Administrative Action
Preliminary Subdivision

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

Case File / Name: **S-65-07 Barwell Estates Subdivision (R-4 subdivison/R-6 cluster)**

General Location: This site is located on the north side of Rock Quarry Road, east of its intersection with Barwell Road, outside the City Limits.

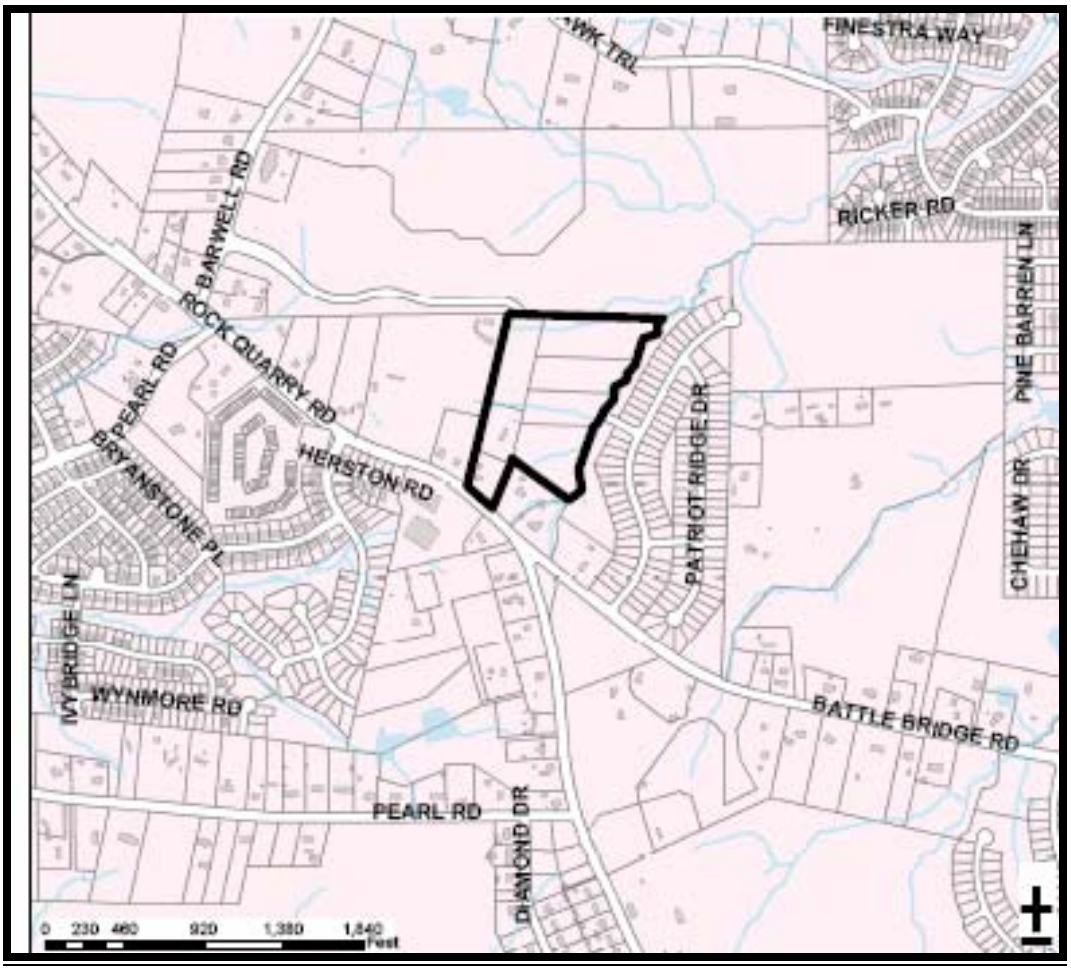
Planning District / CAC: Southeast / Southeast

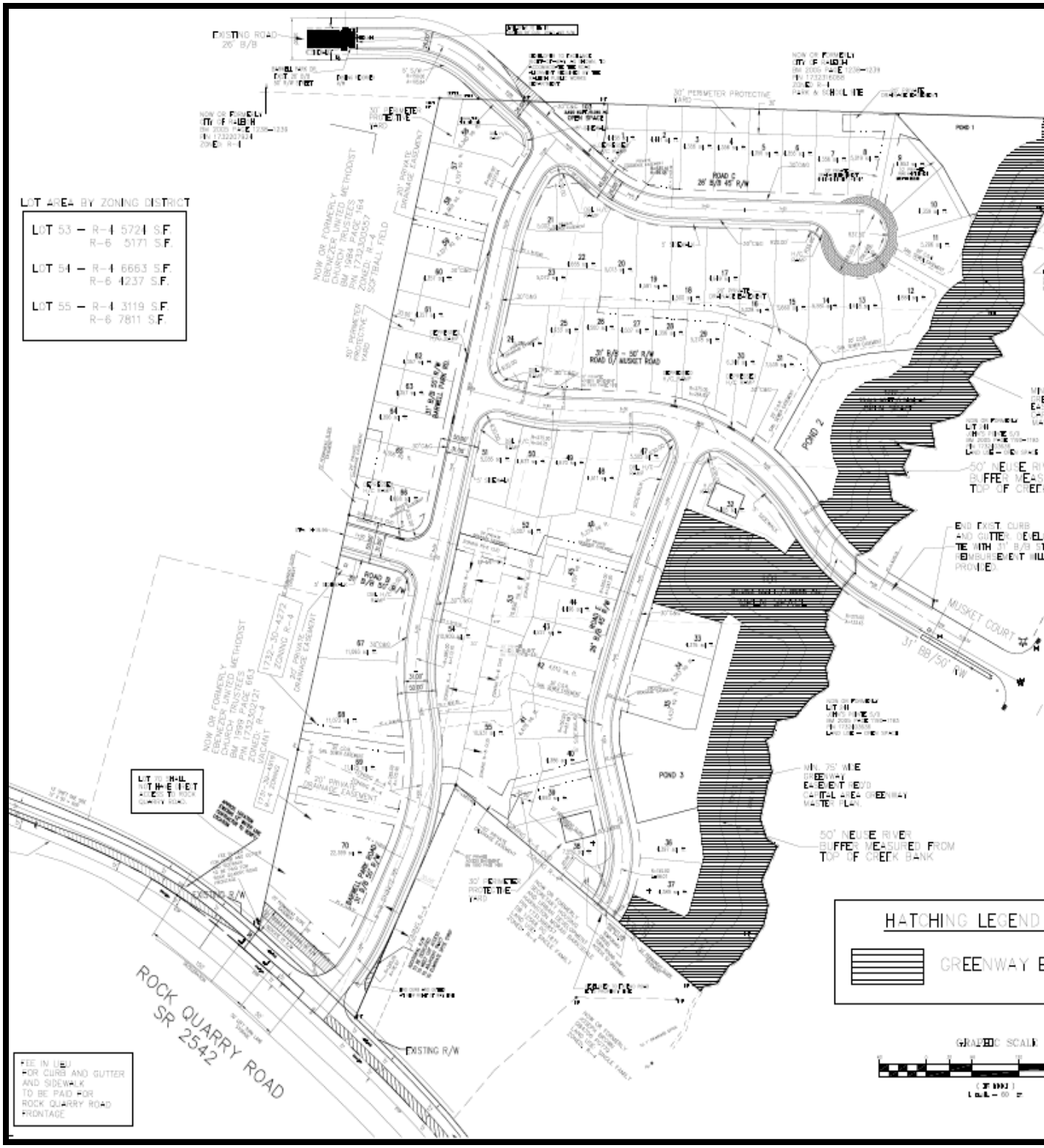
Nature of Case: Approval of a subdivision of 16.08 acres into two lots and two separate developments.

Lot 1 will be 13.22 acres and further subdivided into a cluster unit development of 79 single family lots zoned R-6 CUD.

Lot 2 will be a non cluster subdivision of 2.86 acres into 7 single family lots zoned R-4 and R-6CUD. All lots will meet R-4 standards.

Contact: McIntyre & Associates, PLLC


HAWK TRL
FINESTRA WAY
RICKER RD
BARWELL RD
ROCK QUARRY RD
PEARL RD
BRYANSTONE PL
HERSTON RD
PATRIOT RIDGE DR
PINE BARREN LN
CHEHAW DR
IVY BRIDGE LN
WYNMORE RD
BATTLE BRIDGE RD
PEARL RD
DIAMOND DR
0 230 460 920 1,380 1,840
Feet


LOT AREA BY ZONING DISTRICT
LOT 53 – R-4 5721 S.F.
R-6 5171 S.F.
LOT 54 – R-4 6663 S.F.
R-6 4237 S.F.
LOT 55 – R-4 3119 S.F.
R-6 7811 S.F.
EXISTING ROAD
26' B/B
30' PERIMETER PROTECTIVE YARD
ROAD C
26' B/B 45' R/W
ROAD D
31' B/B 50' R/W
MUSKET COURT
POND 1
POND 2
POND 3
50' RIVER BUFFER MEASURED FROM TOP OF CREEK BANK
HATCHING LEGEND
GREENWAY
ROCK QUARRY ROAD
SR 2542
EXISTING R/W
GRAPHIC SCALE

SUBJECT: S-65-07 Barwell Estates Subdivision/Cluster

CROSS-REFERENCE: Z-23-06

LOCATION: This site is located on the north side of Rock Quarry Road, east of its intersection with Barwell Road, outside the City Limits.

REQUEST: **Lot 1 will be 13.22 acres and further subdivided into a cluster unit development of 79 single family lots zoned R-6 CUD.**

Lot 2 will be a non cluster subdivision of 2.86 acres into 7 single family lots zoned R-4 and R-6CUD. All lots will meet R-4 standards.

OFFICIAL ACTION: **Approval with conditions**

CONDITIONS OF APPROVAL: ***Prior to issuance of a land disturbing permit for the site:***

(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 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 Raleigh Planning Department 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 Planning 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;

(3) 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;

(4) That a tree protection plan is approved by the Site Review Specialist in the Inspections Department for trees located within the 50' Neuse Riparian Buffer;

(5) That a final tree conservation plan must 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. A copy of the approved plan is placed on file in the Planning Department;

Prior to approval of construction drawings for public improvements:

(6) That a petition to purchase additional right of way be submitted to the City of Parks & Recreation Department (approximately 588 s.f for the extension of Barwell Park Drive as shown on the preliminary plan) and approved as a separate action by the Raleigh City Council;

Prior to Planning Department authorization to record lots:

(7) 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.

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;

(8) 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."

(9) That a final detailed landscape plan showing street yards in accordance with 10-2082.5 be submitted/stamped and approved by the Site Review Specialist in the Inspection Department and a stamped approved copy is placed on file in the Planning Department;

(10) That a demolition permit be issued by the Inspections Department and this building permit number be shown on all maps for recording;

(11) That if the tree conservation is phased, the tree conservation area and open space be recorded to meet the requirements 10-2082.14 per phase;

(12) That as the developer purposes to disturb a designated riparian buffer for the purpose of a 1 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

(13) That a tree conservation map be recorded with metes and bound showing the designated Tree Conservation Areas and shall be in compliance with Code section 10-2082.14;

(14) That a 20' permanent slope easement will be dedicated at the southern end of roads (both sides) "B" and "E" as shown on the preliminary plan and final dimension will be determined at construction drawing approval;

(15) 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 Manager. Following the signatures of the City, the developer shall record the Stormwater Agreement with the local county Register of Deeds Office. 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 stormwater agreement is provided to the Inspections Department;

(16) That a recombination map be recorded prior to or in conjunction with the recording of lots, recombining the existing 5 lots into 1 tract;

(17) That 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;

(18) That the greenway easement as shown on the preliminary plan be dedicated prior to, or in conjunction with the recording of a map in any phase affected by the greenway;

(19) That the 30' perimeter yard, as shown on the preliminary plan, be shown on all maps for recording;

(20) That the right of way be dedicated for the creek crossing extending to Musket Court and a 31'B-B roadway section w/ 5' s/w be constructed to the existing Musket Court, as shown on the preliminary plan. The developer will construct the entire creek crossing, and the developer is eligible for reimbursement for ½ the cost of the creek crossing in accordance with City Code rates. This connection will be constructed with the recording of the first lot;

(21) That a petition to purchase additional right of way be submitted to the City of Parks & Recreation Department (approximately 588 s.f. for the extension of Barwell Park Drive as shown on the preliminary plan) and approved as a separate action by the Raleigh City Council and the resolution number and date of action be shown on all maps for recording;

(22) That street names for this development be approved by the Raleigh City Planning Department and by Wake County;

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

(24) That riparian buffers, in accordance with the preliminary plan and the State of North Carolina regulations, shall be shown on plats for recording along with a note stating "The areas shown on the recorded plat identified as Neuse River Riparian Buffer shall be maintained in

perpetuity in their natural or mitigated condition, No person or entity shall fill, grad, excavate, or perform any other land-disturbing activities; nor cut, remove, or harm any vegetation; nor construct any structures nor add any additional impervious surface, nor allow animal grazing or water or any other agricultural use on such protected areas without written authorization from NC Division of Water Quality in accordance with the Riparian Buffer Protection Rules (15A NCAC 2B.0233 or .0259).". This covenant is to run with the land, and shall be binding on the Owner, and all parties claiming under it;

(25) That as the developer purposes to disturb a designated riparian buffer for the purpose of a creek 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);

(26) 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.

I hereby certify this administrative decision.

Signed: (Planning Dir.) Mitchell Silver (C. Mayo) Date: 11-4-08

Staff Coordinator: Jacque Baker

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 10-2017 & 10-2019 Chapter 3, Part 10, Sections 10-3001-3059. This approval is based on a preliminary plan dated 8/11/08, owned by Jerry Grower, submitted by McIntyre & Associates, P.L.L.C.

ZONING:

ZONING DISTRICTS: Residential-6 CUD. Ordinance (2006) 9993ZC585 Effective 4/4/06.

A. Development shall be limited to single family detached dwellings only.

B. Parcels to be recombined into a single tract prior to or in conjunction with Development.

DEVELOPMENT DENSITY: The density of the cluster unit development is 5.7 units to the acre. The density of the non-cluster subdivision is 2.4 units to the acre.

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

TREE CONSERVATION: A total of 10% or 1.060-acres being provided.

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

PHASING: There is one phase in this development. If the developer/owner request that this development be phased a revised preliminary plan will be required to be submitted and approved. The creek crossing with Musket Court will be required to be located in the first phase and all phases will be approved and recorded in numerical order as shown on both the preliminary plan and construction drawings.

COMPREHENSIVE PLAN:

GREENWAY: There is no greenway on this site.

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.
Rock Quarry Rd	30’	fee in lieu for curb, gutter & ½ sidewalk construction of a left turn lane	20’ permanent

Additional right-of-way to be dedicated is reimbursable under the facility fees program. Grave sites are located on the south side of Rock Quarry Road; additional right-of-way is not available on the south side. All right-of-way dedication will be dedicated along the north side of Rock Quarry Road.

TRANSIT: No transit-oriented features are incorporated into the proposed plan. The City’s Transit Technician determined there was not a need for any improvements at this location.

URBAN FORM: This site is located in the Southeast Planning District, in an area recommended for low residential uses.

SUBDIVISION STANDARDS:

LOT LAYOUT: The minimum lot size in the R-4 zoning district is 10,890 square feet. The minimum lot depth in this zoning district is 100’. The minimum lot width in this

zoning district is 65'. Lots in this R-4 development conform to these minimum standards. The minimum lot size in the R-6 cluster is 4,356 square feet.

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 1.32 acres required, % or 3.66 acres provided. Open space quotient required = 75, provided = 154.94. 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. The open space is only required for the cluster development which consist of 13.21-acres but the single-family portion of the approval will be allowed

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

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: 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 stormwater management. Stormwater nitrogen reduction and stormwater runoff control are required for this subdivision by City Code Part 10 Chapter 9. Detention will be met with 3-shared dry ponds. All drainage easement shall be maintained by the homeowner association. Water quality regulations will be met with treatment in the 3-shared dry pond and a one time buydown for nitrogen reduction to NCEEP. Retention / detention facilities are shown on the preliminary plat.

PAYMENT TO NCDENR

This project has chosen to offset a portion of nitrogen load limitations by paying monies to the North Carolina Department of Environment and Natural Resources fund. [10-9022(c)].

RIPARIAN BUFFER DISTURBANCE

The developer proposes to disturb a designated riparian buffer for the purpose of crossing with Musket Court, the North Carolina Division of Water Quality shall approve the disturbance of the riparian buffer and evidence of such approval shall be provided to the Conservation Engineer in the Public Works Department.

SHARED FACILITIES / LEGAL DOCUMENTS/ AGREEMENTS

Cluster - 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.

Replacement - 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 recording.

WETLANDS / RIPARIAN BUFFERS: Neuse River riparian buffers are required on this site and is required to be shown on all maps for recording.

STREET NAMES: 2 new street names are required for this development. A street name application has not yet been approved. All proposed names must be approved by the City and by Wake County prior to recording. All proposed streets are public.

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: 11/4/2011
Record at least ½ of the land area approved.

5-Year Sunset Date: 11/4/2013
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.