistency with the City's adopted plans when making its recommendation. This may be accomplished by adopting the statements in the Staff Analysis section of this report or by adopting its own statement.

**City Council:**

The NC General Statutes require that the City Council also place in the official record a statement of consistency with the City's adopted plans, and explain why the action taken is considered to be reasonable and in the public interest when rendering its decision in this case. This may be accomplished by adopting the statements in the Staff Analysis section of this report or by adopting its own statement.

### Report Preparation

This report was prepared by Planning and Development Department staff member Herbert Shannon Jr. AICP, Senior Planner, and reviewed by Robert Robbins AICP, Development Services Administrator and G. Lee Burnette AICP, Director.



## ZONING MAP AMENDMENT ZA-16-22

**From: Conditional Use Residential Multifamily-12**  
**To: Conditional Zoning Residential Multifamily-12**

**Existing Zoning Boundary** —————  
**Subject Property Boundary** - - - - -

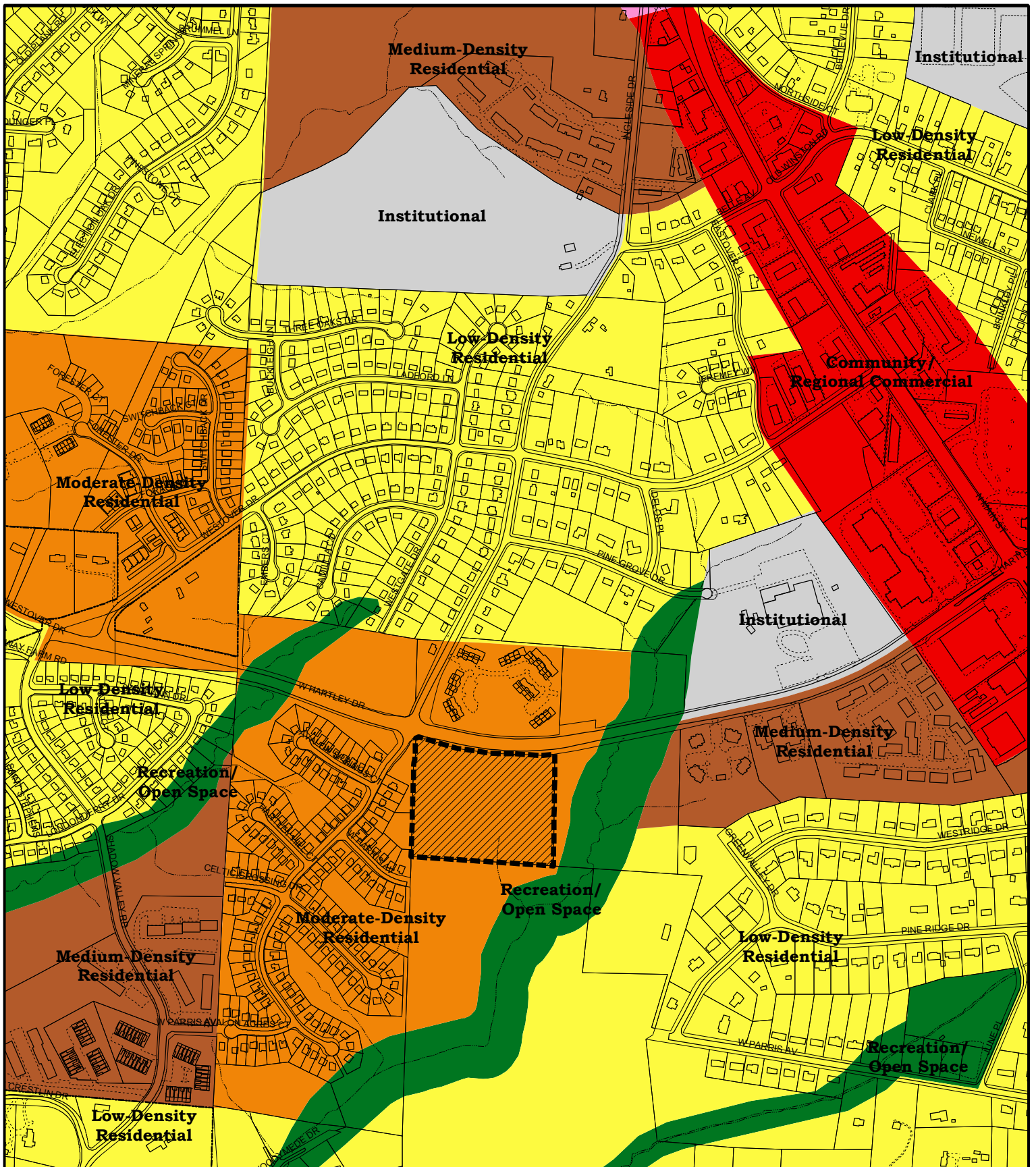
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 Department**

**City of High Point**

**Date: October 25, 2016**



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# ZONING MAP AMENDMENT ZA16-22

## Land Use Plan

Existing Land Use Plan  
Subject Property Boundary



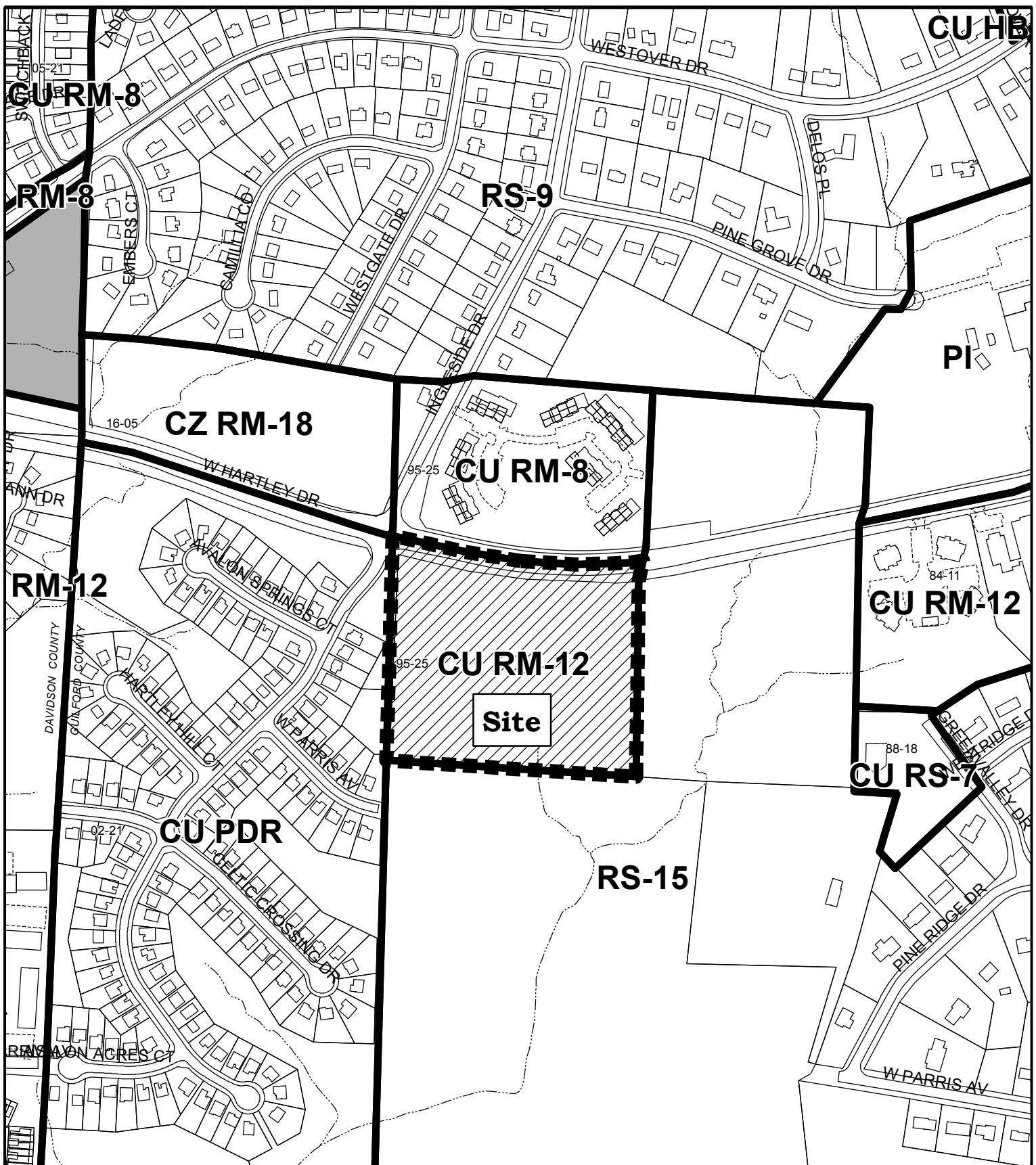
Planning & Development  
Department

City of High Point

Date: October 25, 2016



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## ZONING MAP AMENDMENT ZA-16-22

**From: Conditional Use Residential Multifamily-12**  
**To: Conditional Zoning Residential Multifamily-12**

**Existing Zoning Boundary** —————  
**Subject Property Boundary** - - - - -

**Planning & Development  
 Department**

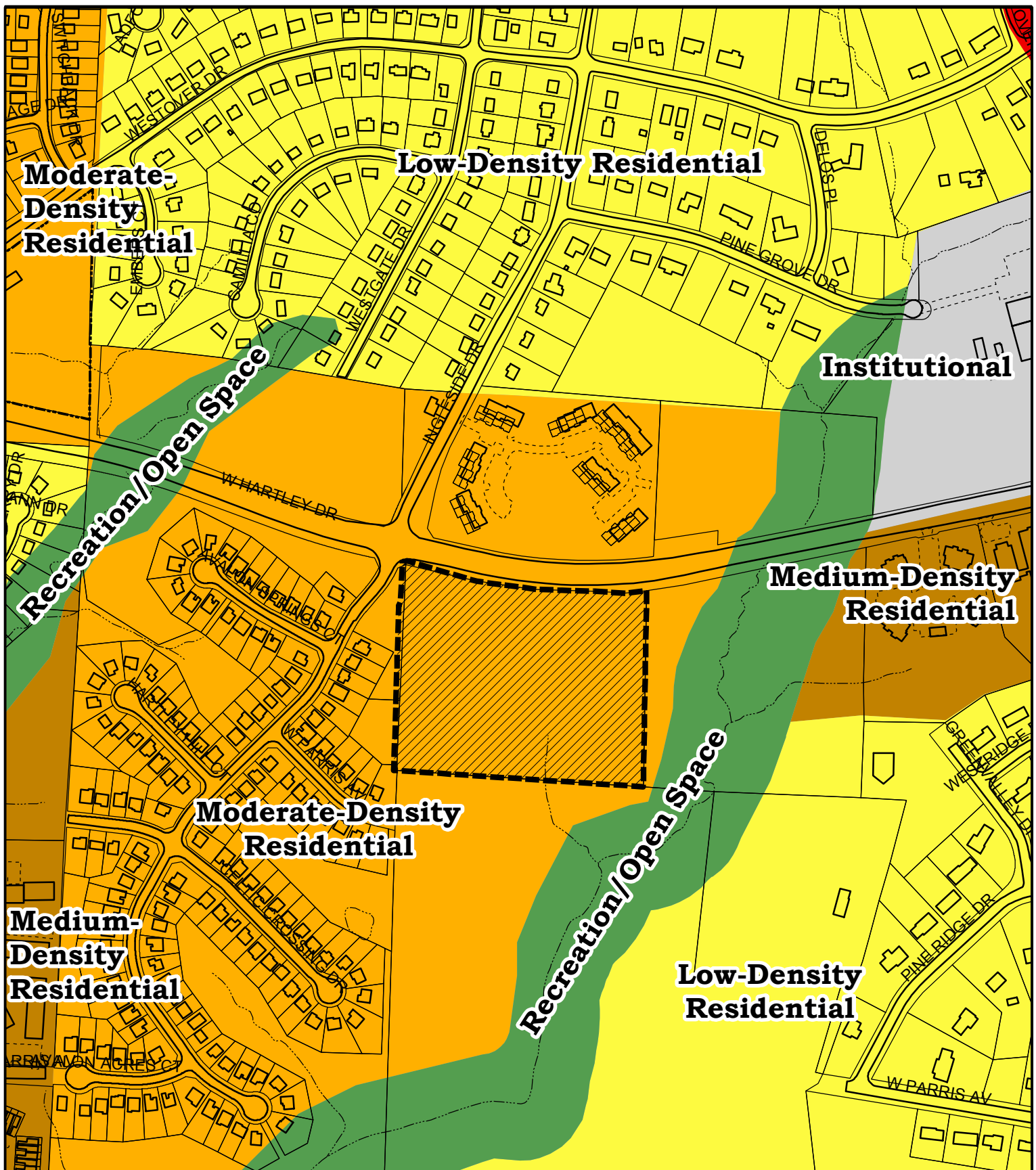
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**Date: October 25, 2016**



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# **ZONING MAP AMENDMENT ZA-16-22**

## **Land Use Plan**

**Existing Land Use Plan**  
**Subject Property Boundary**



**Planning & Development  
 Department**

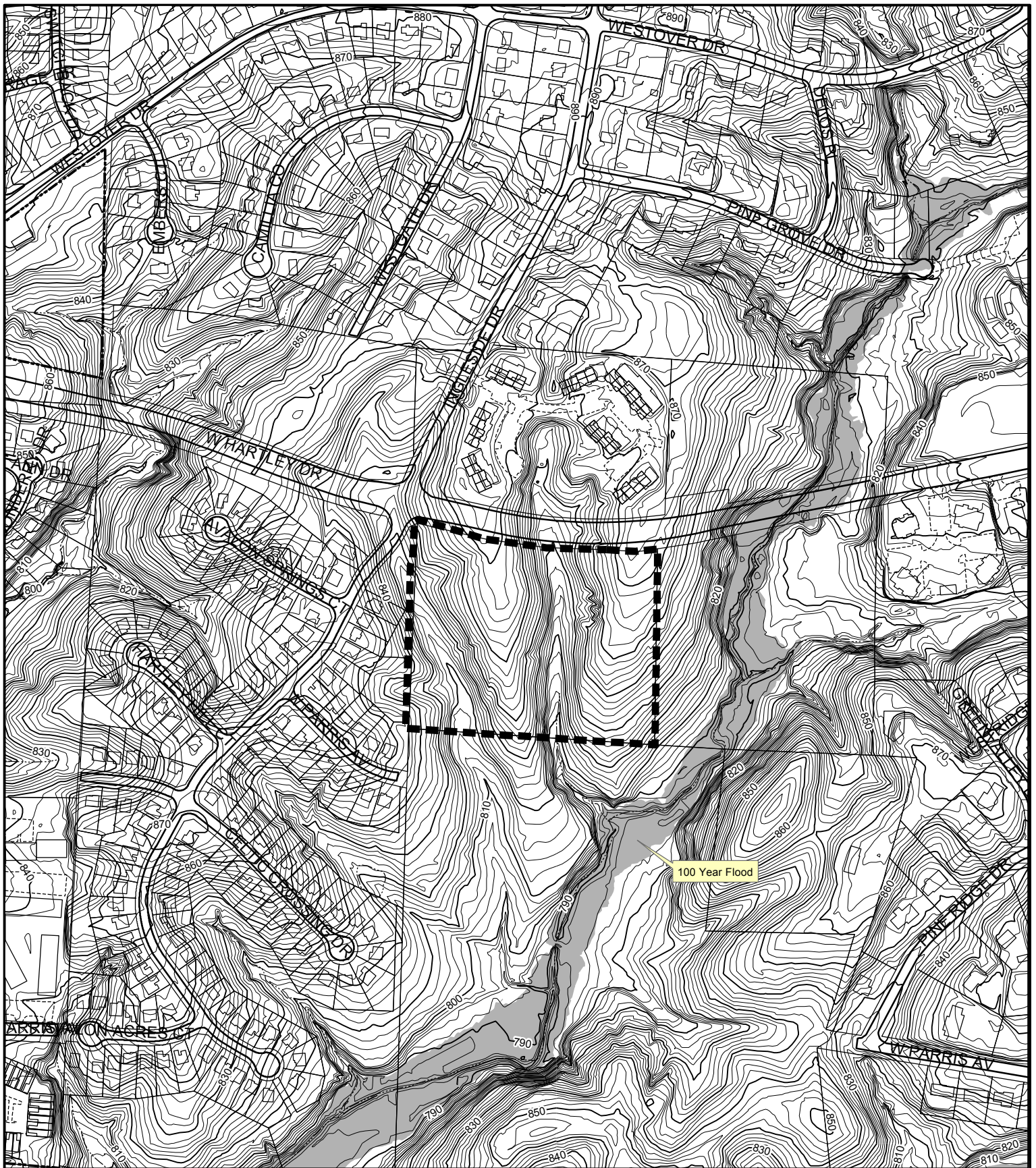
**City of High Point**

**Date: October 25, 2016**



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## ZONING MAP AMENDMENT ZA-16-22

### Topography

Subject Property Boundary - - - - -

Planning & Development  
Department

City of High Point

Date: October 25, 2016



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# ZONING MAP AMENDMENT ZA-16-22





AN ORDINANCE AMENDING “THE CITY OF HIGH POINT, NORTH CAROLINA DEVELOPMENT ORDINANCE,” PURSUANT TO SECTION 9-3-12, ZONING MAP AMENDMENTS, OF THE DEVELOPMENT ORDINANCE.

WHEREAS, the City Council of The City of High Point adopted “The City of High Point Development Ordinance” on January 7, 1992 with an effective date of March 1, 1992, and subsequently amended;

WHEREAS, public hearings were held before the Planning and Zoning Commission of the City of High Point on October 25, 2016 and before the City Council of the City of High Point on November 21, 2016 regarding **Zoning Map Amendment Case 16-22** a proposed amendment to the Official Zoning Map of the “City of High Point Development Ordinance”;

WHEREAS, notice of the public hearings were published in the High Point Enterprise on October 17, 2016, for the Planning and Zoning Commission public hearing and on November 9, 2016 and November 16, 2016, for the City Council public hearing pursuant to Chapter 160A-364 of the General Statutes of North Carolina; and

WHEREAS, the proposed amendment was adopted by the City Council of the City of High Point on \_\_\_\_\_.

**THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HIGH POINT:**

**SECTION 1**

That the Official Zoning Map of the City of High Point be amended to establish the following described area as: **Conditional Zoning Residential Multifamily-12 (CZ RM-12) District**. The property is approximately 10.6 acres lying south of W. Hartley Drive and east of Ingleside Drive, and also known as Guilford County Tax Parcel 0197233.

**SECTION 2**

That the property herein described shall be perpetually bound by the following use(s) authorized and condition(s) imposed, unless subsequently changed or amended as provided for by the Development Ordinance.

Part I. **USES:** Any of the land uses allowed in the Residential Multifamily-12 (RM-12) District and their customary accessory uses shall be permitted, subject to the development and dimensional requirements of the RM-12 District and the specific conditions listed in this ordinance.

Part II. **CONDITIONS:**

A. **Development and Dimensional Requirements.**

A maximum of ninety-five (95) residential dwelling units shall be permitted.

B. Transportation Conditions.

1. Access: This zoning site will be allowed one (1) point of vehicular access to W. Hartley Drive with a corner clearance of a minimum of 250 feet from Ingleside Drive. The ingress and egress shall each be twenty-four (24) feet in width, separated by a center island fifteen (15) feet in width.
2. Improvements (W. Hartley Drive @ Zoning Site Access Point): The property owner shall install an eastbound right turn lane at this intersection with a minimum of one hundred (100) feet of storage and a minimum one hundred-fifty (150) feet of bay taper.
3. Other Transportation Conditions: The City of High Point Transportation Director shall approve the location, design and construction of all driveways and other transportation improvements.

SECTION 3

That plans for any development on the property described herein shall be pursued in accordance with this conditional zoning district and shall be submitted to the City of High Point and other approval authorities for review in the same manner as other such plans now required to be approved by the City of High Point.

SECTION 4

Should any section or provision of this ordinance be declared invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

SECTION 5

That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 6.

This ordinance shall become effective upon the date of adoption.

\_\_\_ day of \_\_\_\_\_, 2016.

Lisa B. Vierling, City Clerk

# **Citizens Information Meeting Report Zoning Case 16-22**

Submitted by: Mr. Thomas E. Terrell, Jr.

## **Citizens' Information Meeting/Communication Report**

Submitted by  
Thomas E. Terrell, Jr.

### 1. Letter

Applicants Dale Britt and Jeff Rives sent a letter on September 21 to all property owners within 300 feet. The list of owners, provided by the planning department, is attached as Exhibit A. The initial letter announcing the Neighborhood Meeting is attached as Exhibit B. The letter also provided my email and direct phone number. Because the letter inadvertently did not include the referenced map of the property, a follow-up letter was sent to the same recipients on October 7 with the map enclosed. The second letter is attached as Exhibit C.

### 2. Phone Call Received

Mr. Michael Uvani, who lives in Hartley Square, called to comment on the “very ugly wall” that was constructed as a sound barrier between the Hartley Square development and Hartley Drive. He wants some evergreens planted because the corner at Ingleside and Hartley is not protected from noise and should have been. He has spoken to many people at City Hall about this and he gets promises but never any action. [Note: this is the development on the other side of Hartley from the subject property]. He did not express discontentment with the proposed rezoning.

### 3. Email Communication with Avalon HOA

An email was received from the president of the Avalon HOA. A copy of the email and replies is attached as Exhibit D.

### 4. Neighborhood Meeting

The Neighborhood Meeting was held between 5:00 and 7:00 on a drop-in basis at the Hartley Drive YMCA. The only attendees were from the Avalon subdivision. The list of attendees is attached as Exhibit E.

#### A. General Description

The meeting was primarily focused on Avalon’s fears of and concerns raised by “low income housing.” There was substantial anger expressed at Wynnefield Properties that formerly had this site under contract for “workforce housing.”

Jeff Rives explained that he and Dale Britt used to develop properties, but they no longer did and they just wanted to sell land remaining in their inventory. He assured the group that they had no buyer, but it was for sale to anybody who wished to buy, even to Avalon owners. The purpose of seeking removal of the density restriction was that it no longer could be justified, the

proposal was generally consistent with the Land Use Plan, and it would make it more marketable.

No one requested additional buffers or screening. We asked what they would be happy with and never received an answer.

B. Questions That Were Answered/Answerable

1) Will it be for “low income housing?”

The type of tax credit housing sought by Wynnefield Properties requires an additional city council approval. The applicants are only requesting rezoning, and there is nobody under contract or “in the wings” to be placed under contract for any particular use if zoning is approved. It is illegal to make a zoning decision based on the income level of those expected to live there.

We most recently offered it to the County for use as park space for bike trails. They responded “We do not want mountain biking in our neighborhood.”

2) Why do you want “unlimited density?”

This point was posed as a question or as a fact at least 3-4 times. We tried to explain that there is no such thing as “unlimited density,” and that RM-12 means 12 units per acre, a density generally consistent with the Land Use Plan. Additionally, at least 1/3 of the site is very likely undevelopable because of topography and a stream and the exorbitant cost of a connecting bridge. Therefore actual density would be much less than technically allowed.

3) “Our biggest concern is that you could sell this at 120 units to Wynnefield Properties.”

We stated as many times as we could that Wynnefield Properties is not in this discussion, but if they wanted to enter into a contract for an acceptable price, they could. It is for sale to anybody who wishes to make a reasonable offer.

4) Why didn’t the city disclose to us when we bought our property that the land around us could develop?

It is not the city’s job to communicate to buyers of property. However, the Land Use Plan and Map are public records. Their realtor and builder were the ones they should have gotten information from. Additionally, they should have asked questions when it was obvious that the land around them was not yet developed.

C. Comments Made for Which No Response was Attempted

1) Constructing Hartley Drive hurt Avalon because it allowed foot traffic from low income housing.

- 2) The City “stole land” from Avalon.
- 3) Wynnefield has a “secret deal” with High Point and it is getting all the low income housing contracts in North Carolina.
- 4) The minute Wynnefield gets its permits to build where it was rezoned it will start to build into the environmentally protected green space and the city won’t do anything to stop them
- 5) “The City of High Point is looking for every place it can to put in low income housing.”
- 6) If this is rezoned, Craig Stone will just “walk across the street and buy it for low income housing.”
- 7) We used to be a private community back in here, but now we’re not.”
- 8) Our schools are “overcrowded and overcapacity.” We should stop all these other apartments and subdivisions.
- 9) “The city has stepped all over everybody in High Point.”
- 10) “It’s all about the money.”
- 11) “I should have stayed in New York”

# EXHIBIT A

AMH 2015-2 BORROWER LLC  
30601 AGOURA RD STE 200  
AGOURA HILLS CA 91301

AMH 2015-2 BORROWER LLC  
30601 AGOURA RD STE 200  
AGOURA HILLS CA 91301

ARAMINI, GARY DANIEL  
2630 INGLESIDE DR UNIT 2A  
HIGH POINT NC 27265

AVALON SUBDIVISION LLC  
PO BOX 32726  
CHARLOTTE NC 28232

AVALON SUBDIVISION OWNERS  
ASSOCIATION INC  
PO BOX 6442  
HIGH POINT NC 27262

AVALON SUBDIVISION OWNERS  
ASSOCIATION INC  
PO BOX 6442  
HIGH POINT NC 27262

AVALON SUBDIVISION OWNERS  
ASSOCIATION INC  
PO BOX 6442  
HIGH POINT NC 27262

AVALON TRUST ; CLARO REAL ESTATE  
INVESTMENTS LLC TRUSTEE  
265 EASTCHESTER DR STE 133-157  
HIGH POINT NC 27262

BAILEY, WILLIAM E JR  
2670-1B INGLESIDE DR  
HIGH POINT NC 27265

BAKER, DAVIS J ; BAKER, DEBRA  
MICHELLE GUNTER  
2620 INGLESIDE DR #1B  
HIGH POINT NC 27265

BARTON, STEFANIE L  
4306 SELBORNE DR  
GREENSBORO NC 27410

BOLDEN, KIMBERLY N  
2534 INGLESIDE DR  
HIGH POINT NC 27265

BREAULT, CHRISTOPHER D ; BREAULT,  
DONNA L  
2660 INGLESIDE DR #1A  
HIGH POINT NC 27265

BRITT, R DALE  
2012 SHEPARD ST  
MOREHEAD CITY NC 28557

BRITT, R DALE ; RIVES, JEFFERSON H  
PO BOX 235  
MOREHEAD CITY NC 28557

CABLE, WAYNE G ; CABLE, ROBIN W  
902 KINLOCH DR  
WINSTON SALEM NC 27107



CAMERON, KERRI A  
2182 STONE RIDGE PL  
WINSTON SALEM NC 27107

CORNATZER, RICKEY F  
2630-1A INGLESIDE DR  
HIGH POINT NC 27265

CRUZ, LAURA I ; VELASQUEZ, ROGER O  
2542 INGLESIDE DR  
HIGH POINT NC 27265

DALTON, TABITHA R  
780 AVALON SPRINGS CT  
HIGH POINT NC 27265

DAVIS, SHANE C ; EVANS, KELLI E  
704 W PARRIS AVE  
HIGH POINT NC 27265

DREYER, DAVID  
623 CREEK DR  
HAMPSTEAD NC 28443

ELLIOTT, MONICA DENISE  
710 W PARRIS AVE  
HIGH POINT NC 27265

ELVA WARD PROPERTIES LLC  
5180 WALLBURG-HIGH POINT RD  
HIGH POINT NC 27265

FOGLEMAN, CATHY S  
2620-1C INGLESIDE DR  
HIGH POINT NC 27265

GUILFORD COUNTY  
PO BOX 3427  
GREENSBORO NC 27402

HALL, SANDRA P  
222 HILLCREST DR  
HIGH POINT NC 27262

HAMILTON GROUP OF HIGH POINT LLC  
2212 EASTCHESTER DR  
HIGH POINT NC 27265

HAMPTON, MARTHA LYNETTE H  
2660 1D INGLESIDE DR  
HIGH POINT NC 27265

HUANG, BRO-RONG  
3135 SOUTHAMPTON DR  
JAMESTOWN NC 27282

IH5 PROPERTY NORTH CAROLINA LP  
9335 HARRIS CORNERS PKWY STE 100  
CHARLOTTE NC 28269

KALAMAZOO, BEATRICE G HAUSL R  
TRUSTEE  
5710 K HIGH POINT RD SUITE 113  
GREENSBORO NC 27407

KIDD, LINDA LEAH  
711 W PARRIS AVE  
HIGH POINT NC 27262

KINLAW, SANDRA W ; KINLAW, PAUL DAVID  
12603 CONGREGATION DR  
CHARLOTTE NC 28278

KIRBY, RA'DONNA D  
2660-2C INGLESIDE DR  
HIGH POINT NC 27265

LAKIS, DOUGLAS S  
2660 1C INGLESIDE DR  
HIGH POINT NC 27265

LEWIS, TRACIE  
713 W PARRIS AVE  
HIGH POINT NC 27265

LISTON, BETTY L  
2620-1A INGLESIDE DR  
HIGH POINT NC 27265

LYMAN, JOHN ROBERT  
PO BOX 683  
JAMESTOWN NC 27282

LYON, ERIN R  
715 W PARRIS AVE  
HIGH POINT NC 27265

MCCORKLE, MARTHA J  
2660-1B INGLESIDE DR  
HIGH POINT NC 27265

MCCRACKEN, JOSEPH E ; MCCRACKEN,  
SHARON L  
782 AVALON SPRINGS CT  
HIGH POINT NC 27265

MILLER, EVELYN MAY  
408 W PARRIS AVE  
HIGH POINT NC 27262

PALMER, CHRISTY HUNT  
225 BROOKE DR  
WINSTON SALEM NC 27107

PARKER, HENRI H ; PARKER, NESONYA R  
4609 RICHLAND POINTE DR  
RALEIGH NC 27616  
PARRIS, CLARO REAL INVESTMENTS LLC  
265 EASTCHESTER DR STE 133-157  
HIGH POINT NC 27262

PINNIX, GARY D  
2630-2C INGLESIDE DR  
HIGH POINT NC 27265

POWER, BETTY W  
2670 INGLESIDE 1D DR  
HIGH POINT NC 27265

RICHARDSON, CHANDREA  
2536 INGLESIDE DR  
HIGH POINT NC 27265

RODRIGUEZ-VELASQUEZ, BRAISI ;  
SANCHEZ, CESAR A  
2540 INGLESIDE DR  
HIGH POINT NC 27265

RUCINSKI, SLAWOMIR ; RUCINSKI,  
MALGORZATA  
1151 SWEETBRIAR RD  
HIGH POINT NC 27262

SADLER, PAMELA J  
2670 INGLESIDE DR #2C  
HIGH POINT NC 27265

SCOTT, CLIFTON A ; SCOTT, CECILIA L  
784 AVALON SPRINGS CT  
HIGH POINT NC 27265

SHELTON, SHAUN ; SHELTON, AMBER  
2546 INGLESIDE DR  
HIGH POINT NC 27265

SHRADER, JEAN CAROL  
2670-1C INGLESIDE DR  
HIGH POINT NC 27265

SKAVO, MIODRAG ; SKAVO, JADRANKA  
2670 INGLESIDE DR UNIT 2B  
HIGH POINT NC 27265

SOULAKAKONE, VIENGKEO ;  
SOULAKAKONE, TAI VONGPHETH  
709 W PARRIS AVE  
HIGH POINT NC 27265

STEED, JANA  
2543 INGLESIDE DR  
HIGH POINT NC 27265

SURASANI, NIVAS  
2660 INGLESIDE 2D DR  
HIGH POINT NC 27265

TAKACS, ANDREA BERTA ; TAKACS,  
GYULA KARL  
500 W PARKWAY AVE  
HIGH POINT NC 27262

TYREE, STEVEN W  
1127 HAMPTON PARK DR  
HIGH POINT NC 27265

UVANNI, MICHAEL  
209 W COURT ST  
ROME NY 13440

VACHIRA, TANATE  
660 S WESTFORD ST  
ANAHEIM CA 92807

WALLACE, DARRELL  
703W PARRIS AVE  
HIGH POINT NC 27265

WARDEN, DONNA ELLEN  
103 MCBERRY ST  
BECKLEY WV 25801

WEISMAN, ANNE LOLA  
2670-1A INGLESIDE DR  
HIGH POINT NC 27265

YOUNG MENS CHRISTIAN ASSN OF HIGH  
POINT INC  
PO BOX 6258  
HIGH POINT NC 27262

YOUNG MENS CHRISTIAN ASSN OF HIGH  
POINT INC  
PO BOX 6258  
HIGH POINT NC 27262

YOUNG, BOLEN ALVEN JR  
2620 2C INGLESIDE DR  
HIGH POINT NC 27265

# **EXHIBIT B**

September 21, 2016

Dear Neighbor:

I represent Dale Britt and Jeff Rives, applicants to rezone the 10.24 acres shown on the enclosed map from CU-RM-12 to CZ-RM-12. Translated, this means rezoning from residential-multi-family zoning with a maximum of 12 units per acre, subject to certain zoning restrictions, to the same zoning district, but subject to different restrictions. You are receiving this letter because you own property that lies within 300 feet of the site's boundary.

This site was originally zoned to CU-RM-12 in 1996 with limited density before sufficient access roads were constructed. The reason for limiting density no longer exists, and the rezoning will simply allow density at the number of units permitted by the ordinance.

There will be no connection to the Avalon subdivision, and the natural buffers that are part of the Avalon common area will remain. The site will be limited to two points of access to Hartley, one of them a right turn going in, and the other a right turn going out.

Mr. Britt and Mr. Rives will not be developing the property themselves, nor do they have a buyer yet who will. Thus, no site plans or building designs have been created. Nonetheless, if you would like to meet personally with Mr. Rives and Mr. Britt to ask them questions, there will be an informal meeting at the High Point YMCA on October 6 from 5:00 to 7:00 p.m. It is organized on a drop-in basis so that you can come when it best fits your schedule.

In the meantime, if you cannot come but have questions, please feel to email me at [tom.terrell@smithmoorelaw.com](mailto:tom.terrell@smithmoorelaw.com) or to call me at my direct office number (336) 378-5412. If I cannot answer your questions I will find somebody who can.

Sincerely,

Smith Moore Leatherwood LLP



Thomas E. Terrell, Jr.

TET/ths

# EXHIBIT C

October 7, 2016

Dear Neighbor:

I recently sent you a letter dated September 21 to let you know that Dale Britt and Jeff Rives will be applying to rezone 10.24 acres on Hartley Drive. I referenced an enclosed map, but apparently the map was not enclosed.

I apologize for that oversight. I assure you that the map showing the 10.24 acres involved is enclosed this time.

To repeat, there is no buyer for this property and no plan of development. The owners will be asking the city to remove density restrictions that were placed on the site approximately 20 years ago because, at that time, Hartley Drive had not been constructed. The removal of the density restriction would make the zoning consistent with the city's Land Use Plan that has been in place since before Avalon, Hartley Square and other developments were constructed.

Sincerely,

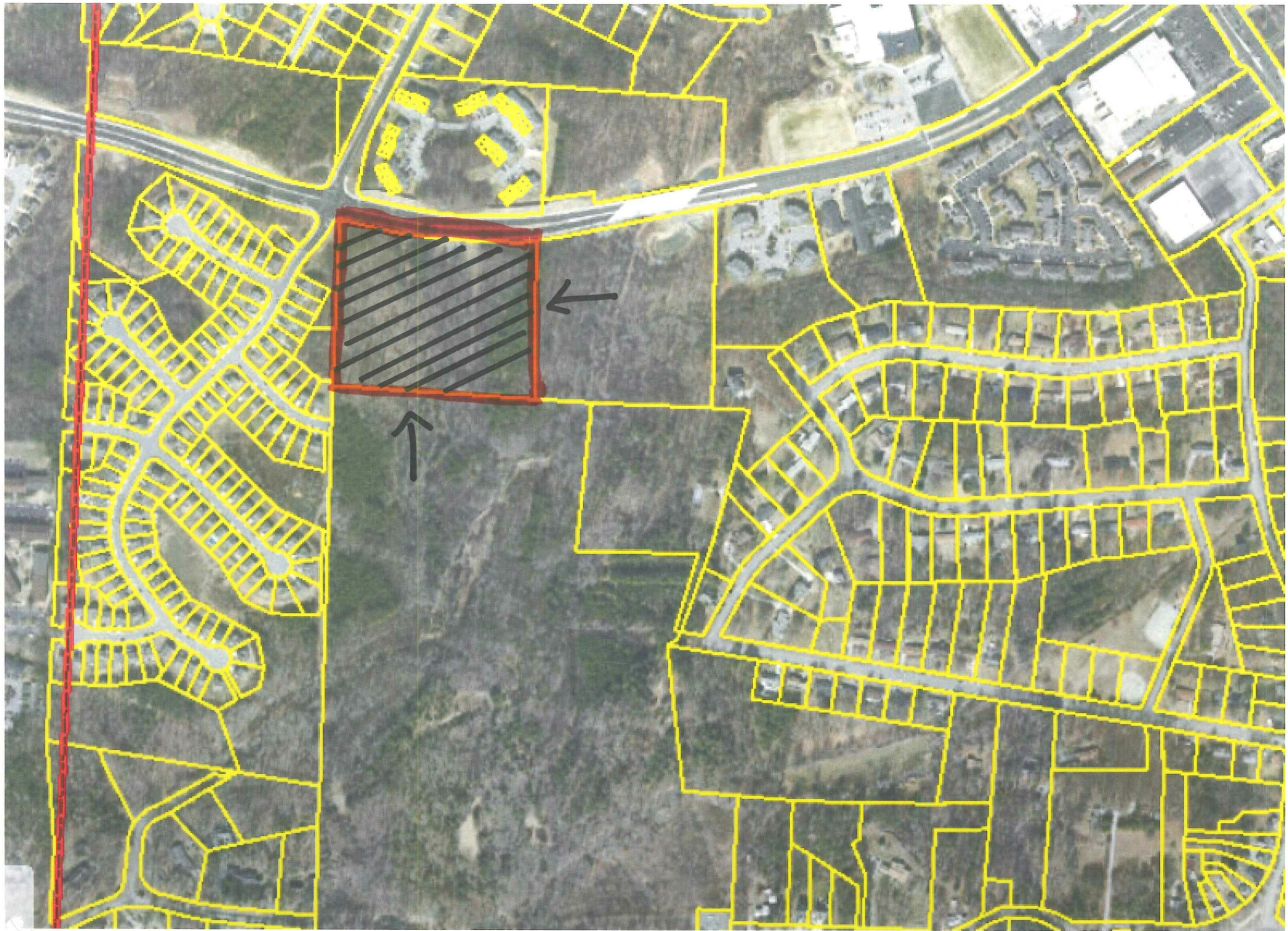
Smith Moore Leatherwood LLP



Thomas E. Terrell, Jr.

TET/th







# **EXHIBIT D**

## Tom Terrell

---

**From:** Sandy <sandyc24@yahoo.com>  
**Sent:** Wednesday, September 28, 2016 10:50 AM  
**To:** Tom Terrell  
**Cc:** scott dill; jtthomas@northstate.net; wmrkjones@yahoo.com; drobertgb@hotmail.com; 'Jeff Rives'; Dale Britt; Wendy Emrich  
**Subject:** Re: Rezoning Meeting

Good Morning,

I just wanted to let you know the board has decided that we do not wish to have a separate meeting, but will instead attend the meeting on Oct 6th.

Thank You,

Sandy Dill  
President Avalon Homeowners Association.

On September 25, 2016, at 5:40 PM, Tom Terrell <Tom.Terrell@smithmoorelaw.com> wrote:

Please accept my apologies for misspelling your name. Since the meeting at the Y is structured on a drop-in basis, would you like to have a separate meeting with just your board?

-----Original Message-----

From: Sandy [mailto:sandyc24@yahoo.com]  
Sent: Sunday, September 25, 2016 5:27 PM  
To: Tom Terrell  
Cc: scott dill; jtthomas@northstate.net; wmrkjones@yahoo.com; bruthaj35@yahoo.com; drobertgb@hotmail.com; Wendy Emrich; 'Jeff Rives'; Dale Britt; rmosher@myguilford.com  
Subject: Re: Rezoning Meeting

Mr Terrell,

Thank you for your in-depth response, and I appreciate you trying to enlighten the board.

I appreciate your history but issues from 15 years ago have nothing to do with today's zoning issues.

We will be attending your meeting and look forward to hearing what you have to say.

P.S.

My name is Ms Dill.

Thank You,  
Sandy Dill

On September 25, 2016, at 4:15 PM, Tom Terrell <Tom.Terrell@smithmoorelaw.com> wrote:

Ms. Gill,

I appreciate more than you know that you reached out so that I can clear up some facts. Of course, you are free to oppose this rezoning and to speak at any public hearing, but your HOA board's facts are out of date.

That, of course, is not your board's fault because you don't have direct communications with developers in the process as it develops, and then you receive a notification like my letter that comes out of the blue. Your assumption is even logical, based on recent history. But I do need to bring you current in what is going on.

I have copied Jeff Rives and Dale Britt who will confirm that this property is no longer under contract to Wynnefield Properties and that it is not under contract to any person, company or entity. I encourage you also to contact Wynnefield Properties, but I don't have its contact information. Craig Stone is the president. Mr. Britt and Mr. Rives truly are just proceeding to ask the city to lift a density limit that was first imposed because, in the mid-nineties, there was inadequate access (Hartley had not been built).

For additional confirmation that there is no secret buyer, my July 18 letter to the Guilford County Board of Commissioners suggesting that this property be acquired for park space for use as bike trails was on the front page of the High Point Enterprise near the end of July. In that letter I informed the county that the owners were proceeding with rezoning. I have also copied Mr. Rick Mosher with Guilford County who will confirm that I was communicating with him in August to further the conversation about its acquisition by the county for use as open space for bike trails. That conversation, to my knowledge, has stopped.

But in spite of the fact that Wynnefield is not trying to purchase this property, I would like to give you some history that I think you are unaware of: I rezoned your subdivision a little over 15 years ago against opposition that was rooted in fear of income disparity. It was not "low income housing" (which is a term that mischaracterizes what Wynnefield does), but the principle is little different.

In my 31 years as an attorney, what was then referred to as the "Elva Ward rezoning" was one of the toughest residential rezonings I've ever handled. I was the person who identified the former Elva Ward property to Dennis Bunker, a broker in Charlotte who was looking for land for Landcraft Management, a residential developer. Landcraft hired me to rezone it. All of the residents down on Shadow Valley and Carolyndon came out in full force to oppose your development primarily on the basis of income disparity -- the proposed lots in Avalon were much smaller than their lots and their argument, essentially, was that smaller lots meant smaller houses, and smaller houses meant people with less income, and that in turn would harm their property values and the character of their neighborhood. The income disparity argument was heard the loudest in neighborhood meetings and in private conversations, although I recall some of the comments were also made in public meetings where stormwater was the more acceptable argument. ("Income disparity" is my term. The comments were more often couched in terms of smaller houses, too many units per acre, etc. which were and still are often used in rezoning cases as code words when the true issue is income or, in some cases, race or nationality).

For confirmation of this history and the many comments we were hearing, you could contact Dan Pritchett at Jamestown Engineering, site engineer, who personally knew many of the opponents, or Tripp Bunker (Dennis's brother), who was involved with Landcraft. Tripp's cell number is 336-687-1117. You can also contact High Point mayor Bill Bencini, who was a key leader on city council at the time, and chairman of the planning committee. I recall that his vote and the vote of former council member Chris Whitley in support of what became Avalon marked the turning point for the rezoning, and I credit them with your homes eventually being built. Mayor Bencini, I am sure, remembers how angry and vocal some of the rezoning opponents were, and I am sure he remembers what their concerns were.

Today, your subdivision is absolutely beautiful and a desirable place to live, and I would defend it against anyone who claimed otherwise. I am proud to have played a role in its approval. I hope that the residents down below you on Shadow Valley and Carolyndon would agree.

You are aware of the neighborhood meeting coming up. If you would like for Mr. Rives and Mr. Britt (and me) to meet personally with your board we are pleased to do so. One possible time would be immediately after the neighborhood meeting. Just let me know. My direct number at work is 336-378-5412. My cell is 336-847-2000.

Tom Terrell

-----Original Message-----

From: Sandy [mailto:sandyc24@yahoo.com]

Sent: Sunday, September 25, 2016 12:08 PM

To: Tom Terrell

Cc: scott dill; jtthomas@northstate.net; wmrkjones@yahoo.com; bruthaj35@yahoo.com; drobertgb@hotmail.com; Wendy Emrich

Subject: Rezoning Meeting

Good Afternoon Mr Terrell,

My name is Sandy Dill and I am the current President of the Avalon Homeowners Association.

It has been brought to the association's attention that your clients are wishing to change the zoning on a piece of property that abuts our Community.

It sounds like your clients are trying to get it re-zoned so that they may sell it to a company named Wynefield Properties.

Three years ago Wynefield Properties tried to re-zone that same piece of land so that they could build Low Income housing. We fought the re-zoning successfully then and are planning to fight this re-zoning.

Sincerely,

Sandy Dill

President Avalon Homeowners.

# **EXHIBIT E**

## PRINT NAME

## EMAIL

Robert Granger

nfcg@hotmail.com

Norma Granger

Ana Aguirre

anahyacinth@yahoo.com

Cliffen SCOTT

CSCOTT34@TRAD.RR.COM

Toby Thomas

thomastoby435@gmail.com

Mike Menzel

menzel5@earthlink.net

Sandra Dill

SandyC24@Yahoo.Com

Wendy Jones

wmrkjones@yahoo.com

FRANCESCO FUMBI

francesco fumbi

Nestor Ochoa

NSTROCHOA@YAHOO.COM

Madelyn Qua Throné and

{ pruned@hotmail.com

Genis Grue

Laura Cruz

laurail1976@hotmail.com

Monica Elliott

eliarm98000@yahoo.com

Robert Godfrey

drobertgb@hotmail.com

CECILIA GODFREY

cecyl3ca@hotmail.com

DARRELL WALLACE

ZENAIDA WALLACE

> navjock12@yahoo.com

~~MIKE MENZEL~~

~~menzel5@earthlink.net~~