

Z-46-15 – West Lenoir Street, north side, west of its intersection with South West Street, being Wake County PINs 1703468620 and 1703467650. Approximately 0.37 acre is requested by Silverplate Properties, LLC to be rezoned from Residential Mixed Use – 3 stories (RX-3) to Industrial Mixed Use – 4 stories – Urban Limited – Conditional Use (IX-4-UL-CU) in accordance with the following conditions.

Conditions dated: March 10, 2016

1.a. The Following Uses Shall be Prohibited on the Properties to be Rezoned:

- 1) all Group Living uses;
- 2) all Social Service uses;
- 3) all Public and Institutional uses (with the exception of places of worship and fire stations which shall be permitted, and a School, public or private K-12 which may be permitted as a Limited Use and subject to additional requirements and conditions outlined below in zoning condition 1.b.7));
- 4) all Major Utilities uses;
- 5) all Day Care uses;
- 6) all Telecommunication Tower (less than 250 feet) uses;
- 7) all Telecommunication Tower (250 feet and more) uses;
- 8) all Passenger Terminal uses;
- 9) the following Personal Service uses: funeral home, funeral parlor, mortuary, undertaking establishment, crematorium, and pet crematorium.
- 10) all Detention center, jail, prison uses;
- 11) all Self Service Storage uses; and
- 12) Bar, nightclub, tavern, and lounge uses.

1.b. The Following Uses Shall be Permitted on the Properties to be Rezoned as Either a Permitted Use or Limited Use as designated in the Allowed Principal Use Table set forth in Section 6.1.4 of the City of Raleigh Unified Development, upon compliance with (i) the applicable definitional terms and use standards set forth in the UDO, (ii) if applicable, zoning conditions 2, 3, and 4 below, and (iii) upon the further satisfaction of additional requirements and conditions as to the following uses:

- 1) Restaurant as defined in G.S. 18B-1000(6) and Eating Establishment (UDO § 6.4.10.C.):
 - i. Hours of operation limited on Mondays through Saturdays from 7 am to 2:00 am;
 - ii. Hours of operation limited on Sundays from 11 am to 2:00 am;
 - iii. All garbage and recycling storage containers shall be screened from view from any adjacent property via an opaque wooden fence or such other material as may be approved in writing by the Planning Director as an acceptable substitute therefore;

- iv. No deliveries shall be scheduled or permitted by the owner of the subject property prior to 9 am or after 9 pm Mondays through Saturdays, nor prior to 1 pm or after 6 pm on Sundays;
- v. Drive-thru or drive-in facilities are not allowed; and
- vi. Indoor music or audio shall be permitted until 2:00 am Mondays through Sundays, on the condition that such music or audio shall not exceed the lowest level of urban ambient sound (which shall be defined as 40 decibels) by more than 20 decibels at the nearest property line of 516 W. Lenoir Street (PIN 1703467600; Deed Book 5924, Page 236) and 515 W. Lenoir Street (PIN 1703466493; conveyed by Will in Estate File 14-E-2698) (which properties shall hereinafter be referred to as the "Nearest Adjacent Property Zoned RX"). The complaints of two (2) or more persons, at least one (1) of whom resides in a different home from the other complaining person or persons, or the complaint of one or more persons, when combined with the complaint of a duly authorized investigating person with a documented sound level reading in excess of 60 decibels at the property line of the Nearest Adjacent Property Zoned RX shall be prima facie evidence that such indoor music or audio is a loud and annoying, frightening, loud and disturbing, unreasonably loud or unnecessary noise in violation of City Code Section 12-5009.

2) Food Truck (UDO § 6.4.10.D.):

- i. No more than one (1) food truck shall be permitted to operate on the property to be rezoned at any time;
- ii. Hours of operation limited on Mondays through Saturdays from 10 am to 10 pm;
- iii. Hours of operation limited on Sundays from 11 am to 10 pm;
- iv. Any food truck shall be located no closer than 40 feet from a single family residential structure which is located on property zoned RX at the time the subject property is rezoned; and
- v. Any food truck shall be located at and adjacent to the northern lot line of the property at 514 W. Lenoir Street (PIN 1703467650; Deed Book 15666, Page 2471 (Tract 2)), provided that it shall be outside of any rear yard setback.

3) Retail Sales (UDO § 6.4.11.A. & C.):

- i. The following retail sales use shall be prohibited: fuel (including gasoline and diesel fuel).
- ii. Must be located on the ground floor of a building on the property to be rezoned;
- iii. The maximum overall intensity for any Retail Sales use shall not be in excess of a Floor Area Ratio ("FAR") equivalent of 0.604;

- iv. Hours of operation limited on Mondays through Saturdays from 7 am to 11 pm;
- v. Hours of operation limited on Sundays from 11 am to 7 pm;
- vi. All garbage and recycling storage containers shall be screened from view from any adjacent property via an opaque wooden fence or such other material as may be approved in writing by the Planning Director as an acceptable substitute therefore;
- vi. No deliveries shall be scheduled or permitted by the owner of the subject property prior to 9 am or after 9 pm Mondays through Saturdays, nor prior to 1 pm or after 6 pm on Sundays;
- viii. Drive-thru or drive-in facilities are not allowed; and
- ix. Indoor music or audio shall be permitted until 11:00 pm Mondays through Saturday, and until 7:00 pm on Sundays, on the condition that such music or audio shall not exceed the lowest level of urban ambient sound (which shall be defined as 40 decibels) by more than 20 decibels at the nearest property line of 516 W. Lenoir Street (PIN 1703467600; Deed Book 5924, Page 236) and 515 W. Lenoir Street (PIN 1703466493; conveyed by Will in Estate File 14-E-2698) (which properties shall hereinafter be referred to as the "Nearest Adjacent Property Zoned RX"). The complaints of two (2) or more persons, at least one (1) of whom resides in a different home from the other complaining person or persons, or the complaint of one or more persons, when combined with the complaint of a duly authorized investigating person with a documented sound level reading in excess of 60 decibels at the property line of the Nearest Adjacent Property Zoned RX shall be prima facie evidence that such indoor music or audio is a loud and annoying, frightening, loud and disturbing, unreasonably loud or unnecessary noise in violation of City Code Section 12-5009.

4) Light Industrial:

- i. The following light industrial use shall be prohibited: bus or rail transit vehicle maintenance or storage facility.
- ii. The maximum overall intensity for any Light Industrial use shall not be in excess of a FAR equivalent of 0.604;
- iii. Hours of operation limited on Mondays through Saturdays from 7 am to 11 pm;
- iv. Hours of operation limited on Sundays from 11 am to 7 pm;
- v. All garbage and recycling storage containers shall be screened from view from any adjacent property via an opaque wooden fence or such other material as may be approved in writing by the Planning Director as an acceptable substitute therefore;
- vi. No deliveries shall be scheduled or permitted by the owner of the subject property prior to 9 am or after 9 pm Mondays through Saturdays, nor prior to 1 pm or after 6 pm on Sundays; and indoor

music or audio shall be permitted until 11:00 pm Mondays through Saturday, and until 7:00 pm on Sundays, on the condition that such music or audio shall not exceed the lowest level of urban ambient sound (which shall be defined as 40 decibels) by more than 20 decibels at the nearest property line of 516 W. Lenoir Street (PIN 1703467600; Deed Book 5924, Page 236) and 515 W. Lenoir Street (PIN 1703466493; conveyed by Will in Estate File 14-E-2698) (which properties shall hereinafter be referred to as the "Nearest Adjacent Property Zoned RX"). The complaints of two (2) or more persons, at least one (1) of whom resides in a different home from the other complaining person or persons, or the complaint of one or more persons, when combined with the complaint of a duly authorized investigating person with a documented sound level reading in excess of 60 decibels at the property line of the Nearest Adjacent Property Zoned RX shall be prima facie evidence that such indoor music or audio is a loud and annoying, frightening, loud and disturbing, unreasonably loud or unnecessary noise in violation of City Code Section 12-5009.

5) Light Manufacturing (UDO § 6.5.3):

- i. The maximum overall intensity for any Light Manufacturing use shall not be in excess of a FAR equivalent of 0.604;
- ii. Hours of operation limited on Mondays through Saturdays from 7 am to 11 pm;
- iii. Hours of operation limited on Sundays from 11 am to 7 pm;
- iv. All garbage and recycling storage containers shall be screened from view from any adjacent property via an opaque wooden fence or such other material as may be approved in writing by the Planning Director as an acceptable substitute therefore;
- v. No deliveries shall be scheduled or permitted by the owner of the subject property prior to 9 am or after 9 pm Mondays through Saturdays, nor prior to 1 pm or after 6 pm on Sundays; and
- vi. Indoor music or audio shall be permitted until 11:00 pm Mondays through Saturday, and until 7:00 pm on Sundays, on the condition that such music or audio shall not exceed the lowest level of urban ambient sound (which shall be defined as 40 decibels) by more than 20 decibels at the nearest property line of 516 W. Lenoir Street (PIN 1703467600; Deed Book 5924, Page 236) and 515 W. Lenoir Street (PIN 1703466493; conveyed by Will in Estate File 14-E-2698) (which properties shall hereinafter be referred to as the "Nearest Adjacent Property Zoned RX"). The complaints of two (2) or more persons, at least one (1) of whom resides in a different home from the other complaining person or persons, or the complaint of one or more persons, when combined with the complaint of a duly authorized investigating person with a

documented sound level reading in excess of 60 decibels at the property line of the Nearest Adjacent Property Zoned RX shall be prima facie evidence that such indoor music or audio is a loud and annoying, frightening, loud and disturbing, unreasonably loud or unnecessary noise in violation of City Code Section 12-5009.

6) Research and Development (UDO § 6.5.4):

- i. The maximum overall intensity for any Research & Development use shall not be in excess of a FAR equivalent of 0.604;
- ii. Hours of operation limited on Mondays through Saturdays from 7 am to 11 pm;
- iii. Hours of operation limited on Sundays from 11 am to 7 pm;
- iv. All garbage and recycling storage containers shall from view from any adjacent property via an opaque wooden fence or such other material as may be approved in writing by the Planning Director as an acceptable substitute therefore;
- v. No deliveries shall be scheduled or permitted by the owner of the subject property prior to 9 am or after 9 pm Mondays through Saturdays, nor prior to 1 pm or after 6 pm on Sundays; and
- vi. Indoor music or audio shall be permitted until 11:00 am Mondays through Saturday, and until 7:00 am on Sundays, on the condition that such music or audio shall not exceed the lowest level of urban ambient sound (which shall be defined as 40 decibels) by more than 20 decibels at the nearest property line of 516 W. Lenoir Street (PIN 1703467600; Deed Book 5924, Page 236) and 515 W. Lenoir Street (PIN 1703466493; conveyed by Will in Estate File 14-E-2698) (which properties shall hereinafter be referred to as the "Nearest Adjacent Property Zoned RX"). The complaints of two (2) or more persons, at least one (1) of whom resides in a different home from the other complaining person or persons, or the complaint of one or more persons, when combined with the complaint of a duly authorized investigating person with a documented sound level reading in excess of 60 decibels at the property line of the Nearest Adjacent Property Zoned RX shall be prima facie evidence that such indoor music or audio is a loud and annoying, frightening, loud and disturbing, unreasonably loud or unnecessary noise in violation of City Code Section 12-5009.

7) School, Public or Private (K-12) (UDO § 6.3.2.A. & E.):

- i. The maximum overall intensity for any School use shall not be in excess of a FAR equivalent of 1.21;
- ii. Hours of operation limited on Mondays through Saturdays from 7 am to 9 pm;
- iii. No hours of operation on Sundays;

- iv. All garbage and recycling storage containers shall be screened from view from any adjacent property via an opaque wooden fence or such other material as may be approved in writing by the Planning Director as an acceptable substitute therefore;
 - v. No outdoor playground or other outdoor equipment shall be located closer than 50' from any property zoned R-2 through R-20 at the time the subject property is rezoned;
 - vi. No deliveries shall be scheduled or permitted by the owner of the subject property prior to 9 am or after 9 pm Mondays through Saturdays, nor prior to 1 pm or after 6 pm on Sundays; and
 - vii. Indoor music or audio shall be permitted until 9:00 pm Mondays through Saturday, on the condition that such music or audio shall not exceed the lowest level of urban ambient sound (which shall be defined as 40 decibels) by more than 20 decibels at the nearest property line of 516 W. Lenoir Street (PIN 1703467600; Deed Book 5924, Page 236) and 515 W. Lenoir Street (PIN 1703466493; conveyed by Will in Estate File 14-E-2698) (which properties shall hereinafter be referred to as the "Nearest Adjacent Property Zoned RX"). The complaints of two (2) or more persons, at least one (1) of whom resides in a different home from the other complaining person or persons, or the complaint of one or more persons, when combined with the complaint of a duly authorized investigating person with a documented sound level reading in excess of 60 decibels at the property line of the Nearest Adjacent Property Zoned RX shall be prima facie evidence that such indoor music or audio is a loud and annoying, frightening, loud and disturbing, unreasonably loud or unnecessary noise in violation of City Code Section 12-5009.
2. Maximum overall density for any multi-unit living residential use shall be limited to 30 units per acre.
 3. Maximum overall intensity for medical, dental office or chiropractor, osteopath, physician, medical practitioner, and medical clinic uses shall not be in excess of a FAR equivalent of 1.21.
 4. Maximum overall intensity for office uses (UDO Section 6.4.4.A) shall not be in excess of a FAR equivalent of 1.21.