Z-52-05 – Tryon Road, north side, west of its intersection with Dillard Drive, being Wake County PINs 0782-18-3232 (portion of), 0782-07-9265, 0782-17-4344, 0782-07-1153, 0782-07-3253, 0782-08-5082, 0782-07-8814, 0782-17-3714 and 0782-17-8713. Approximately 48.71 acres rezoned from Rural Residential with Watershed Protection Overlay District to Residential-6 Conditional Use with Watershed Protection Overlay District.

Conditions dated: November 29, 2005

A. Only the following uses shall be permitted on the subject property:

1. single-family detached dwelling units; and
2. single-family attached dwelling units and townhomes; and
3. utility services and substations; and
4. recreational use – governmental; and
5. residential accessory structures and uses including above ground storage tanks (home consumption), flagpole, antennae, dish antennae, fountain, parking area, garage (less than four (4) vehicles for single family homes), garden greenhouse (noncommercial), monument, open space, patio, deck, swimming pool for single dwelling, playground equipment, bird feeders, wall, fence, storage building, storage of one (1) unoccupied travel trailer, utility apartment, and other uses typically associated with other single family dwellings; and
6. recreational uses related to single family dwellings (*e.g.*, swimming pool, basketball courts, tennis courts, playground equipment, walking trails, meeting facility and the like); and
7. temporary event; and
8. home occupations; and
9. limited home businesses; and
10. parking garages, parking lots and equipment necessary to support townhomes, recreational uses and utility services and substations; and
11. other accessory uses typically associated with residential subdivisions.

B. No more than 250 dwelling units shall be permitted on the property. No more than 160 attached single-family dwelling units (townhomes) shall be permitted.

C. Prior to the issuance of building permits or recording of a subdivision map, whichever shall first occur, a homeowners association shall be created to maintain open space and recreational facilities.

D. Reimbursement for future right-of-way dedication shall be made at Rural Residential values.

E. No building shall exceed three (3) stories or forty feet (40') in height.

F. After the initial sale of attached townhomes constructed on the Property, such units shall not be offered for sale or rent in any coordinated, centralized manner. The provisions of this condition (F) shall be included in a declaration of covenants, conditions and restriction recorded with respect to the Property prior to the sale of any dwelling unit on the Property. Nothing in the condition shall prohibit the use of the multiple listing service, web site advertisement or other generally accepted means of marketing residential real estate.

G. Upon development of the subject property, an offer of cross-access will be made to the adjacent properties to the east, property known in Deed Book 3681, Page 757 (Mills), Wake County Registry, and to the west (Haven Free Will Baptist Church) property known by Book 2627, Page 751, Wake County Registry.

H. In the event the parcels that are the subject of this rezoning case are developed separately, cross-access shall be provided between and among the parcels.

I. All attached townhomes shall contain a minimum of 1300 square feet of heated space. The maximum number of bedrooms in each townhome unit shall be three (3). Excluding windows and doors, the front facade of every townhome shall contain of at least fifty percent (50%) brick or stone or a combination thereof. No dwelling unit shall be constructed of synthetic stucco.

J. No dwelling unit will have direct access from Dillard Drive or Tryon Road.

K. Silver Lake shall remain. In no event shall the lake, or a portion thereof, be drained to allow the construction of dwelling units where the lake previously existed. Water levels in the lake may be increased or decreased to provide for stormwater management, dam safety and other safety concerns. Maintenance of the lake shall be the responsibility of the homeowners association. If the lake is not used as a stormwater control measure, the homeowners documents shall require a sinking fund be established to escrow the cost of maintaining the lake and the dam similar to the city requirement for stormwater control measures found in City Code section 10-5007. The provisions of this condition (K) shall be included in a declaration of covenants, conditions and restriction recorded with respect to the Property prior to the sale of any dwelling unit on the Property.

L. Walking trails shall be installed around Silver Lake in phases concurrent with adjacent residential development. In addition, a recreation area of no less than .5 acres shall be provided for use by community residents. The recreational area shall include a pool with changing facility.

M. Collection of multi-family refuse containers, if any, shall be permitted only between the hours of 7 a.m. and 7 p.m. Collection of individual garbage containers shall be permitted at any time.

N. Prior to subdivision approval or the issuance of building permits, whichever shall first occur, the owner of the property shall deed to the City a maximum of two transit easements measuring fifteen feet (15') wide and twenty feet (20') long. One of the transit easements may be located adjacent to Dillard Drive and one may be located adjacent to Tryon Road. The location of the transit easement shall be approved by the City Transit Division and the City Attorney shall approve the transit easement deed prior to recordation.