Administrative Action
Preliminary Subdivision
Cluster Unit Development

City of Raleigh
Development Plans Review Center
One Exchange Plaza
Raleigh, NC 27602
(919) 516-2626
www.raleighnc.gov

Case File / Name: **S-22-07 / Regency at Brier Creek Country Club**

General Location: Northeast corner of Globe Road and Page Road intersection

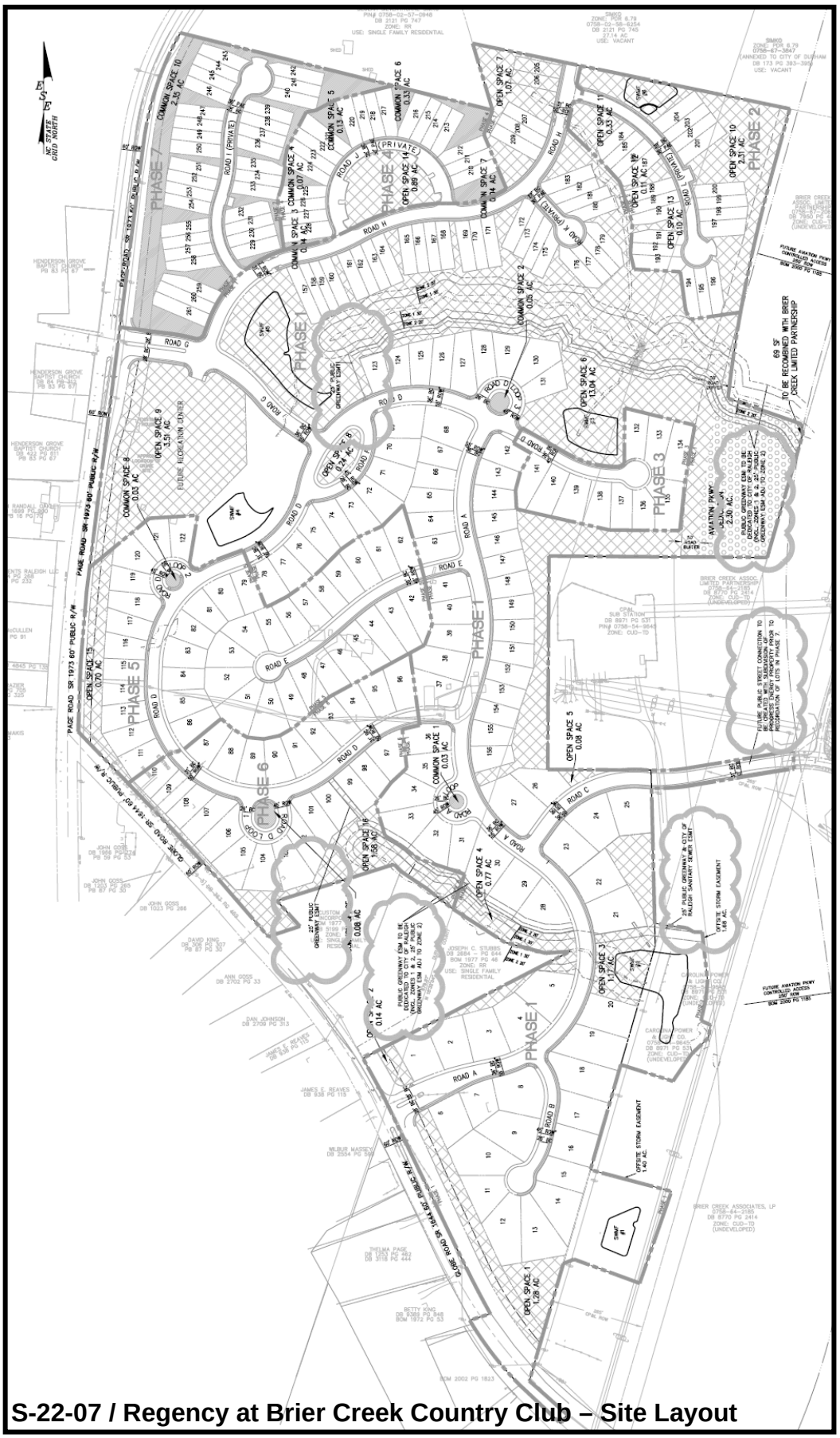
Planning District / CAC: Umstead / Northwest

Nature of Case: Cluster unit development subdivision consisting of 156 single family lots, 105 townhouse lots, and 26 open space lots on a 99.52 acre site. Upon subdivision 287 lots total will be created on this site zoned Special R-6.

Contact: ESE of North Carolina



S-22-07 / Regency at Brier Creek Country Club – Location Map



S-22-07 / Regency at Brier Creek Country Club – Site Layout

SUBJECT: S-22-07 / Regency at Brier Creek Country Club

CROSS-REFERENCE: n/a

LOCATION: This site is located on the northeast corner of Globe Road and Page Road intersection. The majority of the site is within the City Limits; however, a portion is outside the City Limits. Note a large portion of the property is within Durham County.

REQUEST: This request is to approve a cluster unit development consisting of 156 single family lots, 105 townhouse lots, and 26 open space lots on a 99.52 acre site. Upon subdivision 287 lots total will be created on this site zoned Special R-6. The overall residential density is 2.62 units per acre. This development consists of 7 phases.

OFFICIAL ACTION: **Approval with conditions**

CONDITIONS OF APPROVAL:

Prior to issuance of a land disturbing permit for the site:

(1) That a stormwater control plan with a stormwater operations and maintenance manual and budget shall be approved by the Stormwater Engineer in compliance with Part 10 Chapter 9, including the designation of buffer areas and open space areas for stormwater purposes prior to grading or the approval of construction drawings, whichever event comes first;

(2) That a final tree conservation plan be approved by the Forestry Specialist in the Inspections Department. The plan must show metes and bounds descriptions of all tree conservation areas, and tree protection fence around all tree conservation areas. Tree protection fence must be located in the field and inspected by the Inspections Department;

(3) That as the developer has chosen to offset a portion of nitrogen export load limitation by paying monies to the North Carolina Ecosystem Enhancement Program (NCEEP) in accordance with Nitrogen reduction requirements of Section 10-9022, this payment shall be made to NCEEP and verification of the amount of payment shall be provided to the City of Raleigh Stormwater Engineer;

Prior to approval of construction drawings for public improvements:

(4) That as this plan shows proposed islands within the public street right-of-way on streets “A” and “G” which may require encroachment agreements from the City of Raleigh and final street construction plans must be reviewed to make this determination, then if required, a 3-party agreement/application between the City of Raleigh, developer, and Homeowners Association for an encroachment agreement for the islands and any landscaping located within the public right-of-way of these streets as indicated on the preliminary plan must be submitted to the City’s Encroachment Coordinator in the Inspections Department for review;

(5) That the proposed off-site sanitary sewer easement to serve this development be approved by the City Attorney and recorded copies of the deed and plat be provided to the Planning Department and the Public Utilities Department;

(6) That as the developer proposes to disturb a designated riparian buffer for the purpose of a street crossing, the North Carolina Division of Water Quality shall approve the disturbance of the riparian buffer before any grading or approval of construction drawings, (whichever first occurs) and evidence of such approval shall be provided to the Stormwater Engineer in the Public Works Department, and a written watercourse buffer permit is thereby issued by the Inspection Department before commencement of work (per code section 10-9044(a);

(7) That as the proposed stormwater control plan to be approved pursuant to condition number 1 above shows off-site engineered devices located to the east on the adjacent property owned by Progress Energy (PIN 0758-54-9645, DB 8971, pg 531) the City Attorney shall approve a drainage easement deed between the off-site land owner and the developer using the off-site engineered devices. The drainage easement deed shall be prepared in accordance with Raleigh City Code sections 10-5007(c) and 10-9027(b), and it shall contain the following provisions: (a) the engineered stormwater control facility shall be maintained in accordance with the operations and maintenance manual and budget approved by the Stormwater Engineer in the Public Works Department as part of condition number 1 above (b) a statement as to which property has the principal responsibility for maintaining and repairing the engineered stormwater control facility;(c) a right of maintenance and repair is granted to each user of the stormwater control facility;(d) a specific allocation of maintenance and repair costs and any applicable escrow payments to the City of Raleigh in accordance with Raleigh City Code section 10-9027(c) for each user of the stormwater control facility;(e) that no amendment to the drainage easement shall be made without the prior written consent of the Raleigh City Attorney, and (f) a warning statement stating that the stormwater control measures are required to comply with the Raleigh City Code, and that the failure to maintain stormwater control measures is a violation potentially subjecting each lot owner to significant daily civil penalties and other enforcement actions. The approved drainage easement deed shall be recorded with the Wake County Register of Deeds. A recorded copy of the drainage easement deed must be provided to the Stormwater Engineer in the Public Works Department;

Prior to Planning Department authorization to record lots:

(8) That for that land area outside the City limits, a petition for annexation into the City limits be submitted in accordance with City Council policy for extension of utility service to properties currently outside of the City limits. This voluntary annexation in no way obligates the City to extend utility services to the property;

(9) That construction plans for public improvements be approved by the Public Works and Public Utilities Departments;

(10) That if upon review of construction plans per conditions number 4 and 9 above encroachment agreements are required for proposed islands and landscaping in the public right-of-way, then a 3-party encroachment agreement for the islands and any landscaping located in the public right-of-way be approved by the City Council, the execution of the

encroachment agreement be approved by the city attorney, and a copy of the agreement be placed in the file;

(11) That a recombination map be recorded prior to or in conjunction with the recording of lots, recombining the existing tracts as shown on the preliminary plan. All plats for properties lying within both Wake and Durham Counties shall be recorded in both county registries;

(12) That tree conservation areas as required by Code Section 10-2082.14 and in accordance with the approved tree conservation plan be shown with a metes and bounds description and labeled on any plat for recording;

(13) That all off-site and or shared stormwater control measures, swales, storm pipes, and facilities conveying, treating and storing stormwater to and from such stormwater control measures, shall be shown on the recording plats as private drainage easements and the plats shall contain the following note: “All private storm drainage easements & stormwater measures will be maintained by the homeowner association”;

(14) That all permanently preserved undisturbed open space used to meet the nitrogen reduction requirements of Part 10 Chapter 9 shall be labeled on recording plats. These plats shall include a note stating: Within permanently preserved undisturbed open space areas used for stormwater treatment, there must not be any land disturbing activity, any placement of impervious surfaces, any tree removal, any new development or expansion thereof, or new use, construction, or encroachment;

(15) That homeowner legal documents are prepared in accordance with Raleigh City Code Sections 10-3071 - 3074, and that these documents are recorded with the local register of deeds. A recorded copy of these documents must be provided to the Planning Department within 14 days from authorization of lot recording. If recorded copies of homeowner’s documents are not provided to the Planning Department within this 14-day period, further recordings and building permit issuance may be withheld;

(16) That as stormwater control facilities are to be owned and maintained by a property owners’ association, the City’s three party form “Stormwater Replacement Easement and Access Maintenance Agreement and Replacement Contribution” (Installment or Lump Sum payment version) shall be completed and executed by the developer, the property owners’ association and given to the City of Raleigh Attorney for signature of the City Manger. Following the signatures of the City, the developer shall record the Stormwater Agreement with the local county Register of Deeds. A recorded copy of the Stormwater Agreement shall be given to the Stormwater Engineer in the Public Works Department within (14) days of plat recording . No building permit will be issued until a recorded copy of the drainage easement is provided to the Inspections Department;

(100) That as this subdivision plan creates lots less than one acre in size, stormwater control measures are required to be shared among all lots, and said stormwater control measures shall be owned and maintained by a homeowners association for which all lot owners shall be a member. The homeowners’ legal documents shall be prepared in accordance with Raleigh City Code Section 10-3071 through 10-3074 and 10-9027(b), and the City Attorney shall either actually approve the homeowners’ legal documents or a certificate be submitted to the City Attorney from the attorney who prepared the homeowner legal documents state that the

declaration of covenants contains all of the provisions of the Raleigh City Code Requirements set forth in City form Article;

(17) The homeowners' declaration shall conform to G.S. 47-F, if applicable, and shall contain the following provisions: (a) a definition of stormwater control measures serving more than one lot and situated outside of the public street rights of way; (b) a statement in the definition of common areas that stormwater control measures are common area; (c) that stormwater control measures shall be maintained by the homeowners' association in strict compliance with the stormwater operations and maintenance manual and budget (approved by the Stormwater Engineer in the Public Works Department as part of condition (1) above) and this manual is attached as an exhibit to the Stormwater Replacement Protection Easement and Access Maintenance agreement required by condition (16) above; (d) that common expenses include: maintenance of stormwater control measures and replacement contribution payments required to be paid by the Association to the City by Stormwater Replacement Protection Easement and Access Maintenance Agreement required by condition (16) above; (e) that within permanently protected undisturbed open space area shown on any plat of the development, no tree-disturbing activity (as defined in Part 10 Chapter 2 of the Raleigh City Code), land-disturbing activity, placement of impervious surface, encroachment, new use or construction of any structure or expansion there of shall occur except in accordance with a watercourse buffer first being issued by the City of Raleigh; (f) that the City of Raleigh is assigned the right to collect stormwater assessments of the Association, file liens against the lots and to foreclose delinquent liens for monies owned to the City. Foreclosure of stormwater assessments liens shall be in accordance with N.C.G.S 47F-3-116 and to foreclose the claim of lien in like manner as a mortgage on real estate under a power of sale under Article 2A of Chapter 45 of the General Statures; (g) a statement that no amendment to the legal documents affecting stormwater control measures or the replacement fund shall be made without the prior written consent of the Raleigh City Attorney as evidenced by signature of the City Attorney or his/her deputy on the recorded original or copy of the amendment; (h) a statement that the stormwater control measures are the joint and several liability of each owner served by the stormwater control measure required to comply with the Raleigh City Code, and the failure to maintain stormwater control measures is a violation potentially subjection each lot owner to significant daily civil penalties and other enforcement action; (i) the homeowners' association shall be empowered to plant, maintain and protect within tree conservation areas shown on recorded plats of the development, and the future owners of lots and their agents shall have the right to enter any of the tree conservation area shown on the recorded plats of the development with the consent of the Association and the City of Raleigh Inspections Department to perform active tree protection as defined in Chapter 2 Part 10 of the Raleigh City Code to remove trees, plat trees and to replant replacement tree; (j) a statement that any tree disturbing activity as defined in Chapter 2 Part 10 of the Raleigh City Code undertaken in any tree conservation area shown on the recorded plats of the development without the prior issuance of a permit from the City of Raleigh Inspections Department is a violation of the Raleigh City and will result in significant financial consequences. A recorded copy of these deeds must be provided to the Planning Department within 14-day from authorization of lot recording. If recorded copies of the of the deed are not provided to the Planning Department within this 14-day period, further plat recordings and building permit issuance may be withheld;

(18) That for any parcel or for any easement being created by this subdivision which lies within both Wake and Durham Counties, or for any lot being created with a parcel line contiguous to or overlaying the county boundary line, all plats for recordation be recorded in both the Wake and Durham County registries unless not required by the City of Raleigh's review officer. All such plats for recordation shall show and label the boundary line between the two counties with a survey referencing metes and bounds descriptions of the county boundary line;

(19) That a fee-in-lieu of construction for the water main along Globe and Page Roads be paid to the Public Utilities Department;

(20) That a fee-in-lieu of construction for improvements along Page Road and Globe Road adjacent to the site, with the exception of the portion of Globe Road identified for realignment, be paid to the Public Works Department. This fee-in-lieu is for pavement, curb & gutter and ½-5' sidewalk;

(21) That a note be placed on all plats for recording stating that no individual lots or buildings shall not have direct driveway access to Page Road or Globe Road;

(22) That a note be placed on all plats for recording stating that "No sight obstructing, or partially obstructing wall, fence, foliage, berm, sign, parked vehicle, or other object between the heights of two (2) feet and eight (8) feet above the curb line elevation (or the edge of pavement if no curb exists) shall be placed within a sight triangle". All sight triangles and sight easements shall be shown on all plats for recording;

(23) That as this subdivision lies within both Wake and Durham Counties and several proposed streets cross the county boundary line, street names for this development shall be approved by the Raleigh Planning Department and by Wake County and/or Durham County;

(24) That riparian buffers, in accordance with the preliminary plan and the State of North Carolina regulations, are shown on any plat for recording, and that a note be placed on all recorded plats stating "These areas are subject to grading and vegetation removal restrictions in accordance with State law and, that the North Carolina Division of Water Quality must give approval for disturbing the Neuse River Riparian buffers";

(25) That existing wetlands are on this site and shall be shown on all maps for recording;

(26) That a metes and bounds description be provided for the greenway easements to be dedicated to the city and that the easements be labeled on all plats for recording as "City of Raleigh Greenway Easement";

(27) That dedication of half of 90' width of additional right-of-way and 20' slope easement along Page Road as shown on the preliminary plan be shown on all plats for recording;

(28) That dedication of half of 130' width of additional right-of-way and 20' slope easement along Globe Road as shown on the preliminary plan be shown on all plats for recording;

(29) That dedication of the variable width right-of-way for Aviation Parkway as shown on the preliminary plan be shown on all plats for recording;

I hereby certify this administrative decision.

Signed: (Planning Dir.) Mitchell Silver (Stacy Barbour) Date: 8/30/07

Staff Coordinator: Stacy Barbour

SEE LAST PAGE FOR IMPORTANT INFORMATION ON THE NEXT STEP IN THE SUBDIVISION PROCESS.

FINDINGS: City Administration finds that this request, with the above conditions being met, conforms to Chapter 2, Part 10, Sections 10-2018, 10-2101, 10-2103, 10-2109, Chapter 3, Part 10, Sections 10-3001-3071-3074. This approval is based on a preliminary plan dated 7/3/07, owned by Toll NC LP, submitted by ESE of North Carolina, PC.

CLUSTER STANDARDS:

ZONING DISTRICTS: Special R-6

DEVELOPMENT DENSITY: The number of units allowed in this zoning district is 597. The proposed plan contains 261 units.

PHASING: There are 7 phases in this development. All phase(s) are being approved now. The overall density and open space for existing phases approved to date collectively conform to the zoning district. The first phase in this development is 60.71 acres and does not require restrictive covenants to be placed on the remainder of the cluster in accordance with 10-3071(b)(9)b.

LOTS / SETBACK: The minimum lot size allowed this cluster is 4,356 square feet. Proposed lots conform to this standard. The aggregate side yard setback is 15'. There shall be no less than 5' of side yard setback on any lot in this development. A perimeter protective yard of is not required.

Setbacks from public streets and property lines for the townhouse portion of the development conform to Sections 10-2103(b) and 10-2019. The minimum setback from public streets is shown to be 20 feet. Private outdoor living areas maintain a minimum 40' separation if parallel to each other or oriented at less than a 45-degree angle. Vehicular surface areas other than individual driveways are no less than 5' to a building wall. Maximum building height is proposed to be no greater than 28'

BLOCK LAYOUT: The proposed street layout conforms to City Code, providing for efficient circulation of traffic within the entire neighborhood area. The maximum block length in this development meets the 1500-foot standard as noted in the Streets, Sidewalk and Driveway Access Manual. No dead end street in this development exceeds 800 feet in length.

OPEN SPACE: Open space conforms to minimum requirements in Raleigh City Code Section 10-2103(d). 10% or 9.95 acres required, 27.34% or 27.34 acres provided. Open space quotient required = 150, provided = 163. Open space meets the standards for topography (a maximum average slope of 8% for the lesser of 1/3 or two acres of the required open space). The subdivision is not divided by a thoroughfare.

LANDSCAPING: Street yard landscaping in conformity with Section 10-2082.5 is shown. Vehicular surface area landscaping in conformity with Section 10-2082.6 is shown. This is a low density residential use under Section 10-2082.9. Transitional protective yards are not required.

TREE CONSERVATION: This site is subject to tree conservation requirements of section 10-2082.14. Primary and secondary tree conservation areas covering 12.14 acres (greater than 10%) are shown on the preliminary plan.

PARKING: Parking is provided for the townhouse portion of this development in conformance with requirements of Code Section 10-2081. 105 four-bedroom units are proposed (3 parking spaces per unit with a total of 315 spaces required) with 404 parking spaces proposed.

COMPREHENSIVE PLAN:

GREENWAY: Greenway easements are shown on the plan in conformance with the Comprehensive Plan.

THOROUGHFARE / COLLECTOR PLAN: Dedication of right-of-way and construction of the following streets are required by the Thoroughfare and Collector Street Plan:

Street	ROW	Construct	Slope Esmt.
Aviation Parkway	variable	n/a	n/a
Globe Road	half of 130’	partial turn lane	20’
Page Road	half of 90’	partial turn lane	20’

Additional right-of-way to be dedicated above 60’ minimum is reimbursable under the facility fees program. Required street construction is not reimbursable. A fee-in-lieu of construction for improvements along Page Road and Globe Road adjacent to the site, with the exception of the portion of Globe Road identified for realignment is required. This fee-in-lieu is for pavement, curb & gutter and ½-5’ sidewalk. A portion of Aviation Parkway right-of-way (a future controlled access roadway) lies within this site and shall be dedicated with this plan.

TRANSIT: No Transit easements are needed in this location.

URBAN FORM: The site is located in the Umstead Planning District, within the limits of the Triangle Regional Center Plan. The Triangle Regional Center Plan and the Durham Comprehensive Plan recommend low density residential and office uses for the site.

SUBDIVISION STANDARDS:

PUBLIC UTILITIES: City water and sewer services are available. The subdivider is responsible for installation of all lines necessary to provide service to this site. All lines serving more than one lot and located outside public street r/w or City of Raleigh water or sewer easement shall be owned and maintained by the non-profit owner's association. An off-site sewer easement is required and it must be recorded prior to construction plan approval for the sewer line. A fee in lieu of construction for the water main along Globe and Page Roads must be paid to the Public Utilities department prior to plat recordation.

SOLID WASTE: Refuse collection is to be provided based on the standards in the Solid Waste Manual.

CIRCULATION: Proposed street improvements shall conform to City construction standards. This plan shows a street connection ("Road C") between this development and adjacent properties to the east which is to be completed prior to recordation of lots in phase 7 of this proposal.

PEDESTRIAN: Proposed sidewalk locations conform to City regulations.

FLOOD HAZARD: There are no flood hazard areas on this site.

STORMWATER MANAGEMENT: This site is subject to nitrogen reduction, runoff control, and stormwater management requirements of Part 10 Chapter 9. This site is not subject to additional stormwater management zoning conditions. This site will be utilizing multiple storm water BMP's for code compliance. Nitrogen reduction requirements are being met through a combination of use permanently preserved undisturbed open space and payment to the North Carolina Ecosystem Enhancement Fund. This payment shall be required prior to issuance of grading permits.

This development is a cluster unit development and contains shared stormwater control measures to be owned by a property owners' association. Legal documents shall be prepared in accordance with Raleigh City Code sections 10-3071 to 10-3073. In addition, a Maintenance Covenant shall be prepared and recorded in accordance with Section 10-9027.

A "Stormwater Replacement Easement and Access Maintenance Agreement and Replacement Contribution" (Installment or Lump Sum payment version form, as required by Section 10-9027(c), shall be completed between the developer, the property owners' association and the City, recorded, and returned to the Conservation Engineer within 14 days of plat recording.

WETLANDS / RIPARIAN BUFFERS: 50' riparian buffers are required on this site in accordance with State of NC regulations, are shown on the preliminary plan, and shall be shown on any plat for recording.

STREET NAMES: Street names are required for this development. A street name application has not yet been approved. Several proposed streets cross the Wake/Durham County line. All proposed names must be approved by the City of Raleigh and by Wake County and/or Durham County prior to recording.

OTHER REGULATIONS: Developer shall meet all City requirements, including underground utility service (§10-3059), flood protection measures (Part 10, Chapter 4), and the soil erosion ordinance (Part 10, Chapter 5), unless specifically varied by this approval.

SUNSET DATES: If significant lot recording has not taken place on a project after preliminary subdivision approval, that approval may "sunset" and be declared void, requiring re-approval before permits may be issued. To avoid allowing this preliminary approval to "sunset", the following must take place by the following dates:

3-Year Sunset Date: 8/30/10
Record at least ½ of the land area approved.

5-Year Sunset Date: 8/30/12
Record entire subdivision.

WHAT NEXT?:

- MEET ALL CONDITIONS OF APPROVAL.

- COMPLETE CONSTRUCTION DRAWINGS FOR ANY PUBLIC IMPROVEMENTS Streets, Utility lines to be owned and maintained by the City. and submit them to the Development Plans Review Center for approval.

- HAVE A REGISTERED SURVEYOR PREPARE FINAL PLATS FOR RECORDING. These also must be submitted to the Development Plans Review Center for authorization signature prior to recording with the Wake County Register of Deeds.

- MEET THE REQUIREMENTS OF THE SUNSET THRESHOLDS AS NOTED ABOVE.

FACILITY FEES REIMBURSEMENT: If oversized street construction takes place, or greenway or oversized public street right-of-way is conveyed to the public, the owner is responsible for application to the City for reimbursement allowed by Code. Reimbursement takes place twice a year in January and July; a written request must be filed with the Planning Department for greenway and street right-of-way; and in the Engineering Department for street construction; by the first working day in November and May each year.