

6. TCZ-28-22 – 0 Buffalo Road, located at the southeast corner of its intersection with Forestville Road, being Wake County PIN 1746411926. Approximately 22.93 acres rezoned to Commercial Mixed Use-3 Stories-Conditional Use (CX-3-CU) [modified conditions].

Original Conditions dated: February 18, 2009 (Z-48-08, Ordinance No. (2009) 549 ZC 633 adopted/effective March 3, 2009)

a) Upon development, reimbursement for any required right-of-way dedication for Buffalo Road or Forestville Road shall be calculated at the applicable R-4 rate.

b) A Natural protective yard (“NPY”) fifty (50) feet in width shall be maintained along the East property line (adjacent to Watkins, PIN 1746427078 [Deed Book 8628, Page 143] and Toney, PIN 1746416877 [Deed Book 9050, Page 759] all Wake County Registry. No building, parking area or driveway may be located in the NPY; however fences/berms and trees, shrubs and plants may be installed, maintained, removed and replaced therein and utility, water, sewer, storm drainage, pedestrian cross access or other improvements as may be authorized or required by any governmental authority, may be located in the NPY, all subject to (the cumulative thirty percent (30%) limitation on grading and tree removal in a NPY, pursuant to section 10-2002 of the Raleigh City Code.

c) An NPY forty (40) feet in width shall be maintained along the South and Southeast property lines (adjacent to Miles, PIN 1746410189 [Estate Book 3906], and Inge, PIN 1746316404 [Deed Book 8806 Page 007] all Wake County Registry. No building or parking area may be located in the NPY; however fences/berms and trees, shrubs and plants may be installed, maintained, removed and replaced herein and utility, water, sewer, storm drainage, pedestrian and vehicular cross access or other improvements as may be authorized or required by any governmental authority, may be located in the NPY, all subject to the cumulative thirty percent (30%) limitation on grading and tree removal in a NPY, pursuant to section 10-2002 of the Raleigh City Code.

d) Prohibited Uses: The following uses shall be prohibited upon the Property:

- i. Fraternity House;
- ii. Sorority House;
- iii. Adult establishments;
- iv. Bar, nightclub, tavern, lounge (except as associated with a restaurant (as defined in NCGS §18-B-1000(6)) or hotel in the same building);
- v. Funeral home;
- vi. Veterinary hospital, kennel, cattery;

- vii. Airfield, landing strip;
- viii. Correctional/penal facility (Governmental and Non-Governmental);
- ix. Retail Sales — highway, including any business that sells gasoline for automobiles;
- x. Movie theatre — either indoor or outdoor;
- xi. Emergency shelter — Type B;
- xii. Bowling alley;
- xiii. All residential uses other than single family detached homes, townhouses, and unit ownership (condominiums);
- xiv. Mini-warehouse storage facility.

e) No single retail establishment developed on the subject property after adoption of this rezoning ordinance shall exceed 65,000 square feet, floor area gross. Aggregate retail square footage developed on the entire subject property shall not exceed 130,000 square feet, floor area gross. Prior to recording any plat or deed dividing the rezoned property into two or more parcels, a restrictive covenant allocating retail floor area gross square footage to the lots within the rezoned property shall be recorded with the Wake County Registry. No covenant allocating retail square footage shall be recorded amended or terminated without the prior written consent of the Raleigh City Attorney or his/her deputy which shall be evidenced by his/her signature on the document.

f) Office and Institutional uses developed on the subject property after adoption of this rezoning ordinance shall not exceed 20,000 square feet, floor area gross.

g) Residential density developed on the subject property after adoption of this rezoning ordinance shall not exceed ten (10) dwelling units per acre.

h) No building constructed on the property after adoption of this zoning ordinance shall exceed a height of forty-four (44) feet, measured in accordance with City Code Section 10-2076 and no such building shall exceed three (3) occupied stories.

i) Poles for free standing lighting shall not exceed thirty-five (35) feet in height, and all pole mounted light fixtures shall be full cutoff type, regardless of wattage. Notwithstanding the foregoing, in buffer areas and protective yards, poles for free standing lighting shall not exceed twelve (12) feet in height.

j) Development of non-residential buildings upon the subject property occurring after the adoption of this zoning ordinance shall comply with the criteria for “unity of development” as defined in City Code Section 10-2002, “Definitions” approved by the Raleigh City Planning Director and submitted for review by the Raleigh Appearance Commission prior to the issuance of any non-residential building permit on the subject property.

k) A traffic study of the scope determined by the City of Raleigh Public Works Department (Transportation Division) will be submitted for review and approval by the City no later than the approval of this Case by the Planning Commission.

l) In conjunction with the development of this property, sanitary sewer and water mains will be extended as necessary to serve the property.

m) Public water will not be used for irrigation purposes as irrigation water will be provided by wells, cisterns and/or water re-use.

n) Prior to lot recordation or the issuance of any building permit, whichever shall first occur, the Owner of the property shall deed to the City the Transit Easement measuring twenty (20) feet long by fifteen (15) feet wide adjacent to the public right of way to support a bus stop for future transit services in the area. The location of the Transit Easement shall be timely reviewed and approved by the Transit Division of the City, and the City Attorney or his designee shall approve the Transit Easement Deed prior to recordation in the Wake County Registry.

o) The development of the subject property shall require Site Plan approval by the Planning Commission and by the City Council.

p) Until the three lanes on the Buffalo Road bridge over I-540 are increased by at least one eastbound lane through replacement, expansion or re-striping of said bridge, development of the entire subject property shall be capped as follows: (i) one-story retail uses shall not exceed twenty thousand (20,000) square feet, floor area gross, and retail uses within vertical mixed use buildings shall not exceed a total of forty thousand (40,000) square feet floor area gross, and (ii) office and institutional uses as limited by Condition e), and (iii) residential uses shall not exceed forty (40) dwelling units.

q) Prior to recording any plat or deed dividing the rezoned property into two or more parcels or within sixty (60) days after the adoption of the rezoning ordinance by the Raleigh City Council, whichever is earlier, restrictive covenants allocating retail square footage, floor area gross, office and institution square footage, floor area gross, and residential dwelling units shall be recorded in the Wake County Registry. No covenant allocating retail square footage, office and institution square footage and/or residential dwelling units shall be recorded, amended or terminated without the prior written consent of the Raleigh City Attorney or his/her deputy which shall be evidenced by his/her signature on the document prior to its recordation.

r) Development occurring on the Property after the adoption of this rezoning ordinance shall be consistent with the following-guidelines.

- (1) No parking shall be permitted between buildings adjacent to Buffalo Road. Parking shall not occupy more than one-third of the frontage of the Property along Buffalo Road if parking is located to the side(s) of the buildings along Buffalo Road.
- (2) Any parking spaces located within twenty-five feet (25') of the right-of-way of either Buffalo Road or Forestville Road shall be visually screened by evergreen shrubs spaced no more than four feet (4') on center and expected to reach a height of at least thirty inches (30") within three (3) years of planting with a minimum install height of 18 inches.
- (3) At least two (2) buildings shall be located within twenty-five feet (25') of the right-of-way of Buffalo Road or Forestville Road, subject to legal requirements for tree conservation areas, right of-way dedications, street protective and other landscaping yards and transit stop(s).
- (4) Internal streets will be designed to be pedestrian oriented and a network of internal and public sidewalks, walkways to building entrances and crosswalks will connect buildings, parking, bike racks, sidewalks and a transit stop.
- (5) Pedestrian connections between the transit stop and building entrances shall be provided via public sidewalks and/or internal sidewalks.
- (6) Sidewalks internal to the site shall be a minimum of six (6) feet wide.

Amended Conditions dated: April 13, 2022

~~a) Upon development, reimbursement for any required right-of-way dedication for Buffalo Road or Forestville Road shall be calculated at the applicable R-4 rate.~~

~~b) A Natural protective yard ("NPY") fifty (50) feet in width shall be maintained along the East property line (adjacent to Watkins, PIN 1746427078 [Deed Book 8628, Page 143] and Toney, PIN 1746416877 [Deed Book 9050, Page 759] all Wake County Registry. No building, parking area or driveway may be located in the NPY; however fences/berms and trees, shrubs and plants may be installed, maintained, removed and replaced therein and utility, water, sewer, storm drainage, pedestrian cross access or other improvements as may be authorized or required by any governmental authority, may be located in the NPY, all subject to (the cumulative thirty percent (30%) limitation on grading and tree removal in a NPY, pursuant to section 10-2002 of the Raleigh City Code.~~

a) There shall be a minimum fifty-foot (50') principal building setback from the shared boundary lines with those adjacent properties with Property

Identification Numbers (PINs) 1746-42-7078 (Deed Book I 6 I 05, Page 1542, Wake County Registry) and 1746-41-6877 (Deed Book 9050, Page 759, Wake County Registry). Any trees within the setback shall remain, except for those trees determined to be unhealthy, dead, or hazardous.

~~e) An NPY forty (40) feet in width shall be maintained along the South and Southeast property lines (adjacent to Miles, PIN 1746410189 [Estate Book 3906], and Inge, PIN 1746316404 [Deed Book 8806 Page 007] all Wake County Registry. No building or parking area may be located in the NPY; however fences/berms and trees, shrubs and plants may be installed, maintained, removed and replaced herein and utility, water, sewer, storm drainage, pedestrian and vehicular cross access or other improvements as may be authorized or required by any governmental authority, may be located in the NPY, all subject to the cumulative thirty percent (30%) limitation on grading and tree removal in a NPY, pursuant to section 10-2002 of the Raleigh City Code.~~

db) Prohibited Uses: The following uses shall be prohibited upon the Property:

- i. Dormitory, Fraternity House, Sorority;
- ii. Sorority House;
- iii. Adult establishments;
- iiii. Bar, nightclub, tavern, lounge (except as associated with a restaurant (as defined in NCGS §18-B-1000(6)) or hotel in the same building);
- iv. Funeral home;
- vi. Veterinary hospital, kennel, cattery v. Animal care (indoor);
- vii. Veterinary Clinic/Hospital
- viii. Airfield, landing strip;
- viii. Correctional/penal facility (Governmental and Non-Governmental)
vii. Detention center, jail, prison;
- ix. Retail Sales — highway, including any business that sells gasoline for automobiles;
- xvii. Movie theatre — either indoor or outdoor;
- ixi. Emergency shelter — Type B;
- xii. Bowling alley;
- xiii. All residential uses other than single family detached homes, townhouses, and unit ownership (condominiums);
- xiv. Mini-warehouse storage facility.
- vii. Vehicle Repair (Major)

c) The Vehicle Fuel Sales use shall comply with the regulations set forth in UDO Section 6.4.11.C.3. UDO Sections 6.4.11.C.3.a.i - ix shall not apply if the property on which any Vehicle Fuels Sales use sits is farther than 200' from a Residential District.

d) The Vehicle Sales/Rental and Vehicle Repair (Minor) uses shall be subject to the Neighborhood Mixed Use regulations listed in UDO Sections 6.4.13.B.5. and 6.5.6.C.2.f., respectively.

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h) No building constructed on the property after adoption of this zoning ordinance shall exceed a height of forty-four (44) feet, measured in accordance with ~~City Code Section 10-2076~~ UDO Section 1.5.7. and no such building shall exceed three (3) occupied stories.

i) Poles for free standing lighting shall not exceed thirty-five (35) feet in height, and all pole mounted light fixtures shall be full cutoff type, regardless of wattage. Notwithstanding the foregoing, in buffer areas and protective yards, poles for free standing lighting shall not exceed twelve (12) feet in height.

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~~l) In conjunction with the development of this property, sanitary sewer and water mains will be extended as necessary to serve the property.~~

~~m) Public water will not be used for irrigation purposes as irrigation water will be provided by wells, cisterns and/or water re-use.~~

n) Prior to lot recordation or the issuance of any building permit, whichever shall first occur, the Owner of the property shall deed to the City the Transit Easement measuring twenty (20) feet long by fifteen (15) feet wide adjacent to the public right of way to support a bus stop for future transit services in the area. The location of the Transit Easement shall be timely reviewed and approved by the Transit Division of the City, and the City Attorney or his/her designee shall approve the Transit Easement Deed prior to recordation in the Wake County Registry.

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(4) Internal streets will be designed to be pedestrian oriented and a network of internal and public sidewalks, walkways to building entrances and crosswalks will connect buildings, parking, bike racks, sidewalks and a transit stop.

(5) Pedestrian connections between the transit stop and building entrances shall be provided via public sidewalks and/or internal sidewalks.

(6) Sidewalks internal to the site shall be a minimum of six (6) feet wide.

sm) An apartment building type may not include dwelling units that are separated by a horizontal party wall, meaning that dwelling units in the same building must be separated by a vertical party wall. This shall not prohibit a dwelling unit from having multiple stories.