Administrative
Approval Action
SR-11-19 / 9400 Brier Creek Parkway
Transaction # 586775, AA # 3983

LOCATION: This site is located on the north side of Brier Creek Parkway. The site is addressed at 9400 Brier Creek Parkway, which is located inside City limits.

REQUEST: Development of a 6.22-acre tract zoned CX-3-PK into a General Building with 22,705 sq ft of gross floor area. The gross floor area breakdown for principal uses includes 10,479 sq ft of Medical Office, 5,477 sq ft of Restaurant/Bar, and 4,775 sq ft of Retail.

DESIGN ADJUSTMENT(S)/ALTERNATES, ETC: Design Adjustment case DA-25-19 was approved to allow relief from the CX-3 zoning requirement for block perimeter due to topographical constraints, which includes a floodplain and Neuse River Riparian Buffer, existing adjacent development and a golf course. A shared cross-access driveway provides access to Brier Creek Parkway.

Variance case A-103-17 was approved by the Board of Adjustment for relief from Parkway (PK) frontage standards in UDO 3.4.3.C and 3.4.3.E. Additionally, relief granted from Tree Conservation Area (TCA) standards in UDO 9.1.4.A.2, 9.1.4.A.8, and 9.1.4.E.

FINDINGS: City Administration finds that this request, with the below conditions of approval being met, conforms to the Unified Development Ordinance. This approval is based on a preliminary plan dated 6/13/2019 by Timmons Group.

CONDITIONS OF APPROVAL and NEXT STEPS:

This document must be applied to the second sheet of all future submittals except for final plats. This is a preliminary plan and as such no permits have been issued with this approval. To obtain permits and/or completion of the project, the following steps are required:

☐ CONCURRENT SITE REVIEW NOT REQUIRED AT THIS TIME – However, plan revisions or further development that includes land disturbance of 12,000 square feet or greater, public or private infrastructure, shared stormwater devices, etc. will require concurrent site review.

☒ CONCURRENT SITE REVIEW - For land disturbance of 12,000 square feet or greater, public or private infrastructure, shared stormwater devices, etc. Concurrent Site Review may be submitted upon receipt of this signed approval document.

The following items are required prior to approval of Concurrent Site Review plans:

Engineering

1. Required NCDOT encroachment and/or driveway permits must be approved and copies provided to Development Services – Development Engineering prior to concurrent review approval.
2. A right-of-way obstruction permit must be obtained from Right-of-way Services prior to the commencement of any construction activities within the right-of-way.

Public Utilities

3. A Downstream Sewer Capacity Study in compliance with the City of Raleigh Public Utilities Department Handbook shall be submitted by the Project Engineer for review and approval.

Stormwater

4. Provide Structural analysis or redesign of existing retaining wall to demonstrate that it is able to safely handle additional loads associated with additional fill material.

5. A stormwater control plan with a stormwater operations and maintenance manual and budget shall be approved (UDO 9.2).

6. A surety equal to the cost of clearing, grubbing and reseeding a site, shall be paid to the City (UDO 9.4.4).

Urban Forestry

7. Submit a final tree conservation plan that includes metes and bounds descriptions of all tree conservation areas and tree protection fencing as required (UDO 9.1.5).

8. Tree protection fence must be inspected by Urban Forestry staff prior to the issuance of a grading permit.

☑️ **RECORDED MAP(S)** - Submit plat to record new property lines, easements, tree conservation areas, etc.). Plats may be submitted for review when the Concurrent Site Review plans, if required, have been deemed ready for mylar signature.

**The following items must be approved prior to recording the plat:**

Public Utilities

9. Infrastructure Construction Plans (concurrent submittal) must be approved by the City of Raleigh Public Utilities Department for all public water, public sewer and/or private sewer extensions.

Stormwater

10. The riparian buffers, in accordance with the preliminary plan and the State of North Carolina regulations, shall be shown on plats for recording along with required buffer statement (Recorded Map Checklist).
Urban Forestry

11. A tree conservation plat shall be recorded with metes and bounds showing the designated tree conservation areas (UDO 9.1). This development proposes 0.53 acres of tree conservation area.

**BUILDING PERMITS** – For buildings and structures shown on the approved plans. Commercial building permit plans must include the signed, approved Concurrent Site Review plans attached, if applicable. Permit sets may be reviewed prior to the recordation of required plats, but cannot be approved.

*The following items must be approved prior to the issuance of building permits:*

**General**

12. Comply with all conditions of A-103-17.

13. Provide fire flow analysis.

**Engineering**

14. A fee-in-lieu for 1’ sidewalk width along Brier Creek Parkway frontage shall be paid to the City of Raleigh (UDO 8.1.10).

15. A public infrastructure surety shall be provided to the City of Raleigh Development Services – Development Engineering program (UDO 8.1.3).

16. A right-of-way obstruction permit shall be obtained from Right-of-way Services for any construction activity within the right-of-way.

**Public Utilities**

17. A plat must be recorded at the Wake County Register of Deeds office for all utility easement dedications.

**Urban Forestry**

18. A tree conservation plat shall be recorded with metes and bounds showing the designated tree conservation areas (UDO 9.1).

*The following are required prior to issuance of building occupancy permit:*

1. All Water, Sanitary Sewer and Reuse facilities shall be installed, inspected, tested and accepted by the City of Raleigh Public Utilities Department for operations and maintenance.

2. Required public right-of-way infrastructure improvements shall be, at a minimum, sufficiently completed to provide the necessary, safe emergency and vehicular access.
3. Required underground storm drainage improvements shall be completed and as-built plan(s) and certification(s) reviewed and accepted by the City of Raleigh Development Services – Development Engineering program.

4. All street lights and street signs required as part of the development approval are installed.

5. Copies of certified inspection reports for alleys and internal access ways are submitted to the City of Raleigh Development Services – Development Engineering program.

6. Final inspection of all tree conservation areas by Urban Forestry Staff.

EXPIRATION DATES: The expiration provisions of UDO Section 10.2.8 E, including the ability to request extensions in the expiration date, apply to this site plan. If significant construction has not taken place on a project after administrative site review approval, that approval may expire and be declared void, requiring re-approval before permits may be issued. To avoid allowing this plan approval to expire the following must take place by the following dates:

3-Year Expiration Date: 6-26-2022
Obtain a valid building permit for the total area of the project, or a phase of the project.

4-Year Completion Date:
Within four years after issuance of the first building permit for the site plan, the construction of the entire site plan must be completed unless an applicant has been granted vested rights. Failure to complete construction within this specified time frame shall automatically void the approved site plan for which no building permits have been issued.

I hereby certify this administrative decision.

Signed: (Development Services Dir./Designee) [Signature] Date: 6/22/2019

Staff Coordinator: Ryan Boivin
Design Adjustment
Staff Response

Per Section 10.2.18.C of the Unified Development Ordinance, the Development Services Director, or designee, shall consult with the heads of other City Departments regarding the review of the request. The Development Services Director, or designee, shall 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.

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Staff recommendation based upon the findings in the applicable code(s):

- ✔️ UDO Art. 8.3 Blocks, Lots, Access
- ☐ UDO Art. 8.5 Existing Streets
- ☐ UDO Art. 8.4 New Streets
- ☐ Raleigh Street Design Manual

Staff SUPPORTS ✔ DOES NOT SUPPORT ☐ the design adjustment request.

DEPARTMENTS

- ☐ Dev. Services Planner
- ☐ City Planning
- ☒ Development Engineering
- ☐ Transportation
- ☐ Engineering Services
- ☐ Parks & Recreation and Cult. Res.
- ☐ Public Utilities

CONDITIONS:

Development Services Director or Designee Action: ☑ APPROVE ☐ APPROVE WITH CONDITIONS ☐ DENY

Authorized Signature: [Signature]

*The Development Services Director may authorize a designee to sign in his/her stead. Please print name and title next to signature.

Appeal of the decision from the Development Services Director, or his or her designee, shall be made in writing within 30 days to the Board of Adjustment (see Section 10.2.18.C3b).
The Development Services Director may in accordance with Sec. 10.2.18. approve a design adjustment, subject to all of the following findings.

A. The requested design adjustment meets the intent of this Article;
   YES [ ] NO [ □ ]

B. The requested design adjustment conforms with the Comprehensive Plan and adopted City plans;
   YES [ ] NO [ □ ]

C. The requested design adjustment does not increase congestion or compromise Safety;
   YES [ ] NO [ □ ]

D. The requested design adjustment does not create any lots without direct street Frontage;
   YES [ ] NO [ □ ]

E. The requested design adjustment is deemed reasonable due to one or more of the following:
   1. Topographic changes are too steep;
   2. The presence of existing buildings, stream and other natural features;
   3. Site layout of developed properties;
   4. Adjoining uses or their vehicles are incompatible;
   5. Strict compliance would pose a safety hazard; or
   6. Does not conflict with an approved or built roadway construction project
   7. adjacent to or in the vicinity of the site.
   YES [ ] NO [ □ ]

**STAFF FINDINGS**

This property is zoned CX-3 which allows a maximum block perimeter of 3,000 linear feet. The north property line will not provide a connection to adjacent properties due to the extreme topography which is the result of a 100 year floodplain, Neuse River Riparian Buffer, sanitary sewer easement along the north property line, and the Brier Creek Country Club Golf Course. A segmental retaining wall is being constructed behind and along approximately 25% of the west adjacent property. A shared cross access has been provided between the west lots and this site to limit the number of driveways accessing Brier Creek Parkway. The cross access ends on the east side of Lot 4 due to the Neuse River Riparian Buffer, private drainage easement and the east adjacent commercial development on the Fossil Creek Court cul-de-sac.

The staff is in support of this request.
Design Adjustment Application

The purpose of this request is to seek a Design Adjustment from the Development Services Director, or designee, for a specific project only and, if granted, may be approved with special conditions and provisions. 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 solely on the conformance of the findings, as outlined in Sec. 8.3.6, Sec. 8.4.1.E and Sec. 8.5.1.G of the UDO or the Raleigh Street Design Manual.

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I am seeking a Design Adjustment from the requirements set forth in the following:

- UDO Art. 8.3 Blocks, Lots, Access
  - See page 2 for findings
- UDO Art. 8.4 New Streets
  - See page 3 for findings
- UDO Art. 8.5 Existing Streets
  - See page 4 for findings
- Raleigh Street Design Manual
  - See page 5 for findings

Provide details about the request; (please attach a memorandum if additional space is needed):

This project has access to Brier Creek Pkwy via a 24' wide cross-access agreement that includes several lots (BM:2016 PG.00820). It also provides direct and ADA accessible pedestrian access from Brier Creek Pkwy to the site. However, pedestrian and vehicular access to the residential area adjacent to the rear and western side of the property is not feasible. Per U.D.O. Section 8.3.1.D, the following pre-existing conditions limit the ability to comply with block perimeter requirements:
1. Neuse River Riparian Buffer on the rear side of the property.
3. Existing retaining wall (30'H ±) and topographic constraints on the rear side of the property.

It is the responsibility of the applicant to provide all pertinent information needed for the consideration of this request. Applicant must be the Property Owner.

By signing this document, I hereby acknowledge the information on this application is, to my knowledge, accurate.

Owner/Owner's Representative Signature: [Signature]
Date: 3/4/2019

CHECKLIST

- Signed Design Adjustment Application: Included
- Page(s) addressing required findings: Included
- Plan(s) and support documentation: Included
- Notary page (page 6) filled out; Must be signed by property owner: Included
- First Class stamped and addressed envelopes with completed notification letter: Included

Submit all documentation, with the exception of the required addressed envelopes and letters to designedadjustments@raleighnc.gov.

Deliver the addressed envelopes and letters to:
Development Services, Development Engineering
One Exchange Plaza, Suite 500
Raleigh NC, 27601
The Development Services Director may in accordance with Sec. 10.2.18. approve a design adjustment, subject to all of the following findings. Describe how each item is met:

A. The requested design adjustment meets the intent of this Article;
   Per Section 8.3.1.C the intent of the Article is to provide safe access through developments, which is provided by the cross-access agreement.

B. The requested design adjustment conforms with the Comprehensive Plan and adopted City plans;
   This project has environmental protection elements and open space conservation preserved areas as stated in the 2030 Comprehensive plan, including a protected jurisdictional stream. This design adjustment allows these areas to remain preserved and helps promote sustainable growth patterns and a "greenprint" which is a primary objective of the Comprehensive Plan.

C. The requested design adjustment does not increase congestion or compromise Safety;
   There is no increase in congestion or compromise of safety. Site access provided by the cross-access agreement limits the number of access points to Brier Creek Pkwy.

D. The requested design adjustment does not create any lots without direct street Frontage;
   The adjustment does not create any lots without direct street frontage.

E. The requested design adjustment is deemed reasonable due to one or more of the following:
   1. Topographic changes are too steep;
   2. The presence of existing buildings, stream and other natural features;
   3. Site layout of developed properties;
   4. Adjoining uses or their vehicles are incompatible;
   5. Strict compliance would pose a safety hazard; or
   6. Does not conflict with an approved or built roadway construction project
   7. adjacent to or in the vicinity of the site.

We believe the design adjustment is reasonable due to the following site constraints:
1. Neuse River Riparian Buffer on the rear side of the property.
3. Existing retaining wall (30' H ±) and topographic constraints on the rear side of the property.
STATE OF NORTH CAROLINA
COUNTY OF Wake

I, Kelly Panzl, a Notary Public do hereby certify that
Stig Riis Moore personally appeared before me this day and
acknowledged the due execution of the forgoing instrument.

This the 4th day of March, 2019

Notary Public

My Commission Expires: 7/10/19
GENERAL NOTES:

1. VARIANCE CASE A-103-17


- ON AUGUST 14, 2017, THE BOARD OF ADJUSTMENT APPROVED A 25' VARIANCE TO REDUCE THE WIDTH OF THE PARKWAY FRONTAGE STANDARDS WITH THE CONDITION THE RESULTING BUFFER IS PLANTED TO SHDO-2 STANDARDS.

2. VESTED COMPLIANCE WITH VARIANCE CASE A-103-17 PER UDO SECTION 2.10.F.

- THE VARIANCE HAS BEEN VESTED DUE TO THE PERMITTED INSTALLATION OF THE MAIN DRIVE AISLE AND RELATED UTILITY INFRASTRUCTURE INSIDE THE 25' WIDE AREA (GRANTED BY THE VARIANCE) OR THE ORIGINAL 50' WIDE PROTECTIVE YARD.

3. STORMWATER MANAGEMENT

- STORMWATER MANAGEMENT REQUIREMENTS FOR THIS SITE ARE MET AS PART OF SR-44-17.
NOTES:
1. EXISTING CONDITIONS SHOWN ARE BASED ON FIELD SURVEY PERFORMED BY NEWCOMB LAND SURVEYORS, LLC APRIL 25-27, 2016.
2. PROPERTY IS NOT LOCATED WITHIN A SPECIAL FLOOD HAZARD ZONE PER FEMA FIRM #3720075800J, EFFECTIVE DATE MAY 2, 2006. REAR PORTION OF THE PROPERTY IS LOCATED WITHIN THE 100-YEAR FLOODPLAIN PER CITY OF RALEIGH FLOOD STUDY #462 AS SHOWN HEREON.

EXISTING CONDITIONS KEYNOTES

- Existent Property Line
- Proposed Property Line
- Existing Right-of-Way
- Major Contour
- Minor Contour
- Tree
- Utility Pole
- Adjoining Property Line
- Erosion Control
- Sanitary Sewer Line
- Storm Drainage Line
- Sanitary Sewer Manhole
- Storm Drainage Manhole
- Water Line
- Fire Hydrant
- Water Meter
- Sanitary Sewer Cleanout
- Existing Conditions

EXISTING CONDITIONS LEGEND

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NOTES:
3. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH CITY OF RALEIGH, NCDEQ AND NCDOT STANDARDS, SPECIFICATIONS, AND DETAILS.

DRAWN BY
DATE

CHECKED BY
DATE

DESIGNED BY
DATE

REVISION DESCRIPTION

YOUR VISION ACHIEVED THROUGH OURS.

5410 Trinity Road, Suite 102  | Raleigh, NC 27607
TEL 919.866.4951  FAX 919.833.8124  www.timmons.com

THIS DRAWING PREPARED AT THE RALEIGH OFFICE

NORTH CAROLINA LICENSE NO. C-1652

9400 BRIER CREEK PARKWAY
CITY OF RALEIGH, WAKE COUNTY, NORTH CAROLINA
41888

ASR TRANSACTION #586775

ADDRESSED CITY COMMENTS
05/23/2019

ADDRESSED CITY COMMENTS
03/01/2019

ADDRESSED CITY COMMENTS
06/04/2019

ADDRESSED CITY COMMENTS
06/13/2019

AS SHOWN
1. PROTECTIVE YARD. ADDITIONALLY, THE PROPERTY OWNER REQUESTED A COMPLETE VARIANCE TO U.D.O. SECTIONS 9.1.4.A.2 AND STANDARDS WITH THE CONDITION THE RESULTING BUFFER IS PLANTED TO SHDO-2 STANDARDS. OTHERWISE SUBJECT TO THE REQUIREMENT FOR AN UNDISTURBED BUFFER WITHIN 100 FEET OF A MAJOR THOROUGHFARE.

TO THE PARKWAY FRONTAGE AND AREA ALONG A MAJOR THOROUGHFARE, RESULTING IN NO REQUIREMENT FOR TREE S16°30'33"W     20.00' EX. RIGHT-OF-WAY (140± WIDE)

LANDSCAPE MEDIAN

PUBLIC WORKS DEPARTMENT

NORTH CAROLINA DEPARTMENT OF TRANSPORTATION 9400 BRIER CREEK PARKWAY

NOT FOR CONSTRUCTION

PLANT SCHEDULE

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HATCH LEGEND

HATCHED - SEE DETAIL

LANDSCAPE NOTES

ALL LANDSCAPED AREAS SHALL BE IN ACCORDANCE WITH CITY U.D.O. SECTIONS 1.7, 1.8, AND 1.9.

VARIANCE CASE A-103-17:


ON AUGUST 11, 2017, THIS BOARD OF ADJUSTMENT APPROVED A VARIANCE TO REDUCE THE WIDTH OF THE PARKWAY PROTECTION STANDARDS WITH THE CONDITION THE RESULTING BUFFER IS PLANTED TO SHDO-2 STANDARDS.