Board of Adjustment
Case Report

City of Raleigh
Department of City Planning
One Exchange Plaza
Raleigh, NC 27601
(919) 996-2626
www.raleighnc.gov

Case File: **A-59-17**

Property Address: 1405 Canterbury Road

Property Owner: Lance and Cynthia Landvater

Project Contact: Benjamin Kuhn

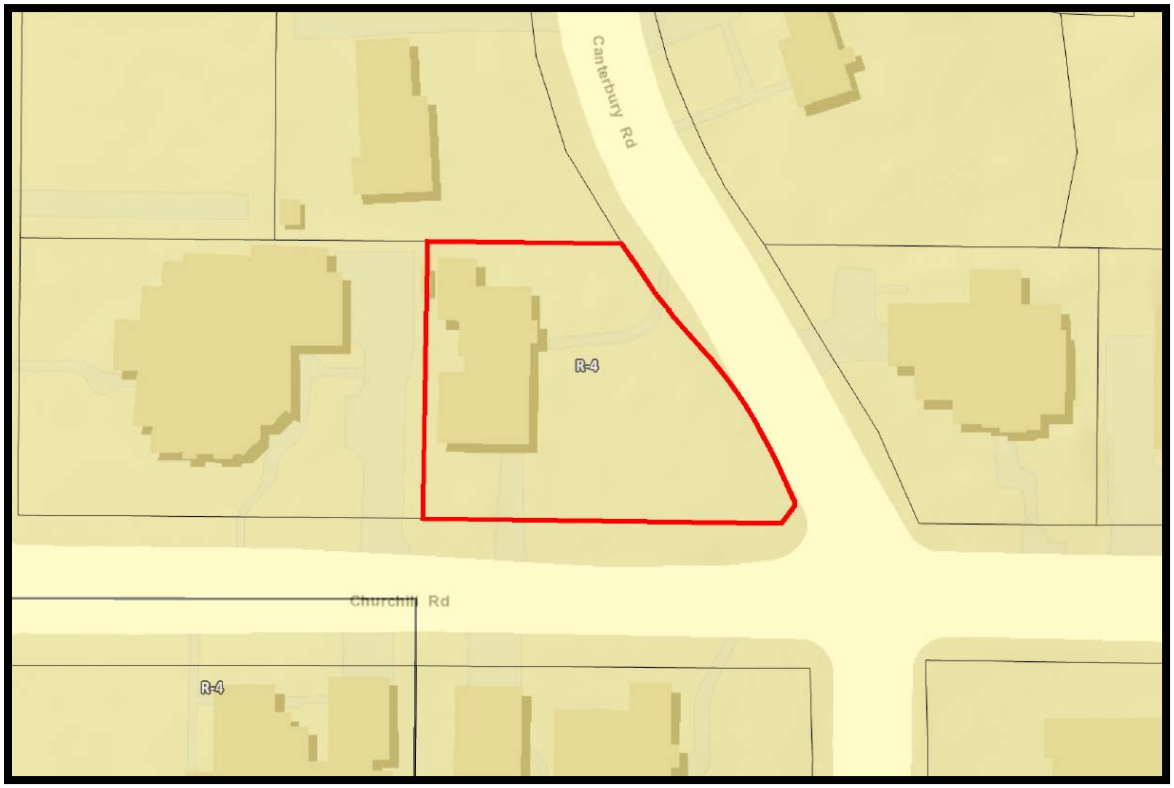
Nature of Case: A request for a.variance for a 646 square feet increase over the allowed 38% amount of impervious coverage set forth in Section 9.2.2. of the Unified Development Ordinance to allow for the construction of a detached house and associated impervious surfaces without installing active stormwater control measures which results in a 42.2% impervious coverage on a .35 acre site zoned Residential-4 and located at 1405 Canterbury Road.

1405 Canterbury Road – Location Map

To BOA: A-99-16: 9-12-16, A-57-16: 5-8-17

Staff Coordinator: Eric S. Hodge, AICP

ZONING DISTRICTS: Residential-4



1405 Canterbury Road – Zoning Map

VARIANCE STANDARDS: In accordance with UDO §10.2.10 Variance, before a variance request is granted, the Board of Adjustment shall show all of the following:

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.**

Setback Standards: The subject property is zoned Residential-4

Yard Type	Minimum Setback
Front Yard	20’
Side Street	15’
Side	10’
Sum of Side Setbacks	20’
Rear	30’

Article 9.2. Stormwater Management

Sec. 9.2.1. General Provisions

A. Applicability

Prior to any land disturbing activity or subdivision of land, stormwater control measures, watercourse buffers or both must be provided in conformity with the requirements of this Article.

B. Manual and Guidelines Incorporated

The Raleigh Stormwater Control and Watercourse Buffer Manual along with the Guidelines for Land Disturbing Activities and amendments, on file in the City Clerk's Office, is adopted by reference as part of this UDO.

Sec. 9.2.2. Active Stormwater Control Measures

A. Exemptions

The following uses are exempt from the active stormwater control requirements of this section:

1. Any detached house used for single-unit living or any attached house used for two-unit living, built as part of a subdivision 1 acre or less in aggregate size;
2. Any plot plan or site plan of ½ acre or less in aggregate size that cfontains less than 12,000 square feet of impervious surface, including impervious surfaces of related on-site or off-site facilities;
3. Any land-disturbing activity that does not require a land-disturbing permit under *Sec. 9.4.6.* provided that, upon application of any impervious surfaces this exemption shall not apply;
4. Substitution of impervious surfaces when all the standards of *Sec. 10.3.4.* are met; and
5. Substitution of impervious surfaces with approved pervious surfaces.

B. Nitrogen Reduction

1. Requirement

a. Any new or expansion of existing development, not in compliance with the stormwater control master plan approved for its drainage basin, may not contribute a nitrogen export load exceeding 3.6 pounds per acre per year.

b. Compliance with stormwater control master plan must include the installation within the development of all stormwater control measures shown on the stormwater control master plan, payment of fees in lieu of installation, when allowed by the City and payment of any applicable drainage fees.

2. Payment In Lieu Option

The nitrogen export load limitations for a development may be off-set through a payment made to the North Carolina Riparian Buffer Restoration Fund or private mitigation bank. The payment shall be based on the latest fee adopted by the State and shall meet the following requirements.

a. In General

i. Installation of City-approved stormwater control measures or payment in lieu option or a combination of both may be used to satisfy the nitrogen load requirement.

ii. For subdivisions with an approved stormwater control facilities plan, all payments shall be made prior to issuance of a land disturbance permit. Where no land disturbance permit is required, fees shall be due prior to recording of the plat.

iii. For all other developments, payments shall be paid to the North Carolina Riparian Buffer Restoration Fund prior to the issuance of applicable development permits.

b. Residential Development

i. For any detached house used for single-unit living or any attached house used for two-unit living, a one-time offset payment may be paid to the North Carolina Riparian Buffer Restoration Fund to reduce the nitrogen export load of up to 6 pounds per acre per year to 3.6 pounds per acre per year.

ii. All residential development that exceeds nitrogen export loads of 6 pounds per acre per year must install City-approved stormwater control measures to reduce the nitrogen export load of their development to 6 pounds per acre per year limitation to become eligible for the payment in lieu option.

c. **Mixed Use and Nonresidential Development**

i. For mixed use and nonresidential development, a one-time offset payment may be paid to the North Carolina Riparian Buffer Restoration Fund to reduce the nitrogen export load of up to 10 pounds per acre per year to 3.6 pounds per acre per year.

ii. Mixed use and nonresidential development that exceeds nitrogen export loads of 10 pounds per acre per year must install City-approved stormwater control measures to reduce the nitrogen export load of their development to 10 pounds per acre per year limitation to become eligible for the payment in lieu option.

C. Stormwater Control Permits

1. No development, expansion of existing development or the placement of more than 12,000 square feet of any impervious surface, may occur on a site without a stormwater control permit from the Office of Development Services.
2. No stormwater control permit may be approved until a stormwater control plan is first approved by the City in accordance with *Sec. 9.2.2.D.*
3. No stormwater control permit may be issued except in strict conformity with the provisions of this Article, the Raleigh Stormwater Control and Watercourse Buffer Manual.
4. No stormwater control permit may be issued until the boundaries of any watercourse buffer, riparian surface water buffer or transitional protective yard in a -MPOD, -UWPOD, -FWPOD or -SWPOD or CM District and permanently protected undisturbed open space areas which are adjacent to or encompass a work site are clearly and accurately demarcated by a protective fence in the field. Protection measures must be field verified by a Professional Land Surveyor.

D. Stormwater Control Plans

1. General Requirements

a. Stormwater control plans must be prepared by a qualified registered North Carolina professional engineer, surveyor or landscape architect.

b. All parts of a stormwater control plan, including data calculation design and installation of storm control measures and devices shall be in compliance with the Raleigh Stormwater Control and Watercourse Buffer Manual.

c. Stormwater control plans must show how nitrogen reduction and stormwater runoff control requirements are being met and how watercourse buffers are being protected.

d. A surety equal to 125% of the cost of construction of a stormwater device shall be paid to the City prior to permit issuance. If the amount of impervious surfaces for the bonded area exceeds 15% , the City may cash the surety.

2. Maintenance Manual and Budget

a. The stormwater control plan must be accompanied by a stormwater operations maintenance manual and budget.

b. Prior to either grading any portion of the development or submitting construction drawing plans of any applicable stormwater control facility to the City, whichever event first occurs, a stormwater operations maintenance and budget shall be submitted to the Stormwater Utility Division of the Public Works Department.

c. The maintenance manual shall contain a narrative describing each installed measure and device and its design specifications.

d. The maintenance manual shall describe which lots are served by each device.

e. The maintenance manual shall indicate for each installed measure and device what operation and maintenance actions are needed and what specific quantitative criteria will be used to determine when these actions will be taken.

f. The maintenance manual must indicate the steps that will be taken to restore a measure or device to the design specifications if a failure occurs.

g. The maintenance manual must contain a statement about the expected life of each stormwater control facility and a replacement schedule derived by dividing the initial construction cost of each stormwater control facility by the expected life of that stormwater control facility.

h. The budget shall include annual costs such as routine maintenance, repair, periodic sediment removal and replenishment of rip-rap, insurance premiums associated with the stormwater control facilities, taxes levied against the stormwater control facilities, mowing and reseeding, required inspections.

3. As-Built Plans and Certification

Stormwater control plans must be followed by as-built plans certified under seal, that the stormwater measures and devices and their installation are in compliance with the Raleigh Stormwater Control and Watercourse Buffer Manual and the City-approved or modified stormwater control plan. No certificate of compliance or occupancy may be issued by the Office of Development Services without approved as-built plans. At a minimum, the as-built plans must contain the following information:

a. The name and address of the land owner;

b. The recorded book and page number of the lot of each required stormwater control facility and required open space area;

c. A statement that all inspected stormwater control facilities and open space areas are in compliance with the approved stormwater control plan, the applicable maintenance manual required and the Raleigh Stormwater Control and Watercourse Buffer Manual; and

d. The original signature and seal of the engineer, surveyor or landscape architect.

E. Stormwater Runoff Controls

1. Runoff Limitation

a. After May 1, 2001, the peak stormwater runoff leaving any site for the two-year and 10-year storms shall be no greater at every point of discharge for post-development conditions than pre-development conditions. The same methodologies used to calculate stormwater runoff must be used for both pre-development and post-development conditions.

b. For any denuded area on sites between 5 and 15 acres in size the peak stormwater runoff leaving the site at each discharge point for the two-year storm and 10-year storm shall be no greater during construction than for pre-development conditions. For any land disturbing activity on sites, greater than 15 acres in size the peak stormwater runoff leaving the site at each discharge point for the two-year storm, 10-year storm and 25-year storm shall be no greater during construction than for pre-development conditions. However, this regulation shall not be applicable when the development site conforms to all of the following:

i. The disturbed acreage is less than 5 acres; and

ii. The two-year peak discharge for the disturbed condition, for all points of discharge, is less than 10% of the peak discharge from the contributing watershed as measured at the nearest receiving watercourse.

2. Exemptions

The stormwater runoff control requirements do not apply to sites with any of the following conditions.

a. The development complies with the stormwater control master plan approved for its drainage basin.

b. The increase in peak stormwater runoff between pre-development and post-development conditions for the two-year and 10-year and 25-year storms is 10% or less at each point of discharge.

c. The maximum impervious surface coverage of the lot, including any existing impervious surfaces, is no more than 15% and the remaining pervious portions of the lot are utilized to convey and control the stormwater runoff of the lot to the maximum extent practical. In the event that the site is subsequently subdivided, reduced by recombination or the impervious surface is equal to or exceeds 15% the site may no longer be exempt.

d. Compliance with *Sec. 9.2.2.E.1.* above, would result in greater adverse downstream impact, such as local flooding, as determined by City-approved engineering studies.

e. Compliance with the 10-year storm and 25-year storm runoff limitations in *Sec. 9.2.2.E.1.* above results in no benefit to current and future downstream development, as determined by City-approved engineering studies.

3. Additional Runoff Controls

The City may require the installation of stormwater runoff control measures for projects without any stormwater measures present. The City reserves the right to require additional stormwater runoff control measures for projects which are compliant with *Sec. 9.2.2.E.1.* above, if stormwater runoff from the site could cause adverse effects on other properties including, without limitation, public streets, greenways and utility easements.

a. As part of an application for rezoning, subdivision or site plan for sites at or upstream of documented structural flooding cases, the applicant shall submit a stormwater impact analysis to the Public Works Director.

b. This requirement does not extend to sites initially zoned and added to the territorial coverage of as a result of annexation, extraterritorial jurisdictional expansion or otherwise or application of any overlay district.

c. The stormwater impact analysis shall look at the flood level differences between pre-development and post-development conditions for the 25-, 50- and 100-year storm events. If the analysis shows an increase greater than 0.04 feet between pre-development and post-development flood levels at the site of structural flooding then mitigation to pre-development flood conditions will be required to prevent further damage to the affected property.

d. In the case where the area of the subject property is less than 5% of the drainage area, measured to the location of the documented structural flooding, then this analysis shall not be required.

e. In the event flood levels are increased, then the affected property owners will be notified in writing of any increase by the applicant.

F. Preservation of Open Space Areas

1. Open Space Areas Preserved

a. Areas designated on approved stormwater control plans as open space to be used for complying with this Article shall be preserved and protected.

b. The only activities allowed in designated open space areas are those activities allowed by the approved stormwater control plan or allowed in riparian surface water buffers under Title 15A North Carolina Administrative Code Article 2B, section .0233, as amended from time to time. Determinations required by the North Carolina Administrative Code shall be made by the City.

c. No work in open space areas shall proceed without a written protected watercourse buffer permit from the Inspections Director.

d. Permanently protected undisturbed open space areas identified on stormwater control plans shall be recorded on plats recorded with the County Register of Deeds and clearly delineated with a fence.

2. Exchange of Open Space Areas

Open space areas may not be subdivided or conveyed by the owner. However, nothing in this section shall prevent the mortgaging and hypothecating of open space areas; provided the mortgage applies to all portions of the tract and not just the open space areas, the mortgagee is informed that the open space areas are used for complying with the requirements of the Article and the rights of the mortgagee are subordinated to the rights of any property owner association and its members. Furthermore, nothing shall prevent the exchanging of open space areas for other properties when all of the following are met:

a. If the open space area is owned by a homeowners' association, written notice of the exchange is given to each member of the association except in cases where the exchange is done to eliminate an encroachment;

b. After the notice is given, if required, the owner of the open space area approves the exchange;

c. The exchanged properties and other considerations are of like value and utility;

d. The acreage and configuration of the remaining open space area including real property to be received in such exchange equal or exceeds the requirements of the City Code; and

e. The exchange is approved by the Public Works Director.

G. Maintenance of Stormwater Control Measures and Devices

1. General Requirements

a. The land owner or person in possession or control of the land shall maintain all on-site stormwater control facilities and all open space areas required by the approved stormwater control plan unless those facilities and open space areas are accepted for maintenance by a governmental agency.

b. The land owner entitled to the exclusive use of an off-site drainage easement for one or more stormwater control facilities not accepted for maintenance by a governmental agency shall maintain said stormwater control facilities.

2. Maintenance Covenant

For off-site stormwater control facilities and for all other stormwater control facilities which serve more than 1 lot that are not accepted for maintenance by a governmental agency, the developer shall execute and record with the local county register of deeds office a maintenance covenant, using a City form, with the following contents.

a. Location of Stormwater Control Facilities and Drainage Easements

i. A description of portions of property where stormwater control facilities are located as well as a description of the location of all private drainage easements conveying stormwater to and from the development to the facilities.

ii. A process for relocating private drainage easements, with any relocation to require the prior written consent of the City.

b. Easement Rights of Lot Owners

A statement that owners of properties that will be served by the stormwater control facilities are:

a) Granted perpetual, irrevocable and non-exclusive easement rights and privileges to use, construct, install, inspect, replace, reconstruct, repair and maintain those stormwater control facilities including the right to access those stormwater control facilities, private drainage easements and other portions of the development as reasonably necessary to perform the granted easement rights; and

b) The granting of perpetual, irrevocable and non-exclusive easement rights and privileges to transport, store and discharge stormwater to and from the stormwater control facilities.

c. City Easement/Right of Entry/No City Responsibility

i. A grant from the developer, the association (if any) and the lot owners to the City of a permanent non-exclusive irrevocable easement over the lots, stormwater control facilities and private drainage easements for inspection, maintenance, repair, construction, installation, re-construction, replacement and other work on, in and over the stormwater control facilities.

ii. A grant from the developer, the association (if any) and the lot owners to the City of a permanent, irrevocable, nonexclusive right of ingress, egress and regress over and across all public or private easements on the property and through all access easements benefitting the developer, association (if any) and the lot owners through any adjacent properties, including but not limited to private roads, for inspection, maintenance, repair construction, installation, reconstruction, replacement and other work on the stormwater control facilities. The rights granted to the City shall include employees, agents and contractors of the City of Raleigh. The grant of these rights does not obligate the City to exercise them or to take any other action.

d. Stormwater Operations and Maintenance Manual and Budget

A stormwater operations and maintenance manual and budget conforming to *Sec. 9.2.2.D.2.* shall be attached to and incorporated into the maintenance covenant as an exhibit.

e. Insurance

The party responsible for maintenance of the stormwater control facilities shall, as part of the routine costs and expenses of maintaining any stormwater control facility, procure and maintain in full force and effect liability insurance in an amount not less than $1,000,000 of coverage.

f. Standards of Maintenance for Stormwater Control Facilities

A statement that stormwater control facilities shall be maintained in accordance with the attached stormwater operations and maintenance manual and budget and at all times, the stormwater control facilities shall comply with all applicable laws, ordinances, regulations, rules and directives of governmental authorities and that the stormwater control facilities shall perform as designed.

g. Responsibility for Stormwater Control Maintenance

i. A statement that the property owners' association or a designated commercial lot owner, shall be responsible for all stormwater control facilities in accordance with the attached stormwater operations and maintenance manual and budget.

ii. A statement that the failure to maintain any stormwater control facility in accordance with the terms of the maintenance covenant and this UDO is a violation of the City Code, potentially subjecting each lot owner subject to the maintenance covenant to significant daily civil penalties and other enforcement actions.

h. Stormwater Control Facilities Maintained by an Association

i. If a property owners' association is delegated maintenance responsibilities for the stormwater control facilities, then membership into the association shall be mandatory for the owner of each parcel served by the facility, such membership shall be appurtenant to the parcel and shall run with ownership of the parcel.

ii. The property owners' association shall have the power to levy assessments for the operation and maintenance of the stormwater control facilities and all unpaid assessments levied by the association shall become a lien on the individual parcel.

iii. The calculation of the assessment charge shall be set forth in a subsequent recorded document.

iv. Any property owners' association responsible for maintenance of stormwater control facilities shall be established in accordance with N.C. Gen. Stat., Chapter 47C and Chapter 47F and the property owners' association declaration (or equivalent) shall conform to all applicable provisions of the City Code.

v. The common expenses of the property owners' association shall include, without limitation, costs and expenses for operation and maintenance of stormwater control facilities, all costs for insurance premiums and any other costs listed in the stormwater operations maintenance manual and budget.

i. Stormwater Control Facilities Maintained by a Commercial Lot Owner

i. If a commercial lot owner is responsible for the maintenance of the stormwater control facilities, said owner is responsible for making all repairs and replacements of the stormwater control facilities in accordance with the construction drawings approved by the City.

ii. Each owner of a parcel served by the stormwater control facility shall be subject to an assessment charge levied by the designated responsible lot owner.

iii. The assessment charge shall include, without limitation, the actual costs for repairing and maintaining the stormwater control facility, all costs for insurance premiums associated with the stormwater control facility, all costs of required inspections of the stormwater control facility and any other costs listed in the stormwater operations maintenance manual and budget.

iv. The calculation of the assessment charge shall be set forth in a subsequent recorded document.

v. Any assessment charge levied against a lot and remaining unpaid for a period of 30 days after the payment due date shall be delinquent and shall constitute a default of this covenant entitling the lot owner responsible for maintenance of the stormwater control facilities to bring an action at law against the defaulting party plus interest charges, together with all costs and expenses of collection incurred, including, without limitation, court costs and reasonable attorney fees actually incurred.

vi. Each parcel owner served by the stormwater control facility shall have the right to maintain, repair and replace the facility if, after 45 days written notice, the commercial lot owner responsible for maintenance, repair and replacement fails to faithfully discharge its responsibility.

vii. The parcel owner performing any maintenance or repair of the facility shall have the same rights as the designated commercial lot owner to assess all other parcels served by the stormwater control facility.

viii. At any time, the commercial lot owner responsible for the maintenance of stormwater control facility may assign its responsibilities and rights to a property owners' association established in accordance with N.C. Gen. Stat., Chapter 47C and Chapter 47F. In such instance, the owners of the parcels served by the stormwater control facility shall be members of the property owners' association.

j. City Right to Maintain and Repair Stormwater Control Facilities and City's Right of Reimbursement

i. If the stormwater control facilities are not performing adequately or as intended or are not properly maintained or replaced, the City, in its sole discretion, may, after written notice sent to the lot owners and any association, enter the development and perform such construction, installation, repair, reconstruction, replacement and maintenance of the stormwater control facilities as is necessary to remedy the situation.

ii. If the City undertakes the activities listed above, the City shall be fully reimbursed for its costs of inspecting, monitoring, designing, constructing, repairing, reconstructing, replacing and/or installing the stormwater control facility or facilities. Such costs shall include the City's costs of administration, overhead, contracting and public advertising.

iii. In addition to any other rights the City has to be reimbursed for its costs, the City may levy an assessment against each lot served by the noncompliant stormwater control facility. No assessment will be levied by the City without prior notice to affected lot owners. Any unpaid assessment levied by the City shall be, as allowed by law, a lien against the delinquent lot.

k. City's Right To Private Assessments

i. In addition to all of the remedies set forth herein, if the City has not been fully repaid for the work the City performed on any stormwater control facility owned, in fee or easement, by either a property owners' association or a commercial lot owner with the power to assess lot owners for maintenance of the stormwater control facility, the property owners' association and the private commercial lot owner shall assign to the City their right to receive common expense assessments, including stormwater assessments.

ii. The association and private commercial lot owner shall designate and appoint the City as attorney in fact for the expressed and limited purpose of assessing and pursuing collection of such unpaid reimbursement owed to the City.

iii. No assignment of assessment rights shall become effective without 60 days prior written notice to the applicable private commercial lot owner, property owners' association and its members.

l. Action for Specific Performance

i. That, recognizing the consequences to the City of noncompliance with the obligations of the maintenance covenant, the City shall have the right to seek, in any court of appropriate jurisdiction, judicial action for specific performance of any of the obligations and remedies established in this maintenance covenant.

ii. The rights of the City within the maintenance covenant shall not limit any other remedies or enforcement options available to the City under the maintenance covenant, the City Code or State law.

m. No Public Adoption

i. A statement that the City's exercise of its rights under this maintenance covenant, its abatement of public nuisance or its repair of unsafe structures shall not constitute adoption of any stormwater control facility by the City.

ii. A statement that the legal authority of the City is not intended to impede or prohibit the property owners' association or lot owners from taking all necessary actions to inspect, maintain, repair, replace and reconstruct stormwater control facilities so that they function safely, perform the function for which they were created and comply with the provisions of this maintenance covenant and the City Code.

n. City's Right of Non-Action

A statement that the maintenance covenant shall not obligate the City to monitor, maintain, repair, reconstruct, install or replace any stormwater control facility or measure and that the City shall not be liable for the condition or operation of stormwater control facilities.

o. Governmental Functions; Superseding Regulations

i. A statement that nothing contained in the maintenance covenant shall be deemed or construed to, in any way, stop, diminish, limit or impair the City from exercising or performing any regulatory, policing, legislative, governmental or other powers or functions.

ii. A statement that the maintenance covenant shall not restrict or prevent the application of later adopted ordinances or other enactments which may supplement or supersede the provisions of the maintenance covenant.

p. Joint and Several Liability

i. A statement that each lot owner served by one or more stormwater control facilities is jointly or severally responsible for repairs, replacement and maintenance of the stormwater control facilities, including payment of any unpaid ad valorem taxes, public assessments for improvements and unsafe building and public nuisance abatement liens charged against the stormwater control facility and/or the lots served by the facility, including all interest charges thereon, together with all cost and expenses of collection incurred, such as, without limitation, court costs and attorney's fees incurred.

ii. The maintenance covenant shall establish a right of contribution in favor of each owner who pays more than the owner's pro rata share of costs and expenses against all other owners whose real property is served by the same stormwater control facility.

iii. A statement that pro rata sharing may be established either by maintenance assessment provisions for stormwater control facilities in subsequently recorded documents or by dividing the acreage of such owner's portion of the real property served by the stormwater control facilities by the total acreage of the portion of the development served by the same stormwater control facility when no maintenance assessment covenants apply to the property.

iv. A statement that failure to maintain the stormwater control facilities in accordance with the terms of the maintenance covenant and the City Code is a violation of the City Code potentially subjecting each parcel owner subject to the maintenance covenant to significant daily civil penalties and other enforcement actions.

q. Permanently Protected Undisturbed Open Space Areas

A statement that within permanently protected undisturbed open space areas there shall be no land-disturbing activity, no tree disturbing activity, no placement of impervious surface, no removal of vegetation, no encroachment or no construction or erection of any structure shall occur except in accordance with a permit first being issued by the City.

r. Severability

The sections, paragraphs, sentences, clauses and phrase of the maintenance covenant are severable and if any phrase, clause, sentence, paragraph or section of the maintenance covenant is declared invalid by a valid judgment, order or decree of any court of competent jurisdiction, such invalidity shall not affect the remaining phrases, clauses, sentences, paragraphs and sections of the maintenance covenant.

s. Completion and Recording of Maintenance Covenant Form

i. The maintenance covenant shall be binding on all current and subsequent owners of property served by the stormwater control facilities. To protect the interests of the City and the public at large, any existing deed of trust, mortgage or lien encumbering the property, other than tax liens for the current tax year or governmental improvement assessments, must be subordinated to the maintenance covenant.

ii. Prior to recording the maintenance covenant, the attorney who prepared the maintenance covenant shall certify in writing to the City that the maintenance covenant was prepared on a City form that contains all the contents required by *Sec. 9.2.2.G.2.* Certifications shall be on forms approved by the City and shall accompany the maintenance covenant forms.

iii. The maintenance covenant shall be recorded with the local county register of deeds office immediately following the recording of any new lot served by the stormwater control facility or prior to the issuance of any building permit for any existing lot except for improvements made pursuant to *Chapter 8. Subdivision & Site Plan Standards* The maintenance covenant must be the first encumbrance recorded subsequent to the recording of the subdivision plat.

iv. A recorded copy of the maintenance covenant shall be given to the Stormwater Utility Division of Public Works within one business day following recordation. No building permit shall be issued for the property subject to the maintenance covenant until a recorded copy of the maintenance covenant is provided to the Office of Development Services.

3. Payment to Stormwater Facility Replacement Fund

a. At the time of either recording a subdivision plat or issuance of a building permit for a lot not established by subdivision, whichever event first occurs, the developer shall pay to the City a stormwater facility replacement fund payment, which payment shall equal 24% of the estimated cost of constructing all stormwater control facilities shown on applicable development plans.

b. The purpose of the stormwater replacement fund is to ensure that adequate funds are available to the City for the maintenance, repair replacement and reconstruction of stormwater control facilities required by this UDO. Funds expended from the stormwater facility replacement fund shall be used only for the repair, maintenance, reconstruction and/or replacement of stormwater control facilities, together with the costs incurred by the City associated with any work and/or redesign of the facilities.

c. No funds from the stormwater facility replacement fund shall be used for administration of this fee program. Monies collected from the stormwater replacement fund may be spent for maintenance, repair, reconstruction and replacement of any stormwater control facility required by this UDO and located within the City limits or its extra-territorial jurisdiction.

d. Payments collected by the City pursuant shall be kept separate from other revenues of the City. Any funds on deposit not immediately necessary for expenditure shall be invested as allowed in N.C. Gen. Stat. §159-30; all income derived shall be deposited in the separate account and may only be used for repair, maintenance, reconstruction and replacement of stormwater control facilities together with the costs incurred by the City associated with any work or redesign of the facilities.

e. Monies expended from the stormwater facility replacement fund, together with interest, may be recouped by the City from lot owners served by stormwater control facilities maintained, repaired, reconstructed and replaced by the City or its contractors. All recouped monies and interest shall be returned to the stormwater facility replacement fund.

f. The payment of stormwater facility replacement fees is not intended as a substitute for security to ensure the construction of the facilities, which security may be required at such point in the development process as specified in City ordinances and policies.

H. Annual Inspections and Inspection Report Required

The responsible party for maintenance of the stormwater control measures or devices must submit an annual inspection report from a qualified registered North Carolina professional engineer, surveyor or landscape architect to the Stormwater Utility Division of the Public Works Department. The inspections report shall contain all of the following:

1. The name and address of the land owner;
2. The recorded book and page number of the lot of each required stormwater control facility and required open space area;
3. A statement that an inspection was made of all required stormwater control facilities and open space areas;
4. The date of the inspection;
5. A statement that all inspected stormwater control facilities and open space areas are performing properly and are in compliance with the approved stormwater control plan, the applicable maintenance manual required by *Sec. 9.2.2.D.2.* and the Raleigh Stormwater Control and Watercourse Buffer Manual. No sampling of pollutant loading is required as part of the inspection;

6. The original signature and seal of the engineer, surveyor or landscape architect; and
7. All inspection reports shall be on forms supplied by the City. An original inspection report shall be given to the Office of Development Services beginning from the date of the as-built was first certified under *Sec. 9.2.2.D.3.* and each year thereafter on the anniversary date of the certification.

Sec. 9.2.3. Watercourse Buffers

A. Natural Resource Buffers

1. General Rules for All Natural Resource Buffers

Natural resource buffers are intended to provide an area where stormwater flows in a diffuse manner so that the stormwater runoff does not become channeled and infiltration of the stormwater and filtering of pollutants can take place. The following rules apply to all required natural resource buffers.

a. Natural resource buffers shall be delineated on recorded final subdivision plats or at the time of development of the property.

b. The City Council may reduce the width of natural resource buffers when it determines that the extent of the natural resource buffer yard will deprive the landowners of reasonable use of their property.

c. The width of the natural resource buffer shall be measured perpendicularly to the flow of the watercourse and horizontally from the edge of the watercourse banks. When no watercourse banks exist, the centerline of the watercourse shall be used.

2. Falls Watershed Protection Overlay District, Swift Creek Watershed Protection Overlay District and Conservation Management District Watercourse Buffers

Natural resource buffers shall be established along primary and secondary watercourses in a -FWPOD, -SWPOD or CM District.

a. Primary Watercourse Natural Resource Buffers

Natural resource buffers along primary watercourses must meet the following standards.

i. The buffer must be a minimum of 60 feet wide along each side of any watercourse draining 25 or more acres.

ii. The buffer must be a minimum of 35 feet wide along each side of any watercourse draining 5 or more acres but less than 25 acres.

iii. The buffer must be a minimum of 35 feet wide along each side of any watercourse which is a stream draining less than 5 acres.

iv. In the event that the property or subdivision contains impervious surface lot coverage in excess of 24% in a secondary reservoir watershed protection area, the buffer shall be no less than 100 feet wide along each side of the watercourse.

b. Secondary Watercourse Natural Resource Buffers

Unless part of a primary watercourse natural resource buffer, the secondary watercourse natural resource buffers consists of one or more of the following:

i. Lands within the flood prone areas that adjoin primary watercourse natural resource buffers; or

ii. Lands with slopes 15% or greater, adjoining a primary watercourse natural resource buffers or a flood prone area.

3. Metro-Park Overlay District Watercourse Buffers

Natural resource buffers shall be established as primary tree conservation areas pursuant to *Sec. 5.2.2.C.2.* and *Article 9.1. Tree Conservation* along primary and secondary watercourses in a -MPOD. Required tree conservation areas shall meet the following standards.

a. The primary tree conservation area must be a minimum of 50 feet wide along each side of any watercourse draining 25 or more acres.

b. The primary tree conservation area must be a minimum of 25 feet wide along each side of any watercourse draining 5 or more acres but less than 25 acres.

4. Urban Water Supply Watershed Protection Overlay District Watercourse Buffers

Natural resource buffers shall be established along primary and secondary watercourses in a -UWPOD. Required natural resource buffers shall meet the following standards.

ORDINANCE NO. 2016 --
TC-2-16

AN ORDINANCE TO MODIFY THE EXEMPTIONS FROM ACTIVE STORMWATER CONTROL MEASURES IN THE CITY OF RALEIGH UNIFIED DEVELOPMENT ORDINANCE

WHEREAS, the City of Raleigh is an MS4 City that is bound by the State-issued stormwater permit to regulate the impacts of stormwater runoff and quality; and

WHEREAS, The City Council appointed the Stormwater Management Advisory Committee to review regulatory improvements to the stormwater regulations; and

WHEREAS, The City of Raleigh previously adopted text change TC-6-15 to address stomwater exemptions; and

WHEREAS, The former TC-6-15 did not include all intended stormwater exemptions; and

WHEREAS, The introduction of modified stormwater regulations will benefit the City residents and reduce the negative impact of unregulated stormwater runoff;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RALEIGH THAT:

Section 1. Section 9.2.2.A of the Part 10A Raleigh Unified Development Ordinance, Active Stormwater Control Measures, is hereby amended by deleting it in its entirety and replacing it with the following underlined provisions:

Sec. 9.2.2. Active Stormwater Control Measures

A. Exemptions

Subject to the additional runoff controls required in Sec. 9.2.2 E 3 and the impervious surface limitations and other regulations of subsection A 4 below, the following are exempt from the active stormwater control measures required by section 9.2.2:

1. Grandfathered lots

a. Defined

Any lot which was either recorded prior to May 1, 2001 (the first application of the Stormwater Management Ordinance) or lawfully recorded later as part of a subdivision approved prior to May 1, 2001.

b. Use Standards

i. A grandfathered lot of any size, including grandfathered lots that are recombined with other grandfathered lots, used for any detached house used for single-unit living or any attached house used for two-unit living, including accessory uses.

ii. A grandfathered lot of one-half acre or less that has not been altered to be larger than one-half acre in size, used for any other lawful use requiring a plot plan or site plan.

2. Subdivided lots

a. Defined

A lot created by a subdivision approved after May 1, 2001.

b. Use Standard

i Any detached house used for single-unit living or any attached house used for two-unit living, including their

accessory uses, situated on a subdivided lot that was part of a subdivision of one acre or less in aggregate size, including subdivided lots that are recombined with other similar subdivided lots.

ii Any other lawful use requiring a plot plan or site plan situated on a subdivided lot that was part of a subdivision of one-half acre or less in aggregate size.

3. Other exemptions

a. Land-disturbing activities, not otherwise exempted, that do not require a land-disturbing permit under Sec. 9.4.6 are exempted provided that, upon application of any impervious surfaces this exemption shall not apply.

b. Substitution of impervious surfaces when all the standards of Sec. 10.3.4.E. are met.

c. Substitution of impervious surfaces with approved pervious surfaces.

4. Impervious surfaces limitations and other regulations

a. Lots exempted by subsections A.1 or A.2 above shall be subject to *Sec. 9.2.2. et seq*. when the applicable maximum impervious surface area of the lot exceeds:

Zoning District Maximum Percentage of Impervious Surface Coverage

R-1 ……..... 20%
R-2 ……..……..…… 25%
R-4…… 38%
R-6……..... 51%
R-10 and all other base zoning districts ……..65%

Where the lot is part of a cluster unit development or townhouse development or planned development approved prior to May 1, 2001, the imputed acreage of the lot shall be calculated by combining the individual lot area with the pro-rata lot portion of 85% of the common open space shown on recorded plats of the development.

Notwithstanding the impervious surface limitations of this subsection, any lot with either an existing detached house used for single-unit living or an existing attached house used for two-unit living shall be entitled to a one-time 400 square foot increase of impervious surface area without providing the additional stormwater control measures required by this subsection. This one-time exemption shall only be allowed if the qualifying structure (i) existed prior to the application of this ordinance, and (ii) the qualifying structure exists when the one-time exemption is applied to the property. However, the exemption once used shall remain with the property even if the qualifying structure is later demolished, voluntarily or involuntarily, from the property. This exemption, if not used, shall be inapplicable if the qualifying structure is voluntarily demolished from the property.

Editor's Note: This ordinance was first applied on November 27, 2016.

b. The impervious surface limitations in this subsection may be exceeded if:

1. It is demonstrated to the City that (with or without measures) the Post-development volume of stormwater leaving the site is equal to or less than the volume of stormwater for the zoning district maximum percentage of impervious surface coverage allowed under subsection a during the 90th percentile storm.

   For lots where the existing impervious surface area already exceeds the zoning district maximum percentage of impervious surface coverage limitations listed in subsection a above, the post-development volume must be equal to or less than the volume of stormwater for the 90th percentile storm for the existing conditions.; or

2. It is demonstrated to the City that that (with or without measures) the flood level difference between the pre-development and post-development conditions for the 2, 10, 25, 50 and 100-year storm events is equal to or less than 0.04 foot rise.

c. For any property owner installing any measure to comply with subsection b.1 or b.2 above, the following additional requirements shall apply:

1. The property owner must submit an annual inspection report to the Stormwater Management Division of the Engineering Services Department. The inspections report shall contain all of the following:

a. The name and address of the property owner;
b. A statement that an inspection was made of all required stormwater control facilities and/or required open space area;
c. The date of the inspection;
d. A statement that all inspected stormwater control facilities and/or open space areas are performing properly and are in compliance with the approved stormwater control plan, the applicable maintenance manual required by Sec. 9.2.2.D.2 and the Raleigh Stormwater Management Manual. No sampling of pollutant loading is required as part of the inspection;
e. Current photographs of the stormwater control facilities and/or open space areas;
f. The original signature of the owner;
g. All inspection reports shall be on forms supplied by the City beginning from the date of the as-built certification under Sec. 9.2.2.D.3. and each year thereafter on the anniversary date of the certification.

2. On lots with measures, prior to issuance of a building permit, or recordation of a subdivision plat, whichever first shall occur, the property owner shall deed an access easement and temporary construction easement to the benefit of the City of Raleigh. The easements shall be in the form of a deed that the property owner records in the County in which the property is located. A copy of this recorded deed shall be provided to the Development Services Department.

Section 2. Section 9.2.2.E 3 of the Unified Development Ordinance, Additional Runoff Controls, is hereby amended by deleting the following sections shown with a strike-through and adding the following underlined provisions.

3. **Additional Runoff Controls**

The City may require the installation of stormwater runoff control measures for projects without any stormwater measures present when the benchmarks contained in the subsections a. through d below are applicable. The City reserves the right to require additional stormwater runoff control measures for projects which are compliant with Sec. 9.2.2 A or Sec. 9.2.2.E ~~1~~ above, if stormwater runoff from the site could cause adverse effects on other properties including, without limitation, public streets, greenways and utility easements.

a. As part of an application for rezoning, subdivision or site plan for sites at or upstream of documented structural flooding cases, the applicant shall submit a stormwater impact analysis to the Engineering Services Director.

b. This requirement does not extend to sites initially zoned and added to the territorial coverage of as a result of annexation, extraterritorial jurisdictional expansion or otherwise or application of any overlay district.

c. The stormwater impact analysis shall look at the flood level differences between pre-development and post-development conditions for the 25-, 50- and 100-year storm events. If the analysis shows an increase greater than 0.04 feet between pre-development and post-development flood levels at the site of structural flooding then mitigation to predevelopment flood conditions will be required to prevent further damage to the affected property.

d. In the case where the area of the subject property is less than 5% of the drainage area, measured to the location of the documented structural flooding, then this analysis shall not be required.

e. In the event flood levels are increased, then the affected property owners will be notified in writing of any increase by the applicant.

Section 3. All laws and clauses of laws in conflict herewith are repealed to the extent of such conflict.

Section 4. If this ordinance or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given separate effect and to this end the provisions of this ordinance are declared severable.

Section 5. This text change has been reviewed by the Raleigh City Planning Commission.

Section 6. This ordinance has been provided to the North Carolina Capital Commission as required by law.

Section 7. Prior to the effective date of this ordinance, staff shall update the Raleigh website to include the following information to provide clarity and guidance:

a. Chart clarifying when potential treatment would be needed
b. A planning tool created by city staff illustrating the potential of stormwater treatment needed for a given site

Section 8. This ordinance shall become effective on November 27, 2016. This ordinance shall not apply to any completed applications to increase impervious surface area that are submitted to the city prior to the effective date of this ordinance.

Application for Variance

RCP RALEIGH DEPARTMENT OF CITY PLANNING

Department of City Planning | 1 Exchange Plaza, Suite 300 | Raleigh, NC 27601 | 919-996-2626

Submit application to: Development Services Customer Service Center, 1 Exchange Plaza, Suite 400, Raleigh, NC 27601

NATURE OF REQUEST	OFFICE USE ONLY
Nature of variance request (if more space is needed, submit addendum on separate sheet): Lance and Cynthia Landvater request an extension of the previously issued variance for a period of 6 months. See Statement of Justification attached as Exhibit A.	**Transaction Number** A-59-17
Provide all previous transaction numbers for Coordinated Team Reviews, Due Diligence Sessions, or Pre-Submittal Conferences. If this property was the subject of a previous variance request, provide the case number. Prior variance in BOA Case No. A-99-16 (See copy of Decision Attached as Exhibit B).	

GENERAL INFORMATION			
Property Address	1405 Canterbury Road		**Date**
Property PIN	0794788355	**Current Zoning**	R-4
Nearest Intersection	Canterbury and Churchill		**Property size (in acres)** .35
Property Owner	Lance E. Landvater and wife Cynthia C. Landvater	**Phone** 919.422.3001	**Fax** 919.256.4394
Owner's Mailing Address	P3328 White Oak Rd, Raleigh, NC 27609	**Email**	cyn3328@aol.com
Project Contact Person	Benjamin R. Kuhn	**Phone** 919.881.2201	**Fax** 919.783.8991
Contact Person's Mailing Address	2840 Plaza Place, Ste 400, Raleigh 27612	**Email**	bkuhn@rl-law.com
Property Owner Signature	Lance Landvater, Cynthia Landvater	**Email**	cyn3328@aol.com
Notary Sworn and subscribed before me this 30th day of March, 2017		**Notary Signature and Seal** Sandra J Brinkley — SANDRA J BRINKLEY NOTARY PUBLIC WAKE COUNTY, NC	

VARIANCE CHECKLIST - TO BE COMPLETED BY APPLICANT	YES	N/A
PRE-SUBMITTAL REQUIREMENTS		
1. Pre-Application Conference with staff	☐	☑
2. Completed Variance Intake Requirements sheet	☑	☐
3. Variance applications shall be submitted to the Zoning Division, 4th floor of One Exchange Plaza	☑	☐
VARIANCE REQUIREMENTS		
1. The property owner must be the applicant.	☑	☐
2. A signed, notarized application and submittal fee are required.	☑	☐
3. The applicant must submit stamped envelopes addressed to the property owners within 100 feet of the subject property. City staff will mail the public hearing notices.	☑	☐
4. The Board of Adjustment conducts a quasi-judicial hearing. You may not contact the Board members once the application has been filed.	☑	☐
5. The Board of Adjustment is not empowered to modify zoning lines or grant a use variance.	☑	☐
6. The Board of Adjustment may attach conditions of approval to a variance to protect surrounding properties.	☑	☐
7. City Staff will place a public hearing sign on the subject property. The sign must be prominently displayed on the property for at least ten days before the hearing. The property owner is responsible for maintaining the sign during this ten day period. The owner must return the sign to city staff within three days of the hearing. The owner will be charged $45 for any sign not returned.	☑	☐
VARIANCE CONSIDERATIONS		
The Board of Adjustment will review all variance requests against the following showings:	☑	☐
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 from 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.	☑	☐

VARIANCE INTAKE REQUIREMENTS - TO BE COMPLETED BY APPLICANT			COMPLETED BY CITY STAFF		
General Requirements – Variance	YES	N/A	YES	NO	N/A
1. I have referenced the **Variance Checklist** and by using this as a guide, it will ensure that the application is processed in a timely manner	☑				
2. Variance application review fee (see **Development Fee Schedule** for rate)	☑				
3. Completed, notarized application signed by the property owner	☑				
4. One set of stamped envelopes addressed to all property owners within 100 feet of the subject property	☑				
5. List of all adjacent property owners	☑				
6. Plot Plan drawn to scale, containing a north arrow, area of lot, location of all existing improvements and use areas, location of proposed improvements, location of any constraints such as flood plain area, tree conservation area, buffer yards, easements, and sight distance triangles	☐	☑			
7. If the variance request involves a structure, sign or fence, architectural elevations must be submitted	☐	☑			
8. If the property has been cited by a Code Enforcement Officer, include a copy of the citation	☐	☑			
9. Is the variance needed to legalize an existing improvement?	☐	☑			

PRELIMINARY PLOT PLAN FOR

DIXON/KIRBY & CO.

LOT 131, LANCE E. & CYNTHIA C. LANDVATER

1405 CHURCHILL ROAD

REF: B.M. 2016, PAGE 1327

CITY OF RALEIGH

WAKE COUNTY, NORTH CAROLINA

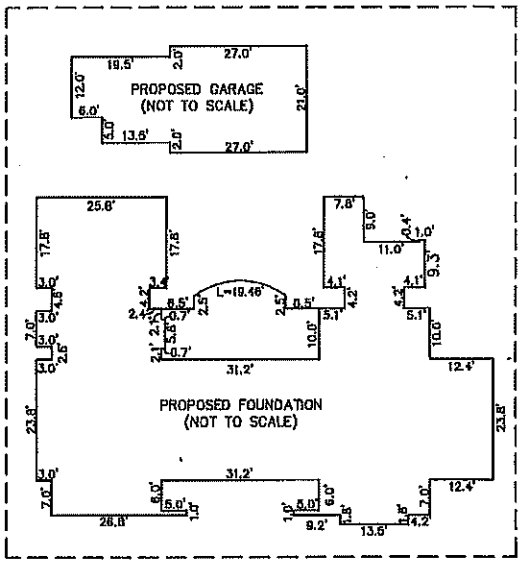
MARCH 7, 2017

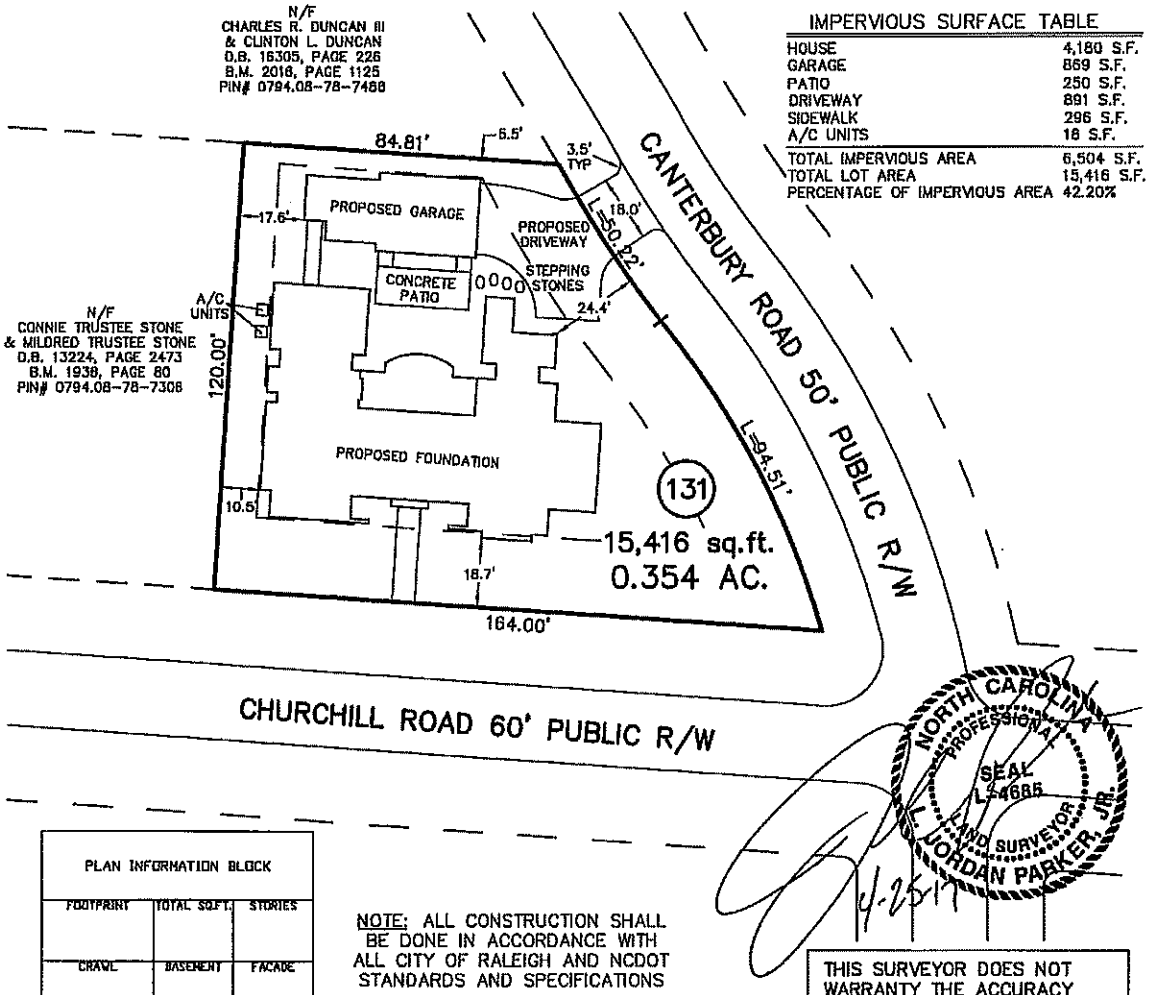
REVISED APRIL 24, 2017

ZONED R-4

40 20 0 40 80

SCALE 1"=40'





IMPERVIOUS SURFACE TABLE

HOUSE	4,180 S.F.
GARAGE	869 S.F.
PATIO	250 S.F.
DRIVEWAY	891 S.F.
SIDEWALK	296 S.F.
A/C UNITS	18 S.F.
TOTAL IMPERVIOUS AREA	6,504 S.F.
TOTAL LOT AREA	15,416 S.F.
PERCENTAGE OF IMPERVIOUS AREA	42.20%

NORTH CAROLINA PROFESSIONAL SEAL L-4685 LAND SURVEYOR L. JORDAN PARKER, JR.

4-25-17

PLAN INFORMATION BLOCK		
FOOTPRINT	TOTAL SQ.FT.	STORIES
CRAWL	BASEMENT	FACADE
SLAB	MEAN HEIGHT	IMP. SURFACE AREA

NOTE: ALL CONSTRUCTION SHALL BE DONE IN ACCORDANCE WITH ALL CITY OF RALEIGH AND NCDOT STANDARDS AND SPECIFICATIONS

THIS SURVEYOR DOES NOT WARRANTY THE ACCURACY OF ARCHITECTURAL DIMENSIONS. THEY ARE TO BE VERIFIED BY THE CONTRACTOR.

CAWTHORNE, MOSS & PANCIERA, P.C.

Professional Land Surveyors
C-1525

333 S. White Street
Post Office Box 1253
Wake Forest, N.C. 27588
(919)556-3148

NOTES:
-THIS PLAN DOES NOT REFLECT AN ACTUAL SURVEY. IT IS A PRELIMINARY PLAN AND SHOULD BE USED FOR ITS INTENDED PURPOSE ONLY.
-NOT FOR RECORDATION, CONVEYANCES, OR SALES.

EXHIBIT A

Statement of Justification for Extension of Variance

A variance was previously granted for the subject property (1405 Canterbury Road, a .35 acre tract at the time the variance was granted), which became effective on September 13, 2016 in accordance with the approved minutes of the meeting where A-99-16 was approved by the BOA (which minutes were signed by Chairman McLamb). See Exhibit B to Variance Application.

At the time the variance was originally sought, and when granted by the BOA, we were advised by our builder (Dixon/Kirby & Company, Inc.) that the variance in BOA Case A-99-16 would be valid for a period of 1 year from the date of issuance of said variance (i.e., September 13, 2016 through September 13, 2017). Mark Kirby, co-founder and President of Dixon/Kirby, was present at other BOA hearings and recalls the statement read at the beginning of BOA meetings as having referenced that variances, when issued, are valid for 1 year. See attached Statement by Mark Kirby. Further, in communications with City of Raleigh Stormwater Management Staff (namely from Ben Brown) a written statement and representation was made to Mr. Kirby on December 28, 2016, as follows:

> "Keep in mind that BOA variances are ***good for one year beyond their approval date***, so building permits must be pulled within that time frame."

(Emphasis added). A copy of this e-mail is attached to this Written Statement of Justification.

Based on the foregoing, we (including Mark Kirby) reasonably relied, to our detriment, on oral and written assurances from City officials and staff that Dixon/Kirby could apply for building permits within 1 year of the date of issuance of the variance in A-99-16 (from September 13, 2016 through September 13, 2017) and that the variance issued in our case would still be applicable so as to receive "complete relief from the active stormwater control measures and requirements set forth in Section 9.2.2. of the Unified Development Ordinance to allow for the construction of a detached house and any accessory structures/impervious surfaces on a .35 acre site zoned Residential-4 and located at 1405 Canterbury Road".

Now, according to Mr. Kirby who has had direct communications with City planning and stormwater permitting officials, Mr. Brown and/or other staff within the Stormwater Management Division apparently learned that Mr. Brown's representation as to the 1 year time frame for the validity of a properly issued variance was incorrect, and that instead the UDO provides that a variance is only valid for a period of just six (6) months. Further, Mr. Brown's

office is refusing or will refuse to allow permits to be issued for the construction proposed by Dixon/Kirby, our building contractor, that otherwise would have been issued if the variance in A-99-16 were deemed still valid and effective.

Since the six (6) month time frame during which the variance was effective expired on March 13, 2017 (approximately two and one-half months after Ben Brown represented in writing that the variance would be valid for one (1) year until September 13, 2017), we will face major hardship if the variance in A-99-16 is not extended until September 13, 2017. We entered into a construction contract with Dixon/Kirby to build our home on 1405 Canterbury Road based on the applicability of the variance in A-99-16 (with a waiver of and complete relief from the active stormwater control measures and requirements set forth in Section 9.2.2 of the UDO). The construction contemplated under said contract cannot be performed if the variance is not extended because the active stormwater measures in Section 9.2.2 of the UDO would require the elimination of site features and construction that could not be constructed without the variance issued by the BOA.

If Mr. Kirby and Dixon/Kirby had knowledge that the variance was only valid for 6 months they could and would have submitted permit applications earlier in order to ensure they would have realized the exemption granted by the variance. If Mr. Brown's email would have advised Mr. Kirby as of December 28, 2016 that our variance was only valid for six (6) months (instead of erroneously advising it was valid for an entire year) Dixon/Kirby would have been certain to submit for building permits within the time frame required to secure permits to allow for construction to proceed with the benefit of the variance previously granted by the BOA. Mr. Kirby did not feel the need at the time to consult counsel as to the time frame for validity of the variance in our case since he had heard the 1 year time frame in statements made at other BOA hearings prior to the hearing involving A-99-16, and Mr. Kirby received subsequent written confirmation in Mr. Brown's December 28, 2016 email as to the same time frame for 1 year validity of the variance granted in this case.

For these reasons, the variance in A-99-16 should be extended until September 13, 2017 (a full one year from and after issuance of the variance in this case). We face substantial unnecessary hardship from the strict application of the UDO (which was mis-represented to Mark Kirby by Ben Brown and upon which Mr. Kirby relied to his detriment and to our detriment). The hardship is not the result of actions taken by Dixon/Kirby or by us, but rather due to the reasonable reliance by Mark Kirby on statements and written representations that the variance granted would be valid for a period of one (1) year. It is important to also note that once the discrepancy was noted in the UDO as to the time frame during which a variance is valid (6 months) and the time frame during which a special use permit is valid (1 year), the City has pursued a Text Change to amend the UDO such that a variance will be valid for a period of 1

year as has been assumed and presumed by the City, by Mr. Kirby, and by others. For these reasons, the request for an extension of the variance granted in A-99-16 is consistent with the spirit, purpose, and intent of the ordinance such that public safety is secured and substantial justices is achieved.

Written Statement of Cynthia Landvater

1. My name is Cynthia Landvater.
2. Together with my husband, I own the subject property in BOA Case A-99-16.
3. Based on statements I am advised that were made at BOA hearings in 2016, and per written correspondence with Ben Brown in the form of an e-mail Mark Kirby received from Mr. Brown on December 28, 2016, either me and/or my builder Mark Kirby have understood that the variance previously granted in BOA Case A-99-16 would be valid for a period of 1 year from and after September 13, 2016 when the minutes of the meeting where the variance was granted were approved and signed by the BOA Chairman.
4. We are in the process of submitting an application for building permits to build a home on the subject property at issue in A-99-16.
5. However, prior to doing so I was recently informed by Mark Kirby that Ben Brown's would not recognize the complete relief from the active stormwater regulations in UDO 9.2.2 (previously granted per the variance in A-99-16) because the variance issued was only valid for 6 months from September 13, 2016 and therefore expired as of March 13, 2017.
6. This determination from Ben Brown's office now causes me and my husband substantial hardship as our builder (Mark Kirby with Dixon/Kirby) justifiably and reasonably relied, to our detriment, on prior representations from Ben Brown (as late as the email he sent to Mark Kirby dated December 28, 2016) that the variance we had in A-99-16 would allow us to "pull" building permits until September 13, 2017.

Cynthia Landvater

STATE OF NORTH CAROLINA

COUNTY OF WAKE

I, a Notary Public of the County and State aforesaid, certify that the following person personally appeared before me this day, and acknowledged that she voluntarily signed the foregoing Written Statement of Mark Kirby for the purpose stated therein and in the capacity indicated: **Mark Kirby, as President of Dixon/Kirby & Company, Inc.**

Date: 30 day of March, 2017.

Sandra Brinkley

Notary Public

Notary's Printed or Typed Name: Sandra J Brinkley

My commission expires: 10/22/2020

(Official Seal)

SANDRA J BRINKLEY
NOTARY
PUBLIC
WAKE COUNTY, NC

EXHIBIT B

Variance Issued for the Subject Property in BOA Case No. A-99-16

RALEIGH BOARD OF ADJUSTMENT
Decisions
September 12, 2016

A-99-16 – 9/12/16

WHEREAS, Lance and Cynthia Landvater, property owners, request a variance for complete relief from the active stormwater control measures and requirements set forth in Section 9.2.2. of the Unified Development Ordinance to allow for the construction of a detached house and any accessory structures/impervious surfaces on a .35 acre site zoned Residential-4 and located at 1405 Canterbury Road.

Decision: Approved as requested.

****

A-100-16 – 9/12/16

WHEREAS, 711 Brooks LLC, property owner, requests a variance for complete relief from the active stormwater control measures and requirements set forth in Section 9.2.2. of the Unified Development Ordinance to allow for the construction of a detached house and any accessory structures/impervious surfaces on a .20 acre site zoned Residential-6 and located at 2105 Reaves Drive.

Decision: Approved as requested.

****

A-101-16 – 9/12/16

WHEREAS, MBM Builders, Inc., property owner, requests complete relief from the active stormwater control measures and requirements set forth in Section 9.2.2. of the Unified Development Ordinance to allow for the construction of a detached house and any accessory structures/impervious surfaces on a .32 acre property zoned Residential-4 and located at 1304 Brooks Avenue.

Decision: Approved as requested.

****

A-102-16 – 9/12/16

WHEREAS, the City of Raleigh, property owner, requests a 3.5' variance from the minimum build---to setback set forth in Section 3.4.6. of the Unified Development Ordinance's Green Frontage to allow the erection of a a new fire station that results in a 16.5' setback from Oberlin Road on a .58 acre property zoned Office Mixed-Use-3-Green Frontage (OX-3-GR) and located at 2601 Fairview Road.

Decision: Approved as requested.

****

A-103-16 – 9/12/16

WHEREAS, RWJ Investments and Darcia Black, property owners, request both a.2' side yard setback variance from the standards set forth in Section 2.2.1. of the Unified Development Ordinance (SW side of property) and a 1.1' front yard setback variance from the standards set forth in Section

5.4.3.F.8.a.v. of the Unified Development Ordinance to legalize the existing detached house and expand it vertically as well as a Special Use Permit, in accordance with Section 10.3.6. of the Unified Development Ordinance to allow the vertical expansion of a nonconforming detached house resulting in a 4.8' side yard setback and a 33.9' front yard setback on a .35 acre parcel zoned Residential-10 and Neighborhood Conservation Overlay District (Mordecai Conservation District 1) and located at 1419 Mordecai Drive.

Decision: Approved as requested.

****

A-104-16 – 9/12/16

WHEREAS, Sheila Hackney, property owner, requests a 5.5' rear yard setback variance from the standards set forth in Section 2.2.1 of the Unified Development Ordinance to allow for an addition to the rear of a detached house that results in a 14.5' rear setback on a .13 acre property zoned Residential-6 and Special Highway Overlay District-1 and located at 3217 Sunbright Lane.

Decision: Approved as requested.

****

A-105-16 – 9/12/16

WHEREAS, William and Anna Dickson, property owners, request a variance for complete relief from the active stormwater control measures and requirements set forth in Section 9.2.2. of the Unified Development Ordinance to allow for the construction of a detached house and any accessory structures/impervious surfaces on a .32 acre site zoned Residential-4 and located at 1329 Mayfair Road.

Decision: Approved as requested.

****

A-106-16 – 9/12/16

WHEREAS, DDR Southeast Capital Crossing, LLC, property owner, requests a variance from the maximum number of wall signs allowed under Section 7.3.4.D. of the Unified Development Ordinance to allow for the erection of a two additional wall signs on a 8.09 acre property zoned Commercial Mixed Use-3-Parking Limited (CX-3-PL) and located at 2900 and 2950 East Millbrook Road.

Decision: Approved with the condition the signs are subject to the Parking Limited 5.5 year amortization period as outlined in City of Raleigh Ordinance No. (2015) 523 ZC 721 (Z-27(B)-14) adopted November 17, 2015 and effective February 13, 2016.

J. Carr McLamb, Jr.
Chairman

9/13/16
Date

EXHIBIT C

Staff Case Report Regarding A-99-16

Board of Adjustment
Case Report

City of Raleigh
Department of City Planning
One Exchange Plaza
Raleigh, NC 27601
(919) 996-2626
www.raleighnc.gov

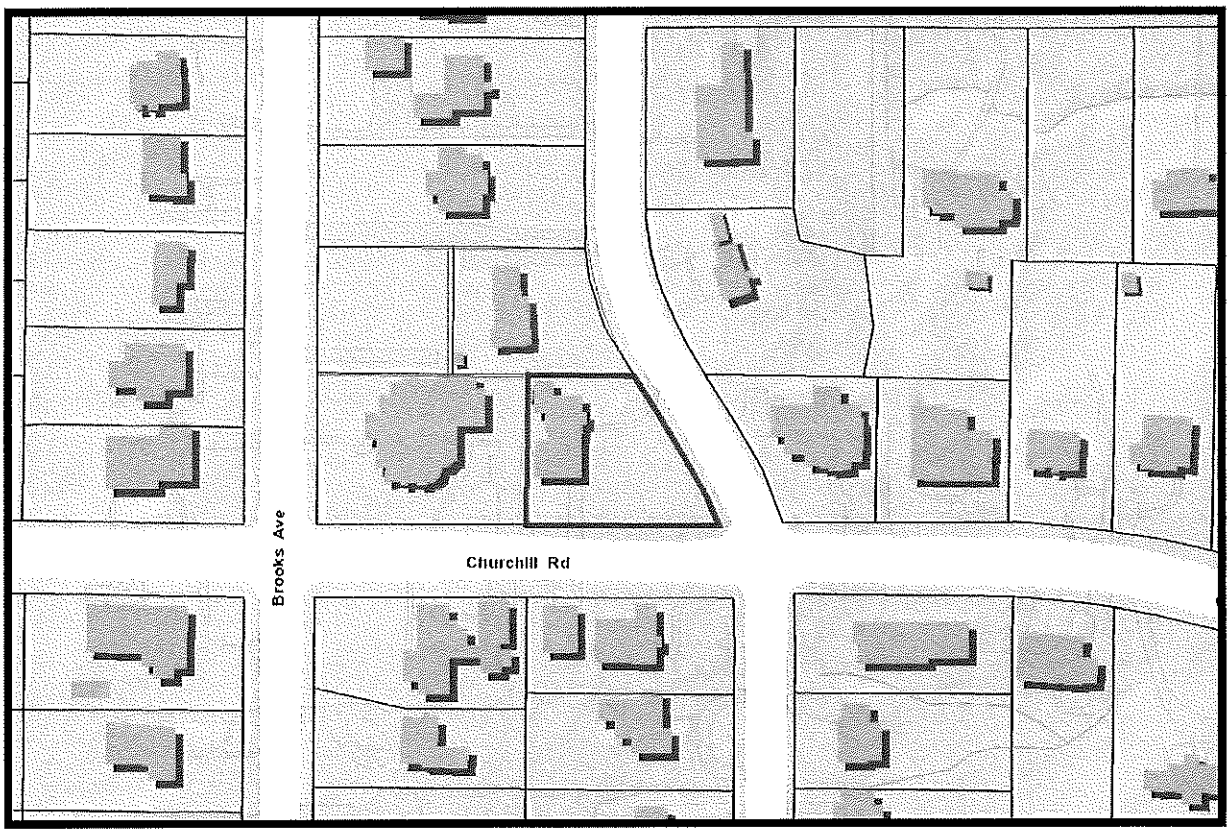
Case File: **A-99-16**

Property Address: 1405 Canterbury Road

Property Owner: Lance and Cynthia Landvater

Project Contact: Ben Kuhn

Nature of Case: A request for a variance for complete relief from the active stormwater control measures and requirements set forth in Section 9.2.2. of the Part 10A Unified Development Ordinance to allow for the construction of a detached house and any accessory structures/impervious surfaces on a .35 acre site zoned Residential-4 and located at 1405 Canterbury Road.

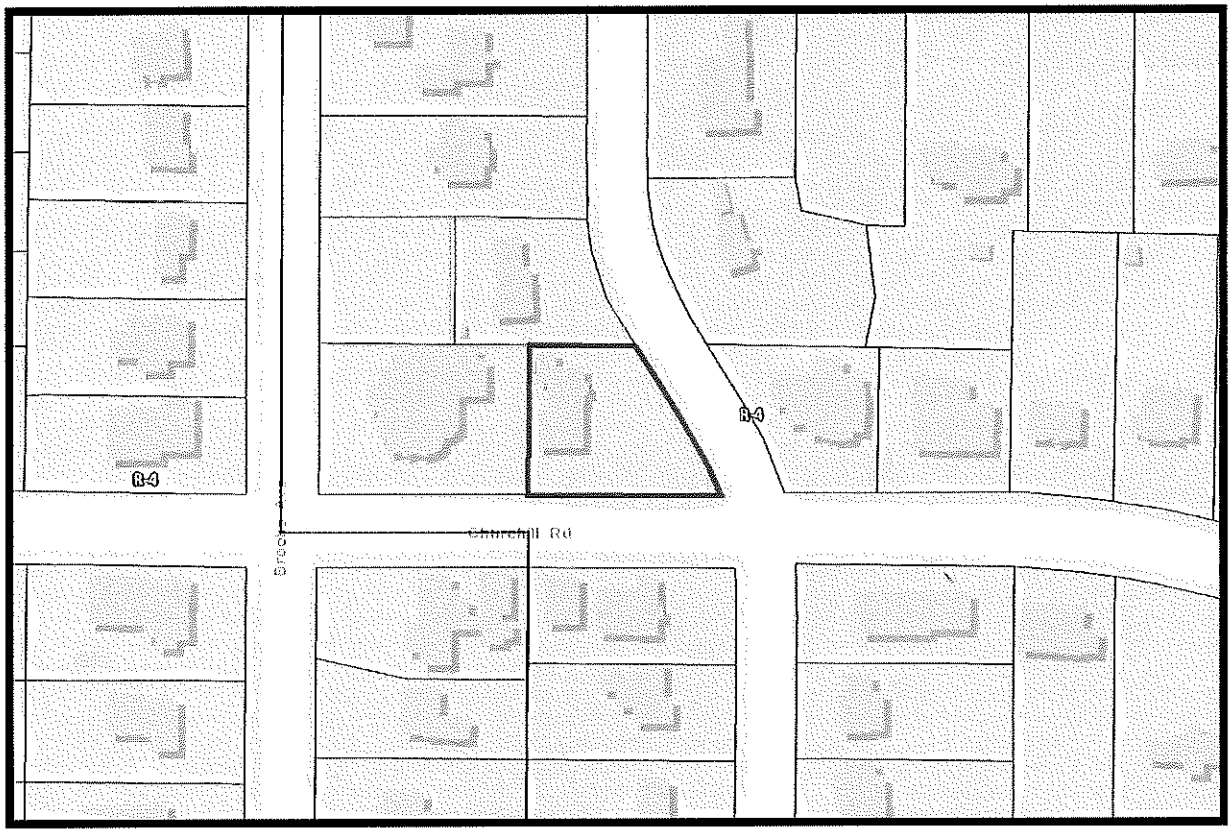


1405 Canterbury Road – Location Map

To BOA: 9-12-16

Staff Coordinator: Eric S. Hodge, AICP

ZONING DISTRICTS: Residential-4



1405 Canterbury Road – Zoning Map

VARIANCE STANDARDS: In accordance with UDO §10.2.10 Variance, before a variance request is granted, the Board of Adjustment shall show all of the following:

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.**

Setback Standards: The subject property is zoned Residential-4

Yard Type	Minimum Setback
Front Yard	20'
Side Street	15'
Side	10'
Sum of Side Setbacks	20'
Rear	30'

Article 9.2. Stormwater Management

Sec. 9.2.1. General Provisions

A. Applicability

Prior to any land disturbing activity or subdivision of land, stormwater control measures, watercourse buffers or both must be provided in conformity with the requirements of this Article.

B. Manual and Guidelines Incorporated

The Raleigh Stormwater Control and Watercourse Buffer Manual along with the Guidelines for Land Disturbing Activities and amendments, on file in the City Clerk's Office, is adopted by reference as part of this UDO.

Sec. 9.2.2. Active Stormwater Control Measures

A. Exemptions

The following uses are exempt from the active stormwater control requirements of this section:

1. Any detached house used for single-unit living or any attached house used for two-unit living, built as part of a subdivision 1 acre or less in aggregate size;
2. Any plot plan or site plan of ½ acre or less in aggregate size that cfontains less than 12,000 square feet of impervious surface, including impervious surfaces of related on-site or off-site facilities;
3. Any land-disturbing activity that does not require a land-disturbing permit under *Sec. 9.4.6.* provided that, upon application of any impervious surfaces this exemption shall not apply;
4. Substitution of impervious surfaces when all the standards of *Sec. 10.3.4.* are met; and
5. Substitution of impervious surfaces with approved pervious surfaces.

B. Nitrogen Reduction

1. Requirement

a. Any new or expansion of existing development, not in compliance with the stormwater control master plan approved for its drainage basin, may not contribute a nitrogen export load exceeding 3.6 pounds per acre per year.

b. Compliance with stormwater control master plan must include the installation within the development of all stormwater control measures shown on the stormwater control master plan, payment of fees in lieu of installation, when allowed by the City and payment of any applicable drainage fees.

2. Payment In Lieu Option

The nitrogen export load limitations for a development may be off-set through a payment made to the North Carolina Riparian Buffer Restoration Fund or private mitigation bank. The payment shall be based on the latest fee adopted by the State and shall meet the following requirements.

a. In General

i. Installation of City-approved stormwater control measures or payment in lieu option or a combination of both may be used to satisfy the nitrogen load requirement.

ii. For subdivisions with an approved stormwater control facilities plan, all payments shall be made prior to issuance of a land disturbance permit. Where no land disturbance permit is required, fees shall be due prior to recording of the plat.

iii. For all other developments, payments shall be paid to the North Carolina Riparian Buffer Restoration Fund prior to the issuance of applicable development permits.

b. Residential Development

i. For any detached house used for single-unit living or any attached house used for two-unit living, a one-time offset payment may be paid to the North Carolina Riparian Buffer Restoration Fund to reduce the nitrogen export load of up to 6 pounds per acre per year to 3.6 pounds per acre per year.

ii. All residential development that exceeds nitrogen export loads of 6 pounds per acre per year must install City-approved stormwater control measures to reduce the nitrogen export load of their development to 6 pounds per acre per year limitation to become eligible for the payment in lieu option.

c. **Mixed Use and Nonresidential Development**

i. For mixed use and nonresidential development, a one-time offset payment may be paid to the North Carolina Riparian Buffer Restoration Fund to reduce the nitrogen export load of up to 10 pounds per acre per year to 3.6 pounds per acre per year.

ii. Mixed use and nonresidential development that exceeds nitrogen export loads of 10 pounds per acre per year must install City-approved stormwater control measures to reduce the nitrogen export load of their development to 10 pounds per acre per year limitation to become eligible for the payment in lieu option.

C. Stormwater Control Permits

1. No development, expansion of existing development or the placement of more than 12,000 square feet of any impervious surface, may occur on a site without a stormwater control permit from the Office of Development Services.
2. No stormwater control permit may be approved until a stormwater control plan is first approved by the City in accordance with *Sec. 9.2.2.D.*
3. No stormwater control permit may be issued except in strict conformity with the provisions of this Article, the Raleigh Stormwater Control and Watercourse Buffer Manual.
4. No stormwater control permit may be issued until the boundaries of any watercourse buffer, riparian surface water buffer or transitional protective yard in a -MPOD, -UWPOD, -FWPOD or -SWPOD or CM District and permanently protected undisturbed open space areas which are adjacent to or encompass a work site are clearly and accurately demarcated by a protective fence in the field. Protection measures must be field verified by a Professional Land Surveyor.

D. Stormwater Control Plans

1. General Requirements

a. Stormwater control plans must be prepared by a qualified registered North Carolina professional engineer, surveyor or landscape architect.

b. All parts of a stormwater control plan, including data calculation design and installation of storm control measures and devices shall be in compliance with the Raleigh Stormwater Control and Watercourse Buffer Manual.

c. Stormwater control plans must show how nitrogen reduction and stormwater runoff control requirements are being met and how watercourse buffers are being protected.

d. A surety equal to 125% of the cost of construction of a stormwater device shall be paid to the City prior to permit issuance. If the amount of impervious surfaces for the bonded area exceeds 15%, the City may cash the surety.

2. Maintenance Manual and Budget

a. The stormwater control plan must be accompanied by a stormwater operations maintenance manual and budget.

b. Prior to either grading any portion of the development or submitting construction drawing plans of any applicable stormwater control facility to the City, whichever event first occurs, a stormwater operations maintenance and budget shall be submitted to the Stormwater Utility Division of the Public Works Department.

c. The maintenance manual shall contain a narrative describing each installed measure and device and its design specifications.

d. The maintenance manual shall describe which lots are served by each device.

e. The maintenance manual shall indicate for each installed measure and device what operation and maintenance actions are needed and what specific quantitative criteria will be used to determine when these actions will be taken.

f. The maintenance manual must indicate the steps that will be taken to restore a measure or device to the design specifications if a failure occurs.

g. The maintenance manual must contain a statement about the expected life of each stormwater control facility and a replacement schedule derived by dividing the initial construction cost of each stormwater control facility by the expected life of that stormwater control facility.

h. The budget shall include annual costs such as routine maintenance, repair, periodic sediment removal and replenishment of rip-rap, insurance premiums associated with the stormwater control facilities, taxes levied against the stormwater control facilities, mowing and reseeding, required inspections.

3. As-Built Plans and Certification

Stormwater control plans must be followed by as-built plans certified under seal, that the stormwater measures and devices and their installation are in compliance with the Raleigh Stormwater Control and Watercourse Buffer Manual and the City-approved or modified stormwater control plan. No certificate of compliance or occupancy may be issued by the Office of Development Services without approved as-built plans. At a minimum, the as-built plans must contain the following information:

a. The name and address of the land owner;

b. The recorded book and page number of the lot of each required stormwater control facility and required open space area;

c. A statement that all inspected stormwater control facilities and open space areas are in compliance with the approved stormwater control plan, the applicable maintenance manual required and the Raleigh Stormwater Control and Watercourse Buffer Manual; and

d. The original signature and seal of the engineer, surveyor or landscape architect.

E. Stormwater Runoff Controls

1. Runoff Limitation

a. After May 1, 2001, the peak stormwater runoff leaving any site for the two-year and 10-year storms shall be no greater at every point of discharge for post-development conditions than pre-development conditions. The same methodologies used to calculate stormwater runoff must be used for both pre-development and post-development conditions.

b. For any denuded area on sites between 5 and 15 acres in size the peak stormwater runoff leaving the site at each discharge point for the two-year storm and 10-year storm shall be no greater during construction than for pre-development conditions. For any land disturbing activity on sites, greater than 15 acres in size the peak stormwater runoff leaving the site at each discharge point for the two-year storm, 10-year storm and 25-year storm shall be no greater during construction than for pre-development conditions. However, this regulation shall not be applicable when the development site conforms to all of the following:

i. The disturbed acreage is less than 5 acres; and

ii. The two-year peak discharge for the disturbed condition, for all points of discharge, is less than 10% of the peak discharge from the contributing watershed as measured at the nearest receiving watercourse.

2. Exemptions

The stormwater runoff control requirements do not apply to sites with any of the following conditions.

a. The development complies with the stormwater control master plan approved for its drainage basin.

b. The increase in peak stormwater runoff between pre-development and post-development conditions for the two-year and 10-year and 25-year storms is 10% or less at each point of discharge.

c. The maximum impervious surface coverage of the lot, including any existing impervious surfaces, is no more than 15% and the remaining pervious portions of the lot are utilized to convey and control the stormwater runoff of the lot to the maximum extent practical. In the event that the site is subsequently subdivided, reduced by recombination or the impervious surface is equal to or exceeds 15% the site may no longer be exempt.

d. Compliance with *Sec. 9.2.2.E.1.* above, would result in greater adverse downstream impact, such as local flooding, as determined by City-approved engineering studies.

e. Compliance with the 10-year storm and 25-year storm runoff limitations in *Sec. 9.2.2.E.1.* above results in no benefit to current and future downstream development, as determined by City-approved engineering studies.

3. Additional Runoff Controls

The City may require the installation of stormwater runoff control measures for projects without any stormwater measures present. The City reserves the right to require additional stormwater runoff control measures for projects which are compliant with *Sec. 9.2.2.E.1.* above, if stormwater runoff from the site could cause adverse effects on other properties including, without limitation, public streets, greenways and utility easements.

a. As part of an application for rezoning, subdivision or site plan for sites at or upstream of documented structural flooding cases, the applicant shall submit a stormwater impact analysis to the Public Works Director.

b. This requirement does not extend to sites initially zoned and added to the territorial coverage of as a result of annexation, extraterritorial jurisdictional expansion or otherwise or application of any overlay district.

c. The stormwater impact analysis shall look at the flood level differences between pre-development and post-development conditions for the 25-, 50- and 100-year storm events. If the analysis shows an increase greater than 0.04 feet between pre-development and post-development flood levels at the site of structural flooding then mitigation to pre-development flood conditions will be required to prevent further damage to the affected property.

d. In the case where the area of the subject property is less than 5% of the drainage area, measured to the location of the documented structural flooding, then this analysis shall not be required.

e. In the event flood levels are increased, then the affected property owners will be notified in writing of any increase by the applicant.

F. Preservation of Open Space Areas

1. Open Space Areas Preserved

a. Areas designated on approved stormwater control plans as open space to be used for complying with this Article shall be preserved and protected.

b. The only activities allowed in designated open space areas are those activities allowed by the approved stormwater control plan or allowed in riparian surface water buffers under Title 15A North Carolina Administrative Code Article 2B, section .0233, as amended from time to time. Determinations required by the North Carolina Administrative Code shall be made by the City.

c. No work in open space areas shall proceed without a written protected watercourse buffer permit from the Inspections Director.

d. Permanently protected undisturbed open space areas identified on stormwater control plans shall be recorded on plats recorded with the County Register of Deeds and clearly delineated with a fence.

2. Exchange of Open Space Areas

Open space areas may not be subdivided or conveyed by the owner. However, nothing in this section shall prevent the mortgaging and hypothecating of open space areas; provided the mortgage applies to all portions of the tract and not just the open space areas, the mortgagee is informed that the open space areas are used for complying with the requirements of the Article and the rights of the mortgagee are subordinated to the rights of any property owner association and its members. Furthermore, nothing shall prevent the exchanging of open space areas for other properties when all of the following are met:

a. If the open space area is owned by a homeowners' association, written notice of the exchange is given to each member of the association except in cases where the exchange is done to eliminate an encroachment;

b. After the notice is given, if required, the owner of the open space area approves the exchange;

c. The exchanged properties and other considerations are of like value and utility;

d. The acreage and configuration of the remaining open space area including real property to be received in such exchange equal or exceeds the requirements of the City Code; and

e. The exchange is approved by the Public Works Director.

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G. Maintenance of Stormwater Control Measures and Devices

1. General Requirements

a. The land owner or person in possession or control of the land shall maintain all on-site stormwater control facilities and all open space areas required by the approved stormwater control plan unless those facilities and open space areas are accepted for maintenance by a governmental agency.

b. The land owner entitled to the exclusive use of an off-site drainage easement for one or more stormwater control facilities not accepted for maintenance by a governmental agency shall maintain said stormwater control facilities.

2. Maintenance Covenant

For off-site stormwater control facilities and for all other stormwater control facilities which serve more than 1 lot that are not accepted for maintenance by a governmental agency, the developer shall execute and record with the local county register of deeds office a maintenance covenant, using a City form, with the following contents.

a. Location of Stormwater Control Facilities and Drainage Easements

i. A description of portions of property where stormwater control facilities are located as well as a description of the location of all private drainage easements conveying stormwater to and from the development to the facilities.

ii. A process for relocating private drainage easements, with any relocation to require the prior written consent of the City.

b. Easement Rights of Lot Owners

A statement that owners of properties that will be served by the stormwater control facilities are:

a) Granted perpetual, irrevocable and non-exclusive easement rights and privileges to use, construct, install, inspect, replace, reconstruct, repair and maintain those stormwater control facilities including the right to access those stormwater control facilities, private drainage easements and other portions of the development as reasonably necessary to perform the granted easement rights; and

b) The granting of perpetual, irrevocable and non-exclusive easement rights and privileges to transport, store and discharge stormwater to and from the stormwater control facilities.

c. City Easement/Right of Entry/No City Responsibility

i. A grant from the developer, the association (if any) and the lot owners to the City of a permanent non-exclusive irrevocable easement over the lots, stormwater control facilities and private drainage easements for inspection, maintenance, repair, construction, installation, re-construction, replacement and other work on, in and over the stormwater control facilities.

ii. A grant from the developer, the association (if any) and the lot owners to the City of a permanent, irrevocable, nonexclusive right of ingress, egress and regress over and across all public or private easements on the property and through all access easements benefitting the developer, association (if any) and the lot owners through any adjacent properties, including but not limited to private roads, for inspection, maintenance, repair construction, installation, reconstruction, replacement and other work on the stormwater control facilities. The rights granted to the City shall include employees, agents and contractors of the City of Raleigh. The grant of these rights does not obligate the City to exercise them or to take any other action.

d. Stormwater Operations and Maintenance Manual and Budget

A stormwater operations and maintenance manual and budget conforming to *Sec. 9.2.2.D.2.* shall be attached to and incorporated into the maintenance covenant as an exhibit.

e. Insurance

The party responsible for maintenance of the stormwater control facilities shall, as part of the routine costs and expenses of maintaining any stormwater control facility, procure and maintain in full force and effect liability insurance in an amount not less than $1,000,000 of coverage.

f. Standards of Maintenance for Stormwater Control Facilities

A statement that stormwater control facilities shall be maintained in accordance with the attached stormwater operations and maintenance manual and budget and at all times, the stormwater control facilities shall comply with all applicable laws, ordinances, regulations, rules and directives of governmental authorities and that the stormwater control facilities shall perform as designed.

g. Responsibility for Stormwater Control Maintenance

i. A statement that the property owners' association or a designated commercial lot owner, shall be responsible for all stormwater control facilities in accordance with the attached stormwater operations and maintenance manual and budget.

ii. A statement that the failure to maintain any stormwater control facility in accordance with the terms of the maintenance covenant and this UDO is a violation of the City Code, potentially subjecting each lot owner subject to the maintenance covenant to significant daily civil penalties and other enforcement actions.

h. Stormwater Control Facilities Maintained by an Association

i. If a property owners' association is delegated maintenance responsibilities for the stormwater control facilities, then membership into the association shall be mandatory for the owner of each parcel served by the facility, such membership shall be appurtenant to the parcel and shall run with ownership of the parcel.

ii. The property owners' association shall have the power to levy assessments for the operation and maintenance of the stormwater control facilities and all unpaid assessments levied by the association shall become a lien on the individual parcel.

iii. The calculation of the assessment charge shall be set forth in a subsequent recorded document.

iv. Any property owners' association responsible for maintenance of stormwater control facilities shall be established in accordance with N.C. Gen. Stat., Chapter 47C and Chapter 47F and the property owners' association declaration (or equivalent) shall conform to all applicable provisions of the City Code.

v. The common expenses of the property owners' association shall include, without limitation, costs and expenses for operation and maintenance of stormwater control facilities, all costs for insurance premiums and any other costs listed in the stormwater operations maintenance manual and budget.

i. Stormwater Control Facilities Maintained by a Commercial Lot Owner

i. If a commercial lot owner is responsible for the maintenance of the stormwater control facilities, said owner is responsible for making all repairs and replacements of the stormwater control facilities in accordance with the construction drawings approved by the City.

ii. Each owner of a parcel served by the stormwater control facility shall be subject to an assessment charge levied by the designated responsible lot owner.

iii. The assessment charge shall include, without limitation, the actual costs for repairing and maintaining the stormwater control facility, all costs for insurance premiums associated with the stormwater control facility, all costs of required inspections of the stormwater control facility and any other costs listed in the stormwater operations maintenance manual and budget.

iv. The calculation of the assessment charge shall be set forth in a subsequent recorded document.

v. Any assessment charge levied against a lot and remaining unpaid for a period of 30 days after the payment due date shall be delinquent and shall constitute a default of this covenant entitling the lot owner responsible for maintenance of the stormwater control facilities to bring an action at law against the defaulting party plus interest charges, together with all costs and expenses of collection incurred, including, without limitation, court costs and reasonable attorney fees actually incurred.

vi. Each parcel owner served by the stormwater control facility shall have the right to maintain, repair and replace the facility if, after 45 days written notice, the commercial lot owner responsible for maintenance, repair and replacement fails to faithfully discharge its responsibility.

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vii. The parcel owner performing any maintenance or repair of the facility shall have the same rights as the designated commercial lot owner to assess all other parcels served by the stormwater control facility.

viii. At any time, the commercial lot owner responsible for the maintenance of stormwater control facility may assign its responsibilities and rights to a property owners' association established in accordance with N.C. Gen. Stat., Chapter 47C and Chapter 47F. In such instance, the owners of the parcels served by the stormwater control facility shall be members of the property owners' association.

j. City Right to Maintain and Repair Stormwater Control Facilities and City's Right of Reimbursement

i. If the stormwater control facilities are not performing adequately or as intended or are not properly maintained or replaced, the City, in its sole discretion, may, after written notice sent to the lot owners and any association, enter the development and perform such construction, installation, repair, reconstruction, replacement and maintenance of the stormwater control facilities as is necessary to remedy the situation.

ii. If the City undertakes the activities listed above, the City shall be fully reimbursed for its costs of inspecting, monitoring, designing, constructing, repairing, reconstructing, replacing and/or installing the stormwater control facility or facilities. Such costs shall include the City's costs of administration, overhead, contracting and public advertising.

iii. In addition to any other rights the City has to be reimbursed for its costs, the City may levy an assessment against each lot served by the noncompliant stormwater control facility. No assessment will be levied by the City without prior notice to affected lot owners. Any unpaid assessment levied by the City shall be, as allowed by law, a lien against the delinquent lot.

k. City's Right To Private Assessments

i. In addition to all of the remedies set forth herein, if the City has not been fully repaid for the work the City performed on any stormwater control facility owned, in fee or easement, by either a property owners' association or a commercial lot owner with the power to assess lot owners for maintenance of the stormwater control facility, the property owners' association and the private commercial lot owner shall assign to the City their right to receive common expense assessments, including stormwater assessments.

ii. The association and private commercial lot owner shall designate and appoint the City as attorney in fact for the expressed and limited purpose of assessing and pursuing collection of such unpaid reimbursement owed to the City.

iii. No assignment of assessment rights shall become effective without 60 days prior written notice to the applicable private commercial lot owner, property owners' association and its members.

l. Action for Specific Performance

i. That, recognizing the consequences to the City of noncompliance with the obligations of the maintenance covenant, the City shall have the right to seek, in any court of appropriate jurisdiction, judicial action for specific performance of any of the obligations and remedies established in this maintenance covenant.

ii. The rights of the City within the maintenance covenant shall not limit any other remedies or enforcement options available to the City under the maintenance covenant, the City Code or State law.

m. No Public Adoption

i. A statement that the City's exercise of its rights under this maintenance covenant, its abatement of public nuisance or its repair of unsafe structures shall not constitute adoption of any stormwater control facility by the City.

ii. A statement that the legal authority of the City is not intended to impede or prohibit the property owners' association or lot owners from taking all necessary actions to inspect, maintain, repair, replace and reconstruct stormwater control facilities so that they function safely, perform the function for which they were created and comply with the provisions of this maintenance covenant and the City Code.

n. City's Right of Non-Action

A statement that the maintenance covenant shall not obligate the City to monitor, maintain, repair, reconstruct, install or replace any stormwater control facility or measure and that the City shall not be liable for the condition or operation of stormwater control facilities.

o. Governmental Functions; Superseding Regulations

i. A statement that nothing contained in the maintenance covenant shall be deemed or construed to, in any way, stop, diminish, limit or impair the City from exercising or performing any regulatory, policing, legislative, governmental or other powers or functions.

ii. A statement that the maintenance covenant shall not restrict or prevent the application of later adopted ordinances or other enactments which may supplement or supersede the provisions of the maintenance covenant.

p. Joint and Several Liability

i. A statement that each lot owner served by one or more stormwater control facilities is jointly or severally responsible for repairs, replacement and maintenance of the stormwater control facilities, including payment of any unpaid ad valorem taxes, public assessments for improvements and unsafe building and public nuisance abatement liens charged against the stormwater control facility and/or the lots served by the facility, including all interest charges thereon, together with all cost and expenses of collection incurred, such as, without limitation, court costs and attorney's fees incurred.

ii. The maintenance covenant shall establish a right of contribution in favor of each owner who pays more than the owner's pro rata share of costs and expenses against all other owners whose real property is served by the same stormwater control facility.

iii. A statement that pro rata sharing may be established either by maintenance assessment provisions for stormwater control facilities in subsequently recorded documents or by dividing the acreage of such owner's portion of the real property served by the stormwater control facilities by the total acreage of the portion of the development served by the same stormwater control facility when no maintenance assessment covenants apply to the property.

iv. A statement that failure to maintain the stormwater control facilities in accordance with the terms of the maintenance covenant and the City Code is a violation of the City Code potentially subjecting each parcel owner subject to the maintenance covenant to significant daily civil penalties and other enforcement actions.

q. Permanently Protected Undisturbed Open Space Areas

A statement that within permanently protected undisturbed open space areas there shall be no land-disturbing activity, no tree disturbing activity, no placement of impervious surface, no removal of vegetation, no encroachment or no construction or erection of any structure shall occur except in accordance with a permit first being issued by the City.

r. Severability

The sections, paragraphs, sentences, clauses and phrase of the maintenance covenant are severable and if any phrase, clause, sentence, paragraph or section of the maintenance covenant is declared invalid by a valid judgment, order or decree of any court of competent jurisdiction, such invalidity shall not affect the remaining phrases, clauses, sentences, paragraphs and sections of the maintenance covenant.

s. Completion and Recording of Maintenance Covenant Form

i. The maintenance covenant shall be binding on all current and subsequent owners of property served by the stormwater control facilities. To protect the interests of the City and the public at large, any existing deed of trust, mortgage or lien encumbering the property, other than tax liens for the current tax year or governmental improvement assessments, must be subordinated to the maintenance covenant.

ii. Prior to recording the maintenance covenant, the attorney who prepared the maintenance covenant shall certify in writing to the City that the maintenance covenant was prepared on a City form that contains all the contents required by *Sec. 9.2.2 G.2.* Certifications shall be on forms approved by the City and shall accompany the maintenance covenant forms.

iii. The maintenance covenant shall be recorded with the local county register of deeds office immediately following the recording of any new lot served by the stormwater control facility or prior to the issuance of any building permit for any existing lot except for improvements made pursuant to *Chapter 8. Subdivision & Site Plan Standards* The maintenance covenant must be the first encumbrance recorded subsequent to the recording of the subdivision plat.

iv. A recorded copy of the maintenance covenant shall be given to the Stormwater Utility Division of Public Works within one business day following recordation. No building permit shall be issued for the property subject to the maintenance covenant until a recorded copy of the maintenance covenant is provided to the Office of Development Services.

3. Payment to Stormwater Facility Replacement Fund

a. At the time of either recording a subdivision plat or issuance of a building permit for a lot not established by subdivision, whichever event first occurs, the developer shall pay to the City a stormwater facility replacement fund payment, which payment shall equal 24% of the estimated cost of constructing all stormwater control facilities shown on applicable development plans.

b. The purpose of the stormwater replacement fund is to ensure that adequate funds are available to the City for the maintenance, repair replacement and reconstruction of stormwater control facilities required by this UDO. Funds expended from the stormwater facility replacement fund shall be used only for the repair, maintenance, reconstruction and/or replacement of stormwater control facilities, together with the costs incurred by the City associated with any work and/or redesign of the facilities.

c. No funds from the stormwater facility replacement fund shall be used for administration of this fee program. Monies collected from the stormwater replacement fund may be spent for maintenance, repair, reconstruction and replacement of any stormwater control facility required by this UDO and located within the City limits or its extra-territorial jurisdiction.

d. Payments collected by the City pursuant shall be kept separate from other revenues of the City. Any funds on deposit not immediately necessary for expenditure shall be invested as allowed in N.C. Gen. Stat. §159-30; all income derived shall be deposited in the separate account and may only be used for repair, maintenance, reconstruction and replacement of stormwater control facilities together with the costs incurred by the City associated with any work or redesign of the facilities.

e. Monies expended from the stormwater facility replacement fund, together with interest, may be recouped by the City from lot owners served by stormwater control facilities maintained, repaired, reconstructed and replaced by the City or its contractors. All recouped monies and interest shall be returned to the stormwater facility replacement fund.

f. The payment of stormwater facility replacement fees is not intended as a substitute for security to ensure the construction of the facilities, which security may be required at such point in the development process as specified in City ordinances and policies.

H. Annual Inspections and Inspection Report Required

The responsible party for maintenance of the stormwater control measures or devices must submit an annual inspection report from a qualified registered North Carolina professional engineer, surveyor or landscape architect to the Stormwater Utility Division of the Public Works Department. The inspections report shall contain all of the following:

1. The name and address of the land owner;
2. The recorded book and page number of the lot of each required stormwater control facility and required open space area;
3. A statement that an inspection was made of all required stormwater control facilities and open space areas;
4. The date of the inspection;
5. A statement that all inspected stormwater control facilities and open space areas are performing properly and are in compliance with the approved stormwater control plan, the applicable maintenance manual required by *Sec. 9.2.2.D.2.* and the Raleigh Stormwater Control and Watercourse Buffer Manual. No sampling of pollutant loading is required as part of the inspection;

6. The original signature and seal of the engineer, surveyor or landscape architect; and
7. All inspection reports shall be on forms supplied by the City. An original inspection report shall be given to the Office of Development Services beginning from the date of the as-built was first certified under *Sec. 9.2.2.D.3.* and each year thereafter on the anniversary date of the certification.

Sec. 9.2.3. Watercourse Buffers

A. Natural Resource Buffers

1. General Rules for All Natural Resource Buffers

Natural resource buffers are intended to provide an area where stormwater flows in a diffuse manner so that the stormwater runoff does not become channeled and infiltration of the stormwater and filtering of pollutants can take place. The following rules apply to all required natural resource buffers.

a. Natural resource buffers shall be delineated on recorded final subdivision plats or at the time of development of the property.

b. The City Council may reduce the width of natural resource buffers when it determines that the extent of the natural resource buffer yard will deprive the landowners of reasonable use of their property.

c. The width of the natural resource buffer shall be measured perpendicularly to the flow of the watercourse and horizontally from the edge of the watercourse banks. When no watercourse banks exist, the centerline of the watercourse shall be used.

2. Falls Watershed Protection Overlay District, Swift Creek Watershed Protection Overlay District and Conservation Management District Watercourse Buffers

Natural resource buffers shall be established along primary and secondary watercourses in a -FWPOD, -SWPOD or CM District.

a. Primary Watercourse Natural Resource Buffers

Natural resource buffers along primary watercourses must meet the following standards.

i. The buffer must be a minimum of 60 feet wide along each side of any watercourse draining 25 or more acres.

ii. The buffer must be a minimum of 35 feet wide along each side of any watercourse draining 5 or more acres but less than 25 acres.

iii. The buffer must be a minimum of 35 feet wide along each side of any watercourse which is a stream draining less than 5 acres.

iv. In the event that the property or subdivision contains impervious surface lot coverage in excess of 24% in a secondary reservoir watershed protection area, the buffer shall be no less than 100 feet wide along each side of the watercourse.

b. Secondary Watercourse Natural Resource Buffers

Unless part of a primary watercourse natural resource buffer, the secondary watercourse natural resource buffers consists of one or more of the following:

i. Lands within the flood prone areas that adjoin primary watercourse natural resource buffers; or

ii. Lands with slopes 25% or greater, adjoining a primary watercourse natural resource buffers or a flood prone area.

3. Metro-Park Overlay District Watercourse Buffers

Natural resource buffers shall be established as primary tree conservation areas pursuant to *Sec. 5.2.2.C.2.* and *Article 9.1. Tree Conservation* along primary and secondary watercourses in a -MPOD. Required tree conservation areas shall meet the following standards.

a. The primary tree conservation area must be a minimum of 50 feet wide along each side of any watercourse draining 25 or more acres.

b. The primary tree conservation area must be a minimum of 25 feet wide along each side of any watercourse draining 5 or more acres but less than 25 acres.

4. Urban Water Supply Watershed Protection Overlay District Watercourse Buffers

Natural resource buffers shall be established along primary and secondary watercourses in a -UWPOD. Required natural resource buffers shall meet the following standards.

ORDINANCE NO. 2015 – 483 TC 371
TC-6-15

AN ORDINANCE TO MODIFY THE EXEMPTIONS FROM ACTIVE STORMWATER CONTROL MEASURES IN THE CITY OF RALEIGH UNIFIED DEVELOPMENT ORDINANCE

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RALEIGH THAT:

Section 1. Section 9.2.2.A of the Part 10A Raleigh Unified Development Ordinance, Active Stormwater Control Measures, is hereby amended by deleting it in its entirety and replacing it with the following underlined provisions:

A. Exemptions

The following uses are exempt from the active stormwater control requirements of this section:

1. Any detached house used for single-unit living or any attached house used for two-unit living, including accessory uses, placed on any lot which was either recorded prior to May 1, 2001 (the first application of the Stormwater Management Ordinance) or lawfully recorded later as part of a subdivision approved prior to May 1, 2001;

2. Any plot plan and site plan, including their accessory uses, situated on any lot of ½ acre or less in size which was either recorded prior to May 1, 2001 or lawfully recorded later as part of a subdivision approved prior to May 1, 2001;

3. Any detached house used for single-unit living or any attached house used for two-unit living, including their accessory uses, placed within any subdivision of one acre or less in aggregate size approved after May 1, 2001;

4. Any plot plan and site plan, including their accessory uses, placed within any subdivision of ½ acre or less in aggregate size approved after May 1, 2001 which cumulatively contains less than 12,000 square feet of impervious surface, including impervious surfaces of related on-site or off-site facilities;

5. The exemptions contained in subsections 1 through 4 above apply only when the boundaries of the lots existing prior to May 1, 2001, or lawfully recorded later as part of a subdivision approved prior to May 1, 2001 remain unchanged. However, recombinations of lots existing prior to May 1, 2001 or lawfully recorded later as part of a subdivision approved prior to May 1, 2001, are allowed whenever all of the following are met:

    a. At least one of the recombined lots contains a detached house used for single-unit living which shall not be removed;

    b. The lot is to be exclusively used for a detached house used for single-unit living, including accessory uses;

c. The recombination involved is either no more than two lots or an aggregate of less than ½ acre and the recombined lot contains a maximum of 24,000 square feet of impervious surface.

6. Land-disturbing activities, not otherwise exempted, that do not require a land-disturbing permit under Sec. 9.4.6 are exempted provided that, upon application of any impervious surfaces this exemption shall not apply;

7. Substitution of impervious surfaces when all the standards of Sec. 10.3.4. are met; and

8. Substitution of impervious surfaces with approved pervious surfaces.

Section 2. All laws and clauses of laws in conflict herewith are repealed to the extent of such conflict.

Section 3. If this ordinance or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given separate effect and to this end the provisions of this ordinance are declared to be severable.

Section 4. This text change has been reviewed by the Raleigh City Planning Commission.

Section 5. This ordinance has been adopted following a duly advertised public hearing of the Raleigh City Council.

Section 6. This ordinance has been provided to the North Carolina Capital Commission as required by law.

Section 7. This ordinance shall be enforced as provided in N.C.G.S. 160A-175 or as provided in the Raleigh City Code. All criminal sanctions shall be the maximum allowed by law notwithstanding the fifty dollar limit in N.C.G.S. §14-4(a) or similar limitations.

Section 8. This ordinance is effective 5 days after adoption.

ADOPTED: September 1, 2015
EFFECTIVE: September 6, 2015

Application for Variance

RCP RALEIGH DEPARTMENT OF CITY PLANNING

Department of City Planning | 1 Exchange Plaza, Suite 300 | Raleigh, NC 27601 | 919-996-2626

Submit application to: Development Services Customer Service Center, 1 Exchange Plaza, Suite 400, Raleigh, NC 27601

NATURE OF REQUEST	OFFICE USE ONLY
Nature of variance request (If more space is needed, submit addendum on separate sheet): The Owners/Applicant request a variance for complete relief from the active stormwater control measures and requirements set forth in Section 9.2.2. of the Part 10A Unified Development Ordinance to allow for the construction of a dwelling and any accessory structures/impervious surfaces on a .35 acre property zoned Residential-4 and located at 1405 Canterbury Road. See attached documentation.	**Transaction Number** A-99-16
Provide all previous transaction numbers for Coordinated Team Reviews, Due Diligence Sessions, or Pre-Submittal Conferences. If this property was the subject of a previous variance request, provide the case number.	

GENERAL INFORMATION		
Property Address 1405 Canterbury Road		**Date** Aug. 5, 2016
Property PIN 0794788355	**Current Zoning** R-4	
Nearest Intersection Canterbury and Churchill		**Property size (in acres)** .35
Property Owner Lance E. Landvater, and wife Cynthia C. Landvater	**Phone** 919-787-0003	**Fax**
Owner's Mailing Address 3328 WHITE OAK RD, Raleigh, NC 27609	**Email** cyn3328@aol.com	
Project Contact Person Ben Kuhn	**Phone** 919.280.8139	**Fax** 919.783.8991
Contact Person's Mailing Address 2840 Plaza Place, Suite 400, Raleigh, NC 27612	**Email** bkuhn@rl-law.com	
Property Owner Signature Lance E. Landvater Cynthia C. Landvater	**Email** cyn3328@aol.com	
Notary Sworn and subscribed before me this 5TH day of August, 2016	**Notary Signature and Seal** Kasandra P. KASANDRA PRIETO NOTARY PUBLIC WAKE COUNTY, NC	

Property Owner Signature Lewis E Landwater Sybilia C. Landwater	**E-mail:** cyn3328@aol.com
Notary Sworn to and subscribed before me this 5th day of August, 2016.	**Notary Signature and Seal** Kasandra P KASANDRA PRIETO NOTARY PUBLIC WAKE COUNTY, NC

WAKE COUNTY, NC 193
LAURA M RIDDICK
REGISTER OF DEEDS
PRESENTED & RECORDED ON
12/31/2014 15:52:32
STATE OF NC REAL ESTATE
EXCISE TAX: $400.00
BOOK:015883 PAGE:00946 - 00951

Revenue: **$400.00**	(For Recording Data)
Parcel Identifier/Tax Account/PIN No.:	**0011540**
Brief Description for the Index:	1405 Canterbury Road
After recording, mail to:	Grantee
Prepared by:	Ragsdale Liggett PLLC (Ramseur) without the benefit of title examination; no tax advice requested of, or given by, the preparer

NORTH CAROLINA GENERAL WARRANTY DEED

This Deed is made as of this the 31st day of December, 2014 by and between **CYNTHIA C. LANDVATER** and **CELESTE C. ALLEN**, Co-Trustees of the **MAURICE C. CAPPS, JR. FAMILY TRUST**, under an Agreement dated February 15, 2007, whose addresses are 3328 White Oak Road, Raleigh, North Carolina 27609 and 1601 Ridge Road, Raleigh, North Carolina 27607, respectively, and **ELOISE BAREFOOT CAPPS**, a widowed individual, whose mailing address is c/o Cynthia C. Landvater, 3328 White Oak Road, Raleigh, North Carolina 27609 ("Grantor"), and **LANCE E. LANDVATER** and spouse, **CYNTHIA C. LANDVATER**, whose mailing address is 3328 White Oak Road, Raleigh, North Carolina 27609 ("Grantee").

For valuable consideration paid by the Grantee to the Grantor and for the love and affection that the Grantor holds for the Grantee, the receipt and sufficiency of which is hereby acknowledged, Grantor has and by these presents does hereby grant, bargain, sell and convey unto Grantee in fee simple absolute all of that certain lot, parcel of land or condominium unit (the "Premises") located in or near the City of Raleigh, Raleigh Township, Wake County, North Carolina and more particularly described as follows:

All of those certain lots or parcels of land situated, lying and being on the west side of Canterbury Road and the north side of Churchill Road a short distance northwest of the City limits of Raleigh, N. C. and being known and designated as Lots Nos. 131 and 132 and part of Lot No. 130 as shown on map of Sunset Hills, as surveyed by C. L. Mann, Engineer, dated April, 1940, plot of which is registered in Book 1938 at page 80, and described as BEGINNING at the northwest intersection of the said Canterbury Road and Churchill Road; running thence along the northern property line of Churchill Road in a western direction 164 feet to a stake, the southeast corner of Lot No. 151; running thence with the line of Lots Nos. 151 and 152 and across Lot No. 130 in a northern direction 120 feet to a stake in the southern line of Lot No. 129; running thence along the southern line of Lot No. 129 in an eastern direction 85.3 feet to a stake in the western property line of Canterbury Road; running thence along the curving western property line of the said Road in a southern direction 144 feet to the BEGINNING.

ALSO BEING the same Premises conveyed to Grantor by deed recorded in Book 14584, Page 1663, Wake County Registry, and Book 1244, Page 517, Wake County Registry. See also Book 14476, page 242, Wake County Registry, Book 14578, Page 261, Wake County Registry, and File Number 11-E-129 on file with the Wake County, North Carolina Clerk of Superior Court, Estates Division. The Grantor herein states that the Premises conveyed herein is not the primary residence of the Grantor.

TO HAVE AND TO HOLD the Premises and all privileges and appurtenances thereto belonging to Grantee in fee simple absolute.

And Grantor covenants with Grantee that Grantor is seized of the Premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever, except for the lien of ad valorem taxes for the year 2014, not yet due or payable; easements, restrictions and rights of way of record, if any, affecting the Premises; and utility lines, easements and rights of way located over, under or upon the Premises. Grantor Eloise Barefoot Capps desires to gift her interest in the Premises (a one-half interest) to the Grantee. The Revenue Stamps paid upon the recording of this deed reflect the payment of consideration on the other one-half interest.

The designation of Grantor and Grantee as used in this Deed includes the parties expressly named herein, their heirs, successors, and assigns and shall include the singular, plural, masculine, feminine or neuter as required by context.

IN WITNESS WHEREOF, Grantors have hereunto set their hands and seals all as of the day and year first above written.

[Signature and Notary Acknowledgements follow.]

MAURICE C. CAPPS, JR. FAMILY TRUST,
under an Agreement dated February 15, 2007

Cynthia C. Landvater Co-Trustee (SEAL)
By: **CYNTHIA C. LANDVATER**, Co-Trustee

STATE OF NORTH CAROLINA

COUNTY OF WAKE

I, a Notary Public of the County and State aforesaid, certify that the following person(s) personally appeared before me this day, each acknowledging that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: **CYNTHIA C. LANDVATER**, Co-Trustee of the **MAURICE C. CAPPS, JR. FAMILY TRUST**, under an Agreement dated February 15, 2007

Date: December 31, 2014

(SEAL)

ROBERT J. RAMSEUR, JR. NOTARY PUBLIC WAKE COUNTY, NC

Printed Name of Notary: ROBERT J. RAMSEUR, JR.
Notary Public
My commission expires: 8.21.2016

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MAURICE C. CAPPS, JR. FAMILY TRUST,
under an Agreement dated February 15, 2007

Celeste C Allen Co-trustee (SEAL)
By: **CELESTE C. ALLEN**, Co-Trustee

STATE OF NORTH CAROLINA

COUNTY OF WAKE

I, a Notary Public of the County and State aforesaid, certify that the following person(s) personally appeared before me this day, each acknowledging that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: **CELESTE C. ALLEN**, Co-Trustee of the **MAURICE C. CAPPS, JR. FAMILY TRUST**, under an Agreement dated February 15, 2007

Date: December 31, 2014

(SEAL)

Printed Name of Notary: ROBERT J. RAMSEUR, JR.
Notary Public
My commission expires: 8.21.2016

ROBERT J. RAMSEUR, JR. NOTARY PUBLIC WAKE COUNTY, NC

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(SEAL)
ELOISE BAREFOOT CAPPS

STATE OF NORTH CAROLINA

COUNTY OF WAKE

I, a Notary Public of the County and State aforesaid, certify that the following person(s) personally appeared before me this day, each acknowledging that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: **ELOISE BAREFOOT CAPPS**, a widowed individual

Date: December 31, 2014

(SEAL)

ROBERT J. RAMSEUR, JR. NOTARY PUBLIC WAKE COUNTY, NC

Printed Name of Notary: ROBERT J. RAMSEUR, JR.
Notary Public
My commission expires: 8.21.2016

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BOOK:015883 PAGE:00946 - 00951

WAKE
COUNTY
NORTH CAROLINA

Please retain yellow trailer page

It is part of the recorded document and must be submitted with the original for re-recording.

Laura M. Riddick
Register of Deeds
Wake County Justice Center
300 South Salisbury Street, Suite 1700
Raleigh, NC 27601

☐ New Time Stamp ☐ $25 Non-Standard Fee

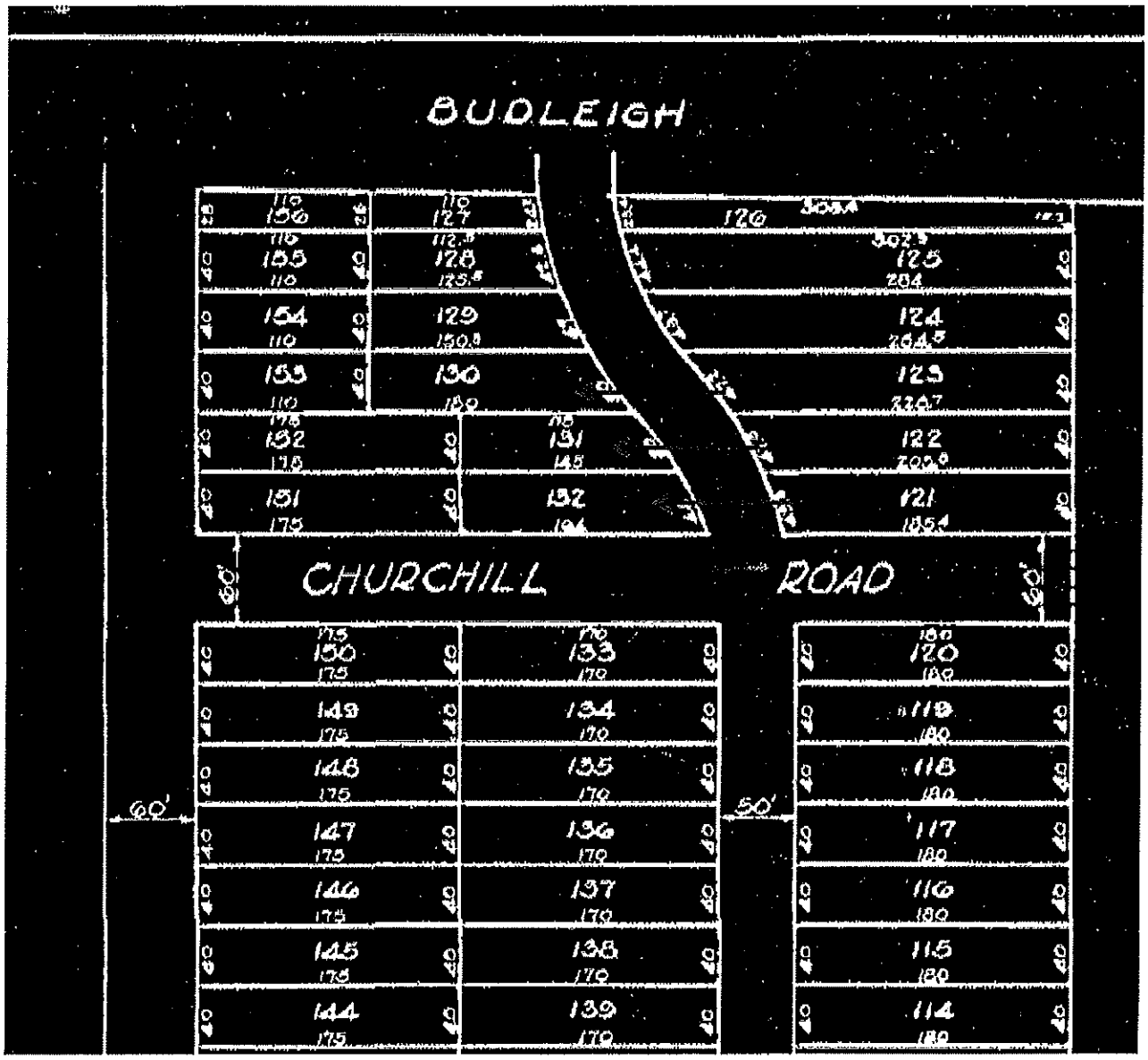
☐ Additional Document Fee ☐ Additional Reference Fee

This Customer Group

____# of Time Stamps Needed

This Document

16 # of Pages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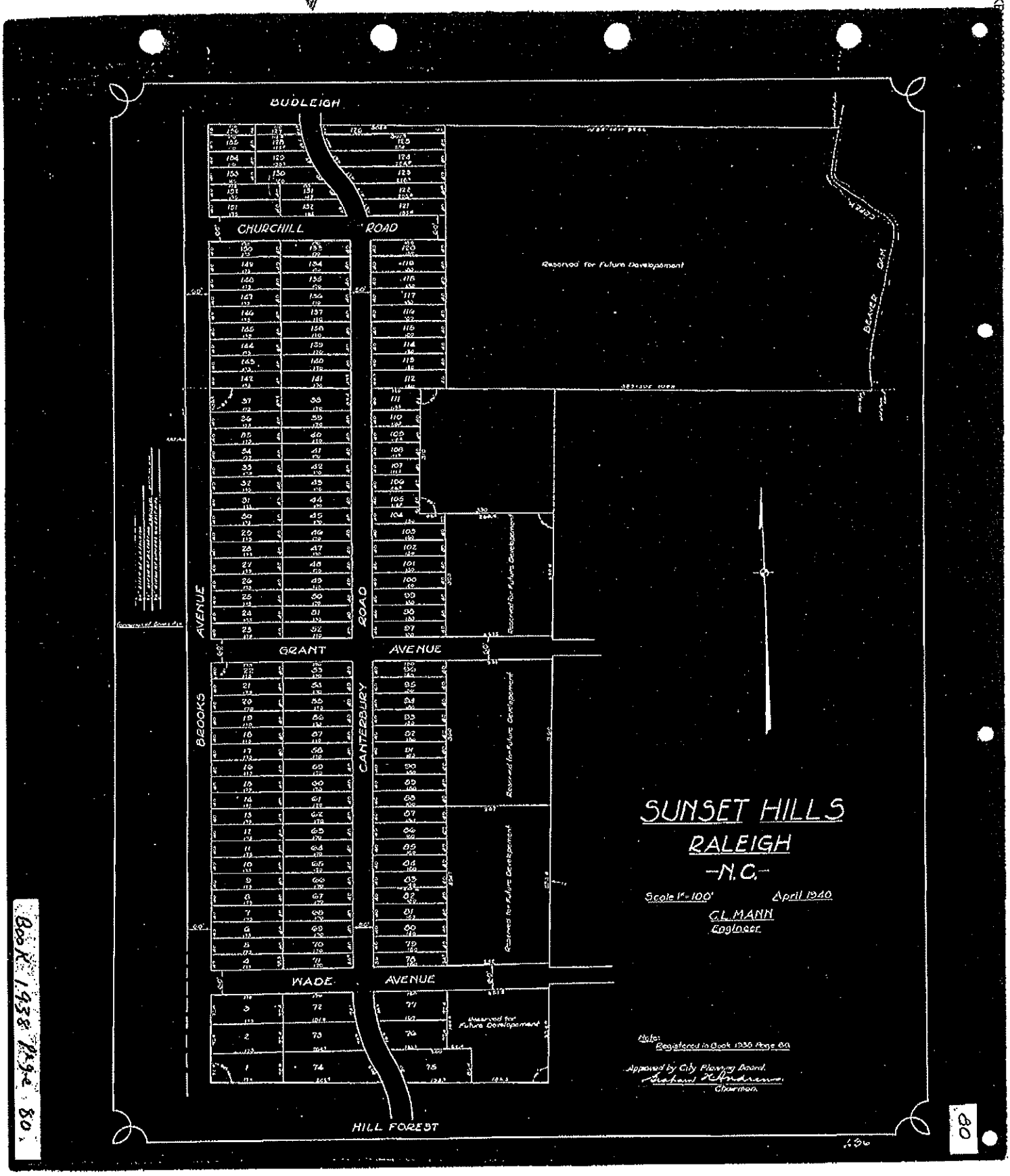


Book 1938 Page 80

Home

Wake County Real Estate Data
Account Summary

iMaps
Tax Bills

Real Estate ID **0011540** PIN # **0794788355**

WAKE COUNTY NORTH CAROLINA

Location Address
1405 CANTERBURY RD

Property Description
1405 CANTERBURY RD

Account Search

Pin/Parcel History Search Results New Search

Account | Buildings | Land | Deeds | Notes | Sales | Photos | Tax Bill | Map

Property Owner	Owner's Mailing Address	Property Location Address
LANDVATER, LANCE E & CYNTHIA C (Use the Deeds link to view any additional owners)	**3328 WHITE OAK RD** **RALEIGH NC 27609-7619**	**1405 CANTERBURY RD** **RALEIGH NC 27608-1903**

Administrative Data		Transfer Information		Assessed Value	
Old Map #	E017--				
Map/Scale	0794 08	Deed Date	12/31/2014	Land Value	$386,750
VCS	01RA275	Book & Page	15883 0946	Assessed	
City	RALEIGH	Revenue Stamps	400.00	Bldg. Value	$102,804
Fire District		Pkg Sale Date	12/31/2014	Assessed	
Township	RALEIGH	Pkg Sale Price	$200,000		
Land Class	R-<10-HS	Land Sale Date			
ETJ	RA	Land Sale Price		Tax Relief	
Spec Dist(s)					
Zoning	R-4	**Improvement Summary**		Land Use Value	
History ID 1				Use Value	
History ID 2		Total Units	1	Deferment	
Acreage	.35	Recycle Units	1	Historic Deferment	
Permit Date		Apt/SC Sqft		Total Deferred Value	
Permit #		Heated Area	2,577		
				Use/Hist/Tax Relief Assessed	
				Total Value Assessed*	$489,554

*Wake County assessed building and land values reflect the market value as of January 1, 2016, which is the date of the last county-wide revaluation. Any inflation, deflation or other economic changes occurring after this date does not affect the assessed value of the property and cannot be lawfully considered when reviewing the value for adjustment.

The January 1, 2016 values will remain in effect until the next county-wide revaluation. Until that time, any real estate accounts created or new construction built is assessed according to the 2016 Schedule of Values.

For questions regarding the information displayed on this site, please contact the Revenue Department at RevHelp@wakegov.com or call 919-856-5400.

Real Estate ID **0011540** PIN # **0794788355**

Location Address
1405 CANTERBURY RD

Property Description
1405 CANTERBURY RD

Account Search

Pin/Parcel History Search Results New Search

Account | Buildings | Land | Deeds | Notes | Sales | Photos | Tax Bill | Map

Building Location Address	Building Description	Card 01 Of 01
1405 CANTERBURY RD	**01RA275**	

Bldg Type	**01 Single Family**	Year Blt **1942**	Eff Year **1950**	Base Bldg Value	**$214,389**
Units	**1**	Addns	Remod	Grade	**A 144%**
Heated Area	**2,577**			Cond %	**D 37%**
Story Height	**1.5 Story**	Int. Adjust.	**BSMT-Unfinished**	Market Adj.	**F 120%**
Style	**Conventional**			Market Adj.	**B 75%**
Basement	**20% Partial Bas**	Other Features	**Multiple Firepl**	Accrued %	**33%**
Exterior	**Brick**			Incomplete Code	
Const Type				**Card 01 Value**	**$102,804**
Heating	**Central**			All Other Cards	
Air Cond	**Central**			Land Value Assessed	**$386,750**
Plumbing	**2 BATH**			Total Value Assessed	**$489,554**

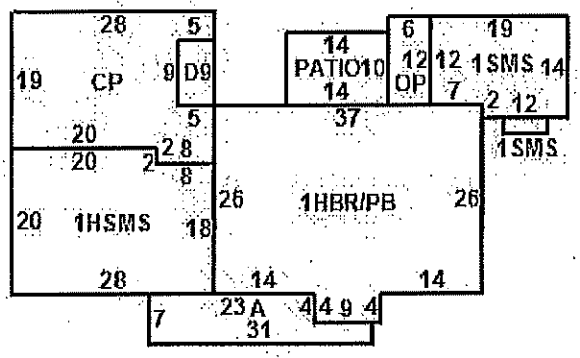
Main and Addition Summary

	Story	Type	Code	Area	Inc
M	1H	BR/PB		998	
A		STP	=	185	
B	1H	SMS	D	544	
C		CP	W	503	
D		STG	X	45	
E		OP	R	72	
F	1	SMS	B	252	
G		PATIO	$	140	
H	1	SMS	B	12	

Other Improvements

Units	DesItem	Code	Year	% ADJ	Inc	Value

Building Sketch



Photograph
2/14/2013

0011540 02/14/2013

PIN	Owner	Mail Address 1	Mail Address 2
794786290	HOLLAND, TANNER HOLLAND, MARY C	1344 BROOKS AVE	RALEIGH NC 27607-3704
794786478	STONE, CONNIE TRUSTEE STONE, MILDRED TRUSTEE	1402 BROOKS AVE	RALEIGH NC 27607-3706
794787306	STONE, CONNIE TRUSTEE STONE, MILDRED TRUSTEE	1402 BROOKS AVE	RALEIGH NC 27607-3706
794787488	DUNCAN, CHARLES R III DUNCAN, CLINTON L	PO BOX 12085	RALEIGH NC 27605-2085
794788280	THOMPSON, BRIAN THOMPSON, ELLEN S	1345 CANTERBURY RD	RALEIGH NC 27608-1901
794788355	LANDVATER, LANCE E LANDVATER, CYNTHIA C	3328 WHITE OAK RD	RALEIGH NC 27609-7619
794789565	WAGONER, ANDREW J WAGONER, ANNE H	1408 CANTERBURY RD	RALEIGH NC 27608-1904
794880327	POYNER, EDYTHE	2642 CHURCHILL RD	RALEIGH NC 27608-1906
794881200	JOHNSON, BRENT SAGE, KAREN	1346 CANTERBURY RD	RALEIGH NC 27608-1902

100' buffer from 1405 Canterbury

N

0 110 220 440 ft

1 inch = 200 feet

Disclaimer

*iMaps makes every effort to produce and publish the most current and accurate information possible. However, the maps are produced for information purposes, and are **NOT** surveys. No warranties, expressed or implied ,are provided for the data therein, its use,or its interpretation.*