

Ordinance: 877 ZC 658

Effective: May 17, 2011

Z-4-11 Conditional Use – Creedmoor Road - located on the west side of Creedmoor Road, northwest of its intersection with Glenwood Avenue, being Wake County PIN 0796-42-5565. Approximately 4.71 acres to amend the existing conditions for property zoned Shopping Center Conditional Use District.

Conditions Dated: 5/2/11

Narrative or conditions being requested:

1. Uses for this property shall be restricted as follows:

a. Retail Sales Uses:

1. Book store, excluding adult bookstore, with coffee bar, bakery/bagel/sandwich shop as accessory uses;
2. 2, Music store with coffee bar, bakery/bagel/sandwich shop as accessory uses;
3. Computers, software and related electronics store with coffee bar, bakery/bagel/sandwich shop as accessory uses;
4. Office supplies store;
5. Housewares, home furnishing and home use appliance stores;
6. Gifts, card and stationery shop;
7. Flowers/florist shop;
8. Jewelry shop;
9. Photography studio;
10. Newsstand;
11. Drugstore;
12. Pet supply store;
13. Antique Shop;
14. Apparel (including formal wear sales or rental) shoe (including repair) shops and tailoring (including dry goods) shops and dry goods shops;
15. Hobby, art supplies and framing shops;
16. Garment pressing, Laundry & Dry Cleaning (walk-up and pick-up only - no plant on the premises);
17. Camera shop (including film developing and printing) and copy shop without drive through service.
18. Furniture, draperies and interior decorating supply stores including piece goods (dry goods) store;
19. Art gallery;
20. Library;
21. Toy and sporting goods stores;
22. Barber, beauty, nail and manicure and cosmetic art shops;

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23. Shopping area and shopping center (limited to uses prescribed herein);
24. All office uses as provided in 'Office Land Use' column of the "Schedule of Permitted Land Uses in Zoning Districts" in the Raleigh City Code, so long as said use(s) is (are) not in conflict with Condition (b) below and not including 'Office Center' or "temporary event" as listed therein;
25. Utility services as provided in the Raleigh City Code.
26. 26, Bank, without drive-thru window

b. All other general, conditional and special uses usually permitted in the Shopping Center Zoning District as set forth in the Raleigh City Code are prohibited, specifically including all dwelling units and equivalent dwelling units.

c. At the discretion of the City of Raleigh, at the time of submittal for Site Plan Approval, a traffic impact analysis, or trip generation analysis adhering to methods described in the 1985 Highway Capacity manual for such studies or its successor publication, will be submitted to the Raleigh Dept. of Transportation.

d. Development upon this subject tract (Deed Book 13931; Page 2026; WAKE PIN: 0796-42-5565), shall be limited to a maximum gross square footage of 45,000 square feet (enclosed truck service areas not included; excluded service areas include, but are not limited to, internal truck dock and staging areas for receiving and shipping of materials).

e. Access points will be limited to no more than one per street frontage. NOTE: The access point to/from Creedmoor Road shall be shared with the contiguous tract to the north (Deed Book 12794; Page 1199; WAKE PIN: 0796-43-6000) of 2.17 acres, more or less.

f. Any access driveway into Creedmoor Road will be located at the existing median opening from the Marriott Drive-Creedmoor Road intersection.

g. The eastern edge of pavement for the access driveway onto Glenwood Avenue will be located at least one hundred and sixty (160) feet west of the intersection point on this parcel of the new right of way of Creedmoor Road per subdivision S-73-92 and the right of way line of Glenwood Avenue. The western edge of pavement for said driveway will be located at least forty (40')

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feet from the common corner for this lot and parcel (Deed Book 10372; Page 1995; WAKE PIN: 0796.18-42-2327) and the right of way of Glenwood Avenue.

h. Building height will not exceed thirty-five (35) feet above the grade of the top of the curb along Creedmoor Road, excluding, however, unoccupied entry features such as a parapet which will not exceed an additional seven (7) feet (maximum entry features height = 42 feet) measured as herein provided. Said height to be calculated by determining the point on the building that is perpendicular to the selected point on the curb line and comparing the height of the building, including any parapet or screen illustrated above the roof, to the elevation of the point on the curb. Elevations are to be determined based upon standard surveying practices for calculating elevation above mean sea level. If the City Code applies a more stringent requirement, then the Code Standard shall apply.

i. Trees installed in the parking areas shall have a circumference of 9 and 3/8 inches (9 3/8.' minimum) measured one half-foot above ground level.

j. As a part of the Site Plan approval for any permitted use on this property, a Site Lighting Plan will be submitted confirming the site area lighting will not create sustained illumination in excess of three-tenths (0.3) foot candles at any point along the common boundary of this tract and the following adjacent Wake County Tax parcels:

Deed Book 10372; Page 1995; WAKE PIN: 0796.18 42 2327
(Camp)

Deed Book 12633; Page 0124; WAKE PIN: 0796.14 42 2767
(Wrenn)

Deed Book 03301; Page 0871; WAKE PIN: 0796.14 42 2577
(Alston)

Deed Book 08208; Page 2277; WAKE PIN: 0796.14 42 3923
(Smith)

Area light poles shall not exceed 12 feet in height when located in protective yard areas and 20 feet in height in all other areas. Area light poles may encroach not more than 5 feet into the protective yard along the western boundary lines. No exposed bulbs shall be utilized and Shoebox type or other methods of shielding may be utilized to achieve the illumination standard specified herein.

k. Loading and Service areas including dumpster/compactor facilities will be located within four sided enclosures with

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exterior finishes that complement the exterior finishes of the building(s). These enclosures will be positioned within the building envelopes as set forth in Condition I above and dumpster/compactor facilities shall be located within one hundred and thirty feet (130') of the right of way of Creedmoor Road, The enclosures walls will be at least 8 feet tall and will be gated in order to enclose completely said loading and service areas. Pick up and delivery servicing, including trash collection, will be limited to occur between the hours of 8:00 a.m. and 9:00 p.m. Monday through Friday and 9:00 a.m. and 9:00 p.m. on Saturday and Sunday.

1. A protective yard will be provided along the common boundary of the subject parcel (0796.14- 42-5860) and the following adjacent Wake County tax parcels:'

Deed Book 10372; Page 1995; WAKE PIN: 0796.18 42 2327 (Camp)

Deed Book 08208; Page 2277; WAKE PIN: 0796.14 42 3923 (Smith)

Deed Book 03301; Page 0871; WAKE PIN: 0796.14 42 2577 (Alston)

Deed Book 12633; Page 0124; WAKE PIN: 0796.14 42 2767 (Wrenn)

This buffer will consist of the following elements:

1. An overall width of forty (40') feet into the subject parcel measured per perpendicularity from the property line.

2. The thirty-one foot (31') foot portion of the buffer immediately contiguous with the property line (the thirty-one foot section) shall be designated as a Natural Protective Yard (per COR definition), and if accepted by the City (upon the applicant demonstrating minimum basal density, per Raleigh code standard), the area shall be recorded as Primary Tree Conservation Area. This Natural Protective Yard shall be located outside of the existing fence, approximately one foot (1') off the western boundary property line referenced above, and remain completely undisturbed (no grading) except for the replacement of required trees and shrubs to meet a portion of the transitional protective yard planting standards as required by the City's Landscape Ordinance and allowing for removal of dead, diseased or damaged materials that pose safety hazard; and except for repair of an existing six (6') foot chain link fence. Any and all work, including the pruning or removal of any tree, conducted within the Natural Protective Yard portion of the buffer shall require prior approval and permit from the City of Raleigh Forestry Specialist. Replacement plantings shall, at minimum, adhere to

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the following: be located outside of established critical root zone of existing trees, or if necessary to be within a critical root zone, provide a mitigation plan prepared by a registered arborist or other qualified professional designated by the City of Raleigh and such plan approved by a City of Raleigh Forestry Specialist prior to any disturbance.

3. The remaining ten (10') feet (a ten-foot section) may be graded or possess: retaining walls as needed to make proper grade transitions for slope stabilization between the finished site grades and the undisturbed buffer section; utility services; tree and shrub plantings along with walls and fences to complete the required transitional protective yard standard as required by the City's Landscape Ordinance; and site lighting fixtures per Condition "j" cited above.

4. A "super buffer" area will be provided as follows: the super buffer will extend one hundred and sixty (160') feet south of the center line of the entrance drive from Creedmoor Road. Within this overall length of 160 feet, the buffer will be eighty (80') feet wide measured perpendicularly into the subject site. Within this eighty foot area, the first thirty one (31') feet from the property line will remain undisturbed per Item (1)(2) above. However, every effort will be made to permit the maximum achievable amount of the ten- foot area as set out in item (1)(3) above to also remain undisturbed with the exceptions noted in both (1)(2) and (1) (3) above. For the remaining forty (40) foot portion, a detailed Landscaping Plan will be provided at the time of site plan approval illustrating the creation of a densely landscaped area of evergreen plantings, within which a pedestrian sidewalk may be located along the curb.

An additional eighteen (18) foot wide area (for a total super buffer of 98 (feet) will be added to the eighty foot area. It will extend forty-five (45) feet on the north side of the center line of the entrance driveway from Creedmoor Road. This additional area that will create the terminus of the entranced drive will be densely planted with large evergreen trees and shrubs as specified below in item (1)(5) to create an opaque screen within this eighteen (18) feet wide area immediately adjacent to the driveway and may also include a pedestrian sidewalk along the curb.

A detailed planting plan and grading plan for this super buffer illustrating the intensive evergreen plantings and the maximum portions of the super buffer to be retained in an undisturbed state will be submitted to the City as a part of the site plan approval package and at the same time to the adjacent property owners of parcels noted in this condition.

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5. The following plant materials and sizes of materials shall be used for the purpose of meeting the transitional protective yard planting standards:

Only evergreen shrubs will be used such as Julienne Barberry, Glossy Eleagnus, Pyracantha or comparable thorn bearing shrubs approved by the City Landscape inspector within the Initial forty (40) foot wide buffer area. Within the remaining fifty-eight (58) foot super buffer area (l) other ornamental shrubs may be used.

Only evergreen trees providing dense foliage from ground level up such as magnolia or comparable species approved by the City Landscape Inspector will be used.

Shrubs shall at time of installation be a minimum size of 2 and 1/2 feet tall in height. Trees shall be a minimum of 3 inches (3") in caliper (diameter) or 9 and 3/8 inches (9 3/8") in circumference, measured one-half foot above ground level and shall have a height of 8-10 feet.

m. All HVAC, related mechanical equipment and transformers will be located within enclosures consisting of side screening materials.

n. Retail facilities developed on this site will be limited to one (1) occupied level; however, mezzanine space shall be allowed.

o. Hours of operation (defined as being those hours between which businesses may be open to the public) shall be limited as follows:

1. Retail business(es) located on the subject property shall be limited to the hours between 9:00 AM and 11:00 PM Monday through Saturday; and 9:00 AM to 9:00 PM on Sunday.
2. All other non-retail business(es) shall be limited to the hours between 8 AM and 8 PM Monday through Saturday; and not open to the public on Sunday.

p. Signs placed on any building that may be viewed from any point along the common boundary with parcels:

Deed Book 01868; Page 0220; WAKE PIN: 0796.14 43
3168

Deed Book 02920; Page 0440; WAKE PIN: 0796.14 43
3044

Deed Book 12633; Page; WAKE PIN 0124: 0796.14 42
2767

Deed Book 03301; Page 0871; WAKE PIN: 0796.14 42
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Deed Book 08208; Page 2277; WAKE PIN: 0796.14 42 3923

shall meet the following criteria:

1. Be painted or otherwise affixed to windows and be illuminated only as a result of indirect lighting;
2. Be affixed under a canopy or portico and meet the requirements of the City Code for such signage;

3. Be a wall sign of size and area meeting the City Code that has no exposed neon elements and consists of self illuminated letters or works with translucent cover(s) which appear white mounted on the building wall and/or illuminated by means of indirect lighting either placed behind the sign as to silhouette the letters or words or from lights mounted in front of the sign and directed to shine upon the sign. Regardless of which lighting measures are employed, the source lights will be turned off by 11:15 pm. This same criteria shall apply to any sign visible from any point along the common boundary of parcel (Deed Book 10372; Page 1995; WAKE PIN: 0796.18 42 2327; Camp) except for the first seventy-five (75) feet of said line off of the right of way of Glenwood Avenue. Neon signage will not be used either on the building V or inside windows where it could be viewed from any point along the common boundary with the adjacent parcels as stated herein.

q. No equipment for the amplification of sound shall be used outside the building(s) nor shall amplified sound associated with business operations within the building(s) be audible by the human ear at any point upon tax parcels:

Deed Book 10372; Page 1995; WAKE PIN: 0796.18 42 2327 (Camp)

Deed Book 08208; Page 2277; WAKE PIN: 0796.14 42 3923 (Smith)

Deed Book 03301; Page 0871; WAKE PIN: 0796.14 42 2577 (Alston)

Deed Book 02920; Page 0440; WAKE PIN: 0796.14 43 3044 (Weddington)

Deed Book 12633; Page 0124; WAKE PIN: 0796.14 42 2767 (Wrenn)

Deed Book 01868; Page 0220; WAKE PIN: 0796.14 43 3168 (Cate)

r. The exterior building treatment shall be a blend of Classical Styling to relate to Crabtree Valley Mall, and modern materials. Modern materials include but are not limited to items such as: drivet, pre-cast concrete, smooth stucco, stone, brick, etc. Architecturally the building treatment will consist of: stylized single or double columns: a fascia above the columns; a recessed window-wall below the fascia and behind the columns; and, solid wall areas. Other classical elements such as coins, keystones and crown moldings may also be incorporated. Columns will occur either as paired sets or singles with capital and base elements and create the appearance of an arcade, Glass will be recessed at least twelve (12) inches behind the fascia. The building elevation

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visible from both Glenwood Avenue and/or Creedmoor Road will be of this treatment.

s. Prior to the issuance by the City of a Certificate of Occupancy for any building(s) constructed upon this tract, there shall be constructed within the protective yard required by condition (1)(2) and along the common boundaries of the Wake County tax parcels specified in condition (1) whose owners request same by written request to Petitioner prior to issuance of said Certificate(s) of Occupancy, a chain link fence six (6') feet in height, which shall thereafter be maintained by Petitioner and its successors.