

Z-22-14 – Creedmoor Road, west side, south of Brennan Drive and north of Morgan’s Way, at the eastern terminus of Brandon Station Road and the northern terminus of Corberrie Lane, being Wake County PINs 0798317591 and 0798315895, approximately 6.73 acres rezoned to Office Mixed Use-3 stories-Conditional Use (OX-3-CU).

Conditions dated: December 17, 2015

A. These conditions shall apply to the subject property:

1. The Owner of the subject property shall have the option to develop the site either: (1) without any Article 6.2 uses allowed in the OX District (“Nonresidential Option”) or (2) with only residential uses as set forth in Section C.1 below (“Residential Option”). The Conditions in Section A shall apply to all development on the subject property. If the Owner of the subject property elects the Nonresidential Option, Condition B shall apply; otherwise, Condition C shall apply. The election of either option shall not become irrevocable until such time as a Certificate of Occupancy has been issued for any structure on the site, provided that if development plans or permit requests have been submitted and have not been withdrawn for a development under either of the above Options, development plans for a development under the other Option may not be submitted or considered except if the development plan or permit is withdrawn and the development is made to conform to the newly selected option.
2. All grading and exterior construction of building upon the property shall be limited to the hours of 8:00 a.m. - 7:00 p.m., Monday through Saturday.
3. The peak stormwater runoff leaving the site for the 2-, 10-, and 25-year storms shall be no greater along any point of discharge for post-development conditions than pre-development conditions.
4. Any development at the subject property must provide at least one (1) pedestrian pathway and recorded pedestrian access easement of at least eight feet (8’) in width between the subject property and PIN 0798 42 0285 (Deed Book 14550, Page 2009) prior to the issuance of the first building permit on the subject properties.
5. Service areas for dumpster type garbage collection (but not individual office garbage collection) may only be located generally in the northeast corner of the site adjacent to PIN 0798 42 0285 (Deed Book 14550, Page 2009) or elsewhere along the northern line of PIN 0798 42 0285 and no closer than two hundred feet (200’) from PIN 0798 31 3873 (Deed Book 15501, Page 2323), PIN 0798 31 3649 (Deed Book 3185, Page 791), PIN 0798 31 3428 (Deed Book 13140, Page 1394), PIN 0798 31 4362 (Deed Book 4849, Page 338), PIN 0798 31 4362 (Deed Book 4849, Page 338), PIN 0798 31 6279 (Deed Book 6582, Page 838), PIN 0798 31 7380 (Deed Book 12685, Page 1702), PIN 0798 31 9247 (Deed Book 10047, Page 900), and PIN 0798 41 1200 (Deed 5630, Page 950). No dumpster type garbage collection service area shall open to the south or west.

6. No street connection will be provided to Corberrie Lane, and the City of Raleigh shall not require this connection. Direct vehicular access to the subject properties from and to a public right-of-way would be from Brandon Station Road and from the access easement to and from Creedmoor Road. A pedestrian passage, meeting the standards of UDO Section 8.4.8 B will be provided from Corberrie Lane to a public road. The length of the Corberrie Lane stubbed street shall not exceed 1900 feet.
7. The developer and/or submitter of a site plan shall (i) request in writing that the North Carolina Department of Transportation create and install a four-way stop sign at Brandon Station Road and Brennan Drive, and a three-way stop sign at the T-intersection of Morgans Way and Brandon Station Road, at the time the developer submits a site plan for the subject properties, and (ii) provide a copy of said written request to the property owners along the western boundary of the subject properties and along Brandon Station Road from the property line to Morgans Way which shall include the owners of the following parcels: PIN 0798 31 3873 (Deed Book 15501, Page 2323), PIN 0798 31 3649 (Deed Book 3185, Page 791), PIN 0798 31 3428 (Deed Book 13140, Page 1394), PIN 0798 31 4362 (Deed Book 4849, Page 338), PIN 0798 31 6279 (Deed Book 6582, Page 838), PIN 0798 31 7380 (Deed Book 12685, Page 1702), PIN 0798 31 9247 (Deed Book 10047, Page 900), and PIN 0798 41 1200 (Deed Book 5630, Page 950). The written request shall include phone and e-mail contact information for the owner of the subject property, the developer, and the submitter of the site plan.

B. If the subject property is developed under the Nonresidential Option, the following conditions shall apply:

1. Buildings upon this property shall not exceed any of the following: (a) a gross floor area of 75,000 square feet; (b) 2 stories; or (c) principal building height of thirty-five feet (35') measured to the top of the highest point of the roof not including a maximum wall parapet wall encroachment allowed by UDO Section 1.5.7. D 2. Within forty-five (45) days following the approval of the form and substance of the restrictive covenant hereinafter mentioned by the City Attorney or his or her designee, the owner of the Property shall cause to be recorded in the Wake County Registry a restrictive covenant that shall allocate the allowable development upon the Property as provided in this Zoning Condition (B)(1) among all existing lots comprising the Property. Such restrictive covenant shall be submitted to the City Attorney prior to the conveyance of any of the Subject Property and within forty-five (45) days following approval of this rezoning case by the City Council and it shall be approved by the City Attorney or his or her designee prior to recordation. The restrictive covenant and the allocation of development set forth therein may be amended from time to time following recordation. Any such amendment shall require the written concurrence of the City Attorney or his or her designee and the owner(s) of all portions of the Property affected by the amendment and shall be at the sole discretion of such owner(s). Following recordation, a copy of each amendment shall

- be mailed to the Planning Director at P.O. Box 590, Raleigh, NC 27602 with a reference to zoning case Z-22-14.
2. Buildings containing two occupied (heated and cooled) stories shall have a roof pitch of a ratio at least 4:12. Buildings without a pitched roof shall not exceed sixteen feet (16') in height not including a maximum wall parapet wall encroachment
 3. Parking lots shall be located so that there are no parking lots between any building and the following properties: PIN 0798 31 3873 (Deed Book 15501, Page 2323), PIN 0798 31 3649 (Deed Book 3185, Page 791), PIN 0798 31 3428 (Deed Book 13140, Page 1394), PIN 0798 31 4362 (Deed Book 4849, Page 338), PIN 0798 31 6279 (Deed Book 6582, Page 838), PIN 0798 31 7380 (Deed Book 12685, Page 1702), PIN 0798 31 9247 (Deed Book 10047, Page 900), and PIN 0798 41 1200 (Deed Book 5630, Page 950), to the extent that the foregoing properties abut the subject property.
 4. The percentage of window openings in building walls which face the southern and western property lines of the property, including the following properties: PIN 0798 31 3873 (Deed Book 15501, Page 2323), PIN 0798 31 3649 (Deed Book 3185, Page 791), PIN 0798 31 3428 (Deed Book 13140, Page 1394), PIN 0798 31 4362 (Deed Book 4849, Page 338), PIN 0798 31 6279 (Deed Book 6582, Page 838), PIN 0798 31 7380 (Deed Book 12685, Page 1702), PIN 0798 31 9247 (Deed Book 10047, Page 900), and PIN 0798 41 1200 (Deed Book 5630, Page 950), shall be limited to the greater of twenty (20%) percent of the area of the walls in which they are located or any percentage transparency requirement which may be applicable.
 5. All uses permitted in the OX District as outlined in the UDO section 6.1.4 are permitted except as follows:
 - a) All Household Living uses shall be prohibited, except that Single-unit living, two-unit living, and cottage court are allowed if the Residential Option, Subsection (C), is developed at the option of the owner and/or developer in accordance with Subsection (A)(1) above.
 - b) Cemetery; telecommunication tower; radio, TV or recording studio; utility substation; overnight lodging; commercial parking lot; and funeral home.
 - c) All uses requiring a Special Use Permit from the Board of Adjustment.
 - d) Eating establishments and retail sales on the site shall not exceed an aggregate gross floor area of 7,500 square feet and no single retail sales or eating establishment shall be greater than 3,000 square feet.
 6. Prior to the issuance of the first Certificate of Occupancy for any building upon the property, where there is no Tree Conservation Area, a Type 3 protective yard that meets the minimum requirements in UDO Sec. 3.5.3 C, with a width that shall be no less than fifty (50) feet, with a closed fence at least six-and-one-half feet (6.5') in height together with a continuous berm with a minimum height of three (3) feet both of which shall be located within the first twenty-five (25) feet of said Type 3 protective yard from the property line shall be installed and maintained where the site abuts PIN 0798 31 3873 (Deed Book 15501, Page 2323), PIN 0798 31 3649 (Deed

Book 3185, Page 791), PIN 0798 31 3428 (Deed Book 13140, Page 1394), PIN 0798 31 4362 (Deed Book 4849, Page 338), PIN 0798 31 6279 (Deed Book 6582, Page 838), PIN 0798 31 7380 (Deed Book 12685, Page 1702), PIN 0798 31 9247 (Deed Book 10047, Page 900), and PIN 0798 41 1200 (Deed Book 5630, Page 950) and the same shall satisfy the Neighborhood Transition requirement under the UDO. Where there is a Tree Conservation Area, a closed fence at least six-and-one-half feet (6.5') in height together with a continuous 3' berm will be located adjacent to and outside of the TCA, and outside the critical root zone of trees in the TCA. A pedestrian passage, meeting the requirements of UDO section 8.4.8 B, may be installed in the transition area and the fence and berm shall contain an opening for such pedestrian passage. Any berm installed under this condition must be measured perpendicular to the center of the crown, and the closed fence may be located on top of the berm.

Notwithstanding anything to the contrary herein, for protective yards where the subject property abuts PIN 0798 31 3873 (Deed Book 15501, Page 2323), PIN 0798 31 3649 (Deed Book 3185, Page 791), PIN 0798 31 3428 (Deed Book 13140, Page 1394), PIN 0798 31 4362 (Deed Book 4849, Page 338), PIN 0798 31 6279 (Deed Book 6582, Page 838), PIN 0798 31 7380 (Deed Book 12685, Page 1702), PIN 0798 31 9247 (Deed Book 10047, Page 900), and PIN 0798 41 1200 (Deed Book 5630, Page 950) such plantings shall be installed and maintained by the developer and/or the owner's association and the developer shall cause restrictions to be recorded obligating the owner's association accordingly, per the maintenance obligations of UDO section 7.2.7 D.

7. Any day care center constructed upon this property shall contain not more than one occupied (heated and cooled) story and shall not exceed sixteen feet (16') in height. Time of use of day care center shall be limited to 7 a.m. to 8 p.m. Monday through Saturday.
8. Light poles shall have full cutoff illumination and shall not exceed fifteen feet (15') in height.
9. Exterior HVAC facilities located upon the property shall be ground mounted and shall be screened on three sides by walls, berms, plantings and/or enclosures compatible with the principal building served by the HVAC in terms of texture, quality, material and color and shall be of sufficient height to screen the highest point of the HVAC facilities.
10. Exterior signs on buildings constructed upon the property shall have no neon or LED elements and shall consist of no illuminated lettering other than self-illuminated letters or words that appear white, mounted on the building walls and/or illuminated by means of indirect lighting placed either behind the sign or from lights mounted in front of the sign and directed to shine upon the sign.
11. The owner of the subject property, developer, and/or submitter of a site plan shall provide written notice at least ten (10) days prior to the filing of site plan approval

request for the subject property with the City of Raleigh, which shall include a copy of the site plan to be submitted for review by the City of Raleigh, by deposit in the United States mail to the owners of PIN 0798 31 3873 (Deed Book 15501, Page 2323), PIN 0798 31 3649 (Deed Book 3185, Page 791), PIN 0798 31 3428 (Deed Book 13140, Page 1394), PIN 0798 31 4362 (Deed Book 4849, Page 338), PIN 0798 31 6279 (Deed Book 6582, Page 838), PIN 0798 31 7380 (Deed Book 12685, Page 1702), PIN 0798 31 9247 (Deed Book 10047, Page 900), and PIN 0798 41 1200 (Deed Book 5630, Page 950). The notice shall include phone and e-mail contact information for the owner of the subject property, the developer, and the submitter of the site plan.

C. If the subject property is developed under the Residential Option, the following conditions shall apply:

1. Uses permitted on the subject property shall include the following Household Living uses permitted under Section 6.2.1 of the UDO which are permitted in R-6 zoning districts and that are not prohibited in an OX district: (i) single-unit living, (ii) two-unit living, (iii) Cottage Court, and (iv) supportive housing residence. Multi-unit living and Multi-unit supportive housing residence shall be prohibited. The only building types permitted on the subject properties under the Residential Option shall be Detached House, Attached House and Open Lot; all other building types shall be prohibited.
2. No structure within one-hundred feet (100') of the lot line of the subject property, as it abuts PIN 0798 31 3873 (Deed Book 15501, Page 2323), PIN 0798 31 3649 (Deed Book 3185, Page 791), PIN 0798 31 3428 (Deed Book 13140, Page 1394), PIN 0798 31 4362 (Deed Book 4849, Page 338), PIN 0798 31 6279 (Deed Book 6582, Page 838), PIN 0798 31 7380 (Deed Book 12685, Page 1702), PIN 0798 31 9247 (Deed Book 10047, Page 900), and PIN 0798 41 1200 (Deed Book 5630, Page 950) shall exceed thirty-eight feet (38') in height and no buildings on the subject property shall exceed forty-two feet (42') in height, not including a maximum wall parapet wall encroachment allowed by UDO Section 1.5.7. D 2.
3. No parking lots with more than four (4) spaces shall be located within fifty feet (50') of the lot line of the subject property, as it abuts PIN 0798 31 3873 (Deed Book 15501, Page 2323), PIN 0798 31 3649 (Deed Book 3185, Page 791), PIN 0798 31 3428 (Deed Book 13140, Page 1394), PIN 0798 31 4362 (Deed Book 4849, Page 338), PIN 0798 31 6279 (Deed Book 6582, Page 838), PIN 0798 31 7380 (Deed Book 12685, Page 1702), PIN 0798 31 9247 (Deed Book 10047, Page 900), and PIN 0798 41 1200 (Deed Book 5630, Page 950).
4. Residential development shall not exceed a maximum of six (6) dwelling units per acre, provided that in any event the maximum number of dwelling units shall be thirty-six (36).

5. The exterior of each Detached House, Attached House, and Cottage Court constructed on the subject property shall include a mix of materials and architectural features including at least four (4) of the following materials or features: lap siding, brick, stone, masonry, pitched roofs with a minimum pitch of 4:12, decorative window shutters, gables, dormers, or decorative columns. No vinyl materials shall be used on the exterior walls of any principal structure.

6. Prior to the issuance of the first Certificate of Occupancy for any principal residential building upon the property, where there is no Tree Conservation Area, a Type 3 protective yard that meets the minimum requirements in UDO Sec. 3.5.3 C, with a width that shall be no less than fifty (50) feet, with a closed fence at least six-and-one-half feet (6.5') in height together with a continuous berm with a minimum height of three (3) feet both of which shall be located within the first twenty-five (25) feet of said Type 3 protective yard from the property line shall be installed and maintained where the site abuts PIN 0798 31 3873 (Deed Book 15501, Page 2323), PIN 0798 31 3649 (Deed Book 3185, Page 791), PIN 0798 31 3428 (Deed Book 13140, Page 1394), PIN 0798 31 4362 (Deed Book 4849, Page 338), PIN 0798 31 6279 (Deed Book 6582, Page 838), PIN 0798 31 7380 (Deed Book 12685, Page 1702), PIN 0798 31 9247 (Deed Book 10047, Page 900), and PIN 0798 41 1200 (Deed Book 5630, Page 950) and the same shall satisfy the Neighborhood Transition requirement under the UDO. Where there is a Tree Conservation Area, a closed fence at least six-and-one-half feet (6.5') in height together with a continuous 3' berm will be located adjacent to and outside of the TCA, and outside the critical root zone of trees in the TCA. A pedestrian passage, meeting the requirements of UDO section 8.4.8 B, may be installed in the transition area and the fence and berm shall contain an opening for such pedestrian passage. Any berm installed under this condition must be measured perpendicular to the center of the crown, and the closed fence may be located on top of the berm.

Notwithstanding anything to the contrary herein, for any protective yards where the subject property abuts PIN 0798 31 3873 (Deed Book 15501, Page 2323), PIN 0798 31 3649 (Deed Book 3185, Page 791), PIN 0798 31 3428 (Deed Book 13140, Page 1394), PIN 0798 31 4362 (Deed Book 4849, Page 338), PIN 0798 31 6279 (Deed Book 6582, Page 838), PIN 0798 31 7380 (Deed Book 12685, Page 1702), PIN 0798 31 9247 (Deed Book 10047, Page 900), and PIN 0798 41 1200 (Deed Book 5630, Page 950) such plantings shall be installed and maintained by the developer and/or the owner's association and the developer shall cause restrictions to be recorded obligating the owner's association accordingly, per the maintenance obligations of UDO section 7.2.7 D.

NOTE: ALTHOUGH NOT A CONDITION OF THE ZONING CASE, THE CITY COUNCIL VOTED THAT SHOULD AN OFFICE/COMMERCIAL OPTION BE PRESENTED FOR APPROVAL THAT THE CITY WILL NOT PROVIDE/ALLOW OR SELL ANY PROPERTY WHICH WILL ALLOW ACCESS TO BRANDON STATION ROAD.