LOCATION: This site is located on the north side of Brier Creek Pkwy, east of Arnold Palmer Drive at 9650 Brier Creek Parkway.

REQUEST: Development of a proposed 11,809 square foot general building, consisting of a proposed restaurant and personal service use space, on 2.941 acre tract zoned CX-3-PK.

DESIGN ADJUSTMENT(S)/ALTERNATES, ETC: A design adjustment was submitted for approval for block perimeter requirements of Article 8.3 of the UDO and to the requirement to record a 5’ utility placement easement as found in article 8.5 of the UDO.

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 submitted by Timmons Group.

CONDITIONS OF APPROVAL and NEXT STEPS:

Note: This document must be applied to the second sheet of all future submittals with the exception of final plats.

PRIOR TO THE ISSUANCE OF ANY SITE PERMITS OR APPROVAL OF CONCURRENT REVIEW PROCESS, WHICHEVER IS APPLICABLE:

ENGINEERING
1. Next Step: 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.

STORMWATER
2. 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.

3. In accordance with Part 10A Section 9.4.4 of the Unified Development Ordinance, a surety equal to the cost of clearing, grubbing and reseeding a site, shall be paid to the City.

URBAN FORESTRY
4. Next Step: Tree protection fence must be located in the field and inspected by Urban Forestry staff prior to the issuance of a mass grading permit or other site permit, whichever comes first.

PRIOR TO AUTHORIZATION TO RECORD LOTS:

STORMWATER
1. All stormwater control measures and means of transporting stormwater runoff to and from any nitrogen and stormwater runoff control measures shall be shown on a plat for recording as private drainage easements.
2. 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 a note stating: "The areas shown on the recorded plat identified as Neuse River Riparian Buffer shall be maintained 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 the state of North Carolina in accordance with the Riparian Buffer Protection Rules (15A NCAC 2B.0233 or .0259)."

PRIOR TO ISSUANCE OF BUILDING PERMITS:

GENERAL
3. Per the City of Raleigh Solid Waste Manual, a Shared Refuse Collection Facility Agreement with the neighboring business (Lot 2 or PIN#0758-83-6853 at 9600 Brier Creek Pkwy) is recorded prior to building plans approval. And a copy of this deed agreement is returned to staff and referenced on the building permit plans (or Concurrent Plans if recorded by then) with a note placed on the permit plans, noting the shared agreement.

ENGINEERING
4. In accordance with Part 10A Section 8.1.10, a fee-in-lieu for 1’ of sidewalk shall be paid to the City of Raleigh.
5. Required NCDOT encroachment and/or driveway permits must be approved and copies provided to Development Services – Development Engineering.
6. Next Step: 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
7. A Certificate of Compliance for project’s backflow prevention must be issued by Cross Connection and digitally affixed to the plans & will remain in effect until the next scheduled test date.

STORMWATER
8. 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.
9. The flood prone areas, as shown on the preliminary plan, shall be shown on the recorded map;
10. 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.
11. In accordance with Part 10A Section 9.2.2, a surety equal to 125% of the cost of the construction of a stormwater device shall be paid to the Engineering Services Department.
URBAN FORESTRY

12. A tree impact permit must be obtained for the two street trees to be installed in the right of way of Arnold Palmer Drive.

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. Next Step: Required public right-of-way infrastructure improvements shall be, at a minimum, sufficiently completed to provide the necessary, safe emergency and vehicular access.

3. Next Step: All street lights and street signs required as part of the development approval are installed.

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

5. As-built drawings and associated forms for all Stormwater devices are accepted by the Engineering Services Department.

6. Next Step: Final inspection of all required Tree Conservation Areas and right of way street trees 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: 11-20-2021
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: (Planning Dir./Designee)  
Staff Coordinator: (Jermon Purifoy)  
Date: 11/20/18
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.

<table>
<thead>
<tr>
<th>Project Name</th>
<th>9650 Brier Creek Parkway</th>
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<tbody>
<tr>
<td>Development Case Number</td>
<td>SR-61-18</td>
</tr>
<tr>
<td>Transaction Number</td>
<td>559170</td>
</tr>
<tr>
<td>Design Adjustment Number</td>
<td>DA - 98 - 2018</td>
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</tbody>
</table>

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
- ☑ Development Engineering
- [ ] Engineering Services
- [ ] Public Utilities
- [ ] City Planning
- [ ] Transportation
- [ ] Parks & Recreation and Cult. Res.

CONDITIONS:

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

Authorized Signature: [Signature]

Date: 11/20/2018

*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 [x] NO []

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

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

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

**STAFF FINDINGS**

Staff is in support of the design adjustment for block perimeter as the ability for public streets and pedestrian passage is limited by the following (specific number from section E of this form):

1. Topographic changes and existing retaining walls.
2. The presence of a stream and other environmental features.
3. Site layout of developed properties
4. Does not conflict with an approved or built roadway construction project
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 additional maintenance responsibilities for the City; and
   YES ☑ NO ☐
E. The requested design adjustment has been designed and certified by a Professional Engineer.
   YES ☑ NO ☐

**STAFF FINDINGS**

Staff is in support of the developer's request to obtain a design adjustment to remove the 5' utility placement easement along Brier Creek Parkway that is a NCDOT maintained facility.

Support is based upon the following:

1. The adjacent lots do not have utility placement easements
2. The adjacent lots do not have street trees behind the back of curb allowing for the placement of utilities behind the back of curb
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.

<table>
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<th>CONTACT</th>
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<tbody>
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<td>Case Number</td>
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</tr>
<tr>
<td>Phone</td>
<td>(919) 866-4948</td>
<td></td>
</tr>
</tbody>
</table>

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):

See attached

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  
10/12/18

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 designadjustments@raleighnc.gov.

Deliver the addressed envelopes and letters to:
Development Services, Development Engineering
One Exchange Plaza, Suite 500
Raleigh NC, 27601

For Office Use Only  RECEIVED DATE:  DA -  -

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Design Adjustment Memorandum

UDO Article 8.3

This project has access to Brier Creek Pkwy via a 24' wide cross-access agreement that includes several lots (BM.2017 PG.1161). 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 8.3.1D, 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. 2. Greenway Easement (BM. 2004 PG. 1975) on the rear side of the property. 3. Existing retaining wall (30'H ±) and topographic constraints on the rear side of the property. 4. Existing buildings (single-family homes) along the western side of the property.

UDO Article 8.5

An administrative design adjustment for the 5’ utility easement on Brier Creek Parkway and Arnold Palmer Drive should be granted based on UDO Sec. 8.5.1.G. Thus, the design meets the intent of the article, conforms to the Comprehensive Plan and adopted City plans, does not increase congestion or compromise safety, does not create additional maintenance responsibility for the City, and was designed and certified by a Professional Engineer. Specifically, a 5’ utility easement for Brier Creek Parkway is not feasible due to the fact that it is a NCDOT maintained facility. Also, the right of way at the intersection of Arnold Palmer Drive & Brier Creek Parkway is much larger than required for an “Avenue 2 lane, undivided” street. From centerline to right-of-way, 32’ required. Sixty feet (60) is provided at the narrowest point.
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 U.D.O. Section 8.3.1.A, the intent of the maximum block perimeter and connectivity regulations is to provide a well-connected street network. Pedestrian sidewalk exists and provides direct access to some adjacent properties. The existing riparian buffer, existing greenway easement, existing retaining wall, and existing buildings prevent further access.

B. The requested design adjustment conforms with the Comprehensive Plan and adopted City plans;
   The design adjustment does conform with both the 2030 Comprehensive Plan and adopted city plans and will not impact the future land use or future street network.

C. The requested design adjustment does not increase congestion or compromise Safety;
   There is no increase in congestion or compromise of safety. Access provided by pedestrian sidewalks and the cross access agreement should both limit congestion provide safe access to and from the site.

D. The requested design adjustment does not create any lots without direct street Frontage;
   The approved adjustment does not create any lots without direct street frontage. The residential lots located at the rear of the project site are located on an existing public cul-de-sac. All additional lots near the project site already have street frontage along public roads.

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.
4. Existing buildings (single-family homes) along the western side of the property.
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;

B. The requested design adjustment conforms with the Comprehensive Plan and adopted City plans;

C. The requested design adjustment does not increase congestion or compromise safety;

D. The requested design adjustment does not create additional maintenance responsibilities for the City;

E. The requested design adjustment has been designed and certified by a Professional Engineer; and

F. The requested design adjustment shall address Stormwater collection and conveyance and not adversely impact Stormwater collection.
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;

The intent of this article (UDO 8.5.1.A.1) is to provide the application of the street typology map and the streetscapes to existing streets to reflect the character and context of areas in the city. Brier Creek Parkway as it exists meets that intent, however a 5' utility easement is not feasible due to the fact that it is a NCDOT maintained facility. Arnold Palmer Drive also meets that intent, but the right-of-way is much larger the intersection with Brier Creek Parkway. Only 32' req'd (to the centerline). 60' minimum (to the centerline) provided.

B. The requested design adjustment conforms with the Comprehensive Plan and adopted City plans;

The design adjustment does conform with both the 2030 Comprehensive Plan and adopted city plans and will not impact the future land use or future street network.

C. The requested design adjustment does not increase congestion or compromise safety;

The requested design adjustment involving utility easements has no impact on congestion or safety.

D. The requested design adjustment does not create additional maintenance responsibilities for the City; and

The requested design adjustment does not create additional maintenance responsibilities for the City because Brier Creek Parkway is NCDOT maintained and Arnold Palmer Drive has a right-of-way much larger than required.

E. The requested design adjustment has been designed and certified by a Professional Engineer.

The requested design adjustment has been designed and certified by Rick Baker, PE who is employed by Timmons Group, Inc, a licensed North Carolina engineering consulting firm.
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 the Raleigh Street Design Manual;

B. The requested design adjustment conforms with the Comprehensive Plan and adopted City plans;

C. The requested design adjustment does not increase congestion or compromise safety;

D. The requested design adjustment does not create additional maintenance responsibilities for the City; and

E. The requested design adjustment has been designed and certified by a Professional Engineer.
STATE OF NORTH CAROLINA
COUNTY OF Wake

I, Kelly Panzi, a Notary Public do hereby certify that
Richard Baker personally appeared before me this day and
acknowledged the due execution of the forgoing instrument.

This the 12th day of October, 2018.

Notary Public

My Commission Expires: 7/10/19