

ORDINANCE NO. (2020) 172 ZC 809

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF RALEIGH WHICH IS CODIFIED IN PART 10 OF THE CITY OF RALEIGH CODE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RALEIGH:

Section 1. That the Zoning District Map, which is codified in Part 10 of the City of Raleigh Code, be and the same is hereby amended as follows:

- 1. Z-13-20 – Downtown South**, located northeast, northwest, and southeast of the South Saunders Street and I-40 interchange with frontage on Maywood Avenue, Gilbert Avenue, Green Street, Penmarc Drive, South Saunders Street, Walker Street, Bluff Street and South Wilmington Street, being PINs 1702381400, 1703402443, 1703413254, 1703505257, 1702492952, 1703402539, 1703413364, 1703505297, 1702494929, 1703402735, 1703413440, 1703506166, 1702596769, 1703402838, 1703413593, 1703507332, 1702691938, 1703404666, 1703415274, 1703508002, 1703116256, 1703406591, 1703418217, 1703509386, 1703402054, 1703412400, 1703501032, 1703600326, 1703402145, 1703413123, 1703501517, 1703601307, 1703402242, 1703413159, 1703502802, 1703601391, 1703402342, 1703413219, and 1703505186. Approximately 145.2 acres is rezoned to CX-20-CU w/SHOD-2, CX-40-UL-CU w/SHOD-2, CX-20-UL-CU, CX-40-UL-CU, CX-20-UL-CU w/SHOD-2.

Conditions dated: November 25, 2020

Uses:

1. The following uses are prohibited: cemetery, adult establishment, detention center, jail, prison and vehicle repair (major). Vehicle gasoline sales shall be prohibited on the subject site.
2. For that portion of the subject site located on the block bounded by South Saunders Street on the west, Penmarc Drive on the south, Greene Street on the east, and Gilbert Avenue on the north, the following use restrictions shall apply: (i) retail uses shall not be the sole principal use within any building except during any period of time in which non-retail space within such building shall be vacant, (ii) total retail area within a single building shall not exceed the greater of (a) 25% of the gross floor area of the building; and (b) 4,000 square feet, and (iii) drive-thru and drive-in facilities shall be prohibited as part of any single-story building.

Heights:

3. Maximum building heights and step backs on the subject properties shall be in accordance with the attached Exhibit B.

Open Space and Habitat:

4. No certificate of occupancy shall be issued for any structure that would result in occupancy of more than 999 new dwelling units on the subject site after the effective date of these conditions, except where the following amenities have been provided for on one or more approved site plans for any portion of the subject site:
 - a) Two access points from the subject property to the public greenway system located on or adjacent to the subject property.
 - b) Two public art installations within or visible from any portion of the public greenway system or the access points thereto. The Raleigh Arts Commission through its Public Art and Design Board shall be consulted in the selection of an artist or artists and shall advise on content to ensure such public art installations reflect the culture and heritage of the local community.
 - c) One or more outdoor areas (the “Initial Outdoor Area”) with a minimum aggregate area of 6 acres and including no fewer than three of the following facilities and improvements: dog park, playground, play field, play court, public art, seating area, walking trail, community garden, entertainment venue, and pedestrian promenade. This outdoor area or areas shall be open to the public during daylight hours.
5. No certificate of occupancy shall be issued for any structure that would result in occupancy of more than 1699 new dwelling units on the subject site after the effective date of these conditions, except where one or more outdoor areas in excess of the Initial Outdoor Area (the “Additional Outdoor Area”) shall have been provided for on one or more approved site plans for any portion of the subject site. Such outdoor area shall have a minimum aggregate area of eight acres and include no fewer than three of the following facilities and improvements: dog park, playground, play field, play court, public art, seating area, walking trail, community garden, entertainment venue, and pedestrian promenade. This outdoor area or areas shall be open to the public during daylight hours. Nothing in these conditions shall prevent either the Initial Outdoor Area nor the Additional Outdoor Area (the “Outdoor Areas”) from comprising all or a portion of any required outdoor amenity area to the extent such Outdoor Areas otherwise meet the requirements applicable to outdoor amenity areas and are so designated on any development plan. There shall be a minimum of two acres of Outdoor Area on the site situated at the southwest quadrant of I-40 and S. Saunders Street, the northwest quadrant of I-40 and S. Saunders Street, and the northeast quadrant of I-40 and S. Saunders Street, respectively.
6. All landscape installed in connection with a Tier 3 Site Plan shall utilize native or adapted plants. Native or adapted plants are plants indigenous to a locality or cultivars of native plants that are adapted to the local climate and are not considered invasive species or noxious weeds.
7. All pole lighting situated in a parking lot or on or within a parking deck or within a street right-of-way installed after the effective date of this zoning ordinance shall be full cut-off (shielded) design and directed away from any adjacent residential uses.

Transportation:

8. Development of that area of the subject property situated in the northwest quadrant of I-40 and S. Saunders Street shall adhere to the following limitations: a maximum of 400,000 square feet for office uses, 25,000 square feet for retail uses, and 500 residential dwelling units. Development can include any otherwise permitted uses so long as these maximums are not exceeded. In the event that vehicular and pedestrian access to the subject property in this area is secured from both Maywood Avenue and S. Saunders Street, the maximum limits in this condition shall automatically increase by 50%.
9. Development of that area of the subject property situated in the southwest quadrant of I-40 and S. Saunders Street shall adhere to the following limitations: a maximum of 500,000 square feet for office uses, 50,000 square feet for retail uses, and 900 residential dwelling units. Development can include any otherwise permitted uses so long as these maximums are not exceeded. In the event that vehicular and pedestrian access to the subject property in this area is secured in excess of one point of access from each of S. Saunders Street and Carolina Pines Avenue, the maximum limits in this condition shall increase by 50%.

Stormwater Mitigation:

10. To provide enhanced treatment of stormwater before drainage to the Walnut Creek/Neuse River Watershed, any new Tier 3 site plan will provide for treatment of the first 1.34 inches of runoff from proposed impervious surfaces (in place of the City of Raleigh standard of 1.0 inch of runoff from impervious surfaces) or treatment of the difference in runoff from the predevelopment to post development site for the 1-year 24-hour storm, whichever is greater. Additionally, stormwater treatment shall include Green Stormwater Infrastructure measures within the project limits. Each of the following types of Green Stormwater Infrastructure shall be included on at least one of the first four site plans submitted in connection with the subject site: bio-retention areas, permeable pavement systems, rainwater harvesting (cisterns), green roofs, and planter boxes. Educational signage will be deployed where Green Stormwater Infrastructure techniques are located on site and such locations shall be open to the public and community groups for educational purposes.
11. No lot coverage shall be permitted within the portion of the floodway fringe or future conditions flood hazard areas on any lot, with the following exceptions: (i) uses permitted in floodways, and (ii) ground level loading areas, and other similar ground level uses.
12. Prior to filing the first Tier 3 Site Plan, a comprehensive stormwater analysis shall be conducted and made available to the public through the City of Raleigh Stormwater Department. Such analysis shall evaluate potential downstream impacts from proposed development on the subject property and include examination, results, and interpretation of the following information:
 - A. Peak flows, water surface elevations and velocities on all ephemeral, intermittent and perennial streams flowing on or away from the subject property

- B. 1-year/24 hour, 2-year/24 hour, 10-year/24 hour, 25-year/24 hour and 100-year/24 hour storm events
- C. Hydrologic and hydraulic modeling (hydraulic modeling shall include flood hydrographs and examine the effects of culverts and backwater on the timing and duration of storm events and hydrologic modeling shall (i) include and ignore the dampening impacts (routing) of the Lake Raleigh and Lake Johnston impoundments; (ii) include an iteration which simulates a storm traveling west to east in general direction of the watershed; and (iii) include an iteration which simulates different timing conditions of storms as they approach the subject property from three different directions.
- D. USGS gauge station and stage-storage data available on the USGS website, comparing and calibrating modeling data to evaluate the timing, duration and frequency of storm events and describing the potential effects of development on storm flows on a time series basis
- E. Water surface elevations and peak discharges of Walnut Creek at S. Saunders Street, Walnut Creek at S. Wilmington Street, Walnut Creek at Garner Street, Walnut Creek at State Street, Walnut Creek at Rose Lane and an unnamed tributary at Bailey Drive
- F. Water balance estimates of infiltration, runoff, and comparisons of the timing, duration, and frequency effects of flow on Walnut Creek.

If the foregoing comprehensive stormwater analysis shows an increase greater than 0.04 feet between predevelopment and post-development flood levels, then mitigation to pre-development flood conditions will be required to prevent further damage.

- 13. All preliminary stormwater plans, including CAD drawings, analysis, and modeling data relied on in the analysis shall be publicly available via a link or links posted online at www.visitdowntownsouth.com and submitted electronically to the City Department of Planning and Development not less than ten days before submittal of the first Tier 3 site plan for any portion of the site for City administrative review.
- 14. With the following exceptions, development on the subject property shall limit the post-development peak runoff rate to that of a fair forested condition for standard design storms up to the 100-year recurrence interval. For development situated on the northeast quadrant of I-40 and S. Saunders Street and west of Walnut Creek, the post-development peak runoff rate shall be limited to that of a fair forested condition for the 1 year/24 hour storm only. For development situated on the northeast quadrant of I-40 and S. Saunders Street and east of Walnut Creek, the post-development peak runoff rate shall be reduced by 10% from existing conditions. This condition shall only be required where it provides improved performance from the City of Raleigh requirements at the time of plan review for each development. If a detailed analysis as described in condition 10 completed in connection with a Tier 3 site plan shows that detaining a design storm will cause an increase in downstream water surface elevations or duration of flooding or a minimal decrease (0.04 feet), then that Tier 3 site plan shall be exempt from the applicable requirements in this condition.
- 15. For the purpose of improving water quality, mitigating flooding, or restoring streams, riparian communities, and wildlife habitats in the Walnut Creek Corridor,

the owner shall establish a fund (the Walnut Creek Corridor Fund). Such fund shall be used for matching grants to support projects in furtherance of the above-mentioned purpose. Within one year of the effective date of the adopting ordinance, the owner shall provide the City the list of stakeholders included in a group to manage this fund (Walnut Creek Stakeholders Group). Such stakeholder group shall include Partners for Environmental Justice, the Owner, and their chosen community partners. The owner shall pay into the Walnut Creek Corridor Fund by depositing into an account, held by an escrow agent acceptable to the City of Raleigh, \$150,000 within 5 business days after issuance of the first certificate of occupancy for each Tier 3 site plan beginning with the second Tier 3 site plan issued for development on the subject property up to a maximum of \$2,500,000. The Owner shall ensure that cumulative total contributions to the Walnut Creek Corridor Fund shall equal or exceed \$750,000 on or before December 31st, 2031, including, if necessary, the obligation to make additional deposits by such date. If additional contributions not associated with certificates of occupancy are made, the amount of the additional contributions shall be credited against future contributions that would otherwise be due to the fund under this paragraph as future certificates of occupancy are issued by the City of Raleigh. The Walnut Creek Stakeholders Group, through its chosen designee, may submit to the City of Raleigh a grant distribution request, drawing from the funds then available in the Walnut Creek Corridor Fund. This condition shall not apply to any site plan including an affordable housing project, defined as a multi-family development with income restrictions, restrictions on rental rates, and subject to a binding regulatory agreement for a specified duration.

Continued Community Outreach

16. Beginning on or before the date 30 days after submittal to the City of the first Tier 3 site plan for any portion of the site, and not less than once per calendar quarter thereafter for a period of three years, the owner(s) of the site shall, separately, collectively, or in groups, hold public informational meetings, in person or virtually, to provide updates and receive comments regarding all development plan(s) that have been submitted for city administrative review for any portion of the site owned by the party(ies) convening such meeting. A written report of each required meeting will be submitted to the City's Department of Planning and Development within 15 business days after each such meeting and will include a list of persons and organizations contacted about the meeting, a listing of those in attendance who have provided their names, and a summary of issues discussed at the meeting. At least ten days prior to the first required meeting, written notice of such meeting shall be mailed to each property owner and tenant owning property or residing within 1,000 feet of the site, and emailed notice of such meeting shall be delivered to anyone requesting such notification by providing their complete and correct email address at least 11 days before the date of such meeting by emailing info@visitdowntownsouth.com. Notice of subsequent required meetings shall be provided via email to all email addresses collected from prior meeting attendees and to all who have provided their email address by emailing

info@visitdowntownsouth.com not less than 11 days before the date of such meeting.

Affordable Housing

17. No certificate of occupancy shall be issued for any structure that would result in occupancy of more than 999 dwelling units on the subject property after the effective date of these conditions, except where the following requirements relating to affordable housing are met: 10% of the units on the subject site at the time qualify as affordable for households earning 80% area median income or less for a period of no less than 5 years from the date of issuance of a certificate of occupancy for the existing units. The rent and income limits will follow the Affordable Housing Standards determined annually by the City of Raleigh Housing & Neighborhoods Department. An Affordable Housing Deed Restriction in a form approved by the City, and which identifies the affordable housing option chosen by the property owner, shall be filed and recorded in the property's chain of title by the property owner in the Wake County Register of Deeds prior to the project receiving a certificate of occupancy.

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EXHIBIT B

Maximum Building Heights and Step Backs

Any development on the subject properties as listed on Exhibit A shall be limited to no more than twelve (12) stories in height as measured perpendicularly for a distance of 180 feet from property line of the following adjacent properties:

Property Address	Book and Page
578 Granite Street	016112 / 00830
574 Granite Street	005825 / 00765
570 Granite Street	17-E / 1460
566 Granite Street	017507 / 01550
562 Granite Street	015603 / 01377
558 Granite Street	014317 / 01588
554 Granite Street	002574 / 00227
550 Granite Street	007741 / 00513
546 Granite Street	007246 / 00915
542 Granite Street	013711 / 02375
538 Granite Street	011261 / 02716
532 Granite Street	013965 / 02235
518 Granite Street	016314 / 01009
500 Granite Street	017115 / 02747
498 Carolina Pines Avenue	017115 / 02747
450 Carolina Pines Avenue	017115 / 02747

Any development on the subject properties listed below, which are those located east of South Saunders Street and north of Penmarc Drive/Water Works Street, shall be limited in height to no greater than: (i) 5 stories in height within 50 feet of any neighborhood transition area required pursuant to Section 3.5 of the UDO, as measured perpendicular to the boundary of such neighborhood transition area, nor (ii) 20 stories in height.

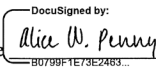
Property Address	Book and Page
201 Gilbert Ave	016626 / 01273
1616 Green St	016028 / 01062
1624 Green St	015280 / 00776
1628 Green St	014217 / 02793
1632 Green St	014217 / 02793
1640 Green St	014217 / 02793
1639 Green St	014217 / 02793
150 Penmarc Dr	014217 / 02793
1620 Green St	017826/02138
1615 S Saunders St	017728/01785

DocuSigned by:
Property Owner(s) Signature Alice W. Penny Print Name Alice W. Penny
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Any development on the following properties listed on Exhibit A shall be limited to no more than 20 stories in height as measured perpendicularly for a distance of 400 feet from the right-of-way along Wilmington Street:

Property Address	Book and Page
1938 South Wilmington Street	017695 / 02696
201 Walker Street	017695 / 02696
137 Bluff Street	017695 / 02696
133 Bluff Street	017900 / 01784
125 Bluff Street	017695 / 02696
95 Bluff Street	017695 / 02696

Property Owner(s) Signature  Print Name Alice W. Penny

Section 2. That all laws and clauses of laws in conflict herewith are hereby repealed to the extent of such conflict.

Section 3. If this ordinance or any application thereof is held invalid as to any person or application thereof, such invalidity shall not affect other provisions or applications of the ordinances which can be given separate effect and to that end the provisions of this ordinance are declared to be severable.

Section 4. This ordinance is being adopted following a recommendation from the Raleigh City Planning Commission and a duly advertised public hearing of the Raleigh City Council held on December 15, 2020. Immediately following the public hearing, the Raleigh City Council voted 7 to 1 to adopt this ordinance and recessed the meeting until December 17, 2020 at 1:00 p.m. Written comments were received by the City Clerk within twenty-four hours following the close of the public hearing and were provided to the City Council for consideration. On December 17, 2020, this ordinance appears on the agenda for the concluding session of the December 15, 2020 meeting for a second reading and vote.

Section 5. That this ordinance shall become effective five (5) days after adoption.

Adopted on First Reading: December 15, 2020

Adopted on Second Reading: December 17, 2020

Effective: December 22, 2020

Distribution: Planning and Development
Inspections
City Attorney
Transcription Services - Taylor