

Item Title: Public Hearing to Rezone a portion of 9101 Falls of Neuse Road [PLG-RZ-002881-2021]

Specific Action Requested:

That the Board of Commissioners holds a public hearing to consider rezoning petition PLG-RZ-002881-2021 and:

- 1. Adopts the drafted statement finding that the requested rezoning to Conditional Use-Residential-40 zoning (i.e.—technical correction of the watershed boundary), the retention of the Non-Urban Area designation, and the permissible range of uses are consistent with the Land Use Plan, reasonable, and otherwise advances the public health, safety, and general welfare;**

and by separate motion;

- 2. Approves the rezoning petition, PLG-RZ-002881-2021, as presented, and authorizes staff to submit the requested change to the North Carolina Department of Environmental Quality for formal approval.**

Item Summary:

Purpose: The North Carolina General Statutes require that the Wake County Board of Commissioners holds a public hearing to rezone property.

Background: The purpose of this rezoning petition is to make a technical correction to the outermost boundary of the Falls Lake water supply watershed within the subject property based upon a field verified topographic survey.

The petitioner has provided evidence that the topography has not been altered and that this 0.604-acre portion of the 2.934-acre lot drains naturally out of the Falls Lake water supply watershed.

If the rezoning is approved by the Wake County Board of Commissioners (and then formally approved by the North Carolina Department of Environmental Quality), then the Planning staff would make a corresponding administrative amendment to the General Classifications Map to change the designation of the front 0.604-acre portion of this lot from Non-Urban Area/Water Supply Watershed to just Non-Urban Area (as the City of Raleigh has indicated that they have no intention of providing public water or sewer service to this property or to annex it).

Board Goal: This action supports routine County operations.

Fiscal Impact: There is no fiscal impact related to this agenda item.

Additional Information:

Current Zoning: Residential-40 Watershed (R-40W)

Proposed Zoning: Conditional Use Residential-40 (CU-R-40).

Petitioner: Mark Phillips, Pabst Design Group

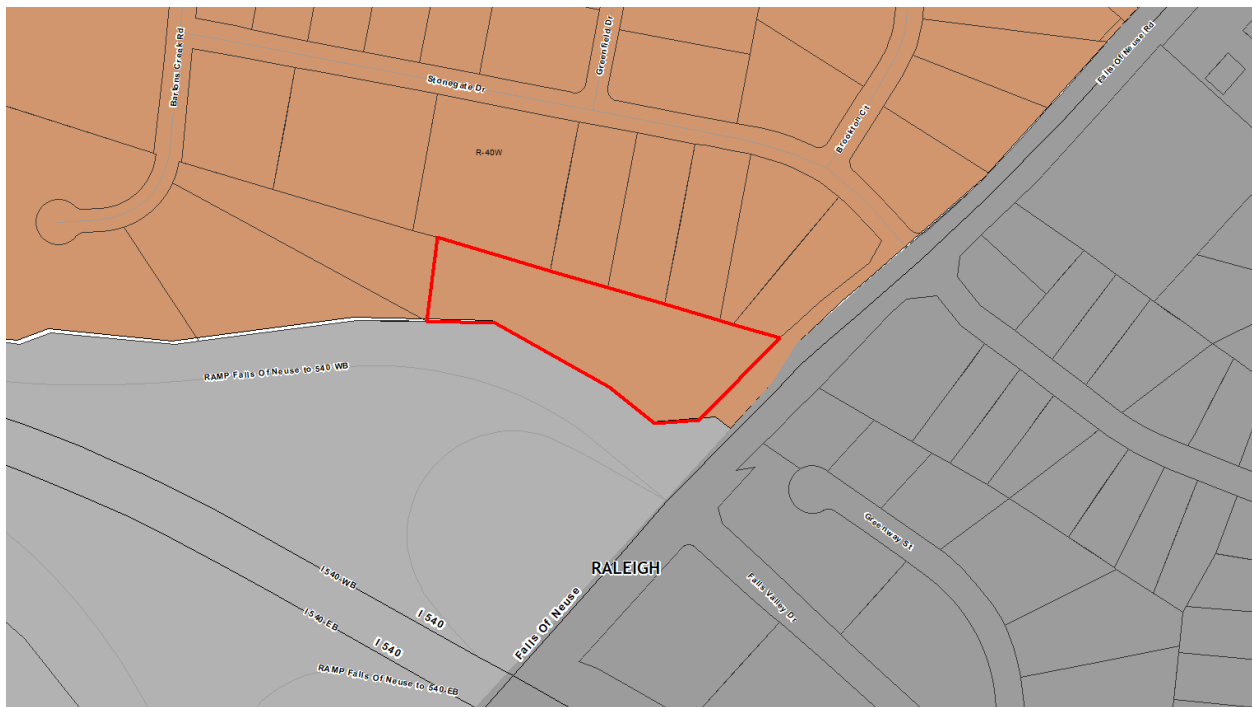
Owner: Falls Ridge West, LLC, James Jackson, Manager

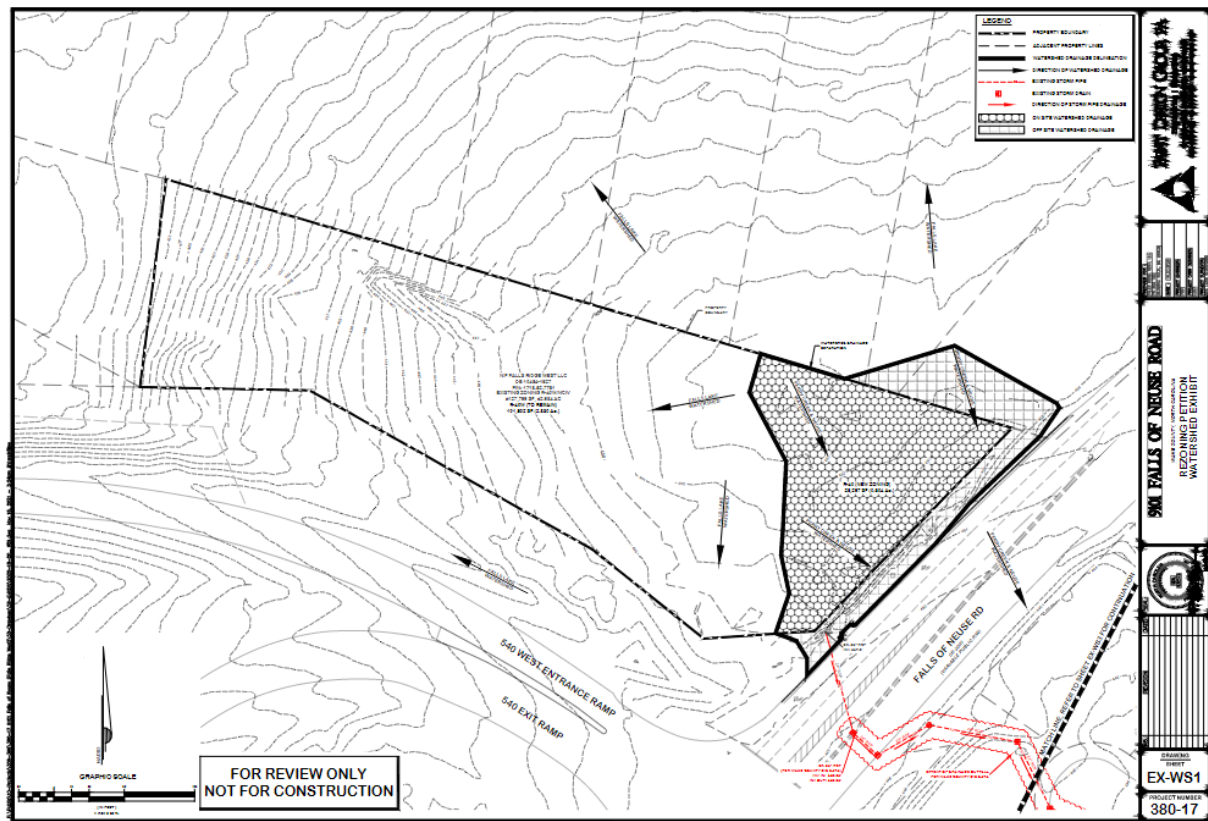
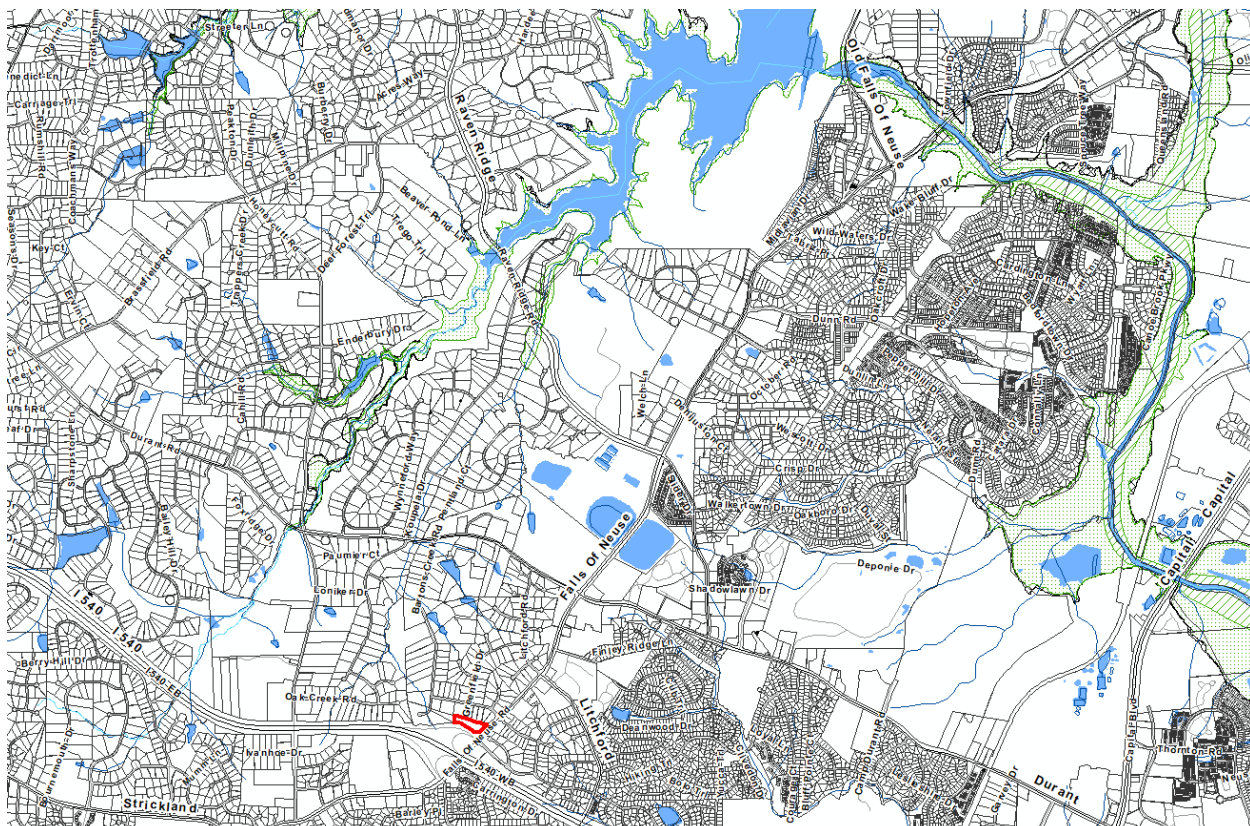
PIN: 1718527761

Location: The subject property is located at 9101 Falls of Neuse Road adjacent to the I-540 westbound on-ramp, Falls of Neuse Road, and the Muirfield Subdivision. Please see the first and second maps below. The associated ridgeline is approximately 10,000 feet (1.89 miles) from the lake surface as roughly measured in GIS (see the third map below). The ridgeline is approximately 1,240 feet (0.23 mile) from the nearest USGS blue line stream. Stormwater falling upon this 0.604-acre area, sheet flows to the front roadside ditch where it enters a 24-inch drainage pipe near the southeastern corner of the property and flows under Falls of Neuse Road (i.e.—away from Falls Lake). Please see the fourth map below for the location of the ridgeline and the referenced 24-inch drainage pipe.

Dropping the water supply watershed designation of the front 0.604-acre portion of the 2.934-acre subject property will not change the Non-Urban Area designation as the City of Raleigh has indicated that they have no intention of providing public water or sewer service to this property or to annex it. Nor would it significantly alter the allowable uses by-right (i.e.—administratively approvable by staff) on the property. Uses such as a library, school, place of religious assembly, governmental use, or a golf course as part of a subdivision would become uses by-right, however the petitioner has indicated that “none of these permitted uses is feasible due to the small size of the area being rezoned” (although they are not specifically excluded in the proposed conditions). The permissible range of uses, if the watershed declassification rezoning is approved, are reasonable for the area (as evidenced by their listing in the Permissible Use Table of section 4-11 of the UDO).

The petitioner is aware that other actions would be needed to significantly alter the allowable uses on the subject property. They have indicated their intent to pursue a subsequent Land Use Plan Amendment (LUPA) to create a new Activity Center at this location (if the rezoning is approved). That LUPA process would be similar to a rezoning petition in that it would require a public meeting with, and recommendation from, the Planning Board and a public hearing before the Board of Commissioners. Each of those meetings would require the same notifications as a rezoning process. **If** the LUPA is approved, then most subsequent uses (such as the café and the retail/personal service uses that they have mentioned) would require a detailed site plan review by staff and a duly noticed public hearing before the Wake County Board of Adjustment for consideration of a Special Use Permit (SUP). SUPs include a test for Land Use Plan consistency, which for most uses would require that they be located within a designated Activity Center. There are other tests for a SUP that involve an evaluation of whether they fit with the harmony of the area, adverse impacts on adjoining property values, etc....).





It is the planning staff's professional opinion that the rezoning petition for Conditional Use-Residential-40 zoning (as a technical correction of the outermost watershed boundary based upon a field verified topographic survey), the retention of the Non-Urban Area designation, and the permissible range of uses would be consistent with the general Wake County Land Use Plan, are reasonable, appropriate for the area, and in the public interest.

All property owners (91) within 1,000 feet of the perimeter of the subject property were sent letters notifying them of the Planning Board meeting on May 4, 2022 and of this Board of Commissioners' public hearing. A public hearing notification sign was posted along the Falls of Neuse Road frontage for each of these meetings. Legal advertisements of this public hearing appeared in the News and Observer on Friday, June 10, 2022 and Monday, June 13, 2022. In response to the staff's notification efforts the planning staff has received a few additional phone calls and e-mail inquiries.

In addition to the staff's efforts, the petitioner held a neighborhood meeting on Wednesday, November 13, 2019, to discuss the requested rezoning and the potential subsequent use of the property for "a café with personal services or office use". The meeting was attended by approximately 35 area residents. The petitioner held a second neighborhood meeting on Tuesday, January 7, 2020, that was attended by approximately 23 area residents. Some of the residents expressed a number of concerns at the meetings (see the attached staff report for further details). Some of the neighbors also submitted an opposition petition signed by approximately 140 area residents at the Planning Board meeting (see attached).

Planning Staff Findings

1. The proposed Conditional Use-Residential-40 rezoning is a refinement of the data that is already represented on the General Classification Map (i.e.--the outermost water supply watershed boundary), therefore the staff has deemed that the rezoning petition is consistent with the Land Use Plan.
2. The petitioner noted that the proposed rezoning complies with two stated goals of the Wake County Land Use Plan.
3. A detailed traffic assessment statement prepared by a professional traffic engineer indicated that the proposed development would generate less traffic than the threshold for a formal Traffic Impact Analysis and would increase traffic on the adjacent roadway by only 1.6%.
4. There is an on-going NCDOT project to widen Falls of Neuse Road within this immediate area that should help improve traffic conditions.
5. Most subsequent uses of the subject property would require the petitioner to first obtain a Land Use Plan Amendment (LUPA) via a separate public hearing process to create a new Activity Center at this location and then a Special Use Permit (SUP) via a public hearing before the Board of Adjustment.
6. A detailed site plan must be approved by the appropriate county and state agencies prior to future development on the subject property to ensure compliance with all applicable regulations.
7. The City of Raleigh's planning staff has made no comment on the rezoning petition.
8. The Department of Environmental Quality staff has not indicated any issues or concerns with the proposed technical correction of the watershed boundary.

9. Wake County planning staff has received a number of concerns/objections from some of the surrounding property owners.

Planning Staff Recommendation

That the Board of Commissioners holds a public hearing to consider rezoning petition PLG-RZ-002881-2021 and:

1. Adopts the drafted statement finding that the requested rezoning to Conditional Use-Residential-40 zoning (i.e.—technical correction of the watershed boundary), the retention of the Non-Urban Area designation, and the permissible range of uses are consistent with the Land Use Plan, reasonable, and otherwise advances the public health, safety, and general welfare;

and by separate motion

2. Approves the rezoning petition, PLG-RZ-002881-2021, as presented, and authorizes staff to submit the requested change to the North Carolina Department of Environmental Quality for formal approval.

Planning Board Recommendation

1. The Planning Board, at their Wednesday, May 4, 2022 meeting, recommended by unanimous vote, that the Wake County Board of Commissioners adopts the drafted Statement of Consistency, Reasonableness, and Public Interest;

and by separate motion

2. The Planning Board, at the same meeting, recommended by unanimous vote that the Wake County Board of Commissioners approves the rezoning petition as presented and authorizes staff to submit the requested change to the North Carolina Department of Environmental Quality for formal approval.

Attachments:

1. Presentation
2. Staff Report
3. Rezoning Petition
4. Ordinance Regarding Statement of Consistency, Reasonableness, and Public Interest
5. Ordinance Approving Rezoning Petition as Presented
6. Opposition Petition
7. Planning Board Minutes Excerpt
8. Draft BOC Motions Sheet