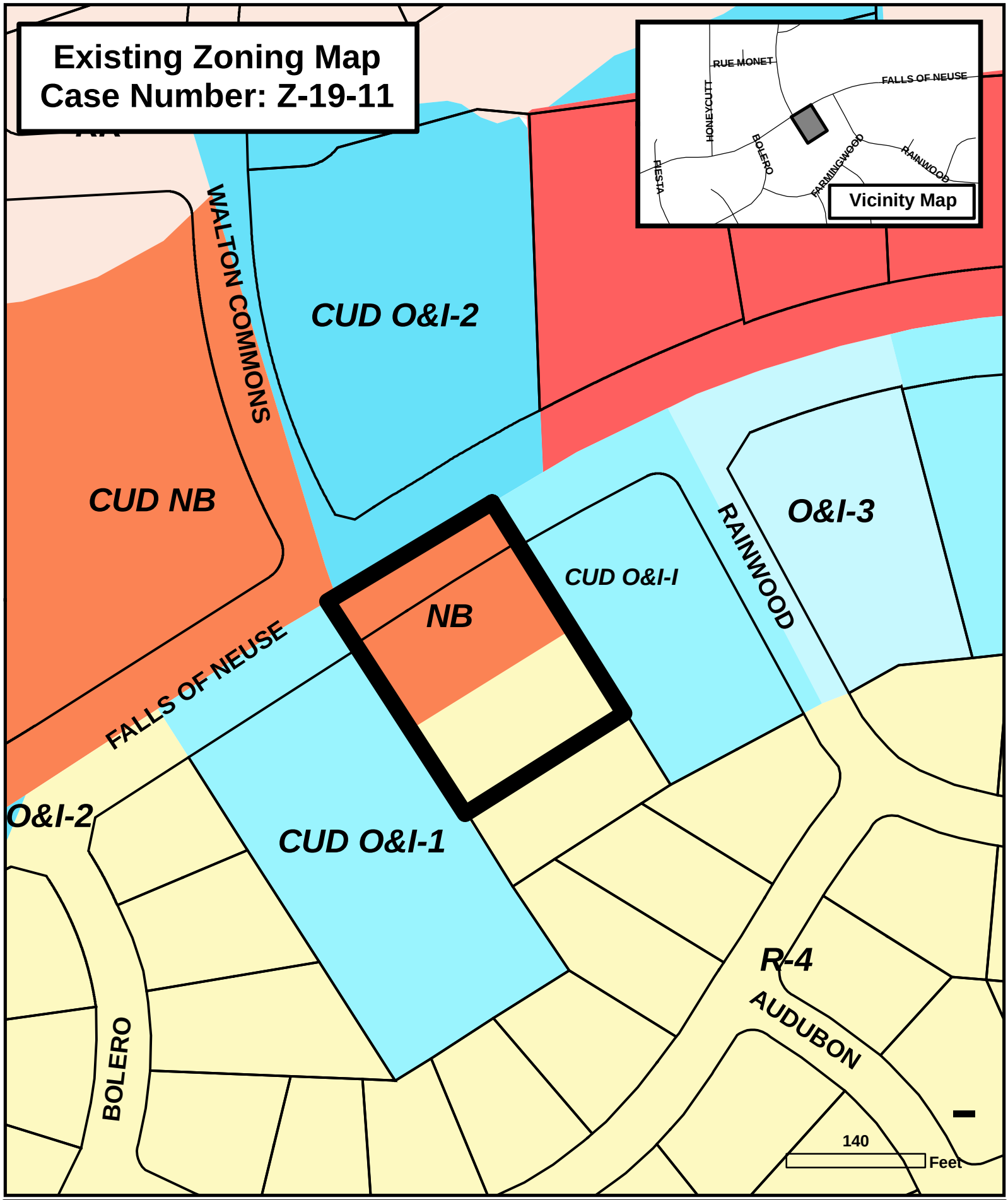


Request:

0.91 ac from NB to NB CUD

City of Raleigh Public Hearing
October 18, 2011
(January 16, 2012)

Certified Recommendation

Raleigh Planning Commission

CR# 11436

Case Information: Z-19-11 8304 Falls of Neuse Rd.

Location	Falls of Neuse Rd., south side, east of its intersection with Honeycutt Rd.
Size	0.91 acre
Request	Rezone property from Neighborhood Business and Residential-4 to Neighborhood Business Conditional Use District

Comprehensive Plan Consistency

☐ Consistent ☒ Inconsistent

	Consistent	
Future Land Use Designation	☐	Office/ Research and Development
Applicable Policy Statements	☐ ☒ ☒ ☐ ☒ ☒ ☐	Policy LU 1.3 Conditional Use District Consistency Policy LU 4.5 Connectivity Policy LU 5.6 Buffering Requirements Policy LU 10.6 Retail Nodes Policy AP-540F 1 Development Character on Falls of Neuse Road Policy AP-540F 4 Falls of Neuse Low Intensity Appearance Policy AP-540F 6 Falls of Neuse Access Spacing

Summary of Conditions

Submitted Conditions	1. Certain uses prohibited. 2. Maximum square footage 11,000. Maximum building height: 2 stories/ 30'. 3. Minimum dumpster setback from R-4 property at rear: 30'. 4. Access limited to no more than two driveways on Falls of Neuse Rd. 5. Lighting limited to maximum 16' pole height; fixtures to be full cutoff. 6. Minimum setback at rear: 25'. 7. Cross-access offered to east and west. 8. Street access easement to be filed for property to south. 9. Transition protective yard to be installed along rear of property within 75 days of zoning approval. 10. Recombination plat of rezoned property to be filed within 75 days of rezoning approval.

Issues and Impacts

Outstanding Issues	*None.*	*Suggested Conditions*	*None.*
Impacts Identified	*None.*	*Proposed Mitigation*	*Not applicable.*

Public Meetings

Neighborhood Meeting	*Public Hearing*	*Committee*	*Planning Commission*
6/13/11	10/18/11		11/8/11: Deferred; 11/22/11: Recommended Approval

☐ ***Valid Statutory Protest Petition***

Attachments
1. Staff report
2. Existing Zoning/ Vicinity Map
3. Future Land Use Map

Planning Commission Recommendation

Recommendation	The Planning Commission finds that the proposed rezoning is inconsistent with the Comprehensive Plan. However, based on the findings and reasons stated herein, it recommends that the request be approved in accordance with zoning conditions dated November 23, 2011.
Findings & Reasons	(1) The request is inconsistent with the Comprehensive Plan. The plan designates the site as being appropriate for Office/ Research & Development use; the proposal is intended to allow expanded retail use. However, the request would also permit future office uses, while (consistent with the future land use designation) prohibiting residential development. (2) The request is compatible with surrounding land uses and development patterns. The existing business is long established. Case conditions go beyond Code to limit potential impacts on neighboring low-density properties. Offers of cross-access could reduce traffic impacts. (3) The request is reasonable and in the public interest. The proposal supports local business in eliminating the current split zoning on the tract. Conditions set a timetable for protective yard planting.
Motion and Vote	Motion: Sterling Lewis Second: Fleming In Favor: Butler, Batchelor, Buxton, Fleming, Haq, Mattox, Schuster and Sterling Lewis

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.

_____	_____11/22/11_
Planning Director Date	Planning Commission Chairperson Date

Staff Coordinator: Doug Hill; Doug.Hill@raleighnc.gov

Zoning Staff Report – Z-19-11

Conditional Use District

Request

Location	Falls of Neuse Rd., south side, east of its intersection with Honeycutt Rd.
Request	Rezone property from Neighborhood Business and Residential-4 to Neighborhood Business Conditional Use District
Area of Request	0.91 acre
Property Owner	Son Enterprise, Inc.
PC Recommendation Deadline	January 16, 2012

Subject Property

	Current	***Proposed***
Zoning	NB/ R-4 (split)	NB CUD
Additional Overlay	n/a	n/a
Land Use	Eating establishment/ bar	Eating establishment/ bar
Residential Density	NB (0.46 a.) = 10 units/ acre R-4 (0.45 a.) = 4 units/ acre Site max. 5 units	None (per conditions)

Surrounding Area

	North	***South***	***East***	***West***
Zoning	NB CUD; O&I-2 CUD	R-4	O&I-1 CUD	O&I-1 CUD
Future Land Use	Neighborhood Retail Mixed Use	Office/ Research and Development	Office/ Research and Development	Office/ Research and Development
Current Land Use	Shopping center; office building	Vacant	Office building	Office building

Comprehensive Plan Guidance

Future Land Use	Office/ Research and Development
Area Plan	I-540/ Falls of Neuse
Applicable Policies	Policy LU 1.3 Conditional Use District Consistency Policy LU 4.5 Connectivity Policy LU 5.6 Buffering Requirements Policy LU 10.6 Retail Nodes Policy AP-540F 1 Development Character on Falls of Neuse Road

	Policy AP-540F 4 Falls of Neuse Low Intensity Appearance Policy AP-540F 6 Falls of Neuse Access Spacing

Contact Information

Staff	Doug Hill: Doug.Hill@raleighnc.gov
Applicant	Charles George: cgeorge@wyrick.com
Citizens Advisory Council	North: Will Owen: will.s.owen@gmail.com

Case Overview

The subject site has been in commercial use as a restaurant/ bar for many years. The current Neighborhood Business portion has been so zoned since 1981, prior to its being annexed by the City. The present split zoning seems attributable to a leg of the R-4 property adjacent to the west being combined at some point with the NB portion of the subject site. It is unclear why the full subject property was not rezoned at that point of recombination.

Prior to the widening of the adjacent section of Falls of Neuse Road in 2001, the frontage of the subject site featured a full bay of head-out parking along the thoroughfare. Those spaces were lost to the road widening. Parking was subsequently expanded behind the building into the R-4 area; however, parking lots are not a permitted use in R-4 zoning.

The request seeks to bring the entire tract under NB CUD zoning, allowing the parking on the back portion of the site to become a conforming use. Additionally, conditions are provided which would help guide future redevelopment of the existing NB CUD portion beyond what Code would require.

Exhibit C & D Analysis

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

1.1 Future Land Use

The proposal is partially inconsistent with the Future Land Use Map, which designates this site for Office/ Research and Development, defined in the Plan as applying to “major employment centers where housing is not considered an appropriate future land use. Principal uses are office parks, free-standing office buildings or corporate headquarters, banks, research and development uses, hotels, and ancillary service businesses and retail uses that support the office economy,” adding “Most of these areas are currently zoned O&I-1, O&I-2, O&I-3, or Thoroughfare District (TD).” The front part of the lot is zoned commercial; the current and foreseeable use is restaurant/ bar. Commensurate with the Office/ Research and Development designation, however, case conditions preclude residential redevelopment on the site; current zoning does not.

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 proposal is consistent in part with the policies of the Comprehensive Plan; details are noted below.

Policy LU 4.5 - Connectivity
New development and redevelopment should provide pedestrian and vehicular connectivity between individual development sites to provide alternative means of access along corridors.

The proposal is consistent with this policy. The proposal is conditioned to offer cross-access to the adjacent properties to the east and west within 75 days of the rezoning approval. A permanent access easement is conditioned across the property, between the property to the south and Falls of Neuse Road.

Policy LU 5.6 - Buffering Requirements
New development adjacent to areas of lower intensity should provide effective physical buffers to avoid adverse effects. Buffers may include larger setbacks, landscaped or forested strips, transition zones, fencing, screening, height and/or density step downs, and other architectural and site planning measures that avoid potential conflicts.

The proposal is consistent with this policy. Case conditions provide a minimum 25-foot setback at the rear; an even wider setback is conditioned for refuse containers. Building height and square footage are capped. Light pole height is limited, and fixtures are conditioned to be full-cutoff. Plantings meeting transitional protective yard requirements are to be installed on the subject property within 75 days following rezoning approval.

Policy LU 10.6 - Retail Nodes
Retail uses should concentrate in mixed-use centers and should not spread along thoroughfares in a linear "strip" pattern unless ancillary to office or high-density residential use.

The proposal is inconsistent with this policy. Although Neighborhood Business zoning has been in place on the front portion of the site for more than 30 years, removing the split zoning would extend the present Future Land Use Map inconsistency across the entire site. The subject site abuts low-density residential development on the south. There are no other retail uses on the south side of Falls of Neuse Road for 1,400 feet, and the existing zoning on adjacent properties precludes such uses. On the north side of the road, however, numerous properties are zoned for retail uses, among them the Lafayette Village shopping center. The Future Land Use Map projects Falls of Neuse Road as the dividing line for permitting retail, in designating the north-side properties “Neighborhood Retail Mixed Use”.

1.3 Area Plan Guidance

Additional policies for guiding site development are provided by the I-540/ Falls of Neuse Area Plan. The plan pertains to properties fronting the Falls of Neuse Road

corridor between the Strickland Road/ Falls of Neuse Road retail area (Bent Tree) and Durant Road/ Falls of Neuse Road retail area (Falls Pointe).

Policy AP-540F 1 - Development Character on Falls of Neuse Road
Development along Falls of 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.

Policy AP-540F 4 - Falls of Neuse Low Intensity Appearance
Non-residential frontage lots outside of mixed-use and retail centers along Falls of Neuse Road should have a low intensity appearance accomplished through landscaping, combining lots, building design, and shared access.

The proposal is consistent with these two policies. Building square footage and height are capped, site lighting height and type limited, and offers of cross-access made.

Policy AP-540F 6 - Falls of Neuse Access Spacing
Direct access points onto Falls of Neuse Road should be no closer than 400 feet apart except where existing topographic conditions require an exception to the 400 feet rule. Cross access and shared parking should be used whenever possible.

The proposal is inconsistent with this policy. The property's street frontage is approximately 190 feet. Case conditions would permit up to two access points to the property. While the provision reflects existing site access, the driveways date from the site's initial development, when Falls of Neuse Road was two lanes wide.

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

The proposal seeks to use the rear (south) portion of the property as a parking area. Adjoining office properties along Falls of Neuse Road locate the majority of their parking to the sides of the respective buildings, but that to the west does have some parking at the rear, and the corner property to the east has parking between the building and either street frontage. While rezoning would permit future expansion of the existing use (or a limited number of other retail uses), restrictions on building size offer some assurance of scale.

3. Public benefits of the proposed rezoning

The proposal would apply the same zoning district to the entire site, in the process permitting the back portion to be used for the parking lost to the road widening nearly 10 years ago. Adding associated stacking space internal to the site may help prevent traffic back-up along the road due to northbound vehicles turning into the property.

4. Detriments of the proposed rezoning

Existing development patterns and nearby uses make it likely most site patrons will drive to the site. Rezoning makes future development of the vacant, landlocked residential parcel on the south more doubtful. While the current building displays a scale, orientation, and site placement compatible with adjacent neighborhoods (more so than

some recent development along the thoroughfare), conditions do not address future building orientation, roof form, fenestration patterns, or site design.

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

5.1 Transportation

Primary Street(s)	**Classification**	**2009 NCDOT Traffic Volume (ADT)**	**2035 Traffic Volume Forecast (CAMPO)**			
Falls of Neuse Road	Secondary Arterial	32,000	35,000			
Street Conditions						
Falls of Neuse Road	**Lanes**	**Street Width**	**Curb and Gutter**	**Right-of-Way**	**Sidewalks**	**Bicycle Accommodations**
Existing	5	63'	Back-to-back curb and gutter section	110'	8' MUP on south side; 5' sidewalk on north side	None
City Standard	6	89'	Back-to-back curb and gutter section	110'	minimum 5' sidewalks on both sides	Striped bicycle lanes on both sides
Meets City Standard?	**NO**	**NO**	**YES**	**YES**	**YES**	**NO**
Expected Traffic Generation [vph]	Current Zoning	Proposed Zoning	Differential			
AM PEAK	11	25	**14**			
PM PEAK	1	50	**49**			
Suggested Conditions/ Impact Mitigation:	Traffic Study Determination: Staff has reviewed a trip generation differential for this case. Staff has determined that the expected increase in AM & PM peak period trips is less than 50 vehicles/ hour. A traffic impact analysis study is not recommended for Z-19-11. The applicant may wish to add a condition stating that offers of cross-access will be provided to the property to the landlocked parcel to the south.					
Additional Information:	Neither NCDOT nor the City of Raleigh have any roadway construction projects scheduled in the vicinity of this case.					

Impact Identified: No impacts on the City's transportation services are expected from this rezoning.

5.2 Transit

No comments.

Impact Identified: No impacts on the City's transit services are expected from this rezoning.

5.3 Hydrology

Floodplain	NO FEMA Floodplain present
Drainage Basin	Perry
Stormwater Management	Subject to Part 10, Chapter 9
Overlay District	none

Impact Identified: No adverse impacts regarding stormwater are expected from this rezoning.

5.4 Public Utilities

	Maximum Demand (current)	***Maximum Demand (proposed)***
Water	5,687 gpd	5,687 gpd
Waste Water	5,687 gpd	5,687 gpd

Impact Identified: The proposed rezoning would not impact the wastewater or water treatment systems of the City. Sanitary sewer and water mains are adjacent to the property.

5.5 Parks and Recreation

The subject property is not adjacent to a designated greenway corridor. The subject tract is not located with in a park search area.

Impact Identified: No impacts on the City's park resources are expected as a result of this rezoning.

5.6 Urban Forestry

Tree conservation will not be required for the subject property referenced in this application. The site is less than two acres, with non-residential zoning, but with no groups of trees adjacent to a thoroughfare.

Impact Identified: No impacts on the City's forestry resources are anticipated as a result of this rezoning.

5.7 Wake County Public Schools

Under the existing split zoning, a maximum of 5 dwelling units can be constructed on the site. The proposed zoning would preclude residential development.

Impact Identified: The requested rezoning would result in there being fewer school-age residents of the site than would be possible under the present zoning.

5.8 Designated Historic Resources

There are no National Register properties or Raleigh Historic Landmarks on or within 1,000 feet of the property.

Impact Identified: The proposed rezoning would not impact the City's historic resources.

5.9 Impacts Summary

(None identified.)

5.10 Mitigation of Impacts

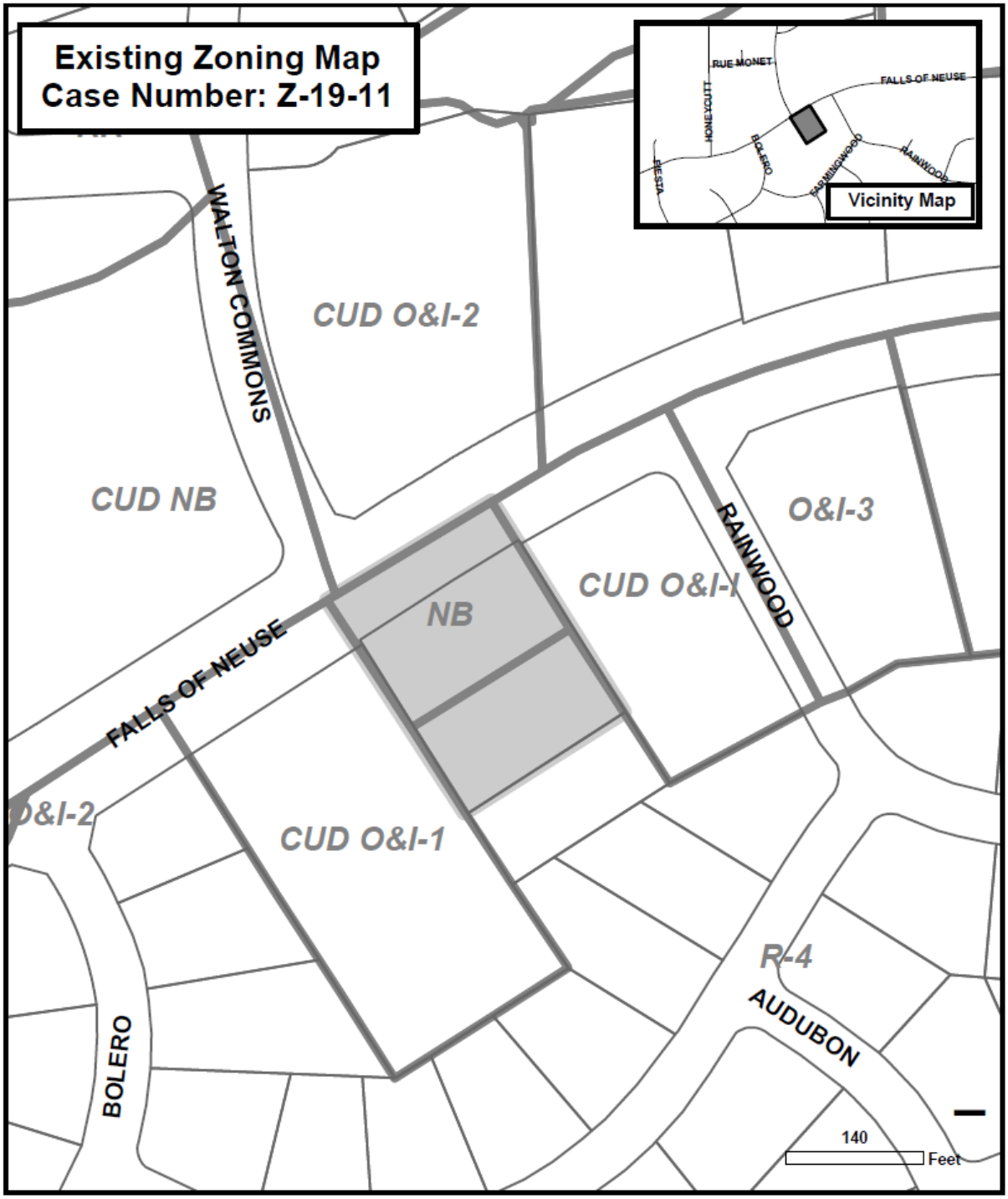
(Not applicable.)

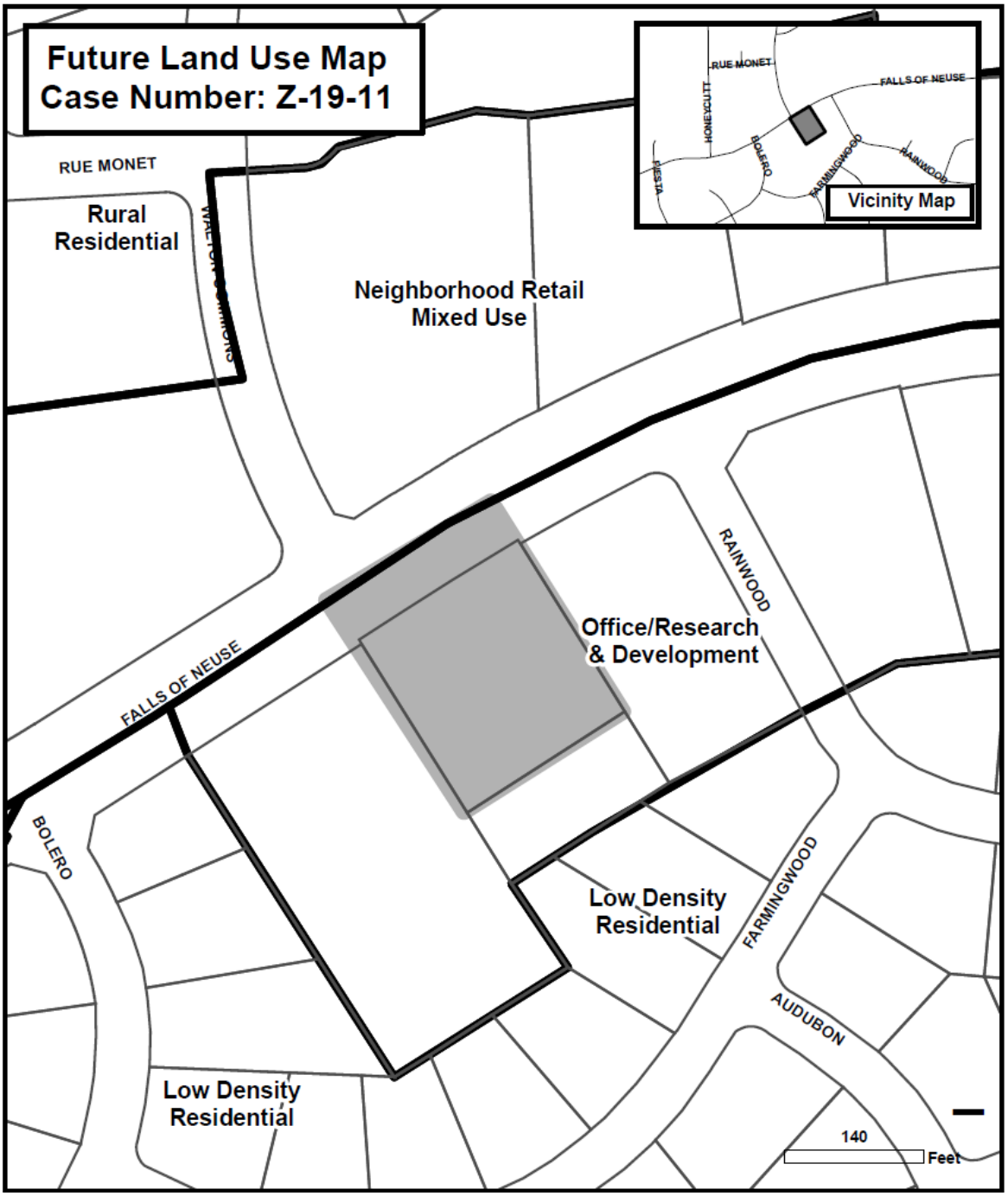
6. Appearance Commission

This proposal is not subject to Appearance Commission review.

7. Conclusions

The proposed rezoning is inconsistent with the Future Land Use Map, which designates the site for Office/ Research and Development uses. However, the front portion of the site has been in retail use since before its annexation some 30 years ago. Rezoning would eliminate the current split zoning on the site, allowing the present parking area behind the building to become a conforming use. The case conditions could provide improved compatibility of redevelopment beyond current Code requirements. Cross-access will be offered to all adjacent properties.


Existing Zoning Map
Case Number: Z-19-11
RUE MONET
FALLS OF NEUSE
HONEYCUTT
BOLERO
FARMINGWOOD
RAINWOOD
FIESTA
Vicinity Map
WALTON COMMONS
CUD O&I-2
CUD NB
O&I-3
RAINWOOD
CUD O&I-I
NB
FALLS OF NEUSE
O&I-2
CUD O&I-1
R-4
AUDUBON
BOLERO
140
Feet


Future Land Use Map
Case Number: Z-19-11
RUE MONET
Rural Residential
WALTON SUMMONS
Neighborhood Retail Mixed Use
Office/Research & Development
RAINWOOD
FALLS OF NEUSE
BOLERO
Low Density Residential
FARMINGWOOD
AUDUBON
Low Density Residential
140
Feet
Vicinity Map
RUE MONET
FALLS OF NEUSE
HONEYCUTT
BOLERO
FARMINGWOOD
RAINWOOD
FIESTA

Z-19-11 pd by ck# 135292 $1064.00

CITY OF RALEIGH
CITY PLANNING DEPT.
2011 JUN 17 AM 7:59

Petition to Amend the Official Zoning Map

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

The following items are required with the submittal of rezoning petition. For additional information on these submittal requirements, see the *Filing Instructions* addendum.

Rezoning Application Submittal Package Checklist

☐ **Completed Rezoning Application which includes the following sections:**

- ☑ **Signatory Page**
- ☑ **Exhibit B**
- ☑ **Exhibit C (only for Conditional Use filing)**
- ☑ **Exhibit D**
- ☑ **Map showing adjacent property owner names with PIN's**

☑ **Application Fee**

- ☐ **$532 for General Use Cases**
- ☑ **$1064 for Conditional Use Cases**
- ☐ **$2659 for PDD Master Plans**

☑ **Neighborhood Meeting Report (only for Conditional Use filing)**

☑ **Receipt/ Verification for Meeting Notification Mail out**

☑ **Traffic Impact Generation Report OR written waiver of trip generation from Raleigh Transportation Services Division**

☐ **(General Use ONLY) if applicant is not the petitioner must provide proof of notification to the adjacent property owners per G.S. 160A-384**

Z-19-11

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:

   a. to lessen congestion in the streets;
   b. to provide adequate light and air;
   c. to prevent the overcrowding of land;
   d. to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements;
   e. to regulate in accordance with a comprehensive plan;
   f. to avoid spot zoning; and
   g. 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. All property owners must sign below for conditional use requests.

ALL CONDITIONAL PAGES MUST BE SIGNED BY ALL PROPERTY OWNERS

Signature(s)	Print Name	Date
Brandon Futch	Son Enterprise, Inc. by Brandon Futch	6-16-2011

Z-19-11

EXHIBIT B. Request for Zoning Change

Please use this form only – form may be photocopied. Please type or print. See instructions in *Filing Addendum*

Contact Information

	Name(s)	Address	Telephone/Email
Petitioner(s)	Son Enterprise, Inc.	P.O. Box 673 Selma, NC 27576	919-390-5472
(for conditional use requests, petitioners must own petitioned property)			
Property Owner(s)	(See above)	(See above)	(See above)
Contact Person(s)	Charles George, Attorney WYRICK ROBBINS YATES & PONTON LLP	4101 Lake Boone Trail, Suite 300 Raleigh, NC 27607	919-781-4000 cgeorge@wyrick.com

Property Description (Wake County PIN)	**178205794**
Nearest Major Intersection	Falls of Neuse / Strickland Road
Area of Subject Property (in acres)	91 acres
Current Zoning Districts (include all overlay districts)	NB/R-4
Requested Zoning Districts (include all overlay districts)	NB - CUD

Property information

Z-19-11

EXHIBIT B. Request for Zoning Change

Please use this form only -- form may be photocopied. Please type or print. See instructions in *Filing Addendum*

The following are all of the persons, firms, property owners, associations, corporations, entities or governments owning property adjacent to and within one hundred feet (excluding right-of-way) of the property sought to be rezoned. Please include Wake County PINs 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. If you need additional space, please copy this form.

Name	Street Address	City/State/Zip	Wake Co. PIN
James M. and Robin L. Powers	8308 Falls of Neuse Road	Raleigh, NC 27615	1718206671
8320 Falls of Neuse Condo	8320 Falls of Neuse Road	Raleigh, NC 27615	1718207870
8300 Falls Office Condominium	8300 Falls of Neuse Road	Raleigh, NC 27615	1718204612
Thomas L. and Joanne M. Palmer	8001 Farmingwood Lane	Raleigh, NC 27615	1718207583
Ellender Mills	8005 Farmingwood Lane	Raleigh, NC 27615	1718208670
Stephen & Lynn Hart	7925 Farmingwood Lane	Raleigh, NC 27615	1718207435

Z-19-11
AMENDED - 11/23/11
PG. 1 OF 2

EXHIBIT C. Request for Zoning Change

Please use this form only – form may be photocopied. Please type or print. See instructions in *Filing Addendum*

Conditional Use District requested: _____

Narrative of conditions being requested:

1. The following uses are excluded:
   - a. Single family detached dwelling unit
   - b. Rest home
   - c. Multifamily dwelling development
   - d. Fraternity House
   - e. Sorority House
   - f. Congregate Care Structure or congregate living structure
   - g. Group housing
   - h. Life care community
   - i. Residential townhouse development
   - j. Residential condominium development
   - k. Utility apartment
   - l. Transitional housing
   - m. Hotel/Motel
   - n. Hospital
   - o. Car Wash
   - p. Adult Establishment
   - q. Governmental Water and Sewage Treatment Plant
   - r. Utility Services and Substation
   - s. Telecommunications Tower
   - t. Movie Theater (indoor or outdoor)
   - u. Kennel/Cattery
   - v. Veterinary Hospital
   - w. Funeral Home
   - x. Cemetery
   - y. Rifle range (indoor or outdoor)
   - z. Schools
   - aa. Orphanage
   - bb. Special care facility
   - cc. Correctional penal facility
   - dd. Crematory
   - ee. Riding Stable
   - ff. Reservoir and water control structures
   - gg. Landfill
   - hh. Heliport
   - ii. Taxicab dispatch stand
   - jj. Power plant
   - kk. Water or Sanitary sewer treatment plant
   - ll. Substation
   - mm. Parking Deck (2 floors or more)
   - nn. Duplex
   - oo. Shopping center

CITY OF RALEIGH
CITY PLANNING DEPT
2011 NOV 23 PM 2:21

I acknowledge that these restrictions and conditions are offered voluntarily and with knowledge of the guidelines stated in the *Filing Addendum*. If additional space is needed, this form may be copied. Each page must be signed by **all property owners.**

ALL CONDITIONAL PAGES MUST BE SIGNED BY ALL PROPERTY OWNERS

Signature(s)	Print Name	Date
Brandon Futch	Son Enterprise, Inc. by Brandon Futch	11-23-11

EXHIBIT C. Request for Zoning Change

Please use this form only – form may be photocopied. Please type or print. See instructions in *Filing Addendum*

2. Construction shall be limited to two stories with a square footage of no more than 11,000 square feet and a building height no higher than 30 feet.
3. All exterior refuse containers shall not be within 30 feet of (PB 14102, P 2442; Wake County P.I.N. # 1718206671)
4. Vehicular access to Falls of Neuse Road will be limited to no more than two access points, with no access to other roads.
5. Free standing light poles shall not have lights affixed that exceed 16 feet (16') in height. The light fixtures shall be of full cutoff design.
6. Minimum Setback on Rear Yard (PB 14102, P 2442; Wake County P.I.N. # 1718206671) – 25 feet.
7. Within 75 days following adoption of the rezoning ordinance, offers of pedestrian and vehicular cross-access will be made to properties to the East (PB 8484, P 2368; Wake County P.I.N. # 1718207870) and West (PB 11089 P 2057; Wake County P.I.N.# 1718204612).
8. A permanent easement shall be filed within 75 days following adoption of the rezoning ordinance allowing access to Falls of Neuse Road for the property to the South (PB 14102, P 2442; Wake County P.I.N. # 1718206671)
9. That a transitional protective yard, meeting the requirement of the City Code be installed along the rear of the rezoned land within 75 days following adoption of the zoning ordinance.
10. For clarification purposes only, and at the request of the City of Raleigh, a recombination plat of the rezoned property reflecting it to be one parcel of land shall be recorded within 75 days following adoption of the rezoning ordinance.

I acknowledge that these restrictions and conditions are offered voluntarily and with knowledge of the guidelines stated in the *Filing Addendum*. If additional space is needed, this form may be copied. Each page must be signed by all property owners.

ALL CONDITIONAL PAGES MUST BE SIGNED BY ALL PROPERTY OWNERS

Signature(s)	Print Name	Date
Brandon Futch	Son Enterprise, Inc. by Brandon Futch	

Z-19-11

EXHIBIT D. Petitioner's Statement on Behalf of Zoning Change

Please use this form only – form may be photocopied. Please type or print. See instructions in *Filing Addendum*

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).

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:

Office/Research & Development is recommended per Future Land Use Map. Specifically, states that "housing is not considered an appropriate future land use." Therefore, the change of a portion of the land owned by Son Enterprises at 8304 Falls of Neuse Road ("8304") away from R-4, where housing would be the only appropriate use of 8304, to NB, where housing, while permitted under NB is not the typical, or in this case intended use, is consistent with the Future Land Use Map. The conditions submitted herein would prohibit residential uses, and thus is consistent with the Future Land Use Map indicating that housing is not appropriate. (It should be noted for purposes of this application that certain City and County records treat all of the 8304 property as it is one contiguous parcel. For the reasons set forth herein, the Petitioner contends that it is actually two separate parcels. At times the Petitioner refers to the "front part" and "back part" of the 8304 property, but such references are designed only to be consistent with the City and County records, but such references do not intend to imply that there are not two distinct parcels as discussed further below.) The neighboring properties the same distance from Falls of Neuse Road are currently zoned O+I-1. Proposed use if rezoning allowed would include current use –a restaurant/bar that could possibly qualify as an "ancillary service [business] . . . that support[s] the office economy" as allowed under Office/Research & Development. Even if it did not qualify as an ancillary service business, the proposed use, with conditions would be more consistent with the O+I-1 zoning of the two neighboring properties the same distance from Falls of Neuse Road than it would be if the back part of the 8304 land was designated as R-4.

Z-19-11

EXHIBIT D. Petitioner's Statement on Behalf of Zoning Change

Please use this form only – form may be photocopied. Please type or print. See instructions in *Filing Addendum*

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 subject properties are not located within any Area Plan or other City Council-adopted plans policies.

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").

It is overall consistent with the Comprehensive Plan.

LU 2.1 Placemaking
The proposed amendment would allow increased parking and make current ingress and egress to the subject properties safer as cars would not be backed up on Falls of Neuse Road. See Traffic Impact Generation Report filed contemporaneously herein.

LU 7.3 Single-Family Lots on Thoroughfares.
Proposed amended would remove R-4 designation from properties and eliminate direct vehicular access from Falls of Neuse Road for properties zoned residential, consistent with policy of LU 7.3.

LU 7.5 High-Impact Commercial Uses.
While goal of this policy is to limit proliferation of late night alcoholic beverage establishments, proposed map amendment would not increase current use but would simply allow for better parking.

LU 8.5 Conservation of Single-Family Neighborhoods.
While policy is designed to protect single family neighborhoods, the 8304 property is already NB and the back part currently zoned as R-4 would not be used for single family housing. The subject property is already flanked on each side by properties not being used or zoned for single family housing and thus the subject properties are not part of a "neighborhood."

LU 8.7 Flag Lots.
Policy discourages use of lots with little or no street frontage. If 8304 property is considered to be two lots as contended by Petitioner and the back part remained R-4, the back part/lot would essentially be a "Flag Lot."

LU 8.11 Development of Vacant Sites.
Policy is designed to facilitate development of vacant lots that have historically been hard to develop due to infrastructure or access problems. While some parking spaces have been made created on the back part of the 8304 property, and the current zoning petition has been filed at the suggestion/request of City officials, if the back part of the 8304 was deeded to a third party, there would potentially be an access problem. Additionally, most of the back part of the 8304 property is currently undeveloped. The proposed amendment would make development possible.

Z-19-11

EXHIBIT D. Petitioner's Statement on Behalf of Zoning Change

Please use this form only – form may be photocopied. Please type or print. See instructions in *Filing Addendum*

T 6.1 Surface Parking Alternatives.
While proposed amendment is not consistent with this policy, the small area of land at issue is inconsistent with development of parking structures or underground parking.

T 6.3 Parking as a Buffer.
Proposed amendment would minimize parking between sidewalk areas and building fronts on side streets. See Traffic Impact Generation Report filed contemporaneously herein.

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 front part of the 8304 property already houses an operational restaurant/bar. It also contains a small parking lot. The property located at 8308 Falls of Neuse Road ("8308") is immediately behind the back part of the 8304 property, and is currently vacant land. Buildings on land immediately to east and west of subject properties are office condominium buildings with parking facilities. Land behind 8308 property is used for single-family residences.

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

The front part of the 8304 property is already zoned "NB" and thus proposed amendment would be consistent with that zoning designation. The land immediately to the east and west of the subject properties is O+I-1, and thus the proposed amendment would be more consistent with this use than the current R-4. The 8308 property and the property behind the 8308 property are residential (R-4). There are no overlay districts. The conditions offered herein with regard to building heights are similar to conditions on properties immediately to east and west of subject property.

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:

Proposed amendment would allow property that is contiguous to be used for same purpose and zoned the same. No change to character of surrounding area would result from proposed amendment.

III. Benefits and detriments of the proposed map amendment.

A. For the landowner(s):

The 8304 property would benefit from having one zoning classification throughout property. City of Raleigh officials have requested that rezoning application be filed in order for current

2-19-11

use on portion of 8304 Property zoned as R-4 to be compliant with zoning regulations. If the back part of 8304 Property, which is currently zoned as R-4, remains zoned as R-4, it destroys value of property for a potential sale in the future as land's location relative to Falls of Neuse Road makes it unsuitable for any residential purpose, despite R-4 designation.

B. For the immediate neighbors:

Neighbors to left and right would benefit as proposed amendment would allow easier ingress and egress into parking lot, thus preventing traffic back-ups in front of their property. Additional parking that could be added after amendment would lessen use of their parking facilities in the evening. Landowners behind subject property would be closer to cars on parking lot of existing restaurant/bar at night. Transitional protective yard proposed would lessen parking of cars closer to such landowners.

C. For the surrounding community:

Other than the traffic/parking benefit to immediate neighbors, there is no significant benefit or detriment to surrounding community.

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

No. Rather, the rezoning would provide a benefit to the subject property that would allow the property to have the benefit enjoyed by the surrounding properties – a consistent zoning classification for the entire land that makes up the 8304 Property– and thus a use more consistent with neighbors' properties on Falls of Neuse Road whose land is not subject to two separate zoning classifications.

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

The subject Property 8304 has had a restaurant/bar operating on it for a number of years. The parking lot has been expanded into the back part of the property zoned R-4. There is no legitimate reason for the property that the City of Raleigh considers to be one piece of property to have two separate zoning classifications. The location at Falls of Neuse Road is more consistent with an NB zoning designation than an R-4 designation. Wake County and the City of Raleigh have treated the entire 8304 property as commercial for tax purposes despite the fact that no commercial uses would be allowed under R-4 designation. The public interest is served by cars not backing up on Falls of Neuse Road as they seek to enter the subject properties.

Z-19-11

FILING ADDENDUM: Instructions for filing a petition to amend the official Zoning Map of the City of Raleigh, North Carolina

V. Recommended items of discussion (where applicable).

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

The City of Raleigh widened Falls of Neuse Road in 2001. It appeared that it did so pursuant to a map that misidentified the extent of the 8304 property, a map which assumed that the back part of the 8304 property was still part of property located at 8300 Falls of Neuse Road bearing PIN # 1718204612 ("8300"), which is consistent with a map filed in 1982. (See Appendix 1 and Appendix 2.) The 8300 property was zoned R-4 previously, and thus that designation presumably followed the back part of the 8304 property, even though the entire 8304 property had been conveyed in two separate tranches prior to the 1987 zoning ordinance. (See Appendix 3 and Appendix 4) (Petitioner understands that in 2002, the 8300 property owner sought rezoning to O+I-1 from R-4, which was allowed. Because the back part of the 8304 property was not owned by the 8300 owner at the time of his rezoning request, the back part of the 8304 property was not rezoned O+I-1, but remained R-4.) It appears, but is admittedly not clear, that despite the transfer of the back half of the R-4 property in 1984 (See Appendix 4) that the City zoned the back half of the 8304 property R-4 under the mistaken impression that it was still part of the 8300 property. (Appendix 5 shows the 8304 property being deeded with a reference to two parcels.) Presumably, if the City Council had understood that the back half of the 8304 property was not part of the 8300 property it would not necessarily have zoned it the same way. Petitioner believes that due to the City not understanding that the current 8304 property was actually conveyed previously as two separate parcels, that it only zoned the front part of the 8304 parcel NB and not the back part. If this is correct, it was an error by the City Council. If not, there are nevertheless changed circumstances that warrant property that the City has continuously taxed as if it was entirely NB be treated as NB. Further, given that the properties to the left and right of the subject properties extend as far back as the 8308 property, there would be no legitimate reason to make the back half of 8304 be zoned residential while the properties on both sides of them on Falls of Neuse Road are not R-4, yet back up even closer to properties zoned only for residential purposes.

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.

See a. above.

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

Although not part of this application, it is possible that at a later date the 8308 property would need to be zoned NB as well since it would be landlocked and for some of the reasons set forth above would be inconsistent with the Comprehensive Plan if left as R-4.

FILING ADDENDUM: Instructions for filing a petition to amend the official Zoning Map of the City of Raleigh, North Carolina

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

None, except possibly topography, as the intended use of the back part would be for a parking lot. The back part is less than ½ acre, and thus paving of that lot, or any other permitted use under NB would not have significant effect on the topography as a whole.

e. <u>How the rezoning advances the fundamental purposes of zoning as set forth in the N.C. enabling legislation.</u>

Pursuant to N.C. Gen. Stat. Sec. 160A-383, the zoning regulations are designed to promote the public health, safety and general welfare. Public purposes include lessening congestion in the streets. The regulations are also designed to "encourage the most appropriate use of land through [the] city." The change in designation of the subject properties will allow greater parking at the restaurant/bar on the subject property which will decrease the potential congestion on Falls of Neuse Road, and thus promote public safety. Additionally, the proposed amendment would allow the appropriate use of the land as the 8304 property should not have two separate zoning classifications.

VI. <u>Other arguments on behalf of the map amendment requested.</u>

The rezoning application is being filed at the request of City officials who indicated that if the 8304 property was zoned NB (or something other than R-4), the current and past use of the property as well as the proposed future use of the property would not meet with any objection from the City. As indicated above, the City and County have treated both the front half and the back half of the 8304 property as NB for tax purposes. City and County records, regardless of their accuracy, treat the 8304 property as one tract of land and two separate zoning classifications are illogical on property that is less than an acre on Falls of the Neuse Road. Even if the City determined that the 8304 property is made up of two separate parcels, the zoning of the back part/parcel is still more appropriately NB than R-4 given the historical use of the 8304 property and the zoning designation of the neighboring properties on Falls of the Neuse Road.

BKBM2001PG00514

2-19-11

I, THE UNDERSIGNED PLANNING DIRECTOR OF THE CITY OF RALEIGH, AND REVIEW OFFICER FOR WAKE COUNTY, DO HEREBY CERTIFY THAT THIS MAP OR PLAT MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING, AND THAT THE CITY OF RALEIGH HAS PROVIDED BY ITS CITY CODE, ON THE _____ DAY OF _____, 2001, APPROVED THIS PLAT OR MAP AND ACCOMPANYING SHEETS AND ACCEPTED FOR THE CITY OF RALEIGH THE DEDICATIONS AS SHOWN HEREON, BUT ON THE FURTHER CONDITION THAT THE CITY ASSUMES NO RESPONSIBILITY TO OPEN OR MAINTAIN THE SAME UNTIL IN THE DISCRETION AND OPINION OF THE GOVERNING BODY OF THE CITY OF RALEIGH, IT IS IN THE PUBLIC INTERESTS TO DO SO.

PLANNING DIRECTOR / WAKE COUNTY REVIEW OFFICER 03/10/01

THIS PLAT IS NOT TO BE RECORDED AFTER 27TH DAY OF March, 2001. ONE COPY TO BE RETAINED FOR THE CITY.

THIS PLAT IS _____ IN _____ OUT OF THE CITY LIMITS.

NORTH CAROLINA, WAKE COUNTY

I, LLOYD A. KIRK, CERTIFY THAT THIS PLAT WAS PREPARED UNDER MY DIRECT SUPERVISION, THAT THE EXISTING BOUNDARY, RIGHT-OF-WAY, AND EASEMENT DATA SHOWN HEREON WAS COMPILED USING FIELD DATA, DEEDS, AND PLATS REFERENCED HEREON, THAT THE NEW RIGHT-OF-WAY AND EASEMENTS INFORMATION SHOWN HEREON WAS PREPARED UNDER MY DIRECT SUPERVISION, THAT THE NEW RIGHT-OF-WAY LINES SHOWN HEREON WERE FIELD SURVEYED AND MONUMENTED UNDER MY DIRECT SUPERVISION AS INDICATED, THAT THE UNADJUSTED RATIO OF PRECISION AS CALCULATED IS 1:10000, I THAT NEW EASEMENT LINES SHOWN HEREON HAVE BEEN FIELD SURVEYED OR MONUMENTED, THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED. WITNESS MY ORIGINAL SIGNATURE, REGISTRATION NUMBER AND SEAL THIS 6TH DAY OF MARCH, 2001.

LLOYD A. KIRK PLS L-3941

NORTH CAROLINA LAND SURVEYOR SEAL L-3941 LLOYD A. KIRK

VICINITY MAP

NOT TO SCALE

EXISTING RIGHT-OF-WAY

LINE	CHORD BEARING	CHORD	RADIUS	ARC	DELTA
C1	N64°14'39"E	79.26'	352.41'	79.41'	12°54'13"
C2	S71°54'38"E	25.26'	35.00'	25.27'	59°09'56"
C3	S40°04'01"E	118.00'	318.43'	121.42'	24°23'59"
C4	S42°53'35"E	88.76'	369.63'	90.09'	13°57'52"
C5	S28°09'44"E	55.50'	369.63'	55.55'	08°36'16"
C6	N67°10'24"W	35.36'	25.00'	38.27'	87°42'00"
C7	N80°11'58"W	11.20'	984.86'	11.20'	00°39'06"
C8	N59°40'12"E	21.00'	984.86'	21.00'	01°22'58"
C9	N58°18'00"E	12.35'	984.86'	12.35'	00°43'12"

EXISTING RIGHT-OF-WAY

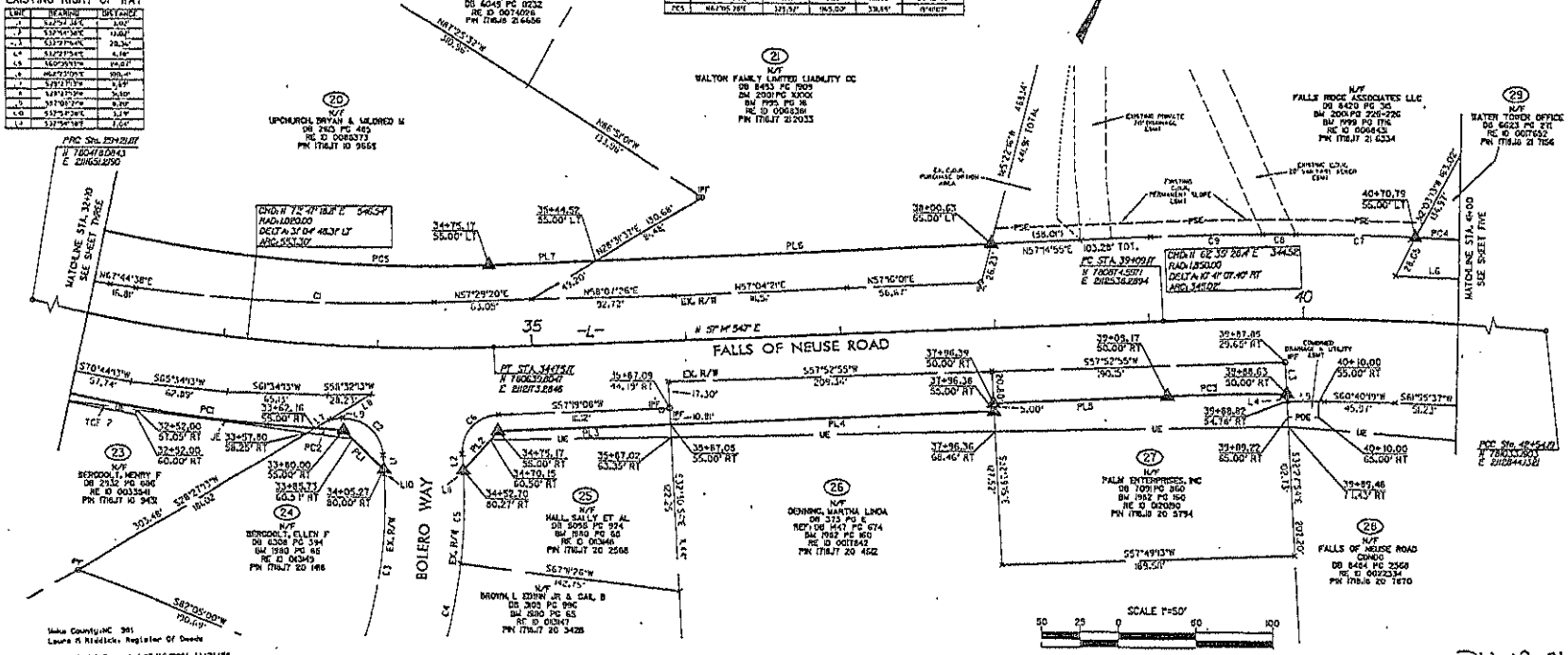
LINE	BEARING	DISTANCE
L1	N62°54'38"E	3.92'
L2	S57°05'22"E	10.00'
L3	S32°05'22"E	28.32'
L4	S32°05'22"E	4.18'
L5	N60°35'51"W	14.27'
L6	N62°32'02"E	195.41'
L7	S28°17'17"W	5.59'
L8	S28°17'17"W	5.50'
L9	S27°05'22"W	9.00'
L10	S32°05'22"W	3.19'
L11	S32°54'38"E	1.62'

PROPOSED RIGHT-OF-WAY

LINE	BEARING	DISTANCE
PL1	S57°57'17"E	96.75'
PL2	S62°20'07"W	14.62'
PL3	S57°57'17"E	4.62'
PL4	S57°57'17"E	209.33'
PL5	S57°57'17"E	17.18'
PL6	N57°57'17"W	25.[illegible]
PL7	N57°57'17"W	65.35'

PROPOSED RIGHT-OF-WAY

LINE	CHORD BEARING	CHORD	RADIUS	ARC	DELTA
PC1	S71°57'17"E	21.21'	15.00'	23.56'	90°00'00"
PC2	S62°57'17"E	18.00'	12.00'	18.00'	85°59'44"
PC3	S57°57'17"E	21.21'	15.00'	23.56'	90°00'00"
PC4	N62°02'43"E	46.39'	40.00'	48.86'	69°40'49"
PC5	N67°05'28"E	121.57'	165.00'	124.44'	43°10'27"



Wake County, NC 391
Laura M Riddick, Register of Deeds
Presented & Recorded 03/16/2001 11:21:50
Book : BK2001 Page : 00514

AREAS REQUIRED (sf)

Lot	Owner	R/W	PSE	PDE	DWE	TCE	TDE	UE	COMBINED
20	UPCHURCH, BRYAN & MILDRED W	12507							
21	WALTON FAMILY LIMITED LIABILITY CO	6776							
23	BERGOOLT, HENRY F	4559				01 612+ (2) 43 (7160)		472	
24	BERGOOLT, ELLEN F	464						103	
25	HALL, SALLY ET AL	1639						796	
26	DENNING, MARTHA LINDA	5643						2283	
27	PALM ENTERPRISES, INC	5798						3807	
28	FALLS OF NEUSE ROAD CONDO							3270	207
29	WATER TOWER OFFICE ASSOCIATES ET AL	4068							

(T) = TOTAL AREA

*AREA SHOown ON OTHER SHEETS

RECORDED IN BOOK OF MAPS 2001 PAGE 514

I, LLOYD A. KIRK, PROFESSIONAL LAND SURVEYOR #L-3941 CERTIFY TO ONE OF MORE OF THE FOLLOWING AS INDICATED:

___ 1. THAT THIS PLAT IS OF A SURVEY THAT CREATES A SUBDIVISION OF LAND WITHIN THE AREA OF COUNTY OR MUNICIPALITY THAT HAS AN ORDINANCE THAT REGULATES PARCELS OF LAND.

___ 2. THAT THIS PLAT IS OF A SURVEY THAT IS LOCATED IN SUCH A PORTION OF A COUNTY OR MUNICIPALITY THAT IS UNREGULATED AS TO AN ORDINANCE THAT REGULATES PARCELS OF LAND.

___ 3. THAT THIS PLAT IS OF A SURVEY OF AN EXISTING PARCEL OF LAND.

X 4. THAT THIS PLAT IS OF A SURVEY OF ANOTHER CATEGORY, SUCH AS THE RECOMBINATION OF EXISTING PARCELS, A COURT ORDERED SURVEY OR OTHER EXCEPTION TO THE DEFINITION OF SUBDIVISION.

___ 5. THAT THE INFORMATION AVAILABLE TO THIS SURVEYOR IS SUCH THAT I AM UNABLE TO MAKE A DETERMINATION TO THE BEST OF MY PROFESSIONAL ABILITY AS TO THE PROVISIONS CONTAINED IN 1 THROUGH 4 ABOVE.

LEGEND

EX. ROW	EX. R/W
NEW ROW	
MON. SKT (.5" REBAR W/ 2.5" AL. CAP)	▲
CALCULATED POINT	X
EX. PERM. SLOPE EASEMENT	PSE
PERM. SLOPE EASEMENT	PSE
TEMP. CONST. EASEMENT	TCE
TEMP. DRAINAGE EASEMENT	TDE
COMPUTED LINES	
PERM. DRAINAGE EASEMENT	PDE
UTILITY EASEMENT	UE
EXISTING UTILITY EASEMENT	EUE
GREENWAY EASEMENT	GWE
WATERLINE EASEMENT	WLE
DRIVEWAY EASEMENT	DWE
CMF: CONCRETE MONUMENT FOUND	IPF: IRON PIPE FOUND
IRF: IRON ROD FOUND	RF: REBAR FOUND

PROJECT NOTES

1. THE PURPOSE OF THIS PLAT IS TO DEPICT EASEMENT AND OR RIGHT-OF-WAY REQUIRED FOR THE CONSTRUCTION OF FALLS OF NEUSE ROAD WIDENING PROJECT AND PROVIDE A BASIS FOR THE CONVEYANCE AND DEDICATION OF SAID EASEMENTS AND RIGHT-OF-WAY.

2. EXISTING PROPERTY LINES NOT DEFINED BY BOUNDARY SURVEY. THE EXISTING (BOUNDARY, RIGHT-OF-WAY AND EASEMENT) INFORMATION WAS COMPILED USING DEED AND PLAT REFERENCES SHOWN HEREON AND EXISTING PROPERTY CORNERS FOUND IN THE FIELD. PROPOSED EASEMENT AND RIGHT-OF-WAY DATA WERE COMBINED WITH EXISTING PROPERTY DATA TO FORM THE BASIS OF AREA COMPUTATIONS SHOWN HEREON.

3. LOT IMPROVEMENTS SUCH AS BUILDINGS, STREETS AND OTHER MAN MADE FEATURES ARE NOT SHOWN.

4. ALL DISTANCES ARE HORIZONTAL GROUND DISTANCES UNLESS OTHERWISE NOTED.

5. THE LOCALIZED COORDINATE SYSTEM USED FOR THIS PROJECT IS BASED ON THE STATE PLANE COORDINATES PUBLISHED BY THE NGS FOR MONUMENT "STONEGATE" WITH NAD 83 STATE PLANE GRID COORDINATES OF NORTHING 752059.8385 (FT) EASTING 2118398.1951. THE AVERAGE COMBINED GRID FACTOR USED ON THIS PROJECT (GROUND TO GRID) IS 0.99992003. THE NC STATE PLANE GRID BEARING LOCALIZED HORIZONTAL GROUND DISTANCE FROM NGS MONUMENT "STONEGATE" TO -L- STATION 43+00.00 IS S 28° 00' 28" W 7016.08 FT.

6. THE COORDINATE COMPUTATION METHOD WAS USED FOR AREA CALCULATIONS SHOWN HEREON.

RW-19-01

RAC033551

CITY OF RALEIGH

MA Engineering Consultants, Inc.
ENGINEERS • PLANNERS • SURVEYORS • DESIGNERS
4600 NEW BERN AVENUE, SUITE 106
RALEIGH, NC 27610
(919) 250-9113 FAX (919) 250-9123

RIGHT OF WAY ACQUISITION MAP FOR
FALLS OF NEUSE ROAD WIDENING
PROJECT NO. 2000-2 CITY OF RALEIGH, WAKE COUNTY, NORTH CAROLINA
TO APPROX. 500' NORTH OF RAMSGATE LANE

TOWNSHIP: NEUSE	COUNTY: WAKE	STATE: NORTH CAROLINA
DATE OF SURVEY: JUNE-JUL 2000		SURVEYED BY: DYL, BWB
LOCATE EXISTING PROPERTY: SEPT-OCT, 2000		
SET RIGHT OF WAY POINTS: JAN. 18 TO JAN. 23, 2001		

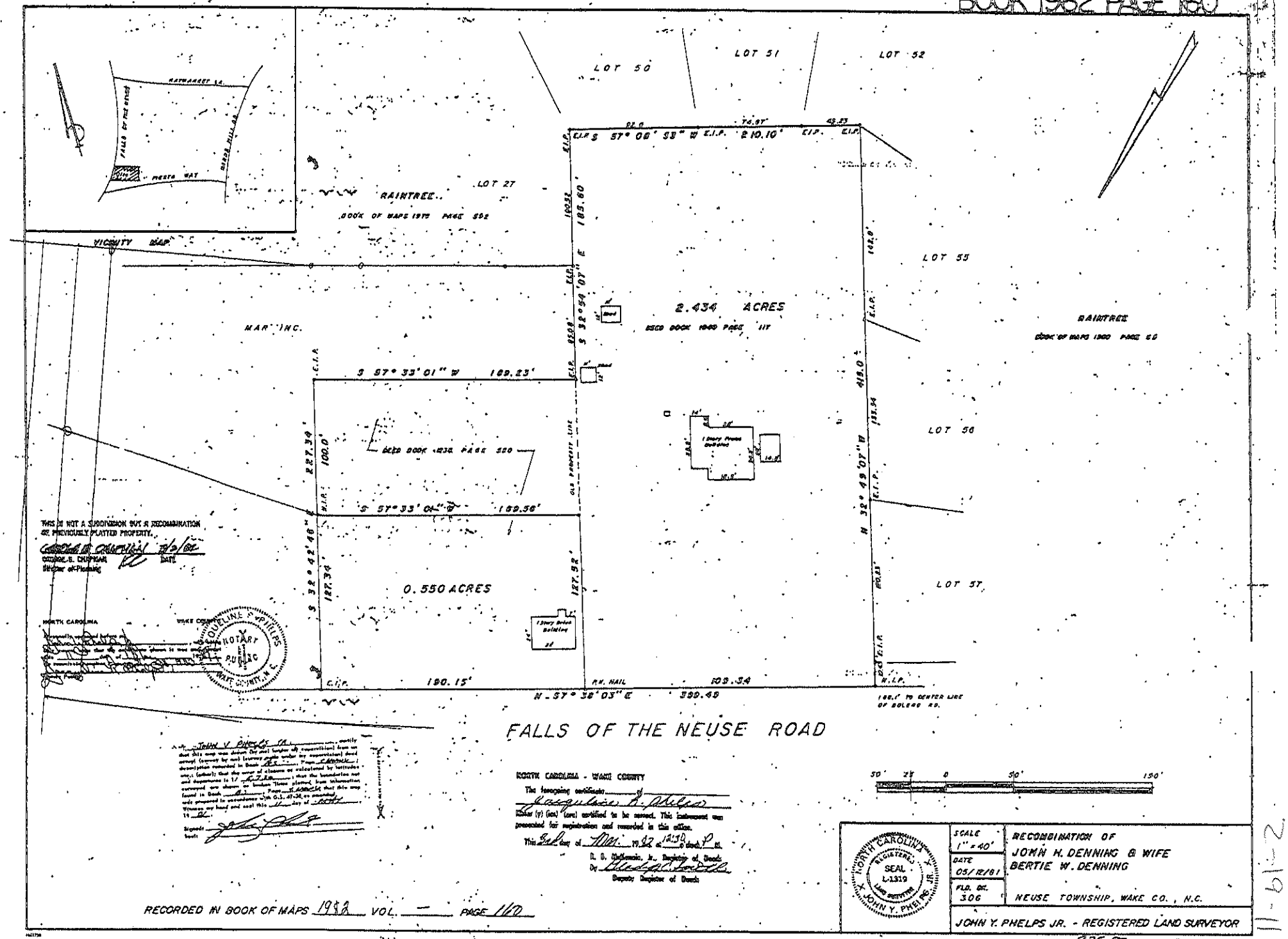
DATE OF MAP: 05 MAR 2001
TECHNICIAN: CDK
CHECKED BY: LAK

REVISIONS

NO.	DATE

SCALE 1" = 50'
MACC PROJ. NO. 694.003
SHEET NO. 4 OF 5
CITY OF RALEIGH

Appendix - 1



RECORDED IN BOOK OF MAPS 1982 VOL. — PAGE 160

R-25-82 948

Appendix - 2

Z-19-11

RAMEY KEMP & ASSOCIATES
TRANSPORTATION ENGINEERS

RAMEY KEMP & ASSOCIATES, INC.
5808 Faringdon Place, Suite 100
Raleigh, NC 27609
Phone - 919-872-5115 Fax - 919-878-5416
www.rameykemp.com

March 18, 2011

Charles George
Wyrick Robbins Yates & Ponton LLP
4101 Lake Boone Trail, Suite 300
Raleigh, NC 27607
P: 919.781.4000
Direct: 919.865.2829
cgeorge@wyrick.com

Subject: **Trip Generation Study for Rezoning**
Comparison of Existing Zoning and Proposed Zoning
Piper's Tavern Site
Raleigh, North Carolina

Dear Mr. George:

This letter provides a comparison of the trip generation for the maximum build out under the existing zoning with the trip generation for the maximum build out under the proposed zoning for the 0.44-acre parcel adjacent to the Piper's Tavern site on the east side of Falls of Neuse Road in Raleigh, North Carolina. Refer to Figure 1 for the property location and parcel identification.

It is our understanding that this parcel is a separate property from the parcel that Piper's Tavern is situated on, although we understand that certain city records indicate the subject parcel is actually part of the parcel upon which Piper's Tavern is situated. The subject parcel is currently zoned R-4 (residential) and is approximately 0.44 acre in size. The parcel directly north includes Piper's Tavern and is 0.55 acre in size and zoned NB (neighborhood business). A third parcel is located south of these properties that is 0.37 acre in size and owned by James and Robin Powers. This letter will discuss the impacts of traffic if the 0.44-acre residential site is rezoned to neighborhood business from R-4.

Existing Zoning Trip Generation

The trip generation volumes for the existing zoning were determined using the ITE Trip Generation manual, 8th Edition. Trip generation volumes were calculated assuming the existing R-4 zoning would allow a maximum of 4 residential units per acre as provided by the City. Since the property is 0.44 acre, only one residential unit could be developed on this vacant parcel. This property is considered as a Single Family Detached Housing classification using the ITE Trip Generation Manual. Refer to Table 1 for the trip generation associated with the existing zoning of the 0.44 acre parcel.

Z-19-11

Proposed Rezoning Trip Generation

The proposed zoning will allow a variety of uses; however, retail space is considered the most intense use for trip generation. The maximum build out of retail space was calculated based on a building ratio of 12,000 square feet/acre as provided by the City. Based on this assumption, the parcel could be developed with a total of 5,280 s.f. of retail space.

Trips were generated based on the Shopping Center classification using the ITE Trip Generation Manual, 8th Edition. Per the ITE Handbook, a pass-by rate of 34% is applied to weekday PM peak hour trips for the shopping center. Refer to Table 1 for the trip generation associated with the proposed zoning of the 0.44 acre parcel.

Table 1
Site Trip Generation Comparison – 0.44 AC Parcel
Existing and Proposed Zoning

Land Use (ITE Code)	Density	Average Daily Traffic (vpd)	AM Peak Hour Trips (vph)		PM Peak Hour Trips (vph)	
			Enter	Exit	Enter	Exit
EXISTING ZONING						
R-4 Single Family Residential (210)	1 unit	**15**	**3**	**8**	**1**	**1**
PROPOSED ZONING						
NB Retail Shopping Center (820)	5,280 sf	1004	17	11	43	45
Pass-By Trips		0	0	0	15	15
Total New Trips		**1004**	**17**	**11**	**28**	**30**
DIFFERENCE		**+989**	**+14**	**+3**	**+27**	**+29**

2-19-11

Potential Rezoning Trip Generation – 0.37 AC Parcel

An additional trip generation comparison is provided for the 0.37 acre parcel owned by James and Robin Powers. The same assumptions were followed as for the 0.44 acre parcel to determine potential build out under existing zoning and proposed zoning. The results of the trip generation comparison for the Powers property is shown in Table 2.

Table 2
Site Trip Generation Comparison – 0.37 AC Parcel
Existing and Proposed Zoning

Land Use (ITE Code)	Density	Average Daily Traffic (vpd)	AM Peak Hour Trips (vph)		PM Peak Hour Trips (vph)	
			Enter	Exit	Enter	Exit
EXISTING ZONING						
R-4 Single Family Residential (210)	1 unit	**15**	**3**	**8**	**1**	**1**
PROPOSED ZONING						
NB Retail Shopping Center (820)	4,440 sf	897	15	10	39	40
Pass-By Trips		0	0	0	14	14
Total New Trips		**897**	**15**	**10**	**25**	**26**
DIFFERENCE		**+882**	**+12**	**+2**	**+24**	**+25**

2-19-11

Conclusions

The trip generation potential for the proposed rezoning would result in a net increase in trip generation for the proposed 0.44 acre parcel. The rezoning would result in a potential net increase in trips of 17 in the AM peak hour and 56 trips in the PM peak hour. The additional potential trips generated by the rezoning are relatively minimal and would not create the need for additional traffic studies.

The rezoning is being requested to allow additional parking spaces to be constructed behind Piper's Tavern. The additional parking spaces would allow a few parking spaces located near the southern driveway on Falls of Neuse Road to be removed, which would improve safety. Currently, vehicles backing from the parking spaces near Falls of Neuse Road occasionally block the driveway and cause entering vehicles to stack into Falls of Neuse Road.

Similarly to the 0.44-acre parcel, if the 0.37-acre Powers property were rezoned, a net increase in trips is possible for the property; however, the additional trips are minimal.

Please let us know if you have any further questions regarding this information.

Sincerely,
RAMEY KEMP & ASSOCIATES, INC.

NORTH CAROLINA PROFESSIONAL SEAL 028926 ENGINEER RYNAL G. STEPHENSON

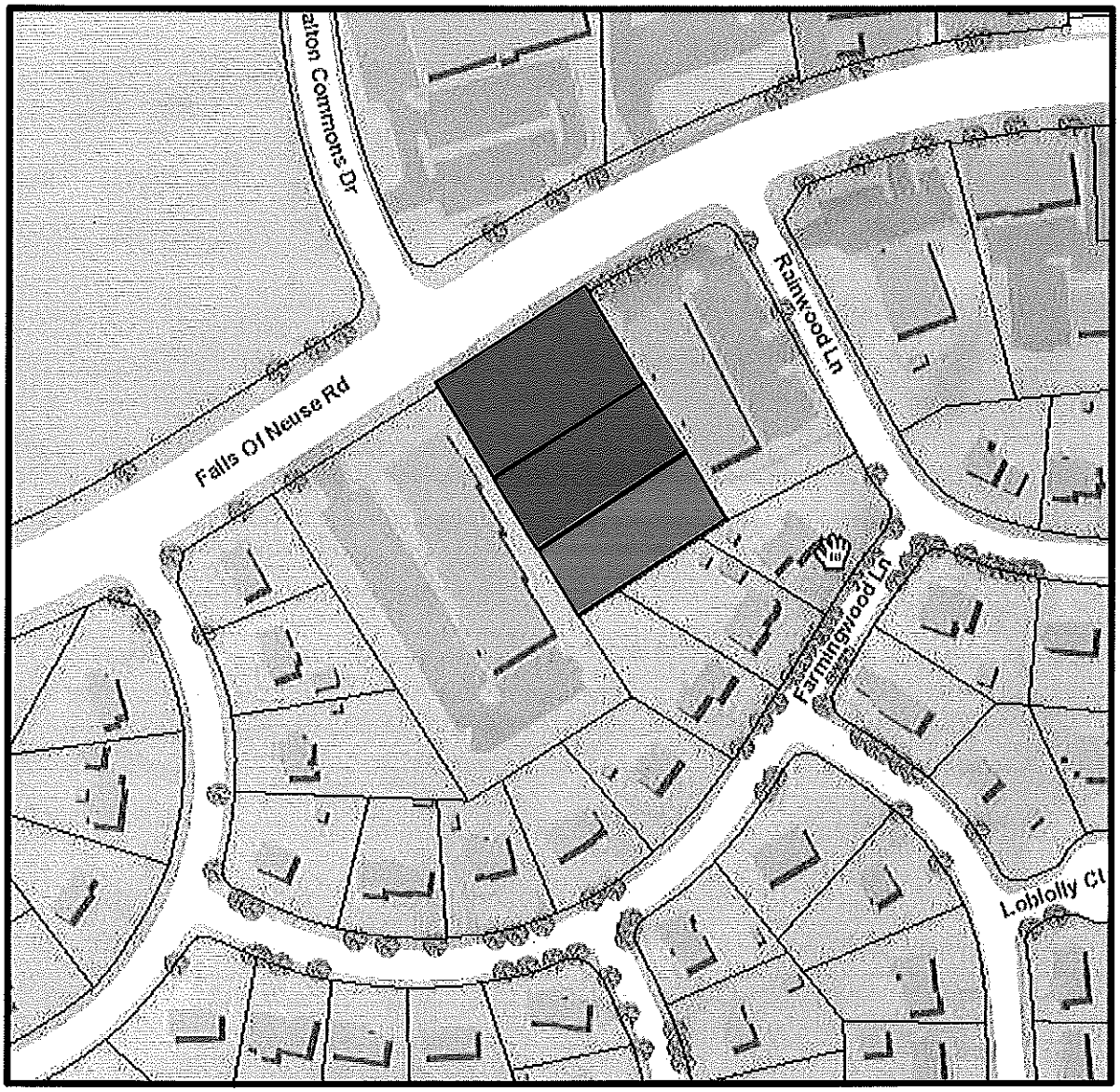
3-18-11

Rynal Stephenson, P.E.
Transportation Manager

NC Corporate License # C-0910

Attachments

Z-19-11



LEGEND

- Existing NB to Remain (0.55 ac.)
- Existing R-4 to be Rezoned (0.44 ac.)
- Existing R-4 - Powers Property (0.37 ac.)

N

RAMEY KEMP & ASSOCIATES

Piper's Tavern Site
Raleigh, North Carolina

Site Location Map

Figure 1

Z-19-11

Submitted Date: 6/16/2011

SUMMARY OF ISSUES

A neighborhood meeting was held on June 13, 2011, at 6:00 p.m. at The Piper's Tavern located at 8304 Falls of Neuse Road to discuss a potential rezoning located at 8304 Falls of Neuse Road, Raleigh, NC 27615. There were a total of 8 neighbors in attendance, representing all 6 properties located within 100 feet of the subject property. The general issues discussed were as follows:

Summary of Issues:

1- The reason for the rezoning – It was discussed that due to a combination of factors, including improper subdividing of the subject property prior to the purchase by the current owner, that the front half of the subject property was zoned Neighborhood Business (NB) and the back half of the property was zoned Residential – 4 (R-4). The neighbors were informed that City officials had suggested the re-zoning because the pouring of pavement that had been done several years ago to increase the parking on site, while allowable in an NB, was not permitted in R-4.

2- The future land use map – It was discussed that the future land use map envisions the area on which the subject property is located to be zoned for Office/Research & Development and that residential housing would not be considered an appropriate land use. Because NB permits residential uses, and such uses are inconsistent with the future land use map, the conditional rezoning application will include conditions preventing residential development.

3- Questions about planned uses – The neighbors had several questions about the planned uses of the property going forward. They were informed that the City's concern in zoning matters goes beyond what the current property owner and leasehold tenant might have planned for the property, but what any subsequent purchaser may be able to do or not do with the property. The neighbors were read the proposed conditions that limited the type of use that could be made on the property. They were informed by Mr. James Powers, one of the residents in attendance and the tenant of the subject property that if the property was ever sold to him, the use would simply be to expand his current business.

4- Questions about Mr. and Mrs. Powers' lot – The neighbors had a number of questions about the planned use of Mr. and Mrs. Powers' lot. They were informed that as of right now there were no plans for the lot. The lot was not the subject of the application in question. The owner indicated that he had no plans right now to sell the subject property to Mr. Powers. As a result, Mr. Powers was not going to seek to rezone his property (also R-4) at a time when he had no idea whether he would be able to acquire the subject property.

5- The removal of trees on the subject property and the Powers' property – The neighbors asked why the trees were removed from the two lots. Mr. Powers indicated that he had considered seeking the rezoning of his property at one time, and thus removed the trees in order to accommodate the changed use. The neighbors were informed that the trees on both properties that were removed were on two separate pieces of property, each zoned R-4, and that the no City ordinance or code was violated. At least two of the neighbors expressed concern that they had a much clearer view of the building located on the subject property, were able to see

dumpsters that they previously could not see and that there had been increased noise heard since the trees were removed. The conditions in the application regarding the transitional protective yard and the shielding of dumpsters were discussed and it was felt that compliance with these conditions would alleviate some of these concerns. The residential neighbors also expressed concern about the closeness of cars being parked on the Powers' lot to their homes. It was indicated that once the transitional protective yard was erected, the ability to park on the Powers property could be limited.

6- Questions re whether rezoning would allow for the expansion of the current building – The neighbors asked about the plans for expansion and whether the rezoning application, if granted, would allow a greater expansion of the building. They were informed that conceivably this could be the case, but that there were no current plans to expand and that limitations on the height and size of any building similar to the properties to the east and west of the subject property were part of the conditions proposed.

7- Neighbors concerns re runoff on their property after recent storm – The neighbors suggested that the problems with some flooding on their street may be due to the parking expansion on the subject property. It was discussed that the removal of the trees was not the cause of any flooding.

8- The size of the transitional protective yard – The neighbors were interested in the number of trees and bushes that would be planted and the size of the transitional protective yard (TPY). They were informed that a representative of the City of Raleigh had informed the property owner that a TPY would have to be 15 feet in width (30 feet would be the requirement if Mr. Powers' lot was not vacant) and that the conditions proposed to increase the width to 18 feet. The minimum requirements of the height for bushes and trees would be requested.

9- Whether the Powers would erect a buffer on their lot – The neighbors requested that Mr. Powers erect a buffer on his lot in addition to (or even possibly in lieu of) the transitional protective yard that would be a part of the conditions sought. They were informed that the requirement of a TPY was to provide a buffer when there were properties with different zoning classifications. Because the Powers' property is zoned R-4, no buffer was required on his property because the back residential neighbors were also R-4. The buffer between the subject property and the Powers property was not optional and thus the subject property owner and Mr. Powers could not elect to put the TPY on the Powers' property in lieu of placing one on the subject property.

10- Lighting issues – One or more of the neighbors expressed concerns about the lighting on the property and their ability to see the same at night. It was explained that there needed to be lighting on the property for safety reasons but that conditions on lighting similar to those on the properties to the east and west of the subject property were part of the conditions submitted;

11- Right to be heard – The neighbors asked if they would have a right to be heard about what was being requested in this application. They were informed regarding the process generally, including the public hearing portion of this and that they would receive notice of such a hearing.

2-19-11

ATTENDANCE ROSTER:

Name	Address
STEVE HART	7925 FARMINGWOOD LANE
Tom Palmer	8001 " "
Ellender Mills	8005 Farmingwood Lane
Guy C Rimmer	8320 Falls of Neuse Rd #105/107/109
TINA + HENRY KIRBY	8320 Falls of Neuse Ste 111 919-841-4150
Jimmy Powers	8308 FALLS OF NEUSE RD 919 796-2417
Pudgie Fitz	REPRESENTATIVE OF PROPERTY OWNER
Buddy Fitz	REPRESENTATIVE OF PROPERTY OWNER
Joanne M Palmer	8001 FARMINGWOOD LANE