ORDINANCE (2003) 534 ZC 542

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF RALEIGH WHICH INCLUDES THE ZONING DISTRICT MAP

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RALEIGH:

Section 1. That Section 10 of the City of Raleigh Code, which includes the Zoning District Map, be and the same if hereby amended as follows:

1) Z-30-03 – Forum Drive, south side, being Wake County PIN 1708.17-00-8996, 1708.17-11-2560 and a portion of 1708.13-02-5503. Approximately 16.41 acres rezoned to Office and Institution-1 Conditional Use (12.86 acres) and Neighborhood Business Conditional Use (3.55 acres).

Conditions dated: (10/9/03)

For the purposes of the following conditions, Tax Parcel PIN 1708.17-00-8996 and Tax Parcel PIN 1708.17-11-2560 (Frank's Place, LLC) and a portion of Tax Parcel PIN 1708.13-02-5503 (RIP Limited Partnership) are referred to as the "Property."

(1) Development upon the Property shall not exceed a floor area ratio of .26.

(2) The height of buildings upon the Property shall not exceed fifty (50) feet.

(3) Seventy-five percent (75%) of the roof or roofs of each building upon the Property will be pitched with slopes varying from 2:12 to 8:12.

(4) The portion of the Property zoned Office and Institution-1 Conditional Use District shall be utilized only for:

(a) offices;

(b) a health club facility which may include an indoor swimming pool and/or a gymnasium, and which shall be restricted to membership;

(c) an outpatient surgery facility;

(d) a diagnostic laboratory;

(e) a day care facility which shall provide child care services only for the children of occupants of the Property and children of users of services offered upon the Property;

(f) nonresidential-related services (general);

(g) uses accessory to the uses authorized in this condition (4); and

(h) a commercial parking facility or facilities.

(5) The portion of the Property zoned Neighborhood Business Conditional Use District shall be utilized only for:

(a) the uses authorized in the foregoing condition (4) (except that conditions 4(b) and 4(f) shall be allowed as general uses);

(b) an eating establishment without exterior signage or a drive through; such eating establishment will not be freestanding, but will be included within a building having other land uses; such eating establishment shall comprise no more than ten percent (10%) of the total heated area of the building in which it is located; and

(c) uses accessory to the uses authorized in this condition (5).

(6) Reimbursements for any future right-of-way dedication shall remain at current R-4 rates.

(7) One twenty (20) feet wide (adjoining the right-of-way) by fifteen (15) feet deep transit easement along Forum Drive shall be deeded to the City of Raleigh prior to any development of the Property. Prior to site plan approval, or subdivision approval of the Property, whichever shall first occur, the Transit Division of the City of Raleigh shall determine the location of the transit easement.

(8) Upon development, stormwater controls shall be provided such that the peak rate of discharge does not exceed the predevelopment peak rate of discharge for the 2-year, 5-year, 10-year, 25-year, 50-year, and 100-year design storms.

(9) All stormwater detention facilities located upon the Property shall be located underground.

(10) Seventy-five percent (75%) of the trees shown on the attached Exhibit G-1 shall be preserved.

(11) An undisturbed natural protective yard a minimum of fifty (50) feet in width shall be provided between the building (and its associated parking) and the right-of-way of Forum Drive. It is provided, however, that up to thirty percent (30%) of such area may be distributed for curb cuts, utilities, and stormwater devices and facilities.

(12) Upon development of the Property, the owner of the Property will offer for dedication without the payment of consideration a greenway easement along the eastern boundary of the Property extending fifty (50) feet from the water's edge of the existing lake along such boundary.

(13) Attached hereto as Exhibit C-2 is a supplemental planting plan for landscaping to be planted and thereafter maintained by the owner upon development of the Property between any parking deck upon the Property and the right-of-way of Forum Drive.

(14) Upon development of the Property, the owner of the Property will offer for dedication without the payment of consideration the construction access easement described in the E-mail message from Veronica High to Bob Mosher dated August 7, 2003 and the map attached thereto, copies of which are attached hereto as Exhibit C-3. It is provided, however, that such undertaking is subject to the following conditions: (1) the lake must remain privately owned following the improvements mentioned in the aforementioned E-mail message; and (2) all other property owners bounding the lake must make a similar dedication.

(15) Upon development of the Property, no dumpster will be situated within four hundred (400) feet of the existing residence upon Tax Parcel PIN 1708.17-00-6360 (Hull).

(16) The building or buildings constructed upon the Property shall be no closer than three hundred seventy-five (375) feet to the residence which now exists on Tax Parcel PIN 1708.17-00-6360 (Hull).

(17) No health club facility or eating establishment upon the Property shall be open to the public from 10:00 P.M. until 5:30 A.M. No other establishment upon the Property shall be open to the public from midnight until 5:00 A.M.

(18) The only free-standing sign upon the Property shall be a single ground sign which shall not exceed the square footage allowable for a low profile ground sign and shall not exceed six (6) feet in height. No wall signs, other than signs providing directions, shall be located upon the Property.

2. Z-38-03 – Falls of Neuse Road, south side, being Wake County PIN 1718.18-40-1998. Approximately 1.53 acres rezoned to Office and Institution-1 Conditional Use.

Conditions dated: (10/21/03)

A. Reimbursement for any future right-of-way dedication for Falls of Neuse Road shall be based upon the pre-existing zoning, R-4.

B. Outside refuse containers shall have plastic lids and shall only be emptied between the hours of 7:00 a.m. and 7:00 p.m.

C. Building heights shall be limited to twenty-five feet (25') as measured by the code, and shall have a roof pitch of 3:12 or greater. No building within one hundred feet (100') of the property lines of PINs 1718 40 2769 (Moye) and 1718 40 0756 (Kummerle) may have roof dormer windows facing such properties. The building shall have a single story

appearance, but may have a mezzanine level behind the roofline. No mansard roofs shall be permitted.

D. Upon development of the subject property, a Type C transition yard as same is defined in Section 2082.9 of the Raleigh City Code shall be established as follows:

1. The transition yard shall be not less than thirty-five feet (35') in width adjacent to the residential properties with Wake County PINs 1718 40 2769 (Moye) and 1718 40 0756 (Kummerle). The planting requirements of the Type C transition yard will be exceeded by twenty percent (20%) which will add approximately 18 shrubs and 3 trees to the planting requirements.

2. Storm drainage facilities, erosion control devices, electric, telephone, cable television and similar installations (fiber optic cable, etc.), gas and/or water, sanitary sewer installations, and similar utilities approved by the appropriate local government authority may exist within the transition yard, but any such construction shall be underground and designed and undertaken so as to create as little disturbance of the transition yard as possible while still honoring public service, health and safety requirements. Notwithstanding the foregoing, utility manholes, junction boxes, and storm drainage inlets shall be allowed above ground, and graded stormwater and nutrient reduction swells may be allowed above ground provided that all retention is below ground and the same comply with condition M below.

E. Floor area ratio shall not exceed thirty-six percent (36%), and a maximum building lot coverage of twenty-five percent (25%).

F. Prior to subdivision recording or building permit issuance, which ever shall first occur, cross access shall be provided to adjacent property fronting on Falls of the Neuse Road, being PIN 1718.18 30 9966, unless prohibited by the Raleigh City Code. .

G. Mechanical equipment located on the property for heating, ventilation and air conditioning shall be either located within the buildings or, if outside, at ground level, and screened and/or enclosed so as not to be visible from PINs 1718 40 2769 (Moye) and 1718 40 0756 (Kummerle).

H. The owner shall send notice of all site plan, subdivision plan, and unity-of-development plan applications via first-class mail to all adjacent property owners at least four (4) days prior to filing with the City of Raleigh. The names and addresses used shall be those listed with the Wake County tax office as current owners.

I. In an effort to increase the width of the buffer described in Condition D, above, along the rear of the property, the property owner shall petition the city to locate the front of any new building, parking bay or cross-access point to as close as possible to the Falls of Neuse right- of-way existing at the time of development and shall add one foot in width

to the planned thirty-five foot (35') wide buffer along the rear property line, as described above, for every one foot closer than thirty feet (30') to Falls of the Neuse Road right-of-way (at the time of development) the parking is allowed to locate by the City of Raleigh except that in no event shall the building be located closer than thirty feet (30') to Falls of Neuse Road right-of-way. To supplement the parking lot screening in the event of a street yard of 15 feet or less, the Vehicular Surface Area (VSA) landscaping requirements of Section 10-2082.6 shall be increased by twenty-five percent (25%). All additional landscaping shall be located along the right-of-way line.

J. Any site plan submitted on this property shall provide for the dedication of an easement to the City of Raleigh for a future bus stop (10' by 6') along the Falls of the Neuse Road right-of-way.

K. Buildings shall have predominately brick exteriors on all sides with masonry and/or stucco accents. Specifically, the veneer material for the rear of the building (that facing PINs 1718 40 2769 (Moye) and 1718 40 0756 (Kummerle) shall be brick.

L. In addition to the stormwater measures required by the City Code, the owner shall retain stormwater runoff such that post-development rates do not exceed pre-development rate for ten-year storm events.

M. Any open-air stormwater facility(ies) shall be designed as site amenities and landscaped with site appropriate vegetation to SHOD-4 standards. This condition may be satisfied with such facility(ies) being installed in a transitional protective yard.

N. Streetyard planting shall be consistent with the City's planting plan for this section of the Falls of Neuse Road as referenced in the 1-540/Falls Small Area Plan.

O. All shade trees measuring 6 inches in caliper or greater (at 48 inches above ground) within 30 feet of the eastern property line shall be preserved. A survey of all such trees will be submitted to the chief zoning inspector within 60 days following adoption of this zoning ordinance.

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

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

Section 4. This ordinance has been adopted following a duly advertised joint public hearing of the Raleigh City Council and the Raleigh Planning Commission following a recommendation of the Planning Commission.

Section 5. That this ordinance shall become effective as indicated below.

Adopted: 11/5/03
Effective: 11/5/03

Distribution: Planning: Chapman, Hallam, Brandon, Sumpter, Powell
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