

**ORDINANCE NO. (2023) 549 ZC 864**

**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 Part 10 of the City of Raleigh Code, which includes the Zoning District Map, be and the same if hereby amended as follows:

- 1. Z-88-22 – 0, 130, 131, Kindley Street**, located northeast of the interchange of South McDowell Street and Martin Luther King Jr. Boulevard, being Wake County PINs 1703557221, 1703559286, 1703558561. Approximately 6.74 acres rezoned to Downtown Mixed Use-40 stories-Conditional Use (DX-40-CU)

Conditions dated: August 9, 2023

1. The following Principal Uses as listed in UDO Section 6.1.4. that are permitted, limited, or special uses in the DX- district shall be prohibited: (i) Adult establishment; (ii) Detention center, jail, prison; (iii) Light Manufacturing; (iv) Vehicle repair (minor); and (v) Vehicle repair (major).
2. The following conditions shall apply only to development qualifying as a Tier 3 site plan:
  - a. **Build-To Along Kindley Street:** This condition shall apply to that area measuring fifty (50) feet in depth, as measured from the Kindley Street Right-of Way, along the rezoning assemblage’s common boundary line with the Kindley Street Right-of-Way (the “Build-to Area”). At least fifty percent (50%) of the assemblage’s Build-to Area shall be occupied by building façade, including parking structures, and/or amenity areas provided in accordance with UDO section 1.5.6.C.4. Build-to shall not be calculated on a per lot-width basis, but shall be calculated based on the assemblage’s frontage along the north side of the Kindley Street Right-of-Way, and shall be separately calculated based on the assemblage’s frontage along the south side of the Kindley Street Right-of-Way. The permitted reductions of the build-to percentage set forth in UDO section 1.5.6.C. shall apply to the build-to standards in this condition. Nothing herein shall prevent the development of a lot within the assemblage, even if the development on that lot does not comply with the build-to requirements of this condition, so long as the undeveloped properties within the assemblage could be developed in a way that complies with the build-to.
  - b. **Primary Street Facing Entrances Along Kindley Street:** For each occupied building (not including parking structures) located within 100 feet of the Kindley Street right-of-way, there shall be at least one (1) building entrance that either (i) faces Kindley Street, or (ii) faces an amenity area that meets the requirements of UDO section 1.5.6.C.4. A building entrance that is located within 100 feet from the Kindley Street right-of-way and on a

building facade that is oriented less than 90 degrees relative to the Kindley Street right-of-way shall be considered street-facing for the purpose of this condition.

- c. Direct Pedestrian Access Along Kindley Street: Each occupied building (not including parking structures) located within 100 feet of the Kindley Street right-of-way shall have at least one (1) pedestrian connection between the building and the sidewalk within the Kindley Street right-of-way.
- d. Limited Surface Parking Along Kindley Street: This condition shall apply to that area measuring fifty (50) feet in depth, as measured from the Kindley Street right-of-way, along the property's common boundary line with the Kindley Street right-of-way (the "Limited Surface Parking Area"). Within the Limited Surface Parking Area, no more than fifteen percent (15%) of this area shall be surface parking. Surface parking permitted within the Limited Surface Parking Area shall only be used for the following purposes: handicap, drop-off/pick-up, new resident parking, and ride share parking.
- e. No Surface Parking Along Martin Luther King Jr. Boulevard: There shall be no surface parking within fifty (50) feet of the Martin Luther King Jr. Boulevard right-of-way. For purposes of this condition, the fifty (50) feet in depth where surface parking is prohibited shall be measured from the Martin Luther King Jr. Boulevard right-of-way, along the property's common boundary line with the Martin Luther King Jr. Boulevard right-of-way.
- f. Bike and Pedestrian Access Easement Extension along the North Carolina Railroad Corridor: Prior to issuance of a building permit for a Tier 3 site plan for the property at 0 Kindley Street (Deed Book 019128, Page 01248), the property owner shall dedicate a 20-foot bike/ped path access easement along the property's common boundary line with the North Carolina Railroad Company property (Deed Book 000038, Pages 00407 and 00410) in order to make a connection to Martin Luther King Jr. Boulevard, and such easement shall align with the existing 20-foot bike/pedestrian path access easement located on 121 Kindley Street (New Lot 1 on the Gateway South Subdivision Plat recorded at BM2022, Page 00028).
- g. Affordable Housing: For any approved site plan containing residential units on the subject property, the property owner shall pay to the City a total of \$40,000.00 per unit for one percent (1%) of all site plan approved dwelling units. Total site plan approved dwelling units multiplied by 1% shall be measured to the hundredth decimal point. The payment shall be placed in the fund designated for the City's Affordable Housing Program. Upon determination of the payment amount, the amount may be payable in five annual installments, with the first payment being due prior to the issuance of the first certificate of occupancy and with each other annual installment due on or before the same day of the successive years, although the property owner has a right to prepay any amounts due. Prior to the issuance of any building permit, this payment obligation shall be evidenced by a promissory note to the City. If a sale of the project or the property (or a portion thereof),

including a sale of controlling interests of an ownership entity within the project, occurs subsequent to the issuance of the first building permit and prior to the payment in full of the sum described within this condition, any outstanding amount shall be paid prior to the change of ownership.

- h. Outdoor Amenity Area: The development shall provide one (1) contiguous outdoor amenity area of at least 5,000 square feet in size. The outdoor amenity area is eligible to be counted toward the development's fifty percent (50%) ground-level outdoor amenity requirement if code requirements for such amenity area are met. The outdoor amenity area must provide the following:
  - (i) in addition to any trees required by UDO Sec. 1.5.3.C.3, five (5) trees that are at least 6 feet in height or have a minimum caliper of 2 inches at time of planting; and
  - (ii) a commemorative plaque related to the City of Raleigh's Southside Urban Renewal Project.

The outdoor amenity area must receive permitting prior to the issuance of a certificate of occupancy for the building located closest to the proposed outdoor amenity area.