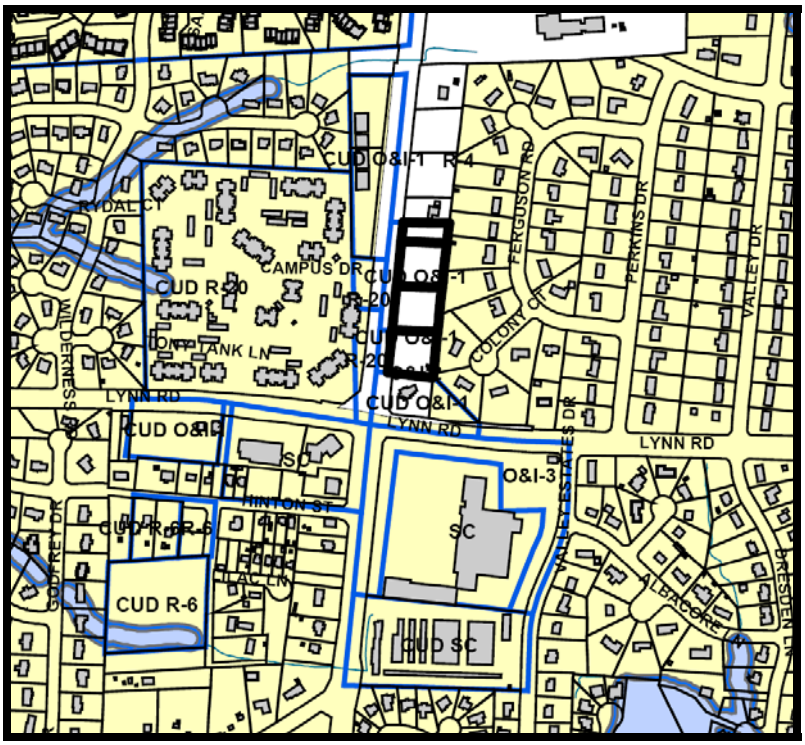
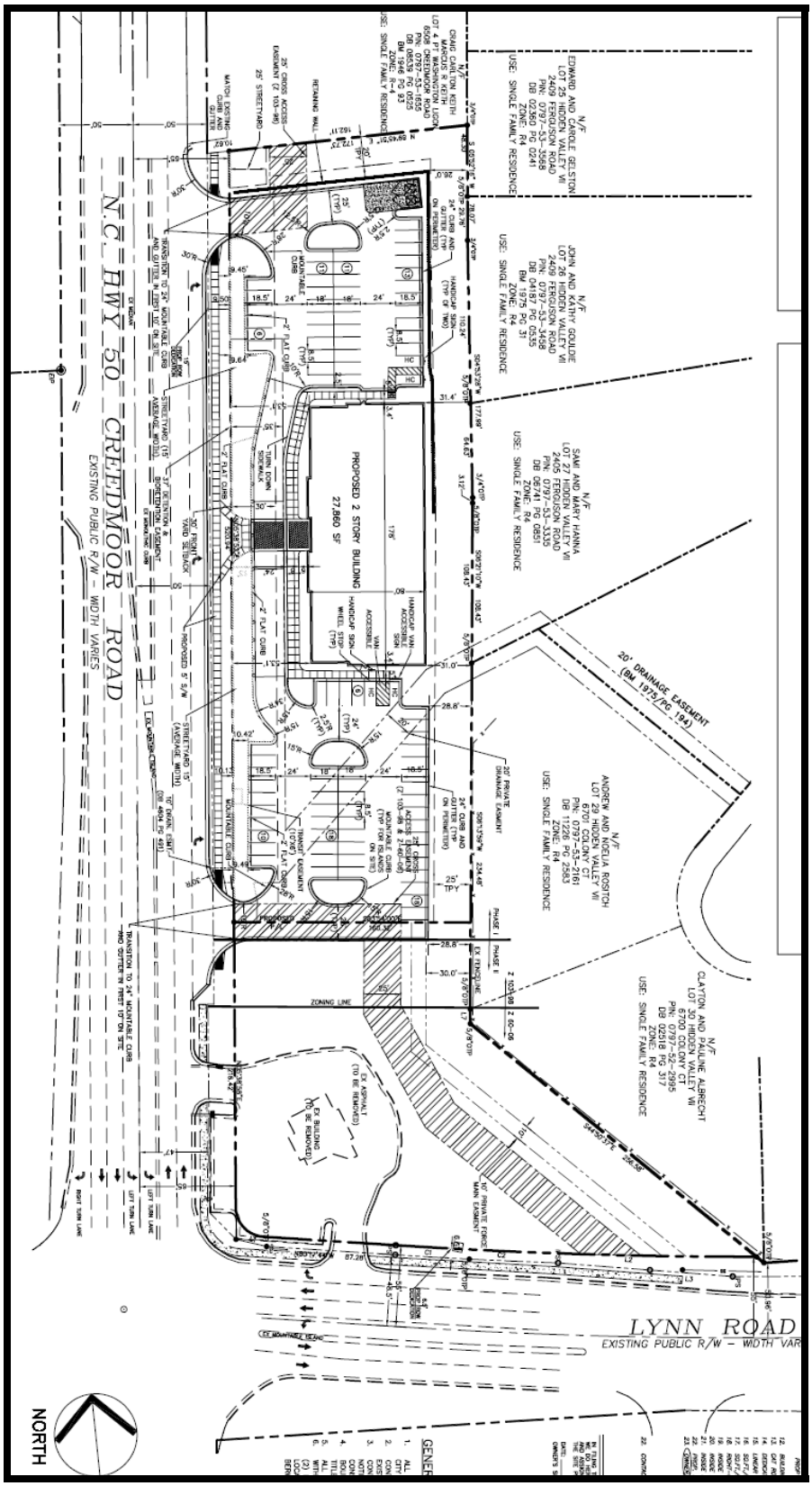
Certified Action
of the City of Raleigh Planning Commission

City of Raleigh
Development Plans Review Center
One Exchange Plaza
Raleigh, NC 27601
(919) 516-2626
www.raleighnc.gov

Case File / Name:	**SP-23-07 / Creedmoor Lynn Commons – Phase 1**
General Location:	Northeast corner of the intersection Creedmoor and Lynn Roads
Planning District / CAC:	North / North
Nature of Case:	A 27,860 square foot office building on a 1.97 acre site, currently comprised of 4 lots to be recombined, zoned Office and Institutional -1 Conditional Use District. This proposed site plan requires Planning Commission approval because it is for an office use greater than 25,000 square feet and is located within 400 feet of a residential use and zone. This project also requires Planning Commission approval because it is a non-residential site plan on a site that is less than two acres containing a stand of trees meeting the basal area of 30 square feet within 50 feet of a thoroughfare yet the plan fails to provide a 50 foot wide natural protective yard along the thoroughfare.
Key Issues:	Proposed tree conservation plan proposes alternate tree conservation areas some of which are located at the rear of the site rather than along the thoroughfare as the tree conservation ordinance intended.
Contact:	Ed Sconfienza, Integrated Design



SP-23-07 / Creedmoor Lynn Commons – Phase 1 – Location Map



SP-23-07 / Creedmoor Lynn Commons – Phase 1 – Site Plan

SUBJECT:	SP-23-07 / Creedmoor Lynn Commons – Phase 1
CROSS-REFERENCE:	Z-103-98, SP-24-07
LOCATION:	This site is located on the east side of Creedmoor Road, north of its intersection with Lynn Road, outside the City Limits.
REQUEST:	This request is to approve a 27,860 square foot office building on a 1.97 acre site, zoned Office and Institutional -1 Conditional Use District. This proposed site plan requires Planning Commission approval because it is for an office use greater than 25,000 square feet and is located within 400 feet of a residential use and zone. This project also requires Planning Commission approval because it is a non-residential site plan on a site that is less than two acres containing a stand of trees meeting the basal area of 30 square feet within 50 feet of a thoroughfare yet the plan fails to provide a 50 foot wide natural protective yard along the thoroughfare and the applicants are seeking approval of the site plan from the Planning Commission as allowed by 10-2132.2(c)(1)j.
OFFICIAL ACTION:	**Approval with conditions**
CONDITIONS OF APPROVAL:	**As noted on the Staff Report, attached**
FINDINGS:	The Planning Commission finds that, with the conditions of approval below being met this request conforms to Chapter 2, Part 10, Sections 10-2035 and 10-2132.2, Chapter 3, Part 10, Sections 10-3001-3059. This approval is based on a preliminary plan dated May 24th, owned by Creedmoor Lynn Commons, LLC, submitted by Integrated Design.
ADDITIONAL NOTES:	There are no additional notes for this plan.
To PC:	6-26-07
Case History:	
Staff Coordinator:	Eric Hodge
Motion:	Baker
Second:	Davis
In Favor:	Anderson, Baker, Bartholomew, Chambliss, Davis, Everett, Haq, Kuczmarski, Mullins, Smith
Opposed:	
Excused:	

This document is a true and accurate statement of the findings and recommendations of the Planning Commission. Approval of this document incorporates all of the findings of the Staff Report attached.

Signatures: (Planning Dir.) (PC Chair)

for the Director

date: 6/28/07

date: 6/28/07

Staff Report

RECOMMENDED ACTION: **Approval with Conditions**

CONDITIONS OF APPROVAL:

Planning Commission Actions:

(1) That the Planning Commission approve an alternate, including location, related to tree conservation areas as shown on the plans;

(2) That the tree conservation areas proposed may be altered to allow for the disturbance of or removal of trees shown within all or a portion of plot #22 as shown on the preliminary plans as necessary for installation of stormwater control devices;

Administrative Actions:

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

(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 is placed on file in the Planning Department;

(4) That as stormwater control facilities are to be shared with the property to the south (DB 12407 PG 0337) and 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. 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;

(5) That as this plan proposes shared stormwater control measures, shared with the property to the south (DB 12407 PG 0337), and said stormwater control measures shall be owned and maintained by a property owners association for which all lot owners shall be a member. The property owners' 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 property owners' 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 property owners' 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 property owners' 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 (xx) 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;

(6) That all stormwater control measures, swales 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 property owner association;

(7) That all stormwater control measures, swales 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 property owner association;

(8) That a recombination map be recorded prior to or in conjunction with the recording of lots, recombining the existing 4 lots into the proposed configuration;

(9) That all permanently protected undisturbed open space areas 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 protected 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.

Prior to issuance of building permits in the Inspections Department:

(10) That construction plans for public improvements along Creedmoor Rd. be approved by the Public Works Department;

(11) That additional right-of-way along Creedmoor Road be dedicated as shown on the preliminary plan;

(12) 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;

(13) That a tree conservation map be recorded with metes and bound showing the designated Tree Conservation Areas prior, to building permits or in conjunction with the recording of lots whichever comes first Tree conservation shall be in compliance with Code section 10-2082.14;

(14) That a cross access agreement between the subject parcel and the lot immediately to the south (DB 12407 PG 0337) (SP-24-07) is recorded with the local register of deeds office, and a recorded copy is returned to the Planning Department within 14-days of recording. If a recorded copy of this recorded document is not provided to the Planning Department within the 14 day period, further plat recordings and building permits authorization may be withheld;

(15) That a 10 X 6 foot transit easement located on Creedmoor Road be approved by the Transit Planner in the Public Works Transportation Department, be shown on all maps for recording, and that a transit easement deed approved by the City Attorney is recorded with the local

County Register of Deeds. That the recorded copy of this transit easement deed be provided to the Planning Department within 14 days of authorization of lot recording. If a recorded copy of this easement deed is not provided to the Planning Department within the 14 day period, further plat recordings and building permits authorization may be withheld;

(16) That all conditions of Z-103-98 have been satisfied;

ZONING:

ZONING DISTRICTS: Office and Institutional – 1 Conditional Use District. Ordinance N0 485 ZC 447 Effective 1/5/99.

Z-103-98 Creedmoor Road, east side, north of Lynn Road, being Wake County Tax Map Parcels 0797.15 53 1205, 1434, and 1546. Approximately 2 acres rezoned to Office & Institution-1 Conditional Use.

Conditions: (12/7/98)

A. Development shall comply with Planning Commission Certified Recommendation 7107.

B. The office development of this property shall be limited to a maximum floor area ratio (FAR) of .33.

C. Reimbursement for future right-of-way dedication for Creedmoor Road shall be based on R-4 values.

D. The office development of this property shall be limited to a maximum building height of two stories (29 feet.)

E. The exterior building and parking lot lighting shall be shielded so as to produce no direct glare onto adjoining properties zoned as residential district and all freestanding exterior lighting shall not exceed 20 feet in height.

F. Transition yard of 25 feet shall be provided along the common property line of lots with the PIN numbers 0797.15 53 2161 (Siar), 0797.15 53 3335 (Hanna), and 0797.15 53 3568 (Gelston) and 0797.15 53 3458 (Gouldie). This yard shall not be reduced in width and shall be planted in accordance with the City's Landscape Ordinance, and shall remain undisturbed, except for removal of dead, diseased, or nuisance vegetation, required improvements to storm water facilities, utilities, erosion control facilities, fill (to a maximum width of five (5) feet, a fence and landscape plantings.

G. A cross-access agreement will be provided for the subject property and to the adjacent lots with PIN numbers 0797.15 53 1655 (Keith) and 0797.15 53 0088 (Johnson), approved by the City Attorney and recorded in the Wake County Registry prior to a Building Permit being issued.

H. In the event that the street yard is graded, with existing vegetation removed, the required street trees shall be increased to 26 inches total circumference per 50 linear feet of street yard and the minimum street tree caliper shall be increased to 4 inches.

I. Trees larger than 12 inches in caliper located in the street yard shall be surveyed and located on any site plan and consideration shall be given to preserving such trees in accordance with Section 10-2082.5(f)(2) of the Raleigh City Code.

SETBACKS / HEIGHT: This plan conforms to all minimum setback standards. Front yard = 45', rear yard = 31', front / rear aggregate = 76', side yard = 174' and 178', side yard aggregate = 352'. This plan conforms to maximum height standards in this Conditional Uses zoning district which is 29'.

PARKING: Off-street parking conforms to minimum requirements: 93 spaces required, based on 1 parking space per 300 SF. 93 spaces are provided. No reduction of off-street parking spaces for landscape planting area is being utilized.

LANDSCAPING: Street yard landscaping in conformity with Section 10-2082.5 and zoning conditions is shown. Vehicular surface area landscaping in conformity with Section 10-2082.6 is shown. This is a low impact use under Section 10-2082.9. Transitional protective yards are shown in compliance with City standards and zoning conditions, including a 6' fence, in the following locations:

Location	Yard type required	Width proposed
East	25' Type C	30'

TREE CONSERVATION: Section 10-2132.2(c)(1)j., pertaining to approval of site plans by the Planning Commission, codifies the requirements for wooded buffers adjacent to thoroughfares for non-residential site plans less than two acres in size. The Code specifies that if the site contains existing trees comprising a tree density of basal area of 30 sq ft/ac or more within 50 foot of a thoroughfare, than the plan shall either provide a 50 foot natural protective yard along the thoroughfare or seek approval of the proposed site plan from the Planning Commission. The requisite stand of trees exists along the large portion of the property's road frontage.

The Code requires Planning Commission approval of site plans less than two acres in size meeting the basal area requirements if the plan fails to provide either:

10-2132.2(c)(1) j.1.: Establish a uniform 50'-wide natural protective yard along the thoroughfares

10-2132.2(c)(1) j.2. Establish an average 50'-wide natural protective yard along the thoroughfares

0-2132.2(c)(1) j.3. Establish tree conservation areas pursuant to 10-2082.14.

Along Creedmoor Rd, the portion of the property meeting the basal area requirements that triggered Planning Commission review is approximately (~) 300' wide, though the property's entire 535' of road frontage would be subject to the 50' wide natural protective yard. The 50'-wide natural protective yard would use ~31% (.61 acres) of the site, ~17% (.35 acres) of which is wooded. Z-103-98 requires a 25'-wide transitional protective yard (which is not a tree conservation area) along the back and side boundaries of the property. The 25'-wide transition protective yards uses ~15.7% of the property.

10-2082.4 limits the amount of land required by the Landscape Ordinance (10-2082) to a maximum of 30% for each site development project. Additionally, 10-2082.9(b)(5) allows reduction of transitional protective yards by half, however as that is a zoning condition, there can be no reduction. If the 50' natural protective

yard were provided along with the 25' transitional protective yard, approximately 46% of the site would be devoted to landscaping.

However, if compliance with 10-2082.14 were met, which only requires 10% tree conservation area (.19) acres, considerably less than what the natural protective yard options require, only 25.7 % of the site would be devoted to landscaping, though VSA/Streetyard plantings could likely push this figure over 30%.

Section 10-2082.14(g) contains the "buyout" option for tree conservation and may be considered an option to allow the developments to go forward as proposed and still provide a level of compliance with tree conservation (10-2082.14). With the buyout, a monetary payment is made to the City for the land area taken out of compliance. The land value per square foot is based on the most recent tax value, excluding building value.

The applicants are proposing that the Planning Commission approve an alternate tree conservation area which is .17 acres or 8.6% of the site. The proposed TCA is located at the rear of the site. Note: the Planning Commission allowed for the removal of all or a portion of plot #22 as shown on the preliminary plans as needed for installation of stormwater control devices. Zoning Condition I. of Z-103-98 specified that consideration shall be given to preserving trees larger than 12 inches in caliper located in the streetyard along Creedmoor Road.

DEVELOPMENT INTENSITY: Proposed floor area ratio (FAR) of .32 and lot coverage of 16% conform to the maximum zoning district standards of .33 FAR (zoning condition B of Z-103-98) and 25% lot coverage.

PHASING: There is one phase in this development.

UNITY OF DEVELOPMENT: Unity of development and sign criteria are not required in this development.

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.
Creedmoor	± 15'	additional 12' turn lane	N/A

TRANSIT: The following transit-oriented features of this site are incorporated into the proposed plan: a 10' X 6' Transit Easement along Creedmoor Road. This site is presently served by the existing transit system.

URBAN FORM: This site is located in the North Planning District within the Neighborhood Focus area at the intersection of Creedmoor road and Lynn road. The site falls within the non residential side of the Policy Boundary Line of this focus area. Low intensity land uses including retail, office, institutional and medium density residential uses are recommended for this site.

APPEARANCE COMMISSION: The Appearance Commission has made the following comments on this preliminary plan. Shown below are comments and applicant responses:

Comment	Response
The committee supports the alternative means of compliance proposed by the applicant regarding tree conservation, due to: – existing site constraints, – the transitional protective yard being more appropriate for concentrating new plantings, – the parcel's location at a major intersection, where having buildings closer to the street is a more appropriate design response, and the fact that overall, the alternative tree conservation being proposed exceeds 30%.	Applicant agrees

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SUBDIVISION STANDARDS:

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, Sidewalks and Driveway Access Handbook. No dead end street in this development exceeds 800 feet in length.

PUBLIC UTILITIES: City water and sewer services are available. The developer is responsible for installation of all lines necessary to provide service to this site.

SOLID WASTE: The proposed refuse collection facility is located within the rear of the parking area. Refuse collection will be by means of a private contractor. The collection facility will meet the standards set forth in the City's Solid Waste Design Manual.

CIRCULATION: Proposed street improvements shall conform to normal City construction standards.

PEDESTRIAN: Proposed sidewalk locations conform to City regulations. A sidewalk is required along both sides of Creedmoor Road and is shown on the plans along the property's frontage. There is also a proposed pedestrian connection into the site connecting with the public sidewalk system.

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

STORMWATER MANAGEMENT: Stormwater regulations will be met through the use of 2 bio-retention areas and underground pipe storage. Nitrogen requirements will be met through the use of

the 2 bio-retention areas, in addition to a buydown payment to the NCEEP. Detention requirements will be met through the use of underground storage pipes. These stormwater devices are to be shared facilities with the lot at the corner of Lynn Rd and Creedmoor Rd (DB 12407 PG 0337) (SP-24-07).

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)].

SHARED FACILITIES / LEGAL DOCUMENTS/ AGREEMENTS

Lots less 2 acres - This is part of a development with two lots less than one acre in size, stormwater control measures are required to be shared among the all lots and a drainage easement is required. The drainage easement shall include a maintenance covenant prepared and recorded in accordance with section 10-9027 (b), and the attorney who prepared this legal document shall certify in writing to the Raleigh City Attorney that the maintenance covenant is in accordance with Raleigh City Code requirements.

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: No wetland areas or Neuse River riparian buffers are required on this site.

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.