

Z-35-96 Proposed Western Boulevard extension, at its intersection with I-40, extending to Bashford Road, being Map 0773.07, Block 59, Parcels 1832 and 8764, Block 68, Parcels 7869 and 2621, Block 69, Parcel 7443 and Block 79, Parcel 2352, Block 58, Parcel 6583 and Map 0774.19 60 1120, approximately 19.45 acres rezoned to Thoroughfare District Conditional Use, Special Highway Overlay District-2 and Conservation Management Conditional Use (with the SHOD-1 to remain).

Conditions (10/28/06):

a. Upon development, stormwater discharge from the rezoned area will be controlled in accordance with CR 7107.

b. The subject property shall not be used for the following purposes, which are otherwise authorized in the Thoroughfare District:

1. outdoor theaters
2. public utilities plants
3. storage terminals
4. industrial uses involving the processing of materials, fabricating, mixing, assembling, cutting or repairing of articles and products
5. above ground bulk storage of flammable and combustible liquids
6. indoor operation of solid waste reclamation
7. outdoor storage as an accessory use to the operation of an industrial or manufacturing use including the storage of coal, ores, minerals, stone, sand, gravel or earth
8. emergency shelters
9. any outside recreational activity involving motorized vehicles

c. In addition to the above listed use restrictions, the parcel identified by PIN #0773.07 59 1832 (commonly known as the "Strother Triangle") shall have additional use restrictions which shall not permit the following uses:

1. camps;
2. not for profit recreational uses restricted to membership;
3. commercial recreational uses restricted to membership;
4. indoor commercial recreational uses;
5. outdoor commercial recreational uses;
6. indoor arenas or coliseums of any size or seating capacity;
7. riding stables;
8. indoor or outdoor rifle ranges;
9. storage of mobile homes or travel trailers;
10. cluster unit developments;
11. group housing developments;
12. rooming houses, boarding houses, room rental in a dwelling unit or utility apartments;
13. fraternity or sorority houses;
14. transitional housing (except supportive housing residence);

15. civic, convention center or assembly hall of any kind;
16. crematory;
17. fire station, police precinct or training facility;
18. adult establishments;
19. bar, nightclub, tavern or lounge;
20. radio or television studio;
21. telecommunication tower of any kind;
22. eating establishments with or without drive-thru that allows on premise alcohol consumption;
23. retail food store;
24. indoor or outdoor movie theater;
25. retail sales - highway;
26. all industrial uses;
27. outdoor temporary events with amplified noise;
28. outdoor amphitheatres of any size or seating capacity;
29. hotel/motel

d. On said "Strother Triangle", no building, including any attached transmission devices mechanical equipment screens, stair enclosures, or elevator shafts shall exceed the elevation of 496.0 feet above mean sea level (msl).

e. Freestanding exterior lighting fixtures located on the property shall not be placed higher than twenty feet in height. No exposed bulbs shall be utilized and there will be no direct beaming of the light onto the adjoining residential "Glosson Estates Subdivision" as recorded in BOM 1963 page 196 of the Wake County Registry.

f. Within 30 days of approval of a preliminary subdivision plan by the City which prohibits access to the property from Canal Drive, the developer shall sign a petition supporting the closure of the adjacent portion of the Canal Drive and join in with the neighborhood in petitioning the appropriate governmental entities for the abandonment of the Canal Drive right of way.

g. Upon City approval, a public street shall be constructed through the property connecting Farmgate Road with the Office and Institutional property identified by PIN #0774.18 41 7095. This road shall be located as shown on the attached Exhibit "A".

h. Upon City approval, no public or private access road shall be constructed to connect Farmgate Road with Strother Road.

i. The 50 foot wide strip of land running parallel to the common property line between the subject property and the "Glosson Estates Subdivision" as recorded in BOM 1963 page 196, beginning at a point 50' west of the southwest corner of PIN # 0774.19 50 1143 and ending at the southeast corner of PIN #0774.19 50 9109 hereinafter referred to as "buffer", shall be rezoned to Conservation Management District CUD and shall be subject to the following additional restrictions:

1. Said "buffer" shall become a permanent vegetative buffer as described in Condition I.6 below, between the single family residential uses in "Glosson Estates Subdivision" as recorded in BOM 1963 page 196 and the nonresidential uses to be developed on the subject property.

2. The buffer shall remain undisturbed except for:

a. A portion of the buffer beginning at a point 50' west of the southwest corner of PIN # 0774.19 50 1143 and extending easterly to the southeast corner of PIN # 0774.19 50 6162, in which the first twenty five (25) feet closest to the thoroughfare district zoned property may be used for storm drainage facilities, erosion control devices and grading for the construction of the access drive as shown on the Exhibit "A" and for the planting of new vegetation, construction of fences, walls, berms, pedestrian trails or similar construction which tends to enhance the area's visual appeal or provide sight or noise screening characteristics. Any such construction shall be designed and undertaken so as to create as little disturbance of the buffer as possible while still honoring public service, health and safety requirements.

b. Private utility easements and services serving the "Glosson Estates Subdivision" as recorded in BOM 1963 page 196.

c. Public utility easements and mains as may be require to serve the "Glosson Estate Subdivision" recorded in BOM 1963 page 196 or the subject property.

3. Prior to the issuance of any construction permits, the developer shall prepare a tree survey for all existing 5" caliper (15 5/8 inches in circumference) and larger trees as measured 4 1/2 feet above grade that are located within the undisturbed portions of the buffer. For the portion of the buffer located on the "Strother Triangle" all 3" caliper (9.42 inches in circumference) and larger trees as measured 4 1/2 feet above grade shall be surveyed.

4. In the event existing trees 5" caliper (15 5/8 inches in circumference) or larger as measured 4 1/2 feet above grade [3" caliper (9.42 inches in circumference) or larger as measured 4 1/2 feet above grade within the buffer on the "Strother Triangle] located within the remaining undisturbed portion of the "buffer" are lost during the construction process because of damage from the construction of utility or storm drainage facilities, the property owner shall replace lost trees within the next planting season with a quantity of evergreen shade trees whose sum of diameters equal the diameter of the lost trees as defined by the City Code. The replacement trees shall be a minimum of 2" caliper (6.28 inches in circumference) as measured 1/2 foot above grade and 6' tall at time of planting. These replacement trees shall be planted in a manner which maximizes there screening abilities.

5. An eight foot high closed wooden fence shall be installed parallel to the "buffer" for the entire length of the "buffer". Said fence shall be located no closer than 25 feet from the common property line of the "Glosson Estates Subdivision" as recorded in BOM 1963 page 196 and the subject property shall be connected to adjacent fencing so as to create a continuous fence separating the adjacent residential properties from the subject property. The fence shall be constructed in a manner which does not require the removal of any trees.

6. In order to supplement the existing vegetation remaining in the buffer and to provide additional screening, the transitional protective yard to be planted in the "buffer" between the subject property and the "Glosson Estates Subdivision" as recorded in BOM 1963 page 196 shall include a continuous evergreen shrub screen consisting of a single row of evergreen screening material planted at a minimum of eight feet on center. This material shall be a minimum of 48" in height at the time of planting. The plant material shall be located on the development side of the fence.

j. Subject to the approval by the City, the final elevation of the centerline of the proposed access road as shown on Exhibit "A" shall be below the existing pregraded centerline elevation except in the areas where the access road crosses any natural drainageways.

k. Subject to approval by the City of Raleigh and at the written request of the owner(s) of any of the following Wake County parcels, PIN #'s 0774.19 50 9109, 0774.19 50 8180, 0774.19 50 7172, 0774.19 50 6162, 0774.19 50 5163, 0774.19 50 4172, 0774.19 50 3162 and 0774.19 50 1143, the owner/developer of the property to be rezoned shall make available to the respective parcel owner a recordable 10' wide easement through the "buffer" set out hereinabove in condition i. for the purpose of installing a private service water line from the respective tax parcel to the public water line to be installed in the access road proposed and described on "Exhibit A" attached hereto.

l. All right-of-way dedications eligible for reimbursement shall be reimbursed at Residential-4 values.

m. Upon development of the subject property, the petitioner will dedicate the right-of-way, up to a maximum of 130 feet in width, for that portion of the extension of Western Boulevard adjacent thereto.

(Exhibits can be found in the case file located in the Planning Department.)

EXHIBIT "A"

