

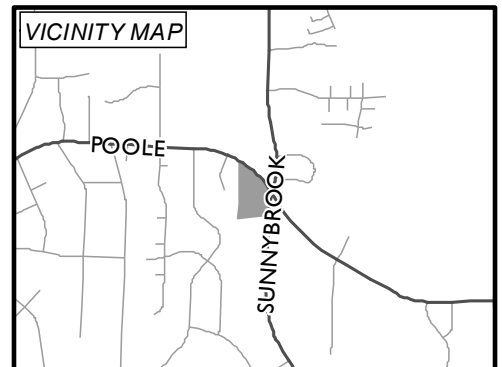
**Submittal
Date**

3/9/2015

Request:

**2.88 acres from
CUD NB
to NX-3-CU**

VICINITY MAP



March 9, 2015
1:55 pm



Planning & Development

Development Services Customer Service Center

One Exchange Plaza
1 Exchange Plaza, Suite 400
Raleigh, North Carolina 27601
Phone 919-996-2495
Fax 919-516-2685

Rezoning Application

Rezoning Request	OFFICE USE ONLY
<input type="checkbox"/> General Use <input checked="" type="checkbox"/> Conditional Use <input type="checkbox"/> Master Plan	Transaction Number
Existing Zoning Classification: NB CUD	
Proposed Zoning Classification Base District: Neighborhood Mixed Use Height: 3 Frontage:	
_____	421081
If the property has been previously rezoned, provide the rezoning case number. Z-92-98	

Provide all previous transaction numbers for Coordinated Team Reviews, Due Diligence Sessions or Pre-Submittal Conferences. 421081	Z-10-15

GENERAL INFORMATION		
Property Address: 3220 Poole Road, Raleigh, NC		Date: <u>March 6</u> , 2015
Property PIN: 1723-35-4702	Deed Reference (Book/Page): Book 15872, Page 1557	
Nearest Intersection: Poole and Sunnybrook Roads		Property size (in acres) : 2.88
Property Owner/Address: Circle K Stores, Inc. 2440 Whitehall Park Drive Suite 800 Charlotte, NC 28273-3953	Phone	Fax
	Email	
Project Contact Person/Address: Lacy H. Reaves Smith Anderson Law Firm PO Box 2611 Raleigh, NC 27602-2611	Phone: 919.821.6704	Fax: 919.821.6800
	Email: lreaves@smithlaw.com	
Owner/Agent Signature <u>Lacy H. Reaves</u> Attorney for Applicant	Email	

A rezoning application will not be considered complete until all required submittal components listed on the Rezoning Checklist have been received and approved.



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Conditional Use District Zoning Conditions		OFFICE USE ONLY
Zoning Case Number Z-10-15		Transaction Number
Date Submitted: _____, 2015		
Existing Zoning: NB CUD	Proposed Zoning: Neighborhood Mixed Use-3	

NARRATIVE OF ZONING CONDITIONS OFFERED	
1.	All Special Uses shall be excluded upon the Property.
2.	Existing trees 6" caliper and greater within 10' of the western (adjacent to parcels 1723-35-1692, 1723-35-1570 and 1723-35-1808) and southern (adjacent to parcel 1723-35-4540) boundary lines shall remain, (except for the construction of driveway connections to Poole Road and Sunnybrook Road or utilities as required and regulated by the City of Raleigh). A tree protection plan shall be submitted and approved by the City Staff at the time of site plan approval.
3.	A 6.5' solid fence shall be constructed along the entire western and southern property lines except for the portion that lies in the public street yards or sight distance triangles. The fence shall be constructed within 60 days after the issuance of a grading permit.
4.	At the time of site plan approval, if more than one building is to be constructed on the Property, a unity of development plan will be formulated for all buildings on the site assuring complimentary architectural style, materials and cross access ways.
5.	Exterior lighting shall be aimed downward and shielded so as to prevent view of the light source from residences along Sunnybrook Road and Cooper Road.
6.	Upon the submittal of a site plan with respect to the Property subsequent to the rezoning, the minimum UDO requirements for streetscape plantings shall be increased by 50%.
7.	Upon the submittal of a site plan with respect to the Property subsequent to the rezoning, if the City's Transit Program so requests, the owner of the Property will dedicate transit easements 15' wide and 20' in length, at locations determined by the Transit Program, along the right of way of Poole and Sunnybrook Roads; and if requested by the Transit Program, the owner will provide cement pads and landing zones between the sidewalks and curb and ADA accessible bus shelters at the transit easements. The deeds of easement for such dedication shall be in a form approved by the City Attorney.

These zoning conditions have been voluntarily offered by the property owner. All property owners must sign each condition page. This page may be photocopied if additional space is needed.

Owner/Agent Signature: Circle K Stores, Inc. By: _____ Name and Title	Print Name
--	------------



Planning & Development

**Development Services
Customer Service Center**
One Exchange Plaza
1 Exchange Plaza, Suite 400
Raleigh, North Carolina 27601
Phone 919-996-2495
Fax 919-516-2685

Rezoning Application Addendum

Comprehensive Plan Analysis	OFFICE USE ONLY
The applicant is asked to analyze the impact of the rezoning request. State Statutes require that the rezoning either be consistent with the adopted Comprehensive Plan, or that the request be reasonable and in the public interest.	Transaction Number
	Zoning Case Number 2-10-15

STATEMENT OF CONSISTENCY	
Provide brief statements regarding whether the rezoning request is consistent with the future land use designation, the urban form map and any applicable policies contained within the 2030 Comprehensive Plan.	
1.	The parcel that is the subject of this case (the "Property") is designated Neighborhood Mixed Use in the Future Land Use Map and is identified as within a Mixed Use Community Center in the Growth Framework Map. As stated in the Future Land Use Map's description of Neighborhood Mixed Use, "NX is the most appropriate zoning district for these areas."
2.	The Property is not within an area designated for a Zoning Frontage in the Comprehensive Plan's Urban Form Map.
3.	The proposed rezoning is consistent with the following Comprehensive Plan Policies: LU 1.2 – Future Land Use Map and Zoning Consistency; LU 1.3 – Conditional Use District Consistency; LU 2.6 – Zoning and Infrastructure Impacts; LU 5.6 – Buffering Requirements; LU 6.4 – Bus Stop Dedication; LU 7.1 – Encouraging Nodal Development; LU 7.4 – Scale and Design of New Commercial Uses; LU 7.6 – Pedestrian-Friendly Development.
4.	

PUBLIC BENEFITS	
Provide brief statements regarding the public benefits derived as a result of the rezoning request.	
1.	The proposed rezoning will make retail goods and services available on a 24-hour basis daily in an area in proximity to Wake Medical Center, which has a large employment base with employees working in shifts around the clock.
2.	
3.	
4.	

URBAN DESIGN GUIDELINES

If the property to be rezoned is shown as a "mixed use center" or located along a Main Street or Transit Emphasis Corridor as shown on the Urban Form Map in the Comprehensive Plan, the applicant must respond to the Urban Design Guidelines contained in the 2030 Comprehensive Plan.

1. *All Mixed-Use developments should generally provide retail (such as eating establishments, food stores, and banks), and other such uses as office and residential within walking distance of each other. Mixed uses should be arranged in a compact and pedestrian friendly form.*
The proposed development will provide retail in close proximity to existing residential uses.
2. *Within all Mixed-Use Areas buildings that are adjacent to lower density neighborhoods should transition (height, design, distance and/or landscaping) to the lower heights or be comparable in height and massing.*
The height of the proposed development is limited and buffers are provided for adjacent non-commercial uses.
3. *A mixed use area's road network should connect directly into the neighborhood road network of the surrounding community, providing multiple paths for movement to and through the mixed use area. In this way, trips made from the surrounding residential neighborhood(s) to the mixed use area should be possible without requiring travel along a major thoroughfare or arterial.*
All streets are currently in place.
4. *Streets should interconnect within a development and with adjoining development. Cul-de-sacs or dead-end streets are generally discouraged except where topographic conditions and/or exterior lot line configurations offer no practical alternatives for connection or through traffic. Street stubs should be provided with development adjacent to open land to provide for future connections. Streets should be planned with due regard to the designated corridors shown on the Thoroughfare Plan.*
All streets are currently in place.
5. *New development should be comprised of blocks of public and/or private streets (including sidewalks). Block faces should have a length generally not exceeding 660 feet. Where commercial driveways are used to create block structure, they should include the same pedestrian amenities as public or private streets.*
Block faces are existing.
6. *A primary task of all urban architecture and landscape design is the physical definition of streets and public spaces as places of shared use. Streets should be lined by buildings rather than parking lots and should provide interest especially for pedestrians. Garage entrances and/or loading areas should be located at the side or rear of a property.*
A site plan has been approved for the Property and the construction of improvements is underway.
7. *Buildings should be located close to the pedestrian-oriented street (within 25 feet of the curb), with off-street parking behind and/or beside the buildings. When a development plan is located along a high volume corridor without on-street parking, one bay of parking separating the building frontage along the corridor is a preferred option.*
A site plan has been approved for the Property and the construction of improvements is underway.
8. *If the site is located at a street intersection, the main building or main part of the building should be placed at the corner. Parking, loading or service should not be located at an intersection.*
A site plan has been approved for the Property and the construction of improvements is underway.
9. *To ensure that urban open space is well-used, it is essential to locate and design it carefully. The space should be located where it is visible and easily accessible from public areas (building entrances, sidewalks). Take views and sun exposure into account as well.*
A site plan has been approved for the Property and the construction of improvements is underway.
10. *New urban spaces should contain direct access from the adjacent streets. They should be open along the adjacent sidewalks and allow for multiple points of entry. They should also be visually permeable from the sidewalk, allowing passersby to see directly into the space.*
A site plan has been approved for the Property and the construction of improvements is underway.
11. *The perimeter of urban open spaces should consist of active uses that provide pedestrian traffic for the space including retail, cafés, and restaurants and higher-density residential.*
A site plan has been approved for the Property and the construction of improvements is underway.
12. *A properly defined urban open space is visually enclosed by the fronting of buildings to create an outdoor "room" that is comfortable to users.*
A site plan has been approved for the Property and the construction of improvements is underway.
13. *New public spaces should provide seating opportunities.*
A site plan has been approved for the Property and the construction of improvements is underway.
14. *Parking lots should not dominate the frontage of pedestrian-oriented streets, interrupt pedestrian routes, or negatively impact surrounding developments.*
A site plan has been approved for the Property and the construction of improvements is underway.
15. *Parking lots should be located behind or in the interior of a block whenever possible. Parking lots should not occupy more than 1/3 of the frontage of the adjacent building or not more than 64 feet, whichever is less.*
A site plan has been approved for the Property and the construction of improvements is underway.
16. *Parking structures are clearly an important and necessary element of the overall urban infrastructure but, given their utilitarian elements, can give serious negative visual effects. New structures should merit the same level of materials and finishes as that a principal building would, care in the use of basic design elements can make a significant improvement.*
A parking structure is not planned for this development.

17.	<p><i>Higher building densities and more intensive land uses should be within walking distance of transit stops, permitting public transit to become a viable alternative to the automobile.</i></p> <p>The Property is located on an established transit route. The zoning conditions provide for transit stops on the Property if requested by the Transit Division.</p>
18.	<p><i>Convenient, comfortable pedestrian access between the transit stop and the building entrance should be planned as part of the overall pedestrian network.</i></p> <p>Provisions of the UDO will assure convenient pedestrian access between the transit stops and the building entrances.</p>
19.	<p><i>All development should respect natural resources as an essential component of the human environment. The most sensitive landscape areas, both environmentally and visually, are steep slopes greater than 15 percent, watercourses, and floodplains. Any development in these areas should minimize intervention and maintain the natural condition except under extreme circumstances. Where practical, these features should be conserved as open space amenities and incorporated in the overall site design.</i></p> <p>There are no environmentally sensitive areas on the Property.</p>
20.	<p><i>It is the intent of these guidelines to build streets that are integral components of community design. Public and private streets, as well as commercial driveways that serve as primary pedestrian pathways to building entrances, should be designed as the main public spaces of the City and should be scaled for pedestrians.</i></p> <p>The streets fronting the Property are existing.</p>
21.	<p><i>Sidewalks should be 5-8 feet wide in residential areas and located on both sides of the street. Sidewalks in commercial areas and Pedestrian Business Overlays should be a minimum of 14-18 feet wide to accommodate sidewalk uses such as vendors, merchandising and outdoor seating.</i></p> <p>A site plan has been approved for the Property and the construction of improvements is underway.</p>
22.	<p><i>Streets should be designed with street trees planted in a manner appropriate to their function. Commercial streets should have trees which complement the face of the buildings and which shade the sidewalk. Residential streets should provide for an appropriate canopy, which shadows both the street and sidewalk, and serves as a visual buffer between the street and the home. The typical width of the street landscape strip is 6-8 feet. This width ensures healthy street trees, precludes tree roots from breaking the sidewalk, and provides adequate pedestrian buffering. Street trees should be at least 6 1/4" caliper and should be consistent with the City's landscaping, lighting and street sight distance requirements.</i></p> <p>A site plan has been approved for the Property and the construction of improvements is underway.</p>
23.	<p><i>Buildings should define the streets spatially. Proper spatial definition should be achieved with buildings or other architectural elements (including certain tree plantings) that make up the street edges aligned in a disciplined manner with an appropriate ratio of height to width.</i></p> <p>A site plan has been approved for the Property and the construction of improvements is underway.</p>
24.	<p><i>The primary entrance should be both architecturally and functionally on the front facade of any building facing the primary public street. Such entrances shall be designed to convey their prominence on the fronting facade.</i></p> <p>A site plan has been approved for the Property and the construction of improvements is underway.</p>
25.	<p><i>The ground level of the building should offer pedestrian interest along sidewalks. This includes windows entrances, and architectural details. Signage, awnings, and ornamentation are encouraged.</i></p> <p>A site plan has been approved for the Property and the construction of improvements is underway.</p>
26.	<p><i>The sidewalks should be the principal place of pedestrian movement and casual social interaction. Designs and uses should be complementary to that function.</i></p> <p>A site plan has been approved for the Property and the construction of improvements is underway.</p>

**PROPOSED REZONING OF PIN NO. 1723-35-4702
(THE "PROPOSED ZONING CASE")**

Approximately 2.88 Acres – Poole and Sunnybrook Roads

REPORT OF FEBRUARY 16, 2015 NEIGHBORHOOD MEETING

In accordance with Section 10.2.4.D of the Unified Development Ordinance, a neighborhood meeting was held with respect to the Proposed Zoning Case at 5:30 p.m. on Monday, February 16, 2015 in the offices of the Smith Anderson Law Firm at Suite 2300, 150 Fayetteville Street in Raleigh. Attached as Exhibit A is a list of those persons and organizations contacted about the meeting. Those persons and organizations were mailed a letter of invitation concerning the meeting, a copy of which is attached as Exhibit B. The letters were mailed on or about January 27, 2015 via First Class U.S. Mail.

Attached as Exhibit C is a list of the persons in attendance at the meeting. Lacy Reaves began the meeting and identified the property proposed for rezoning (the "Property"). He described the Circle K store to be constructed on the Property and noted that the sole purpose of the rezoning case was to modify the rezoning conditions to allow 24-hour operations seven days per week. Mr. Alsbrook, the only person in attendance at the meeting, stated that his only concern involved the cracking of the foundation of his residence that he believed originated with site excavation done by the previous owner of the Property, which he believes has continued since Circle K began its work on the Property. Mr. Reaves told Mr. Alsbrook that he would have Adam Serafin, a representative of Circle K, contact him to discuss the matter. Mr. Serafin did, in fact, telephone Mr. Alsbrook within a day or two following the meeting.

Weather conditions were unfavorable in the late afternoon of February 16 with light snow beginning to fall. For that reason, some invitees to the meeting may have declined to attend. Therefore, on March 2, 2015 a follow-up letter was mailed to each invitee requesting that they contact Mr. Reaves if they had questions with respect to the Proposed Zoning Case. A copy of this letter is attached as Exhibit D.

A copy of this report will be provided to the Planning Department upon the filing of the petition for the Proposed Zoning Case.

Respectfully submitted, this 5th day of March, 2015.



Lacy H. Reaves, Attorney

Exhibit A

Owner	Mailing Address 1	Mailing Address 2	Mailing Address 3	Site Address
CIRCLE K STORES INC	REAL ESTATE DEPARTMENT	2440 WHITEHALL PARK DR STE 800	CHARLOTTE NC 28273-3953	3220 POOLE RD
DARTMOUTH ASSOCIATES LLC	PO BOX 1137	YOUNGSVILLE NC 27596-1137		3218 POOLE RD
CARRIAGE PLACE PROPERTY OWNERS ASSOCIATION INC	PO BOX 6639	RALEIGH NC 27628-6639		3216 POOLE RD
KHUSHI PROPERTIES LLC	10450 DURANT RD STE 101	RALEIGH NC 27614-6498		517 CARDAMON CT
KHUSHI PROPERTIES LLC	10450 DURANT RD STE 101	RALEIGH NC 27614-6498		519 CARDAMON CT
KHUSHI PROPERTIES LLC	10450 DURANT RD STE 101	RALEIGH NC 27614-6498		521 CARDAMON CT
KHUSHI PROPERTIES LLC	10450 DURANT RD STE 101	RALEIGH NC 27614-6498		523 CARDAMON CT
KHUSHI PROPERTIES LLC	10450 DURANT RD STE 101	RALEIGH NC 27614-6498		525 CARDAMON CT
KHUSHI PROPERTIES LLC	10450 DURANT RD STE 101	RALEIGH NC 27614-6498		527 CARDAMON CT
KHUSHI PROPERTIES LLC	10450 DURANT RD STE 101	RALEIGH NC 27614-6498		529 CARDAMON CT
MENDOZA, JUAN PEREZ	545 COOPER RD	RALEIGH NC 27610-3723		545 COOPER RD
WILLIAMS, ROBERT EUGENE WILLIAMS, LINDA M	200 CROSS CURRENT LN	RALEIGH NC 27610-1520		549 COOPER RD
OATES, JAMES A	553 COOPER RD	RALEIGH NC 27610-3723		553 COOPER RD
WILLIAMS, DELORIS Y	601 COOPER RD	RALEIGH NC 27610-3725		601 COOPER RD
ETHRIDGE, NANCY J	610 SUNNYBROOK RD	RALEIGH NC 27610-4309		610 SUNNYBROOK RD
HOUSE, DOLLIE P	3005 ALLENBY DR	RALEIGH NC 27604-5801		3302 POOLE RD
GODWIN, JULIAN G III GODWIN, NANCY H	2421 WENTWORTH ST	RALEIGH NC 27612-4760		3305 POOLE RD
GODWIN, JULIAN G III GODWIN, NANCY H	2421 WENTWORTH ST	RALEIGH NC 27612-4760		3303 POOLE RD
GODWIN, JULIAN G III GODWIN, NANCY H	2421 WENTWORTH ST	RALEIGH NC 27612-4760		3305 BRIARCLIFF RD
WILDER, E W WILDER, MARY H	3219 POOLE RD	RALEIGH NC 27610-2839		3219 POOLE RD
ROBERTS, SURRY P	120 WOODBURN RD	RALEIGH NC 27605-1617		3209 POOLE RD
MORNING STAR MISSIONARY BAPTIST CHURCH	524 SUNNYBROOK RD	RALEIGH NC 27610-2851		524 SUNNYBROOK RD
MEACHAM, KRISTEN DOUGLAS	614 SUNNYBROOK RD	RALEIGH NC 27610-4309		614 SUNNYBROOK RD

Exhibit B

SMITH, ANDERSON, BLOUNT,
DORSETT, MITCHELL & JERNIGAN, L. L. P.

OFFICES
Wells Fargo Capitol Center
150 Fayetteville Street, Suite 2300
Raleigh, North Carolina 27601

LACY H. REAVES
DIRECT DIAL: (919) 821-6704
E-Mail: lreaves@smithlaw.com

LAWYERS

MAILING ADDRESS
P.O. Box 2611
Raleigh, North Carolina
27602-2611

TELEPHONE: (919) 821-1220
FACSIMILE: (919) 821-6800

TO: Neighbors

RE: Neighborhood Meeting – Proposed Modification of Zoning Condition –
Corner of Poole and Sunnybrook Roads (3220 Poole Road)

DATE: January 27, 2015

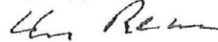
As I am sure you know, work is underway on a new Circle K store at the corner of Poole and Sunnybrook Roads. This land was rezoned to allow commercial development in 1999. One of the conditions of that rezoning prohibits twenty-four hour operation on the site except for a pharmacy. Circle K believes keeping its store at this location open on a twenty-four hour basis would be beneficial given the proximity of the WakeMed complex with its many night shift workers. Also, Circle K has learned that its stores are more secure if open during the hours of darkness, and, in fact, deter criminal activity while open for business.

In view of these considerations, Circle K will file a rezoning case for the sole purpose of modifying the zoning of its new store to allow it to operate on a twenty-four hour basis. We would like to invite you to a meeting to discuss this proposal and for a representative of Circle K to answer any questions you may have, or suggestions you would like to make, concerning its new store.

The meeting will be held at 5:30 p.m. on Monday, February 16 in our office on the 23rd floor of the Wells Fargo Building at 150 Fayetteville Street in Downtown Raleigh. You may park at the Alexander Square Parking Deck across Fayetteville Street, and we will validate your parking ticket so you can park without charge.

Please call me at the phone number indicated above should you have any questions.

Very truly yours,



Lacy H. Reaves

LHR: kjr

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Exhibit C

INDIVIDUALS IN ATTENDANCE AT THE MEETING
Poole and Sunnybrook Roads
February 16, 2015

John Alsbrook
610 Sunnybrook Road
Raleigh, NC 27610

Exhibit D

SMITH, ANDERSON, BLOUNT,
DORSETT, MITCHELL & JERNIGAN, L. L. P.

LAWYERS

OFFICES
Wells Fargo Capitol Center
150 Fayetteville Street, Suite 2300
Raleigh, North Carolina 27601

LACY H. REAVES
DIRECT DIAL: (919) 821-6704
E-Mail: lreaves@smithlaw.com

MAILING ADDRESS
P.O. Box 2611
Raleigh, North Carolina
27602-2611

TELEPHONE: (919) 821-1220
FACSIMILE: (919) 821-6800

To: Neighbors

Re: Circle K Rezoning – Corner of Poole and Sunnybrook Roads (3220 Poole Road)

Date: March 2, 2015

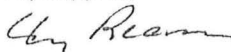
You will recall that we sent you a letter dated January 27, 2015 providing notice of a meeting at 5:30 p.m. on February 16 to discuss the plans by Circle K to request the removal of a zoning restriction applicable to the property at 3220 Poole Road which prohibits 24 hour operations. As you know, Circle K has a store under construction at that location. Circle K has found that closing its stores during late night and early morning hours actually results in criminal activity at its stores that does not occur when stores are open during those hours.

The weather forecast for the late afternoon of January 27 was for snow and ice, and some precipitation may have begun by 5:30 p.m. We could not cancel the meeting and held it as scheduled. One neighbor was in attendance.

Because the weather may have prevented your attendance at the meeting, we wanted to contact you and offer to answer any questions you may have about Circle K's zoning request. We are proposing to change only one of the zoning conditions placed on the property when it was zoned for retail use in 1998. The other conditions, which are attached to this letter, will remain applicable to Circle K's development and use of the property. One neighbor has inquired about a fence. Please note that condition 3 requires Circle K to construct a 6' solid fence along the entire southern and western boundaries of the property.

If you have questions, please contact me at the phone number above. If I cannot answer your question, I will have a representative of Circle K call or meet with you.

Very truly yours,



Lacy H. Reaves

LHR: kjr
Enclosure

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Exhibit D (con't)

Zoning Conditions

1. All Special Uses shall be excluded upon the Property.
2. Existing trees 6" caliper and greater within 10' of the western (adjacent to parcels 1723-35-1692, 1723-35-1570 and 1723-35-1808) and southern (adjacent to parcel 1723-35-4540) boundary lines shall remain, (except for the construction of driveway connections to Poole Road and Sunnybrook Road or utilities as required and regulated by the City of Raleigh). A tree protection plan shall be submitted and approved by the City Staff at the time of site plan approval.
3. A 6' solid fence shall be constructed along the entire western and southern property lines except for the portion that lies in the public street yards or sight distance triangles. The fence shall be constructed within 60 days after the issuance of a grading permit.
4. At the time of site plan approval, if more than one building is to be constructed on the Property, a unity of development plan will be formulated for all buildings on the site assuring complimentary architectural style, materials and cross access ways.
5. Exterior lighting shall be aimed downward and shielded so as to prevent view of the light source from residences along Sunnybrook Road and Cooper Road.
6. The minimum code requirements for street yard plantings shall be increased by 50%.
7. Upon the submittal of a site plan with respect to the Property subsequent to the rezoning, if the City's Transportation Division so requests, the owner of the Property will dedicate transit easements 15' wide and 20' in length, at locations determined by the Transit Division, along the right of way of Poole and Sunnybrook Roads. The deeds of easement for such dedication shall be in a form approved by the City Attorney.

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