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WAKE COUNTY
MANAGERS OFFICE

City Of Raleigh
North Carolina

February 16, 2010

David Cooke
Wake County Manager
P.O. Box 550, Suite 1100
Raleigh NC 27602

Re: City of Raleigh Opposition to Proposed Wake County UDO Amendment 03-09
(Redevelopment of Nonconformities in Residential 40 Watershed Districts)

Dear David:

The City of Raleigh understands that the Wake County Board of Commissioners will be considering a text change to the Wake County UDO, referenced as OA 03-09, at a public hearing to be scheduled for March of 2010. This proposed text amendment would create a Wake County Board of Adjustment special use permit process for existing nonconforming uses in the Wake County Residential-40 Watershed (R-40W) zoning districts to be redeveloped when certain conditions are met. R-40W zoning districts exist within various Wake County water supply watershed areas including Raleigh's existing Falls Lake and Swift Creek water supply watersheds and Raleigh's future Little River water supply watershed. A foremost concern with any development or redevelopment regulations within water supply watershed areas is to protect water quality and improve and prevent any further degradation of water quality where impaired water conditions exist.

This proposed text change was submitted by property interests and has been reviewed and recommended for approval by the Wake County Planning Board. Although this text change's proposed BOA special use process for considering redevelopment of existing nonconforming sites could be utilized throughout R-40W zoning districts, it is understood that the impetus for this text change proposal is to encourage and facilitate redevelopment of a single existing nonconformity at the HW 98/Old Creedmoor Road intersection for a shopping center. It has been City of Raleigh's recommendation to the text change applicant and Wake County staff that such a redevelopment use and its impacts and public benefits may be more appropriately considered through a rezoning process. Since the normal approach for redeveloping an existing non-conforming use with a use not currently allowed by the County's UDO would be a rezoning, staff believes this text change would establish a precedent and open the door for additional text changes from other property interests seeking comparable new development opportunities within the watershed.

This proposed text change establishes a process for the BOA to consider and approve redevelopment of existing nonconforming sites located within a non-urban activity center for commercial uses exceeding the 15,000 square foot building floor area per lot limitation on new commercial development in such activity centers in the current Wake County UDO. The City of Raleigh is concerned that greater intensities of development could pose risks to water quality. Falls

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Lake, the current sole source of drinking water for the City and its 450,000 customers is listed on the Federal 303d list for impaired waters. Since the time it was constructed, portions of Falls Lake have experienced nutrient conditions that have contributed to monitored exceedances of the chlorophyll-a standard. In 2005, the General Assembly directed the EMC to develop a nutrient management strategy for Falls Lake. The legislation was amended so that the nutrient management strategy and implementing rules are to be established no later than January 15, 2011. Wake County and the City of Raleigh have invested thousands of dollars and hundreds of staff hours in participation in this nutrient management strategy.

Any significant development in the Falls Lake watershed should meet the new development requirements of the nutrient management strategy, as proposed by the Division of Water Quality and supported by the City of Raleigh before the proposed implementation date for such rules which is currently envisioned to begin in 2012 or 2013. Specific provisions of the nutrient management strategy include the reduction of on site nutrient transport (a nutrient transport limit of 2.2 lbs per acre per year for total nitrogen and .33 lbs per acre per year for total phosphorus). They also include a provision that requires 60 percent of the required reductions occur on site before the applicant can purchase off site credits. There is a standard for post construction reduction of nitrogen and phosphorous loading rates by at least 55% and 65% respectively contained in the current proposed text change language. Raleigh staff does not believe these offered reductions would implement the Falls Lake Nutrient Management goals adequately. It is further suggested that to ensure future water quality improvement that on site storm water or wastewater reuse or the requirement to design and construct buildings LEED standards be considered for new development.

The City of Raleigh opposes this UDO text amendment because (1) of our concern regarding the inequality and incompatibility between this text change and existing uses, (2) our concern that the text change does not rise to the standards proposed under the Falls Lake Nutrient Management Strategy, (3) our concern that the text change is an inappropriate mechanism to achieve the applicants goal, (4) and our concern that the text change could have unforeseen consequences as it is applied in the County's other water supply watersheds.

Please share this letter of opposition to UDO OA 03-09 with the Wake County Board of Commissioners. The City of Raleigh urges Wake County to deny this request and to encourage the applicant to seek a rezoning for the desired development. The cumulative impact of potential water quality impacts, coupled with the risk of increased development pressure and possible demands for equity from other property interests through further text changes leads staff to conclude that the requested text change does not provide for better protection of all water supplies impacted by the text change when compared to current language and development restrictions.

Sincerely,



J. Russell Allen, City Manager
City of Raleigh

cc: John Carman, City of Raleigh Public Utilities Director
Mitchell Silver, AICP, City of Raleigh Planning Director
Mayor and City Council Members
Dan McLawhorn, Associate City Attorney