

CITY OF RALEIGH CITY PLANNING DEPT

Office Use Only
Petition No. 2 - 5 - 09



EQ SEP 19 AM 11: 53

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:

- 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):

Please check boxes where appropriate

- 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.

- That the requested zoning change is or will be in accordance with the Raleigh Comprehensive Plan.
- 4. That the fundamental purposes of zoning as set forth in the N.C. enabling legislation would be best served by changing the zoning classification of the property. Among the fundamental purposes of zoning are:
 - to lessen congestion in the streets;
 - 2) to provide adequate light and air;
 - 3) to prevent the overcrowding of land;
 - 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.

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)	Date: Sept 18, 2000
Please type or print name(s) clearly:	
Du Dinh Le c/o North Carolina Buddhist Association	

Office Use Only Petition No.	2-5-09	
Date Filed:	9.19.08	
Filing Fee:	00 1056 , p py CK}	2198
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EXHIBIT B. Request for Zoning Change

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

See instructions, page 6	Name(s)	Address	Telephone / E-Mail
Petitioner(s): Note: Conditional Use District Petitioner(s) must be owner(s) of petitioned property.	North Carolina Buddhist Association	4229 Forestville Road Raleigh, NC 27616	(919) 266-4230
2) Property Owner(s):	North Carolina Buddhist Association	4229 Forestviile Road Raleigh, NC 27616	(919) 266-4230
3) Contact Person(s):	Du Dinh Le	9909 Waterview Road Raleigh, NC 27615	(919) 426-4757 dulenc@gmail.com
4) Property Description: Please provide surveys if proposed zoning boundary lines do not follow property lines.	Wake County Property Iden	ntification Number(s) (PIN): 17	746493709
	General Street Location (no Forestville Road, North of t	earest street intersections): he intersection with Old Watki	ns Road.
5) Area of Subject Property (acres):	<u>6.1</u>		
6) Current Zoning District(s) Classification: Include Overlay District(s), if Applicable	CM and R-4		
7) Proposed Zoning District Classification: Include Overlay District(s) if Applicable. If existing Overlay	R-4 Conditional Use		
District is to remain, please state.			

8) Adjacent Property Owners

Office Use Only
Petition No. 2-5-69

The following are all of the person, firms, property owners, associations, corporations, entities or addresses and zip codes.) Indicate if property is owned by governments owning property adjacent to and within one bunded (100) feet (excluding right of way) of (front 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, 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:
Poole, Dwight & Doris L	4232 Forestville RD	Raleigh, NC 27616-9615	1746398460
Poole, Dwight & Doris L	4232 Forestville RD	Raleigh, NC 27616-9615	1746398702
Young, Melvin N	PO Box 1331	Wendell, NC 27591-1331	1746490903
Gay, Rodney Geron	4301 Forestville RD	Raleigh, NC 27616-9621	1746491346
Benton, Dan M & Alva P	4325 Forestville RD	Raleigh, NC 27616-9621	1746493382
Perry, Leva Mae	5404 Riley Hill RD	Wendell, NC 27591-9171	1746496347
Izydored, Anette M	1229 Old Watkins RD	Raleigh, NC 27616-8535	1746498411
Poole, Bobby H	1237 Old Watkins RD	Raleigh, NC 27616-8535	1746498885
Poole, J H	6301 Castlebrook DR	Raleigh, NC 27604-5933	1747407766
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Office Use Only Petition No.	Z-5-69
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 Cityadopted plan(s), the compatibility of the proposed rezoning with the property and surrounding area, and the benefits and detriments of the proposed rezoning for the landowner, the immediate neighbors and the surrounding community.

Recommended items of discussion (where applicable):

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

PETITIONER'S STATEMENT:

- I. Consistency of the proposed map amendment with the Comprehensive Plan (www.raleighnc.gov).
 - A. Please state which District Plan area the subject property is located within and the recommended land use for this property:

The Subject Property is located in the NORTHEAST DISTRICT district plan, and complies with the recommended land uses.

B. Please state whether the subject property is located within any adopted Regional Center Plan, Small Area Plan, Corridor Plan, Neighborhood Plan, Watershed Plan, Streetscape Plan, Redevelopment Plan or other City Council-adopted plans and policies and discuss the policies applicable to future development within the plan(s) area.

The Subject Property is located in the Neuse River East Small Area Plan, Short Range USA, and complies with the goals and policies applicable to development within the plan area.

C. Is the proposed map amendment consistent or inconsistent with the Comprehensive Plan and other City Council-adopted plans and policies?

The proposed plan is consistent with the Comprehensive Plan and any other applicable 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):

The surrounding area is rural residential with mixtures of housing types, including single family and mobile homes.

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

Property is surrounded by Properties zoned R-4.

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

In 1987, the Subject Property was acquired by North Carolina Buddhist Association as a place to worship Buddha and study Buddhist teachings. At the time, the Property was within the unincorporated jurisdiction of Wake County, and all Properties in the neighborhood were zoned Residential.

In 1999, The North Carolina Buddhist Association acquired an additional 5.0 acre tract adjacent to the property acquired in 1987. The 5.0 acres generally consisted of [1] approximately three (3) acres with floodway and 500- and 100-year flood plain in the deep end on the back, [2] and approximately two (2) acres with access from Forestville Road (on the East side) for future expansion.

The Association has outgrown its existing facility, and wishes to build a new Hall of Worship on the available land along Forestville Road. In the process of seeking legal permissions, we learned that our property had been annexed or otherwise incorporated into the City of Raleigh, and we understand that much of our property, including the existing residential building and Hall of Worship, is zoned as CM.

The Association is requesting a change of zoning for that portion of our Property along Forestville Road, to be rezoned as R-4 Conditional Use, to permit the pre-existing structures and the proposed new structures to be located outside the CM zone. The Association has no objection to, and in fact desires that, the remainder of the property along and near the existing body of water be kept in the CM zone. The Association's proposal further calls for all existing and new structures to be located with no less than a fifty (50) foot set-back from the CM zone.

Please refer to the survey map attached with this Rezoning Request, for additional details regarding our proposal.

This proposed rezoning keeps at least three (3) and one half acres of our land in the CM zone, to protect the water body and reserve the existing nature of the surrounding neighborhood. It also allows us to increase the size of our congregation buildings, and to support our growing Buddhist community, through additional construction along Forestville Road.

We would also note that we represent a Buddhist temple, and all planned development includes open space, trees and a park-like setting. It is the nature of our religion that we want to protect and preserve our natural environment, and to allow our worshippers to commune with nature.

III. Benefits and detriments of the proposed map amendment.

A. For the landowner(s):

The landowner will benefit by being able to develop the Property, and to expand the ability to serve the local Buddhist community.

B. For the immediate neighbors:

The amendment will better define and comply with the intent of the CM zone. By virtue of the annexation, the current CM zoning plan was placed upon an existing 3 bedroom home, and the Hall of Worship.

The neighborhood will obtain the benefit of the complete Buddhist Temple development plan. Without the rezoning, the neighborhood is not complete, in that there are unfinished projects adjacent to open or wild fields.

C. For the surrounding community:

The Vietnamese Buddhist community has been growing in the last ten years. The Buddhist followers are also growing in the RTP region. This temple provides a proper place of worship for Buddhists in the RTP and surrounding areas.

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

No. The effect of the rezoning will cause at most a negligible effect to surrounding properties. All proposed construction is consistent with the existing structures, and with the Comprehensive Plan and all regional plans. Moreover, the proposal still reserves a significant tract of the Association's land within the CM zone.

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

The characteristics of the Subject Property support the proposed map amendment as reasonable and in the public interest for the following reasons:

1. The service provided by this Buddhist temple is very important to the population in RTP area. With the rezoning change, the North Carolina Buddhist Association can expand and continue to provide services to the people in Raleigh, as well as from cities and

towns in Eastern North Carolina. The impact of the proposed rezoning is limited, and will not adversely affect the City's goals for natural conservation.

- 2. Buddha's teachings promoted environmental conservation and protection, and we believe our proposal complies with those teachings.
- 3. The Association's proposal maintains approximately two thirds (2/3) of its land, along the body of water in the back of the property, within the CM zone and dedicated to the preservation of nature.
- 4. The Association's plan makes use of the existing structures, and only builds new structures in the limited area of land which would be rezoned R-4. Therefore the development plan causes minimal impact to the natural surrounding.
- 5. After construction is completed, the landscape will be well maintained, and the buildings will be cared for.
- 6. The rezoning will also correct the mistake of including existing residential structures in the CM zoned area.

V. Recommended items of discussion (where applicable).

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

The current CM zoning includes existing residential structures.

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

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

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



Z-5-09 Conditional Use; Forestville Road Case File:

General Location: Forestville Road, east side, north of its intersection with Old Watkins Road.

Planning District

/ CAC: Northeast / Northeast.

Petition for Rezoning from Conservation Management and Residential-4 to Request:

Residential-4 Conditional Use District and Conservation Management.

Comprehensive Plan

Consistency: This proposal is consistent with the Comprehensive Plan.

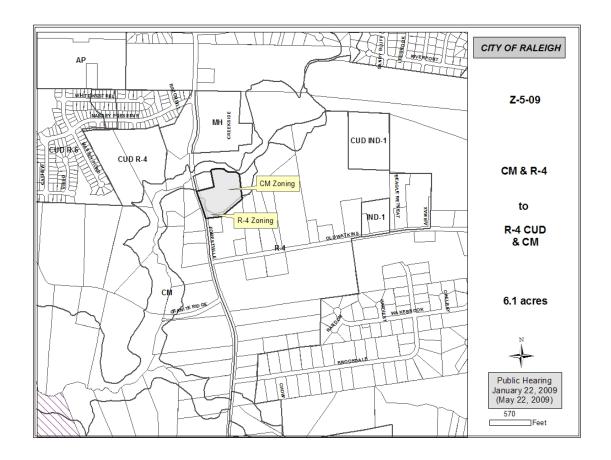
Valid Protest

Petition (VSPP): None.

Recommendation: The Planning Commission finds that this request is consistent with the

Comprehensive Plan and that this request be approved in accordance with

conditions dated February 25, 2009.



Z-5-09 Conditional Use **CASE FILE:** This site is located on the east side of Forestville Road, north of its intersection LOCATION: with Old Watkins Road. REQUEST: This request is to rezone approximately 6.1 acres, currently zoned Conservation Management and Residential-4. The proposal is to rezone the property to Residential-4 Conditional Use District and Conservation Management. **COMPREHENSIVE PLAN CONSISTENCY:** This proposal is consistent with the Comprehensive Plan. The Planning Commission finds that this request is consistent with the **RECOMMENDATION:** Comprehensive Plan and that this request be approved in accordance with conditions dated February 25, 2009. **FINDINGS** AND REASONS: (1) The request is consistent with the Comprehensive Plan. The site is designated for low-density residential uses. The adjacent section of Forestville Road is designated as a Primarily Residential Thoroughfare. (2) The request is compatible with existing land uses and development patterns in the adjacent area. (3) The applicant has provided zoning conditions which limit uses, prohibit subdivision, restrict future development, building height & materials, limit site access and parking location, and provide street protective yard plantings. (4) Being consistent and compatible, and in seeking to mitigate potential impacts, the request can be considered reasonable and in the public interest. To PC: 2/24/09 **Case History:** To CC: 3/3/09 City Council Status: **Staff Coordinator:** Doug Hill Motion: Gaylord Second: Anderson In Favor: Anderson, Bartholomew, Chambliss, Gaylord, Haq, Harris Edmisten, Mullins, Smith Opposed: Excused: This document is a true and accurate statement of the findings and recommendations of the Planning Commission. Approval of this document incorporates all of the findings of the Staff Report attached. Signatures: (Planning Dir.) (PC Chair) date: date: 2/25/09



Zoning Staff Report: Z-5-09 Conditional Use

LOCATION: This site is located on the east side of Forestville Road, north of its intersection

with Old Watkins Road.

AREA OF REQUEST: 6.1 acres

PROPERTY OWNER: North Carolina Buddhist Association

CONTACT PERSON: Du Dinh Le, (919) 426-4757

PLANNING COMMISSION

RECOMMENDATION

DEADLINE: May 22, 2009

ZONING: <u>Current Zoning</u> <u>Proposed Zoning</u>

Residential-4, Residential-4 CUD,

Conservation Management Conservation Management

<u>Current Overlay District</u> <u>Proposed Overlay District</u>

n/a n/a

ALLOWABLE

DWELLING UNITS: <u>Current Zoning</u> <u>Proposed Zoning</u>

34

ALLOWABLE OFFICE

SQUARE FOOTAGE: Current Zoning Proposed Zoning

Not permitted Not permitted

ALLOWABLE RETAIL

SQUARE FOOTAGE: <u>Current Zoning</u> <u>Proposed Zoning</u>

Not permitted Not permitted

ALLOWABLE

GROUND SIGNS: Current Zoning Proposed Zoning

Tract ID Tract ID

ZONING HISTORY: This property has been R-4 and CM since annexation into the City of Raleigh

ETJ (2001).

SURROUNDING

ZONING: NORTH: Conservation Management

SOUTH: Residential-4

EAST: Conservation Management and Residential-4

WEST: Residential-4

LAND USE: Residential institution (church)

SURROUNDING

LAND USE: NORTH: Vacant (wetlands)

SOUTH: Single-family Residential

EAST: Vacant (wetlands), Single-family Residential

WEST: Single-family Residential

DESIGNATED HISTORIC

RESOURCES: None on property; none within 100 feet of property.

EXHIBIT C AND D ANALYSIS:

COMPREHENSIVE PLAN SUMMARY

TABLE:

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

Element	Application to case
Planning District	Northeast
Urban Form	Low density residential
Specific Area Plan	Neuse River East
Guidelines	n/a

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

The proposal is consistent with the Neuse River East Small Area Plan, which designates the subject site and surrounding area for low-density residential uses (six dwelling units or fewer per acre), noting that outside Focus Areas, "primarily low density residential uses are recommended." The adjacent section of Forestville Road is designated as a Primarily Residential Thoroughfare.

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

Existing adjacent development follows a pattern of low density residential uses, keeping with the area's traditional rural character. The proposal would continue this pattern. The site is bordered on the north by Powell Creek, a tributary of Harris Creek. The Neuse River East Small Area Plan notes that "Buffers along Harris Creek and Tom's Creek should include the 100-year flood plain. Development within this area is discouraged." The crux of the rezoning is the definition of the line of floodplain demarcation. The present CM area encompasses the existing single-family residence and house of worship. Both structures are prohibited in CM zoning. The most recent FEMA and State mapping suggests the present Conservation Management zone boundaries on the site, drawn under earlier mapping, encompass land beyond the actual 100-year floodplain.

3. Public benefits of the proposed rezoning

The proposed rezoning will permit the existing residential structures to be brought into compliance with Code, and afford the property greater utility overall. The CM boundary can be corrected to more closely align with current FEMA mapping. The change will not fiscally impact the City.

4. Detriments of the proposed rezoning

None.

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

TRANSPORTATION:

Forestville Road is classified as a major thoroughfare (2007 ADT- 4,200 vpd) and is constructed as a 2-lane ribbon paved roadway within a 60-foot right-of-way. City standards call for Forestville Road to be constructed as a multi-lane facility with a 65-foot back-to-back curb and gutter section with sidewalks on both sides within 90 feet of right-of-way. Neither NCDOT nor the City have any projects currently scheduled in the vicinity of this case.

TRANSIT:

This site is not within close proximity of current or future bus routes and/or a proposed regional rail transit station and, therefore does not provide a suitable/appropriate space for a bus stop. No transit easement is needed upon subdivision approval.

HYDROLOGY:

FLOODPLAIN: There is FEMA floodplain on the northern portion of this property. DRAINAGE BASIN: Harris Creek
STORMWATER MANAGEMENT: This site is subject to Part 10. Chapter 9.

STORMWATER MANAGEMENT: This site is subject to Part 10, Chapter 9 (Stormwater Control and Watercourse Buffer Regulations) of the Raleigh City Code. There are Neuse River Buffers along the northern part of the property and also alluvial soils.

PUBLIC UTILITIES:

	Maximum Demand	Maximum Demand	
	on Current Zoning	on Proposed Zoning	
Water	Approx. <u>5,325</u> gpd	Approx. <u>12,200</u> gpd	
Waste Water	Approx. <u>5,325</u> gpd	Approx. <u>12,200</u> gpd	

The proposed rezoning would add approximately 6,875 gpd to the City's wastewater collection or water distribution systems. There is an existing water main located in Forestville Road. A sanitary sewer main is located approximately thirty (30') feet to the north along Harris Creek. The petitioner would be required to obtain an easement to extend a sanitary sewer main from the proposed rezoning property to the existing sanitary sewer main. Additionally, the petitioner would be responsible for the internal sanitary sewer and water mains to serve the proposed rezoning property.

PARKS AND RECREATION:

This property is adjacent to Harris Creek a corridor of the Capital Area Greenway Master Plan. The minimum greenway width of this corridor is 75' measured from the top of bank of the stream. The developer will be required to dedicate at least the minimum greenway at the time of subdivision or site plan approval, if the dedication is not included as a condition of approval of this case. Park needs are planned to be met by a community park site located on Watkins Road and a future neighborhood park located at the intersection of Forestville Road and Oak Hill Road.

WAKE COUNTY PUBLIC SCHOOLS:

The maximum number of dwelling units permitted by right under the current zoning is 34 (including CM density transfer); the proposed rezoning would not change that figure, thus school impacts would not change. The current base schools for the site, and their respective capacities, are indicated below:

School name	Current enrollment	Current capacity	Future enrollment	Future capacity
Forestville Road	682	112.9%	682	112.9%
Wendell (6-7 grades)	224	43.1%	224	43.1%
W.FRolesville (8)	1,145	100.7%	1,145	100.7%
Knightdale	1,800	90.9%	1,800	90.9%

IMPACTS SUMMARY:

The proposed rezoning would add approximately 6,875 gpd to the City's wastewater collection or water distribution systems. A greenway dedication will be required at the time of future site plan approval.

OPTIONAL ITEMS OF DISCUSSION

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

The applicant notes that the "current CM zoning includes existing residential structures." Staff concurs. The 100-year floodplain boundary, the basis for the present CM boundary, has been amended by subsequent floodplain mapping. Bringing the line closer to the updated boundary would place the structures outside the CM zoning district.

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

N/A

APPEARANCE

COMMISSION: This request is not subject to Appearance Commission review.

CITIZENS'

ADVISORY COUNCIL: DISTRICT: Northeast

CAC CONTACT PERSON: Paul Brant, 875-1114

SUMMARY OF ISSUES:

COMPREHENSIVE PLAN / COMPATIBILITY / ADVERSE IMPACTS:

1. Outstanding issues

- 1. Removal of prohibition on subdivision, as per amendment of Condition 1. (As this amendment may be less stringent than the originally-proposed prohibition, the prohibition on subdivision should be reinstated.)
- Other clarifications/ amendments suggested by staff.

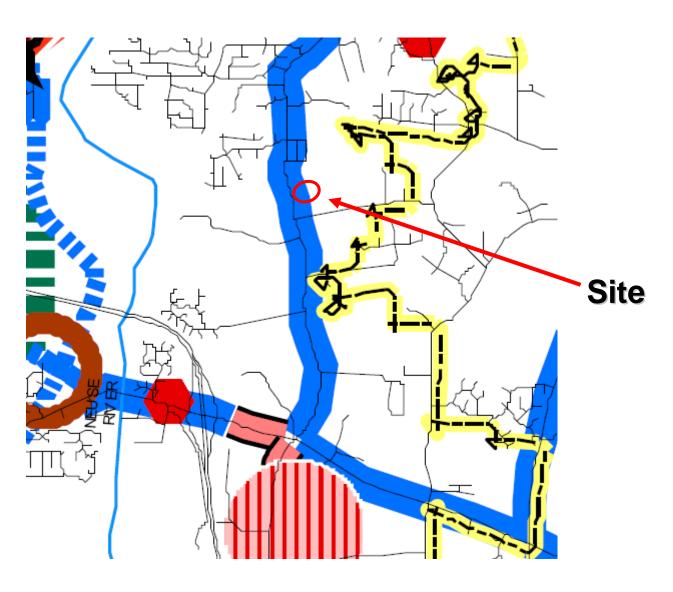
2. Suggested conditions

Condition 1 Reinstate the originally-proposed sentence "The subject property shall not be subdivided."

Condition 4 Amend the condition to add the phrase "of all elevations" between "(>70%)" and "of the new buildings."

Condition 6 Amend the condition to change "landscape buffer" to "street protective yard."

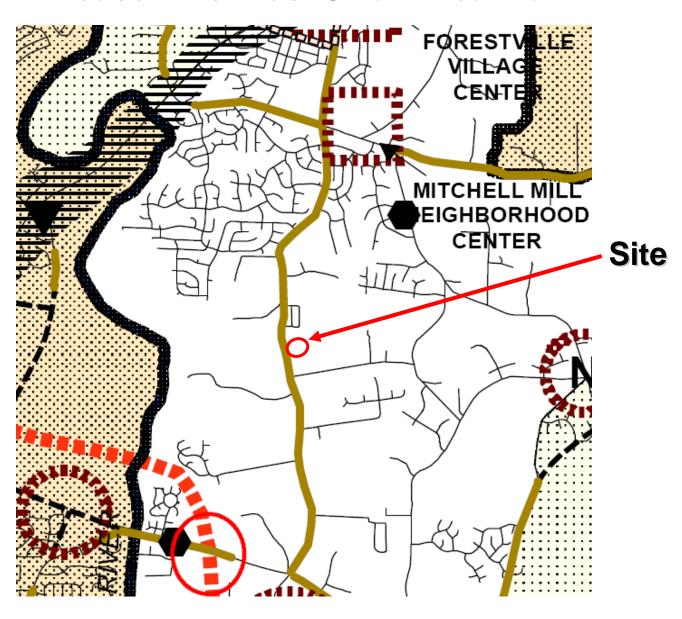
Urban Form— Northeast District Plan



Recommended Urban Form - Northeast District



Urban Form— Neuse River East Small Area Plan



Neuse River East Small Area Plan Urban Form **NEIGHBORHOOD FOCUS** I-540 INTERCHANGE **GATEWAY CORRIDORS** POLICY BOUNDARY RETAIL AREAS LINE PLAN BOUNDARY **RURAL DENSITY** RESIDENTIAL RETAIL PROPOSED PRIMARY ARTERIALS RESIDENTIAL TYPE B THOROUGHFARES MIXED USE CENTER LOW DENSITY RESIDENTIAL PROPOSED ROADS