

**Ordinance (2012) 103ZC676  
September 18, 2012**

**Z-26-12 – Lake Wheeler Road, Conditional Use** – located on the east side of Lake Wheeler Road, north of its intersection with Tryon Road being Wake County PIN(s), 0792-55-3777. Approximately 1.71 acre(s) rezoned from Office and Institution -1 Conditional Use to Neighborhood Business Conditional Use.

**Conditions Dated: 09/13/12**

Narrative of conditions being requested:

As used herein, the “Property” means and refers to that certain tract or parcel of land containing approximately 1.71 acres, located near the intersection of Lake Wheeler Road and Tryon Road, in the City of Raleigh, NC, and having Wake County Parcel Identification Number: 0792-55-3777 (Deed Book 10089, Page 1005).

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

- adult establishment
- hotel/motel
- bar, night club, tavern, lounge
- riding stable
- automotive service and repair facility
- emergency shelter type A and emergency shelter type B
- landfill, all types
- mini-warehouse storage facility
- special care facility
- telecommunication tower of all heights
- kennel/cattery
- sorority and fraternity house
- apartments
- townhouse developments
- parking facility, principal use
- transitional housing, except supportive housing residence
- correctional penal facility
- eating establishment with drive-thru

(b) All exterior lighting installed after the effective date of this rezoning shall be full cut-off (shielded) design and directed away from any adjacent residential uses.

(c) Prior to the issuance of any building permit or subdivision of the rezoned land, whichever occurs first, an offer of cross-access, both vehicular and pedestrian shall be provided to the property to the south (Wake County Parcel Identification Number: 0792558531, Deed Book 13328, Page 2411).

(d) Maximum building height shall be two stories or thirty (30) feet.

(e) Developer will construct a closed fence at least six feet (6’) in height along the northern property line of the Property, adjacent to those parcels with Wake County Parcel

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Identification Numbers 0792-55-4970 (Lot 12 on BM 1964, PG 48), 0792-55-6861 (Lot 9 on BM 1964, PG 48) and 0792-55-7734 (Lot 8 on BM 1964, PG 48). The closed fence shall be constructed and completed prior to the issuance of a certificate of occupancy.

(f) Prior to subdivision of the Property or the issuance of a building permit for the Property, whichever shall occur first, a transit easement measuring twenty (20) feet along Lake Wheeler Road by fifteen (15) feet shall be granted to the City pursuant to a transit easement deed approved by the City Attorney and recorded in the Wake County Registry.

(g) The amount of floor area gross for commercial uses shall not exceed 17,100 square feet. If the property is subdivided, then prior to plat recordation a declaration of land use allocation, approved by the City Attorney, shall be prepared and recorded in the county register of deeds office allocating the 17,100 square feet of floor area gross.

(h) Any drive thru window may not be located on an exterior building wall facing the Lake Wheeler Road right-of-way.

(i) Any loading area shall be located on the side or rear of the principal building, but in no event shall any loading area face the Lake Wheeler Road right-of-way.

(j) For any principal building developed on the Property, the primary vertical material of the building facade facing Lake Wheeler Road shall be 100% brick materials and glazing (except for minor architectural and structural elements and signage). The side walls of any principal building shall consist of at least 60% brick materials.

(k) For any principal building developed on the Property, the exterior wall facing Lake Wheeler Road shall have a minimum 25% transparency measured between 0 feet and 12 feet above the adjacent sidewalk.

(l) Any principal building developed on the Property shall have a maximum front yard setback of 35 feet measured from the front wall of conditioned space to the Lake Wheeler Road right-of-way as it now exists or may exist in the future.

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

**Section 4.** That this ordinance shall become effective upon the date of adoption.

**Adopted: September 18, 2012**

**Effective: September 18, 2012**

**Distribution: Planning Department (3)  
City Attorney**

**Inspections Department (5)  
Jackie Taylor**