



City Of Raleigh

NORTH CAROLINA

May 27, 2021

Tobias R. Coleman, Esq.
Smith Anderson Law
150 Fayetteville Street
Suite 2300
Raleigh, North Carolina 27601

Re: Rezoning Z-5-21 - 4113 Pearl Road (PIN 1731092196)

Dear Mr. Coleman:

Enclosed is a copy of **Ordinance No. (2021) 235 ZC 820** which was adopted by the City Council in their meeting held May 18, 2021. This ordinance rezones property referred to above as described in the ordinance. **Please note:** this ordinance may include more than one rezoning case.

I believe you will find the ordinance to be self-explanatory. If you have any questions, you may call me at 919-996-3040.

Sincerely,

Ralph L. Puccini, III
Deputy City Clerk

RLP/

Enclosure

cc: Planning and Development

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Raleigh, North Carolina 27601

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222 West Hargett Street
Raleigh, North Carolina 27601

ORDINANCE NO. (2021) 235 ZC 820

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF RALEIGH WHICH IS CODIFIED IN PART 10 OF THE CITY OF RALEIGH CODE

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

Section 1. That the Zoning District Map, which is codified in Part 10 of the City of Raleigh Code, be and the same is hereby amended as follows:

- 1. Z-49-20 – 3624 Tryon Road**, located on its north side, 900 feet east of Gorman Street, being Wake County PIN 0782975817. Approximately 6.17 rezoned to Industrial Mixed Use-3 Stories-Parking Limited-Conditional Use with Special Residential Parking Overlay District and Special Highway Overlay District-1 (IX-3-PL-CU w/ SRPOD & SHOD-1) and Conservation Management-Conditional Use with Special Residential Parking Overlay District and Special Highway Overlay District-1 (CM-CU w/ SRPOD & SHOD-1).

Conditions dated: May 7, 2021

1. Access to Tryon Road shall be limited to a maximum of one access point.
2. No structure shall be constructed within the CM-CUD zoned portion of the rezoned Property, save and except for stormwater control structures and accessory structures thereto and utility services and accessory structures thereto, as may be allowed by the UDO.
3. No part of the CM-CUD zoned portion of the rezoned Property shall be used for parking.
4. Only the following uses shall be permitted:
 - a. Household Living
 - b. Group Living, except dormitory, fraternity or sorority.
 - c. Civic, except college, community college, university and schools, public or private.
 - d. Medical.
 - e. Office.
 - f. Parking.
 - g. Personal Service, except animal care (outdoor).
 - h. Retail sales (excluding vehicle fuel sales).
 - i. Contractor office and equipment storage and repair.
 - j. Lawn, tree and garden services.
 - k. Trailer storage and drop off lot.
 - l. Vehicle Service.
 - m. Community garden, plant nursery, produce stand, urban farm.
5. The above permitted uses shall be further limited to either:
 - a. Residential uses as listed in items 4(a) and 4(b) above with a maximum density of ten (10) units per acre may be developed; OR

- b. One or more nonresidential uses as listed in 4(c) through 4(m) above may be developed, subject to the stated maximum building square footages for each type of use as follows:
 - i. Civic, Office and Medical uses listed in 4(c) through 4(e) above shall not exceed 10,000 square feet gross floor area in the aggregate;
 - ii. Uses listed in 4(g) and 4(h) above shall not exceed 4,000 square feet gross floor area in the aggregate; and
 - iii. Uses listed in 4(i) through 4(m) shall not exceed 40,000 square feet gross floor area in the aggregate.
 6. An average 50-foot wide Protective Yard shall be installed and maintained along the 8851 property line, as adjacent to residentially zoned properties (properties: PIN 0782975189 BK 15298-500; PIN 0782975281 BK 16634-2222; PIN 0782975283 BK 15264-1104; PIN 0782975295 BK 17145-2075; PIN 0782975299 BK 17559-2239; PIN 0782976301 BK 14898-805; PIN 0782976304 BK 14926-373; PIN 0782976316 BK 16914-1732; PIN 0782976319 BK 17421-1940; PIN 0782976422 BK 17265-2053; PIN 0782976424 BK 14892-2590; PIN 0782976436 BK 16214-2568; and PIN 0782978556 BK 18802-2469). Such buffer shall include (a) 6 evergreen shade trees per 100 lineal feet; (b) 12 evergreen understory trees per 100 lineal feet; (c) 60 evergreen shrubs per 100 lineal feet; (d) a berm measuring an average of 8' tall along its centerline and (e) an 8-foot tall solid wood fence installed at least 12 feet west of the property line. The berm shall be omitted from areas where it would be detrimental to the critical root zone of qualifying existing trees. Existing trees over 3" DBH shall be preserved and supplemented with additional plantings to fulfill buffer requirements. All required plantings shall be located on the subject site but shall be arranged such that at least one-third of the required plantings are on the east side of the fence. This Protective Yard shall not be required in locations where it conflicts with any existing or proposed public rights-of-way, access easements, slope easements, utility easements, or any other easements required by a governmental entity.
 7. No business may have drive-through service on the Property.
 8. Hours of operation of all businesses on the Property shall be limited to 7:00 a.m. to 8:00 p.m.
 9. No buildings on the Property shall exceed forty-five (45) feet in height.
 10. No cutting, chipping or stump-grinding shall be permitted on the Property except as needed in connection with clearing for development, landscaping and landscape maintenance of the Property.
2. **Z-70-20 – 314 Martin Luther King, Jr. Boulevard**, located approximately 0.25 miles east of the intersection of Martin Luther King, Jr. Boulevard and South Wilmington Street, being Wake County PIN 1703854021. Approximately 0.12 rezoned to Office Mixed Use-3 Stories-Urban Limited-Conditional Use (OX-3-UL-CU).

Conditions dated: April 16, 2021

1. The following Principal Uses as listed in UDO Section 6.1.4. that are permitted, limited, or special uses in the OX- district shall be prohibited: (i) Outdoor sports

and entertainment facility (250 seats); (ii) Outdoor sports and entertainment facility (250 seats); (iii) Detention center, jail, prison; (iv) Health club; (v) Sports academy; (vi) Overnight Lodging; (vii) Personal Service; (viii) Eating Establishment; (ix) Research & Development; (x) Retail Sales.

2. If the property is redeveloped, the following conditions shall apply:
 - a. Prior to removal, the applicant, its successors or assigns (the "Applicant"), shall document the existing structure through photographs and detailed exterior elevation drawings, and provide a copy of the documentation to the City of Raleigh Department of Planning, Raleigh Historic Development Commission, and the North Carolina State Historic Preservation Office.
 - b. There shall be no more than 3,500 square feet of nonresidential gross floor area.
 - c. There shall be no more than six (6) residential dwelling units.
 - d. Any site plan for new development on the subject property shall stipulate the architectural details of the proposed construction, including an explanation of how the proposed building design reflects and acknowledges the historical and architectural character of contributing structures of the East Raleigh/South Park National Register Historic District; specifically the "House, ca. 1930, List #594" referenced in the National Register of Historic Places Registration Form (Sec. 7, p. 112). These details shall include descriptions of the proposed design, including building height, roof style and pitch, gables and dormers, building façade materials, window styles, column styles, and other features. In lieu of these stipulation requirements, the applicant may provide proof of contractual services for the design of new construction on this site by an architect certified by the State of North Carolina Historic Preservation Office as having successfully completed Historic and/or Mill Tax Credit projects in North Carolina. The proposed building design shall be subject to review and comment by Raleigh Historic District Commission staff. No building permits associated with an approved plan should be issued until this review is completed and a report thereof provided to the owner/developer.

3. **Z-4-21 – 3425 Rock Quarry Road**, located at the northwest quadrant of the intersection of Sunnybrook Road and Rock Quarry Road, being Wake County PIN 1722177985 (portion of). Approximately 7 acres rezoned to Residential Mixed Use-4 Stories-Conditional Use (RX-4-CU).

Conditions dated: January 21, 2021

1. A maximum of 140 dwelling units or 22 units per acre may be developed on the property.
4. **Z-5-21 – 4113 Pearl Road**, located on the east side of Pearl Road, approximately ½-mile south of its intersection with Rock Quarry Road, being Wake County PIN 1731092196. Approximately 1.35 acres rezoned to Residential-10-Conditional Use (R-10-CU)

Conditions dated: January 27, 2021

1. Density shall be limited to six (6) units per acre.
5. **Z-6-21 – 0 Rock Quarry Road**, located approximately 0.13 miles southeast of the intersection of Rock Quarry Road and Martin Luther King, Jr. Boulevard, being Wake County PIN 1713347164. Approximately 1.74 acres rezoned to Office Mixed Use-3 Stories- (OX-3)

Conditions dated: None.

6. **Z-7-21 – 3095 Gresham Lake Road**, located on the southern side, approximately a quarter-mile east of its intersection with I-540 (District A), being Wake County PIN 1727276820. Approximately 10.51 acres rezoned to Commercial Mixed Use-3 with Conditions (CX-3-CU)

Conditions dated: April 28, 2021

1. The following uses shall not be permitted as principal uses on the property: single-unit living; two-unit living; and cottage court. Not more than 200 dwelling units shall be permitted on the property.
2. Rental fees for dwelling units on the property shall be affordable for households earning an average of 60% of the area median income or less for a period of no less than 25 years from the date of issuance of a certificate of occupancy on the property. The rent and income limits will follow the Affordable Housing Standards determined annually by the City of Raleigh Housing & Neighborhoods Department. An Affordable Housing Deed Restriction in a form approved by the City shall be filed and recorded in the property's chain of title by the property owner in the Wake County Register of Deeds prior to the project receiving a certificate of occupancy.
3. The area within 35 feet of the adjoining parcels listed below (the "Adjoining Parcels"), where not comprising part of any Tree Conservation Area on the property, shall contain (1) an opaque fence a minimum of 6 feet in height displaying information signs averaging no more than 300 feet apart along any individual fence, containing text in letters not less than 5 inches in height stating "NO TRESPASSING," (2) a berm with a minimum height of 2.5 feet, measured perpendicular to the center of the crown, (3) 4 shade trees per 100 lineal feet, (4) 3 understory trees per 100 lineal feet, and (5) 40 shrubs per 100 lineal feet. Additionally, no residential building shall be located within 10 feet of the Adjoining Parcels.

PIN	Address	Book	Page
1727271868	2917 Gresham Lake Road	17294	1887
1727275304	3011 Gresham Lake Road	17902	1286
1727370752	3109 Gresham Lake Road	1822	189

4. A public pedestrian access easement no less than 20 feet in width and having a paved surface no less than 10 feet in width shall be provided on the property and shall connect from Gresham Lake Road, or any public right of way directly or indirectly connecting to Gresham Lake Road, to the northern property line adjacent to the Durant Nature Preserve located on the parcel having PIN 1727399804 and conveyed by deed recorded in Book 5741 Page 364 of the Wake County Registry.

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. This ordinance is being adopted following a recommendation from the Raleigh City Planning Commission and a duly advertised public hearing of the Raleigh City Council. No written comments were received by the City Clerk within twenty-four hours following the close of the public hearings for each rezoning application referenced herein.

Section 5. That this ordinance shall become effective five (5) days after adoption.

Adopted: May 18, 2021

Effective: May 23, 2021

Distribution: Planning and Development
Inspections
City Attorney
Transcription Services - Taylor