

**ORDINANCE NO. (2015) 515 ZC 719
Z-27(C)-14**

**AN ORDINANCE TO IMPLEMENT THE UNIFIED DEVELOPMENT ORDINANCE ZONING
FOR PARCELS WITH VALID PROTEST PETITIONS**

Whereas, the City of Raleigh adopted a new Comprehensive Plan in 2009 calling for more of the City's growth to be directed away from rural and environmentally sensitive lands, and towards major transit corridors and walkable mixed use settings;

Whereas, the adopted 2030 Comprehensive Plan contained action items that directed the City to update the development code, which had not been updated in over forty years;

Whereas, the City adopted a Unified Development Ordinance on February 18, 2013, Ordinance NO (2013) 151 TC 357;

Whereas, the recently-adopted Unified Development Ordinance, as amended, contains new mixed use zoning districts and special zoning districts to replace the legacy zoning districts of the Part 10 Zoning Code;

Whereas, this rezoning request known as Z-27(C)-14 applies these Unified Development Ordinance mixed use and special districts to two parcels of land located on the south side of Falls of Neuse Road at the terminus of Honeycutt Road subject to a protest petition;

Whereas, the City received two valid statutory protest petitions prior to the public hearing on July 7, 2015, and the submittal of these protest petitions require a super-majority vote of the City Council to approve any rezoning;

Whereas, areas zoned R-1, R-2, R-4, R-6, Special R-6, R-10 and Conservation Management, Agriculture Productive, Special Highway Overlay District-1, Special Highway Overlay District-2, Airport Overlay District, Neighborhood Conservation Overlay District, Metro Park Overlay District, General Historic Overlay District, Manufactured Housing District, Reservoir Watershed Protection Area Overlay District and the Urban Water Supply Watershed Protection Area Overlay District zoning districts were previously subjected to all provisions of the Unified Development Ordinance and properties wholly within these zoning districts are not affected by this ordinance;

Whereas, in accordance with Article 1.2 and Section 10.2.4 of the Unified Development Ordinance, the City of Raleigh drafted a new zoning map that will implement the Unified Development Ordinance to all zoning districts and properties;

Whereas, public notice was provided to property owners affected by the draft zoning map and to property owners located within 100 feet of an affected property. This public notice process, which is not required by State law, announced a public comment period whereby the City solicited comments on the draft zoning map.

Whereas, the draft zoning map was reviewed by the public between May and September 2014, comments received by staff that caused the map to be altered;

Whereas, the City of Raleigh Planning Commission held 14 public meetings to receive input, ultimately recommending unanimous approval based on the Findings and Reasons contained within Certified Recommendation # 11627;

Whereas, The City Council conducted three work sessions prior to the public hearing to review and discuss the Planning Commission recommended zoning map. The City Council accepted the recommendation of the Planning Commission, except as altered during the course of the work sessions;

Whereas, the City of Raleigh duly provided public notice in accordance with NCGS 160A-384 and sections 10.1.8 and 10.2.4 of the Unified Development Ordinance in advance of the public hearing on July 7, 2015 and continued on July 21, 2015;

Whereas, Following the public hearing on July 7, 2015 and July 21, 2015 the City Council conducted eight additional work sessions to review all comments received at the public hearing on July 7, 2015 and July 21, 2015; and

Whereas, The Raleigh City Council makes the following findings for approval of Z-27(C)-14, for the properties located at the terminus of Honeycutt Road on the south side of Falls of Neuse Road, as stated:

1. The request to rezone these properties is inconsistent with the future land use map contained within the 2030 Comprehensive Plan, but is consistent with other policies and guidance contained within the Plan. The properties are designated for Low Density Residential on the future land use map.
2. The properties are currently zoned Office & Institution-1 conditional use and Office and Institution-2 with Conservation Management. The conditional use property was rezoned in 2001, where the property owner offered zoning conditions that would restrict development on the property to be more consistent with the character of the surrounding area. These zoning conditions will apply to the UDO zoning district, providing the same level of protection and certainty.
3. During the public adoption process, the City Council reviewed the impact of removing development entitlement when assigning a new UDO zoning district.
4. These properties are located on the south side of Falls of Neuse Road, which is a major street. The mixed use zoning in this location is consistent with other properties located on the south side of Falls of Neuse Road. If zoning were applied consistent with the residential neighborhood, one of the properties would be made non-conforming as to use.
5. For these stated reasons, the Unified Development Ordinance zoning map is reasonable and in the public interest.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RALEIGH, NORTH CAROLINA:

Section 1. The City Council received the Unified Development Ordinance citywide rezoning map dated July 7, 2015, presented at the public hearing on July 7, 2015, and July 21, 2015 and accepts all recommendations of the Planning Commission contained in CR 11627. This ordinance is specific only to the properties contained in Attachment D. There are no attachments A, B or C.

NOTE: THE CONDITIONS OF Z-56-01 AS OUTLINED IN CITY OF RALEIGH ORDINANCE NO. (2001) 122 ZC 508 ADOPTED NOVEMBER 20, 2001 SHALL APPLY ONLY TO THE PROPERTY LOCATED AT 8104 FALLS OF NEUSE ROAD (PIN 1718-10-5396 DB 8588 PG 726). THESE CONDITIIONS ARE INCORPORATED AS FOLLOWS:

Conditions dated: November 14, 2001

- (1) Upon development, the developer will comply with C.R. 7107 regarding stormwater run-off controls. In addition, the difference in the pre-development and post- development 10 year storm will be detained.
- (2) All structures to be limited to two (2) stories with a maximum building height of 30' as defined in the Raleigh City Code.
- (3) Any and all site lighting will be designed to comply with the current draft ordinance of TC-3-2001 as recommended by the Planning Commission.
- (4) A natural protective yard of 20 feet shall be provided along the common property line of lots to the west and east with pin numbers 171817104322 and 171817107303.
- (5) A natural protective yard of 30 feet shall be provided along the common property line of the lot to the south with pin number 171817104292.
- (6) A six (6) foot high solid wooden fence is to be installed in the 30' protective yard adjoining the southern property with pin number 171817104292. Also, same 6' fence to be installed on property lines adjoining lots on the eastern and western sides with pin's 171817104322 and 1718107303 beginning at the southernmost corners and extending to front of existing building.
- (7) All refuse containers, heating, ventilating and mechanical equipment shall be fully screened from public view and from the adjacent properties. The screening material shall be of design and materials compatible with the principal building.
- (8) All refuse containers shall be screened from public view per City of Raleigh Code and collection shall occur between the hours of 8:00 am and 6:00 p.m.
- (9) Any new building on the site will display a residential character. The exterior materials to be wood, hardiplank or brick; roof pitch to be a minimum of 4:12; windows to be a minimum of 15% and a maximum of 60% of any side of the building.
- (10) Any new building on the site will not exceed a building lot coverage of 15% and a maximum floor area ratio of 33%.

- (11) Reimbursement for right-of-way dedication shall remain at the current R-4 value.
- (12) Prior to issuance of building permits or subdivision approval an offer of cross-access to be made to adjacent lot to the west with pin 171817104332.
- (13) At time of site plan approval in the inspections department, the proposed development shall make available if requested a transit easement on Falls of Neuse Road for future transit needs in the area.
- (14) A full redevelopment of this site, including demolition of the existing structure and construction of a new building, will require a new front building setback to be a maximum dimension of thirty feet (30') from Falls of the Neuse right-of-way.

Section 2. The Unified Development Ordinance citywide rezoning map shall be effective beginning February 14, 2016. On this effective date the previous citywide zoning map dated July 7, 2015, as amended, is hereby superseded by the UDO citywide zoning map, as amended.

Section 3. Following the adoption date of this ordinance, applicants for permits and subdivisions may submit applications for development and plot plans that are compliant with all provisions contained within the Unified Development Ordinance, but final approval shall be made no earlier than the effective date established in Section 2.

Applicants may choose to submit applications for development compliant with the Part 10 Zoning Code between the adoption date and the effective date established in Section 2. The application of either code shall be specified at time of submittal. Completed applications submitted during this period will be processed in accordance with either the Part 10 Code or the Unified Development Ordinance, as specified by the applicant. No submittal for development under the Part 10 Zoning Code will be permitted on or after the effective date established in Section 2.

For such site plans that were submitted prior to the effective date of the Unified Development Ordinance (September 1, 2013), the previous Part 10 Code standards shall apply. For such site plans that were submitted after September 1, 2013, chapters 8, 9 and 10 of the Unified Development Ordinance shall apply in addition to the Part 10 zoning code regulations.

Section 4. Following the adoption date of this ordinance, the Part 10 zoning code shall be used for those submittals referenced in Section 3 of this ordinance. Where a previously-approved zoning conditions reference a term that is defined in the Part 10 code and not defined in the UDO, the Part 10 code definition shall apply. The Part 10 Zoning Code shall exist to provide clarity in interpreting zoning conditions that reference a specific Part 10 zoning code section or defined term.

Upon the effective date established in section 2, the method for measurement shall be regulated by the Unified Development Ordinance, regardless of language contained within any conditional use zoning district.

Section 5. Each separate and discrete area that was rezoned by this ordinance shall be severable. If this ordinance and the UDO rezoning map or application thereof to any person, property or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance, or other portions of the UDO rezoning map which can be given separate effect and to this end the provisions of this ordinance are declared to be severable.

Section 6. Changes to the July 7, 2015 Unified Development Ordinance Zoning Map. After the adoption date but prior to the effective date, staff may only make the following changes to the zoning map:

- a. Changes made by the City Council prior to the adoption date; and
- b. Technical corrections to address a drafting error made during the creation of the zoning map, such as a misinterpretation of a previous City Council directive.

Section 7. All laws and clauses of laws in conflict herewith are hereby repealed to the extent of said conflict.

Section 8. This ordinance has been provided to the North Carolina Capital Commission as required by law.

Section 10. This ordinance shall be enforced by law as provided in N.C.G.S. 160A-175 or as provided in the Raleigh City Code. All criminal sanctions shall be the maximum allowed by law notwithstanding the fifty dollar (\$50.00) limit in G.S. 14-4 (a) or similar limitations.

ADOPTED: November 16, 2015

EFFECTIVE: February 14, 2016

DISTRIBUTION: Planning – Bowers, Crane, Strickland
Department Heads
City Attorney – Botvinick, Hargrove

Attachment D: Properties Subject to Valid Statutory Protest Petition

Address	PIN	Previous Part 10 Zoning	Approved Zoning
8104 FALLS OF NEUSE RD	(PIN: 1718105396)	O&I-1 CUD	OX-3-PL-CU
8206 FALLS OF NEUSE RD	(PIN: 1718109431)	O&I-2 & CM	OX-3-PL & CM
11110 FALLS OF NEUSE RD	(PIN: 1729212644)	R-4 with PDD Overlay and UWPOD	Planned Development
1590 DUNN RD	(PIN: 1729214636)	R-4 with PDD Overlay and UWPOD	Planned Development
1540 DUNN RD	(PIN: 1729216967)	BC CUD with UWPOD	NX-3 CU (w/ UWPOD) New conditions dated 7-31-15
1605 OCTOBER RD	(PIN: 1729219494)	R-4 with PDD Overlay and UWPOD	Planned Development
1500 DUNN RD	(PIN: 1729223012)	BC CUD with UWPOD	NX-3 CU (w/ UWPOD) New conditions dated 7-31-15
1609 OCTOBER RD	(PIN: 1729310409)	R-4 with PDD Overlay and UWPOD	Planned Development and UWPOD
1613 OCTOBER RD	(PIN: 1729310515)	R-4 with PDD Overlay and UWPOD	Planned Development and UWPOD
1617 OCTOBER RD	(PIN: 1729310610)	R-4 with PDD Overlay and UWPOD	Planned Development and UWPOD
1621 OCTOBER RD	(PIN: 1729310636)	R-4 with PDD Overlay and UWPOD	Planned Development and UWPOD
1625 OCTOBER RD	(PIN: 1729310753)	R-4 with PDD Overlay and UWPOD	Planned Development and UWPOD
1629 OCTOBER RD	(PIN: 1729310769)	R-4 with PDD Overlay and UWPOD	Planned Development and UWPOD
1633 OCTOBER RD	(PIN: 1729310888)	R-4 with PDD Overlay and UWPOD	Planned Development and UWPOD
1502 NEALSTONE WAY	(PIN: 1729311474)	R-4 with PDD Overlay and UWPOD	Planned Development and UWPOD
1501 NEALSTONE WAY	(PIN: 1729311670)	R-4 with PDD Overlay and UWPOD	Planned Development and UWPOD
1506 MICHELLE DR	(PIN: 1729311791)	R-4 with PDD Overlay and UWPOD	Planned Development and UWPOD
1501 MICHELLE DR	(PIN: 1729311952)	R-4 with PDD Overlay and UWPOD	Planned Development and UWPOD
1506 NEALSTONE WAY	(PIN: 1729312433)	R-4 with PDD Overlay and UWPOD	Planned Development and UWPOD
1505 NEALSTONE WAY	(PIN: 1729312549)	R-4 with PDD Overlay and UWPOD	Planned Development and UWPOD
1509 NEALSTONE WAY	(PIN: 1729312598)	R-4 with PDD Overlay and UWPOD	Planned Development and UWPOD
1510 MICHELLE DR	(PIN: 1729312750)	R-4 with PDD Overlay and UWPOD	Planned Development and UWPOD

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1505 MICHELLE DR	(PIN: 1729312828)	R-4 with PDD Overlay and UWPOD	Planned Development and UWPOD
1509 MICHELLE DR	(PIN: 1729312886)	R-4 with PDD Overlay and UWPOD	Planned Development and UWPOD
1510 NEALSTONE WAY	(PIN: 1729313402)	R-4 with PDD Overlay and UWPOD	Planned Development and UWPOD
1518 NEALSTONE WAY	(PIN: 1729313481)	R-4 with PDD Overlay and UWPOD	Planned Development and UWPOD
1513 NEALSTONE WAY	(PIN: 1729313558)	R-4 with PDD Overlay and UWPOD	Planned Development and UWPOD
1514 MICHELLE DR	(PIN: 1729313619)	R-4 with PDD Overlay and UWPOD	Planned Development and UWPOD
1518 MICHELLE DR	(PIN: 1729313668)	R-4 with PDD Overlay and UWPOD	Planned Development and UWPOD
1515 MICHELLE DR	(PIN: 1729313846)	R-4 with PDD Overlay and UWPOD	Planned Development and UWPOD
1524 NEALSTONE WAY	(PIN: 1729314369)	R-4 with PDD Overlay and UWPOD	Planned Development and UWPOD
1517 NEALSTONE WAY	(PIN: 1729314507)	R-4 with PDD Overlay and UWPOD	Planned Development and UWPOD
1521 NEALSTONE WAY	(PIN: 1729314556)	R-4 with PDD Overlay and UWPOD	Planned Development and UWPOD
1522 MICHELLE DR	(PIN: 1729314628)	R-4 with PDD Overlay and UWPOD	Planned Development and UWPOD
1526 MICHELLE DR	(PIN: 1729314677)	R-4 with PDD Overlay and UWPOD	Planned Development and UWPOD
1519 MICHELLE DR	(PIN: 1729314805)	R-4 with PDD Overlay and UWPOD	Planned Development and UWPOD
1523 MICHELLE DR	(PIN: 1729314875)	R-4 with PDD Overlay and UWPOD	Planned Development and UWPOD
1528 NEALSTONE WAY	(PIN: 1729315338)	R-4 with PDD Overlay and UWPOD	Planned Development and UWPOD
1532 NEALSTONE WAY	(PIN: 1729315490)	R-4 with PDD Overlay and UWPOD	Planned Development and UWPOD
1525 NEALSTONE WAY	(PIN: 1729315516)	R-4 with PDD Overlay and UWPOD	Planned Development and UWPOD
1529 NEALSTONE WAY	(PIN: 1729315576)	R-4 with PDD Overlay and UWPOD	Planned Development and UWPOD
1530 MICHELLE DR	(PIN: 1729315637)	R-4 with PDD Overlay and UWPOD	Planned Development and UWPOD
1534 MICHELLE DR	(PIN: 1729315687)	R-4 with PDD Overlay and UWPOD	Planned Development and UWPOD
1527 MICHELLE DR	(PIN: 1729315834)	R-4 with PDD Overlay and UWPOD	Planned Development and UWPOD
1531 MICHELLE DR	(PIN: 1729315894)	R-4 with PDD Overlay and UWPOD	Planned Development and UWPOD
1536 NEALSTONE WAY	(PIN: 1729316451)	R-4 with PDD Overlay and UWPOD	Planned Development and UWPOD
1533 NEALSTONE WAY	(PIN: 1729316536)	R-4 with PDD Overlay and UWPOD	Planned Development and UWPOD

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1538 MICHELLE DR	(PIN: 1729316647)	R-4 with PDD Overlay and UWPOD	Planned Development and UWPOD
1540 NEALSTONE WAY	(PIN: 1729317412)	R-4 with PDD Overlay and UWPOD	Planned Development and UWPOD
1544 NEALSTONE WAY	(PIN: 1729317473)	R-4 with PDD Overlay and UWPOD	Planned Development and UWPOD
1603 GOLDEN SUN DR	(PIN: 1729317528)	R-4 with PDD Overlay and UWPOD	Planned Development and UWPOD
1611 GOLDEN SUN DR	(PIN: 1729317626)	R-4 with PDD Overlay and UWPOD	Planned Development and UWPOD
1541 MICHELLE DR	(PIN: 1729317813)	R-4 with PDD Overlay and UWPOD	Planned Development and UWPOD
1545 MICHELLE DR	(PIN: 1729317873)	R-4 with PDD Overlay and UWPOD	Planned Development and UWPOD
1548 NEALSTONE WAY	(PIN: 1729318453)	R-4 with PDD Overlay and UWPOD	Planned Development and UWPOD
1608 GOLDEN SUN DR	(PIN: 1729318690)	R-4 with PDD Overlay and UWPOD	Planned Development and UWPOD
1612 GOLDEN SUN DR	(PIN: 1729318696)	R-4 with PDD Overlay and UWPOD	Planned Development and UWPOD
1549 MICHELLE DR	(PIN: 1729318855)	R-4 with PDD Overlay and UWPOD	Planned Development and UWPOD
1600 GOLDEN SUN DR	(PIN: 1729319406)	R-4 with PDD Overlay and UWPOD	Planned Development and UWPOD
1604 GOLDEN SUN DR	(PIN: 1729319504)	R-4 with PDD Overlay and UWPOD	Planned Development and UWPOD
1616 GOLDEN SUN DR	(PIN: 1729319702)	R-4 with PDD Overlay and UWPOD	Planned Development and UWPOD
1620 GOLDEN SUN DR	(PIN: 1729319810)	R-4 with PDD Overlay and UWPOD	Planned Development and UWPOD