

Z-12-15 – Buffaloe Road and New Hope Road: southeast corner of the intersection, being Wake County PINs 1725779568 and 1725779177. Approximately 15.7 acres rezoned to Neighborhood Mixed Use-3 stories-Conditional Use (NX-3-CU).

Conditions dated: July 24, 2015

1. The following uses shall be prohibited upon the Property: telecommunication tower (< 250 ft.); telecommunication tower (≥ 250 ft.); outdoor sports or entertainment facility (< 250 seats); outdoor sports or entertainment facility (≥ 250 seats); vehicle sales/rental; detention center, jail, prison; vehicular repair (minor); any establishment engaged in the sale of fuel (gasoline or diesel fuel); arcade; tattoo parlor; nightclub; check cashing establishment; sweepstakes parlor; pawn shop; bar, tavern or lounge except restaurant, as defined In N.C.G.S. § 18B-1000(6).
2. The hours of operation of any establishment upon the Property shall be limited to the period from 6:00 am until 11:00 pm. There shall be no deliveries to or shipments from establishments upon the Property between 11:00 pm and 6:00 am. Trash shall not be picked up, or a dumpster emptied, upon the Property between 11:00 pm and 6:00 am. Vehicles making deliveries to or shipments from establishments upon the Property, or picking up trash or emptying a dumpster upon the Property, shall not arrive upon the Property prior to 6:00 a.m.
3. The height of any building constructed upon the Property shall not exceed one (1) story and 30 feet.
4. No curb cut providing vehicular ingress or egress to or from the Property shall be located within 120 feet of the boundary of the Property with parcel PIN 1725-87-5703 (Owner: Top of the Pines Townhouses Homeowners Association, Inc. [the "HOA"]; deed recorded at Book 3761, Page 65, Wake County Registry) or within 30 feet of the boundary of the Property with parcel PIN 1726-76-7853 (Owner: Ricoryan LLC; deed recorded at Book 14972, Page 358 of the Wake County Registry).
5. Beginning at the right-of-way of New Hope Road as established at the time of site plan approval (or as close thereto as allowed by NCDOT and the City's Transportation Services Staff) and extending for a minimum distance of 310 feet along the boundary of the Property with parcels PIN 1726-76-7853 (Owner: Ricoryan LLC; deed recorded at Book 14972, Page 358 of the Wake County Registry), PIN 1725-76-8873 (Owner: John R. and Jean A. Ardis; deed recorded at Book 11033, Page 2150 of the Wake County Registry), and PIN 1725-76-9893 (Owner: William D. Gayden, Jr.; deed recorded at Book 6261, Page 64 of the Wake County Registry) there shall be constructed and maintained a masonry wall at least seven (7) feet in height and a Type 2: Medium protective yard which meets the standards of Section 3.5.3.B of the UDO and is a minimum of 30 feet in width. The masonry wall shall be constructed within six (6) feet of such boundary. Along the exterior of the wall (facing the parcels referenced by PIN in this condition), the protective yard shall be planted with a minimum of one row of evergreen shrubs at least three (3) feet in height at the time of planting and planted no more than five (5) feet apart. In addition to plants required by the UDO, the protective yard referenced in this condition 5 may be planted with additional plants, subject to site plan approval.

6. Beginning at the right-of-way of Buffaloe Road as established at the time of site plan approval (or as close thereto as allowed by NCDOT and the City's Transportation Services Staff) and extending for a minimum distance of 370 feet along the boundary of the Property with parcels PIN 1725-87-5703 (Owner: the HOA; deed recorded at Book 3761, Page 65, Wake County Registry) PIN 1725-87-5730 (Owner: B&S Development Corp.; deed recorded at Book 3498, Page 858 of the Wake County Registry), PIN 1725-87-5620 (Owner: the HOA; deed recorded at Book 3761, Page 659 of the Wake County Registry), PIN 1725-87-5543 (Owner: B&S Development Corp.; deed recorded at Book 3498, Page 858 of the Wake County Registry), PIN 1725-87-5456 (Owner: the HOA; deed recorded at Book 3761, Page 659 of the Wake County Registry), and PIN 1725-87-6001 (Owner: the HOA; deed recorded at Book 3761, Page 659 of the Wake County Registry) there shall be maintained a Type 3: Wide protective yard which meets the standards of Section 3.5.3.C of the UDO and varies in width from a minimum of 100 feet to no less than 150 feet. This protective yard shall include a berm a minimum of 8 feet in height. The toe of the berm shall begin no less than 85 feet from the right-of-way of Buffaloe Road and the berm shall continue for a toe to toe distance of at least 265 feet. The parcels referenced by PIN number in this condition 6 are hereafter referred to as the "Top of the Pines Parcels." In addition to plants required by the UDO, the protective yard referenced in this condition 6 may be planted with additional plants, subject to site plan approval.
7. Beginning at a point no more than 400 feet from the right-of-way of Buffaloe Road and continuing for a minimum of 450 feet along the boundary of the Property with parcel PIN 1725-87-6001 (Owner: the HOA; deed recorded at Book 3761, Page 659 of the Wake County Registry), there shall be maintained a tree conservation area a minimum of 150 feet in width which meets the standards of Article 9.1 of the UDO. There shall not be a break between the protective yard provided in condition 6 and the tree conservation area provided in this condition 7.
8. From the western boundary of the tree conservation area referenced in condition 7, a tree conservation area with a minimum width which varies from 50 to 65 feet, which, subject to the last sentence of this condition, meets the standards of Article 9.1 of the UDO, shall continue along the boundary of the Property with parcels PIN 1725-86-3843 (Owner: Milie and Pamela Wilder; deed recorded at Book 11646, Page 1518 of the Wake County Registry); PIN 1725-86-2822 (Owner: Milie and Pamela Wilder; deed recorded at Book 11646, Page 1518 of the Wake County Registry), PIN 1725-86-1802 (Owner: Rubin and Ernestine Castillo; deed recorded at Book 8851, Page 2464 of the Wake County Registry), and a portion of PIN 1725-76-9893 (Owner: William Gayden, Jr.; deed recorded at Book 6261, Page 64 of the Wake County Registry) for a distance of not less than 370 feet. The parcels referenced by PIN number in this condition 8 and those referenced in condition 5 are hereafter referred to as the "Jane Lane Parcels." If any portion of the area designated for tree conservation in conditions 7 and 8 fails to meet the standards of Article 9.1 of the UDO, such portion of the area shall be planted to meet the standards for a Type 3: Wide protective yard as provided In Section 3.5.3.C of the UDO.
9. No building upon the Property shall be situated less than 180 feet from the boundary of the Property with the Top of the Pines Parcels. No building upon the Property

- shall be situated less than 50 feet from the boundary of the Property with the Jane Lane Parcels.
10. Buildings situated upon the Property shall not exceed a total of 71,000 square feet floor area gross. No single establishment upon the Property shall exceed 42,600 square feet floor area gross.
 11. There shall be constructed and maintained a closed fence at least six feet in height which shall extend along the entire interior perimeter of the protective yards and tree conservation area described in the foregoing conditions 6, 7, and 8. Subject to site distance requirements, the fence shall begin at the right-of-way of Buffalo Road and terminate at the end of the masonry wall referenced in condition 5 at its farthest point from the right-of-way of New Hope Road.
 12. No drive thru for an eating establishment upon the Property shall be located on a building façade facing the right-of-way of New Hope Road or the Jane Lane Parcels.
 13. If requested by the City of Raleigh, upon development the owner shall provide transit easements at least 15 feet wide by 20 feet in width along the rights-of-way of New Hope and Buffalo Roads. The deeds creating such easements shall be in a form acceptable to the City Attorney.
 14. Prior to the recordation of a subdivision plat or recombination plat or the issuance of a building permit, whichever shall first occur, the owner of the Property shall cause to be recorded in the Wake County Registry a restrictive covenant that allocates the allowable floor area and residential dwelling units permitted upon the Property to all lots of record comprising the Property. Such restrictive covenants shall be approved by the City Attorney or his designee prior to recordation of the restrictive covenant. Such restrictive covenant shall provide that it may be amended or terminated only with the prior written consent of the City Attorney or his designee.
 15. The Property will be developed as a shopping center, and the businesses within the shopping center when operations commence will include a grocery store with a pharmacist. For purposes of this condition, the term “shopping center” shall be defined as a planned unified development which contains at least three (3) establishments with either commercial or recreational uses and contains at least 25,000 square feet of floor area gross on a land area of at least two and one-half (2 ½) acres in size.