Ordinance: 374 ZC 618
Effective: April 1, 2008

1. **Z-14-08 – Edwards Mill Road,** located on the west side of Edwards Mill Road, Southwest of its intersection with Duraleigh Road, being Wake County PIN 0785546220. Approximately 17.22 acres rezoned to Office and Institution-1 Conditional Use District.

Conditions: 03/27/08

As used herein the "Property" means and refers to all of that certain tract or parcel of land containing +- 17.22 acres, located on the west side of Edwards Mill Road north of the Macon Pond Road Intersection in the City of Raleigh, Wake County, North Carolina, having Wake County Parcel identification Number 0785-54-6220.

(a) **Transit Easemen**t. Prior to the first recording of a subdivision plat or the Issuance of the first building permit for the Property (or any portion thereof), whichever shall first occur, there shall be dedicated to the City a transit easement along Edwards Mill Road measuring twenty (20) feet In length and fifteen (15) feet in width. The location of the transit easement shall be approved by the Transit Division of the City and the City Attorney or his Associate shall approve the transit easement deed prior to recordation. In the event that the Transit Division elects to place the transit easement in use for municipal transit services, it shall notify the owner of the Property thereof in writing, and within thirty (30) days after receipt of such notice the owner shall pay the cost to be incurred by the City for its purchase of a bench to be installed within such transit easement.

(b) **Height Limits**. The maximum height for buildings constructed upon the Property shall be the lesser of sixty five (65) feet or four (4) stories in height as determined pursuant to Section 10-2076 of the City Code.

(c) **Limitation on Square Footage of Office Uses**. Cumulatively office buildings (other than parking structures) constructed upon the Property shall not exceed 160,000 square feet floor area gross. Within 45 days following the last to occur of (i) the date upon which the adoption of the ordinance approving this zoning case becomes final and unappealable or (ii) the approval of the form and substance of the restrictive covenant hereinafter mentioned by the City Attorney or his or her deputy, the owner of the Property shall cause to be recorded in the Wake County Registry a restrictive covenant that allocates allowable building square footage upon the Property to all existing lots of record comprising the Property. Such restrictive covenant shall be submitted to the City Attorney within thirty

(30) days following approval of this zoning case by the City Council and shall be approved by the City Attorney or his or her deputy prior to recordation. Such restrictive covenant shall provide that it may be amended or terminated only with the prior written consent of the City Attorney or his or her deputy, which consent shall not be unreasonably withheld.

(d) **Open Space**. A minimum of twenty percent (20%) of the Property shall be maintained in open space. Open space, as used in this Condition (d), shall be defined as any area of the Property not covered by buildings, parking decks, vehicular service and/or parking areas, trash collection areas, and streets.

(e) **Prohibited Uses**. The following uses shall be prohibited upon the Property:

-Cemetery
- Church, synagogue or religious education building
- Utility services and substation
- Dance recording, music studio
- Emergency shelter type A, emergency shelter type B, religious shelter units
- Private or parochial school (elementary, middle and high)
- Airfield landing strip and heliport
- Fraternity house
- Sorority house
- Rooming house, boarding house, lodging house, guest house, tourist home
- Funeral home
- Crematory

(f) **Site Lighting.** All outdoor area and parking lot fixtures shall be of full cutoff (shielded) design. Outside of required transitional protective yards where the maximum height shall be twelve (12) feet, freestanding on-site lighting fixtures shall not be more than twenty (20) feet in height.

(g) **Height of Retaining Wall**. No retaining wall greater than six (6) feet in height shall be constructed within two hundred (200) feet of any point on the boundary of the Property with parcels having the following Wake County Registry references: Book 11296, Page 1171 (Helms), Book 10847, Page 428 (Weinreb), and Book 11105, Page 796 (Huntley) (the "Adjacent Parcels"). Upon development, any retaining wall or walls upon the Property within two hundred (200) feet of the boundary of the Property with the Adjacent Parcels shall be planted with Trumpet Honeysuckle (or

a similar species) at intervals of three (3) feet along the side of the wall facing the Adjacent Parcels. This condition shall not prohibit multiple retaining walls within the area dealt with in this condition, provided no single retaining wall in such area is greater than six (6) feet in height and the retaining walls therein are at least three (3) feet apart.

(h) **Office Building, Parking Deck and Dumpster Setback**. No office building, parking deck or dumpster shall be constructed or placed within three hundred (300) feet of any point on the boundary or the Property with the Adjacent Parcels.

(i) **Plantings within Easement**. Upon development, there shall be planted along the boundary of the Property with Wake County Registry reference Book 12071, Page 1469 (Princeton Marquis LP) within the easement now owned by Progress Energy, Inc. two (2) staggered rows eight (8) feet on center of Wax Myrtle trees (or a similar species). An area within the easement shall be left unplanted to allow the passage of a motor vehicle or other equipment through the easement. In the event that the plants planted pursuant to this condition are removed or destroyed by the owner of the easement pursuant to the document recorded at Book 252, Page 506 of the Wake County Registry or any other document giving it the right to do so, the owner of the Property shall have no obligation to replace the plants so removed or destroyed.

(j) **Parking Lot Perimeter**. Along the perimeter of any parking lot upon the Property within two hundred (200) feet of any point on the boundary of the Property with parcels having the following Wake County Registry references: Book 12510, Page 1502 (Treadway), Book 11296, Page 1171 (Helms), Book 10847, Page 428 (Weinreb), and Book 11105, Page 796 (Huntley), other than within the easement owned by Progress Energy, Inc., or its successor in title, there shall be planted upon development a row of Leyland Cypress Trees (or a similar species) on centers of twelve (12) feet.

(k) **Neuse Riparian Buffer: Natural Protective Yard**. Upon development, there shall be maintained upon the Property a natural protective yard and Primary Tree Conservation Area pursuant to Section 10-2082.14 of the Code an average of twenty-five (25) feet in width (no less than ten (10) feet in width nor more than forty (40) feet In width) adjacent to and outside the riparian buffer fifty (50) feet in width ("the "Riparian Buffer") existing upon the Property pursuant to 15A North Carolina Administrative Code 2B.0233 NEUSE RIVER BASIN: NUTRIENT SENSITIVE WATERS MANAGEMENT STRATEGY: PROTECTION AND MAINTENANCE OF EXISTING RIPARIAN BUFFERS. Provided,

however, (i) the aforementioned natural protective yard and Primary Tree Conservation Area shall not exist within that portion of the Property subject to an easement owned by Progress Energy, Inc., its successors or assigns and (ii) such natural protective yard and Primary Tree Conservation Area shall be an average of forty (40) feet in width (no less than ten (10) feet in width nor more than seventy (70) feet in width) adjacent to and outside that portion of the Riparian Buffer adjoining the Adjacent Parcels. The Riparian Buffer and the natural protective yards and Primary Tree Conservation Areas established pursuant to this condition shall remain undisturbed except for the installation of utilities to the extent allowed by the City Code and State statutes and regulations.

(l) **Limitation on impervious Surface**. Upon development, no more than sixty percent (60%) of the surface area of the Property shall be impervious.

(m) **Site Plan Approval**. No development shall occur upon the Property until a site plan with respect thereto has been approved by the Raleigh Planning Commission. Prior to the submittal of any such site plan to the Raleigh Planning Department, it shall be presented to the Northwest Umstead Citizens Advisory Council or Its successor, if any.

(n) **Control of Stormwater During Construction**. Upon construction activity upon the Property, the peak stormwater runoff leaving the Property for the two (2) year and the ten (10)-year storms shall be no greater than that for pre-development

Section 2. That all laws and clauses of laws in conflict herewith are hereby repealed to the extend of such conflict.

Section 3. If this ordinance or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given separate effect and to that end the provisions of this ordinance are declared to be severable.

Section 4. That this ordinance shall become effective upon the date of adoption.

Adopted: April 1, 2008 **Effective: April 1, 2008**

Distribution: Planning Department (3)
City Attorney
Inspections Department (5)
Jackie Taylor