Z-9-10 Conditional Use – Falls of Neuse Road - located on the east side, south of its intersection with Durant Road, being Wake County PIN 1718-85-3179 (portion). Approximately 1.16 acres to amend conditions associated with Shopping Center Conditional Use District zoning.

Conditions Dated: 05/20/10

Narrative of conditions being requested:

For purposes of the following conditions, the area proposed for rezoning shall be referred to as the "Property."

(1) Vehicular Access. Vehicular access (with ingress and egress) to the Property shall be limited to the existing (a) full movement curbcut on Falls of the Neuse Road and (b) a right in/right out curbcut and a full movement curbcut on Durant Road. Both such curbcuts serve the remaining portion of PIN 1718-85-3179 and shall be available to serve the Property via easements or other legal interests.

(2) Height Limit. No building shall exceed two stories and thirty-five (35 feet in height) as calculated under Section 10-2076(b) of the City Code.

(3) Pedestrian Connectivity. A sidewalk or clearly designated, paved pedestrian walkway shall connect the primary entrance of all buildings constructed upon the Property and the existing sidewalk or multipurpose path along Falls of the Neuse Road.

(4) Exterior Lighting. Exterior lighting upon the Property shall not exceed eighteen (18) feet in height and shall be aimed downward and shielded so as to prevent direct view of the light source from any residential parcel. Perimeter pole mounted area lights shall not be positioned inside of the transitional protective yards.

(5) Sale of Gasoline. No convenience store or establishment offering the sale of gasoline or dispensing petroleum products into motor vehicles shall be permitted upon the Property.

(6) Prohibited Uses. The following uses shall not be allowed upon the Property:

1. Agricultural uses, except nursery or garden supply store;
2. Transitional housing, except supportive housing residence;

3. Cemetery, crematory;
4. Correctional facility;
5. Outdoor kennel or cattery;
6. Radio and television studio;
7. Telecommunications Tower;
8. Landfill, airfield, taxi cab stand;
9. Power plant, electric utility substation;
10. Home building supply store (except for hardware);
11. Vehicle sales, rental, auto body; auto painting; auto repair,
12. Adult establishment, nightclub, lounge, bar, tavern;
13. Pool halls;
14. Establishments selling alcohol for consumption on premises which do not conform to the requirements of Alcoholic Beverage Control Law 18B-1000(6).

(7) Street Yard; Landscaping, The following shall be provided with respect to the Property:

1. A street protective yard along Falls or the Neuse Road not less than thirty (30) feet in width.

2. A street protective yard along Falls of the Neuse Road shall be planted according to the following schedule:

	Caliper	**Circumference**	**Height**	**Rate**
Shade Tree	3.5”	10.99”	9.0’**	2 per 40 linear ft.
Understory Tree	2.0”	6.38”	7.0’**	1 per 60 linear ft.
Hedge Evergreen Shrubs			42” (@ 3 yrs.)	3’0” on center
Non-Hedge Evergreen Shrubs			42” (@ 3 yrs.)	1 per 50 linear ft.
Flowering Shrubs			24”	1 per 30 linear ft.

**at installation

3. An evergreen hedge to screen the view of cars shall be placed within the street protective yard when the yard is adjacent to parking spaces. The hedge shall run the entire length of all parking spaces, except when the hedge reaches the intersections of public streets or the intersection of a private driveway with a public street. Such intersections shall be constructed and landscaped in accordance with this condition and Raleigh City Code Section 10-2082.6(b), whichever is more restrictive.

4. The street protective yard may contain berms, walls, fences, sidewalks, driveway crossings, utility services and utility service areas.

(8) Truck Deliveries. No truck deliveries to the Property shall occur between the hours of 11:00 p.m. and 7:00 a.m.

(9) Filtration. Any restaurant which utilizes an open flame for cooking shall have an air filtration system designed to minimize or eliminate food odors. At a minimum this system shall employ disposable pleated panel filters for both particulate and odor absorption for food preparation. The specific nature of the air filtration system shall be addressed at the time of site plan approval.

(10) Site Plan Approval. The non-administrative site plan approval process shall be required for development of the Property.

(11) Delivery Entrances. All deliveries of inventory, food, and supplies to all buildings constructed upon the Property shall be to entrances on the side of the building facing the Kohl's Department Store (that is, the side of the building opposite Falls of the Neuse Road).