

Z-75-94 Glenwood Avenue, west side, between Toler Place and Varnell Avenue, including Beckanna Apartments, being a portion of Parcel 3920, Block 87, Tax Map 0795.08. Approximately 11 acres are rezoned to Office and Institution-2 Conditional Use and Office and Institution-1 Conditional Use according to conditions dated January 11, 1995.

Conditions:

For purposes of these conditions, the "Property" refers to tax parcel 0795.08-87-3920, which is owned by Dobs, Inc.

1) A landscaped area a minimum of one hundred (100) feet in width (the "Landscaped Area") will be maintained (i) along the western boundary of the Property with tax parcels 0795.12 87 1462 (now owned by Mr. and Mrs. Edwin C. Johnson), 0795.12 87 2367 (now owned by Mr. and Mrs. Charles W. Stuber), and 0795.12 87 3216 (now owned by Mr. and Mrs. Edward F. Dement, II) and (ii) within that portion of the Property immediately to the east of Lot I, Block F as shown at Book of Maps 1957, Page 50 as recorded in the Wake County Registry (such Lot 1 being the portion of the Property to remain zoned R-4 District). Prior to occupancy of the office building to be constructed upon the Property in the area shown on the attached Exhibit A as the "Office Building Site" (the Office Building), that portion of the Office Building Site between (i) the Parking Structure (as defined hereafter in Condition (3)) and the Office Building and (ii) the aforementioned western boundary of the Property (which shall include the Landscaped Area) will be supplemented by the planting of additional plants to the extent necessary at the minimum to comply with landscaping standards established by the City Code for transitional protective yards.

2) The Office Building shall consist of no more than four (4) floors in addition to a basement (which shall not be used for offices) and shall be no more than fifty-four (54) feet in height (measured from the finished elevation of the first floor) excluding parapets and a penthouse for elevators and other equipment. The area of the Office Building's floor area subject to tenants' leases shall not exceed 100,000 square feet in addition to the basement.

3) The Office Building shall be served by a parking structure (the "Parking Structure"). The height of the Parking Structure shall not exceed the elevations shown in Exhibit B attached hereto; it is provided, however, that such height may be increased by up to twenty percent (20%) with the written approval of the owners of tax parcels 0795.12 87 3216 (now owned by Mr. and Mrs. Edward F. Dement, II), 0795.12-87-1025 (now owned by Mr. and Mrs. James B. Newman, Jr.), 0795.12 87 1462 (now owned by Mr. and Mrs. Edwin C. Johnson), 0795.12 87 2367 (now owned by Mr. and Mrs. Charles W. Stuber) and 0795.12 87 1211 (now owned by Mr. and Mrs. Frank J. Werner).

4) The Office Building shall be located no closer than one hundred forty-three (143) feet to the western boundary of the Property with tax parcels 0795.12 87 1462, 0795.12 87 2367,

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and 0795.12 87 3216. The Parking Structure shall be located no closer than one hundred two (102) feet to the western boundary of the Property with such tax parcels. The Office Building shall be located no closer than one hundred eight (180) feet to the western boundary of the Property with tax parcels 0795.08 77 9659 (now owned by Mr. William D. Gibson) and 0795.08-87-0928 and 0795.08 87 0818 (now owned by Mr. and Mrs. James F. Lovett).

5) The water tower now located upon the Property shall be removed prior to occupancy of the Office Building. In removing such tower, efforts will be taken to preserve existing vegetation and any areas disturbed shall be replanted.

6) There will be no direct beaming of light from the Office Building, its grounds, the Parking Structure, or parking areas into any adjoining residential dwelling and the residential dwelling located upon tax parcel 0795.12 87 1025.

7) A fence or other barrier at least four (4) feet in height will be installed to discourage pedestrian traffic passing from and through the Office Building Site to residential parcels adjoining the western boundary of the Office Building Site (tax parcels 0795.12 87 3216, 2367, and 1462). Any fence shall be dark green or black in color.

8) All heating and cooling units serving the Office Building will be screened from view from tax parcels 0795.12-87-3216, 2367, 1025, and 1462 and 0795.08-77-9659, 9798, 0818, 0928, 0039, 0138, and 0247 (hereinafter referred to as the "Tax Parcels"). Efforts will be taken to locate and screen all such units in a manner to reduce the level of sound, if any, generated thereby which is audible upon any of such parcels.

9) Service areas and dumpsters serving the Office Building shall not be located on the side of the Office Building facing the western boundary of the Property. All such service areas and dumpsters shall be screened from view from the Tax Parcels.

10) Development of the Office Building will comply with the provisions of Certified Recommendation 7107 of the Raleigh Planning Commission.

11) Neither the owner(s), any lessee(s), nor any subleasee (s) (or their successors or assigns) of the Property will request that a street or driveway or any other form of ingress or egress be extended or provided through the Property from the portion of the Property zoned Office and Institution I or II Conditional Use District to intersect with Manuel Street or with Blenheim Drive, and they will formally object to any such action on the part of the City. Nor will the owner(s), any lessee(s), or any sublessee(s)(or their successors or assigns) of the Property use the Property for any form of ingress or egress from the portion of the Property zoned Office and Institution I or II Conditional Use District to Manuel Street or Blenheim Drive.

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12) There will be no trash or garbage pickup or landscape maintenance utilizing mechanical equipment on the Office Building Site prior to 7:30 A.M. on any weekday or 10:00 A.M. on any Saturday or Sunday.

13) The owners or tax parcels 0795.12 87 1462 (now owned by Mr. and Mrs. Edwin C. Johnson, Jr.) and tax parcel 0795.12 87 2367 (now owned by Mr. and Mrs. Charles W. Stuber) shall be provided access (at locations mutually acceptable to such owners and the owner or owners of the Property) to tap (subject to the City's approval) the existing sanitary sewer line upon the Property to provide sanitary sewer service to the residences upon such tax parcels.

14) In the event that a building permit for the construction of the Office Building in accordance with these conditions is not issued within three (3) years after the approval of this zoning case (Z-75-94) by the City Council, the development or use of the Property shall be subject to the legal restraints, standards, and limitations applicable thereto under the zoning of the Property which existed at the time of the filing of this zoning case (Office and Institution District I) and such development or use shall occur only as if this zoning case had never been approved.

15) Excess spoil material resulting from the grading of the Office Building Site available after the satisfaction of general landscaping requirements will be utilized to create a berm providing further screening between the Office building and tax parcels 0795.12 87 1462, 0795.12 87 2367, and 0795 12 3216. Such berm will be a minimum of six (6) feet in height if sufficient excess material is available.

16) Prior to occupancy of the Office Building, evergreen plants at least four (4) feet in height will be planted no more than five (5) feet on center along the boundary of the Property with Mr. and Mrs. James F. Lovett), 0795.08 77 9659 (now owned by Mr. William D. Gibson), and 0795.08 77 9798 (now owned by Mr. and Mrs. Earle L. Bradley). The owner of the Office Building shall maintain such plants for a period of five years after occupancy of the Office Building and shall replace any of such plants which die during the five-year period.

17) The site plan for the Office Building Site will include design features to impede vehicular traffic from such site passing directly through the Beckanna Apartments site to Varnell Avenue. Alternatively, or if at any time so directed by the Raleigh City Council, the owner of the Property will take action which will bar the direct ingress and egress of vehicular traffic to and from the Office Building Site via Varnell Avenue through the Beckanna Apartments.