

**STAFF REPORT**

Town Council, January 14, 2016

**O'Kelly Chapel Road Daycare and Office Rezoning with Preliminary Development Plan 15-REZ-06 (PL16-033b)**

Consider action on proposed rezoning request

From: Jeff Ulma, Planning Director  
Prepared by: Debra Grannan, Senior Planner  
Approved by: Mike Bajorek, Interim Town Manager  
Approved by: Russ Overton, Assistant Town Manager

**Speaker:** Debra Grannan

**Executive Summary:** To amend the Town of Cary Official Zoning Map by rezoning approximately 3.74 acres from Planned Development District (PDD) and Residential 40 (R-40) to Mixed Use District (MXD) to allow a daycare center with a maximum of 8,300 square feet, and to allow a two-story office building with a maximum of 13,300 square feet subject to design standards and conditions specified in an associated Preliminary Development Plan (PDP). This rezoning/LDO Amendment has an associated Consistency and Reasonableness Statement.

**Proposed Council Action:** Council may take action.

NOTE: The purpose of the rezoning is to determine whether or not the land uses and densities allowed in the proposed zoning district are appropriate for the site. Technical design standards of the Land Development Ordinance are addressed during review of the site or subdivision plan.

**SUBJECT PARCELS**

Property Owner(s)	County Parcel Number(s) (10-digit)	Real Estate ID(s)	Deeded Acreage
West Cary Holdings, LLC 324 Euphoria Circle Cary, NC 27519	0726912203	0093734	0.99±
	0726913267	0302181	1.81±
	0726915231	0314176	0.94±
<b>Total Area</b>			3.74±

**BACKGROUND INFORMATION**

Applicant	Parth Patel West Cary Holdings, LLC 324 Euphoria Circle Cary, NC 27519
Applicants Contact	Patrick Perez Mulkey Engineers 6750 Tryon Road Cary, NC 27518 (919) 858-1845
Acreage	3.74±

Address/Location	7421 O’Kelly Chapel Road, 10925 Green Level Church Road, and a 1.79-acre parcel an unaddressed parcel on O’Kelly Chapel Road located between these two parcels.		
Schedule	<b>Town Council Public Hearing</b> October 22, 2015	<b>Planning &amp; Zoning Board Public Hearing</b> November 16, 2015	<b>Town Council</b> January 14, 2016
Land Use Plan Designation	Medium Density Residential (MDR) and Mixed Use (MXD) within the Amberly Community Mixed Use Center		
Existing Zoning District(s)	Planned Development District (PDD) Major and Residential 40 (R-40)		
Existing Zoning Conditions	None		
Proposed Zoning District(s)	Mixed Use District (MXD)		
Proposed Zoning Conditions	<p>Design and site layout as indicated on the Preliminary Development Plan (link or attach), including:</p> <ol style="list-style-type: none"> <li>1. Use shall be limited to a maximum of 8,300 square feet of day care and a maximum of 13,300 square feet of office space.</li> <li>2. Prior to the issuance of any certificate of occupancy for any building on the subject property, the owner shall complete the following traffic mitigations as identified in the Traffic Impact Analysis Report (15-TAR-391):</li> </ol> <p><b><u>O’Kelly Chapel Road and Green Level Church Road</u></b></p> <ol style="list-style-type: none"> <li>a. Provide eastbound receiving and through lane on the east side of the intersection as specified by the Town of Cary and NC DOT.</li> <li>b. Make modifications to the existing traffic signal to account for CTP road widening.</li> </ol> <p><b><u>O’Kelly Chapel Road and Site Entrance #1</u></b></p> <ol style="list-style-type: none"> <li>c. Provide one ingress lane and one egress lane for Site Entrance #1 in a manner to restrict entering and exiting vehicles to right turns only.</li> </ol> <p><b><u>Green Level Church Road and Site Entrance #2</u></b></p> <ol style="list-style-type: none"> <li>d. Provide one ingress lane and one egress lane for Site Entrance #2 in a manner to restrict entering and exiting vehicles to right turns only.</li> </ol>		
Protest Petition	No		
Town Limits	The parcel identified by Real Estate ID# 0302181 is located inside Cary’s corporate limits. The other two parcels are within Cary’s ETJ. Annexation will be required prior to development plan approval.		
Staff Contact	Debra Grannan Senior Planner (919) 460-4980 debra.grannan@townofcary.org		

## Vicinity Map

O'Kelly Chapel Rd Daycare  
& Office Rezoning with PDP  
15-REZ-06



## SITE CHARACTERISTICS

**Streams:** According to Cary's most current GIS maps, there is indication of stream buffers on the subject property. Field determination of such features shall be required at the time of development plan review.

**Floodplain and Wetlands:** According to Cary's most current GIS maps there is no indication of floodplain or wetlands on the subject property. Field determination of such features shall be required at the time of development plan review.

### Adjacent Uses and Zoning

**North:** (O'Kelly Chapel Road) -Vacant (PDD-Stonewater)

**South:** Detached residential (PDD-Horton)

**East:** (Opposite side of Green Level Church Road) Townhome Development (The Village at Evans Farm) under construction (R-40 and Alston ACCP)

**West:** Wellness Center (PDD-Amberly)

## CONSISTENCY WITH LAND DEVELOPMENT ORDINANCE

**Open Space:** Approximately 45,500 square feet of open space is provided with the streetscape and perimeter buffers. A small gathering area with benches is proposed adjacent to the greenway trail in the northeast corner of the property.

**Landscape Buffers:** The LDO standard for perimeter buffers between office and institutional uses (i.e. day care centers and office buildings) and detached residential is a 40-foot-wide Type-A. The PDP proposes a 50-foot-wide, Type-A buffer adjacent to the southern property line with a 10-foot-wide multi-use trail within the buffer. The PDP also proposes a 10-foot-wide Type-C buffer adjacent to the Town of Cary greenway easement located on the UNC Wellness Center Office property to the west.

**Streetscape:** The Preliminary Development Plan proposes a 30-foot-wide Type C streetscape adjacent to both O’Kelly Chapel Road and Green Level Church Road, which are consistent with requirements of the LDO.

**Traffic:** Per section 3.4.1.D.3 of Cary’s LDO, a traffic study is required for rezoning applications when a development is anticipated to generate 100 or more peak hour trips. The proposed non-residential use required a traffic study. A final Traffic Analysis Report (15-TAR-391) was prepared by the Town’s on-call traffic engineering consultant Ramey Kemp & Associates, dated May 18, 2015. In accordance with the LDO, the study has a 5-year build-out period, which is year 2019. Findings of the study are as follows:

Project Description (assumed for purposes of the traffic study)

- Daycare – 8,000 SF
- Medical Office – 14,000 SF

Note: An increase of 300 square feet to the daycare center and a reduction of 700 square feet to the office building has been requested by the applicant. These modifications do not increase the overall projected trip generation.

Trip Generation Expected

1. Daycare
  - o 590 daily site trips
  - o 97 a.m. peak hour trips (52 entering, 45 exiting)
  - o 99 p.m. peak hour trips (46 entering, 53 exiting)
2. Medical Office
  - o 360 daily site trips
  - o 33 a.m. peak hour trips (26 entering, 7 exiting)
  - o 50 p.m. peak hour trips (14 entering, 36 exiting)

Intersections Studied

The traffic study evaluated major intersections within one-half (½) mile of the site per LDO standards.

1. O’Kelly Chapel Road/Yates Store Road (unsignalized)
2. O’Kelly Chapel Road/Stonecroft Lane (unsignalized)
3. O’Kelly Chapel Road/Green Level Church Road (signalized)
4. O’Kelly Chapel Road/Alston Avenue (unsignalized)
5. Green Level Church Road/Stonewater Glen Lane (unsignalized)
6. Green Level Church Road/Evans Farm Road/Hortons Creek Road (unsignalized)
7. Green Level Church Road/Weycroft Avenue (unsignalized)
8. O’Kelly Chapel Road/Site Entrance (unsignalized)
9. Green Level Church Road/Site Entrance (unsignalized)

The study evaluated A.M. and P.M. peak hour operations at each of the intersections studied for four analysis year scenarios: Existing (2014) Conditions; Background Traffic (2019) Conditions; Combined Traffic (2019) Conditions; and Combined Traffic (2019) Conditions Improvements.

For Background Traffic (2019) Conditions, there were 14 potential developments in the vicinity that may be approved and completed prior to, or at the same time as, the build-out of the proposed development. Site traffic generated from those planned and/or developed projects were included in the Background Traffic (2019) Condition. Those background developments include:

- |    |             |                                 |
|----|-------------|---------------------------------|
| 1. | 11-TAR-325  | Braemore Subdivision            |
| 2. | 11-TAR-326A | Amberly Town Center Residential |
| 3. | 12-TAR-340  | CFS O&I Rezoning                |
| 4. | 12-TAR-344A | Village at the Park             |
| 5. | 12-TAR-346  | Cary Glen Townhomes.            |
| 6. | 12-TAR-348  | Cary Park TC-2B and TC-3A       |

7. 13-TAR-350A/350 Parkside Town Commons
8. 13-TAR-363 Cary Park MR-8 Apartments
9. 13-TAR-364 RKM Development (Park Corner Retail/Meacham Property)
10. 13-TAR-374 Village PDP
11. 13-TAR-375 Peninsula at Amberly
12. 13-TAR-380 Day Care at GLC and McCrimmon
13. 15-TAR-390 Ridgefield Farms
14. Evans Farms Townhomes (Kimley Horn, March 2014)

The executive summary of the Traffic Analysis Report includes information on level of service reported at each intersection studied and recommendations for improvements at these intersections. The traffic study also provides the inclusion of traffic generated by developments that have been approved, but not yet constructed in the area.

### **Intersection Improvement Recommendations**

To mitigate the traffic impacts the proposed development may have on the adjacent roadway system, the Traffic Analysis Report provided recommendations for improvements consistent with LDO Section 3.4.1(D)(3) Traffic Impact Analysis (TIA). The applicant has offered as zoning conditions only those improvements specifically noted below. The applicant provided a justification statement to explain why not all of the traffic mitigations were being addressed.

#### **1. Intersection of O’Kelly Chapel Road and Yates Store Road (unsignalized)**

- o Alternate 1
  - Perform a signal warrant analysis before full build-out of the site to determine if a signal is required. An alternative to signal consideration is provided below.
- o Alternate 2
  - Provide an additional eastbound through lane.
  - Provide an additional westbound through lane.

#### **2. Intersection of O’Kelly Chapel Road and Green Level Church Road (signalized)**

- o Provide an additional through lane and an exclusive right-turn lane for the eastbound approach with full storage extending to Site Entrance #1. This will provide half of the ultimate CTP section. A receiving lane will be required on the east side of the intersection as specified by the Town. **[offered by applicant as zoning condition]**
- o Adjust signal timings. **[offered by applicant as zoning condition]**

#### **3. Intersection of O’Kelly Chapel Road and Stonewater Glen Lane (unsignalized)**

- o Provide an exclusive right-turn lane with 50 feet of full width storage and appropriate taper for the westbound approach.

#### **4. Intersection of Green Level Church Road and Hortons Creek Road/Evans Farm Road (unsignalized)**

- o Alternate 1
  - Provide full storage for the southbound right-turn lane extending to Site Entrance #2.
  - Perform a signal warrant analysis upon full build-out of the site to determine if a signal is required. An alternative to signal consideration is provided below.
- o Alternate 2
  - Provide an additional northbound through lane. This improvement would require additional pavement, as well as restriping.
  - Provide an additional southbound through lane extending to Weycroft Avenue. This improvement would require restriping, as the pavement currently exists.
  - Provide an exclusive left-turn lane with 50 feet of full width storage and appropriate taper.

#### **5. Intersection of Green Level Church Road and Weycroft Avenue (unsignalized)**

- Provide an exclusive right-turn lane with 50 feet of full width storage and appropriate taper for the eastbound approach.

**6. Intersection of O’Kelly Chapel Road and Site Entrance #1 (unsignalized)**

- Provide one ingress lane and one egress lane for Site Entrance #1 in a manner to restrict entering and exiting vehicles to right turns only. **[offered by applicant as zoning condition]**
- Provide stop control for Site Entrance #1.
- Provide a 3-lane section along the site frontage in a manner in accordance with the CTP. This will result in a cross-section with:
  - Two westbound lanes (restriping on existing O’Kelly Chapel Road)
  - Two eastbound through lanes
  - One eastbound shared through/right-turn lane.

**7. Intersection of Green Level Church Road and Site Entrance #2**

- Provide one ingress lane and one egress lane for Site Entrance #2 in a manner to restrict entering and exiting vehicles to right turns only. **[offered by applicant as zoning condition]**
- Provide stop control for Site Entrance #2.
- Provide an exclusive right-turn lane for the southbound approach extending to the intersection of Green Level Church Road and O’Kelly Chapel Road. South of the site driveway, additional pavement should be provided to the property line to accommodate the ultimate CTP cross-section.

**8. Improvements required to meet Town’s CTP requirements**

- On O’Kelly Chapel Road, construct additional pavement with restriping as needed along the site frontage to achieve the CTP required road section.
- On Green Level Church Road, construct an additional southbound through lane along the site frontage in accordance with the CTP.

**Staff Comment Regarding Improvements Offered by Applicant**

Currently, Green Level Church Road is constructed with one southbound lane from O’Kelly Chapel Road to south of Rosepine Drive. As required by the CTP, the applicant would be constructing a second southbound through lane along their site frontage (from O’Kelly Chapel Road to the southern property line), which would leave the southbound Green Level Church Road as one lane (between the southern property line and Rosepine Drive). Thus, the CTP widening just along the site frontage would not provide additional capacity unless the southbound lane is extended further to the south by approximately 350 feet. This additional extension would provide two southbound lanes on Green Level Church Road between O’Kelly Chapel Road and Hortons Creek Road. Without this extension, there would be operational issues along southbound Green Level Church Road, which could potentially impact the signalized intersection of O’Kelly Chapel Road and Green Level Church Road. Staff has discussed these concerns with the applicant’s team following the completion of the traffic study. The applicant chose not to offer this improvement as a rezoning condition, noting that a payment in lieu of the road construction had been previously accepted by the developers of the Horton Creek subdivision.

**Stormwater:** At the time of site plan review, the future plan must meet all stormwater management and detention requirements.

**PROPOSED MODIFICATIONS TO LAND DEVELOPMENT ORDINANCE STANDARDS**

Development within the Mixed Use Overlay District provides the opportunity for design flexibility and reductions to typical Town of Cary LDO Standards. Approval of this rezoning will constitute approval of the following modifications to LDO standards requested by the applicant:

- The proposed parking exceeds the maximum permitted under the LDO by 6.9 %. (A maximum of 87 spaces is required, 93 spaces are proposed.)

- Section 7.10.4.(D) requires public gathering spaces, with the size of the space based upon the area of the development site. A small community gathering area is located within the 30-foot streetscape at the northeast corner of the property adjacent to the greenway trail. Typically, such features would be located outside of a buffer. However, this gathering space is associated with the streetside trail.

## **SUMMARY OF PROCESS AND ACTIONS TO DATE**

### **Notification**

Notice of the public hearing on the proposed rezoning was mailed to property owners within 800 feet of the subject property, published on the Town's website and posted on the subject property.

### **Neighborhood Meeting**

According to the applicant, a neighborhood meeting for the proposed rezoning was held on October 22, 2014. According to the information submitted by the applicant, two nearby property owners attended the meeting. Questions and concerns expressed at the meeting are provided in the meeting minutes submitted by the applicant.

### **Town Council Public Hearing (October 22, 2015)**

Staff presented an overview of the request and summarized the zoning conditions associated with the Preliminary Development Plan and applicant's request for modifications to typical LDO Standards. The applicant spoke in support of the request and described the road frontage improvements that would be required along two thoroughfares in compliance with the Comprehensive Transportation Plan. During the public hearing, a representative from the HOA for the adjacent neighborhood spoke about concerns with buffers and privacy between the proposed development and the adjacent homes and residential recreation center. During their discussion, council discussed whether or not a fence would be appropriate between the proposed development and the existing neighborhood. One council member stated that since there is a proposed greenway trail located within the buffer area between the uses, it would be preferable not to have a fence.

Council questioned the appropriateness of the stamped concrete gathering place proposed within the streetscape at the northeast corner of the property due to the proximity to two thoroughfares.

Council asked for clarification on the request for a modification to the reclaimed water line. The applicant explained that the property owners were prepared to install the line on the subject property and were only seeking the modification to off- site improvements.

### **Changes Since the Town Council Public Hearing.**

The applicant revised the plan slightly to replace the stamped concrete gathering area with two benches at the intersection of the multi-use trail and sidewalk. No other changes to proposed zoning conditions or to the site layout of the Preliminary Development Plan were proposed prior to the Planning and Zoning Board public hearing.

### **Planning and Zoning Board Public Hearing (November 16, 2015)**

Staff presented an overview of the case, summarized the proposed zoning conditions and listed the modifications to typical LDO standards that had been proposed. Staff also explained that reductions to typical LDO standards for buffering between uses had been granted previously for the adjacent Horton's Creek neighborhood to the south.

The applicant stated that the proposed plan met Mixed Use Overlay District design criteria. They further described the required road improvements and the zoning conditions that had been offered in conjunction with the associated Preliminary Development Plan. The applicant offered a new zoning condition to provide an opaque privacy fence along the southern property line with an opening to provide access to the future greenway trail connection.

During the public hearing, a representative of the HOA from the adjacent residential neighborhood asked that more consideration be given to privacy screening and buffering between the proposed use and the adjacent homes and neighborhood recreation site (swimming pool). The speaker expressed concerns that the installation of a future greenway trail would remove significant vegetation. A second neighbor expressed opposition to the proposed 2-story office building and felt that the use should remain residential. Glenda Toppe, a representative for the applicant, spoke in support of the request and noted that the proposed uses were consistent with the Land Use Plan.

The board expressed concerns about traffic in the vicinity and asked for clarification on road improvement requirements. Staff explained that the developer of the Horton's Creek property to the south had made a transportation payment in lieu for making road improvements along Green Level Church Road. Staff stated that the Town could potentially consider future gap widening projects in this area as part of a future budget process.

The board also discussed the proposed fence location, greenway trail, and concerns about parking lot lights. The applicant explained that they would be in compliance with the LDO standards for site lighting. Staff explained that the adjacent neighborhood to the south (Horton's Creek) had limited landscaping and buffers.

A motion was made to deny the case by a board member who raised concerns about the gap in road improvements along Green Level Church Road and the off-site connection to the reclaimed water line. Another board member echoed concerns about traffic on Green Level Church Road and objected to the proposed office use on the site. Prior to the vote, the applicant withdrew its request for a waiver from the off-site connection to the reclaimed water line.

The motion failed by a vote of 3 to 5.

A motion for approval was made. The board then discussed the appropriateness of the proposed uses and stated that the Town should look at future improvements in the roadway gap along Green Level Church Road.

The Planning and Zoning Board voted 5 to 3 to forward the case to Town Council with a recommendation for approval.

### **Changes since the Planning and Zoning Board Public Hearing**

As discussed above, the applicant withdrew its request for a waiver from the off-site connection to the reclaimed water line at the Planning and Zoning Board meeting. Following additional conversations between staff, the applicant and the adjacent HOA president regarding fences adjacent to greenway trails, the applicant revised the PDP to propose a hedgerow of evergreen understory trees planted at the back of curb along the southern portion of the parking area. This row of trees would be in lieu of a fence.

A modification was made to the plan to show improved pedestrian connectivity from the subject property to the future Town of Cary Greenway Trail.

## **CRITERIA FOR CONSIDERATION IN REVIEWING REZONINGS**

Section 3.4.1(E) of the Land Development Ordinance sets forth the following criteria that should be considered in reviewing rezonings:

1. The proposed rezoning corrects an error or meets the challenge of some changing condition, trend or fact;
2. The proposed rezoning is consistent with the Comprehensive Plan and the purposes set forth in Section 1.3 (LDO);
3. The Town and other service providers will be able to provide sufficient public safety, educational, recreational, transportation and utility facilities and services to the subject property while maintaining sufficient levels of service to existing development;



4. The proposed rezoning is unlikely to have significant adverse impacts on the natural environment, including air, water, noise, stormwater management, wildlife and vegetation;
5. The proposed rezoning will not have significant adverse impacts on other property in the vicinity of the subject tract; and
6. The proposed zoning classification is suitable for the subject property.

## APPLICABLE COMPREHENSIVE OR AREA PLAN REQUIREMENTS

### Northwest Area Plan

The governing element of the Comprehensive Plan for the subject properties is the Northwest Area Plan. The Northwest Cary Area Plan covers a portion of the Town's planning area a few miles south and west of Research Triangle Park.

The future land use designation for two of the parcels is Medium Density Residential (MDR) and for the other parcel is Mixed Use (MXD). Daycare centers are an allowed use within residential zoning districts. The two western-most properties are covered by Northwest Area Plan Note 4: *Intense mixed use center with focus on commercial/retail and office uses, with some high density housing, such as apartments over shops or offices. For mixed use areas north of Kit Creek Road and west of Green Level Church Road, any residential use should be limited to medium density housing.*

All three parcels are within the Amberly community-sized mixed use center. Mixed use centers are intended to include a substantial mix of commercial/retail, office/institutional, and moderate to higher density housing.

**Analysis:** The request for a preliminary development plan to include office and institutional uses is consistent with the Town of Cary's Northwest Area Plan.

### Growth Management Plan

The Growth Management Plan includes the following Guiding Principles which are relevant to this case:

1. R1 Guiding Principle: Ensure that adequate infrastructure and services are available concurrently with new development.
2. L1 Guiding Principle: Concentrate growth near existing and planned employment centers and available and planned infrastructure to minimize costly service-area extensions.

**Analysis:** Adequate infrastructure and services appear to be available near the subject properties. Research Triangle Park is about one mile from the site, and the Alston Regional Mixed Use Center is one quarter mile away, putting this property near existing and planned employment centers.

### Affordable Housing Plan

The Affordable Housing Plan is not applicable to this case.

### Comprehensive Transportation Plan

O'Kelly Chapel Road is designated as a **Major Thoroughfare**

**Existing Section:** 3-lane section

**Future Section:** 102 feet of roadway within 124 feet of Right of Way

**Sidewalks:** Required on both sides

**Bicycle Lanes:** 14-foot-wide outside lanes required

**Transit:** No current or proposed routes at this time

**Status of Planned Improvements:** None planned at this time

**Green Level Church** is designated as a **Major Thoroughfare**.

**Existing Section:** On south-bound leg: 2-lane roadway with left turn lane: On north-bound leg: 4-lane roadway with a left turn lane

**Future Section:** On south-bound leg: 6-lane roadway with 102-foot roadway section within 124 feet of right-of-way; on north-bound leg: 4-lane roadway with 78-foot section within 100 feet of right-of-way

**Sidewalks:** Required on both sides

**Bicycle Lanes:** 14-foot-wide outside lanes required  
**Transit:** No current or proposed routes at this time  
**Status of Planned Improvements:** None planned at this time

#### [Parks, Recreation and Cultural Resources Master Plan](#)

According to the Parks, Recreation and Cultural Resources Facilities Master Plan, the Amberly Greenway is proposed along the southern boundary of the property, and street-side trail is proposed along the Green Level Church Road frontage.

#### [Open Space Plan](#)

According to the Open Space Plan, there are no significant natural resources associated with this site.

#### [Historic Preservation Master Plan](#)

In 1989, this site was added to the historic and architectural inventory because it contained a circa 1925 1-story, triple-A house with a rear ell and Craftsman details. The property also contained a shed, tenant house and garage. A barn associated with the property stood across Green Level Church Road. The complex was said to have been associated with the Johnson family. In subsequent years, the house, tenant house and most of the outbuildings have been razed, and no significant historic buildings remain.

### **STAFF EVALUATION - CONSISTENCY WITH THE DESIGN GUIDELINES FOR MIXED USE CENTERS**

#### **Mixed Use Overlay District Design Principles**

The Preliminary Development Plan (PDP) was evaluated by staff with The Mixed Use Overlay District Design Principles. The following are staff's observations of how the plan compares with the principles:

**Create Human Scale:** The proposed day care building is one story and the proposed office building is a maximum of two stories. Also, Cary's Community Appearance manual requires architectural features such as continuous details, variations in building material, window arches and varied rooflines that contribute to the human scale.

**Create a Sense of Place:** The general character of the proposed development is suburban, which is not uncharacteristic of the area. A gathering area is near the northeast corner of the property.

**Connect Uses:** The internal network of private sidewalks provide connections to public sidewalk. A multi-use path is proposed within the buffer area adjacent to the southern property line.

**Provide Transitions:** Transitions may be achieved both by providing gradual changes in the intensity of uses and implementing buffers that reduce impacts to adjacent properties. The proposed mix of uses within the Mixed Use District provide balance to the overall mix of uses.

**Reduce Parking Impacts:** To accommodate the parking needs for a proposed medical office building, the applicant has proposed to exceed the maximum parking standards as specified in Chapter 7 of the LDO by 6.9 %. The majority of the parking is proposed to be situated away from the road. Vehicular area screening will be required during site plan review in accordance with LDO requirements.

**Plan for Pedestrians, Bicyclists and Transit Users:** The PDP proposes a sidewalk connection to the existing sidewalk located along O'Kelly Chapel Road, and a Town of Cary Greenway Trail is located on the southern portion of the property.

**Provide Open Space:** Streetscapes along O'Kelly Chapel Road and Green Level Church Road provide significant regulatory open space for the subject property. In addition, approximately 14,150 square feet of outdoor play area is proposed for the daycare use.

### **APPROVAL CRITERIA**

In addition to the criteria for general rezoning specified above, rezoning requests for property located within a Mixed Use Overlay District shall be reviewed for compliance with the following criteria from LDO Section 4.5.2 (E) , as applicable:

**1. Intensity, Type and Mix of Uses**

**Staff Observation:** The proposed uses support the overall mix of uses in the Activity Center

**2. Site Design**

**Staff Observations:** The proposed Preliminary Development Plan provides connections to adjacent properties by way of a multi-use trail.

**3. Expected Land Uses**

**Staff Observation:** The proposed uses are consistent with the Land Use Plan

**4. Public Spaces**

**Staff Comment:** The plan includes a small public plaza (gathering area) and provides an extensive multi-use trail system along the road frontage.

**5. Scale and Context**

**Staff Comment:** The proposed development includes a 1-story daycare center and a 2-story office building. Streetscapes and perimeter buffers are in accordance with the LDO standards.

**APPLICANT'S JUSTIFICATION STATEMENT**

Attached are the applicant's responses to the justification questions contained in the application form. Please note that these statements are that of the applicant and do not necessarily represent the views or opinions of the Town of Cary.

The applicant provided an additional letter of justification pertaining to transportation improvements. The letter described which offsite mitigations were proposed by the applicant and explained why the applicant felt they were justified in not addressing all the improvements identified in the traffic study.

**ORDINANCE FOR CONSIDERATION**

**15-REZ-06 O'KELLY CHAPEL ROAD DAYCARE AND OFFICE WITH PRELIMINARY DEVELOPMENT PLAN MIXED USE REZONING**

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF THE TOWN OF CARY TO CHANGE THE ZONING OF APPROXIMATELY 3.74 ACRES OWNED BY WEST CARY HOLDINGS, LLC, BY REZONING FROM RESIDENTIAL 40 (R-40) AND PLANNED DEVELOPMENT DISTRICT (PDD) TO MIXED USE DISTRICT (MXD) SUBJECT TO THE USE AND DESIGN SPECIFICATIONS OF THE ASSOCIATED PRELIMINARY DEVELOPMENT PLAN, WHICH INCLUDE A DAYCARE CENTER WITH A MAXIMUM OF 8,300 SQUARE FEET AND AN OFFICE USE WITH A MAXIMUM OF 13,300 SQUARE FEET.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CARY:

**Section 1:** The Official Zoning Map is hereby amended by rezoning the area described as follows:

**PARCEL & OWNER INFORMATION**

Property Owner(s)	County Parcel Number(s) (10-digit)	Real Estate ID(s)	Deeded Acreage
-------------------	---------------------------------------	-------------------	----------------

West Cary Holdings, LLC 324 Euphoria Circle Cary, NC 27519	0726912203	0093734	0.99±
	0726913267	0302181	1.81±
	0726915231	0314176	0.94±
<b>Total Area</b>			3.74±

**Section 2:**

That this Property is rezoned from Residential 40 (R-40) and Planned Development District (PDD) to Mixed Use District (MXD) subject to the individualized development conditions set forth in the “O’Kelly Chapel Daycare and Office Preliminary Development Plan” approved by the Town Council as of this date and on file in the Planning Department, and to all the requirements of the Cary Land Development Ordinance (LDO) and other applicable laws, standards, policies and guidelines, all of which shall constitute the zoning regulations for the approved district and are binding on the Property.

**Section 3:**

The conditions proposed by the applicant to address conformance of the development and use of the Property to ordinances and officially adopted plans, to address impacts reasonably expected to be generated by the rezoning, and to promote the public health, safety and general welfare, and accepted and approved by the Town are set forth in the “O’Kelly Chapel Daycare and Office Preliminary Development Plan” approved by the Town Council as of this date and on file in the Planning Department.

Design and site layout are as indicated on the Preliminary Development plan, which include:

1. Use shall be limited to a maximum of 8,300 square feet of day care and a maximum of 13,300 square feet of office space.
2. Prior to the issuance of any certificate of occupancy for any building on the subject property, the owner shall complete the following traffic mitigations as identified in the Traffic Impact Analysis Report (15-TAR-391):

**O’Kelly Chapel Road and Green Level Church Road**

- a. Provide eastbound receiving and through lane on the east side of the intersection as specified by the Town of Cary and NC DOT.
- b. Make modifications to the existing traffic signal to account for CTP road widening.

**O’Kelly Chapel Road and Site Entrance #1**

- c. Provide one ingress lane and one egress lane for Site Entrance #1 in a manner to restrict entering and exiting vehicles to right turns only.

**Green Level Church Road and Site Entrance #2**

- a. Provide one ingress lane and one egress lane for Site Entrance #2 in a manner to restrict entering and exiting vehicles to right turns only.

**Section 4:** This ordinance shall be effective on the date of adoption.

Adopted and effective: January 14, 2016

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Harold Weinbrecht, Jr.  
Mayor

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Date

History:

01/14/16          Town Council   APPROVED

Grannan summarized staff's report.

Planning and Zoning Board Chair Mark Evangelista summarized the discussion and action taken at the Planning and Zoning Board meeting. His comments included:

- There were a number of changes made since the case was presented to the Planning and Zoning Board.
- At the meeting, a motion to deny the case failed.
- Many of the issues the board had with this case have been resolved by the applicant.

Bush asked about the changes to the gathering space. Grannan summarized that now the area includes benches as a resting area for visitors to the greenway trail. Staff felt there was sufficient public space on the site to meet the mixed development requirements.