

Z-19-10 Conditional Use – New Bern Avenue - located east of the intersection of New Bern Avenue with I-440 being Wake County PINs 1724-44-7360 and 1724-44-9824. Approximately 18.71 acres rezoned from Industrial-1 and Neighborhood Business with Special Highway Overlay District-1 to Thoroughfare District Conditional Use with Special Highway Overlay District-1.

Conditions Dated: 11/3/10

Narrative or conditions being requested:

As used herein, the ‘Property’ refers to those certain tracts or parcels of land containing approximately 18.71 acres located in the southeast quadrant of the intersection of Interstate 440 and New Bern Avenue in Raleigh, North Carolina, having Wake County PIN 1724-44-7360 (described in deed recorded at Deed Book 11830, Page 1286) and 1724-44-9824 (described in deed recorded at Deed Book 12133, Page 2356).

(a) The following uses shall be prohibited upon the Property:

- adult establishment
- airfield or landing strip
- bar, nightclub, tavern or lounge
- correctional/penal facility
- riding stable
- pawn shop
- rifle range--indoor
- landfill
- movie theater-indoor and outdoor

(b) Prior to map recordation or 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 offer of cross-access establishing vehicular and pedestrian access over the Property in favor of the owner(s) of all or any portion of the property abutting the eastern boundary of the Property with Wake County Parcel Identification Number 1724-44-9959 and is described by deed recorded at Deed Book 8475, Page 607 of the Wake County Registry.

(c) For the purposes of calculating the amount of residential density allowed on the Property, no more than two hundred and fifty (250) dwelling units, equivalent dwelling units or combination thereof shall be constructed on the Property.

- (d) The maximum amount of floor area gross dedicated to commercial land uses, as listed in the Schedule of Permitted Land Uses in Zoning Districts, shall not exceed 50,000 square feet.
- (e) Any commercial use, as listed in the Schedule of Permitted Land Uses in Zoning Districts, shall be located no further than 800 feet from the New Bern Avenue public right-of-way.
- (f) Within 10 business days following the approval of this rezoning ordinance, the Property owner will cause to be filed a Comprehensive Plan Amendment petition for the area described as “Area A” on the attached “Exhibit 1.”
- (g) The owner of the Property shall cause to be recorded in the Wake County Registry a restrictive covenant that allocates allowable residential dwelling units and commercial square footage upon the subject property to all existing lots of record comprising the Property. Such restrictive covenant shall be submitted to the City Attorney within 30 days following approval of this rezoning case by the City Council and shall be approved by the City Attorney or his designee prior to recordation. 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, which consent shall not be unreasonably withheld.
- (h) For any site plan (or that site plan, when considered with other site plans approved for other portions of the Property) that proposes development that would generate more than 2000 daily vehicle trips according to the most recent edition of the Institute of Transportation Engineers’ Trip Generation manual, such site plan shall require approval by the Planning Commission, which shall ensure: (1) that the site plan complies with Raleigh City Code section 10-2132.2(d), and (2) the adequacy of the then-existing street network.

EXHIBIT 1

