

Ordinance: 238 ZC 693
Effective: November 5, 2013

Z-20-13 - Landmark Drive, Conditional Use - located on Lake Boone Trail being Wake County PIN(s), Approximately 34.29 acre(s) to be rezoned from O&I-1 CUD, to CX-5PL CU, CX-4-PL CU, NX-4 CU, OX -3 CU, OX-4-CU.

Conditions Dated: 09/19/13

Narrative of conditions being requested:

1. The following principal uses, as listed in UDO Section 6.1.4, “Allowed Principal Use Table”, shall be prohibited on all portions of the property:

- a. Boardinghouse
- b. Dormitory, fraternity, sorority
- c. Monastery, convent
- d. Orphanage
- e. Emergency shelter type A
- f. Emergency shelter type B
- g. Special care facility
- h. Cemetery
- i. College, community college, university
- j. Civic club
- k. Museum, library
- l. School, public or private (K-12)
- m. Aeration facility, artesian well
- n. Telecommunication tower— all types
- o. Water or sanitary sewer treatment plant
- p. Adult establishment
- q. Billiard hall, pool hall
- r. Bingo parlor
- s. Bowling alley
- t. Convention center, arena
- u. Shooting range
- v. Miniature golf facility
- w. Motor track
- x. Movie theater or other indoor theater
- y. Skating rink
- z. Radio, TV or recording studio, utility office
- aa. Outdoor recreation — all types
- bb. Bed and breakfast
- cc. Youth hostel
- dd. Passenger Terminal—all types
- ee. Funeral home, funeral parlor, mortuary, undertaking establishment, crematorium, pet crematorium
- ff. Locksmith
- gg. Palmist, psychic, medium, fortune telling

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- hh. Post office
- ii. Tattoo parlor, body piercing
- jj. Wedding chapel
- kk.. Pawnshop
- ll. Vehicle sales/rental
- mm. Light manufacturing
- nn. Car wash
- oo. Vehicle repair — all types

2. Upon redevelopment of the property, excluding maintenance and repairs of existing buildings or structures, or reconstruction with like size buildings and uses, that area on the property (the “Buffer Area”) between the eastern edge of the right-of-way of Landmark Drive and the property line adjacent to those properties described in the deeds recorded in the Wake County Registry as follows: Book 14378, Page 1296; Book 4681, Page 860; Book 3491, Page 38; Book 6241, Page 489; and Book 15160, Page 1925 (collectively, the “Single Family Residential Parcels”) shall, at a minimum, be planted with five shade trees per 100 lineal feet and four understory trees per 100 linear feet.

3. Other than the installation and maintenance of the planting material referenced in above Condition 2, the Buffer Area shall not be disturbed, with the following exceptions: (a) utility services and related easements; (b) storm drainage facilities and related easements; (c) planting material and any fences or walls permitted by the UDO to complete any transition requirements; and (d) removal of dead, pest infested, diseased or damaged plant materials that pose safety hazards, provided none of these activities are allowed in designated tree conservation areas, if any.

4. Upon redevelopment of that portion of the property designated Area 1 on the attached Exhibit 1, excluding maintenance and repairs of existing buildings or structures or reconstruction with like size buildings and uses, no new buildings or additions to existing buildings shall be constructed within one hundred and twenty (120) feet of the common property line with the Single Family Residential Parcels. The maximum building height shall be forty-five (45) feet for new buildings or additions to existing buildings located within that portion of Area 1 that is within two hundred and twenty (220) feet from the Single Family Residential Parcels.

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5. Except for direct broadcast satellite dishes measuring thirty-nine (39) inches or less, all HVAC or mechanical equipment, including dish antennae, located on the roof of any building constructed after the adoption of this rezoning ordinance shall be screened in accordance with UDO section 7.2.5.D.2.

6. Within thirty (30) days of the date of the adoption of this rezoning ordinance, the property owner shall request the City of Raleigh to install a traffic signal at the intersection of Lake Boone Trail and Landmark Drive. If no traffic light is approved by the City, then the owner of the rezoned property, or if there are more than one lot owner, the owner of the largest portion of the property, shall also make this request at least every two (2) years thereafter. Further, and in addition to other notices required hereunder, the applicant for a subdivision plan or site plan review shall also make this request at the time of application, except for such plans associated with maintenance and repair of existing buildings or structures or reconstruction with like size buildings and uses. Notice of the requests made pursuant to this Condition 6. shall be provided to the Meredith Woods neighborhood and the owners of the Summit Office Building (Book 11297, Page 1077) in accordance with the methods permitted by either subsection a. or subsection b, of UDO section 10.2.1.C.1. The obligations imposed by this Condition 6. shall expire ten (10) years from the date of the adoption of this rezoning ordinance.

7. Within ten (10) years of the date of the adoption of this rezoning ordinance and after written notice from the City of Raleigh or the City's decision to permit the installation of the traffic signal at the intersection of Lake Boone Trail and Landmark Drive, the owner of the rezoned property, or if there are more than one lot owner, the owner of the largest portion of the property, shall contribute \$85,000 to the City of Raleigh for use in connection with the traffic signal's installation. Such payment shall be provided to the City of Raleigh within six (6) months of the date of the City's decision to permit a traffic signal.

8. A lighting plan and photometric analysis of the proposed site lighting for the property shall be submitted in accordance with UDO Article 7.4. For those portions of the property designated Area 1, Area 2 or Area 4 on the attached Exhibit 1, lighting features shall create downward lighting and, if necessary, will utilize shielding, hoods, or other appropriate measures to achieve full cut-off design.

9. The applicant for any site plan concerning any portion of the property, excluding maintenance and repairs of existing buildings or structures or reconstruction with like size buildings and uses, shall provide, at least thirty (30) days in advance of submitting a site plan review application, written notice to all owners of the Single Family Residential Parcels of the applicant's submittal of any site plan to the City. Such notice shall include a proposed meeting date, where the applicant will present the site plan, lighting plan, and photometric analysis prepared in conjunction with such site plan. The applicant shall furnish such notice of this meeting to the owners of the Single Family Residential Parcels at least fourteen (14) days in advance of the applicant's proposed meeting date. The notice required by this condition shall be provided in accordance with the methods permitted by either subsection a. or subsection b. of UDO section 10.2.1.C.1.

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10. Prior to recordation of a subdivision plat or issuance of a building permit for new development on the property, whichever shall first occur, a transit easement shall be deeded to the City and recorded in the Wake County Registry. Prior to recordation of the transit easement, the dimensions (not to exceed 15 feet in depth or 20 feet in width, and may be reduced by the City based on location) and location of (the easement along Lake Boone Trail shall be approved by the Public Works Department and the easement document approved by the City Attorney's Office. Prior to issuance of a certificate of occupancy for new development on the property, an ADA accessible transit shelter (free-standing or incorporated into a building), with construction plans approved by the Public Works Department, shall be constructed by the lot owner.

11. Residential development on the property shall not exceed 800 dwelling units. Nonresidential development on the property shall not exceed 100,000 square feet of gross floor area. Prior to recordation of a subdivision plat for the property, the owner of the property shall cause to be recorded in the Wake County Registry a restrictive covenant that allocates allowable residential density and nonresidential floor area upon the property to all lots of record comprising the property. Such restrictive covenant shall be approved by the City Attorney or his designee prior to recordation of a subdivision plat for the property and prior to recordation of the restrictive covenant, and such restrictive covenant shall be promptly recorded following its approval by City officials. 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.

12. Within (that portion of the property designated Area 1 on the attached Exhibit 1, any unenclosed loading area located on that side of a building facing Landmark Drive, and where no other building is located between the loading area and Landmark Drive, shall be screened with a wall totaling at least eight feet in height and such wall shall comply with UDO sections 7.2.5.B.3 and 7.2.5.B.4.

13. Within that portion of the property designated Area 1 on the attached Exhibit 1, any unenclosed service area located on that side of a building facing Landmark Drive, and where no other building is located between the service area and Landmark Drive, shall be screened on three sides by a wall at least six feet in height and on a fourth side by a solid gate at least six feet in height. For an enclosure subject to this condition, the side of the enclosure with a gate may not face Landmark Drive. For an enclosure subject to this condition, the wall and gate screening the service area must be of a height at least 12 inches above the highest point of any dumpster located in the service area, but in no event less than six feet in height. The walls and gate subject to this condition shall comply with UDO section 7.2.5.C.3.

14. Within that portion of the property designated Area 1 on the attached Exhibit 1, new construction (excluding remodeling, renovation and maintenance of existing structures) shall occur only between the hours of 7:00 AM and 7:00 PM Monday through Friday, 8:00 AM and 6:00 PM Saturday and shall be prohibited on Sunday.

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15. No construction materials, debris or equipment shall be stored, handled or parked within the Buffer Area. This condition shall not prohibit the use of equipment in the Buffer Area for the purposes set forth in above Condition 3 of this rezoning ordinance.

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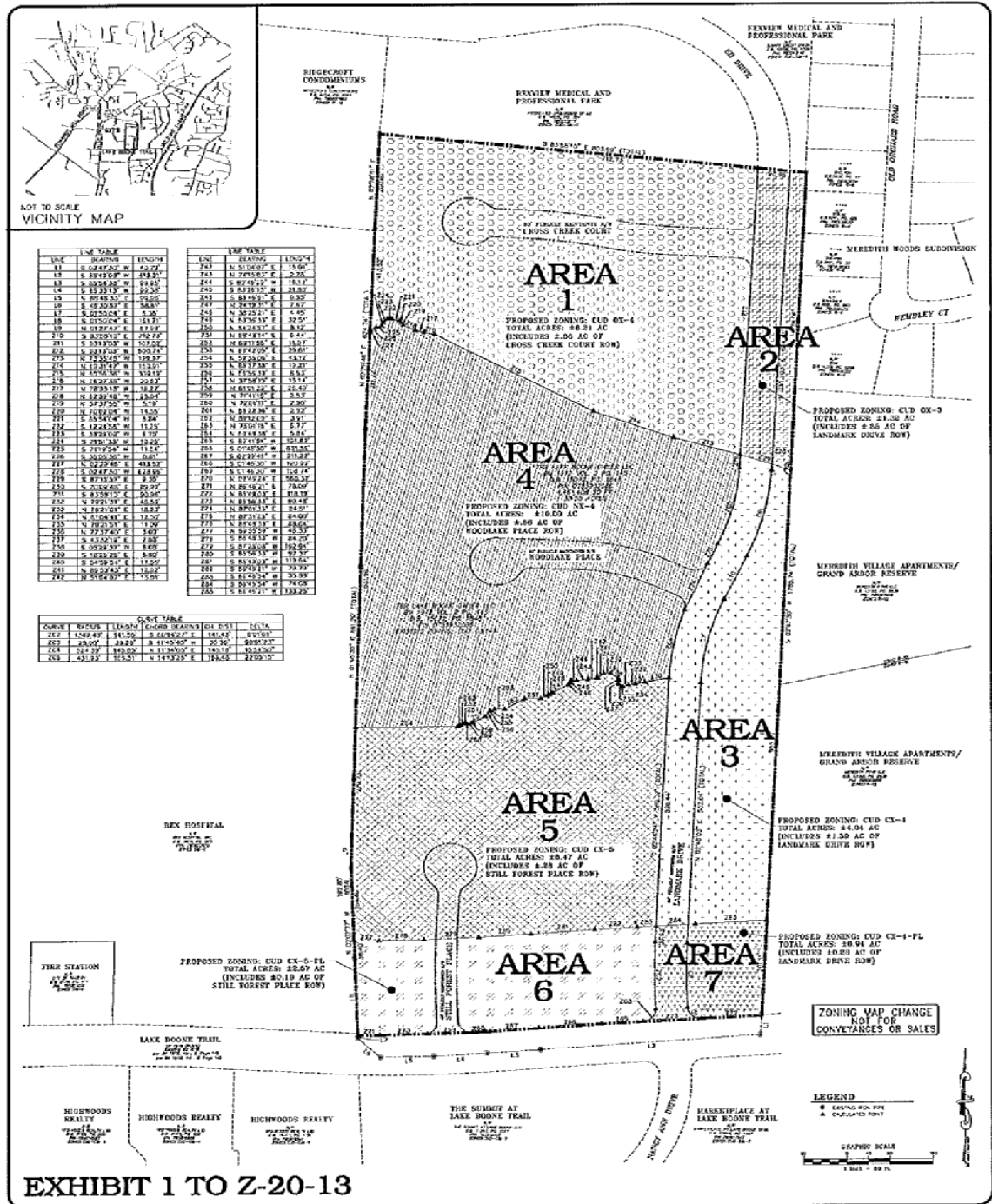


EXHIBIT 1 TO Z-20-13

	THE VILLAGES OF LAKE BOONE TRAIL LAKE BOONE TRAIL LAKEBOON, NORTH CAROLINA RESIZING EXHIBIT 1 TO Z-20-2013	OFFICE Tabrizi Residential, LLC 1575 Northside Drive NW Building 100, Suite 200 Atlanta, Georgia 30318	ATTORNEY [Signature]	THE JOHN R. McADAMS COMPANY, INC. 3000 Woodlake Parkway Durham, North Carolina 27718 License No. 0-0000 919.251.9044
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