



*City Of Raleigh*  
North Carolina

September 24, 2010

Mr. David Camp  
Development Solutions, LLC  
111 Thensia Court  
Cary, NC 27513-4251

Re: SU-6-10 – Carolina Ale House

Dear Mr. Camp:

In its meeting held on September 7, 2010 the Raleigh City Council approved the application submitted by Moshakos Brier Creek, LLC for a Special Use Permit to allow outdoor amplified entertainment at Carolina Ale House located at 7981 Skyland Ridge Parkway (Alexander Place Promenade) in Raleigh. The request was to allow outdoor performances on the restaurant's patio under a permanent roof seven days a week between the hours of 12:00 noon and 12:00 midnight. Enclosed is a copy of the Findings of Fact and Conclusions of Law adopted by the Council on September 21, 2010.

Please contact the City of Raleigh Planning Department (516-2626), Inspections Department (516-2495), and Revenue Services (996-3200) to determine the steps necessary to proceed. If you have any questions concerning the Council's action, please do not hesitate to call me at 996-3040.

Sincerely,

Leslie H. Eldredge, CMC  
Deputy City Clerk

Enclosure

c: Planning – Jaque Baker  
Inspections – Larry Strickland  
Revenue – Kimsu Harrington

One Exchange Plaza  
1 Exchange Plaza  
Raleigh, NC 27601

City of Raleigh  
Post Office Box 590  
Raleigh, NC 27602-0590  
(Mailing Address)  
*Printed on Recycled Paper*

Municipal Building  
222 West Hargett Street  
Raleigh, NC 27601

NORTH CAROLINA

WAKE COUNTY

BEFORE THE RALEIGH CITY COUNCIL  
SU-6-10

**IN RE: Carolina Ale House Outdoor Amplified Entertainment**

On September 7, 2010, the Raleigh City Council held a hearing to receive evidence in the matter of Carolina Ale House, a request from Moshakos Brier Creek LLC to be issued a special use permit for outdoor amplified entertainment. The request is to allow outdoor amplified musical performances to take place 7 days a week between the hours of 12:00 noon and ending at 12:00 midnight located at 7981 Skyland Ridge Parkway. All events are proposed to be located entirely on the business premises on a patio under a permanent roof covering. As a result of that hearing and the testimony and other evidence received there the City Council makes the following findings of fact and conclusions of law.

### **FINDINGS OF FACT**

1. All parties necessary to the determination of this request were properly notified and were or had the opportunity to be represented at the hearing.

2. Raleigh City Code §12-2120 requires the following conditions be satisfied before an amplified entertainment permit may be issued.

**a. The establishment's proximity to residential areas, schools, churches, and health care facilities.**

The closest Residential use are multi-family apartments across Glenwood Ave. (US 70) approximately 650' from the premise. No other schools, churches or health care facilities are located within 1000' of premise.

**b. The establishment's history of compliance with noise and nuisance law.**

This location had no complaints due to noise or related problems during the past year while they have operated under the existing SUP for amplified entertainment.

**c. Access with respect to pedestrian and automotive safety, traffic flow, emergency service.**

Access will not be impeded or change by allowance of amplified entertainment at this premise and all activities will occur within the structure (under roof) at the premise.

**d. Intensity including such considerations as size, location, hours and/or conditions of operation, and number of participants.**

The outdoor entertainment would be conducted entirely on the premise and within the structure, staff is present at all times during these events and attendance will not exceed 400 people. These events would take place during normal operating times and all outdoor amplified entertainment will be restricted to between the hours of Noon and Midnight. The events could occur any day(s) during the week, this location operates 7 days a week.

**e. Landscaping, screening, fencing with respect to protecting affected properties from anticipated noise, loss of privacy, and glare; preserving of important natural features, or harmonizing the request with affected properties.**

The 50' undisturbed buffer along Glenwood Ave. and screening of parking areas provides buffering for adjacent properties. All adjacent properties in this Shopping Center on the north side of Glenwood Ave. are commercial.

**f. Control or elimination of noise, dust, vibration, and lighting.**

The outdoor entertainment on the patio will be oriented towards adjacent commercial structures which are retail in nature. Staff at premise is responsible for any maintenance such as trash removal after an event.

**g. The proposed use will not adversely impact public services and facilities such as parking, traffic, police, etc., and that the secondary effects of such uses will not adversely impact on adjacent properties. The secondary effects would include but not be limited to noise, light, stormwater runoff, parking, pedestrian circulation and safety.**

This proposed use does not impact access for traffic parking or emergency services because the events are not located in the vehicular areas, travel aisles or private drives. All events will be during normal business operating hours and other than amplified music on the patio for dining guests only there is no change. Neighboring commercial properties will not be adversely affected during these events which generally occur outside of their operating hours.

The City Council may consider additional evidence to determine conformance with this or other findings.

## CONCLUSIONS OF LAW

1. The requirements of the Raleigh City Code 12-2120 have been met and the applicant Moshakos Brier Creek LLC is entitled to an amplified entertainment permit for two years.

2. Pursuant to the provisions of G.S. 160A of the North Carolina General Statutes, the City Council is empowered to place conditions upon an amplified entertainment permit.

3. The request made in SU-6-10 as set out and modified in this order is hereby approved.

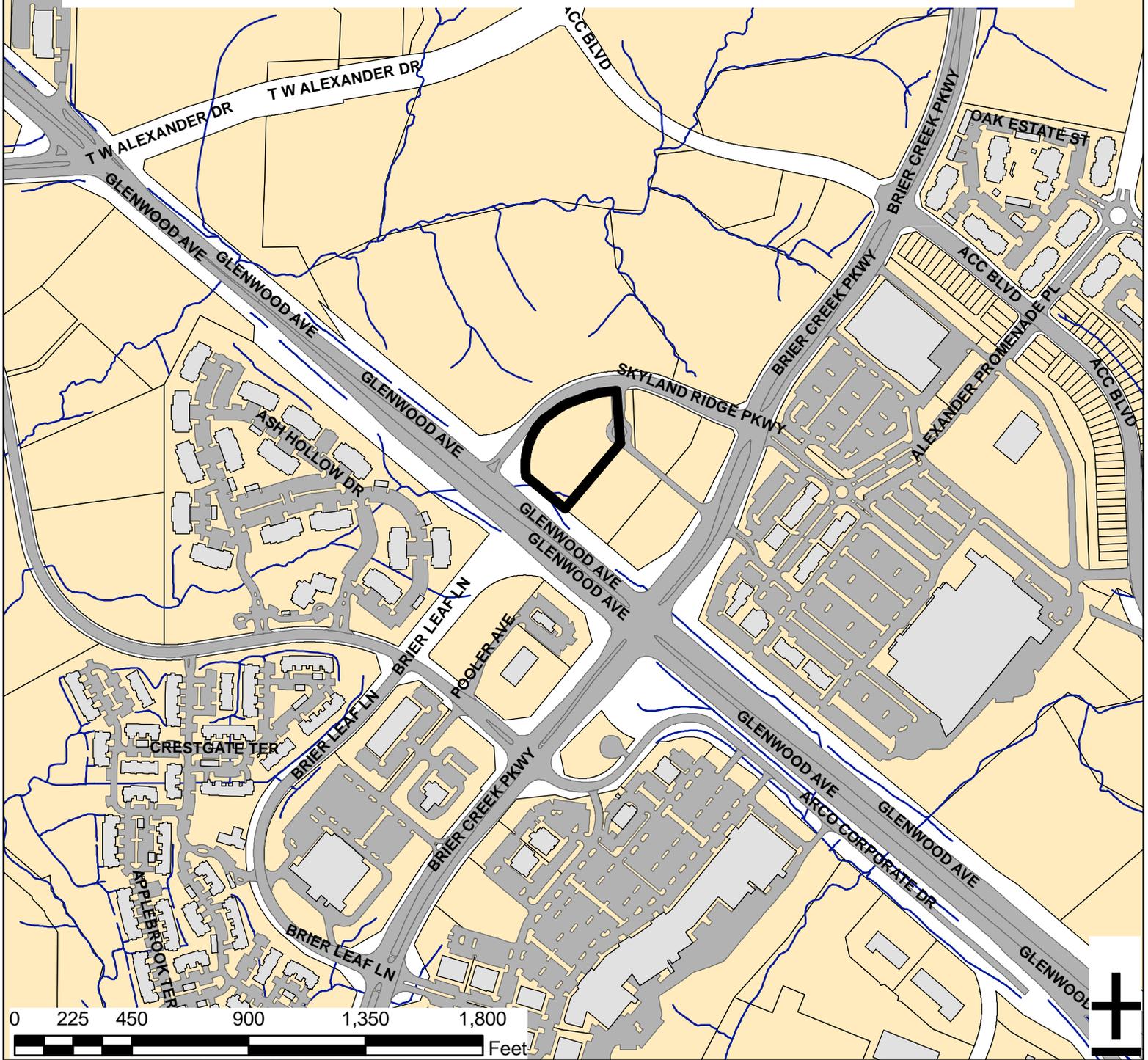
This the 21st day of September, 2010.

A handwritten signature in cursive script, appearing to read "Gail G. Smith", written over a horizontal line.

Gail G. Smith  
City Clerk

*Prepared by the Raleigh City Attorney's Office*

# CAROLINA ALE HOUSE- BRIER CREEK SU-6-2010



Zoning: **SC**  
CAC: **Northwest**  
Drainage  
Basin: **Little Brier Creek**  
Acreage: **2.42**

Special Use: **Amplified Music**  
Planner: **Jacque Baker**  
Phone: **(919) 516-2630**  
Applicant Contact: **Development Solutions, LLC**  
Phone: **(919) 469-3041**

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## SPECIAL USE PERMIT APPLICATION

FOR PUBLIC HEARING AND APPROVAL BY THE CITY COUNCIL

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### Section A.

#### SUBMITTAL CHECKLIST

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***AT THE TIME YOU SUBMIT YOU MUST VERIFY WITH A DEVELOPMENT PLANS REVIEW CENTER STAFF MEMBER THE PARCEL OR PARCELS THAT ARE THE SUBJECT OF YOUR PLAN, AND THE STAFF MEMBER WILL CHECK YOUR APPLICATION MATERIALS FOR COMPLETION.***

***THIS IS AN IMPORTANT STEP THAT WILL ENSURE THAT YOUR PLAN CAN BE REVIEWED AND APPROVED IN THE MINIMUM TIME POSSIBLE, SO PLEASE PLAN ON SPENDING A FEW MINUTES WITH US AT THE TIME YOU SUBMIT. PLEASE DO NOT SIMPLY LEAVE YOUR APPLICATION MATERIALS ON THE DESK.***

***PLEASE CALL AHEAD FOR AN APPOINTMENT IF YOU WISH THE MOST PROMPT SERVICE WHEN YOU ARRIVE.***

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***PLEASE INCLUDE ALL OF THE FOLLOWING (CHECK OFF). If any information is missing from the application package, you will be asked to complete the application and re-submit the petition, so please check the list below carefully before you submit:***

- \$206 FILING FEE.** Checks may be made out to the City of Raleigh. Payments may be made by cash or by check, but not by credit cards.
- THREE ORIGINALS OF THIS APPLICATION FORM** completed (Section B), **signed** by the property and **notarized**.
- THREE COPIES OF PROPOSED PLANS.** Maximum sheet size shall be 30" x 42". Plans must be to engineering scale (1" = 20', 1" = 100', etc.). Preliminary plans do not need an engineer's, surveyor's or landscape architect's seal. Information shown on the plan should relate to the findings that must be made by the City Council to grant this special use request. See Section 10-2145 or applicable parts of Chapter 12 of the Raleigh City Code for specific findings the Council is to make for this special use.
- NEW!*** **A DIGITAL COPY OF ONLY THE PLAN LAYOUT AND ELEVATIONS.**  
The purpose of this image is to illustrate the basic character of the preliminary plan. It should contain only such basic information as: building outline, landscaping, parking and drives, stormwater facilities, lot boundary. The digital image should be provided in the form of **pdf** on a CD or 3 1/2" floppy disk. If the plan was not digitally created, provide an 8 1/2" x 11" reduction of the plan.

**PROCEDURE FOR HEARING AND APPROVAL OF A SPECIAL USE PERMIT BY CITY COUNCIL:**

It is very important that this application be complete, the adjacent property owners list be accurate, and the signature of the property owner be notarized! A special use hearing is a quasi-judicial proceeding, and the special use permit may be invalidated if any information is inaccurate or incomplete.

If a preliminary site plan is submitted for approval along with this special use request, both plans will be forwarded to City Council approx. 6 weeks from submittal. If only the special use permit is being requested the case will be heard by City Council approx. 4 weeks from submittal.

You, or your representative must be present at the hearing to present the case for issuance of the special use permit. You will be notified as to the time and place of the proceeding. City staff will provide a written draft set of findings for the Council to consider. A coordinating planner will contact you and will provide a draft of the special use findings for you prior to the hearing.

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## **Section B.**

### **SUMMARY INFORMATION - (SHOW ON PLAN)**

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**DEVELOPMENT NAME:** Carolina Ale House in Alexander Place Promenade, Phase II

**LOCATION:** 7981 Skyland Ridge Parkway Raleigh, NC

**SHOW WAKE COUNTY PROPERTY IDENTIFICATION NUMBER(S) ON PLAN. SUBMIT PIN MAP. SEE SUBMITTAL CHECKLIST ON FRONT PAGE. PIN = 0768473801**

**ZONING DISTRICT:** SC

**TOTAL SITE ACRES:** 2.42

**SPECIAL USE PERMIT REQUESTED:**

- |  |  |
|--|--|
| <input type="checkbox"/> Telecommunication tower in a residential district.                          | <input type="checkbox"/> Parking facility in a residential district.                           |
| <input type="checkbox"/> Correctional / Penal facility.  | <input type="checkbox"/> Recreation use (membership) in primary watershed                      |
| <input type="checkbox"/> Additional Density in O&I, TC, SC Districts.                                | <input type="checkbox"/> Recreation use (government) or camp (non-profit) in Primary watershed |
| <input type="checkbox"/> Outdoor Stadium (more than 250 seats).                                      |  |
| <input checked="" type="checkbox"/> <b>Amplified Music (indoor / outdoor) (Code section 12-2120)</b> |  |

**OWNER / DEVELOPER:**

NAME(S): Moshakos Brier Creek LLC

ADDRESS: 5404 Hillsborough Street Raleigh, NC 27606

TELEPHONE: 919-851-0858

FAX: 919-851-0857

E-MAIL ADDRESS:

**PERSON TO CONTACT REGARDING STAFF COMMENTS OR QUESTIONS ABOUT THE PLANS:**

NAME(S): David Camp, Development Solutions LLC

ADDRESS: 111 Thensia Court, Cary NC 27513

TELEPHONE: 919-469-3041

FAX: 919-469-3138

E-MAIL ADDRESS: [drcamp@worldnet.att.net](mailto:drcamp@worldnet.att.net) & [amoshakos@lmrest.com](mailto:amoshakos@lmrest.com)

**THE OWNERSHIP OF THIS PROPERTY IS EVIDENCED BY DEED FROM:** 3/16/2005

**AND RECORDED IN THE WAKE COUNTY REGISTRY, BOOK 11266 PAGE 1750**

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**OWNER'S SIGNATURE:**

I hereby certify that the information contained herein is true and complete; and I understand that if any item is found to be otherwise after evidentiary hearing before the City Council, that the action of the Council may be invalidated.

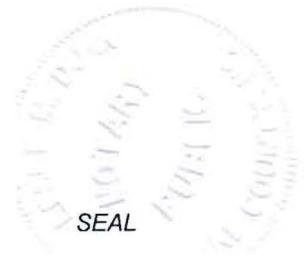
Date: 7/28/10 Signed: [Signature]

STATE OF NC  
COUNTY OF Wake

I, a Notary Public, do hereby certify that Amber Moshakos personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

This the 28th day of July, 192010. My commission expires: 4-4-2013

Signed: [Signature]  
Lester McDunn



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**Section C.**

**APPLICANT'S STATEMENT**

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The zoning ordinance imposes the following SPECIFIC REQUIREMENTS before a special use permit may be issued. Please address each of the specific requirements noted in Section 10-2145 of the Raleigh City Code, in the area below as it relates to your request. The Development Plans Review Center staff can assist in listing the specific requirements. The applicant should be prepared to demonstrate that, if the land is used in a manner consistent with the plans, specifications and other information presented to City Council, the proposed use will comply with each of the following specific requirements (You may attach additional sheets if necessary):

Please see attached justifications using Section 2120 for Outdoor Amplified Music.

This Special Use request is specifically for amplified music on the Patio that is under a permanent roof and contained by a brick half wall with openings that can be covered during inclement weather. Other events which have occurred outside of the structure (roof) have obtained Special Use Permits on an as needed basis and this request does not apply to those events.

It is our understanding the reason for requesting this Special Use despite qualifying for an exemption under (12-2120 a 5 (b)), is because there are other events at the Shopping Center which could exceed 20 events during a calendar year.

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## 12-2120 Justifications

### (3) Special use permit required.

Outdoor music in either of the areas described in subsections (1) or (2) above shall be allowed only after the issuance of a special use permit allowing the use by the Raleigh City Council. Notice of any hearing pursuant to this subsection shall be accomplished by publishing a notice of the hearing in a newspaper qualified to convey legal advertising. The newspaper notice shall be augmented by a placard measuring no less than twenty-four (24) inches by eighteen (18) inches setting out the place and time of the hearing. The newspaper advertisement shall be published and the placard displayed at least ten (10) days prior to the hearing date. The placard shall remain on display from its first posting until the date of the hearing. The City Council shall consider the following factors when acting on a request for a special use permit to allow outdoor music:

- (a) The establishment's proximity to residential areas, schools, churches, and health care facilities.

**The closest Residential use are multi-family apartments across Glenwood Ave. (US 70) approximately 650' from the premise. No other schools, churches or health care facilities are located within 1000' of premise.**

- (b) The establishment's history of compliance with noise and nuisance laws.

**This location had no complaints due to noise or related problems during the past year while they have operated under the existing SUP for amplified entertainment.**

- (c) Access with respect to pedestrian and automotive safety, traffic flow, emergency service.

**Access will not be impeded or change by allowance of amplified entertainment at this premise and all activities will occur within the structure (under roof) at the premise.**

- (d) Intensity including such considerations as size, location, hours and/or conditions of operation, and number of participants.

**The outdoor entertainment would be conducted entirely on the premise and within the structure, staff is present at all times during these events and attendance will not exceed 400 people. These events would typically take place in the evening and all outdoor amplified entertainment will end by Midnight.**

- (e) Landscaping, screening, fencing with respect to protecting affected properties from anticipated noise, loss of privacy, and glare; preserving of important natural features; or harmonizing the request with affected properties.

**The 50' undisturbed buffer along Glenwood Ave. and screening of parking areas provides buffering for adjacent properties. All adjacent properties in this Shopping Center on the north side of Glenwood Ave. are commercial.**

(f) Control or elimination of noise, dust, vibration, and lighting.

**The outdoor entertainment on the patio will be oriented towards adjacent commercial structures which are retail in nature. Staff at premise is responsible for any maintenance such as trash removal after an event.**

(g) The proposed use will not adversely impact public services and facilities such as parking, traffic, police, etc., and that the secondary effects of such uses will not adversely impact on adjacent *properties*. The secondary effects would include but not be limited to noise, light, stormwater runoff, parking, pedestrian circulation and safety.

**This proposed use does not impact access for traffic, parking or emergency services because the events are not located in the vehicular areas, travel aisles or private drives. All events will be during normal business operating hours and other than amplified music on the patio for dining guests only there is no change. Neighboring commercial properties will not be adversely affected during these events which generally occur outside of their operating hours.**



CAROLINA  
ALE  
HOUSE



SKYLAND Ridge  
PARKWAY  
EX PUBLIC R/W

16X360 SIGHT TRIANGLE EASEMENT

24" CURB AND GUTTER (TYPICAL)

PROPOSED ASPHALT PAVEMENT  
8" ABC STONE, 3" 1-2 PAVEMENT  
IN AISLES, 6" ABC STONE, 2" 1-2  
PAVEMENT IN PARKING STALLS

CONSTRUCTION EASEMENT

CROSSWALK TO  
BE STAMPED ASPHALT  
STAINED BRICK COLOR

7981 Skyland  
Ridge Pkwy.  
LOT 35  
MB 2004, PG 1815

OUTDOOR  
DINING

CANOPY

WALK IN COOLERS  
SERVICE COURT

TRASH  
DUMPSTERS

6" CONCRETE DUMPSTER PAD  
4" ABC STONE

PLAZA SIDEWALK  
6"x6" GRID SCORE

ONE WAY SIGN

EX TRAFFIC CIRCLE

PROPOSED ASPHALT PAVEMENT  
8" ABC STONE, 3" 1-2 PAVEMENT  
IN AISLES, 6" ABC STONE, 2" 1-2  
PAVEMENT IN PARKING STALLS

CROSSWALK TO  
BE STAMPED ASPHALT  
STAINED BRICK COLOR

EXISTING SUBSISTANT BLOCK RETAINING WALL

24" CURB AND GUTTER (TYPICAL)

20" CSA SINK SEWER CASE  
MB 2004, PG 1815

20" PRIVATE DRAINAGE CASE  
MB 2004, PG 1815

FUTURE DEVELOPMENT

