



# Certified Recommendation

## Raleigh Planning Commission

CR# 11375

### Case Information Z-9-10/Falls of Neuse Rd.

<i>Location</i>	Falls of Neuse Road, east side, south of its intersection with Durant Road
<i>Size</i>	1.16 acres
<i>Request</i>	Amend conditions associated with SC CUD zoning

### Comprehensive Plan Consistency

<i>Future Land Use Designation</i>	Neighborhood Mixed Use
<i>Applicable Policy Statements</i>	Policy LU 1.3—Conditional Use District Consistency Policy UD 7.3—Design Guidelines Policy AP-540F 1—Development Character on Falls of the Neuse Road

Consistent

Inconsistent

### Summary of Conditions

<i>Submitted Conditions</i>	<ol style="list-style-type: none"> <li>1. Limit vehicular access to site from Falls of Neuse Road and Durant Road to existing drives.</li> <li>2. Limit building height to 2 stories and 35 feet.</li> <li>3. Provide for a walkway from primary entrance of site building to existing multipurpose path on Falls of Neuse Road.</li> <li>4. Limit lighting height to 18 feet, shielded and pointed downward; restricted from protective yards.</li> <li>5. Prohibit gasoline sales.</li> <li>6. Prohibit the following uses: agricultural uses (except nursery or garden supply store), transitional housing (except supportive housing residence), cemetery/ crematory, correctional facility, outdoor kennel or cattery, radio/ television studio, telecommunications tower, landfill, airfield, taxi cab stand, power plant, electric utility substation, home building supply store (except for hardware), vehicle sales/ rental/ auto body, auto painting, auto repair, adult establishment, nightclub, lounge, bar, tavern, pool halls, establishments selling alcohol for consumption on premises which do not conform to the requirements of Alcoholic Beverage Control Law 18B-100(6).</li> <li>7. Landscaping specifications provided for street protective yard.</li> <li>8. Limit hours for truck deliveries.</li> <li>9. Require air filtration for any restaurant using open flame cooking.</li> <li>10. Require non-administrative site plan approval.</li> <li>11. Require all deliveries to be made to entrances on building side facing existing Kohl's store (side opposite Falls of Neuse Road).</li> </ol>
-----------------------------	--

### Issues and Impacts

<i>Outstanding Issues</i>	<ul style="list-style-type: none"> <li>• Pedestrian connections at and through the site</li> <li>• Maximum light levels (footcandles)</li> <li>• Illumination and height of site signage</li> <li>• Conditions 8 &amp; 9 not enforceable</li> </ul>
<i>Impacts Identified</i>	None identified.

## Public Meetings

<i>Neighborhood Meeting</i>	<i>Public Hearing</i>	<i>Committee</i>		<i>Planning Commission</i>		<i>City Council</i>	
2-17-10	4-20-10	n/a	n/a	4-27-10	Approval	5-18-10	Remanded to Planning Commission
				5-25-10	Approval (amended Condition 8)		

**Valid Statutory Protest Petition**

### Attachments

1. Staff Report
2. Location/ Existing Zoning Map
3. Future Land Use Map
4. Comments—Wake County Planning Staff

## Planning Commission Recommendation

<i>Recommendation</i>	The Planning Commission finds that the proposed rezoning is consistent with the Comprehensive Plan, based on the findings and reasons stated herein, that the request be approved in accordance with zoning conditions dated May 20, 2010.
<i>Findings &amp; Reasons</i>	<p>(1) The request is consistent with the Comprehensive Plan. The Future Land Use Map designates the site for Neighborhood Mixed Use, which is described as being “primarily a commercial category.”</p> <p>(2) The request is compatible with surrounding land uses and development patterns. The site is part of a larger shopping center complex, which in addition to the main multi-tenant building also encompasses two existing free-standing office/ retail buildings. Existing parking exceeds Code to the extent that site redevelopment would still permit all buildings to meet City parking requirements.</p> <p>(3) The request is reasonable and in the public interest. Rezoning would permit increased intensity of site use and increased retail activity, both supported by the Comprehensive Plan. The request would carry forward most of the existing zoning conditions. Aspects of site redevelopment subject to the Design Guidelines (Table UD-1 in the Comprehensive Plan) not fully addressed by the request are to be addressed by any future site plan.</p>
<i>Motion and Vote</i>	<p>Motion: Haq</p> <p>Second: Anderson</p> <p>In Favor: Anderson, Bartholomew, Batchelor, Butler, Haq, Harris Edmisten, Mattox, Mullins, Sterling</p>

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

\_\_\_\_\_  
 Planning Director Date \_\_\_\_\_  
 5/25/10  
 Planning Commission Chairperson Date

Staff Coordinator: Doug Hill; [doug.hill@ci.raleigh.nc.us](mailto:doug.hill@ci.raleigh.nc.us)



# Zoning Staff Report – Z-9-10

## Conditional Use District

### Request

<i>Location</i>	Falls of Neuse Road, east side, just south of its intersection with Durant Road
<i>Request</i>	Amend conditions associated with SC CUD zoning
<i>Area of Request</i>	1.16 acres
<i>Property Owner</i>	Kohl's Department Stores, Inc.
<i>PC Recommendation Deadline</i>	August 18, 2010

### Subject Property

	<b>Current</b>	<b>Proposed</b>
<i>Zoning</i>	SC CUD	SC CUD (amended conditions)
<i>Additional Overlay</i>	N/A	N/A
<i>Land Use</i>	Retail	Retail
<i>Residential Density</i>	Maximum 17 units (34 w/ Planning Commission approval)	Maximum 17 units (34 w/ Planning Commission approval)

### Surrounding Area

	<b>North</b>	<b>South</b>	<b>East</b>	<b>West</b>
<i>Zoning</i>	SC CUD (parent tract)	SC CUD	SC CUD (parent tract)	Wake County: R-40 & R-40W
<i>Future Land Use</i>	Neighborhood Mixed Use	Neighborhood Mixed Use	Neighborhood Mixed Use	n/a
<i>Current Land Use</i>	Retail (parking lot)	Retail (bank, parking, shops, office)	Retail (parking, shops)	Retail (under Special Use Permit)

### Comprehensive Plan Guidance

<i>Future Land Use</i>	Neighborhood Mixed Use
<i>Area Plan</i>	I-540/ Falls of Neuse Area Plan
<i>Applicable Policies</i>	Policy LU 1.3—Conditional Use District Consistency Policy UD 7.3—Design Guidelines Policy AP-540F 1— Development Character on Falls of Neuse Road

## Contact Information

<i>Staff</i>	Doug Hill, <a href="mailto:Doug.Hill@ci.raleigh.nc.us">Doug.Hill@ci.raleigh.nc.us</a>
<i>Applicant</i>	Kohl's Department Store, Inc.
<i>Citizens Advisory Council</i>	North: Anne Weathersbee, 876-1807

## Overview

This property is zoned Shopping Center Conditional Use District. The applicants request an amendment to the associated conditions. The property currently contains approximately 90,000 square feet of existing retail. The request would create an outparcel in the parking lot at the northeast corner of the primary access drive and Falls of Neuse Road. The request would retain many of the existing conditions.

## Exhibit C & D Analysis

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

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

#### 1.1 Future Land Use

The Future Land Use Map designates the subject site for Neighborhood Mixed Use development. The current zoning is consistent with that designation, and the proposed zoning conditions would not alter that status.

#### 1.2 Policy Guidance

The following policy guidance is applicable with this request:

#### **Policy LU 1.3**

##### **Conditional Use District Consistency**

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

The conditions are consistent with the site's location within a Neighborhood Mixed Use area. It should be noted, however, that Condition 8 (limiting delivery hours by heavy trucks) and Condition 9 (air filtration for open-flame cooking) have been identified by staff as being unenforceable, and should therefore be deleted. Additionally, some provisions of the Design Guidelines are not fully addressed.

#### **Policy UD 7.3**

##### **Design Guidelines**

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

The text below lists each respective Design Guideline, **the applicant's response**, and related staff comments.

#### **Elements of Mixed-Use Areas**

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

**Response: The existing Falls Pointe development is largely retail. There are, however, institutional, office, and residential uses that are within walking distance.**

The site is located near the center of largely built-out shopping area, within a short distance of residential and non-residential uses. The subject site is not currently served by sidewalks; a new system of walkways would be needed to ensure safe, direct pedestrian connectivity to the rest of the shopping center and the areas beyond.

#### **Mixed-Use Areas /Transition to Surrounding Neighborhoods**

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

**Response: Z-9-10 includes a condition limiting height to two stories (35 feet).**

Existing shopping center buildings, which stand between the subject site and the neighborhoods to the east, are all one story, with facades constructed to resemble two-story buildings. Most buildings on properties immediately north and south of the shopping center are taller than the height limit conditioned on the subject site. The Muirfield Village Apartments (to the south) are three occupied stories. The WakeMed North complex (across Durant Road) features 3 and 4 story structures. Residences on the opposite (west) side of Falls of Neuse Road are two stories, with pitched roofs. The applicant has offered a condition that restricts building height to 35 feet.

#### **Mixed-Use Areas / The Block, The Street and The Corridor**

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

**Response: Z-9-10 does not propose alteration of existing driveways and access points serving Falls Pointe. Falls Pointe (and the property subject to Z-9-10, via the drives within Falls Pointe) has direct access to Morrocroft Drive, a neighborhood street, Falls of the Neuse Road, and Durant Road.**

Internal streets lead into the shopping center from the access points cited. All feature sidewalks, though typically only on one side of the drive/ street; as noted above, the subject site is not currently served by sidewalks.

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

**Response: Existing streets and drives are in place.**

The internal street parallel to Falls of Neuse Road, extending Sweetbrook Lane northward into the shopping center from the south, runs perpendicular into the primary access drive but forms a “T” into the drive at the subject site. Access to the subject site would be enhanced by extending this internal cross-street north, along with new crosswalks and sidewalks, across the existing landscape strip and into the site.

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

**Response: No new blocks are to be created as a result of this case.**

No new blocks will be created. The existing environment meets this standard.

#### **Site Design/Building Placement**

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

**Response: This case contemplates the construction of a new building with proximity to Falls of the Neuse Road in an area that is currently a parking lot. It is contemplated that loading areas will be at the rear of the building although this will not be addressed until site plan approval.**

This guideline is not completely addressed. Other than the two outparcel buildings at the southwest quadrant of the larger shopping center, the shopping center buildings present a continuous façade along a wide sidewalk internal to the property. Service areas of existing buildings are located at the rear of the buildings, away from pedestrian-focused areas. The proposal is conditioned for all deliveries to be made to the building side facing the existing shopping center building (i.e., Kohl’s store), but further details of building orientation and placement are not confirmed.

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

**Response: The exact building location will be addressed at the time of site plan approval. An existing, landscaped streetyard will affect the location of a new building.**

The applicant has not addressed building location. The submitted Condition (7) specifies a streetyard a minimum of 30 feet wide adjacent to Falls of Neuse Road.

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

**Response: Again, building location on the site will be addressed at site plan approval. This site is at the “corner” of Falls of the Neuse Road and the existing main drive into Falls Pointe.**

Specific building orientation will be discussed at time of site plan review; however, the applicant has an opportunity to address the service/ loading area through conditions.

### **Site Design/Urban Open Space**

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

**Response:** *It is not contemplated that this 1.16 acre infill parcel will include open space.*

This guideline is not applicable.

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

**Response:** *Zoning Condition (3) requires a pedestrian sidewalk connection from the primary entrance of any new building to the existing multipurpose path along Falls of the Neuse Road.*

This guideline is not applicable.

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

**Response:** *This doesn't seem to be applicable in the context of this case.*

This guideline is not applicable.

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

**Response:** *Again, this doesn't seem applicable.*

This guideline is not applicable.

### **Site Design/Public Seating**

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

**Response:** *This doesn't seem applicable to this infill site.*

This guideline is not applicable.

### **Site Design/Automobile Parking and Parking Structures**

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

**Response:** *A new infill use in the location proposed by Z-9-10 will provide an active use between Falls of the Neuse Road and the drive into Falls Pointe and the large, existing parking lot.*

Opportunity exists for the location of parking areas and pedestrian routes to be provided conditionally; however, the proposal does not address this matter. It should

be noted that this proposal could remove parking adjacent to the right-of-way and replace it with a structure.

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

**Response: Although it is not contemplated that a new building in this infill area will be immediately adjacent to the right-of-way of Falls of the Neuse Road, it will serve the purpose of blocking the view of parking areas now between such right-of-way and the Kohl's Store.**

Opportunity exists for the location of parking areas and pedestrian routes to be provided conditionally; however, the proposal does not address this matter.

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

**Response: This new infill use will not include a parking structure given its small size of 1.16 acres.**

This guideline is not applicable.

#### **Site Design/Transit Stops**

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

**Response: This use will be within walking distance of a proposed transit stop within the Falls Pointe development. An easement has been granted to the City for that proposed stop.**

A transit stop location is dedicated internal to the larger shopping center site, approximately 350 feet due south of the southern edge of the subject site. However, no existing sidewalk directly connects the two points.

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

**Response: Convenient access to the proposed transit stop is available via existing sidewalks within Falls Pointe.**

No existing sidewalk connects to the site. The proposal conditions a paved walkway from Falls of Neuse Road to the subject site. Routes to the internal transit stop would require crossing parking lots and internal streets. The logical course by way of the main shopping center building would require taking a U-shaped route, walking east 250 feet through parking areas and across an internal street, and then walking an additional 700 feet south and back west on sidewalks. Straight-line access from the site to transit, heading south, would require crossing the primary access drive, following the sidewalk at the bank outparcel for 150 feet, then crossing parking areas, access drives and the extension of Sweetbrook Lane for approximately 200 feet before reaching the stop.



### **Site Design/Environmental Protection**

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

**Response: Not applicable.**

The subject site is already developed, with the planted streetyard and vehicular surface area plantings framing a paved parking area.

### **Street Design/ General Street Design Principles**

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

**Response: This infill development will not involve the construction of new streets.**

This guideline is not applicable.

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

**Response: The width of the new sidewalk/pedestrian way connecting this site and Falls of the Neuse Road has not been addressed.**

This guideline may not be applicable, as a protective yard fronts the only street right-of-way edging the site.

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

**Response: There is an existing landscaped streetyard along Falls of the Neuse Road that includes street trees.**

There is an existing landscape streetyard adjacent to the Falls of Neuse right-of-way. The applicant has offered a condition (Condition 7) that would require a minimum 30-foot wide landscaped streetyard with plantings. No other site planting details are offered. It is unknown what will become of the existing planted area lining the primary access driveway.

**Street Design/Spatial Definition**

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

**Response: *The street edge here along Falls of the Neuse Road is defined by the existing landscaped streetyard, which includes street trees.***

Opportunity exists for buildings to define the street edge. The proposal provides that the street protective yard perform this function.

**Building Design/Facade Treatment**

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

**Response: *Although this will be addressed at the time of site plan approval, it is contemplated that the primary entrance will have proximity to Falls of the Neuse Road and will be visible from Falls of the Neuse Road.***

This guideline will need to be addressed at the site plan stage.

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

**Response: *This will be addressed at the time of site plan approval.***

The shopping center’s Unity of Development provisions state “the dominant architectural element utilized to unify the architecture of the proposed development will be the use of arches, arcs, and ellipses throughout the development. These elements will be used to define window elements, canopy shades, and store entrances throughout the development but will be selectively distributed across the facades to achieve the desired unifying effect.” These provisions will need to be addressed at the site plan stage.

**Building Design/Street Level Activity**

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

**Response: *At the time of site plan approval, sidewalk design and any amenity features along the sidewalk to Falls of the Neuse Road will be addressed.***

This guideline will need to be addressed at the site plan stage.

**1.3 Area Plan Guidance**

**Policy AP-540F 1**

**Development Character on Falls of the Neuse Road**

Development along Falls of the Neuse Road should not adversely impact adjacent residential properties due to bulk, scale, mass, fenestration or orientation of structures, stormwater runoff, noise caused by high levels of activity in service areas, or on-site lighting.

Proposed conditions could help mitigate several potential impacts (e.g., building height and uses, streetyard landscaping). Additionally, the subject site is separated from existing residences on the east and south by the existing shopping center complex. The impacts on properties to west are reduced by distance and the presence of street protective yards. The height of exterior lighting is conditioned the same as the adjoining shopping center complex; however, light levels (i.e., maximum footcandles) are not addressed. Additionally, no note is made of site ground-mounted signage (i.e., illumination, maximum height). As such components could present adverse visual impacts, they should be addressed.

The subject property is located across Falls of Neuse Road from land in Wake County's jurisdiction. Comments on the rezoning proposal by the County Planning staff are attached below.

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

The rezoning petition would retain the existing Shopping Center zoning and primarily permit an additional outparcel on the shopping center property. The immediately surrounding property is zoned Shopping Center. A mix of residentially zoned properties is located to the east and south of the shopping center. The properties to the west of Falls of Neuse Road are located within the watershed and zoned Wake County R-40W. Across Durant Road to the north is the WakeMed North facility, zoned O&I-1 CUD.

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

The proposal states the amount of parking originally approved for the shopping center "is not needed," resulting in "significant underutilization of the Property." The entire shopping center currently provides 1,005 spaces; just 782 were required (per SP-9-2000). The subject site encompasses approximately 95 existing parking spaces. Rezoning could permit greater intensity of site use, an approach which, as the applicant notes, is supported by the Comprehensive Plan. Rezoning also could provide "a new business establishment" serving "nearby office and institutional uses," customers and employees of other site businesses, and residents of surrounding neighborhoods.

## **4. Detriments of the proposed rezoning**

The petition predicts that "a substantial portion of the clientele utilizing the development...will be customers or patrons of the surrounding establishments." A system of direct pedestrian access to the subject site would be consistent with this approach; however, the access conditioned is a walkway from the multipurpose path along the thoroughfare. Additionally, the petition notes that rezoning "will enable land uses that are not currently authorized for other outparcels of the Falls Pointe Shopping Center." Some potential uses (e.g., eating establishment with drive-through, car wash facility, convenience store) could markedly increase traffic at the site.

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

### **5.1 Transportation**

Falls of the Neuse Road is classified as a secondary arterial (2007 ADT 39,000 vpd) and exists as a 6-lane curb and gutter section with sidewalk on one side within 100 feet of right-of-way. City standards call for Falls of Neuse Road to be constructed as 6-lane, median-divided section with 4' bicycle lanes striped on both sides and sidewalks on both sides. By the year 2030 traffic volumes along Falls of Neuse Road near the subject property are forecast to increase by 19% to 46,000 vehicles per day. A traffic impact analysis was submitted for this case, confirming that the proposal

would lead to increased traffic at the site, which is already subject to congestion. Neither NCDOT nor the City have any projects currently scheduled in the vicinity of this case.

**Impact Identified:** Traffic would be expected to add to existing congestion at the site as result of the proposal.

**5.2 Transit**

A transit easement is not requested, as there are other easements located nearby.

**Impact Identified:** There is no negative impact identified related to transit.

**5.3 Hydrology**

<i>Floodplain</i>	No FEMA Floodplain present
<i>Drainage Basin</i>	Perry Creek
<i>Stormwater Management</i>	Subject to Part 10, Chapter 9
<i>Overlay District</i>	N/A

**Impact Identified:** There is no negative impact identified related to hydrology.

**5.4 Public Utilities**

	<i>Maximum Demand (current)</i>	<i>Maximum Demand (proposed)</i>
<i>Water</i>	5,220 gpd	5,220 gpd
<i>Waste Water</i>	5,220 gpd	5,220 gpd

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

**5.5 Parks and Recreation**

There are no greenway corridors adjacent to the subject property. Park needs in this area have been met with Durant Nature Park.

**Impact Identified:** There is no negative impact identified related to parks.

**5.6 Urban Forestry**

This is an existing shopping center. There are no wooded areas on site to preserve.

**Impact Identified:** There is no negative impact identified related to urban forestry.

**5.7 Wake County Public Schools**

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

**Impact Identified:** There is no negative impact identified related to Wake County Schools. Certain allowed uses could decrease the potential school age population on this property, reducing demand for public schools in the area.

**5.8 Designated Historic Resources**

There is no designated National Register or Raleigh Historic Landmark property on the subject site, or within 100 feet of the site. The R. Stanhope Pullen House (National Register of Historic Places eligible) is approximately 2,600 feet from the site, on Durant Road.

**Impact Identified:** There is no negative impact identified related to historic resources.

**5.9 Impacts Summary**

Traffic would be expected to add to existing congestion at the site as result of the proposal.

**5.10 Mitigation of Impacts**

No roadway projects are scheduled in the near future which would reduce traffic congestion at the site.

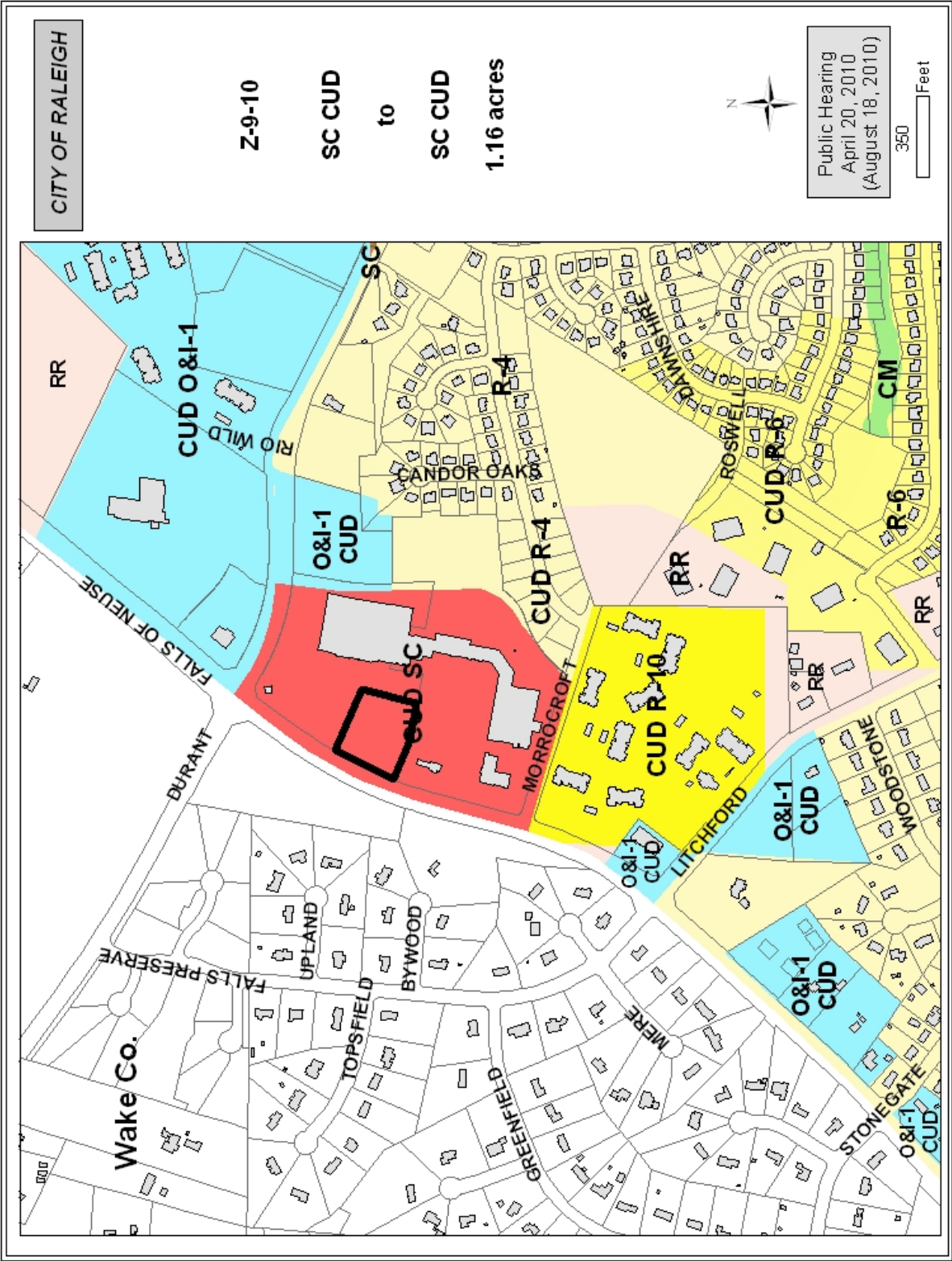
**6. Appearance Commission**

This proposal is not subject to Appearance Commission review.

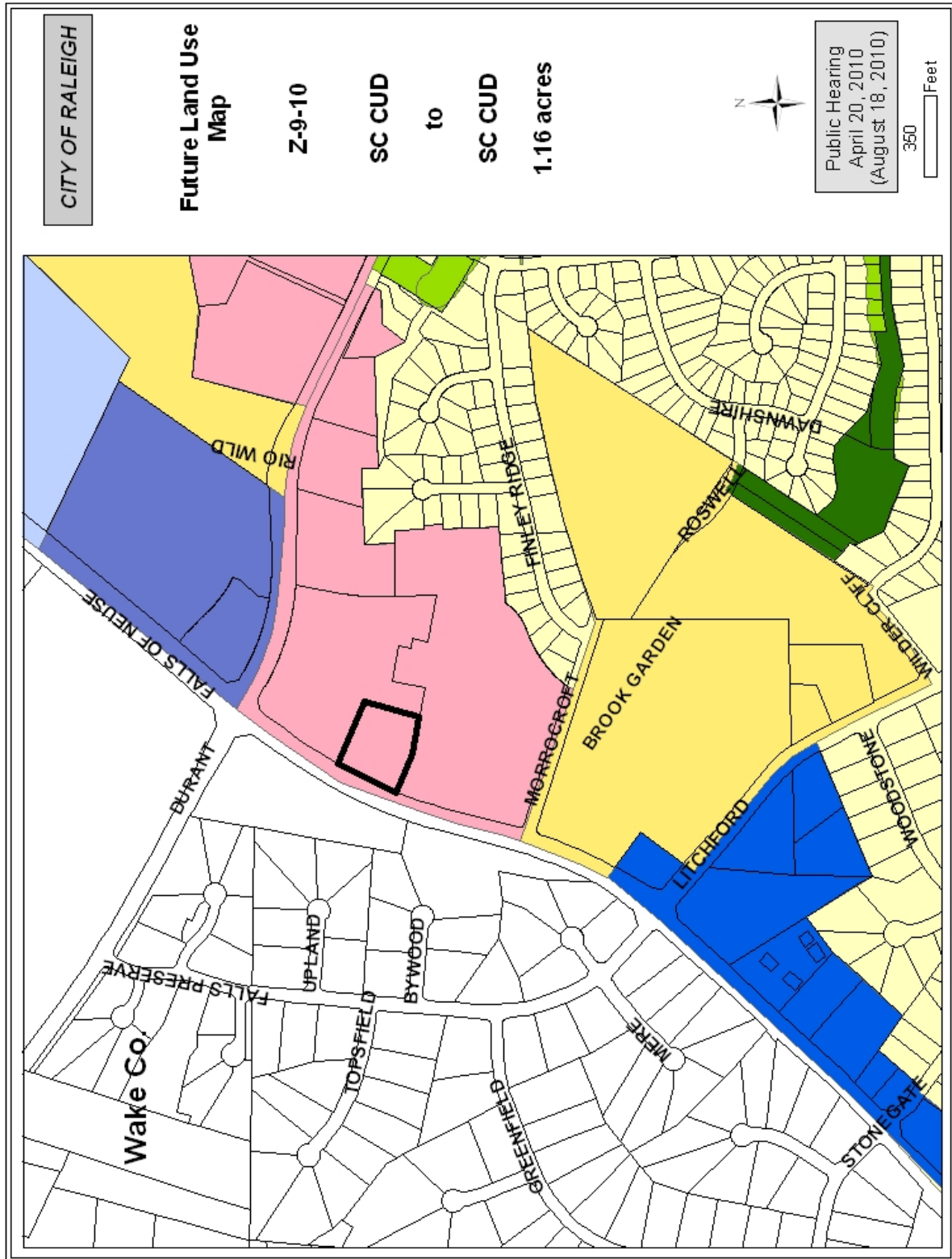
**7. Conclusions**

The proposed zoning is consistent with the Future Land Use Map, which includes the site in a larger area designated for Neighborhood Mixed Use Development. Site light levels (footcandles), and the illumination and height of ground-mounted signage, should be addressed as components of development character on Falls of Neuse Road. Conditions 8 and 9 should be deleted as unenforceable.

# Location/Existing Zoning Map



# Future Land Use Map



## Comments on Z-9-10 -- Wake County Planning Staff

*From: Keith.Lankford@wakegov.com [mailto:Keith.Lankford@wakegov.com]  
Sent: Friday, March 12, 2010 2:10 PM  
To: Hill, Doug  
Cc: Imorgan@wakegov.com; Steven.Finn@wakegov.com  
Subject: Raleigh Rezoning Proposal*

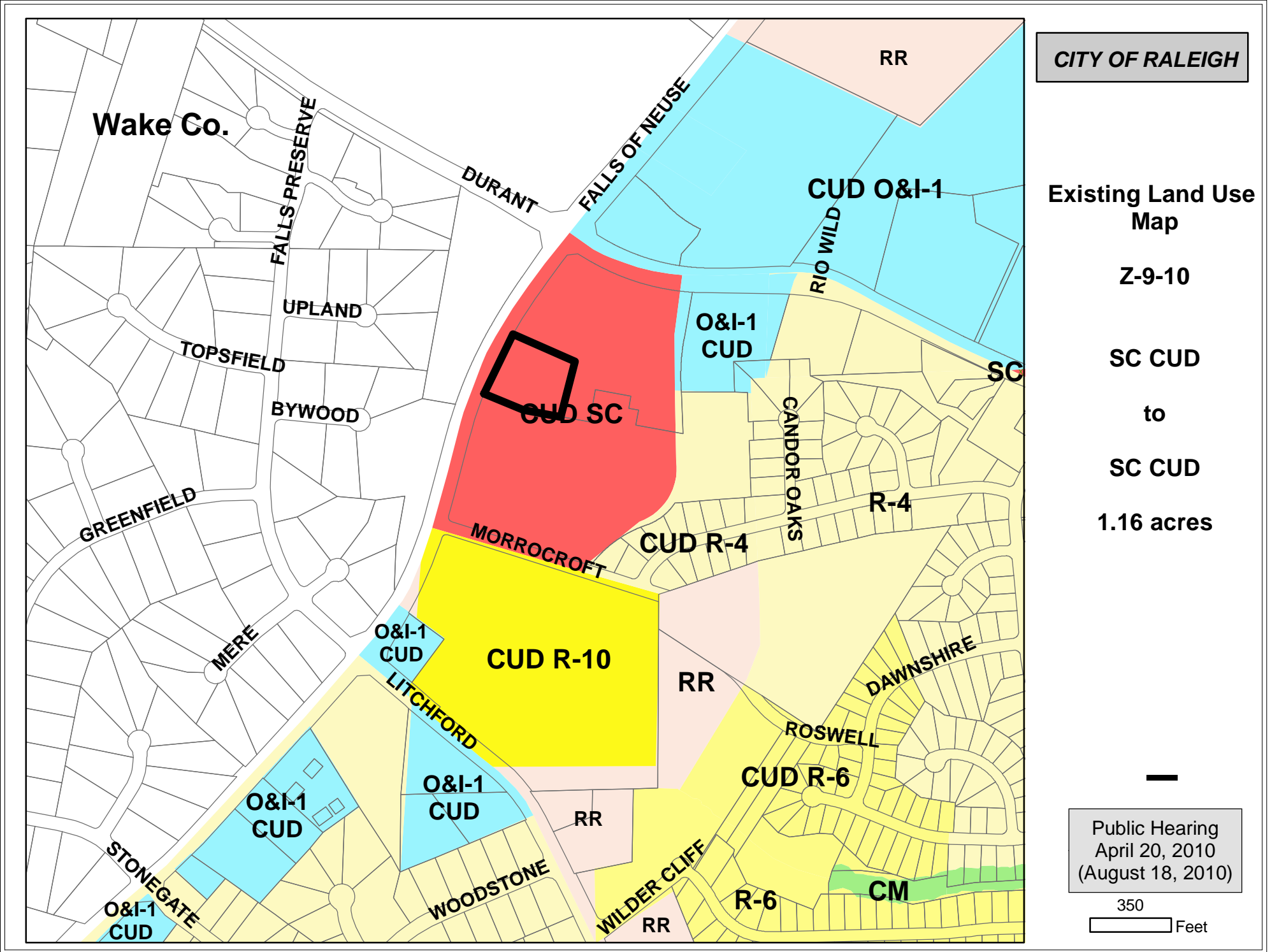
The Wake County Planning staff has conducted a courtesy review of the proposed rezoning request that Raleigh is processing for the 1.16-acre property within the Falls Point Shopping Center at the corner of Falls of the Neuse Road and Durant Road (PIN 1718853179). Based upon the petitioner's materials the County does not oppose the described changes to the previous rezoning case's conditions and we do not see any adverse impacts from these zoning condition amendments.

The proposed rezoning would not conflict with the County's activity center designation (across the road), which generally serves as support to this shopping center development in Raleigh's jurisdiction. Any traffic issues should be addressed by the TIA (I would think that this would generate little new traffic since this is such a developed area with a high-traffic volume already). The site is already paved, so there should not be any increase in the stormwater runoff or other adverse environmental impact (gas sales are specifically prohibited). The allowable/probable use(s) seem consistent/ compatible with the existing uses, and I would therefore presume, their Land Use Plan. There is already activity, noise, lighting, etc... at this location. The subsequent development would have to comply with all of Raleigh's development regulations (e.g.--setbacks, building mass, design guidelines, landscaping, etc...) so it should blend in with the surrounding development.

Thank you for allowing us to comment on this rezoning petition. Please let me know if you need anything else.

Keith A. Lankford, AICP, CZO  
Planner III  
Wake County Planning, Development and Inspections





**CITY OF RALEIGH**

**Existing Land Use Map**

**Z-9-10**

**SC CUD**

**to**

**SC CUD**

**1.16 acres**

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

350  
 Feet

2009 DEC 18 AM 9:40



# Petition to Amend the Official Zoning Map

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

The petitioner seeks to show the following:

1. That, for the purposes of promoting health, morals, or the general welfare, the zoning classification of the property described herein must be changed.
2. That the following circumstance(s) exist(s):
  - City Council has erred in establishing the current zoning classification of the property by disregarding one or a combination of the fundamental principles of zoning as set forth in the enabling legislation, North Carolina General Statutes Section 160A-381 and 160A-383.
  - Circumstances have so changed since the property was last zoned that its current zoning classification could not properly be applied to it now were it being zoned for the first time.
  - The property has not heretofore been subject to the zoning regulations of the City of Raleigh.
3. That the requested zoning change is or will be consistent with the Raleigh Comprehensive Plan.
4. That the fundamental purposes of zoning as set forth in the N.C. enabling legislation would be best served by changing the zoning classification of the property. Among the fundamental purposes of zoning are:
  - 1) to lessen congestion in the streets;
  - 2) to provide adequate light and air;
  - 3) to prevent the overcrowding of land;
  - 4) to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements;
  - 5) to regulate in accordance with a comprehensive plan;
  - 6) to avoid spot zoning; and
  - 7) to regulate with reasonable consideration to the character of the district, the suitability of the land for particular uses, the conservation of the value of buildings within the district and the encouragement of the most appropriate use of the land throughout the City.

Please check boxes where appropriate

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

Signature(s)

Kohl's Department Stores, Inc.

Date:

By: Fred Spelshaus S. Site DEV. Title

12/17/09

Please type or print name(s) clearly:

Fred Spelshaus  
Sr. Site Development Manager

12/17/09

# EXHIBIT B. Request for Zoning Change

Office Use Only	
Petition No.	2-9-10
Date Filed:	12-18-09
Filing Fee:	\$ 1028. <sup>00</sup> by ck #

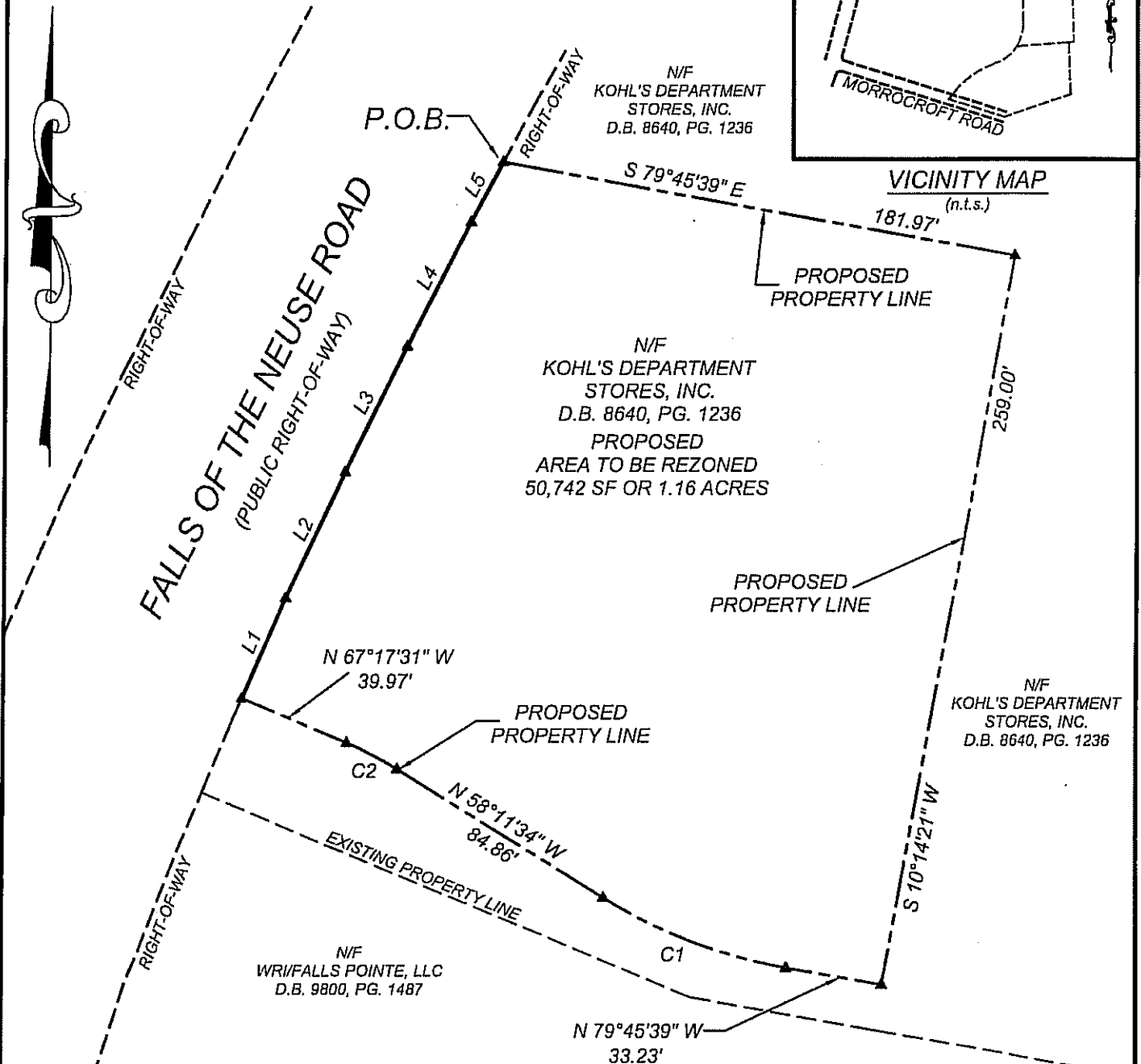
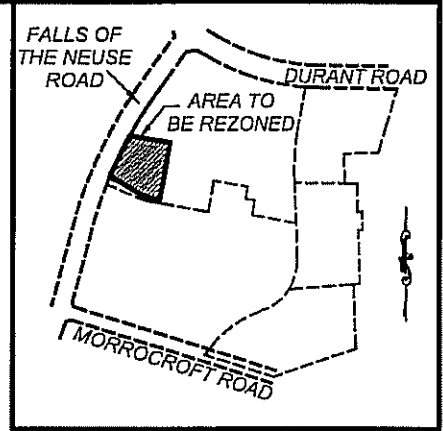
357097

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

See instructions, page 9

	Name(s)	Address	Telephone / E-Mail
<b>1) Petitioner(s):</b> Note: Conditional Use District Petitioner(s) must be owner(s) of petitioned property.	Kohl's Department Stores, Inc.	N56W17000 Ridgewood Drive	
		Menomonee Falls, WI	
		53051-5660	
<b>2) Property Owner(s):</b>	Petitioner		
<b>3) Contact Person(s):</b>	Lacy H. Reaves	2500 Wachovia Capitol Center	(919) 821-6704
	lreaves@smithlaw.com	150 Fayetteville Street	
		Raleigh, NC 27601	
<b>4) Property Description:</b> Please provide surveys if proposed zoning boundary lines do not follow property lines.	Wake County Property Identification Number(s) (PIN): 1718-85-3179 (portion)		
	Please see Exhibits B-1 and B-2		
	General Street Location (nearest street intersections): Southeast quadrant of the		
	Intersection of Falls of Neuse and Durant Roads – Please see Exhibits B-1 and B-2		
<b>5) Area of Subject Property (acres):</b>	Approximately 1.16 acres		
<b>6) Current Zoning District(s)</b> <b>Classification:</b> Include Overlay District(s), if Applicable	Shopping Center Conditional Use District		
<b>7) Proposed Zoning District</b> <b>Classification:</b> Include Overlay District(s) if Applicable. If existing Overlay District is to remain, please state.	Shopping Center Conditional Use District		

LINE TABLE		
LINE	BEARING	DISTANCE
L1	N 23°16'19" E	38.36'
L2	N 25°07'32" E	48.65'
L3	N 26°03'55" E	48.98'
L4	N 26°52'26" E	48.60'
L5	N 28°14'00" E	23.57'



CURVE TABLE						
CURVE	LENGTH	RADIUS	TANGENT	CHORD	BEARING	DELTA
C1	69.08'	183.50'	34.95'	68.67'	N 68°58'37" W	21°34'05"
C2	19.93'	125.50'	9.99'	19.91'	N 62°44'33" W	9°05'57"

PROJECT NO.	0913
FILENAME:	0913-EX1
SCALE:	1"=50'
DATE:	# Document 12-15-09

**ZONING EXHIBIT**

**KOHL'S @ FALLS POINTE**  
**FALLS OF THE NEUSE ROAD**  
**RALEIGH, NORTH CAROLINA**

**COMMERCIAL SITE DESIGN**

8312 CREEDMOOR ROAD  
 RALEIGH, NORTH CAROLINA 27619  
 (919) 848-6721, FAX: (919) 848-1741  
 WWW.CSDESIGN.COM

**KOHL'S @ FALLS POINTE  
RALEIGH, NORTH CAROLINA  
AREA TO BE REZONED DESCRIPTION  
DECEMBER 15, 2009**

BEING ALL THAT PIECE OF PARCEL OF LAND LYING AND BEING SITUATE IN THE CITY OF RALEIGH, COUNTY OF WAKE, STATE OF NORTH CAROLINA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE EASTERN RIGHT-OF-WAY OF FALLS OF THE NEUSE ROAD; THENCE ALONG A PROPOSED PROPERTY LINE THE FOLLOWING SEVEN CALLS: 1) SOUTH 79°45'39" EAST 181.97 FEET TO A POINT; THENCE 2) SOUTH 10°14'21" WEST 259.00 FEET TO A POINT; THENCE 3) NORTH 79°45'39" WEST 33.23 FEET TO A POINT; THENCE 4) ALONG A SIMPLE CURVE TO THE RIGHT HAVING A RADIUS OF 183.50 FEET, AN ARC LENGTH OF 69.08 FEET AND A CHORD BEARING AND DISTANCE OF NORTH 68°58'37" WEST 68.67 FEET TO A POINT; THENCE 5) NORTH 58°11'34" WEST 84.86 FEET TO A POINT; THENCE 6) ALONG A SIMPLE CURVE TO THE LEFT HAVING A RADIUS OF 125.50 FEET, AN ARC LENGTH OF 19.93 FEET AND A CHORD BEARING AND DISTANCE OF NORTH 62°44'33" WEST 19.91 FEET TO A POINT; THENCE 7) NORTH 67°17'31" WEST 39.97 FEET TO A POINT ON THE EASTERN RIGHT-OF-WAY OF FALLS OF THE NEUSE ROAD; THENCE ALONG AND WITH SAID RIGHT-OF-WAY THE FOLLOWING FIVE CALLS: 1) NORTH 23°16'19" EAST 38.36 FEET TO A POINT; THENCE 2) NORTH 25°07'32" EAST 48.65 FEET TO A POINT; THENCE 3) NORTH 26°03'55" EAST 48.98 FEET TO A POINT; THENCE 4) NORTH 26°52'26" EAST 48.60 FEET TO A POINT; THENCE 5) NORTH 28°14'00" EAST 23.57 FEET TO THE TRUE POINT AND PLACE OF BEGINNING, CONTAINING 1.16 ACRES MORE OR LESS.

Office Use Only  
 Petition No. 2-9-10

**8) Adjacent Property Owners**

The following are all of the person, firms, property owners, associations, corporations, entities or governments owning property adjacent to and within one hundred (100) feet (excluding right-of-way) of (front, rear, all sides and across any street) the property sought to be rezoned.

*(Important: Include PIN Numbers with names, addresses and zip codes.)* Indicate if property is owned by a condominium property owners association. Please complete ownership information in the boxes below in the format illustrated in the first box. Please use this form only – form may be photocopied – please type or print.

Name(s):	Street Address(es):	City/State/Zip:	Wake Co. PIN #'s:
<u>WRI/Falls Pointe LLC</u>	<u>P.O. Box 450233</u>	<u>Atlanta, GA 31145-0233</u>	<u>1718844614</u>
<u>M &amp; M Equity Investments LLC</u>	<u>301 Jellison Ct.</u>	<u>Raleigh, NC 27615-2035</u>	<u>1718859262</u>
<u>WakeMed Property Services</u>	<u>3000 New Bern Ave.</u>	<u>Raleigh, NC 27610-1231</u>	<u>1718952829</u>
<u>JJ Crowder Lodge</u>	<u>#743 A F &amp; A M</u>	<u>Raleigh, NC 27614-9771</u>	<u>1718855699</u>
<u>Children’s Bible Ministries of NC Inc.</u>	<u>9927 Falls of Neuse Rd.</u>	<u>Raleigh, NC 27614-9770</u>	<u>1718768824</u>
<u>LRC Falls Durant Investors LLC c/o Levey &amp; Co.</u>	<u>c/o Levey &amp; Co. 1585 Frederick Blvd.</u>	<u>Akron, OH 44320-4000</u>	<u>1718759504</u>
<u>Muirfield Group Residential Inc.</u>	<u>2017 Bywood Ct.</u>	<u>Raleigh, NC 27615-2302</u>	<u>1718744721</u>

For additional space, photocopy this page.

Office Use Only	Z-9-10
Petition No.	
Original Date Filed:	12/18/09
Amended Date:	3/18/10

# EXHIBIT C. Request for Zoning Change

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

PG. 1 OF 3

1) **Conditional Use Zone Requested:** Shopping Center Conditional Use District

2) **Narrative of conditions being requested:**

For purposes of the following conditions, the area proposed for rezoning shall be referred to as the "Property."

(1) Vehicular Access. Vehicular access (with ingress and egress) to the Property shall be limited to the existing (a) full movement curbcut on Falls of the Neuse Road and (b) a right in/right out curbcut and a full movement curbcut on Durant Road. Both such curbcuts serve the remaining portion of PIN 1718-85-3179 and shall be available to serve the Property via easements or other legal interests.

(2) Height Limit. No building shall exceed two stories and thirty-five (35 feet in height) as calculated under Section 10-2076(b) of the City Code.

(3) Pedestrian Connectivity. A sidewalk or clearly designated, paved pedestrian walkway shall connect the primary entrance of any building constructed upon the Property and the existing sidewalk or multipurpose path along Falls of the Neuse Road.

(4) Exterior Lighting. Exterior lighting upon the Property shall not exceed eighteen (18) feet in height and shall be aimed downward and shielded so as to prevent direct view of the light source from any residential parcel. Perimeter pole mounted area lights shall not be positioned inside of the transitional protective yards.

(5) Sale of Gasoline. No convenience store or establishment offering the sale of gasoline or dispensing petroleum products into motor vehicles shall be permitted upon the Property.

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

I acknowledge that these restrictions and conditions are offered voluntarily and with knowledge of the guidelines stated on Page 9 through 13 of the Zoning Application Instructions.

Kohl's Department Stores, Inc.

Printed Name: By: \_\_\_\_\_ Title \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name: Fred SPELSHAUS

Signature: Fred Spelshaus Date: 3/10/10

Office Use Only	Z-9-10
Petition No.	
Original Date Filed:	12/18/09
Amended Date:	3/18/10

# EXHIBIT C. Request for Zoning Change

PG. 2 OF 3

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

1) **Conditional Use Zone Requested:** Shopping Center Conditional Use District

2) **Narrative of conditions being requested:**

(6) Prohibited Uses. The following uses shall not be allowed upon the Property:

1. Agricultural uses, except nursery or garden supply store;
2. Transitional housing, except supportive housing residence;
3. Cemetery, crematory;
4. Correctional facility;
5. Outdoor kennel or cattery;
6. Radio and television studio;
7. Telecommunications Tower;
8. Landfill, airfield, taxi cab stand;
9. Power plant, electric utility substation;
10. Home building supply store (except for hardware);
11. Vehicle sales, rental, auto body; auto painting; auto repair;
12. Adult establishment, nightclub, lounge, bar, tavern;
13. Pool halls;
14. Establishments selling alcohol for consumption on premises which do not conform to the requirements of Alcoholic Beverage Control Law 18B-100(6).

(7) Street Yard; Landscaping. The following shall be provided with respect to the Property:

1. A street protective yard along Falls of the Neuse Road not less than thirty (30) feet in width.
2. A street protective yard along Falls of the Neuse Road shall be planted according to the following schedule:

	<u>Caliper</u>	<u>Circumference</u>	<u>Height</u>	<u>Rate</u>
Shade Tree	3.5"	10.99"	9.0'***	2 per 40 linear ft.
Understory Tree	2.0"	6.38"	7.0'***	1 per 60 linear ft.
Hedge Evergreen			42" (@ 3 yrs.)	3'0" on center
Shrubs				
Non-Hedge			42" (@ 3 yrs.)	1 per 50 linear ft.
Evergreen Shrubs				
Flowering Shrubs			24'***	1 per 30 linear ft.

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

I acknowledge that these restrictions and conditions are offered voluntarily and with knowledge of the guidelines stated on Page 9 through 13 of the Zoning Application Instructions.

By: Kohl's Department Stores, Inc.  
 Printed Name: \_\_\_\_\_ Title \_\_\_\_\_  
 Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
 Printed Name: Fred SPELSHAUS  
 Signature: Fred Spelshaus Date: 3/10/10



Office Use Only	Z-9-10
Petition No.	
Original Date Filed:	12/18/09
Amended Date:	3/18/10

PG. 3 OF 3

# EXHIBIT C. Request for Zoning Change

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

1) **Conditional Use Zone Requested:** Shopping Center Conditional Use District

2) **Narrative of conditions being requested:**

- 3. An evergreen hedge to screen the view of cars shall be placed within the street protective yard when the yard is adjacent to parking spaces. The hedge shall run the entire length of all parking spaces, except when the hedge reaches the intersections of public streets or the intersection of a private driveway with a public street. Such intersections shall be constructed and landscaped in accordance with this condition and Raleigh City Code Section 10-2082.6(b).
- 4. The street protective yard may contain berms, walls, fences, sidewalks, driveway crossings, utility services and utility service areas.
- (8) Certain Trucks. Deliveries from trucks with a G.V.W. rating greater than 26,000 pounds shall not be accepted on the Property between the hours of 11:00 p.m. and 7:00 a.m.
- (9) Filtration. Any restaurant which utilizes an open flame for cooking shall have an air filtration system designed to minimize or eliminate food odors. At a minimum this system shall employ disposable pleated panel filters for both particulate and odor absorption for food preparation.

I acknowledge that these restrictions and conditions are offered voluntarily and with knowledge of the guidelines stated on Page 9 through 13 of the Zoning Application Instructions.

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

Kohl's Department Stores, Inc.  
 Printed Name: By: \_\_\_\_\_ Title \_\_\_\_\_  
 Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
 Printed Name: FRED SPELSHAUS  
 Signature: Fred Spelshaus Date: 3/10/10

Office Use Only	
Petition No.	2-9-10
Date Filed:	

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

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

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

**Required items of discussion:**

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

**Recommended items of discussion (where applicable):**

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

**PETITIONER'S STATEMENT:**

**I. Consistency of the proposed map amendment with the Comprehensive Plan ([www.raleighnc.gov](http://www.raleighnc.gov)).**

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

Please see attached Exhibit D-1.

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

The Petitioner's Property is within the I-540/Falls of Neuse Plan included within the Comprehensive Plan. The policies of this plan are consistent with the provisions of the comprehensive Plan referenced in Section I.A. of the Petitioner's Statement above.

- C. **Is the proposed map amendment consistent or inconsistent with the Comprehensive Plan and other City Council-adopted plans and policies? All references to Comprehensive Plan policies should include both the policy number (e.g. LU 4.5) and short title (e.g. "Connectivity").**

The proposed map amendment is entirely consistent with the Comprehensive Plan and other City Council-adopted plans and policies.

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

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

Please see attached Exhibit D-1.

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

The areas to the north, south, and east of Petitioner's Property are zoned Shopping Center Conditional Use District by the City of Raleigh. The area to the west is within Wake County's jurisdiction, is zoned R-40W District, and is operated for retail purposes pursuant to a Special Use Permit.

- C. **Explanation of how the proposed zoning map amendment is compatible with the suitability of the property for particular uses and the character of the surrounding area:**

Please see attached Exhibit D-1.

**III. Benefits and detriments of the proposed map amendment.**

- A. **For the landowner(s):**

The proposed map amendment will authorize the development of property which now can be used only for parking. This is a significant underutilization of the Property, because experience has shown that it is not needed for parking associated with the Falls Pointe Shopping Center. If the Property is rezoned as requested, the parking that will be provided for the existing shopping center and any new development will satisfy the requirements of the Raleigh City Code.

- B. **For the immediate neighbors:**

The proposed map amendment will provide a new business establishment serving the customers and patrons of the immediately adjoining retail and nearby office and institutional uses.

**C. For the surrounding community:**

The proposed map amendment will enable the development of a new business establishment serving the residents of neighborhoods in areas surrounding the Falls Pointe Shopping Center.

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

Rezoning of the Property as proposed will enable land uses that are not currently authorized for other outparcels of the Falls Pointe Shopping Center. However, the uses that will be options for any new outparcels are currently authorized in the remaining portion of Falls Pointe Shopping Center.

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

The proposed map amendment will enable the development of a portion of the Property that is currently significantly underutilized. The amendment will allow land uses currently unavailable to serve members of the public.

**V. Recommended items of discussion (where applicable).**

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

Not applicable

- b. How circumstances (land use and future development plans) have so changed since the property was last zoned that its current zoning classification could not properly be applied to it now were it being zoned for the first time.**

Since the property was last zoned in 1998, circumstances have demonstrated that a portion of the Property believed to be necessary for parking uses is neither necessary nor appropriate for that purpose. Accordingly, this area is underutilized and is ideal for the type of infill redevelopment advocated for Mixed Use Community Centers at page 19 of the Comprehensive Plan.

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

Certain land uses that would be authorized by the proposed rezoning are currently unavailable to serve the members of the public patronizing the Falls Pointe Shopping Center and residents of surrounding neighborhoods.

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

There would be no adverse impact on public services, facilities, infrastructure, fire and safety, parks and recreation, topography, access to light and air, etc.

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

The proposed rezoning will provide an opportunity for a land use currently unavailable to patrons of the Falls Pointe Shopping Center and nearby neighborhoods. It will provide for the use of an underutilized resource through infill development and will not create unsafe traffic conditions or otherwise adversely affect the public health and welfare.

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

N/A

**EXHIBIT D-1****I. A. Please state which District Plan area the subject property is located within and the recommended land use for this property:**

The City's 2030 Comprehensive Plan (the "Comprehensive Plan") places the Petitioner's Property within the Neighborhood Mixed Use Land use category. The Comprehensive Plan provides that this category "applies to neighborhood shopping centers . . . . Typical uses would include . . . restaurants [and other typical neighborhood shopping center uses]." The Comprehensive Plan also includes the Petitioner's Property within a Mixed Use Community Center which is stated to be appropriate for retail uses serving the surrounding community. The Comprehensive Plan also identifies as an Urban Corridor areas along Durant Road which include Petitioner's Property.

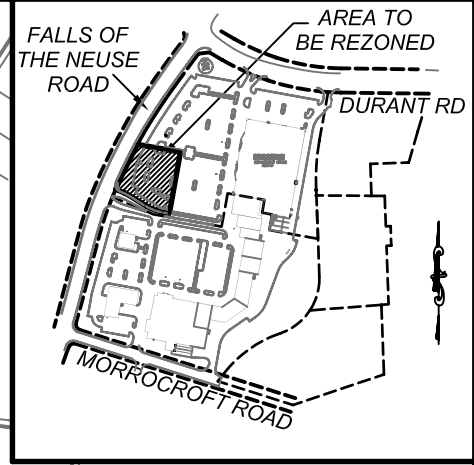
**II. A. Description of land uses within the surrounding area (residential housing types, parks, institutional uses, commercial uses, large parking lots, thoroughfares and collector streets, transit facilities):**

The Petitioner's Property is included within the existing Falls Pointe Shopping Center. The shopping center is adjacent to the north, south, and east. The area immediately to the west has been developed for retail purposes. A children's camp utilized for educational and recreational purposes is located across Falls of the Neuse and Durant Roads to the northwest of the Petitioner's Property.

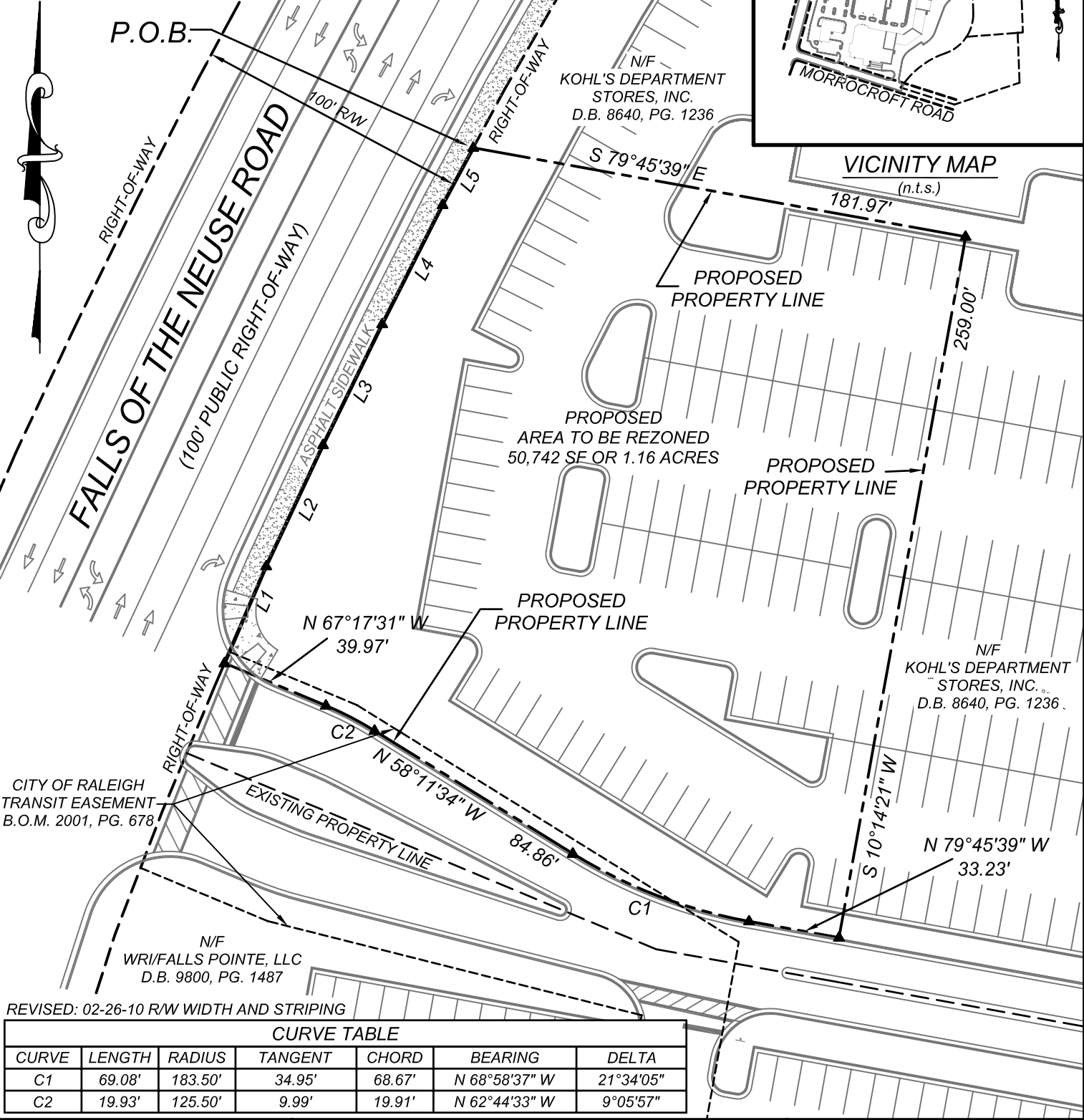
**II. C. Explanation of how the proposed zoning map amendment is compatible with the suitability of the property for particular uses and the character of the surrounding area.**

Petitioner's Property is entirely suitable for uses authorized by the requested zoning change and is compatible with the character of the surrounding area. The development authorized by the requested rezoning is adequately served by Falls of the Neuse Road, which is designated a Secondary Arterial by the Comprehensive Plan, and by Durant Road, a Major Thoroughfare under the Comprehensive Plan. All surrounding uses are currently retail and a substantial portion of the clientele utilizing the development authorized by the rezoning will be customers or patrons of the surrounding establishments.

LINE TABLE		
LINE	BEARING	DISTANCE
L1	N 23°16'19" E	38.36'
L2	N 25°07'32" E	48.65'
L3	N 26°03'55" E	48.98'
L4	N 26°52'26" E	48.60'
L5	N 28°14'00" E	23.57'



VICINITY MAP  
(n.t.s.)



REVISED: 02-26-10 R/W WIDTH AND STRIPING

CURVE TABLE						
CURVE	LENGTH	RADIUS	TANGENT	CHORD	BEARING	DELTA
C1	69.08'	183.50'	34.95'	68.67'	N 68°58'37" W	21°34'05"
C2	19.93'	125.50'	9.99'	19.91'	N 62°44'33" W	9°05'57"

PROJECT NO.	0913
FILENAME:	0913-EX2
SCALE:	1"=50'
DATE:	01-12-10

ZONING EXHIBIT

**KOHL'S @ FALLS POINTE**  
**FALLS OF THE NEUSE ROAD**  
**RALEIGH, NORTH CAROLINA**

**COMMERCIAL SITE DESIGN**

8312 CREEDMOOR ROAD  
 RALEIGH, NORTH CAROLINA 27615

(919) 848-6121, FAX: (919) 848-3741  
 WWW.CSITEDSIGN.COM