Z-37-02 Falls of Neuse Road, south side, approximately 130 feet east of its intersection with Bolero Way, being Wake County PIN 1718.17-20-4612. Approximately 2.25 acres rezoned to Office and Institution-1 Conditional Use District.

Conditions dated: 9/11/02

A) All exterior refuse containers shall be screened with a brick wall surrounding the refuse containers on three sides and, on the fourth side, a gate designed to complement the building, and landscaping shall be provided around the brick wall so that the wall will not clearly visible from public rights-of-way or adjacent residentially zoned properties. Said refuse containers shall have plastic lids and shall only be emptied between the hours of 9:00 a.m. and 5:00 p.m. Refuse containers shall be located within 100 feet of Falls of Neuse Road right-of-way.

B) All buildings shall be limited to one story. Building with roof pitch of 6:12 or greater may be thirty feet (30') tall; otherwise, no building height shall exceed twenty-five feet (25'). No dormer windows shall be facing residentially zoned property. Buildings shall be constructed of brick.

C) Freestanding light poles shall not exceed four and one-half feet (4-1/2') in height except that freestanding light poles in the front of the building parallel to Falls of Neuse Road and within fifty feet (50') of Falls of Neuse Road shall not exceed eight feet (8') in height. All exterior lighting shall be aimed and/or shielded so as to prevent direct view of the light sources from adjacent residentially zoned lots.

D) Upon development of the subject property, a revegetated buffer planted to exceed the requirements of a Type C transition yard for the proposed yard width by twenty percent (20%) and not less than thirty feet (30') in width shall be maintained adjacent to the residential properties, so long as they remain zoned R-4, with Wake County PINs 1718.17203368 (Hines), 1718.17203428 (Brown), and 1718.17202568 (Hall), 1718.18206396 (Thoren/Dutton), 1718.18206310 (Askew), 1718.18205235 (Washington), 1718.18207435 (Howell), 1718.17204235 (Midkiff et al.), and 1718.18206671 (Cornette).

Within ninety days of issuance of building permits, a six foot (6') closed fence, substantially similar in style to the existing fence adjacent to the property with Wake County PIN 1718.18206396 (Thoren/Dutton) will be constructed within the buffer at least twenty feet (20') into the subject property from the common boundary with those properties identified within condition D. At least one half (1/2) of the revegetated buffer described above will be planted on the outside of the fence (closest the properties identified in condition D) within ninety (90) days of issuance of building permits. In addition to the requirements of the Type C transition yard, a mixed variety of evergreen trees, approved by the site review specialist in the Inspections Department, with a minimum height at planting of

seven feet (7') and an average height of seven and one half feet (7 ½') shall be installed adjacent to the closed fence reference herein, within the thirty foot (30') revegetated buffer, spaced at an average of ten feet (10') on center and designed with the trees offset from one another.

E) Floor area ratio shall not exceed twenty-nine percent (29%).

F) The following uses, otherwise permitted in the O&I-1 zoning district shall not be permitted:

1. Cemetery
2. Funeral Home
3. Hospital
4. Veterinarian
5. Emergency shelter
6. Airfield, landing strip and heliport
7. Correctional/penal facility
8. Outdoor stadium, outdoor theater, outdoor racetrack, outdoor movie theatre
9. Telecommunication tower
10. Police substation
11. Parking deck
12. Drive-thru windows

G) Cross access shall be prohibited with the property with Wake County PIN 1718.205794 (Manchester's Pub), unless required by the Raleigh Department of Transportation. Any site plan shall be designed to accommodate a single-lane connection between the subject property and the Manchester's Pub site, but no physical connection shall be made. If the Manchester's Pub site is redeveloped for a residential use or office use, a physical connection may be required as a part of the redevelopment.

H) Reimbursement for future right-of-way dedication shall be made at the existing R-4 values.

I) The property owner shall make available a transit easement measuring ten feet (10') by six feet (6') along Falls of Neuse Road to the City of Raleigh, upon the first of subdivision or site plan approval.

J) In an effort to increase the width of the revegetated buffer described in Condition D above, along the rear of the property [the "rear of the property" being the common boundary line with property known by Wake County Property Identification Numbers: 1718.18206396 (Thoren/Dutton), 1718.18206310 (Askew), 1718.18205235 (Washington)], the property owner shall petition the city to locate the front of any new building, parking bay or cross-access point no more than thirty feet (30') from the Falls of Neuse right-of-way existing at the time of development and shall add one foot in width to the planned thirty foot (30') wide revegetated buffer along the rear property line, as described above, for every one foot closer than forty feet (40') to Falls of Neuse

Road right-of-way the building is allowed to locate by the City of Raleigh except that in no event shall the building be located closer than 30 feet (30') to Falls of Neuse Road right-of-way.

K) Stormwater facilities shall be designed to meet predevelopment rates for the two and ten year storm. Bioretention facilities, swales or other BMP's shall be used to manage storm water as required by the Raleigh City Code.

L) At least fifty percent (50%) of the pine trees 12 inches in caliper or greater and located within twenty-five feet (25') of the existing right-of-way of Falls of Neuse Road shall have active tree preservation. Within 60 days of approval of the rezoning, a letter describing the number and location of such trees shall be submitted to the Planning Department.