

**ORDINANCE NO. (2016) 586 ZC 730
Z-27(F)-14**

**AN ORDINANCE TO ADOPT THE CITYWIDE ZONING MAP TO FULLY
IMPLEMENT THE UNIFIED DEVELOPMENT ORDINANCE**

Whereas, the City of Raleigh adopted a new Comprehensive Plan in 2009 calling for more of the City's growth to be directed away from rural and environmentally sensitive lands, and towards major transit corridors and walkable mixed use settings;

Whereas, the adopted 2030 Comprehensive Plan contained action items that directed the City to update the development code, which had not been updated in over forty years;

Whereas, the City adopted a Unified Development Ordinance on February 18, 2013, Ordinance NO (2013) 151 TC 357;

Whereas, the recently-adopted Unified Development Ordinance, as amended, contains new mixed use zoning districts and special zoning districts to replace the legacy zoning districts of the Part 10 Zoning Code;

Whereas, the City Council recently approved the rezoning requests known as Z-27(A)-14 (ORD 2015- 514 ZC 718), Z-27(B)-14 (ORD 2015 523 ZC 721) and Z-27(C)-14, (ORD 2015 515 ZC 719) which applied these Unified Development Ordinance mixed use and special districts to approximately 35,000 parcels;

Whereas, areas zoned R-1, R-2, R-4, R-6, Special R-6, R-10 and Conservation Management, Agriculture Productive, Special Highway Overlay District-1, Special Highway Overlay District-2, Airport Overlay District, Neighborhood Conservation Overlay District, Metro Park Overlay District, General Historic Overlay District, Manufactured Housing District, Reservoir Watershed Protection Area Overlay District and the Urban Water Supply Watershed Protection Area Overlay District zoning districts were previously subjected to all provisions of the Unified Development Ordinance and properties wholly within these zoning districts are not affected by this ordinance;

Whereas, in accordance with Article 1.2 and Section 10.2.4 of the Unified Development Ordinance, the City of Raleigh drafted a new zoning map that will implement the Unified Development Ordinance to all zoning districts and properties;

Whereas, public notice was provided to property owners affected by the draft zoning map and to property owners located within 100 feet of an affected property. This public notice process, which is not required by State law, announced a public comment period whereby the City solicited comments on the draft zoning map.

Whereas, the draft zoning map was reviewed by the public between May and September 2014, comments received by staff that caused the map to be altered;

Whereas, the City of Raleigh Planning Commission held 14 public meetings to receive input, ultimately recommending unanimous approval based on the Findings and Reasons contained within Certified Recommendation # 11627;

Whereas, The City Council conducted three work sessions prior to the public hearing to review and discussed the Planning Commission recommended zoning map. The City Council accepted the recommendation of the Planning Commission, except as altered during the course of the work sessions;

Whereas, the City of Raleigh provided public notice in accordance with NCGS 160A-384 and sections 10.1.8 and 10.2.4 of the Unified Development Ordinance in advance of the public hearing conducted on July 7, 2015 and continued on July 21, 2015;

Whereas, Following the public hearing on July 7, 2015 and July 21, 2015 the City Council conducted eight additional work sessions to review all comments received at the public hearing on July 7, 2015 and July 21, 2015;

Whereas, the City Council received comments from property owners at the public hearing which requested a less restrictive zoning district than that which was advertised for the public hearing, and Sections 10.2.4.F.5 and 10.2.4.F.5.g of the Unified Development Ordinance specifies that a rezoning request can only be made more restrictive in terms of zoning district after the public hearing has been conducted;

Whereas, the City Council referred those properties identified in Attachment A and as listed in section 2 of the rezoning ordinance (2015) 523 ZC 721 for Z-27(B)-14 back to the Planning Commission for additional review and to receive additional public comment;

Whereas, the City Council conducted a work session on March 28, 2016 to review a potential zoning map change for all properties contained in Attachment A;

Whereas, the owners of the properties listed in Attachment C voluntarily offered zoning conditions prior to the May 3, 2016 public hearing in accordance with Section 10.2.4 of the Unified Development Ordinance; and

Whereas, With the exception of the properties contained in Attachment A and Attachment B, the Raleigh City Council accepts and adopts the findings and reasons for approval included in the Planning Commission Certified Recommendation #11688, and makes the additional findings for approval of Z-27(F)-14,

1. The request is consistent with the 2030 Comprehensive Plan policies and guidance.
2. The 2030 Comprehensive Plan envisions city growth in terms of additional households and jobs by year 2030.
3. If growth continued on a similar trajectory, the City would run out of vacant land by year 2030.
4. The Comprehensive Plan contains mixed use land use categories that reference appropriate use categories and building height for every property in the city. Appropriate urban form is identified in specific areas of the City.
5. After years of public meetings and public input to refine the regulations, the Unified Development Ordinance was adopted in 2013. The UDO contains new mixed use zoning districts that will implement the policy guidance contained in the 2030 Comprehensive Plan.
6. The implementation of the Unified Development Ordinance will advance mixed use development. As the City continues to receive additional population, increased pressure related to growth will be experienced. The new mixed use zoning districts will encourage vertical and horizontal mixed use, which is a more efficient use of land. A mixed use development can alleviate pressure related to increased traffic and impact on the natural environment.
7. The implementation of the Unified Development Ordinance will allow multiple buildings and multiple uses on one lot and will remove density caps in the mixed use districts. These new regulations will encourage mixed use development.
8. The Unified Development Ordinance introduces new bicycle parking standards and flexible parking standards which will encourage alternative modes of transportation.
9. The implementation of the Unified Development Ordinance will provide more predictability for the public. The previous Part 10 zoning code depended upon site plan review by the Planning Commission and City Council when one or more of twenty-two triggers occurred. The Unified Development Ordinance removes this discretionary process, creates enhanced and objective development standards to be applied administratively. The Unified Development Ordinance streamlines the approval process.
10. The new urban form-related standards will promote a more walkable, transit friendly development environment. These urban standards, applied in concert with the Urban Form Map guidance contained within the 2030 Comprehensive Plan, will capitalize on present and future transit investments made by the City, County and other governmental agencies.
11. For these stated reasons, the Unified Development Ordinance zoning map is reasonable and in the public interest.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RALEIGH, NORTH CAROLINA:

Section 1. The City Council accepts all recommendations of the Planning Commission contained in Certified Recommendation # 11688, except for the properties listed on Attachment A and Attachment B, which are subject to a separate ordinance. The City Council further accepts the zoning conditions voluntarily offered by the property owner(s) of parcels identified in Attachment C, as listed separately below:

6301 Mt. Herman Road (PIN 0778.07.3740, DB 014937 PG 01295). Conditions dated March 7, 2016.

The following uses shall be prohibited upon the property:

1. Asbestos, radioactive materials;
2. Animal processing, packing, treating and storage, concentrate plant, processing of food and related products, production of lumber, tobacco, chemical, rubber, leather, clay, bone, paper, pulp, plastic, stone, or glass materials or products, production or fabrication of metals or metal products including enameling and galvanizing;
3. Automotive dismantlers and recyclers;
4. Bulk storage of flammable liquids, chemical, cosmetics, drug, soap, paints, fertilizers and abrasive products;
5. Commercial feed lot;
6. Explosives;
7. Leather and leather products including tanning and finishing;
8. Outdoor storage yard for vehicles;
9. Pulp mill, rubber and plastic products, rubber manufacturing;
10. Scrap metal processors, sawmill, secondary materials dealers;
11. Tire recapping, tobacco products, transportation equipment;
12. Detention center, jail, prison;
13. Animal waste processing;
14. Landfill;
15. Manufacture and production of goods from composting organic material;
16. Outdoor storage of recyclable material;
17. Scrap metal (outdoor storage); or
18. Solid or liquid waste transfer station, waste incineration.

3312 New Bern Avenue (PIN 1724.44.7360 DB 011830 PG 01286) & 3600 New Bern Avenue (PIN 1724.44.9824, DB 012133 PG 02356). Conditions dated March 11, 2016. These two properties were originally rezoned as case number Z-19-10.

1. As used herein, the "Property" refers to those certain tracts or parcels of land containing approximately 18.71 acres located in the southeast quadrant of the

intersection of Interstate 440 and New Bern Avenue in Raleigh, North Carolina, having Wake County PIN 1724-44-7360 (described in deed recorded at Deed Book 11830, Page 1286) and 1724-44-9824 (described in deed recorded at Deed Book 12133, Page 2356).

2. The following uses shall be prohibited upon the Property: adult establishment; airfield or landing strip; bar, nightclub, tavern or lounge; correctional/penal facility; riding stable; pawn shop; rifle range—indoor; landfill; movie theater-indoor and outdoor
3. Prior to map recordation or issuance of a building permit, whichever shall first occur, the owner of the property shall cause to be recorded in the Wake County Registry a offer of cross-access establishing vehicular and pedestrian access over the Property in favor of the owner(s) of all or any portion of the property abutting the eastern boundary of the Property with Wake County Parcel Identification Number 1724-44-9959 and is described by deed recorded at Deed Book 8475, Page 607 of the Wake County Registry.
4. For the purposes of calculating the amount of residential density allowed on the Property, no more than two hundred and fifty (250) dwelling units, equivalent dwelling units or combination thereof shall be constructed on the Property Ordinance (2011) 848 ZC 656 March 1, 2011.
5. The maximum amount of floor area gross dedicated to commercial land uses, as listed in the Schedule of Permitted Land Uses in Zoning Districts contained in Section 10-2071 of Part 10 of the Raleigh City Code, shall not exceed 50,000 square feet.
6. Any commercial use, as listed in the Schedule of Permitted Land Uses in Zoning Districts contained in Section 10-2071 of Part 10 of the Raleigh City Code, shall be located no further than 800 feet from the New Bern Avenue public right-of-way.
7. Within 10 business days following the approval of this rezoning ordinance, the Property owner will cause to be filed a Comprehensive Plan Amendment petition for the area described as "Area A" on the attached "Exhibit 1." (*ed. Note: This was completed in conjunction with Z-19-10 ORD (2011) 848 ZC 656; future land use map was modified with amendments in July 2011, case CP-2-12.*)
8. The owner of the Property shall cause to be recorded in the Wake County Registry a restrictive covenant that allocates allowable residential dwelling units and commercial square footage upon the subject property to all existing lots of record comprising the Property. Such restrictive covenant shall be submitted to the City Attorney within 30 days following approval of this rezoning case by the City Council and shall be approved by the City Attorney or his designee prior to recordation. Such restrictive covenant shall provide that it may be amended or terminated only with the prior written consent of the City Attorney or his designee, which consent shall not be unreasonably withheld.

9. When any portion of the Property is developed, a pedestrian passage that complies with UDO Section 8.4.8 B shall be located on PIN Number 1724-44-9824 (described in deed recorded in Deed Book 12133, Page 2356), but no pedestrian passage shall be required if disapproved by North Carolina Department of Transportation.

3900 Sumner Boulevard (PIN 1726.68.1771, DB 003124 PG 00290). Conditions dated January 12, 2016.

1. All other uses than those listed below are limited to a maximum height of four stories and 62 feet:
 - a. Hotel, motel, inn (UDO section 6.4.6.D)

9721 Fonville Road (PIN 1729.47.1182 DB 012940 PG 00059), 9733 Fonville Road (PIN 0729.47.3029 DB 012940 PG 00059), & 9745 Fonville Rd. (PIN 1729.47.3118, DB 012940 PG 00059). Conditions dated January 21, 2016.

1. Uses prohibited on the properties to be rezoned: vehicle fuel sales facilities.

Section 2. Following the adoption date of this ordinance, applicants for permits and subdivisions may submit applications for development and plot plans that are compliant with all provisions contained within the Unified Development Ordinance, but final approval shall be made no earlier than the effective date of this ordinance.

Applicants may choose to submit applications for development compliant with the Part 10 Zoning Code between the adoption date and the effective date of this ordinance. The application of either code shall be specified at time of submittal. Completed applications submitted during this period will be processed in accordance with either the Part 10 Code or the Unified Development Ordinance, as specified by the applicant. No submittal for development plans and permits under the Part 10 Zoning Code will be permitted on or after the effective date that did not sunset.

For such site plans that were submitted prior to the effective date of the Unified Development Ordinance (September 1, 2013), the previous Part 10 Code standards shall apply. For such site plans that were submitted after September 1, 2013, chapters 8, 9 and 10 of the Unified Development Ordinance shall apply in addition to the Part 10 zoning code regulations.

Section 3. Following the adoption date of this ordinance, the Part 10 zoning code shall be used for those submittals referenced in Section 2 of this ordinance. Where a previously-approved zoning conditions reference a term that is defined in the Part 10 code and not defined in the UDO, the Part 10 code definition shall apply. The Part 10 Zoning Code shall be used after the effective date established in Section 2 to provide clarity in interpreting zoning conditions that reference a specific Part 10 zoning code section or defined term.

Upon the effective date of this ordinance the method for measurement shall be regulated by the Unified Development Ordinance, regardless of language contained within any conditional use zoning district.

Section 4. Each separate and discrete area that was rezoned by this ordinance shall be severable. If this ordinance and the UDO rezoning map or application thereof to any person, property or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance, or other portions of the UDO rezoning map which can be given separate effect and to this end the provisions of this ordinance are declared to be severable.

Section 5. Changes to the Unified Development Ordinance Zoning Map adopted on May 3, 2016 made after the adoption date but prior to the effective date, may be made by the staff for the following reasons. These permitted changes only relate to those properties contained within Attachment C:

- a. Changes made by the City Council prior to the adoption date; and
- b. Technical corrections to address a drafting error made during the creation of the zoning map, such as a misinterpretation of a previous City Council directive or drafting error.

Section 6. All laws and clauses of laws in conflict herewith are hereby repealed to the extent of said conflict.

Section 7. This ordinance has been provided to the North Carolina Capital Commission as required by law.

Section 8. This ordinance shall be enforced by law as provided in N.C.G.S. 160A-175 or as provided in the Raleigh City Code. All criminal sanctions shall be the maximum allowed by law notwithstanding the fifty dollar (\$50.00) limit in G.S. 14-4 (a) or similar limitations.

ADOPTED: May 3, 2016

EFFECTIVE: May 8, 2016

DISTRIBUTION: Planning – Bowers, Crane, Strickland
Department Heads
City Attorney – Botvinick, Hargrove

Attachment A: Properties Referred back to Planning Commission

Item	Site Address	Part 10 Zoning	Public Hearing (Z-27B-14) Zoning	City Council Action
1	600 S Blount St	NB w/HOD-G & DOD	OX-4-SH w/HOD-G	OX-4 w/HOD-G
	121 & 125 E South St	NB w/HOD-G		
2	401 N Harrington St	IND-2 w/DOD	DX-12-SH	DX-20-SH
3	6301 Mt Herman Rd	TD w/AOD	IX-3-PK w/AOD	IH-CU w/AOD
4	8024 Glenwood Ave	CUD NB	OX-3-CU	NX-3-CU
5	900 & 904 Coleman St	R-20	R-10	R-10
6	1408 Brookside Dr	O&I-1	RX-3	RX-3
7	4208 New Bern Ave	IND-1 w/SHOD-3	IX-3-PK	IX-3-PL
8	1900 Blue Ridge Rd	O&I-1 & AP	CX-5-UL, CX-12-UL, OX-3	CX-12-UL
9	3312 & 3600 New Bern Ave	CUD TD w/SHOD-1	CX-3-PK-CU & RX-3-PK-CU w/SHOD-1	CX-3-CU w/SHOD-1
10	10100 & 10200 Lumley Rd	CUD TD w/SHOD-2 & AOD	OP-5-PK w/SHOD-2 & AOD	OX-7-PL w/SHOD-2 & AOD
	10211 Lumley Rd	CUD TD w/SHOD-2	CX-3-PK w/SHOD-2	CX-3-PL w/SHOD-2
	10370 Lumley Rd	CUD TD	CX-5-PK	CX-5-PL
	10310 Moncreiffe Rd	CUD TD	CX-3-PL & CX-3-PK	CX-5-PL
	8811 & 8851 Ellstree Ln	CUD TD w/SHOD-2 & AOD	CX-3-PK w/SHOD-2 & AOD	CX-3-PL w/SHOD-2 & AOD
	0 Brier Creek Pkwy	CUD TD w/SHOD-2 & AOD	CX-5-PK w/SHOD-2 & AOD	CX-5-PL w/SHOD-2 & AOD
	8001 Brier Creek Pkwy	TD	CX-5-PK	CX-5-PL
	8011, 8101, 8115, & 8121 Brier Creek Pkwy	CUD TD	CX-5-PK	CX-5-PL
	8161 Brier Creek Pkwy	TD	CX-5-PK	CX-5-PL
	8331 Brier Creek Pkwy	TD & CUD TD w/SHOD-2 & AOD	CX-5-PK w/ part SHOD-2 & AOD	CX-5-PL w/ part SHOD-2 & AOD
	8341 & 8401 Brier Creek Pkwy	CUD TD	CX-5-PK	CX-5-PL
	8611 Brier Creek Pkwy	CUD TD w/AOD	CX-5-PK w/AOD	CX-5-PL w/AOD
	8651 Brier Creek Pkwy	CUD TD w/SHOD-2 & AOD	CX-5-PK w/SHOD-2 & AOD	CX-5-PL w/SHOD-2 & AOD
	8701 & 8741 Brier Creek Pkwy	CUD TD	CX-5-PK	CX-5-PL
	8811 Brier Creek Pkwy	CUD TD w/SHOD-2 & AOD	CX-5-PK w/SHOD-2 & AOD	CX-5-PL w/SHOD-2 & AOD
	8901 & 8911 Brier Creek Pkwy	CUD TD	CX-3-PK	CX-5-PL
	7980 & 7990 Arco Corporate Dr	CUD TD w/AOD	CX-5-PK w/AOD	CX-7-PL w/AOD
8001 Arco Corporate Dr	CUD TD w/SHOD-2 & AOD	OP-7 w/SHOD-2 & AOD	OX-7 w/SHOD-2 & AOD	
8010 & 8020 Arco Corporate Dr	CUD TD w/AOD	CX-7-PL w/AOD	CX-7-PL w/AOD	
8021 Arco Corporate Dr	CUD TD w/SHOD-2 & AOD	OP-7-PL w/SHOD-2 & AOD	OX-7-PL w/SHOD-2 & AOD	

Attachment A: Changes to UDO Zoning Map Made by City Council

	8041, 8045, 8051, 8061, 8080, & 8081 Arco Corporate Dr	CUD TD w/SHOD-2 & AOD	OP-5-PL w/SHOD-2 & AOD	OX-7-PL w/SHOD-2 & AOD
11	3900 Sumner Blvd	TD	CX-3-UL	CX-5-UL-CU
12	6830 Old Wake Forest Rd	IND-1	IX-3-PL	IX-5-PL
	5857 Capital Blvd	IND-1	IX-3	IX-5
	5839 & 6001 Capital Blvd	IND-1	CX-3-PL	IX-7-PL
13	4205 Pleasantville Dr	CUD SC	CX-3-PL-CU	CX-3-CU
	4125 Mitchell Mill Rd	CUD SC	CX-3-PL-CU	CX-3-PL-CU
	4133 Mitchell Mill Rd			
14	5420, 5500, & 5510 Capital Blvd	TD	IX-3-PK	IX-3-PL
15	0 Gresham Lake Rd	IND-1 w/SHOD-2	IX-3 w/SHOD-2	IX-5 w/SHOD-2
16	118 E Lenoir St	NB w/HOD-G & DOD	DX-4-UG w/HOD-G	DX-4-UG w/HOD-G
	101, 111, & 117 E South St	NB w/DOD	CX-4-UG	CX-4-UL
17	600 W Hargett St	IND-2 w/DOD	DX-3	DX-12
18	230 & 234 E South St	O&I-2	R-10	OX-12-UL
	706 S Person St	O&I-2	R-10	
19	9721, 9733, & 9745 Fonville Rd	BC w/UWPOD	NX-3 w/UWPOD	NX-3-CU w/UWPOD

Attachment B: Properties Subject to a Separate Ordinance

The following properties are not subject this zoning ordinance, Z-27(F)-14. These properties are the subject to the ordinance associated with Z-27(E)-14. The zoning district for items associated with Z-27(E)-14 did not change from the advertised zoning for the July 7th 2015 and July 21st 2015 public hearing. The respective property owners requested more intense zoning that was not granted.

Z-27(E)-14

Item	Site Address	Part 10 Zoning	Public Hearing (Z-27(B)-14 Zoning	City Council Action
5	900 & 904 Coleman St	R-20	R-10	R-10
6	1408 Brookside Dr	O&I-1	RX-3	RX-3

Attachment C: Properties Subject to This Rezoning Ordinance

Each of the properties associated with Z-27(F)-14 contains revised zoning conditions that were voluntarily offered by the property owner during the rezoning process. These properties are the subject of this rezoning ordinance.

Z-27(F)-14

Item	Site Address	Part 10 Zoning	Public Hearing (Z-27B-14) Zoning	City Council Action
3	6301 Mt Herman Rd	TD w/AOD	IX-3-PK w/AOD	IH-CU w/AOD
9	3312 & 3600 New Bern Ave	CUD TD w/SHOD-1	CX-3-PK-CU & RX-3-PK-CU w/SHOD-1	CX-3-CU w/SHOD-1
11	3900 Sumner Blvd	TD	CX-3-UL	CX-5-UL-CU
19	9721, 9733, & 9745 Fonville Rd	BC w/UWPOD	NX-3 w/UWPOD	NX-3-CU w/UWPOD