



Administrative Action Preliminary Subdivision

City of Raleigh
Development Plans Review Center
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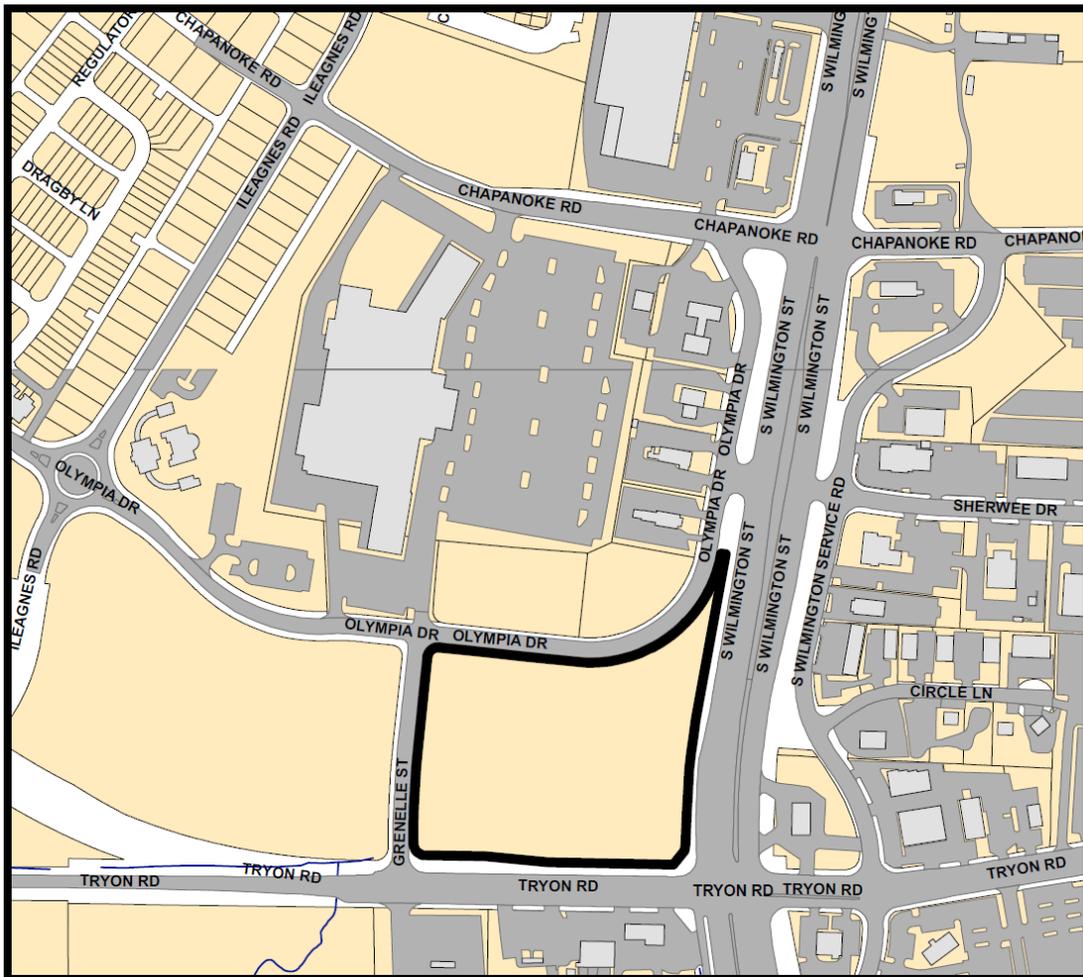
Case File / Name: S-20-2010 / The Weiser Companies

General Location: The northwest corner of the intersection of S. Wilmington Street and Tryon Road

CAC: Southwest

Nature of Case: The subdivision of a 7.55 acre tract zoned Shopping Center Conditional Use District into two lots. The proposed lots are 5.03 acres and 2.52 acres in size.

Contact: Leigh Potts, Withers & Ravenel



S-20-2010 The Weiser Companies – Location Map

SUBJECT:
CROSS-REFERENCE: Transaction #267424 Strayer University, lot 1, Z-71-04

LOCATION: This site is located at the northwest corner of the intersection of S. Wilmington Street and Tryon Road, inside the City Limits.

REQUEST: A two lot subdivision of a 7.55 acre tract zoned Shopping Center Conditional Use District. A permit has been issued and a building is under construction, known as Strayer University.

ADDITIONAL NOTES: The encroachment agreement for the stormwater pipe was recorded in BM 014118 pg 00225. The required tree conservation area and transit easement were previously recorded (BM 2010 PG 1005).

OFFICIAL ACTION: **Approval with conditions**

CONDITIONS OF APPROVAL:

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

- (1) That a maintenance manual and budget for any detention or retention facilities or wet ponds be approved by the Conversation Engineer in the Public Works Department, that covenants for the maintenance of such facilities prepared in accordance with Raleigh City Code Section 10-5007(c), including as an incorporated attachment the City approved maintenance manual. That the maintenance covenant is recorded and recorded copies are provided to the Planning Department within 14 days of authorization of lot recording. If a recorded copy of these documents are not provided to the Planning Department within this 14 day period, further plat recordings and building permits issuance may be withheld;
- (2) That the off-site drainage easement deed (across Grenelle Street on the commercial property that is part of the PDD, Renaissance Park), is recorded and a legal document approved by the City Attorney's office and recorded at the Wake County Register of Deeds; An encroachment has been obtained and recorded. The agreement shall reflect impervious limitations for each lot 1 and 2.

Prior to Planning Department authorization to record lots:

- (3) That a note must be placed on any plat for recording noting that unity of development criteria will apply to these lots, and that a unity of development plan (for Renaissance Park) is on file in the Planning Department.
- (4) That condition C, H and N of Z-71-04 are met and that easements required to meet these conditions are recorded in the Wake County Register of deeds office within 14 days of lot recording;
- (5) That the City Attorney approve a restrictive covenant for the 88,500 square feet of non-residential allocation in accordance with condition L of Z-71-04; This allocation shall be referenced on the plat for recordation; The allocation shall be recorded within 14 days of lot recordation;

- (6) That a maintenance manual and budget for any detention or retention facilities or wet ponds be approved by the Conversation Engineer in the Public Works Department, that covenants for the maintenance of such facilities prepared in accordance with Raleigh City Code Section 10-5007(c), including as an incorporated attachment the City approved maintenance manual. That the maintenance covenant is recorded and recorded copies are provided to the Planning Department within 14 days of authorization of lot recording. If a recorded copy of these documents are not provided to the Planning Department within this 14 day period, further plat recordings and building permits issuance may be withheld;
- (7) That the offsite stormwater control measures will 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 property owner's association is prepared in strict conformity with City approved forms on file in the Planning Department and required by Raleigh City Code Section 10-3071 through 10-3074 and 10-9027(b). A recorded copy of these forms 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;

The property owner's 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 (11) above) and this manual is attached as an exhibit to the Stormwater Replacement Protection Easement and Access Maintenance agreement required by condition (11) 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 (11) 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 Planning Department as evidenced by signature of the Planning Department 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 subjecting 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, plant 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 Code 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 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 the off-site drainage easement deed (across Grenelle Street on the commercial property that is part of the PDD, Renaissance Park), is recorded and a legal document approved by the City Attorney's office and recorded at the Wake County Register of Deeds; An encroachment has been obtained and recorded. The agreement shall reflect impervious limitations for each lot 1 and 2;
- (9) That the required tree conservation area (BM 2010 PG 1005), which was approved prior to the subdivision shall be shown with a metes and bounds description on all plats for recording;
- (10) 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 property association."; See condition # 7 above.

Prior to issuance of building permits in the Inspections Department:

- (11) That prior to permit issuance, legal documents for the shared wetland must be updated.

I hereby certify this administrative decision.

Signed: (Planning Dir.) Mitchell Siler (C. Hays) Date: 10-5-10

Staff Coordinator: Eric Hodge, AICP

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 of approval being met, conforms to Chapter 2, Part 10, Sections 10-2041 Chapter 3, Part 10, Sections 10-3001-3059. This approval is based on a preliminary plan dated September 1, 2010, owned by Weiser Garner, LLC, submitted by Withers & Ravenel.

ZONING:

ZONING

DISTRICTS: Shopping Center Conditional Use District. Ordinance (2004) 790 ZC 567; effective March 15, 2005.

Z-71-04 – Tryon Road and South Wilmington Street, northwest quadrant, being various Wake County PIN's. Approximately 8.85 acres rezoned to Shopping Center Conditional Use District.

Conditions dated: 3/9/05

- A. Architecture for development within this subject area shall adhere to the same Unity of Development Criteria submitted for the adjacent Amelia Park PDD (MP-4-04). In the event that the Amelia Park PDD (MP-4-04) is not approved, a separate Unity of Development application that applies to the Z-71-04 subject property shall be submitted for approval to the City.
- B. Street yards along all public streets shall be a minimum of fifteen (15') feet in width and shall be provided in accordance with City Code Section 10-2082.5(d)(2).
- C. Upon development, vehicular and pedestrian connections shall be made to Tract B of the adjacent Amelia Park PDD (MP-4-04) (Wake County PIN 1702-21-6612 DB 02204 Page 0113). In the event the Amelia Park PDD (MP-4-04) is not approved, the developer shall still provide a vehicular and pedestrian access easement upon development of the subject property to Wake County PIN 1702-21-6612 DB 02204 Page 0113.
- D. Full movement entry drives to the surrounding public streets shall be designed so they provide logical and safe vehicular movements between the adjacent shopping center parcels to the north (Wake County PINs 1702-31-0938 DB 08621 Page 1387; 1702-32-3154 DB 07511 Page 0178; 1702-21-7999 DB 08621 Page 1387) and Tract B of the adjacent Amelia Park PDD (MP-4-04) (Wake County PIN 1702-21-6612 DB 02204 Page 0113).
- E. The development shall provide a minimum of two (2) five (5') foot wide sidewalk connections (in addition to those provided along Tryon Road) to the Tract B of the adjacent Amelia Park PDD (MP-4-04). In the event that the Amelia Park PDD (MP-4-04) is not approved, the developer shall provide the corresponding two (2) five (5') foot wide sidewalk connections to both Tract B (Wake County PIN 1702-21-6612 DB 02204 Page 0113) and to the adjacent shopping center parcel to the north (Wake County PINs 1702-31-0938 DB 08621 Page 1387; 1702-32-3154 DB 07511 Page 0178; 1702-21-7999 DB 08621 Page 1387).

- F. One (1) fixed bike rack, one (1) bench and one (1) outdoor trash receptacle shall be provided for every 20,000 square feet of gross floor area. Locations may vary so long as at least one of each is located within 100' of each store entrance.
- G. Linear landscaped medians (to meet the City's Vehicular Surface Area standards in 10-2082.6(c)(9) a through c) shall be provided to break up surface parking areas. These landscaped medians shall be provided between parking spaces at minimum rate of one (1) island per 65,000 square feet of Vehicular Surface Area.
- H. Vehicular and pedestrian cross-access easements shall be provided among all non-residential uses in the subject property.
- I. Upon development of the property, a minimum of one (1) transit easement with a minimum dimension of 15' by 20' shall be offered within the development area. A central location for this transit easement with access to a public street that is also suited for pedestrians and development activity shall be determined by the City of Raleigh Transit Division at the time of plan submittal. The location for this transit easement will take into consideration the location of the transit easement and shelter to be provided within Tract B of Amelia Park PDD (MP-4-04) (if approved).
- J. All uses permitted in Shopping Center (SC) Districts shall be allowed except for: Residential (all); Cattery; Kennel; Riding Stables; Telecommunications Towers; Automotive service/repair facilities; Vehicle sales/rental; Individual storage buildings; Mini-warehouse storage facilities; and Adult establishments.
- K. Points of vehicular/egress along the re-alignment of Tryon shall be limited to a maximum of one (1) driveway. Additional access points shall be obtained via access to other public streets that surround and/or bi-sect the subject area. The location of this drive shall be reviewed and approved by the City and NC DOT for adequate spacing and safety.
- L. All non-residential uses within the subject area shall be limited to a maximum of 88,500 square feet (floor area gross).
- M. Individual non-residential buildings shall provide minimum height of twenty (20') feet and a maximum height of fifty (50') feet.
- N. An easement with a minimum area of 400 square feet shall be offered to the City for the purposes of locating an entry feature and /or sign that indicates entry to the City of Raleigh. The location for this easement shall be determined and provided by the developer upon development of the subject property.
- O. Reimbursements for any additional right-of-way shall be at the City's established rate for Industrial-1.

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

**TREE
CONSERVATION:** 10.51% or .759 acres of Tree Conservation Areas was approved but not yet recorded on proposed Lot 1 as part of Transaction #267424 Strayer University Site Plan/Building Permit.

**UNITY OF
DEVELOPMENT:** Unity of development criteria is required in this subdivision. A unity of development plan has already been approved for this tract (Renaissance Park). A note must be placed on any plat for recording noting that unity of development

criteria will apply to these lots, and that a unity of development plan is on file in the Planning Department.

PHASING: There is only one phase in this development.

**COMPREHENSIVE
PLAN:**

GREENWAY: There is no greenway on this site.

**THOROUGHFARE
/ COLLECTOR
PLAN:**

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

TRANSIT: A 15x20 transit easement was approved as part of the Strayer University Site Plan.

URBAN FORM: This site is located in the Southwest Citizen Advisory Council, in an area. This site falls within a designated Mixed Use Community Center on the Growth Framework Map of the Comprehensive Plan. At time of Site Plan, Urban Design Guidelines would apply.

Policy LU 4.5 – Connectivity; would also apply to this subdivision. The proposed plan is consistent with this policy.

The following Comprehensive Plan policies would apply at time of Site Plan review:

1. LU 6.1 – Composition of Mixed Use Centers
 2. LU 6.4 – Bus Stop Dedication
 3. LU 7.4 – Scale and Design of New Commercial Uses
 4. LU 7.6 – Pedestrian Friendly Development
 5. T 5.5 – Sidewalk Requirements
 6. Urban Design Policies for Mixed Use Development, Table UD-1 Urban Design Guidelines
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**SUBDIVISION
STANDARDS:**

LOT LAYOUT: There are no minimum lot sizes or dimensional requirements in this zoning district.

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 Handbook. No dead end street in this development exceeds 800 feet in length.

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: In accordance with the Solid Waste Design Manual, individual lot service will be by private contractor.

CIRCULATION: Existing street improvements conform to normal City construction standards.

PEDESTRIAN: Existing and proposed sidewalk locations conform to City regulations. A sidewalk is required along the entirety of the properties street frontages with the exception of South Wilmington Street which is a controlled access road in this location.

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

STORMWATER MANAGEMENT: This site is subject to stormwater management controls in accordance with Chapter 9 of Part 10 of the Raleigh City Code. Proposed off-site stormwater control measures are shown in accordance with the Raleigh Stormwater Control and Watercourse Buffer Manual.

Previously approved constructed wetland across Grenelle Street has been designed and built to accommodate the development proposed with this subdivision. Based on the design of the wetland, Lot 1 is restricted to 2.77 acres of total impervious; Lot 2 is restricted to a total impervious of 2.03 acres. Legal documents must be updated to reflect the property owner(s) of lot 1 and 2 as a contributor to the shared device prior to the approval or issuance of any permits associated with lot 1. An off-site drainage easement is to be reviewed by the City Attorney and then recorded at the Wake County Register of Deeds.

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

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

OTHER REGULATIONS: Developer shall meet all City requirements, including underground utility service (§10-3059), flood protection measures (Part 10, Chapter 4), and the soil erosion ordinance (Part 10, Chapter 5), unless specifically varied by this approval.

SUNSET DATES: If significant lot recording has not taken place on a project after preliminary subdivision approval, that approval may "sunset" and be declared void, requiring re-approval before permits may be issued. To avoid allowing this preliminary approval to "sunset", the following must take place by the following dates:

3-Year Sunset Date: 10/5/2013
Record at least ½ of the land area approved.

5-Year Sunset Date: 10/5/2015
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.