



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 in accordance 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:

- 1) to lessen congestion in the streets;
- 2) to provide adequate light and air;
- 3) to prevent the overcrowding of land;
- 4) to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements;
- 5) to regulate in accordance with a comprehensive plan;
- 6) to avoid spot zoning; and
- 7) 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.

Please check boxes
where appropriate

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.

Signature(s)

Date:

[Signature]

12/5/07

Please type or print name(s) clearly:

DEPARTMENT OF CITY PLANNING

MITCHELL SILVER

RALEIGH, NC 27602

EXHIBIT B. Request for Zoning Change

Office Use Only
Petition No. Z-3-08
Date Filed: _____
Filing Fee: _____

Please use this form only – form may be photocopied. Please type or print

See instructions, page 6

	Name(s)	Address	Telephone / E-Mail
1) Petitioner(s): Note: Conditional Use District Petitioner(s) must be owner(s) of petitioned property.	DEPARTMENT OF CITY PLANNING	2410, P.O. Box 590 Raleigh, NC 27602	919-516-2626
2) Property Owner(s):	See attached exhibits A and B property owner lists		
3) Contact Person(s):	Dhanya Sandeep Stan Wingo	City Planning Department 2410, P.O. Box 590 Raleigh, NC 27602	919-516-2659 919-516-2663
4) Property Description: Please provide surveys if proposed zoning boundary lines do not follow property lines.	Wake County Property Identification Number(s) (PIN): _____ General Street Location (nearest street intersections): Upper Neuse River/ Richland Creek Watershed Area, City of Raleigh portion to the north of Durant Road between Falls of Neuse Road and Capital Boulevard		
5) Area of Subject Property (acres):	Approximately 5000 acres		
6) Current Zoning District(s) Classification: Include Overlay District(s), if Applicable	Several Zoning Districts (no changes proposed for existing underlying zoning)		
7) Proposed Zoning District Classification: Include Overlay District(s) if Applicable. If existing Overlay District is to remain, please state.	Urban Water Supply Watershed Protection Area Overlay District		

8) Adjacent Property Owners

The following are all of the person, firms, property owners, associations, corporations, entities or governments owning property adjacent to and within one hundred (100) feet (excluding right-of-way) of (front, rear, all sides and across any street) the property sought to be rezoned.

(Important: Include PIN Numbers 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 in the format illustrated in the first box. Please use this form only – form may be photocopied – please type or print.

Name(s):

Street Address(es):

City/State/Zip:

Wake Co. PIN #'s:

See attach. exhibit C

[illegible]

For additional space, photocopy this page.

EXHIBIT D. Petitioner's Argument on Behalf of The Zoning Change Requested

Please use this form only – form may be photocopied – please type or print.

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 which District Plan area the subject property is located within and the recommended land use for this property:

The subject watershed area within Raleigh's ETJ is located within the North Planning District and encompasses a City Focus Area (Wakefield Focus Area at the intersection of Falls of Neuse Road and Capital Boulevard), a Residential Community Focus Area (west of the City focus area), two Neighborhood Focus Areas and sections of an Employment Area along a Gateway Corridor (west of Capital Boulevard). The remaining areas are designated for low density residential uses. Specific land use recommendations are made in the US-1 Corridor Plan, the Wakefield Small Area Plan, the Falls of Neuse Corridor Plan and the Neuse River-Richland Creek Watershed Plan.

B. Please state whether the subject property is located within any adopted Regional Center Plan, Small Area Plan, Corridor Plan, Neighborhood Plan, Watershed Plan, Streetscape Plan, Redevelopment Plan or other City Council-adopted plans and policies and discuss the policies applicable to future development within the plan(s) area.

The subject watershed area within Raleigh's ETJ is located within the North Planning District. Specific land use recommendations are made in the US-1 Corridor Plan, the Wakefield Small Area Plan, the Falls of Neuse Corridor Plan and the Neuse River-Richland Creek Watershed

Plan. The US-1 Corridor Plan area is bordered by Sims Branch near the Cheviot Hills Golf Course; Durant Road and Perry Creek Road on the south; the Wake County Landfill on the west; and the Neuse River on the north and east. The Raleigh portion of the watershed that falls within this plan boundary is primarily designated as an employment area, while the area along the Neuse River is designated for conservation.

The Wakefield Small Area Plan applies to properties between the Neuse River and the Town of Wake Forest, in the North Planning District and the plan recommends specific land use and urban form designations (Wakefield City Focus, Residential Community Focus, employment area) for properties within the affected boundary. The Falls of Neuse Corridor Plan area includes properties fronting the Falls of Neuse corridor between Durant Road and the Neuse River and the area fronting New Falls of Neuse Boulevard planned extension to the planned New Falls of Neuse Boulevard bridge. The plan provides guidance for future zoning and development along the corridor that will preserve the character of the corridor in connection to the Falls Lake Water Supply watershed, the Falls Lake Dam, parks, and the historic Falls Community.

The Neuse River-Richland Creek Watershed Plan, adopted in April of 2005, includes properties to the north and south of the Neuse River below the Falls Lake Reservoir and upstream of an existing water intake on the Neuse River west of Capital Boulevard. Richland Creek on the north and several tributaries on the south side of the Neuse River are included within a drainage area that is bounded within the City of Raleigh jurisdiction by Durant Road, Falls of Neuse Road, future NC-98 Bypass and Capital Boulevard. The State of North Carolina Environmental Management Commission reclassified the Neuse-Richland Watershed to a Class WS-IV NSW as of July 2004. Under the State of North Carolina reclassification, a Class WS-IV NSW water supply watershed includes a Critical Area within one-half mile upstream and draining to the river intake and a Protected Area within ten miles upstream and draining to the river intake. These areas are recommended for a mix of uses including residential, commercial, and industrial as recommended in the Area Plans for the North Planning Districts. Additionally, impervious surface coverage should not exceed 50% for critical areas and 70% for other protected areas. Developments with impervious surfaces exceeding 24% shall control the runoff from the first inch of rainfall. 100 foot natural resource buffer yards along perennial streams will be required to diffuse storm water flow and provide an area for pollutant filtration.

C. Is the proposed map amendment consistent or inconsistent with the Comprehensive Plan and other City Council-adopted plans and policies?

The proposed rezoning request will not affect the underlying land uses of the subject properties. The State of North Carolina Environmental Management Commission reclassified the Neuse-Richland Watershed to a Class WS-IV NSW with an effective date of July 1, 2004. The reclassification occurred in response to a request by the Town of Wake Forest to establish a drinking water supply intake on the Neuse River. The request for the Watershed Overlay pursuant to this reclassification is in keeping with the Water Supply Watershed Protection Act that requires the City of Raleigh to adopt and implement land use ordinances that meet the minimum requirements of the State's water supply watershed protection rules. The intent is to establish regulations which meet the standards for the designated Class-IV NSW as required by the EMC.

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):

There are a variety of land uses in this heavily developed 5,000 acre area. Land uses include 3 major commercial centers, office complexes, a major industrial use, schools and institutional uses, a landfill, retirement facilities, and a large amount of single and multi family residential. Single and multi family residential being the primary land use in this area. The subject area includes large planned communities in Falls River, Bedford and Wakefield. A mix of residential uses are included in each development.

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

There are several different zoning classifications in this area. Zoning districts include Low to Medium Density Residential, High Density Residential, Planned Development Districts, Office and Institution, Shopping Center, Neighborhood Business and Industrial Zoning. The majority of the subject area is developed and includes three large planned communities in Falls River, Bedford and Wakefield as well as three major commercial centers and industrial uses.

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

This proposal is a city initiated rezoning, which is being filed to bring the City of Raleigh in compliance with the Watersupply Watershed Act. With this area being classified as a Class WS-IV NSW, the Urban Watersupply Watershed standards are being proposed to comply with said classification as well as to insure the appropriate quality standards for a public water supply.

III. Benefits and detriments of the proposed map amendment.

A. For the landowner(s):

Detriments for the landowner would include impervious surface limitations and buffer yard requirements for undeveloped properties. Properties that are currently developed would be unaffected unless additional paving or structural additions were desired. For additions or new paving, property owners would be required to meet all standards proposed with this request. Impervious surface coverage should not exceed 50% for critical areas and 70% for other protected areas. Developments with impervious surfaces exceeding 24% shall control the runoff from the first inch of rainfall. 100 foot natural resource buffer yards along perennial streams will be required to diffuse storm water flow and provide an area for pollutant filtration.

B. For the immediate neighbors:

Proposal would help to insure the appropriate quality standards for the public water supply for present and future residents. Reductions in allowed impervious surfaces for new development would help limit stormwater runoff and increase water quality levels for the water supply.

Requirements for 100 foot natural resource buffer yards along perennial streams will help to diffuse storm water flow and improve pollutant filtration.

C. For the surrounding community:

Proposal would help to insure the appropriate quality standards for the public water supply for present and future residents. Reductions in allowed impervious surfaces for new development would help limit stormwater runoff and increase water quality levels for the water supply. Requirements for 100 foot natural resource buffer yards along perennial streams will help to diffuse storm water flow and improve pollutant filtration.

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

The rezoning of this property would not provide any benefits to the subject property owners above and beyond what is available to surrounding properties.

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

This proposal is a city initiated rezoning, which is being filed to bring the City of Raleigh in compliance with the Watersupply Watershed Act. With this area being classified as a Class WS-IV NSW, the Urban Watersupply Watershed standards are being proposed to comply with said classification as well as to insure the appropriate quality standards for the public water supply.

V. Recommended items of discussion (where applicable).

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

N/A

- 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.**

N/A

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

The State of North Carolina Environmental Management Commission reclassified the Neuse-Richland Watershed to a Class WS-IV NSW with an effective date of July 1, 2004. The reclassification occurred in response to a request by the Town of Wake Forest to establish a drinking water supply intake on the Neuse River. The request for the

Watershed Overlay pursuant to this reclassification is in keeping with the Water Supply Watershed Protection Act that requires the City of Raleigh to adopt and implement land use ordinances that meet the minimum requirements of the State's water supply watershed protection rules. With this area being classified as a Class WS-IV NSW, the Urban Watersupply Watershed standards are being proposed to comply with said classification as well as to insure the appropriate quality standards for the public water supply.

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

Current infrastructure and developed land in this area would be unaffected unless additional paving or structural additions are desired. If additions or paving are planned, they would be required to meet all standards associated with this request. Impervious surface coverage should not exceed 50% for critical areas and 70% for other protected areas. Developments with impervious surfaces exceeding 24% shall control the runoff from the first inch of rainfall. 100 foot natural resource buffer yards along perennial streams will be required to diffuse storm water flow and provide an area for pollutant filtration.

VI. Other arguments on behalf of the map amendment requested.

The State of North Carolina Environmental Management Commission reclassified the Neuse-Richland Watershed to a Class WS-IV NSW with an effective date of July 1, 2004. The reclassification occurred in response to a request by the Town of Wake Forest to establish a drinking water supply intake on the Neuse River. This city-initiated request is necessary in order for the City of Raleigh to comply with the Water Supply Watershed Protection Act that requires the City of Raleigh to adopt and implement land use ordinances that meet the minimum requirements of the State's Water Supply Watershed Protection Rules. The proposed Urban Watersupply Overlay District meets these guidelines and would bring the City of Raleigh into compliance with State of North Carolina Regulations.



Certified Recommendation of the City of Raleigh Planning Commission

Case File: **Z-03-08 General Use; Richland Creek**

General Location: Neuse River-Richland Creek watershed area bounded by Durant Road, Falls of Neuse Road, future NC-98 Bypass and Capital Boulevard.

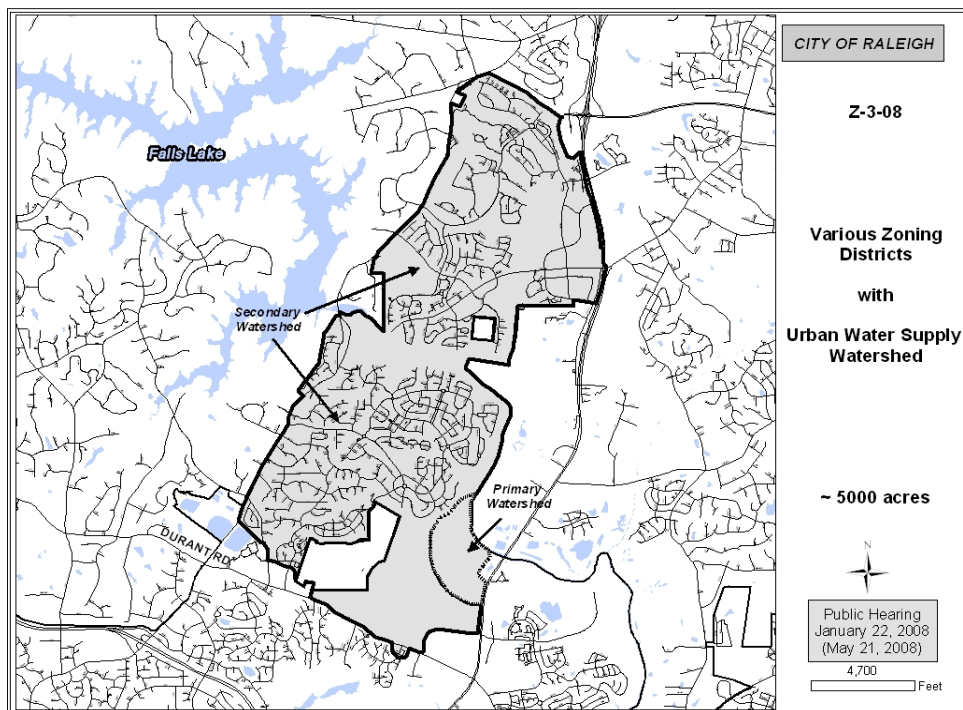
**Planning District
/ CAC:** North / North

Request: Petition for adoption of **Urban Water Supply Watershed Protection Area Overlay District**.

**Comprehensive Plan
Consistency:** The request is consistent with the Comprehensive Plan

**Valid Protest
Petition (VSPP):** NO

Recommendation: The Planning Commission finds that this request is consistent with the Comprehensive Plan. However, based on the Findings and Reasons stated below, the Planning Commission recommends denial of this rezoning request.



CASE FILE: **Z-03-08 General Use**

LOCATION: This site is located on the north side of Durant Road, within the Neuse River-Richland Creek watershed area bounded by Durant Road, Falls of Neuse Road, future NC-98 Bypass and Capital Boulevard.

REQUEST: This request is to rezone approximately 5000 acres. The proposal is to adopt an **Urban Water Supply Watershed Protection Area Overlay District**.

**COMPREHENSIVE PLAN
CONSISTENCY:** **The request is consistent with the Comprehensive Plan**

RECOMMENDATION: **The Planning Commission finds that this request is consistent with the Comprehensive Plan. However, based on the Findings and Reasons stated below, the Planning Commission recommends denial of this rezoning request.**

**FINDINGS
AND REASONS:**

- (1) That approximately 7300 property owners are being impacted by the proposed regulations, thereby rendering more hardship on those impacted residents than the overall perceived benefits of these regulations given that currently no drinking water is supplied from this intake.
 - (2) That the City regulations being more restrictive in its application than the State minimum standards would create an undue hardship on the majority of the affected residents. The City's regulations exceed the State minimum requirements as they apply to existing impervious surfaces, single family lots and developments disturbing less than 12,000 square feet of land area.
 - (3) That for the stated reasons, the Planning Commission finds that the proposed request is not in the public benefit of the larger community and recommends denial of the same. Planning Commission recommends that the City Council work with the General Assembly, the State Environmental Management Commission and City staff to address this issue through a more reasonable approach that would have minimal adverse impacts on the affected residents.
-

To PC: 1/29/08
Case History: Effective July 1, 2004 the General Assembly's delay on the Environmental Management Commission's 2001 reclassification of the Upper Neuse River-Richland Creek, and unnamed tributaries west of Capital Boulevard to a class WS-IV NSW (Water Supply, Nutrient Sensitive Waters) was lifted and the reclassification went into effect. The reclassification occurred in response to a request by the Town of Wake Forest to establish a drinking water supply intake on the Neuse River. Pursuant to this reclassification, the Water Supply Watershed Protection Act (NCGS 143-214.5) requires the City of Raleigh to adopt and implement land use ordinances that meet the minimum requirements

of the State's Water Supply Watershed Protection Rules. Subsequently, the Urban Water Supply Watershed Protection Area Overlay District regulations were prepared and adopted by the Raleigh City Council. However, these regulations do not officially become effective until the Council adopts an Official Zoning Map amendment which establishes the Overlay District **(Z-3-08 proposed)**. For the past 2+ years, the City has withheld moving forward on the official rezoning of this watershed and was actively pursuing appeals to the State's Environmental Management Commission and the courts in regard to this watershed classification. All appeals were unsuccessful.

To CC: 2/5/08 **City Council Status:** _____

Staff Coordinators: Dhanya Sandeep; Stan Wingo

Motion: Holt
Second: Anderson
In Favor: Anderson, Bartholomew, Butler, Chambliss, Davis, Gaylord, Haq, Harris
Edmisten, Holt, Smith
Opposed:
Excused: Mullins

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 Staff Report attached.

Signatures: (Planning Dir.) (PC Chair)

date: _____

date: 1/31/08



Zoning Staff Report: Z-03-08 General Use

LOCATION: This site is located on the north side of Durant Road, within the Neuse River-Richland Creek watershed area bounded by Durant Road, Falls of Neuse Road, future NC-98 Bypass and Capital Boulevard.

AREA OF REQUEST: Approximately 5000 acres

PROPERTY OWNER: See attached list

CONTACT PERSONS: Dhanya Sandeep, City Planning Dept., 516-2659;
Stan Wingo, City Planning Dept., 516-2663

**PLANNING COMMISSION
RECOMMENDATION
DEADLINE:** May 21, 2008

ZONING:	<u>Current Zoning</u> Multiple Districts	<u>Proposed Zoning</u> Multiple Districts (underling zoning remains unchanged)
	<u>Current Overlay District</u> None	<u>Proposed Overlay District</u> Urban Water Supply Watershed Protection Area Overlay
ALLOWABLE DWELLING UNITS:	<u>Current Zoning</u> No Changes	<u>Proposed Zoning</u> No Changes
ALLOWABLE OFFICE SQUARE FOOTAGE:	<u>Current Zoning</u> No Changes	<u>Proposed Zoning</u> No Changes
ALLOWABLE RETAIL SQUARE FOOTAGE:	<u>Current Zoning</u> No Changes	<u>Proposed Zoning</u> No Changes
ALLOWABLE GROUND SIGNS:	<u>Current Zoning</u> No Changes	<u>Proposed Zoning</u> No Changes

ZONING HISTORY: Effective July 1, 2004 the Environmental Management Commission reclassified the Upper Neuse River-Richland Creek, and unnamed tributaries west of Capital Boulevard to a class WS-IV NSW (Water Supply, Nutrient Sensitive Waters). The

reclassification occurred in response to a request by the Town of Wake Forest to establish a drinking water supply intake on the Neuse River. Pursuant to this reclassification, the Water Supply Watershed Protection Act (NCGS 143-214.5) requires the City of Raleigh to adopt and implement land use ordinances that meet the minimum requirements of the State's Water Supply Watershed Protection Rules. Subsequently, the Urban Water Supply Watershed Protection Area Overlay District regulations were prepared and adopted by the Raleigh City Council. However, per the City Ordinance, an Overlay District will not be effective until the Council adopts an Official Zoning Map amendment which establishes the Overlay District, following public notification of the proposal and a public hearing. The proposed overlay district will not affect the land uses of the underlying zoning districts. The rezoning would bring the City of Raleigh into compliance with the State Watersupply Watershed Act.

**SURROUNDING
ZONING:**

NORTH: Wake County zoning
SOUTH: Various zoning districts
EAST: Wake County zoning, Town of Wake Forest
WEST: Wake County zoning, watershed protection

LAND USE:

There are a variety of land uses in this heavily developed 5,000-acre area. Land uses include 3 major commercial centers, office complexes, a major industrial use, schools and institutional uses, a landfill, retirement facilities, and a large amount of single and multifamily residential. Single and multifamily residential are the primary land use in this area. The subject area includes large planned communities in Falls River, Bedford and Wakefield. A mix of residential uses are included in each development.

**SURROUNDING
LAND USE:**

NORTH: Various land uses
SOUTH: Various land uses
EAST: Various land uses
WEST: Low density residential

EXHIBIT C AND D ANALYSIS:

**COMPREHENSIVE
PLAN SUMMARY**

TABLE:

In addition to the various systems plans (i.e. Transportation Plan, Parks and Recreation Plan, etc.) that are part of the City's adopted Comprehensive Plan the following table summarizes the other comprehensive plan elements that have been adopted by the City Council.

Element	Application to case
Planning District	North
Urban Form	Multiple (remains unchanged)
Specific Area Plan	Neuse-River Richland Creek Watershed Plan
Guidelines	Primary and Secondary Watershed regulations

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

The proposed rezoning is consistent with the recommendations of the Comprehensive Plan. The subject watershed area within Raleigh's planning area is located within the North Planning District

and encompasses a City Focus Area (Wakefield Focus Area at the intersection of Falls of Neuse Road and Capital Boulevard), a Residential Community Focus Area (west of the City Focus Area), two Neighborhood Focus Areas and sections of an Employment Area along a Gateway Corridor (west of Capital Boulevard). The remaining areas are designated for low density residential uses. Specific land use recommendations are made in the US-1 Corridor Plan, the Wakefield Small Area Plan, the Falls of Neuse Corridor Plan and the Neuse River-Richland Creek Watershed Plan. The proposed overlay district will not affect the land uses of the underlying zoning districts. The rezoning would bring the City of Raleigh into compliance with the State Watersupply Watershed Act.

The US-1 Corridor Plan area is bordered by Sims Branch near the Cheviot Hills Golf Course; Durant Road and Perry Creek Road on the south; the Wake County Landfill on the west; and the Neuse River on the north and east. The Raleigh portion of the watershed that falls within this plan boundary is primarily designated as an employment area, while the area along the Neuse River is designated for conservation.

The Wakefield Small Area Plan applies to properties between the Neuse River and the Town of Wake Forest and the plan recommends specific land use and urban form designations (Wakefield City Focus, Residential Community Focus, employment area) for properties within the affected boundary. The Falls of Neuse Corridor Plan area includes properties fronting the Falls of Neuse corridor between Durant Road and the Neuse River and the area fronting New Falls of Neuse Boulevard planned extension to the planned New Falls of Neuse Boulevard Bridge. The plan provides guidance for future zoning and development along the corridor that will preserve the character of the corridor in connection to the Falls Lake Water Supply watershed, the Falls Lake Dam, parks, and the historic Falls Community.

The Neuse River-Richland Creek Watershed Plan, adopted in April of 2005, includes properties to the north and south of the Neuse River below the Falls Lake Reservoir and upstream of an existing water intake on the Neuse River west of Capital Boulevard. Richland Creek on the north and several tributaries on the south side of the Neuse River are included within a drainage area that is bounded within the City of Raleigh jurisdiction by Durant Road, Falls of Neuse Road, future NC-98 Bypass and Capital Boulevard. The State of North Carolina Environmental Management Commission reclassified the Neuse-Richland Watershed to a Class WS-IV NSW as of July 2004. Under the State of North Carolina reclassification, a Class WS-IV NSW water supply watershed includes a Critical Area (Primary) within one-half mile upstream and draining to the river intake and a Protected Area (Secondary) within ten miles upstream and draining to the river intake. These areas are recommended for a mix of uses including residential, commercial, and industrial as recommended in the Area Plans for the North Planning Districts. Additionally, impervious surface coverage should not exceed 50% for critical areas and 70% for other protected areas. Developments with impervious surfaces exceeding 24% shall control the runoff from the first inch of rainfall. 100 foot natural resource buffer yards along perennial streams will be required to diffuse storm water flow and provide an area for pollutant filtration. The rezoning would bring the City of Raleigh into compliance with the State Watersupply Watershed Act.

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

The State of North Carolina Environmental Management Commission reclassified the Neuse-Richland Watershed to a Class WS-IV NSW with an effective date of July 1, 2004. The reclassification occurred in response to a request by the Town of Wake Forest to establish a drinking water supply intake on the Neuse River. The request for the Watershed Overlay pursuant to this reclassification is in keeping with the Water Supply Watershed Protection Act that requires the City of Raleigh to adopt and implement land use ordinances that meet the minimum requirements of the State's water supply watershed protection rules. The intent is to establish regulations which meet the standards for the designated Class-IV NSW as required by the EMC. The proposed overlay district would bring the City of Raleigh into compliance with the State Watersupply Watershed Act.

The subject watershed area within Raleigh's planning area is located within the North Planning District and encompasses a City Focus Area (Wakefield Focus Area at the intersection of Falls of Neuse Road and Capital Boulevard), a Residential Community Focus Area (west of the City focus

area), two Neighborhood Focus Areas and sections of an Employment Area along a Gateway Corridor (west of Capital Boulevard). The remaining areas are designated for low density residential uses. Specific land use recommendations are made in the US-1 Corridor Plan, the Wakefield Small Area Plan, the Falls of Neuse Corridor Plan and the Neuse River-Richland Creek Watershed Plan.

There are a variety of land uses in this heavily developed 5,000 acre area. Land uses include 3 major commercial centers, office complexes, a major industrial use, schools and institutional uses, a landfill, retirement facilities, and a large amount of single and multi family residential. Single and multi family residential being the primary land use in this area. The subject area includes large planned communities in Falls River, Bedford and Wakefield. A mix of residential uses is included in each development.

There are several different zoning classifications in this area. Zoning districts include Low to Medium Density Residential, High Density Residential, Planned Development Districts, Office and Institution, Shopping Center, Neighborhood Business and Industrial Zoning. The majority of the subject area is developed and includes three large planned communities in Falls River, Bedford and Wakefield as well as three major commercial centers and industrial uses.

The proposed rezoning request will not affect the land uses of the underlying zoning districts. However, restrictions may apply to the amount of maximum impervious surface coverage (rooftops, decks, pavements, driveways), along with requirements for on-site stormwater controls (if impervious surfaces exceed 24%) and increased natural buffer yards. These on-site controls may be simple bio-retention areas, rain gardens, or landscaping. The new regulations will only apply to new developments and expansions. Replacement of existing structures with like structures that otherwise conform to the requirements of the underlying district are allowed. All additions, changes, expansions, and alterations to such existing structures, which exceed existing impervious area, must comply with the regulations of the Watershed Overlay unless the Board of Adjustment in accordance with Sec.10-2146.3(a)(7) approves the request, as if the existing structure were made nonconforming by the Overlay District.

3. Public benefits of the proposed rezoning

The proposed Urban Water Supply Watershed Protection Area Overlay District would bring City of Raleigh into compliance with State of North Carolina Water Supply Watershed Protection regulations. The City is required by State law to adopt ordinances to protect the watershed. If it fails to timely adopt the ordinances, the State will adopt the ordinances and it may fine the City. Additionally, the regulations would help ensure appropriate quality standards for public water supply for present and future residents. Control of stormwater run-off and pollutant filtration would ensure better water quality.

4. Detriments of the proposed rezoning

Detriments for the landowner would include impervious surface limitations and buffer yard requirements for undeveloped properties. Properties that are currently developed would be unaffected unless additional paving or structural additions were desired. For additions or new paving, property owners would be required to meet all standards proposed with this request. Impervious surface coverage should not exceed 50% for critical areas and 70% for other protected areas. Developments with impervious surfaces exceeding 24% shall control the runoff from the first inch of rainfall. 100 foot natural resource buffer yards along perennial streams will be required to diffuse storm water flow and provide an area for pollutant filtration. Additionally, there is potential for increased cost to affected property owners, associated with the installation of stormwater controls on site.

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

TRANSPORTATION: No new impacts.

TRANSIT: The site **is not** within close proximity of **current** bus routes and/or a proposed regional rail transit station. No transit easement is needed.

HYDROLOGY: FLOODPLAIN: portions are in FEMA floodplain and/or alluvial soils flood hazard areas
DRAINAGE BASIN: Richland Creek – Neuse River
STORMWATER MANAGEMENT: This site is subject to Part 10, Chapter 9 (Stormwater Control and Watercourse Buffer Regulations) of the Raleigh City Code.

PUBLIC UTILITIES: The Urban Water Supply Watershed designation does not add additional flows to the wastewater or water treatment systems of the City. There are existing sanitary sewer and water mains in the proposed rezoning developed areas. Those areas not in the City, but within the Utility Service Area of the City that do not have access to the City's public utilities systems, would be required to extend the public mains at the individual project developer's expense.

PARKS AND

RECREATION: This property includes both the Neuse River and the Richland Creek Corridors of the Capital Area Greenway Master Plan. It is unclear to what extent these Watershed Regulations may impact the development of the typical 10' wide asphalt trail along these two water courses.

WAKE COUNTY

PUBLIC SCHOOLS: No direct impacts as the existing land uses and density will be unaffected.

IMPACTS SUMMARY: The request does not impact the land uses of the underlying zoning districts. However, restrictions may apply to the amount of maximum impervious surface coverage (rooftops, decks, pavements, driveways), along with requirements for on-site stormwater controls (if impervious surfaces exceed 24%) and increased natural buffer yards. These watershed regulations will help reduce the stormwater run-off, increase pollutant filtration and increase the water quality. Therefore, there will be no adverse impacts on the infrastructure requirements due to this rezoning. The regulations would help ensure appropriate quality standards for public water supply for present and future residents and bring City of Raleigh into compliance with State of North Carolina Water Supply Watershed Protection Act.

OPTIONAL ITEMS OF DISCUSSION

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

The proposed Urban Water Supply Watershed Protection Area Overlay District would bring City of Raleigh into compliance with State of North Carolina Water Supply Watershed Protection regulations. The City is required by State law to adopt ordinances to protect the watershed. If it fails to timely adopt the ordinances, the State will adopt the ordinances and it may fine the City. Additionally, the regulations would help ensure appropriate quality standards for public water supply for present and future residents. Control of stormwater run-off and pollutant filtration would ensure better water quality.

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 be properly applied to it now were it being zoned for the first time.

Effective July 1, 2004 the Environmental Management Commission reclassified the Upper Neuse River-Richland Creek, and unnamed tributaries west of Capital Boulevard to a class WS-IV NSW (Water Supply, Nutrient Sensitive Waters). The reclassification occurred in response to a request by the Town of Wake Forest to establish a drinking water supply intake on the Neuse River. Pursuant to this reclassification, the Water Supply Watershed Protection Act (NCGS 143-214.5) requires the City of Raleigh to adopt and implement land use ordinances that meet the minimum requirements of the State's Water Supply Watershed Protection Rules. Subsequently, the Urban Water Supply Watershed Protection Area Overlay District regulations were prepared and adopted by the Raleigh City Council. However, per the City Ordinance, an Overlay District will not be officially become effective until the Council adopts an Official Zoning Map amendment which establishes the Overlay District, following public notification of the proposal and a public hearing.

APPEARANCE

COMMISSION: This request is not subject to Appearance Commission review.

CITIZEN'S

ADVISORY COUNCIL: DISTRICT: North
CAC CONTACT PERSON: Tom Slater, 846-0584;
Ann Weathersbee, 876-1807

SUMMARY OF ISSUES:

COMPREHENSIVE PLAN / COMPATIBILITY / ADVERSE IMPACTS:

Outstanding issues:

- For the past 2+ years, the City has withheld moving forward on the official rezoning of this watershed and was actively pursuing appeals to the State's Environmental Management Commission and the courts in regard to this watershed classification. All appeals were unsuccessful. The City is required by State law to adopt ordinances to protect the watershed. If it fails to timely adopt the ordinances, the State will adopt the ordinances and it may fine the City.
- The City's minimum regulations are consistent with the State's minimum regulations in regard to maximum impervious surface and buffer yard requirements. However, the City's regulations differ from the State's minimum requirements in the following three (3) areas:

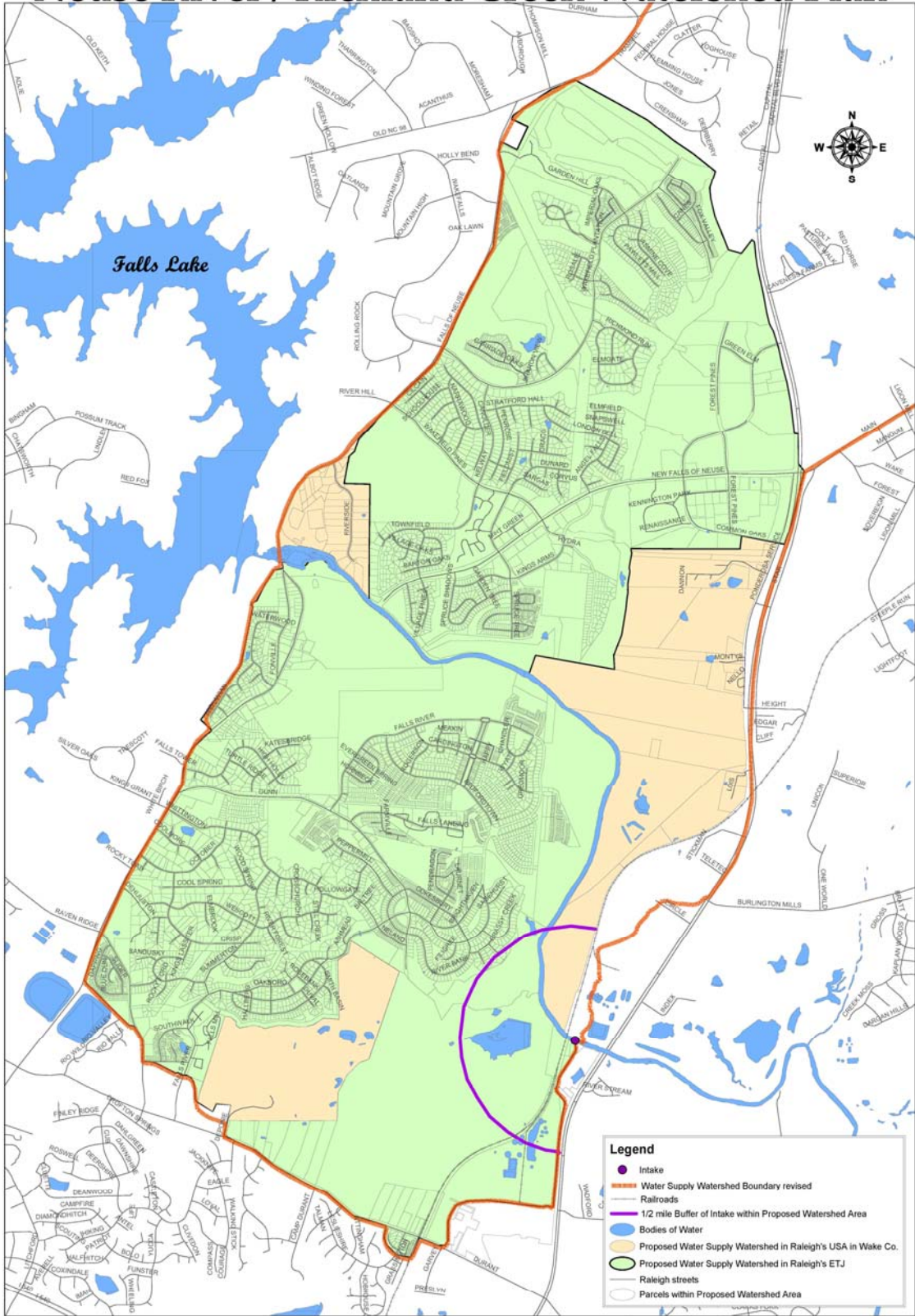
Per the State's minimum regulations, only new development activities that require an erosion/sedimentation control plan under State law or approved local government program are required to meet the provisions (12,000 square feet of land disturbing activity). The City's existing watershed regulations provide no such exemption.

Per the State's minimum regulations, structures on existing lots can be expanded without having to comply with the new restrictions unless the expansion triggers the requirement for an erosion/sedimentation control plan (12,000 square feet of land disturbing activity). The City's existing watershed regulations provide no such exemption.

Per the State's minimum regulations, impervious surfaces existing on a property prior to the effective date of any new rules could be exempted (grandfathered) from the sum calculation of impervious surfaces prior to requiring that the first one-inch of stormwater be detained. For example, under the State's minimum requirements, if a lot contains 30% impervious surfaces prior to the new rules taking effect, then the property owner may add an additional 24% impervious surface (for a total of 54%) prior to being required to detain any stormwater. Under the City's existing watershed regulations, the existing impervious surfaces are not exempted (grandfathered) and if new impervious surfaces are proposed, the property owner would be required to provide stormwater controls to capture the first one-inch of stormwater for all impervious surfaces in excess of 24%.

- The Raleigh City Code states “No permit for the construction of a building, sign or use on any property shall be issued during the pendency of an application for an Official Zoning Map amendment of such property unless the proposed construction meets all the provisions of the existing zoning district, and also all the provisions of the proposed zoning district.”. Therefore, the City is currently required to review all building permit applications for properties located within the area of the proposed overlay district for compliance with the City’s Urban Water Supply Watershed regulations while the zoning case is pending.

Neuse River / Richland Creek Watershed Plan



1 inch equals 1,000 feet

Source: City of Raleigh Planning Department

CITY OF RALEIGH

Z-3-08

**Various Zoning
Districts**

with

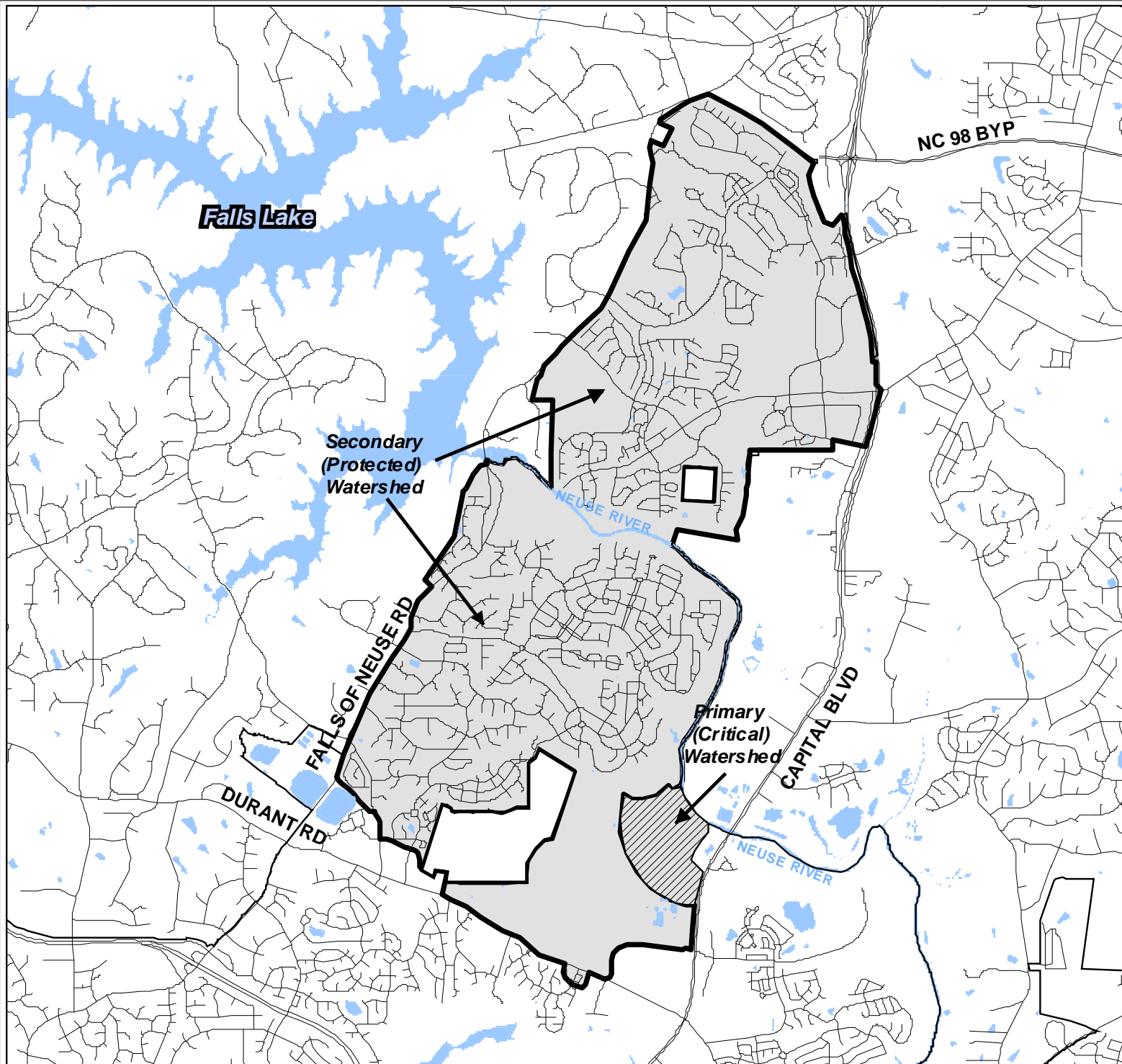
**Urban Water Supply
Watershed
Overlay District**

~ 5000 acres

Public Hearing
January 22, 2008
(May 21, 2008)

4,700

Feet





City Of Raleigh
North Carolina

December 27, 2007

Dear Citizen:

You are receiving this notice because you own property that is being proposed to be included within the **Primary Urban Water Supply Watershed Protection Area Overlay District (Z-3-08)**. A **public hearing** before the City Council and Planning Commission to consider this request has been scheduled on **January 22, 2008 at 6:30pm** in the Council Chamber of the Avery Upchurch Municipal Building, 222 W. Hargett Street. No action will be taken at the public hearing. Following the public hearing, the proposal will be referred to the Planning Commission for their review and recommendation. As with all Zoning Map amendments, the City Council is the final approving authority following the Planning Commission's review and recommendation.

A map showing the proposed boundaries of the Watershed Protection Overlay District is enclosed. Also enclosed is a draft of the Public Hearing agenda, factual information on this overlay district, resource/website links, Citizen Advisory Council (CAC) information and provisions for filing an Official Protest Petition.

Please forward any questions to the Staff Contact Persons identified at the end of the Resources / Website Links page. Detailed information on each zoning case scheduled for this public hearing may be directly accessed via the Planning Department's Web Site (www.raleighnc.gov/zoning).

Sincerely,

Mitchell Silver
Planning Director

NEUSE RIVER/ RICHLAND CREEK – URBAN WATER SUPPLY WATERSHED PROTECTION

Why is the City initiating the adoption of the Urban Water Supply Watershed Protection Area Overlay District for the Neuse River- Richland Creek area?

Effective July 1, 2004 the General Assembly's delay on the Environmental Management Commission's 2001 reclassification of the Upper Neuse River-Richland Creek, and unnamed tributaries west of Capital Boulevard to a class WS-IV NSW (Water Supply, Nutrient Sensitive Waters) was lifted and the reclassification went into effect. The reclassification occurred in response to a request by the Town of Wake Forest to establish a drinking water supply intake on the Neuse River. Pursuant to this reclassification, the Water Supply Watershed Protection Act (NCGS 143-214.5) requires the City of Raleigh to adopt and implement land use ordinances that meet the minimum requirements of the State's Water Supply Watershed Protection Rules. Subsequently, the Urban Water Supply Watershed Protection Area Overlay District regulations were prepared and adopted by the Raleigh City Council. However, these regulations do not officially become effective until the Council adopts an Official Zoning Map amendment which establishes the Overlay District (**Z-3-08 proposed**). For the past 2+ years, the City has withheld moving forward on the official rezoning of this watershed and was actively pursuing appeals to the State's Environmental Management Commission and the courts in regard to this watershed classification. All appeals were unsuccessful. The City is required by State law to adopt ordinances to protect the watershed. If it fails to timely adopt the ordinances, the State will adopt the ordinances and it may fine the City. The proposed Urban Watershed Overlay District would bring City of Raleigh into compliance with State of North Carolina Water Supply Watershed Protection regulations.

What area is affected?

The watershed area within Raleigh's planning area is approximately 5000 acres in size (7,296 individual parcels). Richland Creek on the north and several tributaries on the south side of the Neuse River are included within this drainage area bounded by Durant Road, Falls of Neuse Road, future NC-98 Bypass and Capital Boulevard. The implementation of the Urban Water Supply Watershed Protection Area Overlay District for these 5000 acres, Z-3-08, is scheduled for public hearing on January 22, 2008.

How will the new regulations impact the affected property owners?

With the adoption of the Watershed Overlay District, restrictions may apply to the amount of impervious surface coverage (rooftops, decks, pavements, driveways), along with requirements for stormwater controls and increased natural buffer yards.

The watershed overlay district has two specific regulatory areas:

Primary (Critical Area) – land within one-half mile upstream and draining to the river intake.

- Prohibits new landfills and new sites for land application of sludge, residuals or petroleum contaminated soils.
- Requires a minimum 100 foot natural resource buffer yard adjacent to perennial streams if the property exceeds 24% impervious surface area and density is greater than 2 units/acre.
- If density is greater than 2 units/acre, maximum impervious surface limitation of 24% without stormwater controls; maximum 50% limitation with stormwater controls.

Secondary (Protected Area) - land within ten miles upstream and draining to the river intake.

- No land use limitations.
- Requires a minimum 100 foot natural resource buffer yard adjacent to perennial streams if the property exceeds 24% impervious surface area and density is greater than 2 units/acre.
- If density is greater than 2 units/acre, maximum impervious surface limitation of 24% without stormwater controls; maximum 70% limitation with stormwater controls.

Will these regulations impact properties that are already developed?

The new regulations will only apply to new developments and expansions. Replacement of existing structures with like structures that otherwise conform to the requirements of the underlying district are allowed. All additions, changes, expansions, and alterations to such existing structures, which exceed existing impervious area, must comply with the regulations of the Watershed Overlay. The vast majority of properties are located within the Secondary Area and may develop up to 70% of their lot with impervious surfaces. However, stormwater controls to capture the first one-inch of stormwater (such as detention, bio-retention areas, rain gardens, landscaping) from any impervious surfaces in excess of 24% would be required.

Are there any exceptions to these regulations while the zoning case is pending or if the overlay district is approved?

The Raleigh City Code states “No permit for the construction of a building, sign or use on any property shall be issued during the pendency of an application for an Official Zoning Map amendment of such property unless the proposed construction meets all the provisions of the existing zoning district, and also all the provisions of the proposed zoning district.”. Therefore, the City is currently required to review all building permit applications for properties located within the area of the proposed overlay district for compliance with the City’s Urban Water Supply Watershed regulations while the zoning case is pending. The proposed watershed regulations do not apply to building permits issued prior to the filing of zoning case Z-3-08. If this zoning case is adopted, the proposed watershed regulations will not apply to those projects which meet any one of the following steps in the development process:

- Building permits issued prior to adoption.
- Site specific development plans having a valid approval or conditional approval by staff, the Planning Commission, or the City Council prior to adoption.
- Phased development plans having a valid approval or conditional approval prior to adoption.

How do the City’s existing Watershed Rules differ from the minimum requirements of the State’s Water Supply Watershed Protection Rules?

The City’s minimum regulations are consistent with the State’s minimum regulations in regard to maximum impervious surface and buffer yard requirements. However, the City’s regulations differ from the State’s minimum requirements in the following three (3) areas:

- Per the State’s minimum regulations, only new development activities that require an erosion/sedimentation control plan under State law or approved local government program are required to meet the provisions (12,000 square feet of land disturbing activity). The City’s existing watershed regulations provide no such exemption.
- Per the State’s minimum regulations, structures on existing lots can be expanded without having to comply with the new restrictions unless the expansion triggers the requirement for an erosion/sedimentation control plan (12,000 square feet of land disturbing activity). The City’s existing watershed regulations provide no such exemption.
- Per the State’s minimum regulations, impervious surfaces existing on a property prior to the effective date of any new rules could be exempted (grandfathered) from the sum calculation of impervious surfaces prior to requiring that the first one-inch of stormwater be detained. For example, under the State’s minimum requirements, if a lot contains 30% impervious surfaces prior to the new rules taking effect, then the property owner may add an additional 24% impervious surface (for a total of 54%) prior to being required to detain any stormwater. Under the City’s existing watershed regulations, the existing impervious surfaces are not exempted (grandfathered) and if new impervious surfaces are proposed, the property owner would be required to provide stormwater controls to capture the first one-inch of stormwater for all impervious surfaces in excess of 24%.

Does the City have the ability to revise our local regulations to be consistent with the State's minimum requirements for this Overlay District?

Yes. The City Council may authorize a public hearing for a text change amendment to revise the City's Urban Water Supply Watershed Regulations to be consistent with the State's minimum requirements. As with all amendments to Part 10 of the City Code, this will require a Joint Planning Commission / City Council Public Hearing and a recommendation by the Planning Commission prior to any City Council action.

Resources/ Website Links:

State's Water Supply Watershed Protection rules (Pg. 33-35)

http://h2o.enr.state.nc.us/admin/rules/documents/Redbook2007_000.pdf

Neuse River- Richland Creek Watershed Plan

http://www.raleighnc.gov/portal/server.pt?space=Dir&spaceID=0&in_hi_userid=2&control=OpenSubFolder&subfolderID=3488&DirMode=1

Relevant City Ordinances

<http://www.municode.com/resources/gateway.asp?pid=10312&sid=33>

Sec.10-2064 Urban Water Supply Watershed Protection Area Overlay District

Sec.10-9040 Natural Resource Buffer Yards

10-2146.3(a) (7) Nonconformities

Best Management Practices (for on-site stormwater controls)

<http://www.bae.ncsu.edu/stormwater/PublicationFiles/DesigningRainGardens2001.pdf>

<http://www.bae.ncsu.edu/stormwater/PublicationFiles/Bioretenction2006.pdf>

<http://www.bae.ncsu.edu/stormwater/PublicationFiles/DSWC.Manual.2007.pdf>

<http://www.bae.ncsu.edu/stormwater/>

City Staff Contacts:

Planning Department

Dhanya Sandeep, 516-2659, dhanya.sandeep@ci.raleigh.nc.us

Stan Wingo, 516-2663, stan.wingo@ci.raleigh.nc.us

Martin Stankus, 516-2661, martin.stankus@ci.raleigh.nc.us

Public Works / Stormwater Engineering

Mark Senior, 890-3826, mark.senior@ci.raleigh.nc.us

Ben Brown, 516-2168, ben.brown@ci.raleigh.nc.us

Amy Hathaway, 890-3591, amy.hathaway@ci.raleigh.nc.us



City Of Raleigh
North Carolina

December 27, 2007

Dear Citizen:

You are receiving this notice because you own property that is being proposed to be included within the **Secondary Urban Water Supply Watershed Protection Area Overlay District (Z-3-08)**. A **public hearing** before the City Council and Planning Commission to consider this request has been scheduled on **January 22, 2008 at 6:30pm** in the Council Chamber of the Avery Upchurch Municipal Building, 222 W. Hargett Street. No action will be taken at the public hearing. Following the public hearing, the proposal will be referred to the Planning Commission for their review and recommendation. As with all Zoning Map amendments, the City Council is the final approving authority following the Planning Commission's review and recommendation.

A map showing the proposed boundaries of the Watershed Protection Overlay District is enclosed. Also enclosed is a draft of the Public Hearing agenda, factual information on this overlay district, resource/website links, Citizen Advisory Council (CAC) information and provisions for filing an Official Protest Petition.

Please forward any questions to the Staff Contact Persons identified at the end of the Resources / Website Links page. Detailed information on each zoning case scheduled for this public hearing may be directly accessed via the Planning Department's Web Site (www.raleighnc.gov/zoning).

Sincerely,

Mitchell Silver
Planning Director