Ordinance (2002) 349 ZC 528
Effective: December 18, 2002

Z-58-02 West Millbrook Road and Lead Mine Road, southeast intersection, being Wake County PIN 0796.12-76-8585. Approximately 13.46 acres rezoned to Residential-6 Conditional Use.

Conditions dated: (11/15/02)

A. The following conditions shall apply to the entire site:

1) The property will be developed with an on-site detention pond. The detention pond will: (a) be of sufficient size to route the 100-year storm; (b) discharge the ten-year, two-hour storm at lesser rate of either predevelopment rate of the rezoned land or at a rate that shall not overload the existing City of Raleigh stormwater system located in the Old Towne Road public street right-of-way, based on full development of the drainage basin; and (c) collect all stormwater from the rezoned property and convey the stormwater to the stormwater system of the City of Raleigh located in the Old Towne Road public right-of-way by means of underground storm drain pipe(s) within a drainage easement. The drainage easement shall run through one of the abutting residential lots listed in condition five (5) below. The drainage easement shall be a minimum of twenty feet (20') with ten (10') on either side of the drain pipe. If any structure is located within the drainage easement area, the structure shall be modified so that it does not conflict with the easement dimensions herein stated. The City shall approve the drainage easement and the design of the detention pond. The detention pond and the underground storm drain shall be maintained in accordance with section 10-5007(c) or its successor.

2) Prior to any other land disturbing activity, the following shall be installed: (a) the detention pond as set forth in condition one (1) above; (b) soil erosion control measures required by the City of Raleigh (including, but not limited to, stormwater devices such as sediment basins, silt fences, and ditches); and (c) the Keystone segmental block wall as set forth in condition ten (10) below. The developer shall obtain a bond in an amount of not less than $30,000.00 for the benefit of the adjoining residential lots listed in condition five (5) below prior to any land-disturbing activity. The bond shall be held by the Chief Zoning Inspector of the City of Raleigh. The bond shall contain a provision that allows it to be called whenever any soil erosion, sedimentation, or stormwater runoff associated with the site development of the rezoned land damages any of the adjoining residential lots listed in condition five (5) below. If multiple lots are damaged because of any soil erosion, sedimentation, or stormwater runoff associated with site development of the rezoned land and the damage exceeds $30,000.00, then the affected lot owners shall receive from the bond proceeds an amount proportional to the damage caused to their lots. The City Attorney shall approve the terms of the bond prior to its issuance.

3) The property shall be limited to no more than one access from Millbrook Road and no more that one access from Leadmine Road.

4) Reimbursement rates for any right-of-way conveyance shall be based on R-4 Zoning rates.

5) If dumpsters should be set on site for trash storage and pickup, the dumpsters will be situated at least 100 feet (100') from the property line of the following adjacent lots: 079612872002 (Hix), 079612862903 (Rubio), 079612862844 (Maillet), 079612862775 (Gall), 079612863626 (Adams), 079612863546 (Kirkman), 079612864416 (Patel), 079612862399 (House), 079612862278 (Sheehan), 079612862240 (Cashin), 079612861192 (Jacobs), 079612861017 (Bullard), 079612860018 (Habitech), 079612769029 (Shirmanker), 079612768132 (Coolidge), 079612767144 (Ibrahim), 079612766156 (Joslin), 079612765158 (Stiles), 079611764159 (Justice), 079611763261 (Towne), 079611762274 (McCune). The dumpsters shall be screened in compliance with the applicable City Code provision.

6) Except where necessary to accommodate driveways, sidewalks, entrance features, utilities, and/or street work, trees in excess of 12 inches (12") caliper located within forty feet (40') of the site's boundaries with Leadmine and Millbrook Roads, as they are measured after the required dedication of rights-of-way during subdivision and/or site plan approval for the forty-nine (49) townhomes described in condition seven (7) below, shall be preserved. Within forty-five (45) days following adoption of this rezoning ordinance, a tree inventory survey for all appropriately sized trees shall be presented to the Chief Zoning Inspector. For those trees in excess of twelve inches (12") caliper located more than forty feet (40') from the Leadmine and Millbrook Roads rights-of-way, as measured after the required dedication of rights-of-way during subdivision and/or site plan approval for the forty-nine (49) townhomes described in condition seven (7) below, or more than twenty feet (20') from the site's boundaries with the adjacent residential lots, every effort will be made to preserve these trees during the development process of the forty-nine (49) townhomes envisioned herein wherever practical. If a dispute arises between the applicant and planning staff concerning the practicality of preserving those trees in excess of twelve inches (12") caliper located more than forty (40') from the Leadmine and Millbrook Roads rights-of-way, as measured after the required dedication of rights-of-way during subdivision and/or site plan approval for the forty-nine (49) townhomes described in condition seven (7) below, or more than twenty-feet (20') from the site's boundaries with the adjacent residential lots, then the Planning Commission will have final site plan review authority on this issue.

7) For so long as the property is utilized for a civic club use, allowable residential development shall be limited to forty-nine (49) townhome dwellings. If and when the property is no longer utilized for a civic club use, the rezoned land may be developed for an additional nineteen (19) townhome units or nineteen (19) single family detached dwellings.

8) Aside from the existing civic club buildings and structures, no building or structure on site shall exceed two stories in height (thirty-two feet (32') total as it is measured according to the Raleigh Zoning Code).

9) Exterior lighting shall be aimed downward and shielded so as to prevent direct view of the light source from adjacent properties and shall be limited to not more than sixteen feet (16') in height.

10) Prior to issuance of building permits for any one of the forty-nice (49) townhomes described in condition seven (7) above, a revegetated buffer not less than fifty feet (50') in width shall be installed adjacent to the adjoining residential lots identified in condition five (5) above. Said buffer shall be planted to the requirements of a Type B transition yard as same is defined in Section 2082.9 of the City of Raleigh Development Regulations and shall exceed those requirements in that not less than eight shade trees per 100 linear feet shall be required. Within the aforementioned buffer and prior to any land disturbing activity, other than installation of storm water detention devices, a solid wall six feet (6') in height shall be installed on top of a three-foot (3') high berm with the property owner, or a successor homeowners association, responsible for the perpetual maintenance of both the wall and berm. The wall and berm shall be installed twenty feet (20') from the site's property lines with the adjacent residential lots. The berm shall be constructed at a three to one slope, with the berm made up of top soil taken from the rezoned land. The wall construction material shall be brick. However, a Keystone segmental block wall shall be constructed in place of the brick wall and berm at least twenty feet (20') from the site's property lines along the southeast quadrant of the site for approximately seven hundred feet (700'). The height of the Keystone segmental block wall will vary depending upon the topography; however, it will merge together with the brick wall and berm so that at no point will a visual screen less than nine feet (9') be provided. Loblolly pines and wax myrtles shall be planted in front of the Keystone segmental wall as it faces the adjoining residential lots identified ion condition five (5) above. The loblolly pines shall be two inches (2") caliper and between eight feet (8') and ten feet (10') in height, and shall be planted every thirty feet along the frontage of the Keystone segmental block wall. Five gallon wax myrtles shall be planted every six feet (6') along the front of the Keystone segmental block wall. Both the loblolly pines and the wax myrtles shall be planted at least ten feet (10') in front of the Keystone segmental block wall as it faces the adjoining residential lots identified in condition five (5) above; however, the planting of the loblolly pines and the wax myrtles shall not interfere with any existing trees in excess of twelve inches (12") caliper. No wall shall be installed within forty feet (40') of the Leadmine and Millbrook Roads rights-of-ways as they are measured after the required dedication of rights-of-way during subdivision and/or site plan approval for the forty-nine (49) townhomes described in condition seven (7) above. Trees in excess of twelve inches (12") caliper located within the area between the site's property lines with the residential adjoining residential lots identified in condition five (5) above and the privacy walls described herein shall be preserved except where necessary to accommodate drainage and utility easements.

11) At the time of submission to the City of either a subdivision plan or site plan, whichever shall first occur, the applicant shall provide a copy of such plan via first class mail to the Chairperson of the Six Forks CAC as listed by the City of Raleigh Planning Department and to the owners of the adjacent residential properties identified in condition five (5) above.

12) The final site plan shall be reviewed by the Appearance Commission and the Planning Commission prior to the issuance of permits.

13) Each townhome will include a two car garage and a separate driveway, with overflow parking available on site for visitors.

14) Once the walls described in condition ten (10) above are installed, the property owner will offer each of the owners of the adjacent residential lots identified in condition five (5) above an encroachment agreement that would allow each one of them to maintain, repair, and/or replace those portions of the existing chain link fence which run along the perimeter of the site and abut their properties. However, portions of the existing chain link fence abutting individual lots will be removed if, within one year after the walls described in condition ten (10) above are installed, such adjacent property owners request in writing that the fence be removed.

15) Except where necessary to accommodate driveways, sidewalks, entrance features, and/or utilities, a decorative fence consisting of brick support columns and wrought iron railings shall be installed along the property's frontage with Leadmine and Millbrook Roads. It shall be six feet (6') in height and will be 75% screened by plantings. The fence shall lay a minimum of forty-one feet (41') from the Leadmine and Millbrook Roads rights-of-way, as they are measured after the required dedication of rights-of-way during subdivision and/or site plan approval for the forty-nine (49) townhomes described in condition seven (7) above. There shall be a ten-foot long vegetative transition (double row of offset evergreens six feet (6') in height) between the decorative fence and the site's southern and eastern property lines, with the vegetative transition merging with the decorative fence. The vegetative transition shall lay a minimum of forty-one feet (41') from the Leadmine and Millbrook Roads rights-of-way, as they are measured after the required dedication of rights-of-way during subdivision and/or site plan approval for the forty-nine (49) townhomes described in condition seven (7) above. The decorative fence's construction shall be divided into two phases. The first phase will run approximately 270 feet along the property's frontage with Leadmine Road, beginning approximately ten feet (10') from the site's southern property line, and will run 253 feet along the property's frontage with Millbrook Road, beginning approximately ten feet (10') from the site's eastern property line. The first phase shall be completed prior to the issuance of building permits for any of the forty-nine (49) townhome dwellings described in condition seven (7) above. This first phase also will include the vegetative transitions running for ten (10') along the site's Leadmine Road and Millbrook Road frontages. The second phase, which will run along both the site's frontages with Leadmine Road and Millbrook Road, shall be completed upon abandonment and redevelopment of the existing civic club use.

16) Prior to the issuance of building permits for any of the forty-nine (49) townhome dwellings described in condition seven (7) above, the stormwater runoff management system described in condition one (1) above first shall be approved by the City and then installed.