

ORDINANCE NO. (2019) 926 ZC 776

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF RALEIGH WHICH INCLUDES THE ZONING DISTRICT MAP

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RALEIGH:

Section 1. That Section 10 of the City of Raleigh Code, which includes the Zoning District Map, be and the same if hereby amended as follows:

- 1. Z-34-18 – 308 South Boylan Avenue**, being Wake County PIN 1703375717. Approximately .99 acres located at the southeast intersection of Montford Street and South Boylan Avenue, at 308 South Boylan Avenue are rezoned to Commercial Mixed-Use – Three Stories – Conditional Use with a General Historic Overlay District and Conditions (CX-3-CU with HOD-G).

Conditions dated: February 12, 2019

1. The principal uses permitted on the property shall be limited to those principal uses permitted in the R-10 district, except the compact development and conservation development uses shall be prohibited. Notwithstanding the foregoing, the following uses shall be permitted: indoor recreation, outdoor recreation, overnight lodging, bar, eating establishment, personal service and urban farm.
2. Residential density shall be limited to a maximum of ten (10) units per acre.
3. The “indoor recreation” use and “outdoor recreation” use shall be limited to the use of the property and structures for weddings, receptions, events, conferences, meetings, and other similar gatherings, and uses accessory thereto.
 - a. The following “indoor recreation” uses shall be prohibited: adult establishment; amusement center, game arcade, children’s amusement center; billiard hall, pool hall; bingo parlor; bowling alley; dance, martial arts, music studio; health club; shooting range; sports academy; miniature golf facility; motor track; skating rink.
 - b. The following “outdoor recreation” uses shall be prohibited: drive-in theater; camp, campground, travel trailer park, recreational vehicle park; extreme sports facility; golf course; batting cage, golf driving range, amusement park, miniature golf, water park; outdoor theater; riding stable; shooting range; racetrack; sports academy for active recreational or competitive sports; stadium, arena.
4. The “overnight lodging” use shall be limited to a maximum of ten hotel rooms.
5. The “bar” use shall be limited to a maximum gross floor area of 3,000 square feet. The “eating establishment” use shall be limited to a maximum gross floor area of 3,000 square feet. The collective gross floor area for “bar” and “eating establishment” uses shall be 3,000 square feet.
6. The “personal service” use shall be limited to catering establishment, wedding chapel and other similar uses and activities associated with the indoor recreation and outdoor recreation uses permitted on the property.

- a. The following “personal service” uses shall be prohibited: animal care; beauty/hair salon; cleaning establishment, dry-cleaning or laundry drop-off facility, laundromat, washeteria; copy center; funeral home, funeral parlor, mortuary, undertaking establishment, crematorium, pet crematorium; locksmith; optometrist; palmist, psychic, medium, fortune telling; post office; repair of appliance, bicycle, canvas product, clock, computer, jewelry, musical instrument, office equipment, radio, shoe, television or watch; tailor, milliner, upholsterer; tattoo parlor, body piercing; taxidermist.
7. Outdoor activities associated with a “bar”, “eating establishment”, “indoor recreation”, “outdoor recreation” or “personal service” use shall end by 10:00 pm Sunday-Thursday and shall end by 11:00 pm Friday-Saturday.
8. Outdoor activities associated with a “bar”, “eating establishment”, “indoor recreation”, “outdoor recreation” or “personal service” use shall be located at least 50 feet from the following properties: Lot 4, Lot 6, Lot 7 and Lot 8 as shown on that plat recorded in Book of Maps 1915, Page 004, Wake County Registry.
9. During any calendar year, there shall not be more than 4 events with more than 150 guests or attendees.
10. The hours of service for trash and/or recycling facilities by private contracted service provider shall be limited to the hours of 8:00 am to 7:00 pm Monday-Friday, and 9:00 am to 5:00 pm Saturday-Sunday.
11. The off-street parking area shall be screened in accordance with the planting plan attached hereto as Exhibit A. *Refer to: Exhibit A – Planting Plan (Page 4).*
12. Any pole-mounted lights for the off-street parking area on the Property shall be limited to a maximum height of 15 feet.
13. Prior to the issuance of a certificate of occupancy for an indoor recreation, outdoor recreation, or personal service use, the owner shall provide to the City proof of a written agreement to use at least 20 off-site parking spaces for events with more than 100 guests. The owner shall maintain the right, through a written agreement, to use 20 off-site parking spaces for events with more than 100 guests for so long as the property is authorized to be used for such use. At the request of the City, the owner shall provide the City with a copy of such written agreement.
14. No off-street parking area on the property, excluding drop-off or drive-through areas, shall be located closer to Boylan Avenue than the closest part of the existing primary structure to the Boylan Avenue right-of-way.
15. The hours of operation for a “bar” use shall be 12:00PM-11:00PM Monday-Thursday, 12:00PM-1:00AM Friday, 11:00AM-1:00AM Saturday, and 11:00AM-11:00PM Sunday. The hours of operation for a “restaurant” use shall be 7:00AM-11:00PM Monday-Friday, 8:00AM-12:00AM Saturday, and 8:00AM-10:00PM Sunday.
16. Prior to the issuance of a certificate of occupancy for a commercial use, the owner shall file for a Certificate of Appropriateness application from the Raleigh Historic Development Commission to request that an area measuring at least 40 feet from the property’s common boundary line with the adjacent residential properties [identified as Lot 72 on the Book of Maps 1885, Page 114C and Lots 4,6,7 & 8 on Book of Maps 1915, Page 004] shall have a minimum of 7 trees per 100 linear feet installed that

- meet the standards set forth in UDO Sec 7.2.7.3.b for an understory tree. This standard may be satisfied through existing and/or installation of new trees.
17. No commercial uses shall be permitted within 40 feet of the adjacent residential properties [identified as Lot 72 on the Book of Maps 1885, Page 114C and Lots 4,6,7 & 8 on Book of Maps 1915, Page 004], except for commercial uses (i) located within the structure existing as of the date of this ordinance, (ii) a second-story addition over the existing one-story portion of the structure existing as of the date of this ordinance, which shall be located at least 20 feet from the adjacent residential properties, and (iii) a stairwell/staircase that shall be located at least 15 feet from the adjacent residential properties. Notwithstanding the foregoing, this condition shall not prohibit landscaping, protective yards, fences, walls, gardens (including associated with a community garden or urban farm), surface parking area, driveways, paths, walkways, sidewalks, and accessory structures. However, no commercial use activity shall be permitted in accessory structures located within 40 feet of the adjacent residential properties. The existing unenclosed porch located on the rear of the existing primary structure shall not be used for a restaurant or bar use. Nothing in this Condition 17 shall prohibit people from using this area for ingress and egress to/from the building (including the basement).
 18. The gross floor area for bar and restaurant use shall be limited to the existing principal structure (including basement) and an addition to the rear of the existing principal structure for a stairwell/staircase.

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 any application thereof is held invalid as to any person or application thereof, such invalidity shall not affect other provisions or applications of the ordinances 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 as indicated below.

Adopted: March 5, 2019

Effective: March 5, 2019

Distribution: Planning, Inspections, City Attorney, Transcription Services

