

**Proposed Zoning Map Amendment
Staff Report**

Board of Commissioners Hearing: January 22, 2019

Rezoning Petition #: ZP-898-18

Request: This rezoning request is to **modify a condition from a previously approved (2000) conditional use rezoning case** (see attached condition) that currently limits the impervious surface coverage on the subject property to 30% by allowing it to be increased to 50% in order to resolve existing zoning violations and to allow for a possible future moderate expansion of use within the vacant 20% of the existing building.

Note: Resolution of the site plan errors that necessitate the requested increase in impervious surface coverage (see discussion below) will require the review and approval of a new site plan (as would any moderate expansion of use within the vacant 20% of the existing building). That site plan review process may require the site to be brought up to current standards with regards to, for example, stormwater management.

Location: The 1.49-acre subject property is located at the northwestern corner of the intersection of Auburn-Knightdale Road and Battle Bridge Road and is identified as 3252 Auburn-Knightdale Road.

Current Zoning: Conditional Use-General Business (CU-GB)

Proposed Zoning: Zoning district will remain unchanged. This is a modification of a previously approved rezoning condition that limited impervious surface coverage to 30% of the lot area by allowing it to be increased to 50% of the lot area.

Existing Land Uses: Convenience store with gas sales and freestanding automated teller machine.

Petitioner: Jason Earliwine

Design Firm: Withers and Ravenel

Owner: AEM Properties, LLC, Chandan Kumar, President

PIN: 1741275282

Surrounding Land Uses and Zoning Districts

Direction	Land Use	Zoning District
North	Single-family dwelling, River Ridge Golf Club	Residential-20 and Residential-30
East	Auburn-Knightdale Road, Agriculture	City of Raleigh Satellite Annexation, Zoned Residential-4

Direction	Land Use	Zoning District
South	Battle Bridge Road, Single-family dwellings, Agriculture	Residential-30
West	River Ridge Golf Club	Residential-20

Land Use/Zoning History

- 1970: General zoning was first applied to the southeastern portion of Wake County.
- 2000: East Raleigh-Knightdale Area Land Use Plan was adopted and designated this site and some of the surrounding area as an 11-acre Neighborhood Activity Center (NAC).

Process Note: Even though the intent of this rezoning petition is only to modify a condition of a previously approved rezoning case, the state law and the Wake County Unified Development Ordinance, requires that it be reviewed as if it were a new rezoning. Therefore, many of the elements contained herein are written, in effect, as verification of the previously approved (2000) Conditional Use-General Business rezoning.

Background

The previous owner of the 1.49-acre subject property received approval of a rezoning from Residential-30 to Conditional Use-General Business from the Wake County Board of Commissioners in December 2000. One of the seven rezoning conditions limited the impervious surface coverage of the subject property to 30%. The requested rezoning is to modify that condition to increase the allowable impervious surface limit to 50%. Please note that all other previously approved rezoning conditions will be unchanged and will remain valid and in effect.

The current case's petition materials indicate that "The site exceeded the impervious surface limit of 30% immediately following construction due to an error in the site plan. In 2006, the previous property owner added an ATM to the site ... but the structure increased the impervious surface limit even further above the approved 30%. The addition of an ATM also required two additional parking spaces, which were not provided. These two spaces would require an additional 400 [square feet of impervious surface]. Since that time, a 1,470 [square-foot] gravel parking area was added by the previous property owner to accommodate large vehicles and prevent any erosion damage to the grassy area adjacent to the paved parking areas. This gravel parking area further increased the impervious area above the maximum permitted. This site currently is facing multiple zoning violations which is necessitating this rezoning request for additional impervious surface coverage."

The petitioner continues "This site is currently non-compliant due to an excess of impervious surface associated with the existing use and is therefore in violation of the conditions set forth in rezoning case #ZP-813-01, which states: "The impervious surface ratio for the site shall not exceed 30%". The existing impervious surface of the site is currently about 37% and the property owner is requesting an increase in impervious

surface allowance from 30% to 50% in order to resolve this overage and bring his property into a conforming status.” The petitioner also notes that “The proposed rezoning, if approved, would bring the site into compliance and allow for possible moderate expansion within the existing footprint.” The extra impervious surface coverage may be needed to address any extra parking spaces that may be needed stemming from the expansion of use into the existing vacant 20% of the building.

Additionally, the petitioner notes that “The original rezoning included a condition restricting the uses of the property to gas/food service/convenience store. The owner is not asking to alter any of the other originally approved conditions.” This original condition has the effect of removing 71 use classifications (as listed in the Permissible Use Table of the Wake County Unified Development Ordinance) from possible future consideration upon the subject property.

Wake County Land Use Plan

Even though this petition’s purpose is to modify the impervious surface limit imposed by a previously approved rezoning condition, the planning staff is providing the following analysis regarding the suitability of the existing Conditional Use-General Business zoning district in this area, as required by law.

The Wake County Land Use Plan’s General Classification map designates this area as Raleigh’s Short-Range Urban Services Area (SRUSA). SRUSAs are defined as areas within the county’s zoning jurisdiction that are intended to be urbanized—probably within the next ten years. Please see the discussions below under the “Input from the City of Raleigh” and “Utilities” sections for information regarding coordination efforts with the City of Raleigh.

The subject property and some of the surrounding area are located within an 11-acre Neighborhood Activity Center (NAC) as designated on the East Raleigh-Knightdale Area Land Use Plan. The NAC is the smallest type of Wake County’s three classifications of activity centers, and is intended for small-scale, primarily convenience-oriented retail sales and services that serve the day-to-day needs of a relatively small geographical area.

NACs are described in the Wake County Land Use Plan (Chapter III, page 13) as being serviced by major thoroughfares and municipal water and sewer. A few of the small-scale urban land uses indicated as appropriate for an NAC are convenience stores, gas stations, restaurants, small-scale retail trade and services, offices, and day care centers.

Given the existing and proposed continued zoning district for the subject property (i.e.- Conditional Use-General Business), the existing and proposed continued uses (i.e.-a convenience store with gas sales, and an accessory ATM), and the allowable range of possible uses (i.e.—given an existing rezoning condition the only other allowable use would be “food service”), the requested rezoning to modify a previous condition to increase the allowable impervious surface limit from 30% to 50% would be consistent with the Wake County Land Use Plan’s Neighborhood Activity Center designation, and would

be reasonable, and appropriate, for the area. Any future use on this property will have to be determined to be consistent with the Land Use Plan via a site-specific development plan before it can be approved.

It should be noted that various provisions of the Wake County Unified Development Ordinance, in particular stormwater management, will ensure that the increase in impervious surface coverage, if approved, will not have any adverse impact on the surrounding properties or the environment. As noted above the resolution of the site plan errors that necessitate the requested increase in impervious surface coverage will require the review and approval of a new site plan (as would any moderate expansion of use within the vacant 20% of the existing building). That site plan review process may require the site to be brought up to current standards with regards to, for example, stormwater management. This site plan review process will help protect the public health, safety, and general welfare.

Additionally, these uses, proximity to a major thoroughfare (i.e.-Auburn-Knightdale Road), and the connection of the subject property to the City of Raleigh utility services (i.e.—water and sewer) comply with two of the Land Use Plan's goals. These two goals are:

- Goal # 2--To encourage growth close to municipalities, to take advantage of existing and planned infrastructure, such as transportation, water and sewer facilities; and
- Goal # 3--To encourage the development of communities which provide adequate land for anticipated demands, in a pattern which allows a mixture of uses;

The petitioner has indicated that the proposed modification of the previously approved rezoning condition to increase the impervious surface coverage on the subject property will (1) allow for the resolution of the existing zoning violations of excessive impervious surface caused by (a) the original site plan error, (b) the installation of the existing ATM, (c) the installation of the required two parking spaces for the ATM that were not previously installed, and (d) the gravel installed for overflow parking of large trucks that had been creating erosion problems on the site; and (2) to allow for extra parking spaces, if needed, for any possible moderate future expansion of use within the existing 20% vacant portion of the existing building.

The petitioner has indicated that “there are no environmental[ly] sensitive features on the site” and that there “are currently no stormwater issues with the site”. The petitioner also notes that “By amending the impervious surface condition and bringing the existing site into compliance with the Wake County UDO, the property owner may continue to provide these convenience services to which the community and travelers in the area have become accustomed” and would “allow for possible moderate expansion within the exiting [building] footprint”.

In accordance with the North Carolina General Statutes and the Wake County Unified Development Ordinance, any proposed rezoning should be consistent with the Wake County Land Use Plan. It is the Planning staff's professional opinion that the rezoning

petition to increase the impervious surface limit, the existing and proposed continued zoning district, the existing and proposed continued uses, and the possible future moderate expansion within the existing building footprint, would all be consistent with the Land Use Plan, and are reasonable, and appropriate for the area.

Required Statement of Consistency with the Land Use Plan, Reasonableness, and Public Interest

North Carolina General Statute 153A-341 and Section 19-21-6 (C) of the Wake County Unified Development Ordinance require that the Planning Board provides the Board of Commissioners with a statement of whether or not the proposed rezoning petition is consistent with the Land Use Plan, reasonable, and otherwise advances the public health, safety, and general welfare. In making a determination of whether or not to approve the rezoning petition, the Board of Commissioners must adopt a statement describing whether or not the proposed petition is consistent with the Land Use Plan, reasonable, and otherwise advances the public health, safety, and general welfare, or why it chose to deviate from the Land Use Plan and how that decision is reasonable and in the public interest.

The petitioner has provided several statements indicating (1) why they believe that the proposed rezoning and subsequent use is a public necessity, and (2) explaining its impact on the surrounding neighborhood and adjacent properties. They have also provided statements of (3) how the rezoning complies with the Land Use Plan; (4) how the rezoning benefits the adjacent and surrounding properties and (5) otherwise advances the public health, safety and general welfare. These statements are included in the attached petition package.

The Planning staff has drafted (and the Planning Board has endorsed) a statement of consistency, reasonableness, and public interest for consideration by the Board of Commissioners (see attached draft statement).

Input from the City of Raleigh

As part of the Wake County Planning staff's review of any rezoning request, a copy of the petition is forwarded to the relevant municipality whose Urban Services Area that the subject property lies within. The subject parcel is classified as the City of Raleigh's Short-Range Urban Services Area (SRUSA). A copy of the petition materials was sent to the City of Raleigh planning staff, who responded that "The site is within the City's future urban services area, and part of a larger area (which includes part of the Randleigh tract) designated "Community Mixed Use" on the City's Future Land Use Map. The request appears to be consistent with that policy guidance" (see Wake County Land Use Plan Goal # 3).

Input from Neighboring Property Owners

As per our normal process, the Planning staff mailed out letters to all property owners within 1,000 feet of the subject property and posted a public hearing notice sign on the subject property at the corner of Auburn-Knightdale Road and Battle Bridge Road. The

Planning staff has received only one phone call (a general inquiry) in response to those efforts to solicit neighborhood feedback (but no opposition).

Utilities

The subject property is classified as being in the City of Raleigh's Short-Range Urban Services Area (SRUSA). The Wake County Land Use Plan defines SRUSAs as areas within the County's zoning jurisdiction that are intended to be urbanized--probably within the next ten years. The original rezoning petition, which was approved on December 4, 2000, included a condition that the site must be connected to the City of Raleigh's water and sewer lines. This condition most likely was at the City's request. Upon construction in 2001 the convenience store was connected to the City's water and sewer lines--thus complying with this condition.

This coordination with the City of Raleigh is consistent with the Wake County Land Use Plan's Goal # 2, which calls for the encouragement of growth close to municipalities, to take advantage of existing and planned infrastructure, such as transportation, water and sewer facilities.

Environmental Issues

There are no Federal Emergency Management Agency (FEMA) regulatory floodplains, Wake County flood hazard soils, protected/buffered drainageways, or regulatory wetlands on, or in close proximity to, the subject property.

Transportation Plan

Auburn-Knightdale Road is designated as a major thoroughfare in the Wake County 2025 Transportation Plan and the accompanying Corridor Profiles booklet. The existing right-of-way of 75 feet already complies with the prescribed width (on the subject property's side of the road) because the original owner of the property dedicated 15 feet of additional right-of-way and constructed a left-turn lane into the store from Auburn-Knightdale Road as part of the original construction. The existing two-lane cross-section is proposed to be widened, in the plan, from two 10-foot travel lanes to a two-lane 36-foot cross-section with left-turn lanes, as needed, at driveways and intersections. Battle Bridge Road does not appear in the Corridor Profiles booklet.

There is a possibility that the North Carolina Department of Transportation (NCDOT) may require other roadway improvements during their review of any subsequent site plan for redevelopment of the subject property (i.e.-a moderate expansion of use into the vacant 20% of the existing building). Any roadway improvements and/or driveway permits will have to be coordinated with, and approved by NCDOT, during the site plan review process.

Traffic Volumes

The most recently available Average Annual Daily Traffic (AADT) counts for Auburn-Knightdale Road is 3,900 vehicles per day, and 1,500 vehicles per day for Battle Bridge Road. The Wake County 2025 Transportation Plan and the accompanying Corridor Profiles booklet states that the current design capacity for Auburn-Knightdale Road is

12,000 vehicles per day. Battle Bridge Road is not included in the Transportation Plan's Corridor Profile booklet, so there is no stated design capacity for this roadway, but it is assumed to also be 12,000 vehicles per day since the two existing roads have similar widths. Both roadways are operating well below their design capacity—32.5% and 12.5% respectively.

Please note that any possible future expansion of use in the vacant portion of the existing building is not anticipated to generate any significant amount of new traffic because, as the petitioner has indicated, "there should be relatively little new traffic generated to and from the site ... as any new use in the vacant portion of the building will be geared toward the existing customer base".

Accident Report

NCDOT's Traffic Engineering Accident Analysis System report for the three-year period from April 1, 2015 through March 31, 2018 indicated that there have been 10 accidents along the 1.078-mile section of Auburn-Knightdale Road between La Costa Way and a point 3,000 feet south of the intersection with Battle Bridge Road (roughly symmetrical around the intersection). During that three-year period there were 5 (of those 10) accidents (50%) that occurred at the intersection with Battle Bridge Road (three of which are also noted in the Battle Bridge Road figures below).

There were no accidents on this road segment during this three-year period that involved a fatality. There were 3 accidents (30%) that resulted in 6 injuries, with the remaining 7 accidents (70%) involving property damage only. The three injury-related accidents involved 1 severe injury, 3 moderate injuries, and 2 minor injuries.

The majority of the accidents (8, or 80%) occurred during daylight hours and dry weather conditions, 1 (10%) occurred during wet weather conditions, and 1 (10%) occurred at night. The most common type of accident (4, or 40%) involved angled collisions that are indicative of driver error/failure to seek safe movement.

NCDOT's Traffic Engineering Accident Analysis System report for the three-year period from April 1, 2015 through March 31, 2018 indicated that there have been 7 accidents along the 1.342-mile section of Battle Bridge Road between Magnolia Pond Road and Griffice Mill Road. During that three-year period there were 5 (of those 7) accidents (71.4%) that occurred at the intersection with Auburn-Knightdale Road.

There were no accidents on this road segment during this three-year period that involved a fatality. There were 2 accidents (28.6%) that resulted in 4 injuries, with the remaining 5 accidents (71.4%) involving property damage only. The two injury-related accidents involved 2 moderate injuries and 2 minor injuries.

The majority of the accidents (4, or 57.1%) occurred during daylight hours and dry weather conditions, 2 (28.6%) occurred during wet weather conditions, and 1 (14.3%) occurred at night. Most of the accidents (6, or 85.7%) involved angled or sideswipe collisions that are indicative of driver error/failure to seek safe movement.

Traffic Impact Analysis

A Traffic Impact Analysis (TIA) is required by the Wake County Unified Development Ordinance, for any development, that generates more than 1,000 trips per day, or more than 100 peak-hour trips, as determined by the Institute of Transportation Engineers' Trip Generation Manual for specified proposed uses. Any required TIA must be submitted during the site plan approval process.

The stated purpose of the proposed rezoning is to allow for an increase in the impervious surface limit from 30% to 50% to resolve existing violations and to allow for a possible future expansion of use within the vacant 20% of the building. The petitioner has stated that if and when the current owner decides to expand into the vacant 20% portion of the existing building that "there should be relatively little new traffic generated to and from the site ... as any new use in the vacant portion of the building will be geared toward the existing customer base".

The Wake County Planning staff is not requiring a TIA as part of the petition to modify a previously approved rezoning condition but reserves the right to require one as part of the subsequent redevelopment if warranted by Section 15-12 of the Wake County Unified Development Ordinance.

Planning Staff Findings

1. This request, to modify a previously approved rezoning condition that limited the impervious surface coverage to 30% of the lot area by increasing it to 50%, is needed to resolve existing zoning violations and to allow for a possible moderate expansion of use within the vacant 20% of the existing building.
2. All other previously approved rezoning conditions will be unchanged and will remain valid and in effect.
3. The existing and proposed continued zoning district, the existing and proposed continued uses, and the allowable range of possible uses, are consistent with the Wake County Land Use Plan's Neighborhood Activity Center designation, and would be reasonable, and appropriate, for the area.
4. More specifically, the Neighborhood Activity Center allows for small-scale urban land uses that are served by major thoroughfares and municipal water and sewer, and the previously approved rezoning complies with two stated goals of the Land Use Plan.
5. There are no environmentally sensitive features on, or near, the subject property, and there is no indication of previous stormwater issues on the subject property.
6. Resolution of the site plan errors that necessitate the requested increase in impervious surface coverage will require the review and approval of a new site plan (as would any moderate expansion of use within the vacant 20% of the existing building) to ensure compliance with all applicable current standards with regards to, for example, stormwater management, which will ensure protection of the public health, safety and general welfare.

7. There are no traffic issues (e.g.—high traffic volume, high number of accidents) on the adjacent roadways, and the modification of the previously approved rezoning condition is not anticipated to generate any significant new traffic to the site.
8. The City of Raleigh’s planning staff had no objection to the request to modify the previously approved rezoning condition to increase the allowable impervious surface limit to 50% and indicated that the uses are consistent with the City’s Future Land Use Map.
9. The Wake County Planning staff has received no objections from the surrounding property owners or the general public.

Planning Staff Recommendation

The Planning staff recommends that the Board of Commissioners:

- (1) Adopts the attached drafted statement (see immediately below) finding that the requested rezoning to modify a previously approved rezoning condition to increase the impervious surface coverage from 30% to 50% of the lot area, the existing and proposed continued zoning district, the existing and proposed continued uses, and the allowable range of possible uses, are consistent with the Wake County Land Use Plan, and are reasonable, and appropriate for the area.

and by separate motion

- (2) Approves the rezoning petition, ZP-898-18, as presented.

Draft Statement for Consideration by the Board of Commissioners

MOTION FOR A FINDING OF CONSISTENCY WITH THE WAKE COUNTY LAND USE PLAN, REASONABLENESS, AND PUBLIC INTEREST (1ST MOTION)

In the matter of ZP-898-18, I move that the Board of Commissioners adopts the following recommended statement of consistency, reasonableness, and public interest:

- 1) The Board finds that the requested rezoning, to modify a previously approved rezoning condition that limited the impervious surface coverage to 30% of the lot area by increasing it to 50%, is needed to resolve existing zoning violations and to allow for a possible moderate expansion of use within the vacant 20% of the existing building;
- 2) All other previously approved rezoning conditions will be unchanged and will remain valid and in effect.

- 3) The existing and proposed continued zoning district, the existing and proposed continued uses, and the allowable range of possible uses, are consistent with the Wake County Land Use Plan's Neighborhood Activity Center designation, and would be reasonable, and appropriate, for the area.
- 4) More specifically, the Neighborhood Activity Center allows for small-scale urban land uses that are served by major thoroughfares and municipal water and sewer, and the previously approved rezoning complies with two stated goals of the Land Use Plan.
- 5) There are no environmentally sensitive features on, or near, the subject property, and there is no indication of previous stormwater issues on the subject property.
- 6) Resolution of the site plan errors that necessitate the requested increase in impervious surface coverage will require the review and approval of a new site plan (as would any moderate expansion of use within the vacant 20% of the existing building) to ensure compliance with all applicable current standards with regards to, for example, stormwater management, which will ensure protection of the public health, safety and general welfare.
- 7) There are no traffic issues (e.g.—high traffic volume, high number of accidents) on the adjacent roadways, and the modification of the previously approved rezoning condition is not anticipated to generate any significant new traffic to the site
- 8) The City of Raleigh's planning staff had no objection to the request to modify the previously approved rezoning condition to increase the allowable impervious surface limit to 50% and indicated that the uses are consistent with the City's Future Land Use Map.
- 9) The Wake County Planning staff has received no objections from the surrounding property owners or the general public.

MOTION FOR APPROVAL (2ND MOTION)

In the matter of ZP-898-18, I move that the Wake County Board of Commissioners approve the rezoning request as presented.

Planning Board Recommendation

(1) The Planning Board at their Wednesday, December 5, 2018 meeting recommended, by a vote of 7 to 0, that the Board of Commissioners finds that the requested rezoning, to modify a previously approved rezoning condition that limited the impervious surface coverage to 30% of the lot area by increasing it to 50%:

- a) Is needed to resolve existing zoning violations and to allow for a possible moderate expansion of use within the vacant 20% of the existing building;
- b) All other previously approved rezoning conditions will be unchanged and will remain valid and in effect.
- c) The existing and proposed continued zoning district, the existing and proposed continued uses, and the allowable range of possible uses, are consistent with the Wake County Land Use Plan's Neighborhood Activity Center designation, and would be reasonable, and appropriate, for the area.

d) More specifically, the Neighborhood Activity Center allows for small-scale urban land uses that are served by major thoroughfares and municipal water and sewer, and the previously approved rezoning complies with two stated goals of the Land Use Plan.

e) There are no environmentally sensitive features on, or near, the subject property, and there is no indication of previous stormwater issues on the subject property.

f) Resolution of the site plan errors that necessitate the requested increase in impervious surface coverage will require the review and approval of a new site plan (as would any moderate expansion of use within the vacant 20% of the existing building) to ensure compliance with all applicable current standards with regards to, for example, stormwater management, which will ensure protection of the public health, safety and general welfare.

g) The City of Raleigh's planning staff had no objection to the request to modify the previously approved rezoning condition to increase the allowable impervious surface limit to 50% and indicated that the uses are consistent with the City's Future Land Use Map.

h) The Wake County Planning staff has received no objections from the surrounding property owners or the general public.

(2) The Planning Board at their Wednesday, December 5, 2018 meeting recommended, by a vote of 7 to 0, that the Board of Commissioners approves the rezoning petition, ZP-898-18, as presented.

Existing Conditions with Modification as Requested by the Petitioner

- (2) The impervious surface ratio for the site shall not exceed ~~thirty percent (30%)~~ **fifty percent (50%)**.

All other conditions (i.e.—1, 3, 4, 5, 6, 7 and 8) are unchanged and will remain valid and in effect.