



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-3-12/ Whale-n Convenience Store

General Location: Intersection of Hilburn and Lynn Rd.

Owner: Dirk Dimitry and Mike Whalen

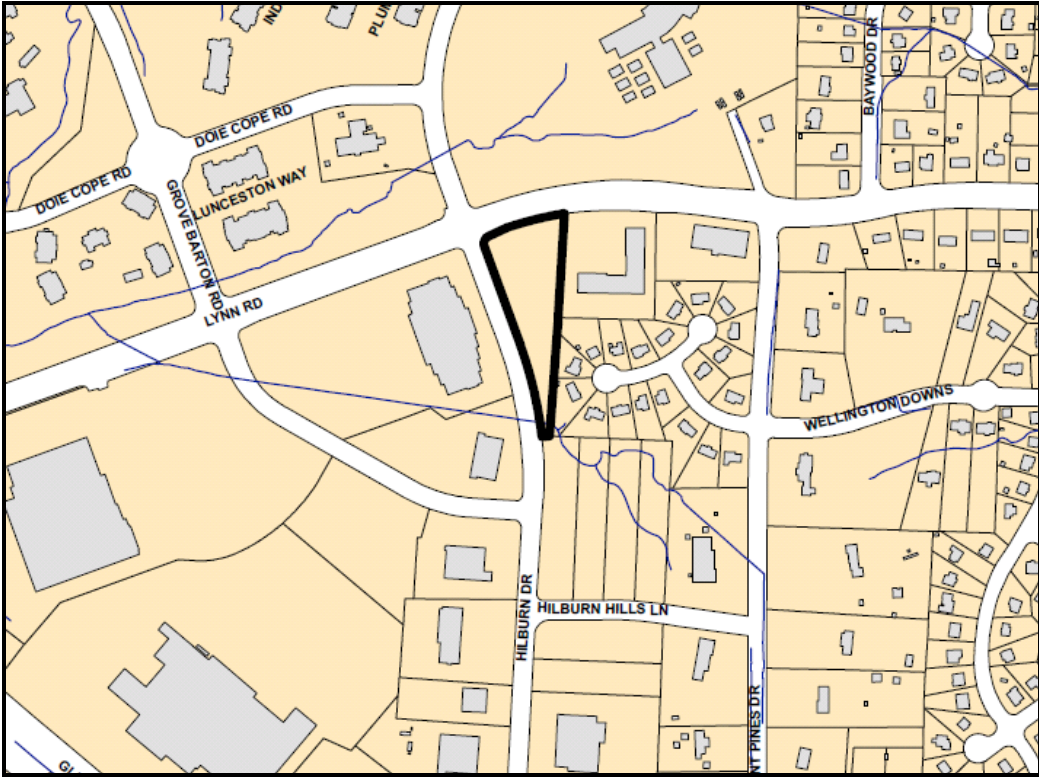
Designer: Watson Land Design Services

CAC: Northwest

Nature of Case: This request is to approve a single story building of 5,300 square feet retail composed of a 3,500 gas station/convenience store and an attached 1,800 square foot restaurant with a 6 gas pump island under a separate canopy. This site plan is situated on a 1.97 acre site, zoned Thoroughfare District. This is a retail use located within 400 feet of a residential use or zone.

Key Issues: As presented, staff finds that this plan conforms to Code standards and adopted land use policies.

Contact: Ray Watson



Vicinity Map

SUBJECT: SP-3-12 / Whale-n Convenience Store

CROSS-REFERENCE: Not applicable

LOCATION: This site is located on the north east Intersection of Hilburn and Lynn Rd. inside the City Limits.

REQUEST: This request is to approve a single story building of 5,300 square feet retail composed of a 3,500 gas station/convenience store and an attached 1,800 square foot restaurant with a separate 6-gas pump island with canopy. This site plan is situated on a 1.97 acre site, zoned Thoroughfare District. This is a retail use located within 400 feet of a residential use or zone.

OFFICIAL ACTION: Approval with conditions

CONDITIONS OF APPROVAL: As noted on the Staff Report, attached

FINDINGS: The Planning Commission finds that with the following conditions of approval being met, this request conforms to Chapter 2, Part 10, Sections 2045 and 10-2132.2, Chapter 3, Part 10, Sections 10-3001-3059. This approval is based on a preliminary plan dated 4/19/2012, owned by Dirk Dimitry and Mike Whalen, submitted by Watson Land Design Services.

ADDITIONAL NOTES: On June 19, 2012 the developer met with neighboring property owners and agreed to several plan changes and limits on use of the site which will be presented to the Planning Commission for consideration as conditions of approval. The site plan was modified to include provision of a bicycle rack, an 8' height fence between the development and the adjacent residential parcels, and a revised landscape plan for the required transitional protective yard between this site and all adjacent parcels.

VARIANCES / ALTERNATES: Not applicable

To PC: 6/12/12

Case History: case deferred on 6/12/12 to allow neighboring property owners and applicant to meet; revised plan submitted for Commission review on 6/26/12

Staff Coordinator: James Marapoti

Motion: Haq

Second: Mattox

In Favor: Butler, Fleming, Fluhrer, Harris Edmisten, Haq, Mattox, Schuster, Sterling Lewis, Terando


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)



date: 6/26/12

date: 6/26/12



Staff Report

**RECOMMENDED
ACTION:** Approval with Conditions

**CONDITIONS OF
APPROVAL:**

Planning Commission Actions:

- (1) That as agreed by the developer a minimum 5' width undisturbed buffer within the required Type A transitional protective yard will be maintained adjacent the neighboring residential properties. Tree protection fence shall be installed on site and inspected by the City's Urban Forester prior to grading permit issuance;
- (2) That as agreed by the developer neighboring residential property owners will be invited to meet on site and be present as tree selection for removal is made. The developer shall provide a minimum of 10 days notice to the adjacent owners and shall provide a copy of the written letter of invitation to the City Planning Department at the time of mailing or before;
- (3) That as agreed by the developer an 8' closed wooden fence will be installed on site within the required Type A transitional protective yard adjacent residential properties as shown on the preliminary site plan. The proposed fence location shall conform to setback requirements of City Code;
- (4) That as agreed by the developer the required transitional protective yard trees adjacent the LaMotte-Kerr property (6700 Holly Mill Ct., PIN 787-42-4257) shall be a minimum of 12' height upon planting. The final approved landscape plan shall show the 12' height trees;
- (5) That the final site plans include notes stating the following as agreed upon by the developer: "Fuel will not be delivered anytime between 12 midnight and 6 am unless it's an exception (acts of God, gas shortages, etc)"; "Food and drink vendors will be limited to deliveries between 6am and 5pm and not on weekends"; "Garbage dumpster pickup will be limited to business hours of 6am to 5pm";

Administrative Actions:

Prior to issuance of a grading permit for the site:

- (6) That as the developer has chosen to offset a portion of nitrogen export load limitation by paying monies to the North Carolina Ecosystem Enhancement Program (NCEEP) in accordance with Nitrogen reduction requirements of Section 10-9022, this payment shall be made to NCEEP or appropriate private mitigation bank and verification of the amount of payment shall be provided to the City of Raleigh Stormwater Engineer prior to the issuance of a grading permit;

- (7) 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 the issuance of either a grading permit or a building permit, whichever event first occurs;
- (8) That a tree protection plan for the required 50' width thoroughfare natural protective yard in accordance Code Section 10-2045 and 10-2132.2(b)(20) along Lynn Road be approved by the Forestry Specialist and tree protection fencing be installed on site and maintained throughout construction;

Prior to issuance of building permits:

- (9) That riparian buffers, in accordance with the preliminary plan and the State of North Carolina regulations, shall be shown on plats for recording along with a note stating: "The areas shown on the recorded plat identified as Neuse River Riparian Buffer shall be maintained in perpetuity in their natural or mitigated condition, No person or entity shall fill, grade, excavate, or perform any other land-disturbing activities; nor cut, remove, or harm any vegetation; nor construct any structures nor add any additional impervious surface, nor allow animal grazing or water or any other agricultural use on such protected areas without written authorization from NC Division of Water Quality in accordance with the Riparian Buffer Protection Rules (15A NCAC 2B.0233 or .0259).";
- (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 owner / owners association."
- (11) That prior to issuance of building permits the developer will make a contribution of twenty-four percent (24%) of the initial construction cost of all stormwater control device(s) to the City in accordance with City Code 10-9027;
- (12) That an offer of cross access with this lot owned by W. Russell Gay and Lynnwood Plaza LLC DB 13334 GP 1777 be recorded in the Wake County Registry, and that a copy of the recorded offer of cross access easement be provided to the Planning Department prior to building permit issuance
- (13) That approximately 1,170 s.f. of right of way along Lynn Rd. and a 3'x4' water easement along Hilburn Rd be dedicated to the City of Raleigh and a copy of the recorded plat be provided to the Planning Department prior to building permit issuance;

Prior to issuance of occupancy permit:

- (14) That prior to Issuance of a Certificate of Occupancy an as-built certification for all stormwater control devices as required under Code Section 10-9025(c) shall be provided to the Public Works Department, all stormwater systems shall be in place and functioning, and an original inspection report per Code Section 10-9028.

ZONING:

ZONING DISTRICTS: Thoroughfare District.

SETBACKS / HEIGHT: This plan conforms to all minimum setback standards. Front yard = 95', rear yard = 20', front / rear aggregate = 115', side yard = 64', side yard aggregate = 159'. This plan conforms to maximum height standards in this zoning district. Proposed height of the building is 17', the gas canopy structure is 19'.

PARKING: Off-street parking conforms to minimum requirements: 27 spaces required, based on 1 space/ 200 s.f. retail parking. 29 spaces are provided.

LANDSCAPING: Street yard landscaping in conformity with Section 10-2082.5 and 10-2045 (d) 2 is shown. Vehicular surface area landscaping in conformity with Section 10-2082.6 is shown. This is a high impact use under Section 10-2082.9. Transitional protective yards are shown in compliance with City standards in the following locations:

<u>Location</u>	<u>Yard type required</u>	<u>Width proposed</u>
East side	Type A and Type D	5'- 30' with fence and retaining wall

TREE CONSERVATION: Not required since this site is less than 2 acres. However this site plan is protecting a 50' natural protective yard which contains a basal area of 30 square feet along Lynn Rd. pursuant to code section 10-2132.2 (b)(20).

DEVELOPMENT INTENSITY: Not applicable in this zoning district.

PHASING: This project is to be constructed in 1 phase.

UNITY OF DEVELOPMENT: Not applicable.

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:

<u>Street</u>	<u>ROW</u>	<u>Construct</u>	<u>Slope Esmt.</u>
Lynn Rd.	1,170 s.f.	12' decel lane+ 5' sidewalk	N/A

This site plan is dedicating 1,170 s.f. of right of way along Lynn Rd. and at the intersection of Hilburn Rd.

TRANSIT: No transit is required for this location.

**COMPREHENSIVE
PLAN:**

This site is located in the Northwest CAC and designated for Office/Research and Development use in the Future Land Use map.

The following Comprehensive Plan policies apply:

- LU 4.5 Connectivity
- LU 5.6 Buffering Requirements
- LU 7.4 Scale and Design of New Commercial Uses
- LU 7.6 Pedestrian Friendly Development
- LU 10.6 Retail Nodes
- T 2.4 Road Connectivity
- T 2.9 Curb Cuts
- T 5.5 Sidewalk Requirements

**HISTORIC /
DISTRICTS:**

This site is not located in or adjacent to a designated Historic District.

**APPEARANCE
COMMISSION:**

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

<u>Comment</u>	<u>Response</u>
1. To break up the Whale-N exterior wall facing Hilburn Drive and better integrate the second shop space visually with the rest of the building, provide a continuous canopy around the Lynn Road corner to the shop canopy, and/or add glazing to the blank wall area.	The elevations have been revised to add a canopy and glazing on the C-store facing Hilburn to match the retail space.
2. To reduce lighting glare, install fully-shielded, cutoff-style domes on the gooseneck lights instead of the exposed-lamp version proposed.	A cut sheet of revised fixtures is included with this letter that is install fully shielded, cutoff-style type without exposed bulb.
3. Given the visual exposure of the rear wall from Hilburn Drive, provide the same surface treatment (materials and colors) there as found on the main façade.	The rear elevation has been revised to show the same surface treatment.

**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. a 3'x4' water easement along Hilburn Rd is to be dedicated to the City of Raleigh.

SOLID WASTE: Individual lot service is to be provided by private contractor.

CIRCULATION: Proposed street improvements shall conform to normal City construction standards. Site plan is proposing an offer of cross access to site to the west.

PEDESTRIAN: Proposed sidewalk locations conform to City regulations. A 5' sidewalk is proposed along Lynn Rd. there exists a sidewalk along Hilburn Rd. Two sidewalks are provided connecting the primary building with Lynn Rd. and Hilburn Rd.

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

**STORMWATER
MANAGEMENT:**

This project has demonstrated compliance with Part 10 chapter 9 Stormwater regulations. Two level spreaders with vegetated filter strips are proposed to reduce nitrogen loading rate below 10 lbs/ac/yr in order to be eligible to utilize the NCEEP mitigation payment program to further reduce nitrogen loading to 3.6 lbs/ac/yr. Two dry detention ponds and an underground pipe detention system are proposed to reduce post-development stormwater runoff rates to the pre-development conditions for both the 2-yr. and 10-yr. storm events.

**WETLANDS
/ RIPARIAN
BUFFERS:**

Neuse River riparian buffers are present.

**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.

Applicant Addresses 8 Site Plan Standards

(1) **The site plan protects the public from unsafe or inefficient vehicular circulation, parking, and loading/unloading operations. The site plan considers, among other things:**

- a. The physical character of adjacent and surrounding roads;**
There is an office adjoining the site to the east and roads on the north and west. Buffers with the adjoining residential property have been added per city requirements.
- b. Nearby median openings or intersections and stub streets;**
NCDOT and City of Raleigh Transportation have allowed driveway off Lynn Road due to proposed use as convenience store. Hilburn Road drive is located per discussions with City of Raleigh Transportation to move this driveway as far from intersection as feasible.
- c. The classification of streets and plans for future improvements;**
Lynn Road is classified as an Arterial and Hilburn Road in a Minor Collector.
- d. Proximity to pedestrian generators such as schools, transit stops and facilities, parks and greenways;**
Site is at the intersection of Lynn and Hilburn Roads and sidewalks have been added for pedestrian access.
- e. The accident experience near the site;**
Site has an existing median on Lynn Road and a light at the intersection.
- f. Bicycle, pedestrian and transit access and circulation;**
Site is at the intersection of Lynn and Hilburn Roads and sidewalks have been added for pedestrian access.
- g. Traffic volumes existing and projected from approved site plans;**
There are no previously approved plans for this location.
- h. Interference with any other driveway;**
NCDOT and City of Raleigh Transportation have allowed driveway off Lynn Road due to proposed use as convenience store. Hilburn Road drive is located per discussions with City of Raleigh Transportation to move this driveway as far from intersection as feasible.
- i. Response time of nearby emergency services such as fire and hospital;**
Raleigh Police Northwest District is at 8016 Glenwood Road, 1.2 miles from site with estimated travel time per Google Maps of under 5 minutes.

Site is located between 2 fire stations, Fire Station Number 17 and Number 33.
Fire Station Number 17 is north of the site, less than 1 mile from the site with travel time of less than 5 minutes per Google Maps.
Fire Station Number 33 is south of the site is 2.3 miles from the site with estimated travel time of under 10 minutes per Google Maps.

Nearest EMS station is at 1430 Lynn Road, 3.1 miles from the site and with estimated travel time of less than 10 minutes per Google Maps.

Nearest hospital is Rec Health Care, 4.4 miles from site with estimated travel time of under 10 minutes per Google Maps.

- j. The character of the traffic to be generated from the site; and**
Traffic will be local traffic using the convenience store and retail space.
 - k. Opportunities to enhance street, parking lot and sidewalk connectivity.**
Sidewalks are connected to existing sidewalks along Lynn Road and Hilburn Drive. A proposed Cross Access and Construction Easement with the adjoining property is shown.
- (2) The site plan is in accordance with the general plans for the physical development of the City as embodied in the Comprehensive Plan, Redevelopment Plans, Streetscape Plans, manuals, handbooks or other City Council - adopted plans and standards.**
Site development meets the general plans.
- (3) The site plan contains adequate measures to protect the development and other properties, including public corridors and facilities, from adverse effects expected from the proposed development or expansions to the existing development, including without limitation those associated with:**
- a. Stormwater;**
Two BMPs are proposed to handle water quality and quantity issues.
 - b. Air or water pollutant discharges,**
The underground tanks have containment systems per code requirements.
 - c. Noise, light and odor;**
Lights are fully shielded cut off fixtures.
 - d. Access to air and light;**
Lights are full cut-off fixtures and light level at property lines is below 2 foot-candles. Lights are oriented down towards site.
 - e. On and off-street parking;**
Parking is per code requirements, 27 spaces required and proposed.
 - f. Dust, smoke and vibration;**
There are no activities to generate dust or smoke and outside HVAC equipment and condensers are located next to or on building to limit noise.
 - g. Hours of operation; and**
Hours of Operation are 24 hours per day.
 - h. Site conditions that may foster unsafe or unlawful activities.**
There are no proposed procedures that foster unsafe or unlawful activities.
- 4) The site plan contains adequate measures to mitigate the impact of the development on nearby residential neighborhoods from incompatible characteristics such as:**
- a. Building scale;**
Buildings are 1 story, but have different finished floor elevations due to site grades.
 - b. Architectural character;**
Buildings have similar materials and finishes.
 - c. Landscaping;**
Landscaping is per code. Buffers with the adjoining residential property have been added per city requirements. Fifty-foot undisturbed area is left between limits of disturbance for the Natural Protective Yard/Thoroughfare Yard.

- d. Amount and placement of impervious surfaces;**
Approximately 50% of the site is impervious, Impervious areas are the building and parking areas.
- e. Placement of structures and vehicular surface areas; and**
Parking is located next to each building and along Hilburn Road.
- f. Orientation of uses and entranceways.**
NCDOT and City of Raleigh Transportation have allowed driveway off Lynn Road due to proposed use as convenience store. Hilburn Road drive is located per discussions with City of Raleigh Transportation to move this driveway as far from intersection as feasible.

(5) The site plan coordinates with existing and planned public facilities such as:

- a. Stormwater drainage structures;**
Two BMP are proposed.
- b. Public utilities;**
Connections will be made to existing public utilities.
- c. Streets, sidewalks and on-street parking;**
No new streets are proposed, deceleration lane is per City of Raleigh and NCDOT comments and requirements. Parking is per code requirements, 27 spaces required and proposed.
- d. Parks, greenways and recreational facilities;**
No changes in area parks, greenways and recreational facilities proposed. There are no greenways at or near the site.
- e. Fire stations and community service facilities;**
No changes in fire station and community service facilities proposed.
Raleigh Police Northwest District is at 8016 Glenwood Road, 1.2 miles from site with estimated travel time per Google Maps of under 5 minutes.

Site is located between 2 fire stations, Fire Station Number 17 and Number 33.
Fire Station Number 17 is north of the site, less than 1 mile from the site with travel time of less than 5 minutes per Google Maps.
Fire Station Number 33 is south of the site is 2.3 miles from the site with estimated travel time of under 10 minutes per Google Maps.

Nearest EMS station is at 1430 Lynn Road, 3.1 miles from the site and with estimated travel time of less than 10 minutes per Google Maps.

Nearest hospital is Rec Health Care, 4.4 miles from site with estimated travel time of under 10 minutes per Google Maps.
- f. Schools;**
There is a school across Lynn Road from the site, no changes in schools proposed. Proposed use is commercial and does not impact school capacity.
- g. Trash collection; and**
There is an on-site dumpster for trash collection.
- h. Transit stops and facilities.**

(6) The site plan provides for a unified development within the site and with adjoining properties when such properties are either:

- a. Under similar ownership as the site,**
Site is under one ownership.

- b. Are being developed in a coordinated manner with the site, or,**
C-store and retail space are coordinated with each other.
- c. The site shares a common relationship with surrounding properties, where establishing similar architectural elements, landscaping, shared access street connectivity or signage will promote good order, convenience and safety.**
There is not a Unity of Development for this property to establish architectural elements.

Situations a, b, and c may consist, among other things, of shared driveways, definitive streetscape character or block face, similar topography, both properties are located within a previously approved concept or master plan or within the same conditional use zoning ordinance.

- (7) The site plan complies with all street, sidewalk, open space, drainage, greenway, transit, utility and other public facility dedication and improvement requirements of Part 10, chapter 3 and applicable conditional use zoning ordinances.**

There is no conditional use zoning on this property. There will be a right-of-way dedication along Lynn Road, a Cross Access and Construction Easement with the adjoining property and private BMP access easements.

- (8) The site plan conforms to previously approved subdivision plans for the site. The site plan meets all applicable Code requirements, and if there are conflicts between Code provisions the more restrictive shall be met.**

There have been no previous subdivision plans for this location.