



# Administrative Action Preliminary Subdivision

City of Raleigh  
Development Plans Review Center  
One Exchange Plaza  
Raleigh, NC 27602  
(919) 996-2626  
www.raleighnc.gov

**Case File / Name:** S-76-15 / Legacy at Brier Creek

**General Location:** The site is located on the southeast quadrant of Brier Creek Parkway and TW Alexander Drive, inside the city limits.

**CAC:** Northwest

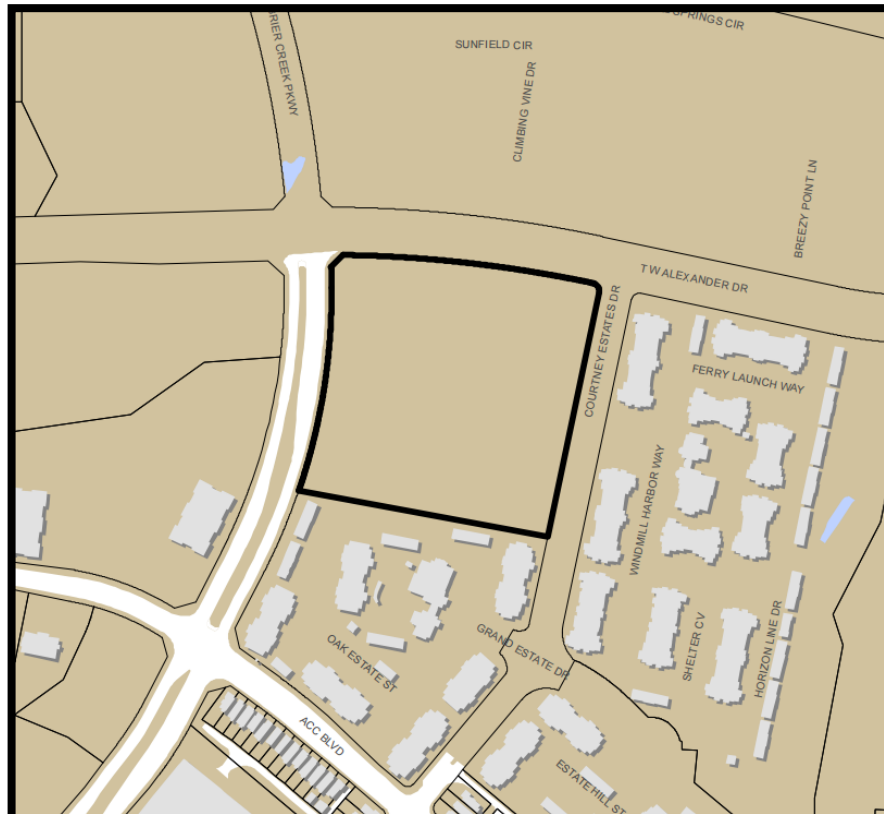
**Nature of Case:** Subdivision of 9.48 acres into 3 lots zoned OX-5-CU. Lot 1 will be 5.38 acres, Lot 2 will be 3.08 acres, and Lot 3 will be 0.90 acres. Lot 3 will be developed as an off-site stormwater facility for both Lots 1 and 2.

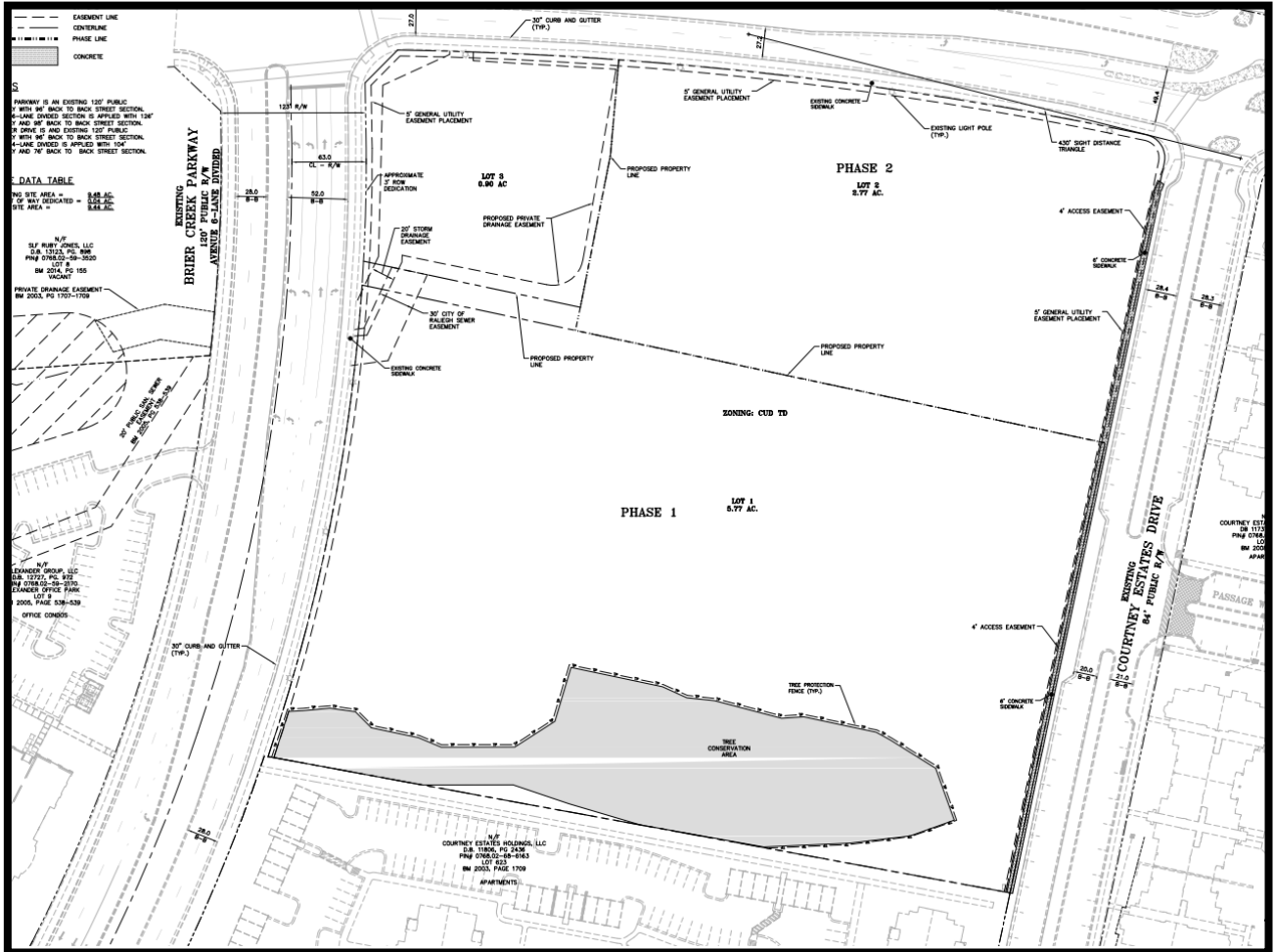
**Contact:** Andy Padiak, The John R. McAdams Company, Inc.

**Design Adjustment:** Two Design Adjustments have been approved by the Public Works Director for this project:

1. For Brier Creek Parkway to retain the existing shoulder and 5' sidewalk with fee-in-lieu for 1' of sidewalk.
2. For TW Alexander Drive to retain the existing shoulder and 5' sidewalk with fee-in-lieu for 1' of sidewalk.

**Administrative Alternate:** NA





Subdivision Layout

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**SUBJECT:** S-76-15 / Legacy at Brier Creek

**CROSS-  
REFERENCE:** Z-22-15

**LOCATION:** The site is located on the southeast quadrant of Brier Creek Parkway and TW Alexander Drive, inside the city limits.

**PIN:** 1715930251

**REQUEST:** This request is to approve the subdivision of a 9.48 acre tract into 3 lots, zoned OX-5-CU. Lot 1 will be 5.38 acres, Lot 2 will be 3.08 acres, and Lot 3 will be 0.90 acres. Lot 3 will be developed as an off-site stormwater facility for both Lots 1 and 2.

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**OFFICIAL ACTION:** Approval with conditions

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**CONDITIONS OF  
APPROVAL:**

***Prior to issuance of a grading permit for the site:***

- (1) That in accordance with Part 10A Section 9.4.4, a surety equal to of the cost of clearing, grubbing and reseeding a site, shall be paid to the City;

***Prior to approval of a concurrent review of Final Site Review and Infrastructure construction plans, or whichever is applicable:***

- (2) 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 10A Chapter 9 of the Unified Development Ordinance, 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;
- (3) That a nitrogen offset payment must be made to a qualifying mitigation bank;
- (4) That plans for the shared stormwater devices be submitted and approved by the Public Works Department;

***Prior to Planning Department authorization to record lots:***

- (5) That the City form document entitled Declaration of Maintenance Covenant and Grant of Protection Easement for Stormwater Control Facilities shall be recorded with the county register of deeds office where the property is located prior to any recordation of a subdivision or recombination plat and a copy of the recorded documents be provided to the Planning Department within the 14-day period, further recordings and building permits authorization will be withheld if the recorded document is not provided to the Planning Department; Required legal documents shall be recorded within 1 day of the approval of a recorded map, if applicable;
- (6) That a 30' City of Raleigh Sanitary Sewer Easement is recorded as shown on the preliminary plan;
- (7) That the City form document entitled Declaration of City of Raleigh Required City Code Provisions for Developments with Common Elements and Common Expenses shall be recorded with the county register of deeds office where the property is located prior to any recordation of a subdivision or recombination plat, and a copy of the recorded documents be provided to the Planning Department within the 14 day period; further plan recordings and building permits authorization will be withheld if the recorded document is not provided to the Planning Department; Required legal documents shall be recorded within 1 day of the approval of a recorded map;
- (8) That in accordance with Part 10A Section 8.1.3, a surety equal to 125% of the cost of development related improvements which remain incomplete;
- (9) That a fee-in-lieu for 1' of sidewalk will be required to be paid prior to map recordation for the existing 5' sidewalk to make up the difference for the 6' sidewalk required per the UDO on Brier Creek Parkway and TW Alexander Drive;
- (10) That required right-of-way and General Utility Placement Easements are dedicated to the City of Raleigh and shown on the final subdivision map;
- (11) That a cross access agreement among lots 1, 2, & 3 is approved by the Planning Department for recording in the Wake County Registry, and that a copy of the recorded offer of cross access easement be returned to the Planning Department within 1 day of lot recording;
- (12) That a 20' Pedestrian Access Easement is recorded on Lot 1 as shown on the preliminary plan;
- (13) That a 4' access easement is recorded on Courtney Estates Drive;
- (14) That a maximum impervious allocation is noted on each lot and shown on all plats for recording;

- (15) 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 owners association;"
- (16) That in accordance with Part 10A Section 9.2.2, a surety equal to 125% of the cost of the construction of a stormwater device is paid to the Public Works Department;
- (17) That infrastructure construction plans be approved by the City;
- (18) That the developer shall pay to the City a stormwater facility replacement fund payment equal to twenty-four percent (24%) of the estimated cost of constructing all stormwater control facilities shown on the development plans; and

***Prior to Issuance of a certificate of occupancy:***

- (17) That as-built certification for all stormwater control devices as required under UDO Sec. 9.2.2.d.3 shall be provided to the Public Works Department, Stormwater Management Division prior to Certificate of Occupancy;

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I hereby certify this administrative decision.

**Signed:**

(Planning Dir.)

Date: 3-29-16

*Kenneth Bacon (J. Bacon)*

**Staff Coordinator:**

Meade Bradshaw

SEE LAST PAGE FOR IMPORTANT INFORMATION ON THE NEXT STEP IN THE SUBDIVISION PROCESS.

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**FINDINGS:**

City Administration finds that this request, with the above conditions being met, conforms to the Unified Development Ordinance. This approval is based on a preliminary plan dated 2/5/16 owned by Heritage Properties, Inc., submitted by The John R. McAdams Company.

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**ZONING:**

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DISTRICTS:**

OX-5-CU Ordinance 520 ZC720 Effective 11/17/15

**Z-22-15 - Brier Creek Parkway:** southeast quadrant of the intersection of Brier Creek Parkway and T.W. Alexander Drive, approximately 9.48 acres rezoned to Office Mixed Use-5 stories-Conditional use (OX-5-CU), being Wake County PIN 0768691387

Conditions dated: October 27, 2015

1. The following principal uses shall be prohibited on the Property:  
Telecommunications Tower (>250 feet).
2. For the purpose of obtaining building permits, the total Daily, total AM peak and total PM peak hour trips generated by the development shall be no more than the trip volume equivalent to 168,500 square feet of General Office use as determined by the ITE *Trip Generation Manual* (latest edition). The developer shall provide a trip generation letter, signed and sealed by a North Carolina professional engineer, as a condition of obtaining building permits.
3. The initial building or buildings constructed on the Property shall meet the following "build to" requirements, as that term is defined in Section 1.5.6.A of the Unified Development Ordinance ("UDO"), along Brier Creek Parkway: (a) If a detached house, attached house, general, mixed use or civic building type, the minimum build-to along Brier Creek Parkway shall be 10 feet and the maximum build-to area along Brier Creek Parkway shall be 50 feet; and (b) the minimum building width in the build-to area along Brier Creek Parkway shall be 35%. Any building or buildings constructed within the build-to area along Brier Creek Parkway shall have a primary entrance that faces Brier Creek Parkway and shall provide for direct pedestrian access from the public sidewalk along Brier Creek Parkway to the primary street facing entrance of the building or buildings.
4. Once the build-to requirements contained in Condition #3 have been satisfied, the developer may choose to construct additional buildings on the Property so long as the additional building or buildings meet the following "build-to" requirements, as that term is defined in Section 1.5.6.A of the UDO, along T.W. Alexander Drive: (a) If a detached house, attached house, general, mixed use or civic building type, the minimum build-to along T.W. Alexander Drive shall be 10 feet and the maximum build-to along T.W. Alexander Drive shall be 50 feet; and (b) the minimum building width in the build-to area along T.W. Alexander Drive shall be 25%. Any building or buildings constructed within the build-to area along T.W. Alexander Drive shall have a street facing entrance and shall provide for direct pedestrian access from the public sidewalk along T.W. Alexander Drive to the street facing entrance of the building or buildings.
5. Once build-to requirements set forth in Conditions #3 and #4 have been satisfied, buildings may be constructed anywhere on the Property that complies with the UDO. Nothing contained in these zoning conditions shall be construed to prohibit the simultaneous development of multiple buildings on the Property.
6. Prior to recordation of a subdivision or a recombination for the property, whichever shall first occur, the property owner shall cause to be recorded in the Wake County Registry a restrictive covenant that allocates AM and PM trip generation in peak hours upon the property to all lots of record comprising the property. Such restrictive covenant shall be approved by the City Attorney or his designee prior to recordation of the restrictive covenant. Such a restrictive covenant shall provide that it may be amended or terminated only with the prior written consent of the City Attorney or his designee.
7. For any buildings that front along Brier Creek Parkway and T.W. Alexander Drive, there shall be no parking between said buildings and the right-of-way for Brier Creek Parkway and T.W. Alexander Drive.

**TREE CONSERVATION:** This project is required 10% or .94 acres for tree conservation. This project has dedicated .94 acres which is broken into:  
Secondary: .94 acres

**PHASING:** There is 1 phase in this development.

**COMPREHENSIVE PLAN:**

**GREENWAY:** There is no greenway on this site.

**STREET PLAN MAP:** Dedication of right-of-way and construction of the following streets are required by the Street Plan Map of the Comprehensive Plan. Dedication of right-of-way is / not required.

Street Name	Designation	Exist R/W	Required R/W	Existing street (b to b)	Proposed street (b to b)	Slope Easement
TW Alexander Drive	Avenue, 4-lane divided	120'	N/A	96'	N/A	N/A
Brier Creek Parkway	Avenue, 6-lane divided	123'	126'	96'	N/A	N/A

Additional right-of-way to be dedicated is reimbursable under the facility fees program. The difference

A surety for the required improvements shall be provided in accordance with 8.1 of the UDO.

**TRANSIT:** This site is presently not served by the existing transit system.

**COMPREHENSIVE PLAN:** This site is located in the Northwest Citizen Advisory Council in an area designated as Office & Residential Mixed Use.

**SUBDIVISION STANDARDS:**

**LOT LAYOUT:** There is no minimum lot size or lot dimension in the Office Mixed Use Zoning District.


**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:** Individual lot service will be provided by a private contractor.

**BLOCKS / LOTS / ACCESS:** UDO Article 8.3.2.A Block Perimeters is being met through a 20' Pedestrian Access Easement on Lot 1, providing public access from Courtney Estates Drive to Brier Creek Parkway.

**STREETSCAPE**

**TYPE:** The applicable streetscape is commercial. A Design Adjustment was approved for both TW Alexander Drive and Brier Creek Parkway to keep the existing shoulder which is a 6' planting strip, 5' sidewalk, and providing a Type C2 Yard. Courtney Estates Drive will construct a 6' planting strip, trees planted 40' on center, and 6' sidewalk.



**Public Works Design Adjustment – Staff Response**

Per Section 10.2.18.C of the Unified Development Ordinance, the Public Works Director may consult with the heads of other City departments regarding the review of the request. The Public Works Director may approve, approve with conditions or deny the request, but must do so within 60 days of the receipt of a completed application. Additional time may be necessary if a municipal or state entity is incorporated in the review process or if a detailed engineering study is submitted in conjunction with the request.

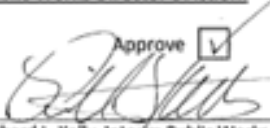
<b>Project</b>	Project Name	Legacy at Brier Creek	Date Completed Application Received	1/11/2016
	Case Number	S-76-2015	Transaction Number	454326

<b>Staff Response/Recommendation</b>	Staff is in support of retaining the existing shoulder and 5' sidewalk along Brier Creek Parkway and T. W. Alexander Drive and requiring a 1' fee-in-lieu of sidewalk construction along these frontages to meet the UDO requirement for a 6' sidewalk.
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Staff Member	Kathryn Beard	Support Request	<input checked="" type="checkbox"/>	Does Not Support	<input type="checkbox"/>
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**Public Works Director's Action:**

Approve  Approval with Conditions  Deny

  
 Richard L. Kelly, Interim Public Works Director

2/26/16  
 Date

\*The Public Works Director may also authorize a designee to sign in his stead. Please print name and title next to signature.

<b>Conditions for Approval</b>	
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Appeal of the decision from the Public Works Director shall be made in writing within 30 days to the Board of Adjustment (see Section 10.2.18.C3b).

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Raleigh, NC 27601

Phone: 919-996-3030  
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**PEDESTRIAN:** Proposed sidewalk locations conform to City regulations. 5' sidewalks exist along TW Alexander Drive and Brier Creek Parkway. 6' sidewalks exist along Courtney States Drive.

**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 stormwater control measures are shown in accordance with the Raleigh Stormwater Control and Watercourse Buffer Manual. A shared wet pond is proposed on Lot 3 to address stormwater runoff and water quality for all 3 lots. A Nitrogen mitigation buydown will also be required.

**WETLANDS  
/ RIPARIAN  
BUFFERS:**

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

**STREET NAMES:** No new streets are being proposed with this development.

**OTHER  
REGULATIONS:**

Developer shall meet all City requirements, including underground utility service, flood protection measures, and the soil erosion ordinance, unless specifically varied by this approval.

**SUNSET DATES:** If significant construction 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:** 3/29/2019  
Record at least ½ of the land area approved.

**5-Year Sunset Date:** 3/29/2021  
Record entire subdivision.

**WHAT NEXT?:**

- MEET ALL CONDITIONS OF APPROVAL.
- COMPLETE INFRASTRUCTURE 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 Public Works Department for street construction; by the first working day in November and May each year.