Administrative Action
Preliminary Subdivision

City of Raleigh
Development Plans Review Center
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Raleigh, NC 27602
(919) 516-2626
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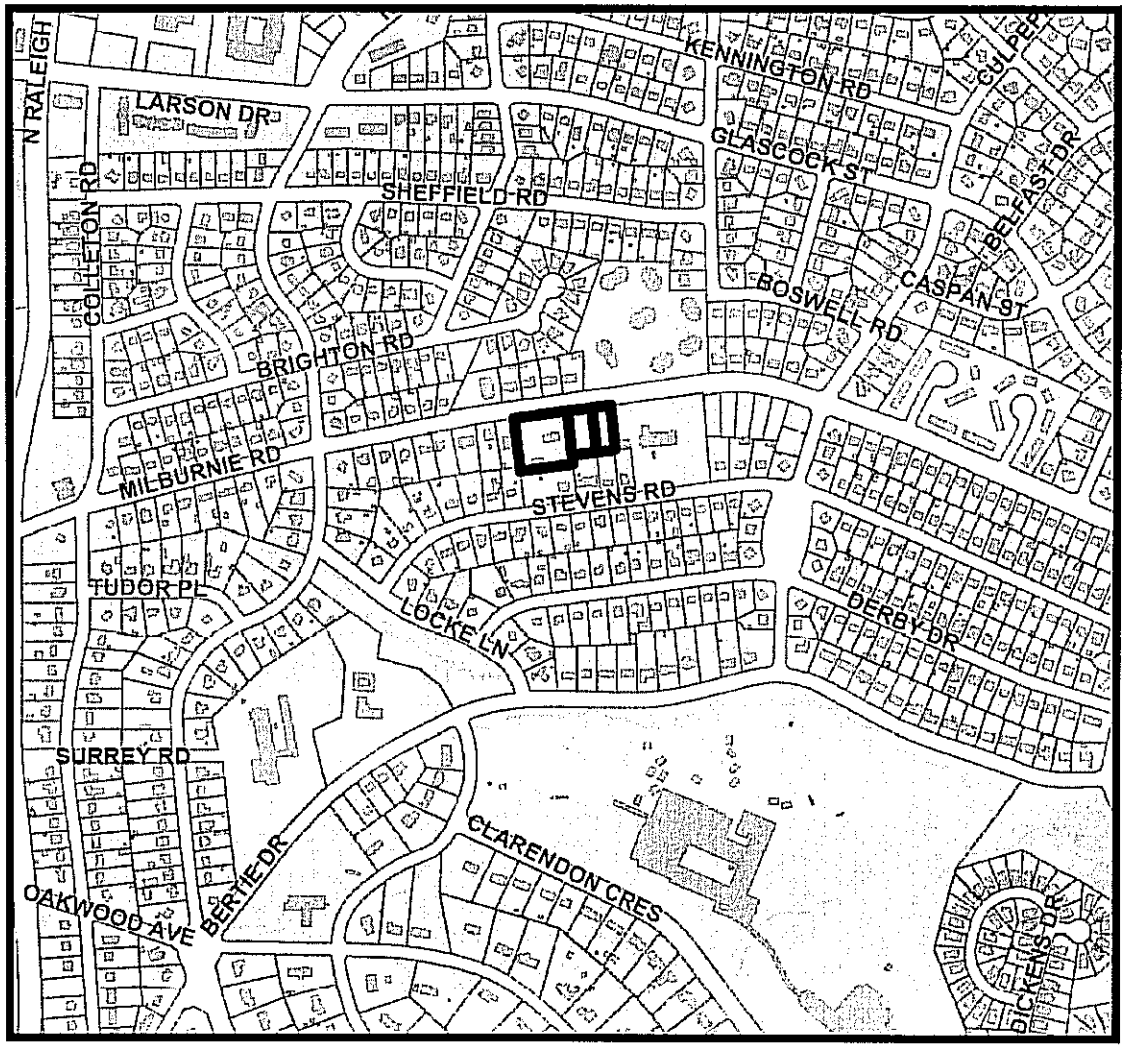
Case File / Name: **S-38-07 / Milburnie Road Property**

General Location: South side of Milburnie Road, east of its intersection with King Charles Road

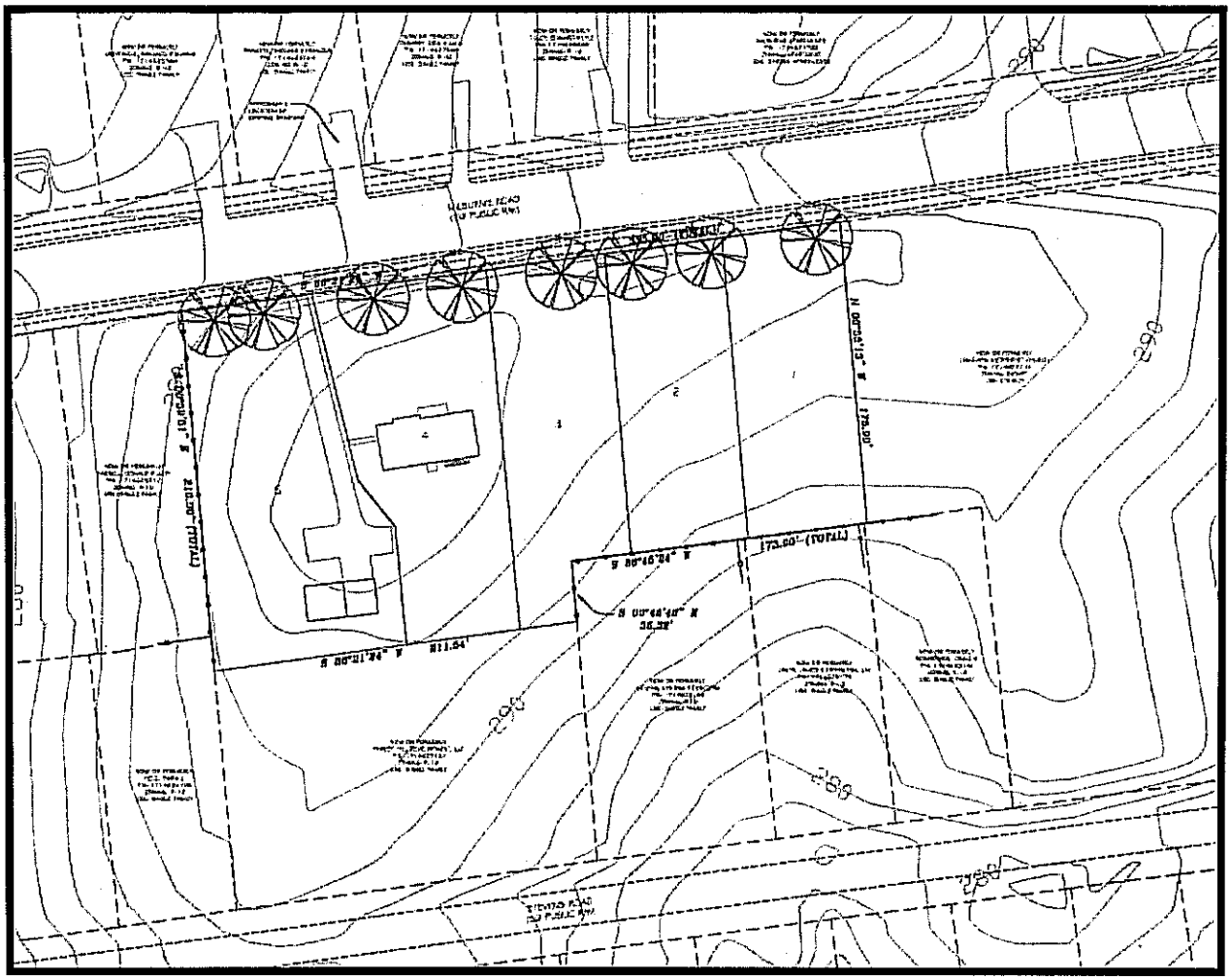
Planning District / CAC: East / East

Nature of Case: The subdivision/recombination of 1.72 acres comprised of 3 lots zoned R-10 into 5 lots. This is not considered "in-fill" because the proposed lot sizes and street frontages all exceed 80% of the median of the surrounding properties.

Contact: Jones, Cnossen & Dolle Engineering, PLLC



S-38-07 / Milburnie Road Property – Location Map



S-38-07 / Milburnie Road Property – Subdivision Plan

SUBJECT: S-38-07 / Milburnie Road Property -

CROSS-REFERENCE: n/a

LOCATION: This site is located on the south side of Milburnie Road, east of its intersection with Kilng Charles Road, inside the City Limits.

REQUEST: This request is to approve the subdivision/recombination of 1.72 acres comprised of 3 lots zoned R-10 into 5 lots. This does not meet the definition of an in-fill subdivision because the proposed lot sizes and street frontages all exceed 80% of the median of the surrounding properties.

OFFICIAL ACTION: **Approval with conditions**

CONDITIONS OF APPROVAL:

Prior to Planning Department authorization to record lots:

(1) 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;

(2) 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;

(3) 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 Planning Department;

(4) 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 (3) above) and this manual is attached as an exhibit to the Stormwater Replacement Protection Easement and Access Maintenance agreement required by condition (3) 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 (3) 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;

(5) That all stormwater control measures and means of transporting stormwater runoff to and from any nitrogen and stormwater runoff control measures shall be shown on all plats for recording 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."

I hereby certify this administrative decision.

Signed: (Planning Dir.) Mitchell Silver (by Baker) Date: 7/27/07

Staff Coordinator: Eric Hodge

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 10-2021 Chapter 3, Part 10, Sections 10-3001-3059. This approval is based on a preliminary plan dated 6/13/07, owned by Forest Hill Development, LLC, submitted by Jones, Cnossen & Dolle Engineering, PLLC.

ZONING:

ZONING DISTRICTS: Residential-10

LANDSCAPING: Street yard landscaping in conformity with Section 10-2082.5 is shown.

TREE CONSERVATION: This site is not subject to tree conservation because the site is less than 2 acres in size and is a residential development.

UNITY OF DEVELOPMENT: Unity of development criteria is not required in this subdivision.

PHASING: This is a one phase development.

COMPREHENSIVE PLAN:

GREENWAY: There is no greenway on this site.

THOROUGHFARE / COLLECTOR PLAN: No dedication of right-of-way or construction of any streets was required by the Thoroughfare and Collector Street Plan.

TRANSIT: No transit-oriented features are incorporated into the proposed plan. This site is presently not served by the existing transit system.

URBAN FORM: This site is located in the East Planning District, in an area designated a residential area. The site is also within the boundaries of the King Charles Neighborhood Plan area.

SUBDIVISION STANDARDS:

LOT LAYOUT: The minimum lot size in this zoning district is 5,000 square feet. The minimum lot depth in this zoning district is 70'. The minimum lot width in this zoning district is 45'. Lots in this development conform to these minimum standards. The minimum lot size proposed is 12,088 SF. The minimum lot depth proposed is 175 and the minimum lot width proposed is 63'.

BLOCK LAYOUT: No new streets are required with this development.

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.

SOLID WASTE: Individual lot service by the City is to be provided.

CIRCULATION: Proposed street improvements shall conform to normal City construction standards. This layout indicates a stream crossing that is to be shared with an adjacent property owner. The developer of this property will construct the entire stream crossing, and will be reimbursed by the City for 1/2 the cost of construction.

PEDESTRIAN: Existing sidewalk locations conform to City regulations.

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

STORMWATER MANAGEMENT: This site is subject regulations of Part 10 Chapter 9. Underground retention / detention facilities are shown on the preliminary plat. This property will meet stormwater quality regulations by NCEEP payment only and will meet stormwater quantity regulations by utilizing an underground pipe system for detention.

WETLANDS / RIPARIAN BUFFERS: No wetland areas or Neuse River riparian buffers are required on this site.

STREET NAMES: No new street names are required for this development.

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: 7/27/10
Record at least ½ of the land area approved.

5-Year Sunset Date: 7/27/12
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.