ORDINANCE (2002) 264 ZC 521
Effective: 8/6/02

Z-28-02 ACC Boulevard, north side, being a portion of Wake County PIN 0768.02-77-9472. Approximately 28.70 acres rezoned to Thoroughfare Conditional Use. (Airport Overlay District removed).

Conditions Dated: 7/25/02

A) Residential development shall not exceed a total of 500 dwelling units.

B) The following uses allowed in Thoroughfare Districts shall be prohibited:

1. Governmental and commercial rifle range (indoor/outdoor);
2. Governmental and commercial outdoor stadium, theatre, amphitheater, racetrack;
3. Transitional housing (with the exception of Supportive Housing Residences);
4. Cemetery;
5. Correctional/penal facility;
6. Crematory;
7. Adult establishment;
8. Telecommunications towers (all types)
9. Radio and television studios;
10. Hotel/Motel (excluding uses with dwelling units opening into an internal hallway);
11. Exterminating service;
12. Highway vehicle sales; and,
13. Industrial (all categories except for Reservoirs, Water control structures; Utilities and Specialized Assembly);

C) No wooden fence greater than four (4') in height shall be permitted within fifty (50') feet of the ultimate right-of-way of ACC Boulevard.

D) The developer will reserve a mass transit easement area of 20' by 15' along its ACC Boulevard frontage (adjacent to sidewalks and right-of-way). Prior to site plan approval, the Transit Division shall review the location of the easement.

E) Consistent with Avigation Easement documents submitted to RDU Airport Authority, a statement shall be placed on any plats and deeds for the subject property stating the proximity of the property (parcel) to the RDU Airport Authority's projected 65 dB noise contour in the southeastern corner of the subject area and the existence of general airport noise. It shall be the responsibility of the developer and future owners to disclose this noise contour information to all future owners and renters. This declaration shall be disclosed prior to closing or execution of any lease and further evidenced prior to any certificate of occupancy.

F) A minimum of 12% open space (3.44 acres) shall be provided within the development. Open space shall be located in and along environmentally sensitive areas (specifically jurisdictional streams and wetlands). Furthermore, seventy-five (75%) percent of this open space area (2.58 acres) shall be undisturbed. Open space provided as part of this condition shall also apply to Undisturbed Yard requirements indicated in Condition I below.

G) Site clearing and grading shall not extend beyond phase lines for each phase portion of the site that has been permitted.

H) Any townhome development shall be held to tree protection requirements for Group Housing Development (as defined by City Code).

I) A fifty (50') foot wide Undisturbed Yard shall be provided and maintained on both sides of the north and south creeks that generally cross the site east to west. This 50' Undisturbed Yard shall be measured from top of bank on either side of the stream. All trees within this area yard shall be saved except for the following circumstances:

1. Removal of diseased, dead, dying or infested vegetation;
2. Removal of undergrowth (less than 1-1/2 inches d.b.h.);
3. Installation of water, waste water, utility lines and services, storm sewer, stormwater management, water quality devices, detention facilities and associated easements;
4. Installation of public and private streets (These stream crossings will be aligned to cross the creek at as close to ninety (90) degree angles as possible); and
5) Installation of pedestrian paths, trails, easements and bridges.

In any circumstance, tree removal in this Undisturbed Yard area(s) shall not exceed forty-five (45%) percent of the total stream buffer area. These Undisturbed Yard area(s) shall count towards the open space requirement in Condition F above.

J) At the time of plan submittal, a tree save survey shall be provided for all tree save area(s) shown thereon outside of the fifty (50') foot wide Undisturbed Yards (as described in Condition I above). This tree save survey shall indicate a general sample of the species and size per 500 square feet of any clustered tree save area(s), and any individually saved trees greater than twenty-four (24") inches diameter breast height (d.b.h.). These areas may be used to meet the open space requirements of Condition F above.