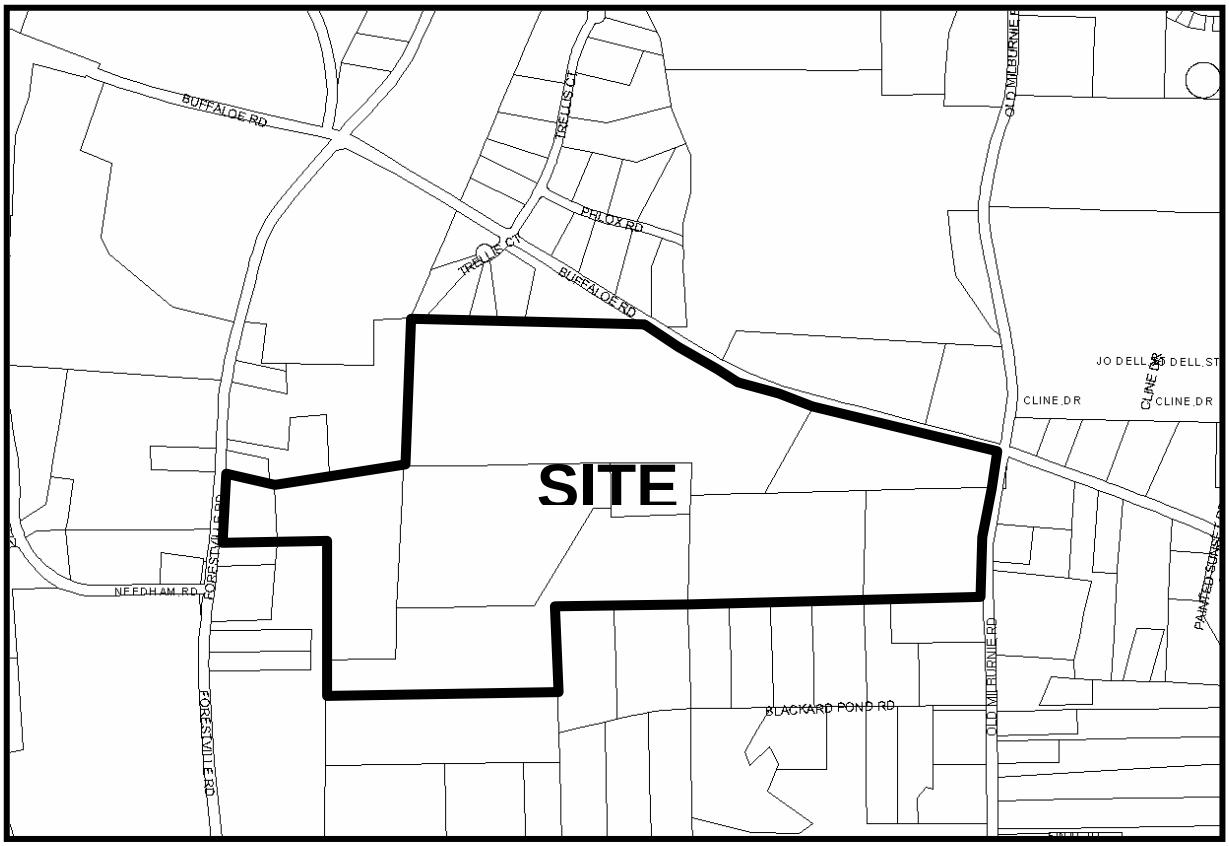
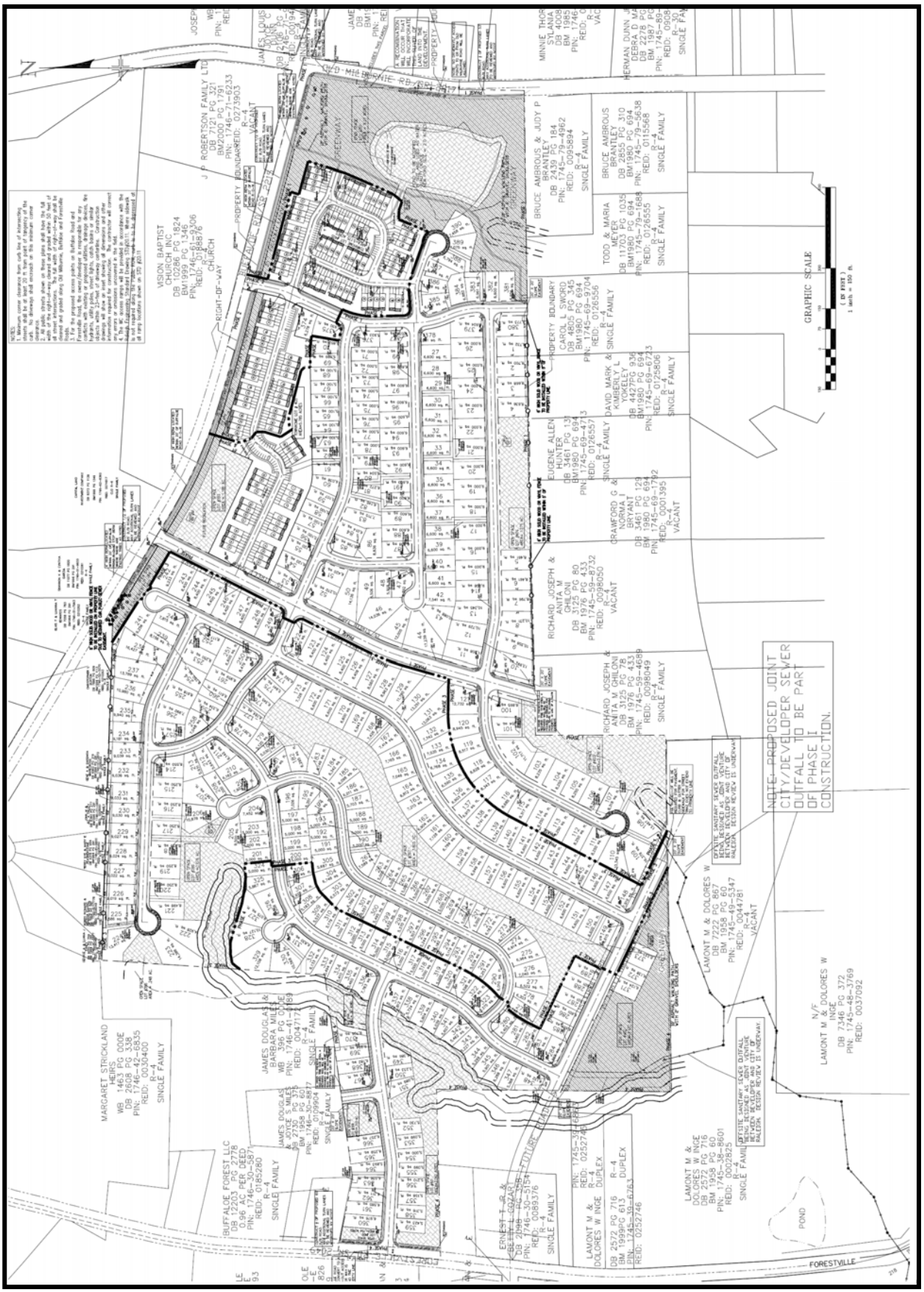
Administrative Action
Preliminary Subdivision
Cluster Unit Development

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

Case File / Name:	**S-68-07 / Buckhorn Place**
General Location:	South side of Buffaloe Road between Forestville Road and Old Milburnie Road
Planning District / CAC:	Northeast / Northeast
Nature of Case:	Cluster unit development subdivision consisting of 390 single family lots, 120 townhouse lots, and 14 open space lots on a 126.8 acre site zoned R-6 CUD.
Contact:	McIntyre & Associates



S-68-07 Buckhorn Place – Location Map



S-68-07 Buckhorn Place – Subdivision Layout

SUBJECT: S-68-07 / Buckhorn Place

CROSS-REFERENCE: Z-54-06

LOCATION: This site is located on the south side of Buffaloe Road between Forestville Road and Old Milburnie Road, outside the City Limits.

REQUEST: This request is to approve a cluster unit development consisting of 390 single family lots, 120 townhouse lots, and 14 open space lots on a 126.8 acre site zoned Residential-6 CUD. This development will consist of a total of 510 dwellings. The overall residential density is 4.05 units per acre. This site currently consists of 10 parcels to be recombined.

This plan is divided into four phases for lot recordation and construction of public improvements.

The minimum lot size for single-family lots is 5,000 square feet and the average lot size proposed for single-family lots is 9,906 square feet.

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

(3) That prior to the issuance of a grading permit, the 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 shall be placed on file in the Planning Department;

Prior to approval of construction drawings for public improvements:

(4) 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);

(5) That the proposed plan be revised to include an additional public street for a minor residential street (26' width on 45' right-of-way) of approximately 110' length stubbing to the adjacent property to south (PIN 1745598732, DB 3125, PG 80). This street stub shall be located adjacent proposed open space lot #404. The revised plan shall also show a 20'x20' slope easement at the south end of the street right-of-way in a location approved by the Public Works Department;

Prior to Planning Department authorization to record lots:

(6) 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;

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

(8) That a recombination map be recorded prior to or in conjunction with the recording of lots, recombining the existing 10 lots into a single tract for this development as shown on the preliminary plan;

(9) That the proposed greenway and sanitary sewer easements be shown on all plats for recording with metes and bounds descriptions as indicated on the preliminary plan;

(10) That, as designated on the final stormwater and nitrogen control plan approved per condition number 1 above, 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 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 without first obtaining the prior approval from the City of Raleigh." A copy of the recorded plat shall be provided to the City of Raleigh Conservation Engineer;

(11) That homeowner legal documents are prepared in accordance with Raleigh City Code Sections 10-3071 and 10-3073 - 3074, and that these documents are recorded with the County 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;

(12) That as stormwater control facilities are to be owned and maintained by a property owner's association, 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 City. The document shall be given to the Conservation Engineer in the Public Works Department within 14 days of lot recording or further plat recording and building permit issuance may be withheld;

(13) 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 (1) above) and this manual is attached as an exhibit to the Stormwater Replacement Protection Easement and Access Maintenance agreement required by condition (12) 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 (12) 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;

(14) 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”;

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

(16) That assessment fees for previous waterline construction along Forestville Road be paid to the Public Works Department;

(17) That a tree conservation map be recorded with metes and bounds showing the designated Tree Conservation Areas and shall be in compliance with Code section10-2082.14;

(18) 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”;

(19) That dedication of 10’ width of additional right-of-way along Old Milburnie Road and 15’ width of additional right-of-way along the site’s frontage on Forestville and Buffalo Roads be shown on any plat for recording;

(20) That a fee-in-lieu of construction for the unconstructed portions of streets stubbing to the adjacent properties be paid to the Public Works Department;

(21) That 20’ slope easements at the location of the unconstructed portions of streets stubbing to the adjacent properties be shown on all plats for recording as shown on the preliminary plan and infrastructure construction plans as approved by the Public Works Department;

(22) That a note be placed on all plats for recording stating that “No individual driveway connections shall be permitted onto Forestville Road, Buffalo Road, or Old Milburnie Road”;

Prior to issuance of building permits in the Inspections Department:

(23) That all conditions of rezoning case Z-54-06 be met as required including that all plans for individual dwelling construction show conformance with conditions related to architectural design;

Prior to issuance of an occupancy permit in the Inspections Department:

(24) That prior to a certificate of occupancy for the three hundredth single family dwelling unit on site the amenities required by zoning condition I of Z-54-06 shall be installed;

(25) That prior to a certificate of occupancy for a dwelling on lots number 1 thru 10 and lot number 380 that a six foot fence be installed along the rear property line of those lots as required by zoning condition E of Z-54-06.

I hereby certify this administrative decision.

Signed: (Planning Dir.) Mitchell Silver (C. Haney) Date: 2-29-08

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 10-2019, 10-2101, 10-2103, Chapter 3, Part 10, Sections 10-3001-3071-3074. This approval is based on a preliminary plan dated 11/5/07, owned by Buffaloe Forest, LLC, submitted by McIntyre & Associates.

CLUSTER STANDARDS:

ZONING DISTRICTS: Residential-6 Conditional Use, Z-54-06, Ordinance 156ZC598, Effective 1/9/07.

Z-54-06 – Buffaloe Road, on the southeast side of its intersection with Forestville Road, being various Wake County PINs. Approximately 127.24 acres rezoned to Residential-6 Conditional Use.

Conditions: 12/12/06

a. Reimbursement for additional right-of-way dedications along Buffaloe Road, Old Milburnie Road and Forestville Road shall be at Residential-4 District values.

b. There shall be no more than: (i) two (2) public street accesses onto Buffaloe Road from the Property; (ii) one (1) public street access onto Forestville Road from the Property; and (iii) one (1) public street access onto Old Milburnie Road from the Property.

c. Development of the Property shall consist of only single family detached dwelling units and/or townhomes. Residential density for the Property shall not exceed 600 dwelling units or an average of 4.7 dwelling units per acre, whichever is less. There shall be a maximum of 120 townhouse dwelling units located on the Property. All townhouses located on the Property shall be served by at least a one-car garage.

d. Development of those portions of the Property adjacent to and abutting the properties identified by Wake County PINs 1745-79-4962 (Bk 2439, Pg 184), 1745-79-1688 (Bk 11703, Pg 1035), 1745-69-9704 (Bk 4805, Pg 345), 1745-69-6723 (Bk 4427, Pg 936), 1745-69-4713 (Bk 3461, Pg 131), 1745-69-1792 (Bk 3461, Pg 129), 1745-59-8732 (Bk 3125, Pg 80), 1745-59-4689 (Bk 3125, Pg 78), 1745-49-5347 (Bk7222, Pg 867), 1746-41-6877 (Bk 9050, Pg 759), 1746-41-7778 (Bk 12248, Pg 1509), 1746-41-9800 (Bk 6318, Pg 944), 1746-51-0859 (Bk 6383, Pg 277), and 1746-51-2873 (Bk 6962, Pg 219 (**collectively, the "Adjacent Properties"**) shall consist only of: (i) single-family dwelling unit lots with a minimum depth of 110 feet and a minimum width of 75 feet; or (ii) open space lots with a minimum depth of 50 feet; or (iii) public rights-of-way.

e. Except for open space adjacent to and abutting Wake County PIN 1745-49-5347 (Bk 7222, Pg 867) and prior to the issuance of a certificate of occupancy for the Property, the owner of the Property shall construct and install a six (6') foot high solid wood or vinyl fence within five (5') feet of the common property lines along those portions of the Property adjacent to and abutting the Adjacent Properties (as defined in Condition d. above.)

f. Any townhouse structures located upon the Property shall be located no closer than 400 feet from the common property lines of the Property and the Adjacent Properties.

g. The front exterior wall of dwelling units, exclusive of foundations, constructed upon the Property shall have areas of brick and/or stone, and hardiplank siding or vinyl siding.

h. Buildings constructed upon the Property shall not exceed forty (40) feet in height or three (3) stories, whichever is lesser.

i. Prior to the issuance of a certificate occupancy for the three hundredth single family dwelling unit constructed upon the Property, development upon the Property shall include the following, completed amenities: a clubhouse not less than 1200 square feet in size; a swimming pool; and three (3) tot lots not less than 900 square feet each in size.

j. Single family detached dwelling units constructed on the Property shall include crawl space foundations.

k. Where there are no mature trees meeting the basal standards of Section 10-2082.5(f) of the City landscape ordinance and within twenty feet (20') of Buffaloe Road, an earthen berm at least four feet (4') in height measured from the edge of right of way of Buffaloe Road shall be constructed and installed along the northern boundary of the Property that abuts Buffaloe Road.

DEVELOPMENT DENSITY: The number of units allowed in this zoning district is 600 (4.7 units per acre) per zoning condition C of Z-54-06. The proposed plan contains 590 total units. In addition this plan conforms to limits on the number of townhouse units on site (120 maximum allowed, 120 proposed) per zoning condition C.

PHASING: There are four phases in this development and all are being approved. The first phase in this development is 52.07 acres (with 13.83 acres open space) 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. The minimum proposed is 5,000 square feet size. The aggregate side yard setback required is 15'. There shall be no less than 5' of side yard setback on any lot in this development.

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 30 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'.

A perimeter protective yard is not required because all proposed single family lots adjacent the neighboring R-4 zoned property meet or exceed the minimum size for the R-6 district (7,260 square feet).

Proposed lot dimensions conform to zoning condition d and townhouse locations conform to zoning condition f of case Z-54-06.

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 12.7 acres required, 22% or 27.93 acres provided. Open space quotient required = 150, provided = 204. 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. Transitional protective yards are not required. This plan conforms to zoning condition K of Z-54-06 and includes an earthen berm of 4' height along portions of Buffalo Road.

TREE CONSERVATION: Primary and secondary tree conservation areas equal to 10.2% of the site (12.99 acres) 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. 120 three-bedroom units are proposed (2.5 parking spaces per unit with a total of 300 spaces required) with 303 parking spaces proposed.

COMPREHENSIVE PLAN:

GREENWAY: Greenway easements as approved by the Parks and Recreation Department are shown on this site along Old Milburnie Road and Buffalo Road.

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.
Buffalo Road	15'	½ of 65' b-b min.	n/a
Old Milburnie Road	10'	½ of 53' b-b min.	n/a
Forestville Road	15'	½ of 65' b-b min.	n/a
Collector Street	60'	41' bb	n/a

Additional right-of-way to be dedicated is reimbursable under the facility fees program at the value of R-4 zoned property per zoning condition a of Z-54-06. The proposed road construction of is also reimbursable.

Note that the portion of the proposed east-west collector street shown on this plan (and to be built) is shown on the adopted Thoroughfare plan and extends from Forestville Road to Old Milburnie Road. A large section of this proposed collector street lies along the path of an existing private street, Blackard Pond Road, which is reference by various deeds and plats dating back to 1976 (BM 1976, PG 433, BM 1980 PG 694). The alignment of the proposed collector street is firmly established because of topographical constraints and an existing pond located on the south side of Blackard Pond Road. When the collector street is constructed it will provide public street frontage for a number of parcels along the north and south sides of Blackard Pond Road (which currently do not have public street frontage).

TRANSIT: No transit facilities have been requested in this location. None are shown on the plan.

URBAN FORM: This site is located in the Northeast Planning District, in an area designated for low density residential uses.

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 assessment is due for the existing water main in Forestville Road 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. No individual driveway connections are allowed or proposed onto the adjacent thoroughfares. In addition the proposed layout conforms to zoning condition b of Z-54-06 which limits public street connections to the thoroughfares.

This proposal, with the included conditions of approval, includes four streets stubbing to adjacent parcels to the south. None of these adjacent parcels to the south (a total of eight parcels) have public street frontage. However, upon construction of the east-west collector street thru this site and to the south along

the alignment of Blackard Pond Road, a private street, all parcels will have public street frontage and a 1500 foot grid of public streets will be established in this area.

PEDESTRIAN: Proposed sidewalk locations conform to City regulations. Sidewalks are required and shown along this site's frontage on the three thoroughfares.

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

STORMWATER MANAGEMENT: This site is subject to requirements of Part 10 chapter 9 of the City Code. Retention / detention facilities are shown on the preliminary plat. This site will utilize 10 detention basins for stormwater quantity and quality requirements. This plan includes use of permanently preserved open space and a payment to NCEEP to be used for stormwater quality conformance.

WETLANDS / RIPARIAN BUFFERS: Neuse River riparian buffers are required on this site and shown on the preliminary plan.

STREET NAMES: 19 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.

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: 2/29/11
Record at least ½ of the land area approved.

5-Year Sunset Date: 2/29/13
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.