

**ORDINANCE NO. (2015) 514 ZC 718  
Z-27(A)-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(A)-14 applies these Unified Development Ordinance mixed use and special districts to the parcels of land subject to a protest petition near Falls of Neuse and Dunn Road;

**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(A)-14, for the properties located at Falls of Neuse and Dunn Road, as stated:

1. The request to rezone these properties is consistent with the 2030 Comprehensive Plan policies and guidance. The properties are designated Neighborhood Mixed Use on the future land use map, which is the guiding policy for future land use contained within the 2030 Comprehensive Plan.
2. While the City Council previously considered a private zoning request for the approximately 14 acres of land located on the east side of Falls of Neuse Road located between Dunn Road and Whittington Drive, this zoning ordinance differs in the following ways:
  - a. The area subject to Z-1-14, which was denied by the City Council, is much larger in area. This request would have rezoned approximately 14 acres of land to a conditional use district for the purpose of developing free standing retail. The area subject to the protest petition is approximately 4 acres in size. The remaining area of land included within the former Z-1-14, which does not include the approximate four acres of land at Falls of Neuse and Dunn Road will be rezoned to Planned Development District, with the previously-approved master plan dictating development of the site. This master plan permits office development in this location.
  - b. The property located at Falls of Neuse and Dunn Road is currently zoned with a district that permits free-standing non-residential development. During the public adoption process, the City Council reviewed the impact of removing development entitlement when assigning a new UDO zoning district.
  - c. The approximate four acres of land has been zoned to allow free standing retail since 1994.
  - d. The property owner submitted revised zoning conditions dated July 31, 2015 that prohibit additional uses that would otherwise be permitted in the Neighborhood Mixed Use district.
  - e. The former Buffer Commercial zoning was of limited utility, as it placed a limitation of 3,000 square feet of building area per lot.

- f. 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.

Conditions Dated: July 31, 2015

1.
  - i) Vehicular fuel sales.
  - ii) Vehicular Service, all types.
  - iii) Eating establishments with drive-in facilities are prohibited.  
Eating establishments with drive-thru facilities which utilize grills or fryers to prepare food on-site are prohibited.  
Eating establishments with drive-thru facilities which sell beverages (excluding beer, wine and alcohol), ice cream, pastry products and sandwiches are permitted.
2. Retail sales shall be limited to a total of twenty-nine thousand square feet (29,000 SF) of gross floor area, whether contained in one or more retail establishments.
3. Prior to issuance of a building permit for construction upon the property if then comprised of more than one lot, the owner of the property shall cause to be recorded in the Wake County Registry a restrictive covenant which allocates Retail Sales gross floor area (described in Condition 2) upon the property to all lots of record comprising the property. Such restrictive covenant shall be approved by the City Attorney or his designee prior to recordation of the restrictive covenant and such restrictive covenant shall be recorded within 45 days following its approval by City officials. Such restrictive covenant shall provide that it may be amended or terminated only with the prior written consent of the City Attorney or his designee.

NOTE: THE CONDITIONS OF Z-55-94 AS OUTLINED IN CITY OF RALEIGH ORDINANCE NO. (1994) 467 ZC 350 ADOPTED SEPTEMBER 6, 1994 HERETO ARE INCORPORATED AS FOLLOWS:

1. Any development of the property shall include a pedestrian access to the property adjoining this tract on the south and/or east side.
2. The following uses shall not be permitted in the Buffer Commercial C.U.D. District:
  - a. Utility Substations
  - b. Penal Facilities

- c. Telecommunications Towers
  - d. Outdoor Stadiums
  - e. Parking Deck or Garage
  - f. Schools
  - g. Family or Group Care Homes or Facilities
  - h. Supportive Housing Residences
3. Right of way for Neuse River Drive (Dunn Road) will remain at R-4 values for reimbursement purposes.
4. Upon development: the rate of stormwater runoff will comply with CR 7107.

**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 9.** 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