

## Planning, Development & Inspections

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A Division of Community Services  
P.O. Box 550 • Raleigh, NC 27602  
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### MINUTES OF REGULAR MEETING

#### Wake County Board of Adjustment

Tuesday, August 14, 2018 (9:00 a.m.)  
Wake County Justice Center  
300 S. Salisbury St., Room 2700  
Raleigh, North Carolina

**Members Present:** (6) Mr. Brenton McConkey (Chair), Mr. Don Mial (Vice-Chair), Mr. Waheed Haq, Mr. DeAntony Collins, Ms. Sheree Vodicka, Mr. John Barker

**Members Absent:** (3) Ms. Lisa Humphreys, Mr. Brian Foxx, Mr. Will Barker

**County Staff Present:** (6) Mr. Steven Finn (Land Development Administrator), Ms. Jenny Coats (Clerk to the Board), Ms. Loretta Alston (Clerk to the Board), Mr. David Parks (Planner II), Mr. Chris Record (Planner II)

**Guests:** (5) Mr. Bruce Narveson, Chairman–Future Site Team, Redeemer Presbyterian Church; Mr. Neil Gustafson, Worthy & Wachtel; Mr. Jim Sherrer, Design Development; Mr. Toby Coleman; Mr. Jon Frazier

**County Attorney's Present :** (1) Mr. Ken Murphy (Senior Assistant County Attorney)

- 1. Meeting called to order:** Mr. McConkey called the meeting to order at 9:02 a.m.
- 2. Oath of Office for Ms. Lisa Humphries:** Mr. McConkey moved this item to the next meeting.
- 3. Election of Chair and Vice-Chair of the Board of Adjustment:** Mr. Murphy opened the floor for nominations for the Chair. Mr. Mial re-nominated Mr. McConkey. The motion was seconded by Mr. Haq. Mr. McConkey accepted the nomination, and the motion carried unanimously. Mr. McConkey opened the floor for nominations for Vice Chair. Mr. Collins re-nominated Mr. Mial for Vice Chair. The motion was seconded by Ms. Vodicka. Mr. Mial accepted the nomination, and the motion carried unanimously.
- 4. Approval of Minutes of the July 10, 2018 Meeting:** Mr. Mial made a motion to approve the July 10, 2018 meeting minutes. The motion was seconded by Mr. McConkey. The motion carried unanimously.
- 5. Approval of Written Decision for BA-SU-2259-18:** Mr. McConkey made a motion to approve the written decision granting the special use in the matter of BA-SU-2259-18. The motion was seconded by Mr. Mial. The motion carried unanimously.
- 6. BA-SU-2260-18 - The petitioner is requesting special modification of a previously approved Special Use Permit to expand an existing church building with a two-story 22,154 square foot addition, a picnic shelter and associated parking.**

Staff Duly Sworn: Mr. Christopher Record, Wake County Planner II

Voting Members: (5) Mr. Brenton McConkey (Chair), Mr. Don Mial (Vice-Chair), Mr. Waheed Haq, Ms. Sheree Vodicka, Mr. John Barker

Landowner: Redeemer Presbyterian Church in America Raleigh, Inc.

Petitioner: Jon Frazier, FLM Engineering, Inc.

PIN#: 0798.14 24 6162

Location: The property is located along the north side of Strickland Road, south of its intersection with Wildwood Links in northern Wake County.

Zoned: Residential-40 Watershed (R-40W)

Land Use Classification: Non-Urban Area Water Supply Watershed

### **Testimony and Evidence Presented**

#### **Documentary Evidence Accepted into Record:**

Staff report and PowerPoint presentation, applicant's application with supporting documents. Also accepted into evidence was a letter from Mr. Neil Gustafson to Mr. Toby Coleman dated July 30, 2018.

#### **Testimony:**

Mr. McConkey accepted staff report, staff PowerPoint presentation and the petitioner's full application for **BA-SU-2260-18** into record as requested by staff.

Mr. Record stated the petitioner's name, zoning classification, background and history of the petition. He provided a PowerPoint presentation and with the following details concerning zoning requirements pertaining to the property:

#### **Background**

Special use approval was granted for the existing 11,352 square foot building with 55 parking spaces for the religious assembly use on September 14, 2004.

At its November 11, 2013 meeting, the Board of Adjustment approved a special use modification to allow for a 6,796 square foot education/Sunday School building with 23 additional parking spaces. This special use approval has since expired due to a building permit not being obtained within 2 years of the approval date.

This special use petition proposes the construction of a two-story 22,154 square foot addition with classroom and sanctuary space, a picnic shelter and associated parking. The sanctuary seating for the use will be increased from 400 seats to 540 seats.

Notification letters were mailed to adjacent property owners on July 30, 2018. A public hearing placard was placed on the property on August 2, 2018.

### **Zoning Standards**

#### **A. Utilities**

Water and sewer are proposed to be provided from Wildwood Links utility lines that are served by Aqua. Documentation of approval from Aqua that indicates the company will provide both utilities will be required prior to Certificate of Occupancy.

#### **B. Streets**

The property has frontage along Strickland Road.

The site currently is accessed via two driveways onto Strickland Rd. The site plan proposes to remove one of these driveways and reconfigure the other driveway. A driveway permit from the NCDOT will be required for the reconfigured driveway.

#### **C. Parking**

Pursuant to Section 15-10 of the Wake County Unified Development Ordinance, off-street parking for religious assembly use is required to be provided at a rate of one (1) parking space for 4 seats in the principal assembly room. The application indicates the sanctuary will contain 540 seats, which requires 135 parking spaces. The site plan shows that 135 parking spaces will be provided.

#### **D. Landscaping and bufferyards**

Section 16-10-2 (D), *Landscaping and Bufferyards, Bufferyard Table*, requires 40-foot Type C bufferyard along the western, northern, and eastern property lines. The site plan indicates that existing vegetation will be used to satisfy the western and northern bufferyards. The eastern bufferyard is shown to use existing vegetation where applicable and will install additional plantings where necessary to meet the screening requirements of this section.

The required 10-foot Type F streetfront bufferyard that was previously installed will remain along Strickland Rd.

#### **E. Stormwater management/impervious surface coverage**

Section 5-11-1, *Conventional Development – Residential Watershed Districts*, allows for the impervious surface coverage for nonresidential development of property within Residential 40-Watershed zoning districts to exceed 12%, up to a maximum of 24%, only if the first ½" of rainfall runoff is retained on the site. The proposed total impervious surface coverage of the property is 23.9%. The site plan proposes a bioretention device to handle stormwater runoff. Due to the proposed impervious surface closely approaching the maximum allowed for the use, Staff recommends that an as-built survey be required prior to Certificate of Occupancy to ensure that the impervious surface threshold has not been exceeded.

#### **Land Use Plan**

The property is located in the Falls Lake Non-Urban Area/Water Supply Watershed as shown on the Wake County Land Use Plan: General Classifications Map. Religious uses are not required to be located within an activity center

#### **Findings**

##### **Special Use Required Conclusions:**

The Board of Adjustment shall not approve a petition for a Special Use Permit unless it first reaches each of the following conclusions based on findings of fact supported by competent, substantial, and material evidence. The Board of Adjustment must make positive findings on the following findings of fact from Article 19-23 of the Wake County Unified Development Ordinance in order to approve or deny this special use request:

- (1) The proposed development will not materially endanger the public health or safety.  
*Considerations:*
  - a. Traffic conditions in the vicinity, including the effect of additional traffic on streets, street intersections, and sight lines at street intersection and curb cuts.
  - b. Provision of services and utilities, including sewer, water, electrical, garbage collections, fire protection.
  - c. Soil erosion and sedimentation.
  - d. Protection of public, community, or private water supplies, including possible adverse effects on surface waters or groundwater.
- (2) The proposed development will comply with all regulations and standards generally applicable within the zoning district and specifically applicable to the particular type of special use or class of special uses.
- (3) The proposed development will not substantially injure the value of adjoining property, or is a public necessity. *Considerations:*
  - a. The relationship of the proposed use and the character of development to surrounding uses and development, including possible conflicts between them and how these conflicts will be resolved.

- b. Whether the proposed development is as necessary to the public health, safety, and general welfare of the community or County as a whole as to justify it regardless of its impact on the value of adjoining property.

(4) The proposed development will be in harmony with the area in which it is located.

*Considerations:*

- a. The relationship of the proposed use and the character of development to surrounding uses and development, including possible conflicts between them and how these conflicts will be resolved.

(5) The proposed development will be consistent with the Wake County Land Use Plan.

*Considerations:*

- a. Consistency with the Plan's objectives for the various planning areas, its definitions of the various land use classifications and activity centers, and its locational standards.
- b. Consistency with the municipal and joint land use plans incorporated in the Plan.

### **Staff recommendations**

Staff recommended that, if the Board of Adjustment reaches positive conclusions on all of the required findings, that it approve the request subject to the following conditions:

- 1) The petitioner must record the notarized form pertaining to the Order of the Board in the Wake County Register of Deeds and return a copy to the Planning, Development and Inspections Division of Community Services;
- 2) The petitioner must obtain and complete appropriate building permits from the Wake County Inspections Development/Plans/Permits Division;
- 3) The petitioner must obtain a driveway permit from the North Carolina Department of Transportation;
- 4) The petitioner must obtain Stormwater Management approval from Wake County Environmental Services;
- 5) Documentation of approval from Aqua that indicates the company will provide water and sewer utilities will be required prior to Certificate of Occupancy;
- 6) An as-built survey is required prior to issuance of a Certificate of Occupancy for the building;
- 7) A final zoning inspection to verify site plan compliance must be performed by the Wake County Zoning Administrator prior to the issuance of a certificate of completion by the Wake County Planning, Development and Inspections Division of Community Services;
- 8) The landowner must maintain compliance with the special use approval and Wake County Unified Development Ordinance.

Mr. McConkey asked if there were any questions for Mr. Record.

Mr. Haq asked how water and sewer services are currently supplied to this building. Mr. Record answered that the building has an individual well and septic, and that the petitioner is proposing to tie in to water utility lines from Wildwood Green.

### **Sworn witnesses in favor of the petition**

1. Mr. Toby Coleman, 150 Fayetteville Street, Ste 2300, Raleigh, NC 27601
2. Mr. Jon Frazier, FLM Engineering Inc., 8218 Creedmoor Rd, Ste 201, Raleigh, NC 27613
3. Mr. Bruce Narveson, Chairman – Future Site Team, Redeemer Presbyterian Church
4. Mr. Jim Sherrer, Design Development, 800 Salem Woods Dr, Ste 102, Raleigh, NC 27615
5. Mr. Neil Gustafson, Worthy & Wachtel Inc., PO Box 17843, Raleigh, NC 27619

Mr. Frazier, FLM Engineering Inc, preparer of the special use permit site plan referenced in the application provided evidence to support that the project will not materially endanger the public health or safety specifically regarding Stormwater runoff and traffic. Mr. Frazier said the site will have a bio retention cell to treat both the peak rate of runoff for storm water and the suspended solids and nutrients all in accordance with Wake County and Falls Lake watershed requirements.

He stated the proposed site which is very similar to the existing site, does not have any current Stormwater controls since it was developed before those were required. He further explained, inherently with the proposed bio-retention cell, the site will improve conditions downstream by providing that detention and again treatment of the suspended solids and nutrients all in accordance with Wake County and Falls Lake watershed requirements.

Regarding traffic, the site with the additional building is anticipated to add no more than 20 trips during the AM and PM weekday peak hours and no more than 200 weekday trips. Both are under the thresholds for Wake County traffic study requirements of 100 peak hour trips and 1,000 daily trips. Mr. Frazier concluded in his professional opinion traffic will not propose a safety concern to the site. Regarding Mr. Record's mention of the site driveway being relocated, Mr. Frazier, explained there are currently two driveways – one for ingress and one for egress and there are some site distance concerns with those. He further stated to address those safety concerns, they took a step with reconfigurations and feel, in his professional opinion, the project will not pose a public health and safety concern.

Mr. McConkey asked if there were any questions for Mr. Frazier.

In reference to Mr. Haq's previous question, Mr. Frazier pointed out for clarification that the site, regarding utilities, is currently served by water from Aqua, but it is served with an individual septic system and proposed to be served with sewer connection to Aqua, so the water will remain the same.

Mr. Bruce Narveson, Chairman of Future Site Team, informed the Board his responsibility is to lead the efforts for the church expansion. He stated the church has been worshiping in that space since 2007 and since 2010, they have been doing two services per Sunday because the parking has been inadequate. He further stated, early in the church's history, they were faced with discussions about what they would do with the property. Mr. Narveson explained as the church has grown and continues to grow, parking has become more of a problem. He stated Sunday school space has become completely inadequate for the number of people. Mr. Narveson said they approached the County once before and added a trailer temporarily at that time. He gave testimony they are now at the point they were before of wanting to expand the church. Mr. Narveson concluded that with building limitations for Sunday School and Worship and most importantly because of parking conflicts, he was here to ask for special use permit, so they can better accommodate the ministries of the church and the neighborhood.

Mr. McConkey asked if there were any questions for Mr. Narveson. There being none, he congratulated Mr. Narveson on the success of the church.

Mr. Record informed the Board that Mr. Gustafson had prepared a letter on his opinion dated July 30, 2018. He distributed a copy to Board members and asked that it be entered into record.

Mr. Gustafson informed the Board of his background and gave testimony regarding the impact of the proposed redevelopment of adjoining and abutting properties. Mr. Gustafson concluded this proposed plan does not have any adverse impact on the properties in question. He stated the closest building is 159 feet from the property line.

Mr. Record asked Mr. Gustafson regarding the letter he prepared dated July 30, 2018 that was handed out to the Board to confirm that the 2-page letter with Exhibits A-E entered into evidence was true and accurate copies of what he had prepared. Mr. Gustafson confirmed that is correct.

Mr. Gustafson stated this has been the existing use and continued use as a church. It has huge buffers around the edge of your property. He further stated personally, he does like the new driveway configuration better. Property to the west is a homeowner's association common area so there is an even bigger buffer to the west. The property mostly significantly impacted to this is the property to the east which is about 2.3 acres and it is eligible for two single family lots and it's got a bit buffer along that side. Strickland Road has a natural buffer to the south, but even the subdivision to the south has a fence. None of these will be impacted by this proposed redevelopment.

Mr. McConkey, upon review of the Board, accepted Mr. Gustafson letter. He also recognized the expertise of both Mr. Narveson as well as Mr. Frazier being tendered as experts in their respective fields. Mr. McConkey asked if there were any questions for Mr. Gustafson.

Mr. Mial asked if the additional 56 parking spaces adequately meet the needs. Mr. Narveson responded by explaining the regulation is four seats per parking space, so the proposed sanctuary will be 540 seats and that would be adequate, and the maximum would be adequate. Fits perfectly in line with strategic plan.

Mr. McConkey asked if anyone wished to speak in favor or opposition to the request. There being none, he closed the public hearing and opened for Board discussion

### **Board discussion**

Mr. McConkey reminded the Board typical practice is to review the findings and facts we are required to make and discuss them in the context of this application. Mr. McConkey then stated the five requirements and members commented as follows:

1) **The proposed development will not materially endanger the public health or safety:**

Mr. McConkey stated the petitioner has tendered an expert, Mr. Jon Frazier, Professional Engineer, his testimony was that due to certain improvements in additional infrastructure there would be no detriment to Stormwater runoff and in fact there might be an improvement and that there would be no significant additional traffic added by virtue of this project.

2) **The proposed development will comply with all regulations and standards generally applicable within the zoning district and specifically applicable to the particular type of special use or class of special uses:**

Mr. Mial commented based on the testimony and information that was submitted, the Board does not see where it will create any problems and it will comply with all regulations and standards set by the County.

Mr. McConkey stated that was the conclusion of the staff report as well and they were right on the border of the impervious service area limit, but the suggested conditions will help staff to be able to ensure that is met as well.

3) **The proposed development will not substantially injure the value of adjoining property or is a public necessity:**

Mr. Barker stated based on the testimony of Mr. Gustafson, an appraiser, in his expert opinion that it will not impact adjoining property values.

4) **The proposed development will be in harmony with the area in which it is located:**

Mr. Mial agreed being it is already a church they are just expanding it is not going to change anything, therefore, it remains in harmony with the area in which it is located.

Mr. McConkey commented it is important too that the church was approved by this Board in 2004. We approved modification in 2013, obviously we are not bound by prior decisions but twice before this Board has found that the church use of the property would be in harmony with the area in which it is located.

- 5) **The proposed development will be consistent with the Wake County Land Use Plan:**  
Mr. McConkey stated that was the testimony of our staff.

Mr. Mial further stated there is no change from the current use, and it will comply with non-residential requirement within the R-40W zoning district.

There being no further discussions on the finding of facts, Mr. McConkey asked for a motion.

**Mr. Mial made a motion to grant:** In the matter of BA SU-2260-18, I move that the Board find and conclude that the petition does meet the requirements of Article 19-23 of the Wake County Unified Development Ordinance and the special use permit be granted with the recommended staff conditions. The motion to approve is based on the following findings of fact:

- 1) The proposed development will not materially endanger the public health or safety.

*Traffic will not be impacted significantly in that less than 100 trips will be added to Strickland Road on Sundays, the busiest day for the use. Per NC DOT, Strickland Road has a capacity of 13,800 average daily traffic (ADT) and is currently operating at 10,000 ADT.*

- 2) The proposed development will comply with all regulations and standards generally applicable within the zoning district and specifically applicable to the particular type of special use or class of special uses.

*The proposed development will comply with all applicable Wake County standards and regulations.*

- 3) The proposed development will not substantially injure the value of adjoining property or is a public necessity.

*The use of the property is not changing from the current use, and the proposed development will comply with all applicable Wake County standards and regulations.*

- 4) The proposed development will be in harmony with the area in which it is located.

*The use of the property is not changing from the current use and thus, will be in harmony with the area in which it is located.*

- 5) The proposed development will be consistent with the Wake County Land Use Plan.

*The use of the property is not changing from the current use, and the proposed development will comply with the non-residential requirements within the R-40W zoning district.*

The motion was seconded by Mr. Barker. There being no discussion, by a unanimous vote of 5-0, the motion carried, and the special use permit was granted.

## 7. Planning, Development & Inspections Report

Mr. Finn stated the new online permitting portal is live and functioning. He noted staff is getting used to the process and processing applications. He identified himself and Celena Everette as staff members who may be able to answer question or demonstrate how things work. Mr. Finn proceeded to advise the Board of increasing volume of Construction Plan Reviews as part of the subdivision process. He stated the three phases of the subdivision approval process include Preliminary Approval, Construction Plan Approval, and Final Plat Review before recordation and the sale of building lots. He indicated this is not a surprise as two years ago we had a high volume of preliminary plan approvals. He explained in the Construction Plan

Review the utilities and roads are being put in so there is land disturbance activity that potentially can impact the original Preliminary Plan approval. Mr. Finn also noted the net gain of 63 residents a day coming into Wake County is generating development pressure through the land development process to get lot recorded and available given market conditions.

**8. Other Business - None**

Mr. McConkey adjourned the meeting at 9:41 a.m.

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REGULAR MEETING  
WAKE COUNTY BOARD OF ADJUSTMENT  
August 14, 2018

All petitions complete, Brenton McConkey declared the regular meeting  
of the Wake County Board of Adjustment for  
Tuesday, August 14, 2018 adjourned at 9:41 a.m.

Respectfully Submitted:



Brenton McConkey  
Wake County Board of Adjustment

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**PETITION FOR: A VARIANCE TO ALLOW FOR A FIVE FOOT INCREASE IN THE  
MAXIMUM BUILDING HEIGHT OF 35 FEET TO A PROPOSED  
MAXIMUM HEIGHT OF 40 FEET.**

**STAFF REPORT TO THE WAKE COUNTY BOARD OF ADJUSTMENT**  
October 9, 2018 Meeting Date

**Planning Staff**  
Adam Cook

**I. REQUEST: PLG-ZV-000926-2018**

This is a request for a variance from Article 5-11-2, *Non-Watershed Residential Districts*, which limits the maximum building height in the R-30 zoning district to 35 feet.

The applicant is requesting a variance to allow for a five foot increase in the maximum building height to allow for the construction of a building with a maximum height of 40 feet.

**II. PROJECT LOCATION**

The property is located at 2320 Law Enforcement Drive off of Battle Bridge Road.

**III. PROJECT PROFILE**

WAKE COUNTY PIN: 1751 04 7213

PROPERTY ADDRESS: 2320 Law Enforcement Drive

PROPERTY SIZE: 1462 acres

ZONING DISTRICT: Residential-30 (R-30)

LAND USE CLASSIFICATION: City of Raleigh Long Range Urban Services Area

WATERSHED: Lower Neuse River

CROSS REFERENCE FILES: BA 512, BA 2092-08 & BA SU-2113-09

PROPERTY OWNER: City of Raleigh

APPLICANT: Timmons Group – Will Altman

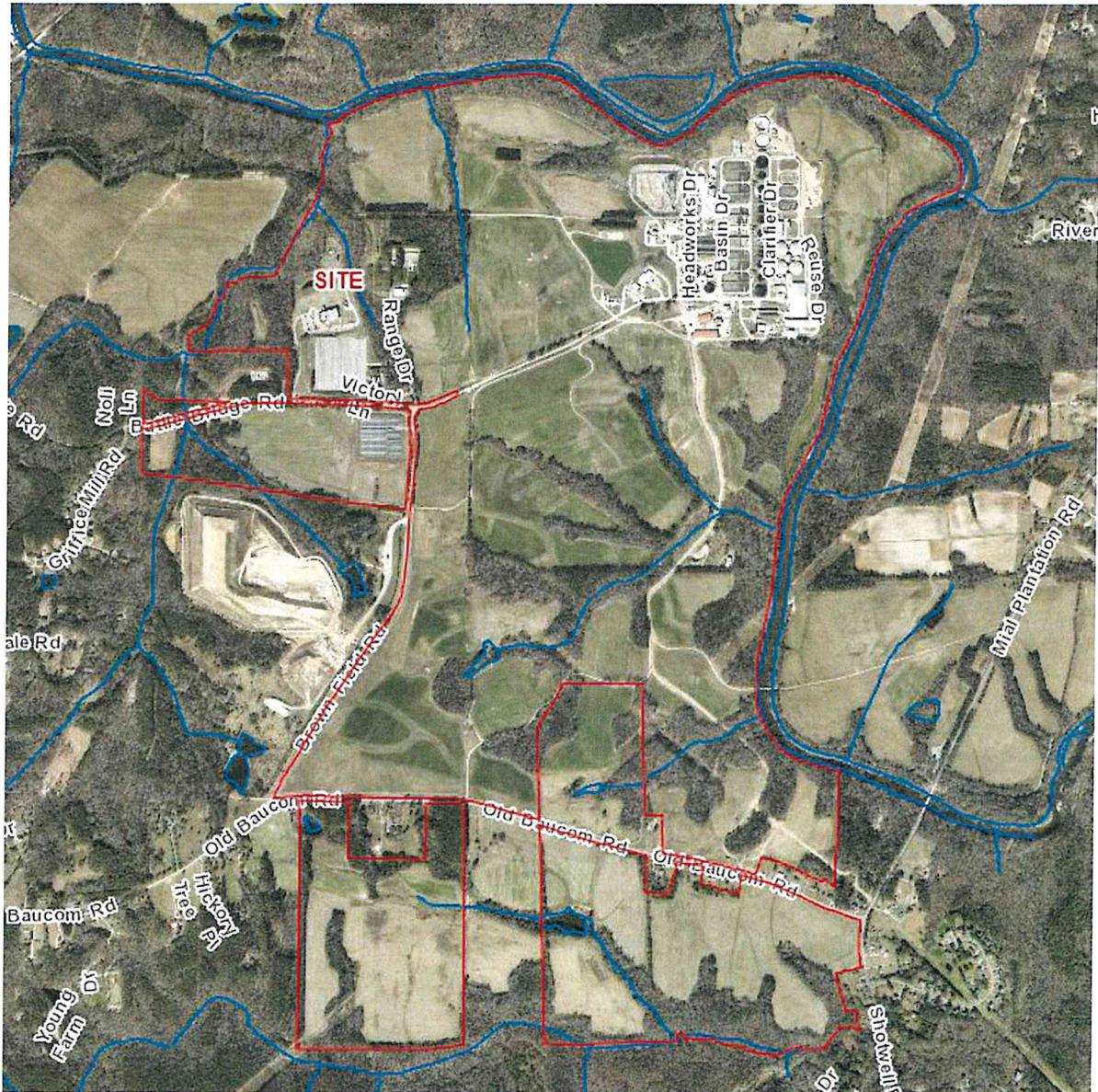
EXISTING USE: Law Enforcement Training

PROPOSED USE: Law Enforcement Training

**IV. PROJECT SETTING – SURROUNDING ZONING DISTRICTS AND LAND USES**

DIRECTION	LAND USE	ZONING
North	Vacant / Residential	Residential-30 (R-30)
East	Vacant / Residential	Residential-30 (R-30)
South	Vacant / Residential	Residential-30 (R-30)
West	Vacant / Residential	Residential-30 (R-30)

**V. AERIAL MAP**



**VI. ZONING STANDARDS**

PLG-ZV-000926-2018  
 October 9, 2018 meeting date

Article 5 of the Unified Development Ordinance contains lot and building standards including maximum building height limits for residential districts. Section 5-11-2, *Non-Watershed Residential Districts*, limits the maximum building height to 35 feet in the R-30 zoning district.

## **VII. VARIANCE**

### **A. REQUEST**

The applicant is requesting a variance from Section 5-11-2, *Non-Watershed Residential Districts*, to allow for a five foot increase to the 35 foot maximum building height limit to allow for a building to be constructed with a maximum building height of 40 feet.

### **B. BACKGROUND**

The subject property is approximately 1462 acres and is owned by the City of Raleigh. The site currently contains a law enforcement training facility, a shooting range, a law enforcement driving training course, a sewage treatment plant and a solar energy system (solar farm). The City of Raleigh is proposing to construct a new law enforcement training facility on the same parcel as the existing Wake County law enforcement training facility. The new law enforcement training facility is proposed to be constructed directly behind the existing Wake County facility. The area of the roof that exceeds the maximum allowed building height is a tiered classroom designed to seat a class of 100 people. The raised portion of the roof also allows for the screening of rooftop mechanical units.

Notification letters to adjoining property owners were mailed on September 19, 2018. A public hearing placard was placed on the site on September 20, 2018.

### **C. REQUIRED CONCLUSIONS/FINDINGS:**

The Board of Adjustment shall not approve a petition for a variance unless it first reaches each of the following conclusions based on findings of fact supported by competent, substantial, and material evidence.

The Board of Adjustment must make positive findings on all of the following findings of fact from G.S. 160A-188 in order to approve this variance request:

- (1) Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property;
- (2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance;
- (3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship;
- (4) The requested variance is consistent with the spirit, purpose, and intent of the ordinance,

such that public safety is secured, and substantial justice is achieved.

## VIII. RECOMMENDATION

Staff recommends that if the Board of Adjustment reaches positive conclusions on **all** of the required findings of fact, the following conditions be required:

- (1) The petitioner/landowner must record the notarized form pertaining to the order of the Board in the Wake County Register of Deeds and return a copy to Planning, Development and Inspections Division of Community Services.
- (2) The petitioner must obtain and complete appropriate building permits from the Wake County Inspections/Plans/Permits Division.

## MOTIONS

**TO GRANT:** In the matter of PLG-ZV-000926-2018, I move that the Board find and conclude that the petition does meet the requirements of Article 19-26 of the Wake County Unified Development Ordinance and North Carolina General Statute Section 160A-388(d), and that the requested variance be granted to allow a five foot increase in maximum building height, with the recommended condition. The motion to approve is made based on the following conclusions and findings of fact:

- 1) Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property;
- 2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance;
- 3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship, and
- 4) The requested variance is consistent with the spirit, purpose, and intent of the ordinance,

such that public safety is secured, and substantial justice is achieved.

**TO DENY:** In the matter of PLG-ZV-000926-2018, I move that the Board find and conclude that the petition does not meet the requirements of Article 19-26 of the Wake County Zoning Unified Development Ordinance and North Carolina General Statute Section 160A-388(d) for the reason that (state why) and that the requested variance be denied.



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## **STATEMENT OF JUSTIFICATION**

**for**

**VARIANCE**

**CITY OF RALEIGH**

**LAW ENFORCMENT TRAINING FACILITY**

**Wake County, NC**

**PIN 1751047213**

**August 07, 2018**

### **Introduction**

The City of Raleigh requests a variance for the subject property, to allow re-development of the property for a new administrative and academic campus. The property consists of 1462.55 acres situated off Battle Bridge Road in southeastern Wake County.

The subject property is currently the site of a Neuse River Resource Recovery Facility, Wake County Law Enforcement Training Center, asphalt driver training course, and firing range. Development of the property for the intended purpose will be consistent with the historical use of the property. The Applicant proposes to place the new facility adjacent to the existing Law Enforcement Training Facility. The proposed facility sits back over 1000' from the public right of way. The finished floor for the building will be approximately 20' lower than the elevation at the entrance drive off of Battle Bridge Road. The proposed building is located over 500' from the closest adjacent neighboring property and is visually screened by a 1000' wide floodplain. The existing Wake County building has a roof elevation of 35' with parapets extending to 40'-4" above finish floor elevation.

## **Justification**

The Applicant believes that the requested variance is justified by all the required findings of fact prescribed in Wake County Unified Development Ordinance UMO Sec. 19-26-7. Evidence in support of these findings is presented as follows:

### ***Finding # 1: Unnecessary hardship would result from the strict application of the ordinance***

#### **General**

The proposed project is to serve a higher education function for police officers in small and large format classroom environments. Due to the constraints of training classes consisting of groups of 50 and 100 students, the necessary ceiling height results in a building that is greater than 35' in height. 88.3% of the building has a parapet at 36' - 0" with a maximum roof height of 35'-0". 11.7% of the building has a parapet at 40' - 0" with a maximum roof height of 39'-0". This area of the roof is over a tiered classroom designed to seat a class of 100 people.

The tiered classroom portion of the building is design to be in architectural keeping with the adjacent Wake County Law Enforcement Training Center parapet height of 40' - 4". This raised portion of the roof also allows for screening of the three rooftop mechanical units from the front, west facing façade of the building.

### ***Finding # 2: The hardship results from conditions that are peculiar to the property, such as location, size, or topography.***

#### **General**

The proposed project will comply with all applicable regulations and standards.

No supplemental use regulations are identified in the UMO for the proposed use.

#### **Site Conditions**

The existing site consist of several facilities that are allowed by right in a residential zoning district however are not residential in nature. There are several environmental features on site that limit developability. These features include floodplain, streams, buffers and wetlands. These features serve to naturally screen the majority of the site to the west and north. The site is large enough that the facility can be set back from the road over 1000'. The facility is set lower than the road and is only visible from the intersection of Law Enforcement Drive and Battle Bridge Road. There is an evergreen hedge installed along the frontage of Battle Bridge Road preventing visibility into the site. The proposed facility will be located to the north of the existing Wake County Law Enforcement Training Center which will further help to screen the site. The building was designed as a two-story facility to match the existing two-story training facility on site. By designing a two-story building, we are able to reduce the building footprint and utilize the existing stormwater management facility that was master planned for the facility over 10 years ago.

***Finding # 3: The hardship did not result from actions taken by the applicant or the property owner***

The designed building height is a consequence of the building's purpose and function to create classrooms and a learning environment for police recruits.

***Finding # 4: The requested variance is consistent with the spirit, purpose, and intent of the ordinance such that public safety is secured, and substantial justice is achieved.***

**General**

The proposed campus will promote the public's general welfare by providing state of the art training facilities for the law enforcement staff. The building and grounds will be a safe and healthy environment for employees and visitors, in accordance with all applicable zoning, building, health, and life-safety codes.

**Emergency Services**

The new buildings will be equipped with a fire suppression sprinkler system, and will be designed using conventional fire-prevention and fire-management strategies. The site and building plans will be reviewed and approved by the local fire marshal, to verify conformance to applicable regulations and standards.

**Utility and Solid Waste Services**

The facility will obtain public potable water and sanitary sewer service by connection to existing City of Raleigh utility systems, meeting all public health standards related thereto. Solid waste collection for the facility will be provided by Wake County.

**Traffic**

Due to the minimal traffic associated with the facility a traffic study is not required per the Wake County UDO or NCDOT. Battle Bridge Road is a low volume street therefore anticipated impacts are negligible.

**Summary**

The Applicant believes that the requested variance is justified by all the required findings of fact prescribed in Wake County Unified Development Ordinance UMO Sec. 19-26-7. and further believes that these findings are supported by the materials contained in the variance application for the subject project, including the written evidence presented above.









MOSELEY ARCHITECTS

1200 HUNTERS STREET, RICHMOND, VA 23220  
PHONE (804) 794-2555 FAX (804) 355-9590  
MOSELEY-ARCHITECTS.COM

NOT FOR CONSTRUCTION



RALEIGH LAW ENFORCEMENT TRAINING CENTER  
CITY OF RALEIGH  
2320 LAW ENFORCEMENT DRIVE, RALEIGH, NC 27610

NO.	DATE	DESCRIPTION
1	10/15/2014	ISSUED FOR PERMIT
2	11/10/2014	REVISED PER CITY COMMENTS
3	12/15/2014	REVISED PER CITY COMMENTS
4	01/15/2015	REVISED PER CITY COMMENTS
5	02/15/2015	REVISED PER CITY COMMENTS
6	03/15/2015	REVISED PER CITY COMMENTS
7	04/15/2015	REVISED PER CITY COMMENTS
8	05/15/2015	REVISED PER CITY COMMENTS
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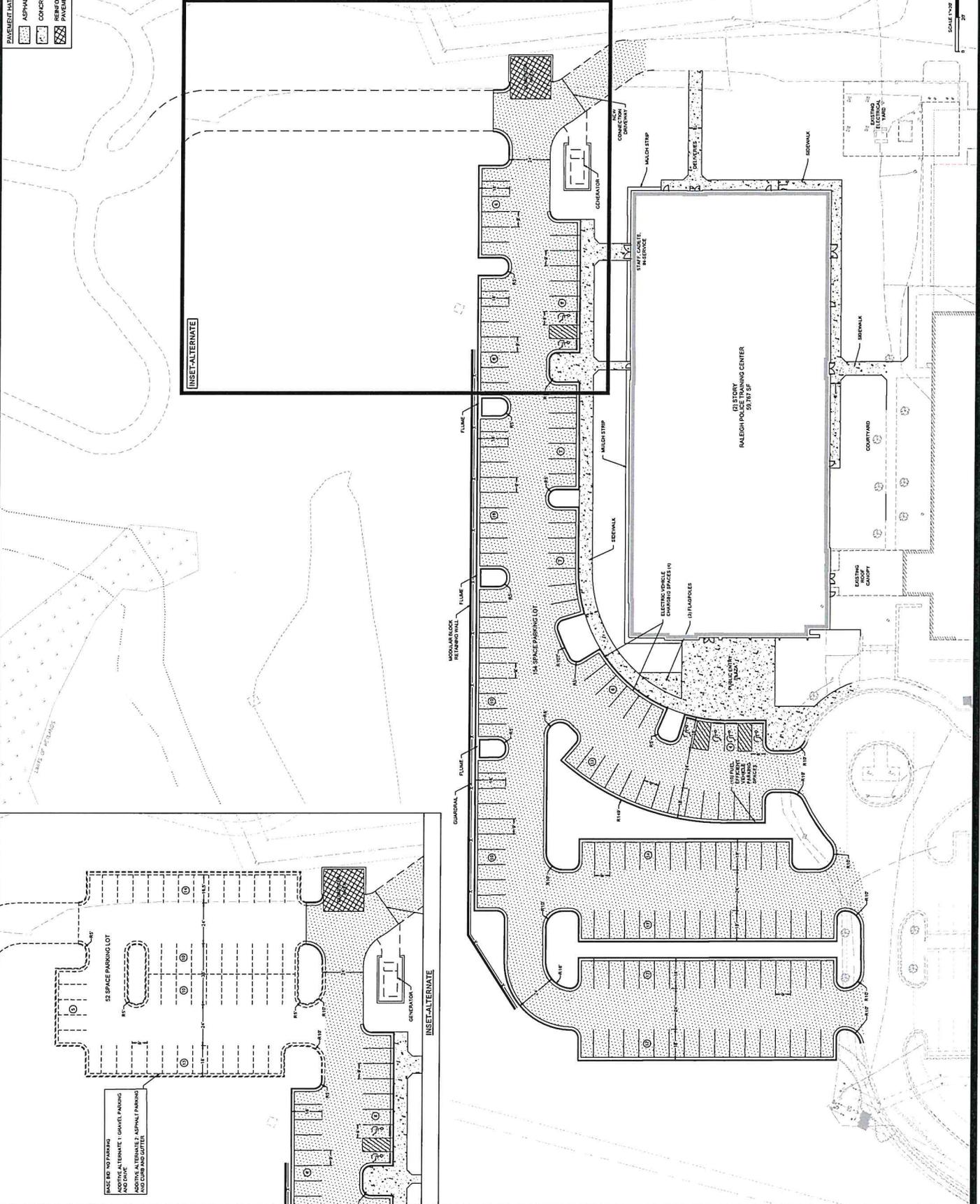
SITE PLAN

C3.0

EXISTING MATERIALS LEGEND

[Symbol]	ASPHALT PAVEMENT
[Symbol]	CONCRETE SIDEWALK
[Symbol]	REINFORCED CONCRETE PAVEMENT

INSET-ALTERNATE



FACE UP TO PARKING  
 INSET ALTERNATE 1: GRAVEL PAVING  
 AND DRIVE  
 INSET ALTERNATE 2: ASPHALT PAVING  
 AND CURB AND GUTTER

INSET-ALTERNATE



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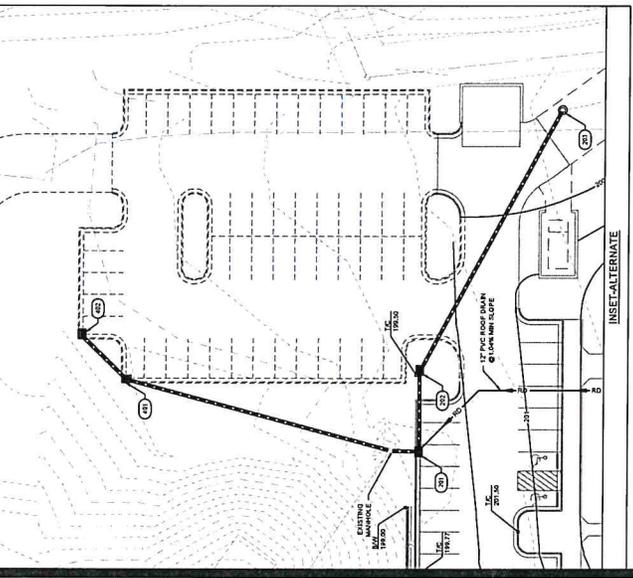
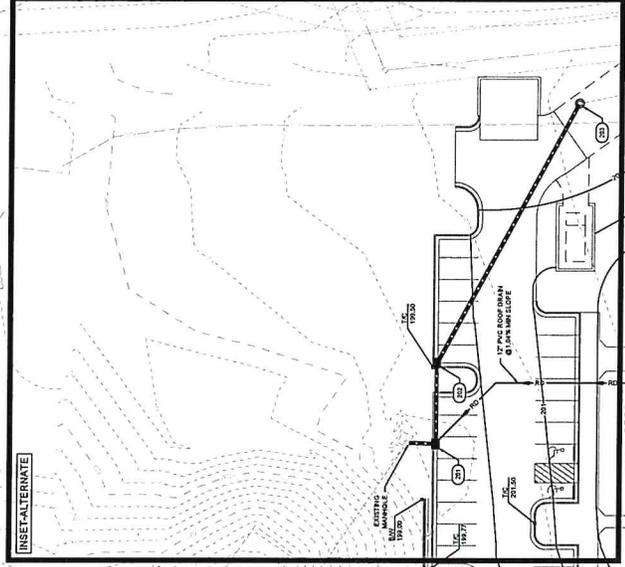
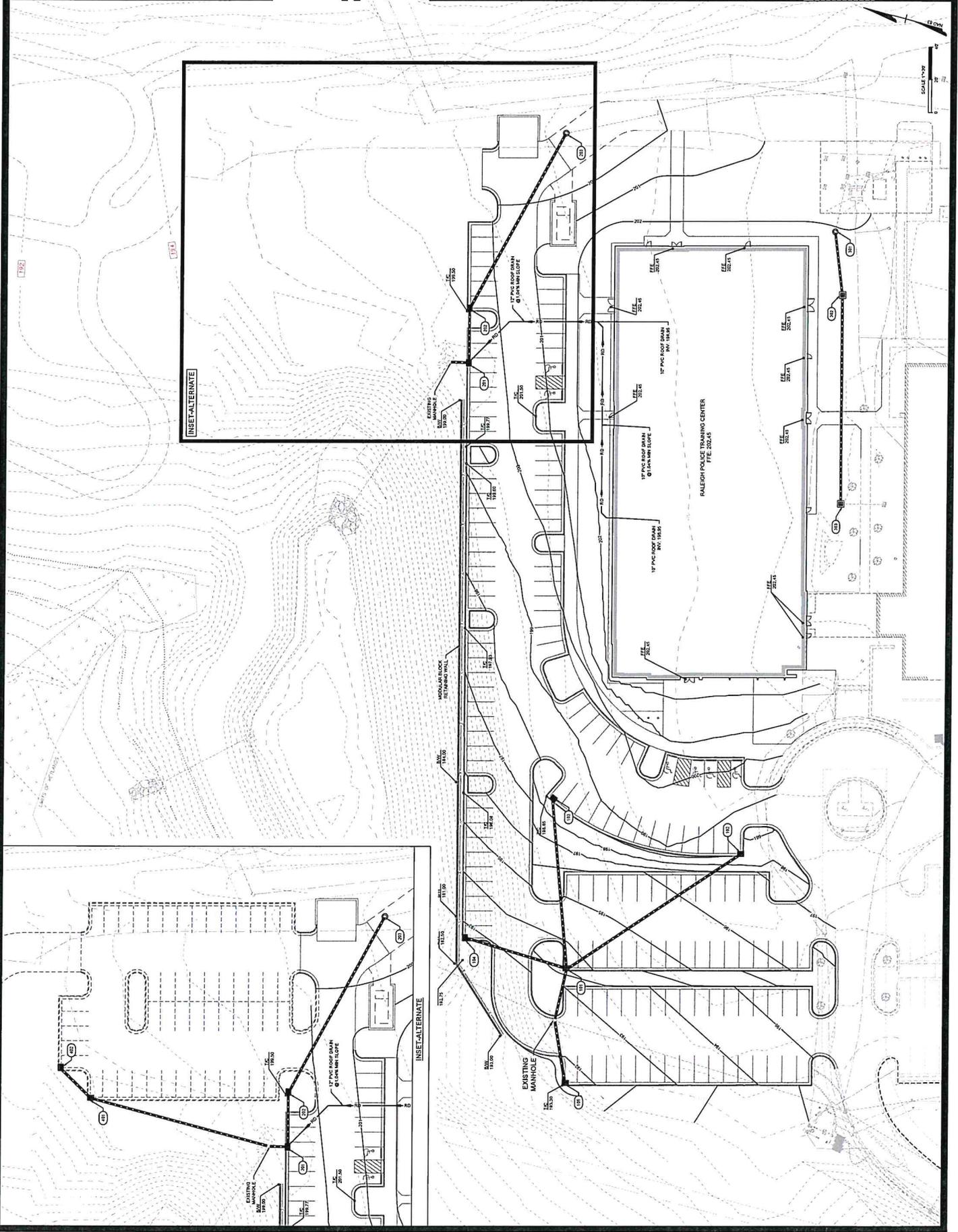
CITY OF RALEIGH  
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RALEIGH LAW ENFORCEMENT TRAINING CENTER

TIMMONS GROUP  
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 FAX: 919.877.1101  
 WWW.TIMMONSGROUP.COM

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 200 HUNTER STREET, RICHMOND, VA 23220  
 PHONE: (804) 784-2555 FAX: (804) 35-6660  
 WWW.MOSELEYARCHITECTS.COM



SCALE 1"=20'







## MOTIONS

**TO GRANT:** In the matter of PLG-ZV-000926-2018, I move that the Board find and conclude that the petition does meet the requirements of Article 19-26 of the Wake County Unified Development Ordinance and North Carolina General Statute Section 160A-388(d), and that the requested variance be granted to allow for a five foot increase in maximum building height. The motion to approve is made based on the following conclusions and findings of fact:

- 1) Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property; **(STATE THE UNNECESSARY HARDSHIP FROM THE STRICT APPLICATION OF THE ORDINANCE DETERMINED FROM TESTIMONY PRESENTED)**
- 2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance; **(STATE WHAT CONDITIONS ARE PECULIAR TO THE PROPERTY CREATING THE HARDSHIP BASED ON TESTIMONY PRESENTED)**
- 3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship, **(STATE HOW THE HARDSHIP WAS NOT SELF-CREATED BASED ON TESTIMONY PRESENTED)**
- 4) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved. **(GIVE SPECIFICS BASED ON TESTIMONY AND DISCUSSION)**

**TO DENY:** In the matter of PLG-ZV-000926-2018, I move that the Board find and conclude that the petition does not meet the requirements of Article 19-26 of the Wake County Unified Development Ordinance and North Carolina General Statute Section 160A-388(d) for the reason that (state why) and that the requested variance be denied. **(THE REASON IS.....BECAUSE..... THIS CONCLUSION WAS BASED ON .....TESTIMONY PRESENTED DURING THE HEARING.)**

**PETITION FOR: SPECIAL USE PERMIT FOR THE EXPANSION OF A NONCONFORMING USE**

**STAFF REPORT TO THE WAKE COUNTY BOARD OF ADJUSTMENT**  
October 9, 2018 Meeting Date

**Planning Staff**  
David Parks

**I. REQUEST: PLG-SU-000844-2018**

The petitioner is requesting Special Use Permit approval as required by section 7-12-2(B) of the Wake County Unified Development Ordinance (UDO) to make modifications to an existing convenience store with gas sales, which currently operates as a legal, nonconforming use.

**II. PROJECT LOCATION**

The site is located at 10005 Six Forks Road, Raleigh.

**III. PROJECT PROFILE**

WAKE COUNTY PIN: 1708-38-5412

ZONING DISTRICT: Residential-40 Watershed (R-40W)

LAND USE CLASSIFICATION: Non-urban Water Supply Watershed Area

WATERSHED: Falls Lake

CROSS REFERENCE FILES: None

APPLICANT: Steven C. Newton, II, Nicholls and Crampton, P.A.

PROPERTY OWNER: Taylor B. Cash, Jr.

PROPERTY SIZE: 0.925 acres

CURRENT LAND USE: Convenience Store with Gas Sales

PROPOSED LAND USE: Expansion of the convenience store and relocation of the gas sales area.

#### IV. PROJECT SETTING – SURROUNDING ZONING DISTRICTS AND LAND USES

DIRECTION	LAND USE	ZONING
North	Veterinary Office	Residential-40 Watershed (R-40W)
East	Residential	Residential-40 Watershed (R-40W)
South	Residential	Residential-40 Watershed (R-40W)
West	Residential	Residential-40 Watershed (R-40W)

#### V. AERIAL MAP



## **VI. BACKGROUND**

This site currently operates as Taylor's Wine Shop convenience sales with gas sales. The proposal is to expand the existing one-story 2,884 square-foot building by adding an attached 241 square foot addition for restroom upgrades, re-locate the canopy and gas pumps on site, and the installation of new underground fuel storage containers. A nonconforming use may be extended, expanded, enlarged, or moved to occupy a different or greater area of land or structures than was occupied by the use when it became nonconforming by obtaining a Special Use Permit.

Notification letters to adjoining property owners were mailed on September 20, 2018. A public hearing placard was placed on the site on September 21, 2018.

## **VII. ZONING STANDARDS**

### **A. UTILITIES**

The site currently operates on a private septic system. Water is supplied to the site by Aqua.

### **B. STREETS**

The property has frontage on Six Forks Road.

### **C. PARKING**

Pursuant to Section 15-10 of the Wake County Unified Development Ordinance, off-street parking is required at the following rates: 1 space per 400 square feet of building area. As proposed, the facility would be required to provide 8 parking spaces. Nine parking spaces are shown on the site plan. The site plan is in compliance with Section 15-10.

### **D. LANDSCAPING AND BUFFERYARDS**

Off-street parking area landscaping is provided in accordance with section 16-10-1. A 10' type F street front screen is also provided along Six Forks Road in accordance with section 16-10-2 (F)(7).

### **E. STORMWATER MANAGEMENT/IMPERVIOUS SURFACE COVERAGE**

The site is currently listed at 63% impervious, which is contributing to the nonconforming status of the site. With the improvements proposed on site, the impervious area will be reduced to 58%. Disturbance of greater than ½ acre is required to comply with the stormwater management regulations of article 9.

## **VIII. LAND USE PLAN**

The site is located in a non-urban water supply watershed area. The proposed use is an existing legal, nonconforming use. The Unified Development Ordinance allows for the expansion of these types of uses, under specific criteria, by obtaining a Special Use Permit. The Land Use Plan allows for the protection of these existing legal, nonconforming uses via the regulations laid out in the Unified Development Ordinance.

## IX. FINDINGS

### Special Use Required Conclusions:

The Board of Adjustment shall not approve a petition for a Special Use Permit unless it first reaches each of the following conclusions based on findings of fact supported by competent, substantial, and material evidence. The Board of Adjustment must make positive findings on the following findings of fact from Article 19-23 of the Wake County Unified Development Ordinance in order to approve this special use request. The considerations listed below each required conclusion are intended to suggest some of the primary concerns pertinent to reaching the conclusion, but are not intended to be all inclusive.

- (1) The proposed development will not materially endanger the public health or safety.

#### Considerations:

- a. Traffic conditions in the vicinity, including the effect of additional traffic on streets, street intersections, and sight lines at street intersection and curb cuts.
  - b. Provision of services and utilities, including sewer, water, electrical, garbage collections, fire protection.
  - c. Soil erosion and sedimentation.
  - d. Protection of public, community, or private water supplies, including possible adverse effects on surface waters or groundwater.
- (2) The proposed development will comply with all regulations and standards generally applicable within the zoning district and specifically applicable to the particular type of special use or class of special uses.
  - (3) The proposed development will not substantially injure the value of adjoining property, or is a public necessity.

#### Considerations:

- a. The relationship of the proposed use and the character of development to surrounding uses and development, including possible conflicts between them and how these conflicts will be resolved.
  - b. Whether the proposed development is necessary to the public health, safety, and general welfare of the community or County as a whole as to justify it regardless of its impact on the value of adjoining property.
- (4) The proposed development will be in harmony with the area in which it is located.

#### Considerations:

- a. The relationship of the proposed use and the character of development to surrounding uses and development, including possible conflicts between them

and how these conflicts will be resolved.

(5) The proposed development will be consistent with the Wake County Land Use Plan.  
Considerations:

- a. Consistency with the Plan's objectives for the various planning areas, its definitions of the various land use classifications and activity centers, and its locational standards.
- b. Consistency with the municipal and joint land use plans incorporated in the Plan.

## **X. RECOMMENDATION**

Staff recommends that, if the Board of Adjustment reaches positive conclusions on all of the required findings, that it approve the request subject to the following conditions:

- 1) The petitioner must record the notarized form pertaining to the Order of the Board in the Wake County Register of Deeds and return a copy to the Current Planning Section of Wake County Planning;
- 2) The petitioner must obtain and complete appropriate building permits from the Wake County Inspections Development/Plans/Permits Division;
- 3) There shall be no increase in impervious area onsite;
- 4) An as-built survey is required prior to the certificate of completion by the Wake County Planning, Development, and Inspections Division of Community Services;
- 5) A final zoning inspection to verify site plan compliance must be performed by the Wake County Zoning Administrator prior to the issuance of a certificate of completion by the Wake County Planning, Development, and Inspections Division of Community Services;
- 6) The landowner must maintain compliance with the special use approval and Wake County Unified Development Ordinance.

## **MOTIONS**

**TO GRANT:** In the matter of PLG-SU-000844-2018, I move that the Board find and conclude that the petition does meet the requirements of Article 19-23 of the Wake County Unified Development Ordinance and the special use permit be granted with the recommended staff conditions.

**TO DENY:** In the matter of PLG-SU-000844-2018, I move that the Board find and conclude that the petition does not meet the requirements of Article 19-23 of the Wake County Unified Development Ordinance because **(state why)** and the requested special use permit be denied.



**SPECIAL USE PERMIT (Revised)  
APPLICATION**

Submit required documentation to:  
Wake County Planning, Development and Inspections  
PO Box 550 Wake County Office Building  
Raleigh, NC 27602-0550 336 Fayetteville Street Mall, Downtown Raleigh  
Contact (919) 856-6335 for additional information.

File #  
Fee  
Amt Paid  
Check #  
Rec'd Date  
Rec'd By

Complete with required information (write "n/a" if information is not applicable to proposal).

**Type of Special Use** (be as specific as possible and cite code section listing use as permitted special use)

This request seeks a special use permit as required by UDO Section 7-12-2(B) to make modifications to an existing nonconforming use, specifically a retail convenience store with gas sales.

Modification of previously issued Special Use Permit? ( )Yes (X)No

If Yes, provide relevant Special Use Permit Number: \_\_\_\_\_

**Property**

Parcel Identification Number: 1708385412

Address: 10005 Six Forks Road, Raleigh, NC 27615-1636

Location: West side of Six Forks Road, at/between  
(north, east, south, west) (street)  
North of Sturbridge Road and South of Carpathian Way  
(street) (street)

Total site area in square feet and acres: 40,301 square feet .925 acres

Zoning District(s) and Overlay Districts (if any) and land area within each: R-40W

List Conditions of any Conditional Use Zoning Districts: n/a

Present land use(s): Retail convenience store with gas sales

How is this proposed use a public necessity?

Please see attached Statement of Justification

What is impact on surrounding neighborhood and adjacent properties?

Positive impact, See Statement of Justification, Criteria 3

**Land Owner**

Land Owner Name: Taylor Cash Jr.

Business Operator Name (if different from Land Owner): Taylor's Wine Shop

Address: 3036 Cranesbill Drive

City: Raleigh State: NC Zip Code: 27613

E-mail Address: ben@taylorswineshop.com Fax: \_\_\_\_\_

Telephone Number: 919-816-6997

**Applicant** (person to whom all correspondence will be sent)

Name: Steven C. Newton, II, Nicholls & Crampton, P.A., Attorney for Owner  
 Address: 3700 Glenwood Avenue, Ste. 500  
 City: Raleigh State: NC Zip Code: 27612  
 E-mail Address: snewton@nichollscrampton.com Fax: 919-782-0465  
 Telephone Number: 919-645-4069 Relationship to Owner: Attorney for Owner

**Proposal**

Max. allowable floor area ratio (see applicable zoning district/use regulation): n/a

Proposed total floor area: 3,125 sf Proposed floor area ratio (floor area/site area): .051

Max. allowable impervious surface coverage (see applicable zoning district/use regulation): n/a %

Proposed impervious surfaces area: n/a (being reduced by 1,968 square feet) sf

Proposed impervious surface coverage (impervious surfaces area/site area x 100) n/a, being reduced %

**Required transitional bufferyard types and depths (see Article 16):**

Front ( ) n/a ft Left ( ) n/a ft Right ( ) n/a ft Rear ( ) n/a ft

**Proposed transitional bufferyard types and depths (see Article 16):**

Front ( ) n/a ft Left ( ) n/a ft Right ( ) n/a ft Rear ( ) n/a ft

**Min. yard depths (see applicable district/use regulation):**

Front 24.05 ft Corner side 30 ft Side 15 ft Rear 30 ft

(per existing canopy setback)  
 Proposed yard depths: Front 24.10 ft Corner side n/a ft Side 21.15/38 ft Rear n/a ft

Max. building height (see applicable district/use regulation): 35 ft

Proposed building height: 19.13 feet ft

Min. parking space standard (see Article 15): 1 spaces per 400 square feet

Min. no. of parking spaces: 8 Proposed no. of parking spaces 9

Number of employees: 10 Hours of operation: M-Th: 6am-9pm; F: 6am-9:30pm; Sat: 7am-9:30pm; Sun. 8am-9pm

**Vehicular Access:**

Names of access street(s) and number of access points along each: Six Forks Road (1 access point)

Name of access or adjacent street	Right-of-way width (ft)	Pavement width (ft)	No. of lanes	Paved? (Y or N)	Roadway design capacity <sup>1</sup>	Traffic volume (ADT) <sup>2</sup>	Est. traffic generated (ADT) <sup>3</sup>
Six Forks Road	75 - 140	40 - 50	2 w/1 turn	Y			

<sup>1</sup> See NCDOT Highway Capacity Manual or most recent Wake County Thoroughfare Plan Appendix

<sup>2</sup> See CAMPO web site (www.raleigh-nc.org/campo) or NCDOT Traffic Survey Unit

<sup>3</sup> Base on Institute of Transportation Engineers ratios - ratio used for estimate (e.g., x trips per y sf) \_\_\_\_\_

Estimated traffic generated by heavy vehicles (vehicles other than automobiles and light trucks):

Type of vehicle: n/a ADT: n/a

Type of vehicle: \_\_\_\_\_ ADT: \_\_\_\_\_

**Utilities and Services:**

Water supply provided by: ( ) municipal system : \_\_\_\_\_

(X) community system – specify type: Aqua ( ) individual well(s)

Est. total water demand: n/a gpd

Wastewater collection/treatment provided by: ( ) municipal system: \_\_\_\_\_

( ) community system – specify type: \_\_\_\_\_

(X) individual on-site system

Est. total wastewater discharge: n/a gpd

Solid waste collection provided by: Waste Industries

Electrical service provided by: Duke Progress Underground ( ) yes ( ) no

Natural gas service provided by: Suburban Propane

Telephone service provided by: AT&T Underground ( ) yes ( ) no

Cable television service provided by: n/a Underground ( ) yes ( ) no

Fire protection provided by: Sparkey's

**Miscellaneous:**

Generalized slope of site Gently sloping southwest at 5% grade

Valuable natural features (rare plant community, wildlife habitat, lake, stream, geology, etc.) on or adjoining site: \_\_\_\_\_

There are no natural features that will be impacted by the proposed modifications

Valuable historic resources (homestead, mill, archeological site) on or adjoining site: \_\_\_\_\_

There are no valuable historic resources that will be impacted by the proposed modifications

**Land Use Plan Classifications**

General Classification (note associated municipality and/or watershed):

( ) Short-Range Urban Services Area/Water Supply Watershed \_\_\_\_\_

( ) Short-Range Urban Services Area \_\_\_\_\_

( ) Long-Range Urban Services Area/Water Supply Watershed \_\_\_\_\_

( ) Long-Range Urban Services Area \_\_\_\_\_

(X) Non-Urban Area/Water Supply Watershed R-40W, not located in watershed's critical area

( ) Non-Urban Area

Land Use Classification(s) (Note Area Land Use Plan, if applicable):

Falls Lake Non Urban Area

**Applicant's statement of compliance** with county, municipal and joint Land Use Plans (How is proposal consistent with Land Use Plan objectives for planning area, Land Use classification, activity centers, locational standards and transitional urban development standards?)

*See Statement of Justification, Criteria 5*

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**Other information** (additional relevant information about the site or proposal you wish to note or cite)

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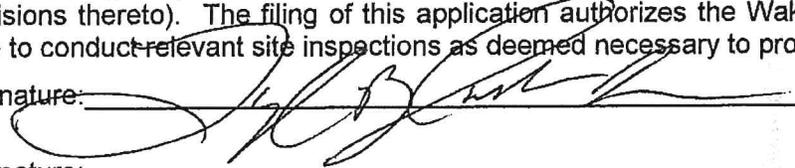
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All property owners must sign this application unless one or more individuals are specifically authorized to act as an agent on behalf of the collective interest of some or all of the owners (provide a copy of such authorization).

The undersigned property owner(s) hereby authorize the filing of this application (and any subsequent revisions thereto). The filing of this application authorizes the Wake County staff to enter upon the site to conduct relevant site inspections as deemed necessary to process the application.

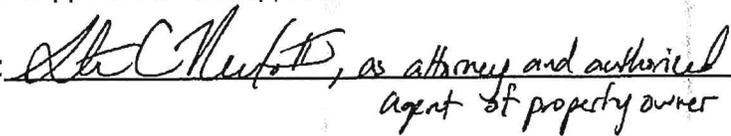
Signature:  Date: 8-22-2018

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Land use professionals (architects, engineers, planners, landscape architects, etc.), as well as employees of corporate or municipal applicants, may testify at quasi-judicial proceedings about factual matters in support of an application, petition or appeal. However, they MAY NOT examine or cross-examine witnesses, make legal arguments as to why an application, petition or appeal should be granted, or otherwise advocate for results on behalf of another individual or entity at a quasi-judicial proceeding. These functions can ONLY be performed at a quasi-judicial proceeding by an attorney licensed to practice law in North Carolina. Therefore, it is **strongly recommended** that unless you are an individual representing yourself in a quasi-judicial proceeding, you have an attorney present to present your case.

The undersigned applicant hereby certifies that, to the best of his or her knowledge and belief, all information supplied with this application is true and accurate.

Signature:  Date: 8-24-2018  
*as attorney and authorized agent of property owner*

Notes: All documents and maps submitted as required become the property of Wake County. The Wake County Unified Development Ordinance is on the web at [www.wakegov.com](http://www.wakegov.com).



## SPECIAL USE PERMIT STATEMENT OF JUSTIFICATION

Submit required documentation to:  
Wake County Planning, Development and Inspections  
PO Box 550 Wake County Office Building  
Raleigh, NC 27602-0550 336 Fayetteville Street Mall, Downtown Raleigh  
Contact (919) 856-6335 for additional information.

For each of the 5 required conclusions listed below, attach a statement that explains how any existing conditions, proposed development features, or other relevant facts would allow the Board of Adjustment to reach the required conclusion, and attach any additional documents or materials that provide supporting factual evidence. The considerations listed under each required conclusion are simply those suggested in the Wake County Unified Development Ordinance. You should address any additional considerations potentially raised by the proposed development.

**Important:** You bear the burden of presenting sufficient factual evidence to support findings of fact that allow the Board to reasonably reach each of the required conclusions. If you fail to meet that burden, the Board has no choice but to deny the petition.

**(1.) The proposed development will not materially endanger the public health or safety.**

Considerations:

- traffic conditions in the vicinity, including the effect of additional traffic on streets and street intersections, and sight lines at street intersection and curb cuts;
- provision of services and utilities, including sewer, water, electrical, garbage collections, fire protection;
- soil erosion and sedimentation; and
- protection of public, community, or private water supplies, including possible adverse effects on surface waters or groundwater.

**(2.) The proposed development will comply with all regulations and standards generally applicable within the zoning district and specifically applicable to the particular type of Special Use or class of Special Uses.**

**(3.) The proposed development will not substantially injure the value of adjoining property, or is a public necessity.**

Considerations:

- the relationship of the proposed use and the character of development to surrounding uses and development, including possible conflicts between them and how these conflicts will be resolved; and
- whether the proposed development is so necessary to the public health, safety, and general welfare of the community or County as a whole as to justify it regardless of its impact on the value of adjoining property.

**(4.) The proposed development will be in harmony with the area in which it is located.**

Considerations:

- The relationship of the proposed use and the character of development to surrounding uses and development, including possible conflicts between them and how these conflicts will be resolved.

**(5.) The proposed development will be consistent with the Wake County Land Use Plan.**

Considerations:

- consistency with the Plan's objectives for the various planning areas, its definitions of the various land use classifications and activity centers, and its locational standards; and
- consistency with the municipal and joint land use plans incorporated in the Plan.



# SPECIAL USE PERMIT SUBMITTAL CHECKLIST

Submit this form and other required documentation to:  
 Wake County Planning, Development and Inspections  
 PO Box 550 Wake County Office Building  
 Raleigh, NC 27602-0550 336 Fayetteville Street Mall, Downtown Raleigh  
 Contact (919)856-6335 for additional information.

## A meeting with staff is required prior to submittal of an application

For each listed item, check (✓) if provided, write "n/a" if the feature does not exist or is not proposed, and write "w" if a waiver from the requirement is justified because it is unnecessary in the particular case to determine compliance with applicable regulations or to address the required conclusions.		Staff use only
✓, n/a, or w	APPLICABLE SUBMITTAL REQUIREMENT	✓, X, or w
1	Evidence of the legal creation of the parcel(s) making up the development site (copy of most recently recorded plat or deed describing parcel plus: copy of County-approved plat describing same parcel and recorded after 5/17/1976; or plat or deed describing same parcel and recorded on or before 5/17/1976; or other recorded deeds and documents necessary to show parcel creation was exempt from subdivision regulations) [1 copy] [see Register of Deeds]	
2	Copy of any Special Use Permit previously issued for site or part thereof (if proposed to be modified), or copy of recorded instrument abandoning or voiding any Special Use Permit previously issued for site or part thereof (if proposed to be replaced) [1 copy] [see Register of Deeds and/or Zoning Administration staff]	
3	Special Use Permit petition form [12 copies] [attached]	
4	Statement of justification presenting factual evidence supporting each of the following 5 required conclusions [12 copies] [see attached cover sheet]	
5	Existing conditions map showing the following information (a-k), for an area including and within 1,000 feet of the site [2 copies on 8.5" x 11" or 11" x 17" paper] [Most of the required information exists in the County's GIS]	
a	Property lines (GIS)	
b	Zoning districts - boundaries and names (GIS)	
c	Notation of existing land uses (a site visit must be done & land uses identified on map)	
d	Names of existing and approved subdivisions and other developments (site visit)	
e	Existing and under-construction roadways and associated access rights-of-ways or easements (show name and label as public or private)	
f	Existing and under-construction major water lines and fire hydrants [see adjacent municipality]	
g	Existing and under-construction major sewer lines and pump stations/treatment facilities [see adjacent municipality]	
h	Topographic contours (at intervals of not more than 10 feet) (GIS)	
i	Surface waters, FEMA 100-year floodway and floodway fringe boundaries, flood hazard soils (GIS)	
j	Inset map showing site's location relative to County's municipalities and major roads (GIS)	
k	Title block showing name and address of site owner(s), name of plan designer, parcel identification number (PIN), date map prepared (and revised), bar scale, north arrow, and title "Existing Conditions Map" (handwritten or typed)	
6	Preliminary site plan showing the following information (a-p), for an area including and within 100 feet of the site [ 12 copies on 24" x 36" paper, at a scale of not less than 1"=400', plus 2 copies on 8.5" x 11" or 11" x 17" paper]:	
a	Property lines, with measured distances	
b	Outline of existing and proposed structures; show total floor area and maximum height, plus setbacks of proposed structures from nearest property lines	
c	Outline of existing and proposed roadways [including proposed improvements] and driveways (show width and surface material), parking areas (show spaces and surface material), loading areas (show dimensions and surface material), and walkways (show surface material) - plus associated access rights-of-way and easements (show width). Label roadways as public or private; note any access restrictions	
d	Existing or proposed vegetative screening and plantings along the perimeter and within parking areas, show location, type, and average mature height and spread	
e	Location of existing and proposed water lines (show diameter), fire hydrants, and/or wells (show capacity) - plus associated utility easements (show width), note water service provider	

f	Location of existing and proposed sewer lines (show diameter) and pump stations/treatment facilities (show capacity) - plus associated easements (show width) [Note sewer service provider], or outline existing and proposed septic tank and fields (including repair area)
g	Location and depth of proposed transitional bufferyards plus proposed screening measures (note type of proposed screening) [For plantings, show location, type, and average mature height and spread; for berms, walls, and fences, show height; for existing vegetation, outline area and show general type, average height and spread, and indicate intensity]
h	Location and width of watershed and drainageway buffers (if in a water supply watershed)
i	Location and width of riparian areas (if in the Neuse River basin)
j	Notation of the amount of impervious surface coverage (sq. ft. and as % of total site area)
k	Topographic contours (at intervals of not more than 5 feet)
l	Surface waters, FEMA 100-year floodway and floodway fringe boundaries, flood hazard soils [see GIS Dept.] [Adjust FEMA boundaries and flood hazard soils to topography if necessary]
m	Location, type, and relevant dimensions/capacities of stormwater management structures and other devices (if in a water supply watershed or if stormwater management is required) - plus associated easements (show width)
n	Location of existing and proposed signs (show type (ground, pole, etc.) and size (per side))
o	Inset map showing site's location relative to County's municipalities and major roads
p	Title block showing name and address of site owner(s), name of plan designer, parcel identification number (PIN), date map prepared (and revised), bar scale, north arrow, and title "Preliminary Special Use Permit Site Plan"
7	List of the parcel identification numbers (PINs) and owners (and their mailing addresses) of all parcels adjoining, including across the street from, the parcel(s) making up the proposed development site [2 copies] [May be obtained from GIS staff]
8	<b>Stamped</b> , pre-addressed business envelopes (size 10) for each owner on above list, with return address reading: Wake County Planning Department/Zoning Administration; P.O. Box 550; Raleigh, NC 27602-0550 [1 set]
9	Licensed soil scientist's preliminary report demonstrating site's suitability for service by on-site wastewater system (if such service proposed) [2 copies] [see attached report requirements]
10	Emergency contingency plan for use and storage of hazardous materials, or statement that no hazardous materials in reportable quantities will be used or stored on-site (if in a water supply watershed)
11	Traffic impact analysis (3 copies) for any land use expected to increase traffic more than 100 trips per peak hour, or more than 1,000 trips per day, or as required by the Land Development Supervisor. Also include 3 additional large scale maps. (based on ITE trip generation figures) [see Guidelines for Traffic Impact analysis]
12	Check for \$1,500.00 processing fee for Traffic Impact analysis (per application). Checks should be made out to "Wake County".
13	Check for \$800.00 Special Use application fee, made out to "Wake County" (only with original application)
14	A public informational meeting prior to the public hearing is required for the following special uses; <b>schools, landfills, churches, quarries, and asphalt plants</b> . Provide documentation supporting this meeting to the Planning Department no later than <b>four (4) weeks</b> prior to the scheduled Board of Adjustment meeting for incorporation into the agenda packet.
15	All special uses are required to be advertised in the News and Observer and a local newspaper. The applicant will be notified of the additional amount owed for advertising fees. This amount will be due upon notification.
16	Complete and submit the appropriate stormwater tool package at the link below: <a href="http://www.wakegov.com/water/stormwater/management/Pages/checklist.aspx">http://www.wakegov.com/water/stormwater/management/Pages/checklist.aspx</a>

Notes: All documents and maps submitted as required become the property of Wake County.  
All application fees are non-refundable.  
The Wake County Unified Development Ordinance is on the web at [www.wakegov.com](http://www.wakegov.com).  
The Planning Director may waive required information he or she certifies in writing as unnecessary to determine compliance with applicable standards and requirements.  
The File Number should be used on all correspondence subsequent to petition acceptance.

Application accepted as complete by: \_\_\_\_\_ Date: \_\_\_\_\_

Board of Adjustment action: ( ) Approved ( ) Approved w/ conditions ( ) Denied Date: \_\_\_\_\_

Special Use Permit recordation: DB \_\_\_\_\_ PG \_\_\_\_\_ Date: \_\_\_\_\_

August 24, 2018

**REVISED STATEMENT OF JUSTIFICATION**

Property: 10005 Six Forks Road, Raleigh, NC 27615 (PIN 1708385412)  
Owner: Taylor B. Cash, Jr.  
Re: Special use permit for modification to nonconforming use pursuant to 7-12-2(B)

**I. Introduction**

The property owner and applicant, Taylor B. Cash, Jr., is requesting a special use permit as required by Section 7-12-2(B) of the Wake County Unified Development Ordinance (“UDO”) to make modifications to his convenience store with gas sales, which currently operates as an existing nonconforming use. The proposed modifications consist of: (i) expanding the existing one-story 2,884 square-foot building by adding an attached 241 square-foot ADA/handicap-compliant bathroom and (ii) replacing/upgrading and relocating the gas sales area. The proposed modifications satisfy all standards set forth in Section 7-12-2(B)(1)-(4) of the UDO. Additionally, petitioner submits that the modifications will: (i) bring the property into greater conformity with the UDO regulations, as well as NCDOT and NCDEQ standards, (ii) improve parking conditions within the site and improve vehicular and pedestrian site circulation, (iii) reduce vehicle stacking, (iv) improve ingress/egress through the site’s driveway off of Six Forks Road, (v) reduce customer use of the driveway that serves as the access point for the adjoining property to the north, (vi) create an ADA/handicap-compliant bathroom for customer use, (vii) reduce wastewater discharge, and (viii) reduce the impervious surface area of the site by 1,968 square feet.

**II. Justification**

(1.) The proposed modifications will not materially endanger the public health or safety.

The proposed modifications will not materially endanger the public health or safety. The modifications will replace the existing bathrooms (which are not ADA/handicap compliant) with ADA/handicap-compliant bathrooms that will include waterless urinals. The modifications to the gas sales area will replace the existing gas system (including the underground storage tanks) with up-to-date petroleum equipment and bring the system into complete conformity with recently enacted regulations. The relocation of the gas sales area will also improve vehicular and pedestrian site conditions (including parking and site circulation), reduce vehicle stacking, improve ingress/egress at the site, and reduce customer use of the driveway that serves as the access point for the adjoining property owner to the north. Such modifications will have an overall positive impact on traffic safety. The modifications will also reduce the impervious surface area of the site by 1,968 square feet and should reduce wastewater discharge by replacing the existing bathrooms with the ADA/handicap-compliant bathrooms (that will include waterless urinals). The modifications will not increase any storage capacity for hazardous materials such as gasoline.

- (2.) The proposed modifications will comply with all regulations and standards generally applicable within the zoning district and specifically applicable to the particular type of Special Use or class of Special Uses.

The proposed modifications satisfy the standards set forth in Section 7-12-2(B)(1)-(4). Specifically, the modifications will comply with all applicable UDO regulations and standards. *See* UDO § 712-2(B)(1). The new canopy will not encroach further into the front setback than the existing canopy. The new canopy will be approximately the same distance from the right of way line as the existing canopy, with the existing canopy being 24.05 feet from the right of way line and the new canopy being 24.10 from the right of way line. The proposed modifications will not exceed 25 percent of the area occupied by the original nonconforming use at the time the nonconforming use was established. *See* UDO § 712-2(B)(2). The modifications will not increase the storage capacity of any hazardous materials including gasoline, kerosene or diesel fuel. *See* UDO § 712-2(B)(4). The impervious surface area on the site will be reduced.

- (3.) The proposed modifications will not substantially injure the value of adjoining property, or is a public necessity.

The convenience store with gas sales has been operating on the site for approximately 35 years. The modifications will not change or intensify the nonconforming use nor will they increase the area occupied by the nonconforming use. The relationship of the use to the character of surrounding uses will be the same as it was before the modifications. There will be no negative impact to adjoining property values. If anything, the modifications will have a positive impact on adjoining property by, among other things, upgrading the gas sales equipment, improving traffic safety, reducing customer use of the driveway that serves as the access point for the adjoining property to the north, and adding landscaping throughout the site as illustrated in the landscaping plan (which landscaping will include the addition of 13 trees and 184 shrubs). Petitioner also submits that the convenience store with gas sales is reasonably necessary to the area given the limited number of gas sales in the area to serve surrounding residents.

- (4.) The proposed modifications will be in harmony with the area in which it is located.

The convenience store with gas sales has been operating on the site for approximately 35 years in harmony with the surrounding uses. The modifications will not change or negatively impact the relationship of the nonconforming use with the area in which it is located. Based on the overall improvements to the site as a result of the modifications, the modifications should improve the harmonious nature of the convenience store operations with surrounding uses. Petitioner also submits that the convenience store with gas sales is reasonably necessary to the area given the limited number of gas sales in the area to serve surrounding residents. The site is also located approximately 1,200 feet north of the Six Forks Road/540 Interchange.

- (5.) The proposed modifications will be consistent with the Wake County Land Use Plan.

The proposed modifications will be consistent with the Wake County Land Use Plan. The convenience store with gas sales has been operating on the site for approximately 35 years. It is a legal nonconforming use that predates the zoning of the property. Pursuant to the UDO, the

continuation of the legal nonconforming use is allowed. The modifications will not change or intensify the use. The modifications should bring the property into greater conformity with UDO and other applicable regulations. The modifications will improve traffic safety, add landscaping (including the addition of 13 trees and 184 shrubs), reduce the impervious surface area and should reduce wastewater discharge. Petitioner also submits that the convenience store with gas sales is reasonably necessary to the area given the limited number of gas sales in the area to serve surrounding residents. The site is also located approximately 1,200 feet north of the Six Forks Road/540 Interchange.



## **MOTIONS**

**TO GRANT:** In the matter of PLG- SU-000844-2018, I move that the Board find and conclude that the petition does meet the requirements of Article 19-23 of the Wake County Unified Development Ordinance and the special use permit be granted with the recommended staff conditions. The motion to approve is based on the following findings of fact:

- 1) The proposed development will not materially endanger the public health or safety; **(STATE SPECIFIC REASONS ON HOW THE PUBLIC HEALTH OR SAFETY WILL NOT BE MATERIALLY ENDANGERED)**
  
- 2) The proposed development will comply with all regulations and standards generally applicable within the zoning district and specifically applicable to the particular type of special use or class of special uses; **(SPECIFY HOW IT COMPLIES...)**
  
- 3) The proposed development will not substantially injure the value of adjoining property, or is a public necessity; **(STATE SPECIFIC REASONS HOW IT WILL NOT SUBSTANTIALLY INJURE THE VALUE OF ADJOINING PROPERTY)**
  
- 4) The proposed development will be in harmony with the area in which it is located, **(STATE HOW IT WILL BE IN HARMONY WITH THE AREA)** and
  
- 5) The proposed development will be consistent with the Wake County Land Use Plan.  
**(STATE HOW THE USE IS CONSISTENT WITH THE LAND USE PLAN)**

**TO DENY:** In the matter of PLG-SU-000844-2018, I move that the Board find and conclude that the petition does not meet the requirements of Article 19-23 of the Wake County Unified Development Ordinance because **(state why)** and the requested special use permit be denied **(BE SPECIFIC ON YOUR FINDINGS FOR DENIAL).**