

# Appearance Commission

## Design Alternate Application

The purpose of this request is to seek a Design Alternate from the Appearance Commission. This application and all further action shall be consistent with Section 10.2.18 in the Unified Development Ordinance (UDO). The consideration and decision of this request shall be based on the applicable standard, as outlined in Sec. 10.2.18 of the UDO. **A preliminary subdivision plan, plot plan, or site plan must be submitted to Development Services prior to the submittal of a Design Alternate Application.**

<b>PROJECT</b>	<b>Project Information</b>			
	Project Name Holy Trinity Evangelical Lutheran Church	Case Number SPR-238-2020		
	PIN Number 0794721827	Zoning District R-6		
	Property Address 2723 Clark Avenue			
	City Raleigh	State NC	ZIP 27607-7101	
	<b>Project Applicant Information</b>			
	Name Graham Smith	Email graham@sitecollaborative.com		
Address 821 Wake Forest Road				
State NC	Zip Code 27604	Phone 919.605.3082		
<b>OWNER</b>	<b>Property Owner Information</b>			
	Name Eric Hardin - Council President	Email hardinej@gmail.com		
	Address 2723 Clark Avenue		City Raleigh	
	State NC	Zip Code 27607-7101	Phone 919.521.4545	
<b>ATTORNEY</b>	<b>Attorney Information</b>			
	Name	Email		
	Address		City	
	State	Zip Code	Phone	

<b>REQUEST</b>	<b>I am seeking a Design Alternate from the requirements set forth in the following:</b>		
	<input checked="" type="checkbox"/> UDO Article 8.3.2, 8.3.4, 8.3.5	See page 2 for findings	
	<input type="checkbox"/> UDO Article 8.4, 8.5, Raleigh Street Design Manual	See page 3 for findings	

<b>CHECKLIST</b>	
Signed Design Alternate Application	<input checked="" type="checkbox"/> Included
Page(s) addressing required findings	<input checked="" type="checkbox"/> Included
Plan(s) and support documentation	<input checked="" type="checkbox"/> Included
Notary page filled out by owner	<input checked="" type="checkbox"/> Included
Stamped and addressed envelopes; corresponding mailing list per UDO Sec. 10.2.1.C.1.	<input checked="" type="checkbox"/> Included
Fee - \$211.00	<input checked="" type="checkbox"/> Included

## **UDO Section 8.3.2, 8.3.4, 8.3.5**

### **Design Alternate Findings**

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The Appearance Commission may in accordance with Sec. 10.2.18.D approve a design alternate, subject to all of the following findings.

For design alternates related to block perimeter, please provide the exact linear footage and exhibit/depiction of the existing or proposed block.

1. The approved Design Alternate meets the intent of Sections 8.3.2, 8.3.4, and 8.3.5  
See attached documentation
  
2. The approved Design Alternate does not increase congestion or compromise safety;  
See attached documentation
  
3. The approved Design Alternate does not conflict with an approved or built roadway construction project adjacent to or in the vicinity of the site (no Design Alternate shall be approved when the City Council has authorized a roadway design project in the vicinity, where the roadway design has not yet been finalized); and  
See attached documentation
  
4. The Design Adjustment is deemed reasonable due to one or more of the following:
  - a. Given the existing physical environment, compliance is not physically feasible;  
See attached documentation as we believe that this applies to our project
  
  - b. Compliance would not meaningfully improve connectivity;  
See attached documentation at we believe that this applies to our project
  
  - c. Compliance is not compatible with adjacent uses[s]; or
  
  - d. The burden of compliance is not reasonable given the size of the site or the intensity of the development.

not applicable to this project

## UDO Articles 8.4, 8.5 and RALEIGH STREET DESIGN MANUAL Design Alternate Findings

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The Appearance Commission may in accordance with Sec. 10.2.18.E approve a design alternate, subject to all of the following findings.

For design alternates related to block perimeter, please provide the exact linear footage and exhibit/depiction of the existing or proposed block.

1. The approved Design Alternate meets the intent of Articles 8.4 and 8.5 or the Raleigh Street Design Manual (if applicable);
2. The approved Design Alternate does not increase congestion or compromise safety;
3. The approved Design Alternate does not create additional maintenance responsibilities for the City;
4. The approved Design Alternate has been designed and certified by a Professional Engineer, or such other Design Professional licensed to design, seal, and certify the alternate;
5. The approved Design Alternate will not adversely impact stormwater collection and conveyance; and
6. The Design Alternate is deemed reasonable due to one or more of the following:
  - a. Given the existing physical environment, including but not limited to the following, compliance is not physically feasible:
    - i. An existing building would impede roadway expansion; or
    - ii. Transitioning from a different street section; or
  - b. The burden of compliance is not reasonable given the size of the site or intensity of the development.

# City of Raleigh, NC Appearance Commission Application Instructions



## **PRE-APPLICATION MEETING**

A pre-application meeting with City staff is required *prior to* the submittal of a Design Alternate Application. Please contact the Transportation Reviewer assigned to your Development Plan Application to schedule a Pre-application meeting. For general questions regarding the process to seek a Design Alternate, please contact [Daniel.king@raleighnc.gov](mailto:Daniel.king@raleighnc.gov).

**FILING FEE: \$211.00**

## **SUBMITTAL REQUIREMENTS**

Design Alternate Applications can be downloaded from City's official website [Design Alternate Process](#). An application will not be considered complete until **ALL** the following items have been submitted:

1. Payment of filing fee - All applications must be paid via check made out to the "City of Raleigh";
2. The most current version of your Development Plan highlighting the Design Alternates requested must be included with your application. If the Development Plan is amended, you must update the Design Alternate Application to include a copy of the most recent version of the Development Plan **no later than 15 business days prior to the evidentiary hearing on your Application.**
3. A list that includes the names and mailing addresses of the following: (1) owner(s) of the subject property included in the Application and (2) the owners of all property within 100 feet on all sides of the Subject Property, all as listed in the Wake County tax records at the time of submittal. Applicants may utilize the Label Creator tool located on the City's webpage <https://raleighnc.gov/board-adjustment>;
4. One (1) original hard copy of the signed and notarized Certification of Owner(s) or Applicant(s); and
5. Stamped (first class) and labeled envelopes addressed to the owner(s) of the Subject Property and the owners of all property within 100 feet on all sides of the Subject Property as noted on the required list. It is requested that the envelopes be self-sealing (peel and stick) and labeled with the following return address: Department of Planning and Development, City of Raleigh, P.O. Box 590, Raleigh, NC 27602-0590

***\* Notarized Certification of Owner(s) or Applicant(s) and Stamped and Addressed Envelopes MUST be submitted by the filing deadline \****

## **FILING DEADLINES**

Complete applications must be filed minimum a of 60 days prior to the date the Appearance Commission conducts the evidentiary hearing on the application. If the Development Plan is amended, you must update the Design Alternate Application to include a copy of the most recent version of the Development Plan no later than 15 business days prior to the evidentiary hearing on the application.

## **PUBLIC HEARING REQUIREMENT**

The Raleigh Appearance Commission conducts evidentiary hearings on requests for Design Alternates. The Appearance Commission considers the application and the sworn testimony, and other relevant written and/or illustrative evidence entered into the record at the evidentiary hearing on the application.

Notification of the public hearing will take place by each of the following methods:

- **By Mail** – City Staff will prepare and mail a written notice to the owner(s) of the property (the “Subject Property”) included in the Design Alternate Application and the owners of all property within 100 feet on all sides of the Subject Property. This notice will be postmarked not more than 25 calendar days and no less than 10 calendar days prior to the date of the evidentiary hearing.
- **By Web** - Notice will be posted on the City’s official website no less than 10 calendar days prior to the date of the evidentiary hearing.
- **On-Site** - Notice will also be posted by City staff on the Subject Property at least 10 days prior to the date of the evidentiary hearing. **NOTICE TO APPLICANT - The applicant must retrieve the posted sign the morning of the evidentiary hearing and return it to the City either at the evidentiary hearing or within three (3) business days following the evidentiary hearing or they will be charged \$45.00.**

### **QUASI-JUDICIAL EVIDENTIARY HEARING**

You or your legal representative are **required** to attend and present your case before the Appearance Commission. The Appearance Commission will consider the application, any other relevant written and/or illustrative evidence entered into the record, including the Staff Report, and any sworn testimony, all at an evidentiary hearing. After the evidentiary hearing, the Appearance Commission will vote to approve, approve with conditions, or deny the application.

Appearance Commission meetings are typically held the 1<sup>st</sup> and 3<sup>rd</sup> Monday of each month in the City Council Chamber, Room 201 of the Raleigh Municipal Building located at 222 W. Hargett Street. Meetings begin at 4:30 p.m. unless otherwise specified.

The Appearance Commission conducts evidentiary hearings on Design Alternate Applications at its meeting on the 1<sup>st</sup> Thursday of each month.

The Appearance Commission conducts an evidentiary hearing and makes its decision based on the written and oral evidence in the record. Members of the Appearance Commission must refrain from *ex parte* communications (communications outside of the hearing itself) regarding upcoming or ongoing cases including the applicant and other members of the Appearance Commission. All testimony before the Appearance Commission must be “sworn” testimony; therefore, all persons wishing to speak on the matter must be sworn in

All applicants are advised to have an attorney represent them as this is a legal proceeding. Applicants that are entities, including governmental entities, corporations, LLCs, LLPs and Partnerships must be represented by an attorney. Engineers, architects, real estate agents, planners and other non-attorneys may only appear as witnesses; they may not appear on behalf of an applicant or those opposed to an application in a representative capacity. In addition, only an expert can testify regarding matters that require expert testimony such as impacts of proposed activities on property values, traffic, or stormwater runoff. Individuals opposed to an application may appear and represent themselves at the hearing (entities opposing an application, however, must be represented by an attorney as explained above).

### **ADDITIONAL INFORMATION:**

The aforementioned is provided for informational purposes only. For further information, applicants are advised to consult the appropriate sections of the North Carolina General Statutes, the City Code, and the City’s Unified Development Ordinance (“UDO”).

For further information on the quasi-judicial hearing process, please review “A Citizen’s Guide to Evidentiary Hearings” available on the City’s website here:

<https://cityofraleigh0drupal.blob.core.usgovcloudapi.net/drupal-prod/COR14/EvidentiaryHearing.pdf>

**NOTARIZED CERTIFICATION OF OWNER(S)**

**Owner Information**

Name(s)	Holy Trinity Evangelical Lutheran Church	ERIC HARDIN - COUNCIL PRESIDENT
Mailing Address	2723 Clark Avenue, Raleigh, NC 27607-7101	
Telephone	919.521.4545	
Fax	n/a	
Email	HARDINEJ@GMAIL.COM	
Project PIN/Address	0794721827	

I, Eric Hardin, the undersigned, being first duly sworn, depose and say that I voluntarily submitted this Design Alternate Application to the City of Raleigh; that I am the owner(s) of the property described and which is the subject matter of this Application; that all answers to the questions in this application, and all plot plan(s), sketches, data and other supplementary information attached to this application are honest and true to the best of my knowledge and belief. Submission of an incomplete or incorrect application may result in a delay in processing or the rejection of my application.

*[NOTE: If the owner is a corporation, this must be signed by an authorized corporate officer; If the owner is a partnership, this must be signed by a general partner; If the owner is a limited liability company, this must be signed by the Manager for a manager managed LLC, or all the members for a member managed LLC.] For multiple owners, attach additional Notarized Certification of Owner(s) pages.*

Date: 9/2/2021

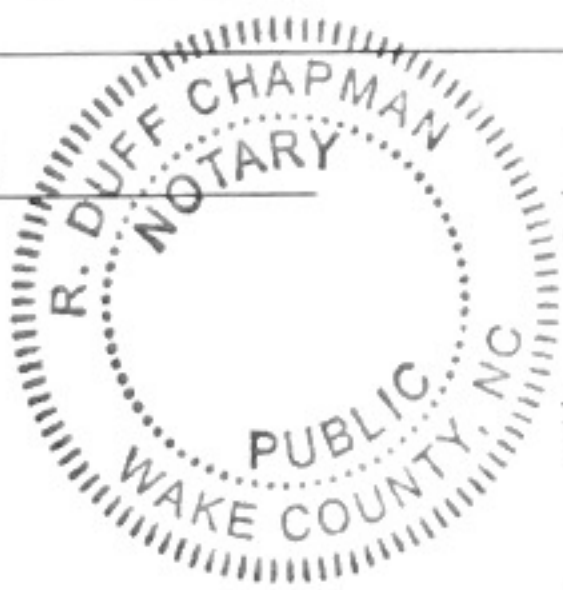
Eric Hardin  
Signature

STATE OF NORTH CAROLINA  
Wake COUNTY

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing application for the purpose stated therein and in the capacity indicated:

Eric Hardin

Date: 9/2/2021



[Signature]  
Official Signature of Notary

[NOTARY SEAL]

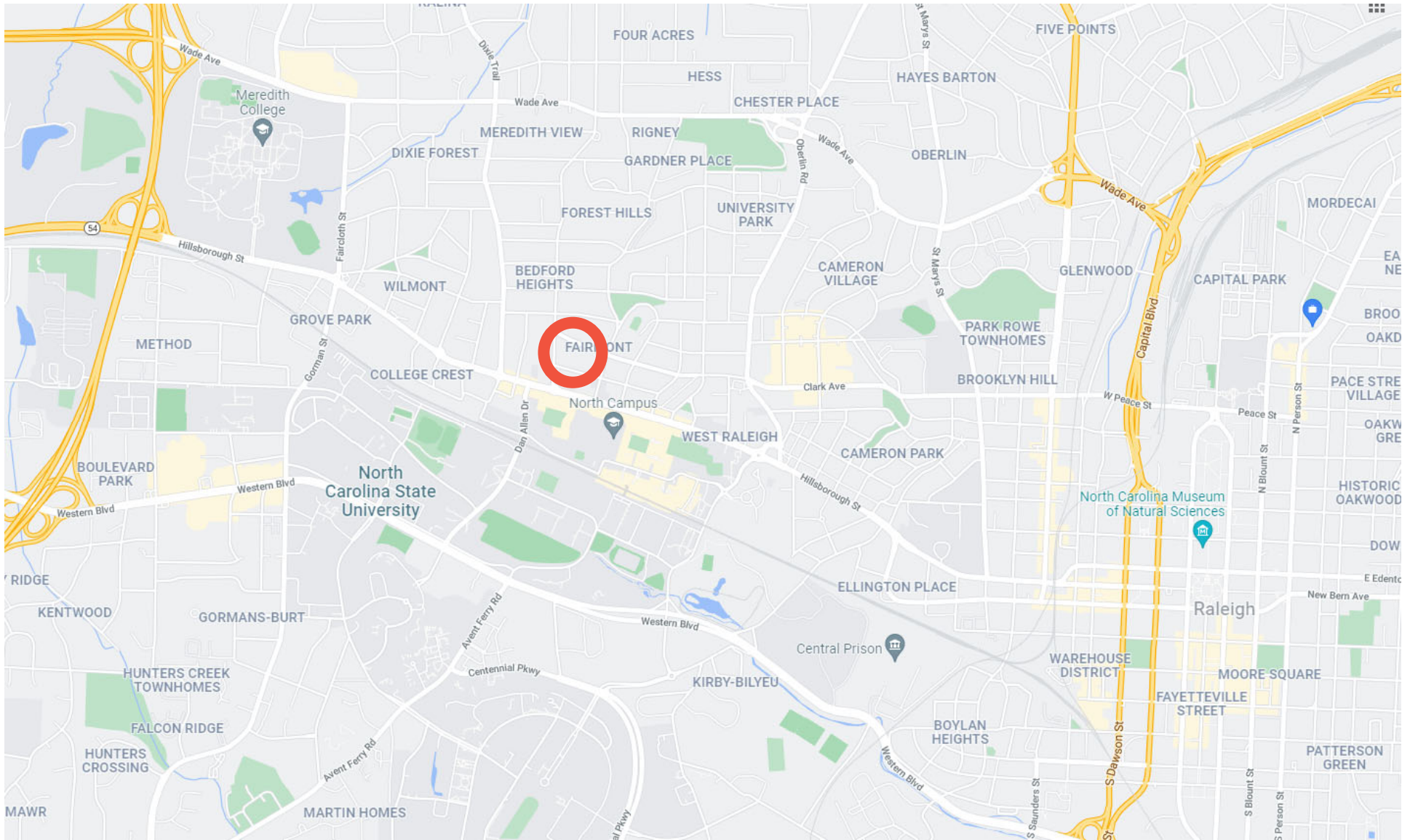
R. Duff Chapman, Notary Public  
Notary's Printed or Typed Name

My Commission expires: 7/29/2023

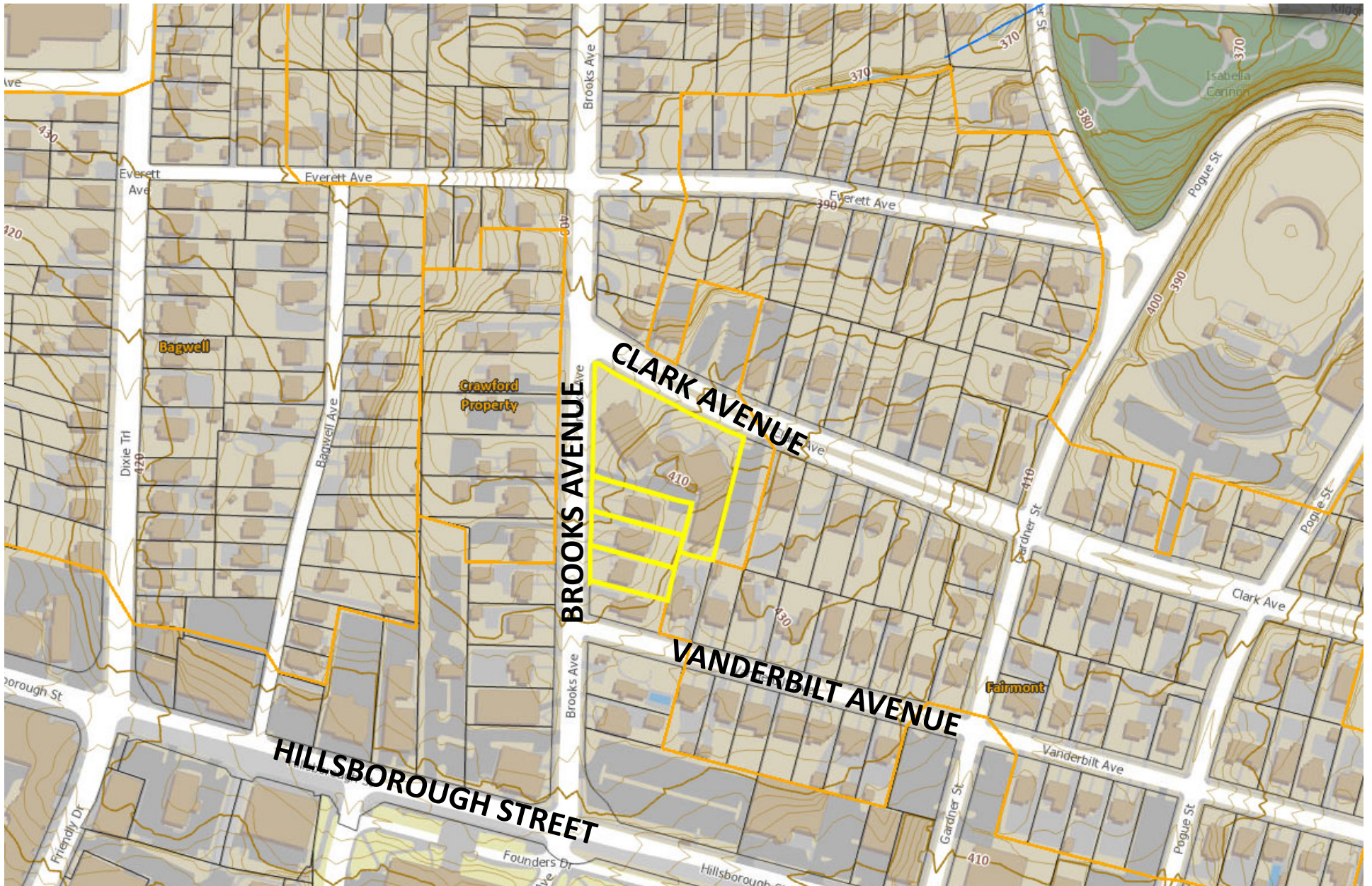
**HOLY TRINITY  
EVANGELICAL LUTHERAN CHURCH**

2723 CLARK AVENUE

**SPR - 238 - 2020**







project location



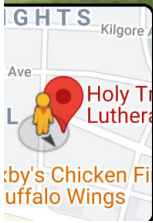
 driveway  
location

project location (existing driveways)

Brooks Ave  
High, North Carolina  
Google  
Street View - Jun 2019



Brooks Ave  
High, North Carolina  
Google  
Street View - Jun 2019



existing condition: brooks avenue (middle north)

5 Brooks Ave  
Raleigh, North Carolina  
Google  
Street View - Jun 2019



Brooks Ave  
High, North Carolina  
Google  
Street View - Jun 2019



Brooks Ave  
gh, North Carolina  
Google  
Street View - Jun 2019



Brooks Ave  
High, North Carolina  
Google  
Street View - Jun 2019





Brooks Ave  
High, North Carolina  
Google  
Street View - Jun 2019



VANDERBILT AVENUE  
NEIGHBOR

#4

#5

Google

**\*REMOVES 4 DRIVEWAYS**

**\*ELIMINATES INTERNAL AND EXTERNAL CONFLICTS BETWEEN PEDS AND VEHICLES**

**\*CREATES OPPORTUNITY FOR AT LEAST 5 MORE ON-STREET PARKING SPACES (FOR NCSU STUDENTS AND NEIGHBORHOOD)**

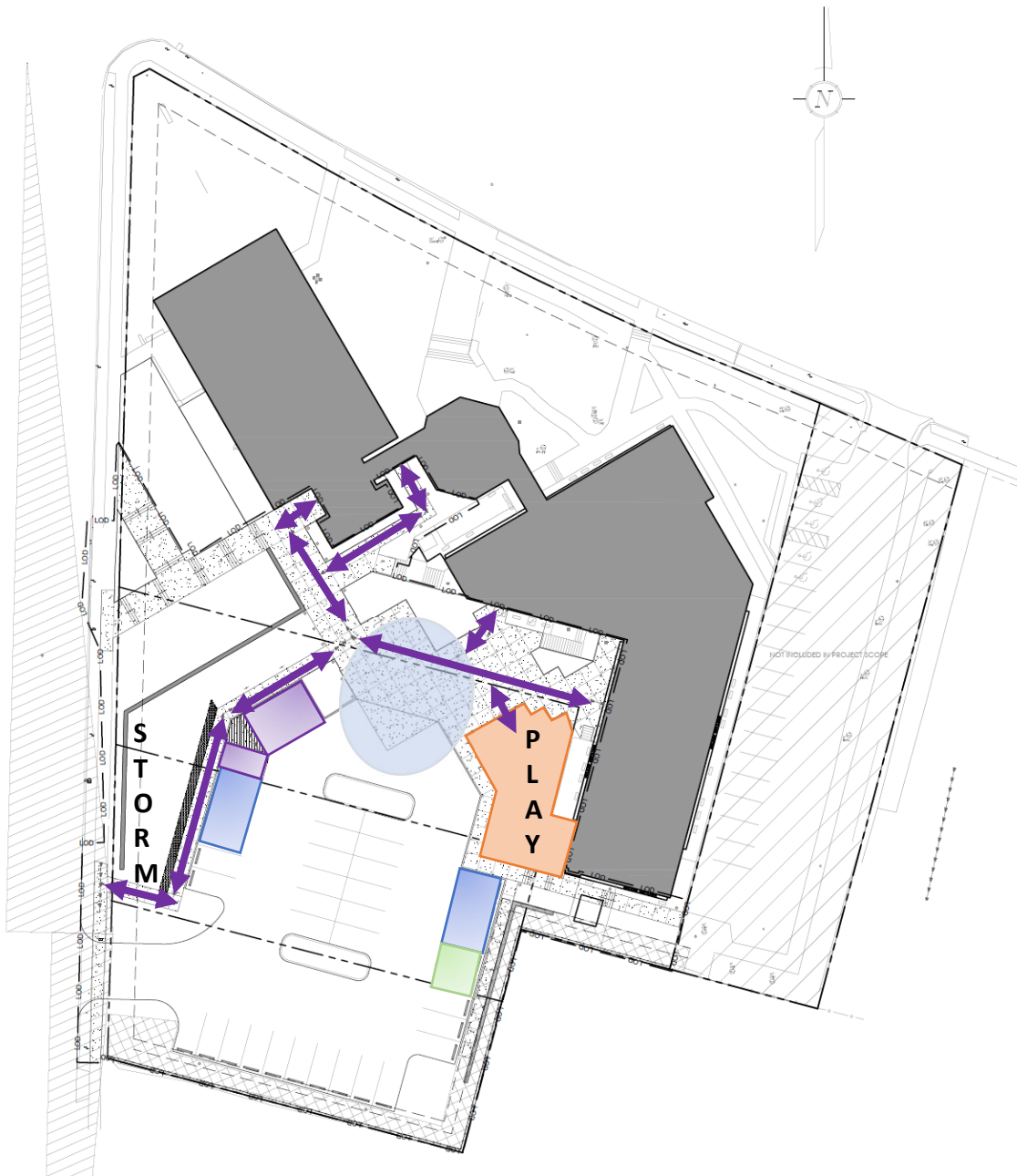
**\*PLACES CHURCH PARKING ON-SITE AND NOT ON-STREET**

**\*ALLOWS FOR INTEGRATED STORMWATER MANAGEMENT DEVICE**

**\*ALLOWS FOR PLANTED/GREEN EDGE ALONG BROOKS**



**proposed condition (drives)**



All available parcels

39 total parking spaces

3 designated ADA spaces



6 parking spaces @ 10' wide



2 signed visitor space @ 9' wide



28 parking spaces @ 9' wide

Large outdoor gathering space



Accessible entry to narthex,  
office, casket door, and  
fellowship door



Playground on west side of  
building

Pedestrian walk to east parking  
lot



proposed condition (drives)

### **Section 8.3.1- Intent:**

C. *The access regulations are intended to provide a means for safe, efficient and convenient vehicular and pedestrian access within developments and between adjacent developments and to lessen traffic congestion. Pedestrian, bike and vehicular access should be safe, direct and convenient. All existing and proposed development must provide vehicular, pedestrian and bicycle ingress and egress to and from a street or an abutting site.*

**SAFE: Removes 5 driveways and installing only 1 + allowing for pedestrians to safely access Brooks Ave. via an ADA compliant pedestrian route that doesn't exist today + ensuring that no crossing of pedestrians with vehicles on route to Brooks Ave.**

**EFFICIENT: Removing 5 existing driveways and installing only 1**

**CONVENIENT: Allows for visitor parking on-site for church + allows for new ADA spaces to be placed on site for church visitors + staff + allows for more on-street parking for NCSU students and neighbors + creates an ADA pedestrian route that doesn't existing today between Brooks Ave., new parking spaces and 4 doors on church property.**

**DIRECT: Current 'direct' route is dangerous with conflicts for pedestrians and vehicles + current 'direct' route is not ADA compliant (for parking spaces nor pedestrians) + proposed solution solves these concerns + allows for a cohesive and inherently understood site circulation flow for church visitors**

**TO + FROM A STREET: Provides a clear connection to Brooks Ave. from site for all mobility modes**

### **Section 8.3.5.A - General Access Requirements:**

1. All existing and proposed development must provide vehicular, pedestrian and bicycle ingress and egress to and from a street or an abutting site.

**Proposed solution provides this**

2. All on-site parking areas must have vehicular access from a street, an alley, a drive aisle or a cross-access easement.

**Proposed solution provides this**

3. All on-site parking areas must be designed to allow vehicles to enter and exit the parking area in a forward motion, unless otherwise approved by the Development Services Director. An improved alley may be used as maneuvering space for access to on-site parking areas

**Proposed solution provides this**

### **Section 8.3.5.B – Pedestrian Access Requirements:**

1. All existing and proposed development must provide ADA compliant pedestrian access connecting main entrances of buildings, establishments or uses on a site that allows for public access, with all other public entrances and with available access points including parking, streets, sidewalks and transit stops with the exception of the following uses which are exempt:

a. Single- or two-unit living; b. Multi-unit living with 6 or fewer dwelling units; c. Agricultural use; d. Parks, open space and greenways; e. Cemetery; f. Telecommunication tower; g. Off-premise sign; h. Minor utilities; i. Prisons; and j. Other uses not containing a principal building on the premise (with the exception of a parking facility).

**Proposed solution provides this and enhances it (currently non-existent)**

2. Pedestrian access shall consist of an accessible, easily-discernible and ADA compliant walkway or multi-use path with a minimum width of 5 feet.

**Proposed solution provides this and enhances it (currently non-existent)**

3. The pedestrian access surface located on private property shall be constructed of concrete, asphalt or other ADA approved fixed, firm and nonslip material as approved by the Development Services Director.

**Proposed solution provides this and enhances it (currently non-existent)**

4. Pedestrian access routes between buildings and public rights-of-way shall be physically separated from vehicular surface areas, except where required to cross a drive aisle; such crossings shall be perpendicular wherever practicable.

**Proposed solution provides this and enhances it (currently non-existent)**

5. Site plans containing multiple principal buildings shall submit a phasing plan. The phasing plan shall include all necessary elements to address phasing of walkway construction for the existing principal buildings and uses on the site as new buildings and building expansion occurs in the future.

**Not applicable**

**#2: Does not increase congestion or compromise safety:**

1. Church is not physically expanding thus services have the same amount of visitors as before – yet with this proposed change, more parking is on site and not on street.
2. More parking is provided on the street as well with this scenario as driveways have been removed.
3. This proposed solution simplifies movement into and out of the church site with an ADA accessible pedestrian route as well that doesn't conflict with vehicular movements.

**#3: Does not conflict with an approved or built roadway project:**

None have been identified by City staff



The Design Adjustment is deemed reasonable due to one or more of the following:

- a. Given the existing physical environment, compliance is not physically feasible;  
**If the project were forced to comply, placing a driveway in the 'center' of the frontage would not allow for the following due to physical feasibility:**
  - a. **ADA pedestrian access that doesn't conflict with vehicular access/route**
  - b. **One integrated stormwater device adjacent to the parking area**
  - c. **A consistent open and visual edge for the church to 'open their doors' to the community**
- b. Compliance would not meaningfully improve connectivity;  
**The proposed improvements improve connectivity internally within this site – yet if this project were forced to comply, connectivity to external parcels would not meaningfully improve as it is not applicable.**
- c. Compliance is not compatible with adjacent uses[s]; or
- d. The burden of compliance is not reasonable given the size of the site or the intensity of the development.

**HOLY TRINITY  
EVANGELICAL LUTHERAN CHURCH**

2723 CLARK AVENUE

**SPR - 238 - 2020**