



## 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-26-12 / Waffle House Dixie Forest

**General Location:** South side of Dixie Forest Drive, west of the intersection with Atlantic Avenue

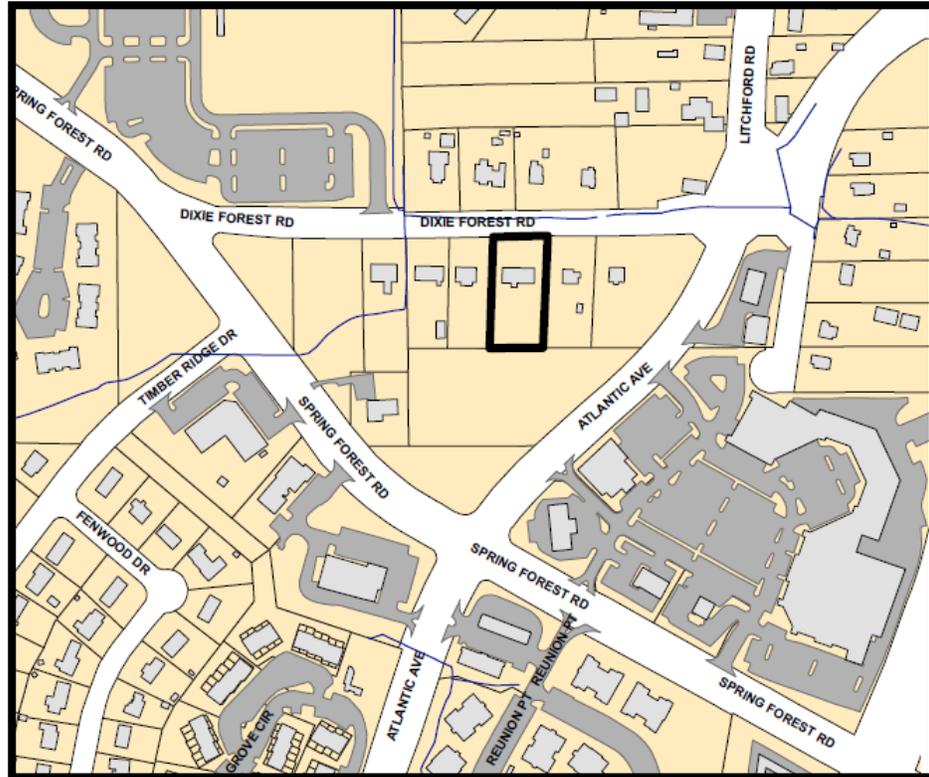
**Owner:** WH Capital, LLC  
**Designer:** Pabst & Hilburn, PA

**CAC:** North

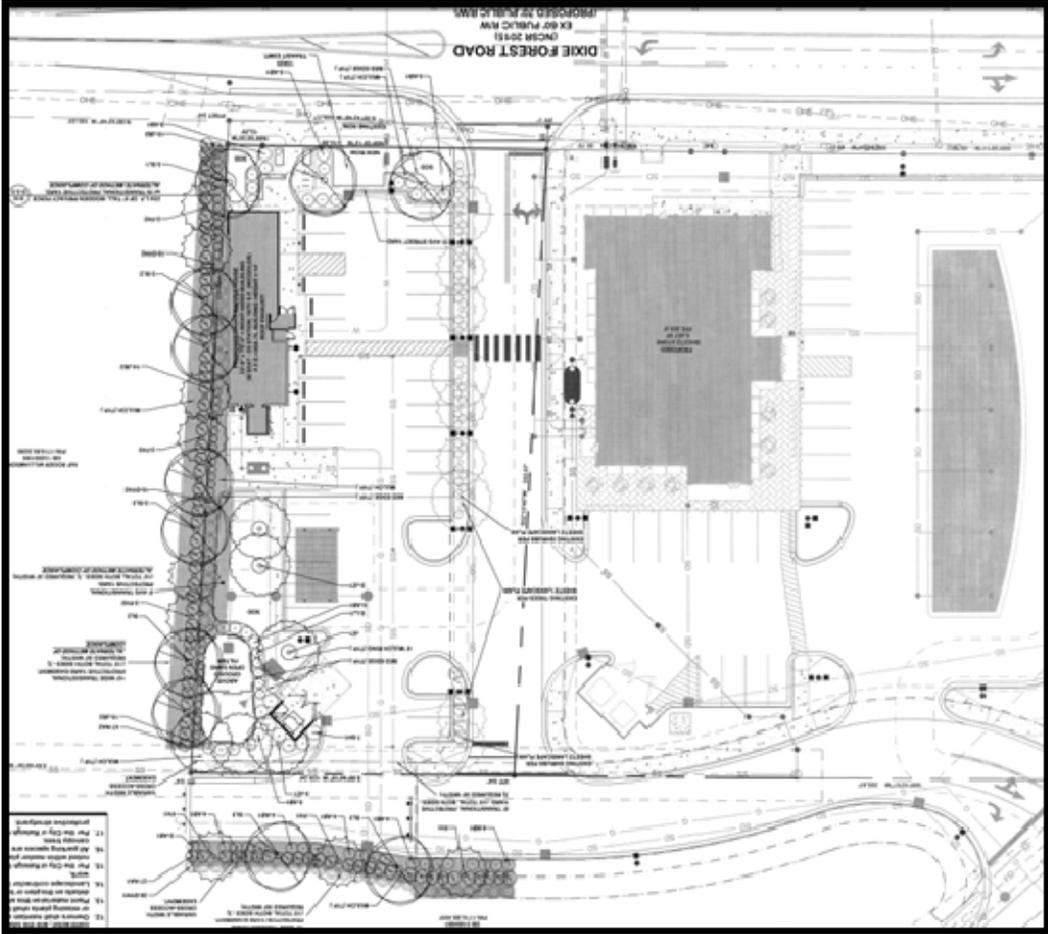
**Nature of Case:** The construction of an 1,875 square foot eating establishment with no drive-thru on a 0.72 acre parcel zoned Shopping Center CUD.

**Key Issues:** Code Section 10-2082.4 an alternate means of compliance is being requested from providing a 30' type B transitional protective yard along the western property line. The alternate is a closed wooden fence and a 15' transitional protective yard along the western property line. 1 tree will be planted every 20 linear feet with evergreen shrubs planted 5' on center.

**Contact:** Dan Pabst, Pabst and Hilburn, PA



**SP-26-12 / Waffle House Dixie Forest – Location Map**



SP-26-12 / Waffle House Dixie Forest – Site Plan

**SUBJECT:** SP-26-12 / Waffle House Dixie Forest

**CROSS-  
REFERENCE:** Z-13-10

**LOCATION:** This site is located on the south side of Dixie Forest Road, west of its intersection with Atlantic Avenue, inside the City Limits.

**REQUEST:** This request is to approve a 1,875 square foot eating establishment with no drive-thru on a 0.72 acre site , zoned Shopping Center CUD. This site is located within 400 feet of a residential use.

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**OFFICIAL ACTION:** Approval with conditions

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

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**FINDINGS:** The Planning Commission finds that, with the following conditions of approval being met, this request conforms to Chapter 2, Part 10, Sections 10-2041, 10-2082. and 10-2132.2, Chapter 3, Part 10, Sections 10-3001-3059. This approval is based on a preliminary plan dated 12/3/12, owned by WH Capital, LLC, submitted by Pabst & Hilburn PA.

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**ADDITIONAL  
NOTES:** There are no additional notes for this plan.

**VARIANCES /  
ALTERNATES:** The proposal includes a requested alternate means of compliance from providing a 30' type B transitional protective yard along the western property line.

The alternate is a 6' closed wooden fence with a 15' transitional protective yard is provided on the western property line. 1 tree will be planted every 20 linear feet with evergreen shrubs planted 5' on center. Trees will be installed at 2.5" caliper (code requirement 2") and a height of 10' (code requirement 8'). Evergreen shrubs will be installed at a height of 24" (code requirement 18").

**To PC:** January 22, 2013

**Case History:** N/A

**Staff Coordinator:** Meade Bradshaw

**Motion:** Butler

**Second:** Fleming

**In Favor:** Butler, Buxton, Fleming, Fluhrer, Harris Edmisten, Haq, Mattox, Sterling-Lewis, Schuster

**Opposed:** Terando

**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.)

  
\_\_\_\_\_

date: 1/22/13

(PC Chair)

  
\_\_\_\_\_

date: 1/22/13



## Staff Report

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**RECOMMENDED  
ACTION:** Approval with Conditions

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**CONDITIONS OF  
APPROVAL:** Planning Commission Actions

- (1) That an alternate means of compliance in accordance with 10-2082.4 is approved from providing a 30' Type B transitional protective yard along the western property line. The alternate is a 6' closed wooden fence and a 15' in width transitional protective yard along the western property line. 1 tree will be planted every 20 linear feet with evergreen shrubs planted 5' on center. Trees will be installed at 2.5" caliper (code requirement 2") and a height of 10' (code requirement 8'). Evergreen shrubs will be installed at a height of 24" (code requirement 18").
- (2) That the Planning Commission finds that this site plan meets the standards of Code Section 10-2132.2(d);

**Administrative Actions:**

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

- (3) 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 grading or the approval of construction drawings, whichever comes first;
- (4) That a nitrogen offset payment must be made to a qualifying mitigation bank;

***Prior to approval of construction drawings for public or private improvements:***

- (5) 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 grading or the approval of construction drawings, whichever event comes first;
- (6) That NCDOT be contacted for the approval and issuance of permits, the required NCDOT permits for the work in the Dixie Forest Road right-of-way will be required to be obtained and evidence of these permits provided;

***Prior to issuance of building permits:***

- (7) That per City Code section 10-3013(c)(2).b a construction surety in the amount of 1 ½ times the construction costs of the proposed public improvements will be required to be in place prior to building plan approval and issuance of permits;

- (8) That construction plans for public improvements be approved by the Public Works Department;
- (9) That a 15x20 foot transit easement located on Dixie Forest Road be approved by the Transit Planner in the Public Works Transportation Department, be shown on all maps for recording, and that a transit deed of easement approved by the City Attorney is recorded with the local County Register of Deeds. That the recorded copy of this transit easement be provided to the Planning Department within 14 days of authorization of lot recording. If a recorded copy of this easement is not provided to the Planning Department within the 14 day period, further plat recordings and building permits authorization may be withheld;
- (10) That 10' in width of right-of-way along Dixie Forest Road be dedicated to the City of Raleigh and a copy of the recorded plat be provided to the Site Review Specialist in the Planning and Development Department;
- (11) That the City approves the off-site landscape easements granted from the owner of property to the south (DB 13238 Page 189) and the property owner of the west (DB 13238 PG 0189). A recorded copy of the approved landscape easement shall be provided to the City of Raleigh prior to issuance of any building permits;
- (12) 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 lot owner. ";
- (13) That pursuant to zoning condition letters c, e and f of Z-13-10, a vehicular and pedestrian cross access easement be executed and recorded by the owners of the subject recombined site plan parcel (Deed Book 03378 Page 474 and Deed Book 12649 Page 1722) and the adjacent parcels to the south (Deed Book 5189 Page 861) and west (Deed Book 14810 PG 2100), for the 44 foot wide driveway connection between Atlantic Avenue and Dixie Forest Road currently shown on the proposed site plan. The beneficiaries of this easement shall be those properties subject to Z-13-10 and Z-57-05. In addition to the ingress and egress easement, the parties shall grant one another temporary construction and slope easements for the construction of the joint driveway. The owner of the property to the west (Deed Book 14810 PG 2100), shall grant the owner of the subject recombined site plan parcel a temporary construction and temporary drainage easement to install and maintain on the property to the west all runoff control and water quality stormwater devices necessary to comply with the stormwater control regulations of the City of Raleigh for those portions of the joint driveway located on the property to the west. This temporary drainage shall terminate when active development of a site plan on the property to the west commences. Active development means all existing buildings are demolished, building and grading permits are issued and all fees have been paid to the City of Raleigh. A recorded copy of this easement is returned to the Planning Department within 14-days of recording. If a recorded copy of this recorded easement is not provided to the Planning Department within the 14 day period, further plat recordings and building permits authorization may be withheld;

- (14) That a demolition permit be issued and this building permit number be shown on all maps for recording;

***Prior to issuance of an occupancy permit:***

- (15) 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.
- (16) 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;

**ZONING:**  
**ZONING**  
**DISTRICTS:**

Shopping Center CUD. Ordinance N0 (2010) 812 ZC 654; effective 12/7/10.

Z-13-10 Conditional Use – Dixie Forest Road - located on Dixie Forest Road, south side, from its intersection with Spring Forest Road, to its intersection with Atlantic Avenue being various Wake County PINs. Approximately 6.47 acres rezoned from Office & Institution-1 Conditional Use District to Shopping Center Conditional Use District.

Conditions Dated: 11/12/10

Narrative of conditions being requested:

As used herein, the “Property” refers to those certain tracts or parcels of land containing approximately 6.47 acres located on the south side of Dixie Forest Road, between its intersection with Spring Forest Road and Atlantic Avenue in Raleigh, North Carolina, having Wake County PIN 1716-89-7263 (DB3378, P474), 1716-89-6200 (DB12649, P1722), 1716-89-4290 (DB8551, P628), 1716-89-3280 (DB13238, PG189), 1716-89-2281 (DB13238, PG195), 1716-89-1198 (DB11363, PG2078), 1716-89-0178 (DB2796, PG371) and a portion of 1716-79-6254 (DB 11355, PG2435).

(a) The following uses shall be prohibited upon the Property:

- correctional/penal facility - all types
- adult establishment
- kennel/cattery
- manufacturing - custom and specialized
- mini warehouse storage facility
- airfield or landing strip
- heliport - all types
- riding stable
- telecommunications tower - all types
- outdoor amphitheater - all types
- outdoor racetrack - all types
- outdoor stadium - all types
- outdoor theater -all types
- funeral home
- cemetery
- hospital (medical/psychiatric/veterinary)
- school (public and private; elementary, middle and high)
- utility substation
- emergency shelter - Type B
- special care facility - all types
- landfill - all types
- temporary event
- establishment for tuning and lubricating automobile engines
- garage for repair of tires, mufflers, engines, transmissions and batteries
- shop for body work and painting

**The proposed use is a restaurant**

(b) Site plans for the development of the properties contiguous to the south right-of-way line of Dixie Forest Road shall feature a public sidewalk a minimum six (6) feet in width and a coordinated streetscape (which must include, at a minimum, standards for the planting of trees and shrubs and the installation of benches) established by the first of these properties to obtain site plan approval.

**A six foot sidewalk is proposed along Dixie Forest Road. Benches and plantings are provided as required.**

(c) Prior to issuance of a building permit for any property subject to this rezoning ordinance, the owner of the property shall cause to be recorded in the Wake County Register of Deeds an offer of vehicular cross-access over and upon the property in favor of the owner(s) of all immediately adjacent properties.

**Vehicular cross access was established with the property to the adjacent west (DB 14810 PG 2100), and adjacent south (DB 5189 PG 0861) prior to building permit issuance.**

(d) At least one bicycle storage rack shall be located within not more than forty (40) feet of the entrance(s) of buildings located upon the Property. Any bicycle storage rack installed to satisfy this condition shall be of the inverted U or similar style. Any bicycle storage rack installed to satisfy this condition shall provide at least one bike space; one additional bike space shall be provided for every forty-five (45) car spaces.

**The provided parking spaces on-site are 40 parking spaces. 1 bicycle rack is required. 3 bicycle racks have been provided within 40' of the northern entrance to the building.**

(e) The Traffic Impact Analysis provided to the City's Public Works Department, Transportation Division, on October 14, 2005, and revised per the City's recommendations on October 31, 2005, establishes the general location and type of vehicular ingress/egress driveways for the redevelopment of the Property (and those properties to the south zoned SC CUD via Z-57-05). Upon redevelopment of the Property (and those properties to the south zoned SC CUD via Z-57-05), access shall be limited to no more than one (1) ingress/egress drive on Atlantic Avenue, no more than one (1) ingress/egress drive on Spring Forest Road, and one (1) ingress/egress drive on Dixie Forest Road opposite the ingress/egress drive into the Wake County Board of Education Property (Millbrook High School Campus). Additionally, a second ingress/egress drive upon Dixie Forest Road may be established as permitted by the North Carolina Department of Transportation and the Raleigh Public Works Department, Transportation Division, in conjunction with future site plan application(s) for the development of those properties with Wake County PINs 1716-89-7263 (DB3378, P474), 1716-89-6200 (DB12649, P1722) and/or 1716-89-4290 (DB8551, P628).

**One ingress/egress drive is proposed on Dixie Forest Road and one ingress/egress drive is proposed on Atlantic Avenue.**

(f) That portion of the internal street network as shown in the "Conceptual Site Plan," attached as Figure 2 to the Traffic Impact Analysis of October 31, 2005 referenced in the above Condition (e), that is located on the Property will be constructed on the Property in the general manner provided in the "Conceptual Site Plan." This "Conceptual Site Plan" is general in nature and shall not limit the number, location or type of ingress/egress drives on the Property. The internal street improvements required by this condition (f) may be phased with development of the Property, and at a minimum, that portion of the internal street network located on a developing parcel shall be shown on a site plan and shall be installed as part of the development of the developing parcel.

**A 44' wide internal private drive with cross access provides connections to Atlantic Avenue, Dixie Forest Road.**

(g) There will be no more than one double bay of parking installed between any building adjacent to a public street and the public street right-of-way.

**No more than a double bay of parking is provided on this site.**

(h) No drive-through window will be located on a side of a building fronting along a public street right-of-way.

**An eating establishment is proposed within the building without a drive-through window.**

(i) The development of all properties which are included within this rezoning case shall require Site Plan approval by the Raleigh Planning Commission (and additionally by the Raleigh City Council, if applicable).

**The Planning Commission date is scheduled for 1/22/13**

(j) For any principal building constructed on the Property, the side of any principal building facing any public street will be articulated to a minimum six (6) inch depth or relief, a minimum of every forty (40) feet.

**The building façade facing Dixie Forest Road is 20 linear feet.**

(k) A sidewalk a minimum of six (6) feet in width shall connect at least one building entrance of any principal building adjacent to a public street with the sidewalk adjacent to that public street, and benches will be installed on each side of the connecting sidewalk.

**A sidewalk ranging from 8'-15' with the installation of 2 benches is constructed from Dixie Forest Road to the principal building entrance.**

(l) No building on the Property shall be taller than two (2) stories or 35 feet as measured by the Raleigh City Code, whichever is less.

**The proposed building is one story, 14' height.**

(m) Based on the Traffic Impact Analysis referenced in above Condition (e), the cumulative amount of floor area gross for commercial uses (as listed in Raleigh City Code section 10-2071, Schedule of Permitted Land Uses in Zoning Districts) located on the Property shall not exceed 60,000 square feet. The owner of the Property shall cause to be recorded in the Wake County Registry a restrictive covenant that allocates allowable commercial square footage upon the subject property to all existing lots of record comprising the Property. Such restrictive covenant shall be submitted to the City Attorney within 30 days following approval of this rezoning case by the City Council and shall be approved by the City Attorney or his designee prior to recordation, and it shall be promptly recorded following its approval by City officials. Such restrictive covenant shall provide that it may be amended or terminated only with the prior written consent of the City Attorney or his designee, which consent shall not be unreasonably withheld.

**A restrictive covenant for commercial uses was recorded in Book 14634 Page 2691 Wake County Registry. 15,000 square feet of commercial use was allocated to the two lots comprising this site plan. This commercial building is 1,825 square feet.**

(n) For any principal building developed along the Dixie Forest Road right-of-way, the side (defined as an exterior building wall up to a height of nine (9) feet) of any principal building facing Dixie Forest Road shall have a minimum 20% glazing or transparency (excluding black spandrel glass).

**More than 55% of the building façade facing Dixie Forest Road is glazed.**

(o) No side (defined as an exterior building wall up to a height of nine (9) feet) of any principal building shall have more than thirty (30) continuous feet in length without intervening transparency or glazing (excluding black spandrel glass) measuring at least ten (10) square feet in area.

**The building façade facing Dixie Forest Road is 20'.**

(p) For any principal building developed on the Property, such principal building shall have at least one entrance located within eighty (80) feet of the public right-of-way of at least one public street. Such entrance required by this condition (p) shall: (1) consist of at least one set of double doors, (2) have a canopy or vestibule feature, and (3) connect with a sidewalk required by above condition (k).

**North building elevation (Dixie Forest Road) is within 80' of Dixie Forest Road**

**Double set of doors is provided**

**A canopy is provided**

**A connection to the public sidewalk to Dixie Forest Road is provided**

(q) At least one side (defined as an exterior building wall up to a height of nine (9) feet) of a principal building on which an entrance required by above condition (p) is located shall have a minimum 25% glazing or transparency (excluding black spandrel glass).

**More than 55% of the north building elevation is glazed**

(r) Prior to lot recordation or the issuance of any building permit for the property with Wake County PIN 1716-89-4290 (DB8551, PG628), whichever shall first occur, the owner(s) of the properties shall deed to the City one transit easement measuring twenty feet (20') long by fifteen feet (15') wide adjacent to the public right-of-way on Dixie Forest Road to support a bus stop for current and future transit services in the area. The location of the transit easement shall be reviewed and approved by the Transit Program of the City and the City Attorney or his designee shall approve the transit easement deed prior to recordation in the Wake County Registry.

**A 15'x20' transit easement has been provided on Dixie Forest Road.**

**SETBACKS / HEIGHT:**

This plan conforms to all minimum setback standards. Front yard = 25', rear yard = 130', front / rear aggregate = 155', side yard = 1' and 100', side yard aggregate = 101'. This plan conforms to maximum height standards in this zoning district. Proposed height of the building is 14'.

**PARKING:**

Off-street parking conforms to minimum requirements: 14 spaces required, based on 1 parking space per 50 square feet floor area gross of building for public use (658 square feet). 30 spaces are provided.

**LANDSCAPING:**

Street yard landscaping in conformity with Section 10-2082.5 is shown. Vehicular surface area landscaping in conformity with Section 10-2082.6 is shown. This is a medium 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>                |
|-----------------|---------------------------|--------------------------------------|
| South           | 30' Type B                | 15' <sup>**</sup> (10' off-site)     |
| West            | 30' Type B                | 10-20' <sup>***</sup> (10' off-site) |

\*A 15' transitional protective yard is being provided on the southern property line. 5' on-site in width and 10' off-site in width.

\*\*The alternate is a 6' closed wooden fence with a 15' transitional protective yard is provided on the western property line. 1 tree will be planted every 20 linear feet with evergreen shrubs planted 5' on center. Trees will be installed at 2.5" caliper (code requirement 2") and a height of 10' (code requirement 8'). Evergreen shrubs will be installed at a height of 24" (code requirement 18").

**TREE CONSERVATION:**

Site is exempt from Code Section 10-2082.14. This parcel is less than two acres. Tree conservation is not required. It also is a non-residential use but has no groups of trees adjacent to a thoroughfare; therefore a natural protective yard is not required.

**DEVELOPMENT INTENSITY:**

There is no floor area ratio or building lot coverage maximums in the Shopping Center Zoning District. Pursuant to zoning condition "m" from Z-13-10, this property is subject to a restrictive covenant for commercial use limiting the gross floor area to 15,000 square feet. The cumulative square footage between the proposed development and the previously approved Sheetz (SP-13-12) is 8,282 square feet. The Sheetz parcel is to the adjacent east of this proposal.

**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:

| <u>Street</u> | <u>ROW</u> | <u>Construct</u> | <u>Slope Esmt.</u> |
|---------------|------------|------------------|--------------------|
| Dixie Forest  | 10'        | n/a              | n/a                |

**TRANSIT:** The following transit-oriented features of this site are incorporated into the proposed plan: 15'x20' easement on Dixie Forest Road.

**COMPREHENSIVE PLAN:**

This site is located in the North Citizen Advisory Council, in an area designated as commercial mixed-use. The following Comprehensive Plan Policies apply:

- Policy LU 4.5 - Connectivity
- Policy LU 7.6 - Pedestrian-Friendly Development
- Policy T 4.15 - Enhanced Rider Amenities
- Policy T 5.5 - Sidewalk Requirements
- Policy EP 8.1 - Light Pollution
- Policy UD 2.1 - Building Orientation
- Policy UD 2.3 -- Activating the Street
- Policy UD 3.9 - Parking Lot Design
- Policy UD 4.10 - Improving Pedestrian Safety

**HISTORIC / DISTRICTS:**

The existing building is not a designated Historic Structure. 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>  |
|---|--|
| That the L-shaped seat wall adjacent to the patio area be masonry-clad to visually connect it with the base band of the building                    | The seat wall will be masonry-clad to match the base of the building |
| Moving the westernmost tree adjacent to the patio area further west to enlarge the patio area.  | Tree was shifted to the western property line                        |
| That the applicant consider adding gooseneck lighting, and using different materials in lieu of shutters such as recessed panels with brick detail. | Prefer to keep the shutters and rear elevation as proposed           |
| Consider provision of shelter at bus bench locations.   | Transit Division did not request a shelter                           |

**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:** Individual lot service to be provided by private contractor.

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

**PEDESTRIAN:** A 6' sidewalk is proposed on Dixie Forest Road consistent with Z-13-10(b).

**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. This site has proposed to utilize an open sand filter and a onetime buydown payment to the NCEEP to reduce nitrogen loading rates to 3.6 lbs/ac/yr. This project will also utilize an underground detention system to attenuate peak stormwater discharge rates for the 2 year and 10 year design storms to pre-development conditions.

**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.