

**Ordinance: 754 ZC 752**

**Effective: 10-3-17**

**Z-16-17 – Hillsborough Street**, southwest corner of its intersection with Concord Street, being Wake County PIN #0794523356, approximately 3.23 acres rezoned to Neighborhood Mixed Use - 5-Stories – Urban Limited – Conditional Use with Special Residential Parking Overlay District (NX-5-UL-CU w/SRPOD).

Conditions dated: August 9, 2017

**I. Use Conditions**

- a. Vehicle service, vehicular fuel sales, drive-in/drive-through facilities, and vehicular sales/rental uses (excluding car sharing services), as well as bars, taverns, and lounges, except which shall be expressly permitted as part of a restaurant, shall be prohibited in all aspects on the property.
- b. A minimum of 70% of the gross floor area of the building (excluding parking) shall be used for residential uses permitted in the UDO, along with their accessory uses.
- c. A minimum of 5,000 sf of the gross floor area of the building (the “Commercial Space”) shall be reserved for the following use categories as provided in the UDO: indoor recreation (excepting adult establishments, convention centers, arenas, shooting ranges, and motor tracks), office, personal services (excepting outdoor animal care), eating establishments, and retail sales.
- d. Any health club or gym use permitted within the Commercial Space shall be open to the public on a fee or membership basis.

**II. Design Conditions**

- e. There shall be no balconies on the façade of any building facing and within 55 feet from the right-of-way of Rosemary Street or facing Stanhope Avenue within 250 feet of a single-family residence.
- f. Balconies on any other building façade visible from Rosemary Street shall be balconies that shall not protrude more than 18 inches.
- g. If permitted under the building and fire codes, windows within 50 feet of the Rosemary Street right of way shall be secured in a way so that they do not open.
- h. With respect to the portion of the property that abuts and is within 40 feet of tax parcel no. 0794521276, the building within this area shall include no more than 3 visible stories and shall not exceed 40 feet in average building height as measured from the average grade of the shared property line.
- i. The side of the building facing Rosemary Street shall be set back not less than 20 feet from the right of way of Rosemary Street, which

- setback shall be reduced by no more than 5 feet in order to provide for additional widening of the right of way to aid in vehicular travel along Rosemary Street if permitted by the City. The average building height within 60 feet of the edge of the right of way of Rosemary Street shall not exceed 40 feet from the average grade along the Rosemary Street right of way and shall include no more than 3 visible stories.
- j. With respect to the portion of the property that abuts Hillsborough Street, the building shall include no more than 4 visible stories.
  - k. With respect to the portion of the property that is within 50 feet of the right-of-way of Concord Street, the building shall include no more than 4 stories that are visible above grade within 70 feet of the right of way of Hillsborough Street, and as measured from 50 feet of the right of way of Stanhope Avenue. On the rest of the façade on Concord Street, the building may have 5 visible stories.
  - l. With respect to the portion of the property that is within 50 feet of the right-of-way of Stanhope Avenue, the average building height within this portion of the property shall not exceed 51 feet as measured from the average grade along Stanhope Avenue and shall include no more than 3 visible stories, except within 90 feet of the right of way of Concord Street, where no more than 4 stories shall be visible.
  - m. In no aspect shall the building height on the property exceed 60 feet as measured under the rules of measurement as set forth in the UDO except as may include accessory structures, mechanical penthouses, mechanical units, stairs or elevator overruns, and other exclusions to building height permitted by the UDO.
  - n. The building shall have a pitched roof with a pitch of at least 2 inches of vertical rise for each foot of horizontal run except on portions of the building that are 5 stories. Architectural features are permitted to interrupt a continuous sloped roof and mechanical equipment may be screened.
  - o. The swimming pool shall be located on one level above street level in the interior courtyard closest to Hillsborough Street and shall not be visible from any public right of way.
  - p. The swimming pool shall close by 11:00 pm every day.
  - q. The existing tractor component located on the existing building shall be preserved and lighted in accordance with the UDO and shall be maintained along the Hillsborough Street frontage.
  - r. Trash receptacles shall only be accessed from Concord Street and shall be fully screened from view at the ground level.
  - s. Trash shall only be picked up between the hours of 8:00 am and 5:00 pm in accordance with City standard operating procedures.
  - t. Owner shall design the building so that it may participate in the City's forthcoming multifamily recycling program.

### **III. Frontage Conditions**

- u. The primary building frontage (except for doorways, sidewalks, landscaping, common area(s), outdoor amenity area(s), or utility strips, or other components required by the UDO) shall extend along the entire length of the right-of-way of Hillsborough Street.
- v. The façade of the building facing Hillsborough Street and that is within 50 feet of Hillsborough Street shall be articulated above the ground floor with balconies with a minimum projection of 3 feet or other recesses with a minimum depth of 4 feet at least every 80 horizontal feet.

#### **IV. Occupancy Conditions**

- w. No more than 50% of the dwelling units shall include 4 bedrooms.
- x. No dwelling unit shall contain more than 4 bedrooms.

#### **V. Parking Structure Conditions**

- y. A minimum of 95% of the off-street parking spaces provided for the project shall be contained in a multi-level parking structure (the "Parking Structure").
- z. Parking shall be below-grade within 25 feet of the right-of-way of Rosemary Street and will not be visible from properties located on Rosemary Street.
- aa. All vehicular ingress and egress from the Parking Structure shall be located off of Concord Street.
- bb. All bike storage shall be located in the Parking Structure except for bicycle parking for public use on Hillsborough Street and Concord Street.

#### **VI. Landscaping Conditions**

- cc. Subject to the terms and conditions of certain deed restrictions encumbering the existing cellular tower access easement area, the owner shall improve this area as permitted to include green space that shall be accessible by the public.
- dd. Owner shall place a closed privacy fence of not less than 6.5 feet in height along the owner's shared property line with tax parcel no. 0794522528.

#### **VII. Transportation Conditions.**

- ee. If requested and approved by the City and NC DOT prior to the issuance of an initial building permit, owner shall construct at its expense a transit shelter to be located within the right of way of Hillsborough Street or within a transit easement dedicated by owner and approved by the City.
- ff. If so requested and approved, the transit shelter shall be built according to the City's standard specifications. Additionally, Owner may

incorporate its design and building elements and materials in cohesion with the overall project design into the transit shelter, which shall be maintained by either Owner or a property owner's association.

- gg. Any entrance into or exit from the Commercial Space shall be located off of Hillsborough Street or Concord Street.

#### **VIII. Materials Conditions**

- hh. The facades of the building shall be constructed from one or more of the following materials: glass, concrete, clay or brick masonry, stone masonry, stucco, cementitious siding, native and manufactured stone, and pre-cast concrete.
- ii. A minimum of 30% of any building façade (excepting windows, doors, and trims) facing and within 50 feet of Hillsborough Street shall be constructed with clay and/or stone masonry.
- jj. Synthetic stucco (EIFS) shall be prohibited on the project.
- kk. With respect to any fiber cementitious siding, assembly shall include a drainage plane to ensure proper moisture control.

#### **IX. Construction Conditions**

- ll. Owner shall provide security and reasonable surveillance for the period during construction of the project where the wood frame structure of the building is exposed to the elements.

#### **X. Ongoing Conditions**

- mm. Owner shall maintain its standard security rules and rules in effect dealing with tenant noise, and shall make available upon request by adjacent neighbors within thirty (30) days following any such request a hotline phone number in the event of complaints with respect to the tenants.