

Ordinance: 647ZC642

Effective: September 15, 2009

Z-4-09 – Buffalo Road (Conditional Use), located on the north side, west of I-540, being Wake County PIN 1746-04-3525. Approximately 48.08 acres rezoned to Conservation Management, Residential – 10 CUD & Neighborhood Business CUD w/ SHOD-1.

Conditions:09/10/09

2) Narrative of conditions being requested:

As used herein, the “Property” refers to all of that certain tract or parcel or land containing approximately 48.08 acres located at the northwestern quadrant of the intersection of Interstate 540 and Buffalo Road, and having Wake County PIN 1746-04-3525.

a. The following uses shall be prohibited upon the Property;

- residential institutions (as defined in Section 10-2002 of the City Code)
- cemetery
- movie theater— indoor and outdoor
- utility service and substation
- landfill
- manufacturing (all types)
- telecommunication tower
- adult establishment
- automotive service and repair facility
- bar, nightclub, tavern, lounge
- parking lot, parking deck, parking garage as principal use (including motor pool)
- emergency shelter type A and type B
- airfield, landing strip, and heliport
- kennel/cattery

Narrative of conditions being requested (Continued)

- vehicle sales/rental
- mini-warehouse storage facility
- carwash of all types

(b) The exterior wall of any building containing residential dwelling units, that fronts along any public or private street shall contain (exclusive of windows, doors and foundations) at least twenty percent (20%) brick, stone, masonry or concrete. The combined area of front windows and doors shall represent no less than fifteen percent (15%) and no greater than sixty percent (60%) of the facade of any building containing residential dwelling units that fronts along a public or private street. The principal roof structure of any building containing residential dwelling units shall be either flat with parapets or pitched with a minimum 6:12 pitch.

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(c) Except for soffets, eaves and other architectural accents, vinyl siding shall not be permitted as an exterior wall covering for any building containing residential dwelling units constructed on the Property.

(d) Stormwater control devices shall be constructed to provide retention of stormwater to maintain existing peak discharge rates for the two (2) year, ten (10) year, twenty five (25) year and fifty (50) year storms. Further, during the initial construction of the Property the owner of the Property shall install temporary storm water control devices to maintain existing (pre-development) discharge rates for the two (2) year, ten (10) year, twenty five (25) year and fifty (50) year storm events.

(f) Reimbursement for any required right-of-way dedication for the Property shall be at the Manufactured Home (MH) rate.

(g) The maximum residential density permitted for the Property shall be ten (10) dwelling units per acre. Further, if developed for multifamily residential dwellings, no more than 325 multifamily dwelling units shall be permitted upon the Property.

(h) The maximum height of any building containing a residential use shall be the lesser of forty (40) feet or three (3) stories in height, as determined pursuant to Section 10-2076 of the Raleigh City Code as it exists at the time of approval of this rezoning petition.

(i) The maximum height of any building containing nonresidential uses shall be the lesser of thirty-two (32) feet or two (2) stories in height, as determined pursuant to Section 10-2076 of the Raleigh City Code as it exists at the time of approval of this rezoning petition.

Narrative of conditions being requested (Continued)

(j) All service areas shall be screened from view from any public right of way.

(k) All dumpsters shall be fully enclosed with materials and colors compatible with the principal structure(s).

(l) The maximum amount of non-residential uses permitted upon the Property shall be 30,000 square fact floor area gross. The owner of the Property shall cause to be recorded in the Wake County Registry a restrictive covenant that allocates the allowable floor area gross of nonresidential uses square footage upon the Property to all lots of record comprising the Property. Such restrictive covenant shall be submitted to the City Attorney within 30 days following the date upon which the adoption of the ordnance approving this zoning case becomes final and shall be approved by the City Attorney or his

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designee prior to recordation of the covenant. The covenant shall indicate that floor area gross shall have the same definition as contained in the Zoning Chapter of the City Code, and shall be amended or terminated only with the prior written consent of the City Attorney or his or her deputy, which consent shall not be unreasonably withheld.

(m) No single retail establishment shall exceed 11,000 square feet floor area gross.

(n) Uses containing drive-thru windows shall be prohibited on the Property.

(o) There shall be a maximum of two (2) rows of parking between Buffalo Road and the buildings adjacent thereto.

(p) The primary building material for any building containing exclusively nonresidential uses (except for uses accessory to a multifamily development upon the Property) shall be brick, stone, masonry or similar high quality material. As used in this Condition (p), "primary material" shall mean the material that is used more than any other single material on the building. Standing seam metal walls shall be prohibited as an exterior wall cover. Further, the combined area of front windows and doors shall represent no less than fifteen percent (15%) and no greater than sixty percent (60%) of the facade of any building containing nonresidential uses that fronts along a public or private street. Any building containing exclusively nonresidential uses (except for uses accessory to a multifamily development upon the Property) shall be designed so that it equally addresses the interior of the site as well as Buffalo Road.

(q) Until the three lanes on the Buffalo Road bridge over I-540 are increased by at least one lane through replacement, expansion or re-striping of said bridge, development on the Property shall not include any nonresidential uses

Narrative of conditions being requested (Continued)

(except for clubhouses and related amenities associated with any residential development on the Property). Further, prior to the issuance of the first certificate of occupancy for the Property, the owner of the Property shall restripe the eastbound left turn bay at Buffalo/I-540 westbound ramp to increase the left turn storage as shown generally on the attached **Exhibit C-2**.

(r) Prior to subdivision approval or issuance of a building permit, whichever shall first occur, the owner of the Property shall cause to be recorded in the Wake County Register of Deeds an offer of cross access establishing public or private, at the discretion of the City, vehicular and pedestrian access over and upon the Property in favor of the owner(s) of all or any portion of the following properties: (1) the property abutting the southeastern boundary of

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the Property, which property is described by deed recorded at book 12309, Page 140 of the Wake County Registry; (2) the property abutting the northern boundary of the Property, which is described by deed recorded at Book 8442, Page 328 of the Wake County Registry; (3) the property lying adjacent to and to the east of the Property Identified as Wake County Parcel Identification Number 1746-04-8342 (which is a portion of that property described in Book 6444, Page 0784, Wake County Registry); and (4) all future lots of the Property.

(s) Unless otherwise required by the City Code to accommodate up to 325 dwelling units, access to the Property from Buffaloe Road shall be limited to a single curb cut.

(t) Prior to subdivision approval or the issuance of any building permit, whichever shall first occur, the owner of the property shall deed to the City a transit easement measuring twenty (20) feet long adjacent to Buffaloe Road by fifteen (15) feet wide to support a bus stop for current transit services in the area. The location of the transit easement shall be approved by the Transit Division of the City and the City Attorney shall approve the transit easement deed prior to recordation,