

STAFF REPORT

Town Council, May 26, 2016

Lewter Property at Carpenter Fire Station Road Rezoning 15-REZ-16 (PL16-038b)

Consider action on proposed rezoning request

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

Speaker: Mary Beerman

Executive Summary: To amend the Town of Cary Official Zoning Map by rezoning approximately 21.55 acres located at the northwest corner of the intersection of Green Level Church Road and Carpenter Fire Station Road from Residential 40 (R-40) to Mixed Use Overlay District (MUOD) and Mixed Use District (MXD) to allow development of up to 110,000 square feet of commercial use as shown on the associated Preliminary Development Plan. This rezoning has an associated Consistency and Reasonableness Statement.

Planning and Zoning Board Recommendation: The Planning and Zoning Board recommended approval by a vote of 7-2.

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

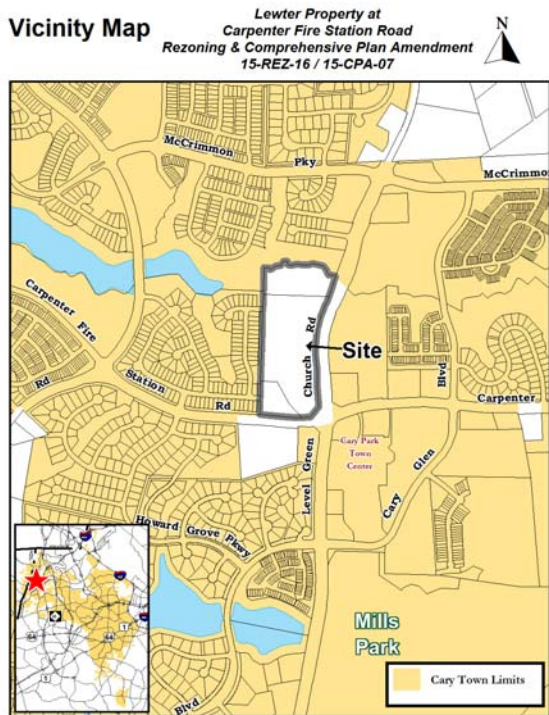
Property Owner	County Parcel Number (10-digit)	Real Estate ID	Deeded Acreage
Peggy Harwood Lewter and Grover Lewter 325 Davis Drive Cary, NC 27519	0725844460	0099982	±2.28
	0725846945	0078272	±14.41
	0725856677	0368308	±4.86
Total Area			±21.55

BACKGROUND INFORMATION

Applicant	Property Owner		
Applicant's Contact	Glenda Toppe Glenda S. Toppe & Associates 4138 Garden Lake Drive Raleigh, NC 27612		
Acreage	21.55 ±		
General Location	7712 Carpenter Fire Station Road and other unaddressed property located at the northwest corner of the Carpenter Fire Station Road and Green Level Church Road intersection		
Schedule	Public Hearing November 19, 2015	Planning & Zoning Board April 18, 2016	Town Council May 26, 2016
Land Use Plan Designation	Mostly "Commercial or Medium Density Residential" (COM or MDR), with a small portion designated "Parks or Open Space (PKS/OS). The entire site is also located within the Cary Park Community Activity Center (CAC).		

Existing Zoning Districts	Residential 40 (R-40)
Existing Zoning Conditions	None
Proposed Zoning Districts	Mixed Use Overlay District (MUOD) and Mixed Use District (MXD)
Summary of Preliminary Development Plan	<p>Maximum of 110,000 square feet of floor area in 5 development areas, as illustrated in the associated Preliminary Development Plan and summarized below:</p> <ul style="list-style-type: none"> • Permitted land uses: <ul style="list-style-type: none"> - Library - Museum - Daycare Center - Government Office - Public Safety Station - Town Owned/Operated Facilities and Services - Public Park - Public Neighborhood Recreation Center - Religious Assembly - Concealed (Stealth) Antennae and Towers - Antenna Co-location on Existing Tower - Other Building-mounted Antennae and Towers - Kennel, Indoor Only - Veterinary Hospital/Office with Indoor Kennel - Club, Lodge or Hall - Banking, with or without drive-thru services - Restaurant, with indoor and/or outdoor operation – Drive thru service allowed only in Building 1 and/or Development Areas 3, 4, and 5 - Office, Business or Professional - ABC Store - Commercial Indoor Recreation Facility - Wellness Center - Pre-school - Theatre, Small - Personal Service Establishment, with drive-thru service allowed in Building 1 and/or Development Areas 3,4,and 5 - Farm Market - Shopping Center, Small or General - Postal Center, Private - Retail Store • A 55,000-square-foot anchor building, with a minimum 200-foot setback from the western property line; • 3 outparcels; • 5 points of access to adjacent thoroughfares (3 on Green Level Church Road and 2 on Carpenter Fire Station Road); • Building and parking oriented to create a “Main Street” design, with centralized plaza(s) (minimum aggregate area of 7,000 Square Feet) and inclusion of a decorative fountain and/or public outdoor seating and/or public art; • Enhanced hardscapes at northern access drive and Northlands Drive; • Enhanced buffer along common property line with the Arlington Park Subdivision, including an additional 10 feet of width (which could be graded and revegetated), enhanced plantings for certain segments, and an 8-foot tall opaque fence; • Decorative pedestrian lighting along the Main Street and decorative

	bollard lighting along private pedestrian trail connecting the site to Jockey Club Circle; and <ul style="list-style-type: none"> Limited hours of operation for Building 1, and limited hours for deliveries and servicing of trash dumpsters for all businesses.
Town Limits	The subject property is located outside the corporate limits but inside the Town of Cary ETJ. Annexation will be required prior to site plan approval.
Staff Contact	Mary Beerman, Senior Planner mary.beerman@townofcary.org (919) 469-4342



SITE CHARACTERISTICS

Streams: According to Town of Cary GIS maps, the northern boundary of the site is impacted by floodplain and stream buffer area associated with Morris Branch, and the central portion of the property is impacted by a stream buffer associated with a previously-existing farm pond. Field determination of such features will be required at the time of development plan review.

Adjacent Zoning and Land Use:

North – Planned Development District, Major (Amberly PDD); open space

South – (opposite side of Carpenter Fire Station Road) - Planned Development District, Major (Cary Park PDD); bank; and Office and Institutional Conditional Use (OI-CU); detached residence (Rezoning Case 15-REZ-11, approved on February 25, 2016, enabled development of office and daycare uses)

East – (opposite side of Green Level Church Road) – Mixed Use District (MXD); (Rezoning Case 13-REZ-17 (Meacham Property at Cary Park PDD), approved on January 9, 2014, included a Preliminary

Development Plan for up to 85,000 square feet of commercial square footage. A portion of the site has been developed.)

West – Planned Development District, Major (Amberly PDD); detached dwellings (Arlington Park Subdivision)

CONSISTENCY WITH LAND DEVELOPMENT ORDINANCE

Land Use

The preliminary development plan limits land use to commercial uses, specifically including restaurants with indoor and outdoor service, and outdoor public gathering space, and excluding convenience stores selling gasoline, vehicle filling stations, towing and vehicle storage, pawn shops, tattoo parlors, and adult businesses. The proposed allowable uses are permitted in the Mixed Use District.

PROPOSED SQUARE FOOTAGE (As shown on Preliminary Development Plan)	
Development Area	Maximum Square Footage
1	Building 1 55,000
	Building 2 5,000
2	23,000
3	8,500
4	8,500
5	10,000
Maximum Total Square Footage	110,000

Proposed Dimensional Standards

DIMENSIONAL STANDARDS PROPOSED ON PRELIMINARY DEVELOPMENT PLAN	
Interior Setbacks	None
Building and Parking Setbacks From Buffers	Per LDO (Currently, a 10-foot building setback and a 5-foot vehicular use setback is required adjacent to an existing vegetated buffer. Setbacks are not required adjacent to new buffers being planted.)
Maximum Building Height	50 feet Spires, cupolas, and antennae attached to the building or from a building are not included in the calculation of building height.

Perimeter Buffer

A 50-foot shared Type A buffer is required along the western property line adjacent to the Arlington Park Subdivision. A 30' undisturbed buffer exists along the eastern boundary of the Arlington Park Subdivision, which can be credited toward meeting the minimum buffer requirement.

The Preliminary Development Plan includes a commitment to provide the following in addition to the minimum buffer requirements:

- Ten feet of buffer width in addition to the minimum 20 feet required on the subject property. (The area within this additional buffer width may be graded, and may include retaining walls). Vegetation will be provided to create a Type A opaque buffer within the total 30-foot buffer width provided on the subject property.
- Landscape material along the portion of the common property line with Arlington Park extending northward from Carpenter Fire Station Road for a distance of approximately 700 feet will include

a double staggered row of evergreen trees planted 10 feet on center, with a minimum height of 8 feet at installation.

Streetscape

A 30-foot Type A streetscape is required adjacent to Carpenter Fire Station Road and Green Level Church Road.

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 commercial uses required a traffic study. A final Traffic Analysis Report (15-TAR-398) was prepared by the Town’s on-call traffic engineering consultant Ramey Kemp & Associates, dated September 15, 2015. In accordance with the LDO, the study has a 5-year build-out period, which is year 2020. Findings of the study are as follows:

Project Description (assumed for purposes of the traffic study)

- Supermarket/Grocery – 55,000 SF
- Retail – 25,000 SF
- Convenience Market with Gasoline Station – 7,500 SF store with 16 fueling positions
- Fast-food with drive thru – 5,500 SF
- Drive-in Bank – 3 drive thru lanes

Trip Generation Expected

Land Use	Weekday Traffic (vehicles/day)	AM Peak Hour (vehicles/hour)	PM Peak Hour (vehicles/hour)
Supermarket	5,100	187	500
Retail	1,100	24	93
Convenience Market with Gasoline Station	8,700	265	305
Fast Food with Drive-thru	2,700	250	180
Drive-in Bank	400	28	100

Intersections Studied

The traffic study evaluated major intersections within one (1)-mile of the site per LDO standards.

1. Green Level Church Road and Mills Park Drive / Courtland View Lane (signalized)
2. Green Level Church Road and Cary Glen Boulevard (signalized)
3. Green Level Church Road and Carpenter Fire Station Road (signalized)
4. Green Level Church Road and McCrimmon Parkway (signalized)
5. Green Level Church Road and Weycroft Avenue (unsignalized)
6. Green Level Church Road and Hortons Creek Road (unsignalized)
7. McCrimmon Parkway at Yates Store Road (unsignalized)
8. McCrimmon Parkway at Cary Glen Boulevard (unsignalized)
9. Carpenter Fire Station Road at Yates Store Road (unsignalized)
10. Carpenter Fire Station Road at Cary Glen (pending signalization by TOC)
11. Yates Store Road and Weycroft Ave (unsignalized)
12. Green Level Church Road and Site Driveway #1 - full movement
13. Green Level Church Road and Site Driveway #2 - RIRO
14. Green Level Church Road and Site Driveway #3 - RI Only
15. Carpenter Fire Station Road and Site Driveway #4 – RI Only
16. Carpenter Fire Station Road and Site Driveway #5 – Left-Over

The study evaluated A.M. and P.M. peak hour operations at each of the intersections studied for four analysis year scenarios: Existing (2015) Conditions; Background Traffic (2020) Conditions; Combined Traffic (2020) Conditions; and Combined Traffic (2020) Conditions with Improvements.

For Background Traffic (2020) Conditions, there were 13 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 (2020) Conditions. Those background developments include:

1. 12-TAR-340 Carpenter Fire Station Road Rezoning
2. 12-TAR-346 Cary Glen Townhomes
3. 12-TAR-348 Cary Park TC-2B and TC-3A
4. 13-TAR-363 Cary Park MR-8 Apartments
5. 13-TAR-364 RKM Development (Park Corner Retail/Meacham Property)
6. 13-TAR-374 Village PDP
7. 13-TAR-375 Penninsula at Amberly
8. 13-TAR-380 Day Care at GLC and McCrimmon
9. 15-TAR-389 Ridgefield Farms
10. 15-TAR-391 O'Kelly Chapel Daycare and Medical Office
11. 15-TAR-392 E-33 Elementary School and Office/Retail uses
12. Alston Town Center – Phase 1 (Kimley Horn)
13. Evans Farm Townhomes (Kimley Horn)

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).

- 1. Intersection of Green Level Church Road and Courtland View Lane/Mills Park Drive (signalized)** *(Applicant has not offered these improvements as zoning conditions)*
 - Modify signal phasing during AM peak hour to provide permitted only phase for the eastbound left-turn movements.
 - Modify signal timings.
- 2. Intersection of Green Level Church Road and McCrimmon Parkway (signalized)** *(Applicant has not offered these improvements as zoning conditions)*
 - Modify signal phasing to include protected-permitted left-turn movements.
 - Modify signal timings.
- 3. Intersection of Green Level Church Road and Weycroft Avenue (unsignalized)** *(Applicant has not offered these improvements as zoning conditions)*
 - Construct an eastbound right turn lane with 50 feet of storage and appropriate taper. [Also recommended by others in the TAR for the O'Kelly Chapel Daycare and Medical Office (15-TAR-391)]
- 4. Intersection of Green Level Church Road and RKM Retail Driveway/Site Driveway #1 (signalized)** *(Applicant has offered these improvements as zoning conditions)*
 - Provide the "fourth leg" of the traffic signal recommended as part of 13-TAR-364.

- Provide an eastbound approach with two outbound lanes (one shared left-through lane and one exclusive right-turn lane) and one inbound lane.
 - Restripe the exclusive westbound left-turn lane to provide a shared left-through lane.
 - Construct a dedicated southbound right-turn lane with 75 feet of storage and appropriate taper.
 - It should be noted that the signal timings and phasing will need to be adjusted with the proposed improvements.
 - It should be noted that the signal has been recommended as part of the RKM development and will have to be modified when the Lewter Property development creates the eastbound approach of this intersection. If the Lewter Property is developed first, a signal warrant should be conducted to determine the necessity of the signal at this intersection.
 - Improve northbound left-turn lane to contain 200' total storage and appropriate taper (*This improvement was not recommended in the TAR, however Applicant has offered these improvements as zoning conditions*)
- 5. Intersection of Green Level Church Road and Site Driveway #2 (Right-in/Right-out)** (*Applicant has offered these improvements as zoning conditions*)
- Construct Site Driveway 2 as a right-in / right-out intersection with one inbound and one outbound right-turn lane.
 - Construct a dedicated southbound right-turn lane with 75 feet of storage and appropriate taper.
- 6. Intersection of Green Level Church Road and Site Driveway #3 (Right-in Only)** (*Applicant has offered these improvements as zoning conditions*)
- Construct Site Driveway 3 as a right-in only intersection with one inbound right-turn lane.
 - Construct a dedicated southbound right-turn lane with 50 feet of storage and appropriate taper.
- 7. Intersection of Carpenter Fire Station Road and Site Driveway #4 (Right-in Only)** (*Applicant has offered these improvements as zoning conditions*)
- Construct Site Driveway 4 as a right-in only intersection with one inbound right-turn lane.
 - Construct a westbound right turn lane with 50' total storage and appropriate taper (*This improvement was not recommended in the TAR, however it was required by NCDOT*).
- 8. Intersection of Carpenter Fire Station Road and Site Driveway #5 (Right-in/Right-out with Left-over)** (*Applicant has offered these improvements as zoning conditions*)
- Construct Site Driveway 5 as a left-over intersection with one inbound and one outbound right-turn lane.
 - Provide an exclusive left-turn lane on Carpenter Fire Station Road with a minimum of 100 feet of storage and appropriate deceleration and taper length.
 - Construct a westbound right-turn lane with a 50' storage and appropriate taper. (*This improvement was not recommended in the TAR, however it was required by NCDOT*)
- 9. Intersection of Green Level Church Road and McCrimmon Parkway (signalized)**
- Extend southbound thru/right lane with 100' total storage and appropriate taper (*This improvement was not recommended in the TAR, however Applicant has offered these improvements as zoning conditions*)

Stormwater

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

Requested Modifications to Development Standards

No modifications to development standards are requested.

Administrative Waiver of Connectivity Requirements

LDO Section 7.10.3(B) authorizes the Planning Director to waive a vehicular connection to adjoining property where such connection is deemed not practicable due to topographic and/or environmental constraints. The applicant submitted requests to waive connection to the adjacent property to the north,

and connection to Jockey Club Circle. Both requests were approved by the Planning Director based on topographic constraints and the presence of streams. (*Construction of turnaround for Jockey Club Circle is a street design requirement which the Planning Director is not authorized to waive*).

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

A neighborhood meeting for the proposed rezoning was held on September 9, 2015. According to the information submitted by the applicant, 42 citizens attended the meeting. Questions and concerns expressed at the meeting are provided in the meeting minutes submitted by the applicant.

Town Council Public Hearing (November 19, 2015)

The public hearing on the rezoning request and an associated Comprehensive Plan Amendment was held on November 19, 2015.

Ten persons spoke in opposition to the request citing concerns over connectivity to the residential development to the west, traffic, crime and safety concerns, and the lack of a market for additional retail in the area. Four persons spoke in favor of the request stating there was a need for more restaurants, medical, and retail services in the area.

Following the public hearing council members urged the applicant and neighbors to continue to work together to attempt to work out a development plan that is acceptable to all.

Changes After the Town Council Public Hearing

The associated Comprehensive Plan Amendment changing the Land Use Plan designation from Medium to High Density Residential (MDR to HDR) to Commercial or Medium Density Residential (COM or MDR) was approved on February 25, 2016.

Between the Town Council public hearing and the Planning and Zoning Board public hearing, the applicant met with residents of the adjoining neighborhood on several occasions and revised the Preliminary Development Plan (PDP) as summarized below:

Original PDP

- 55,000 square foot anchor building set back 100 feet from western property line
- 5 Outparcels
- 5 external access points (3 on Green Level Church Road and 2 on Carpenter Fire Station Road)

PDP as Proposed at the Planning and Zoning Board Meeting

- 55,000 square foot anchor building set back 200 feet from western property line
- 3 Outparcels
- 5 points of access to adjacent thoroughfares - 3 on Green Level Church Road and 2 on Carpenter Fire Station Road)
- Additional Commitments:
 - Main street component included with the project by revising building and parking orientation
 - Centralized plaza areas with a minimum aggregate area of 7,000 Square Feet
 - Commitment to at least one of the following:
 - Decorative fountain;
 - Public outdoor seating; or
 - Public Art
 - Decorative pedestrian lighting at Main Street
 - Decorative bollard lighting along private trail

- Enhanced hardscapes at Main Street and Northlands Drive
- Enhanced buffer adjacent to Arlington Park Subdivision including:
 - 8' opaque fence;
 - Enhanced plantings for certain segments; and
 - Additional 10' width, with ability to grade and revegetate
- Limited hours of operation for Building 1, and limited hours for deliveries and servicing of trash dumpsters for all businesses

Staff Concerns: *Staff has concerns regarding enforcement of time limits related to site activities, as expressed in the following notes contained on the preliminary development plan:*

12. Operating hours for Building 1 shall be between 6:00 AM and 12:00 midnight.
13. Delivery and service vehicles may not visit any businesses other than during the hours between 6:00 AM and 12:00 midnight, except in the event of an emergency.
14. Trash dumpsters may not be serviced prior to 8:00 AM or later than 9:00 PM.

Violation of these provisions would occur outside of normal working hours of the Town's zoning compliance staff. By the time staff is notified of and could investigate potential violations, particularly those related to delivery, service and solid waste disposal, such intermittent activities would have likely concluded. The process of documenting a violation, citing the property owner, and assessing fines or other penalties if the violation persists, could be a lengthy, time-consuming and potentially on-going process. Time limits are typically not included as zoning conditions for this reason. (In some cases, time limits are included as a condition in a special use permit. However, an option to revoke a special use permit exists. This is not the case for a rezoning, where the entitlement for the use, including all of the associated conditions, stays in place until changed by another rezoning action). Staff is concerned that inclusion of these conditions will create unrealistic expectations regarding enforcement.

Planning and Zoning Board Public Hearing (April 18, 2016)

Two speakers at the public hearing expressed opposition to street connectivity and termination of Jockey Club Circle in a cul-de-sac, and concern with potential noise impacts. There were questions and discussion by Planning and Zoning Board members regarding preservation of the Morris Branch open space corridor, timing of traffic signal installation, connectivity requirements and options, the associated Land Use Plan Amendment, limitations regarding the location of uses with a drive-thru window, and the location of the loading dock for Building 1. The Planning and Zoning Board recommended approval by a vote of 7-2.

Changes Since the Planning and Zoning Board Meeting

The applicant added a list of permitted uses to the preliminary development plan. The specified uses listed (under the "Background Information" section, near the beginning of this report) are among those identified in LDO Table 5.1-1 (Table of Permitted Uses) as allowed in both the General Commercial district and the Community Activity Center.

Also, the applicant identified area in the northern portion of the property that would be retained as open space. *The Northwest Area Plan recommends preservation of an average 400-foot-wide open space corridor along Morris Branch (200 feet each side). The LDO requires protection of the first 100 feet on either side of Morris Branch as a stream buffer. The preliminary development plan includes additional open space area that includes "protected open space," which will remain undisturbed, and "general open space", which could be disturbed for the purpose of constructing stormwater facilities, but could not include any other built-upon area. The resulting average open space width on the south side of the stream, including the addition of only the "protected open space" is 160 feet. The resulting average buffer width including the addition of both the "protected open space" and the "general open space" is 210 feet.*

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.

In addition to the criteria for a general rezoning specified above rezoning requests to a MXD district shall be reviewed for compliance with the following criteria contained in LDO Section 3.5.2(E):

1. Intensity, Type, and Mix of Uses - The preliminary development plan includes an appropriate intensity, type, and mix of land uses, as outlined by the guidelines contained in the Land Use Plan. This shall be assessed in relation to the scale of the activity center and the mix and relationship of existing and planned uses in the activity center, including residential, commercial, office, and institutional uses;
2. Site Design - The preliminary development plan shows how the proposed mixed use development will meet or exceed Town site design guidelines and other established Town standards, including connections and linkages to immediately adjacent properties;
3. Expected Land Uses - The extent to which the proposed development provides the expected land uses, including medium- and higher-density housing, outlined by the numerical and other guidelines contained in the Land Use Plan;
4. Public Spaces - The preliminary development plan includes some formal outdoor space(s) for public use, such as a park, village green, or plaza, with larger mixed use centers including more such space than smaller centers; and
5. Scale and Context - The preliminary development plan demonstrates that the proposed development is appropriate for the context and location, responds to the unique conditions of the area, and provides reasonable transitions within and adjacent to the district.

APPLICABLE COMPREHENSIVE OR AREA PLAN REQUIREMENTS

Northwest Area Plan

For this site, the governing land use element of the Comprehensive Plan is the Northwest Area Plan. The Northwest Plan's *Map 1* (Future Land Use Map) recommends that the majority of this site be used for "Commercial or Medium Density Residential development" ("COM or MDR"), but with a small portion of the site adjacent to Morris Branch recommended for "Parks or Open Space" (PKS/OS). The entire site is also located within the Cary Park mixed-use Community Activity Center (CAC). (See the Plan Maps.)

For the "COM or MDR" area, the area plan effectively recommends that either commercial uses or medium density residential uses could be appropriate for the site, or a combination of both. The "COM" (Commercial) land use category refers to uses such as retail/shopping, dining, personal services, and entertainment, and can include typical shopping centers as well as individual commercial uses. The "MDR" (Medium Density Residential) land use category refers to residential uses at anywhere from about 3 to 8 dwellings per acre, and typically includes housing such as small-lot single family detached or attached, townhomes, or patio homes. In addition to these residential uses, the plan document notes that

within MDR areas, a “variety of neighborhood-compatible and complimentary institutional uses may also be considered such as churches, schools, and daycare facilities.”

For the “PKS/OS” area, Map Note #5 explains the intent to create “open space corridors” along Morris Branch, Nancy Branch, Panther Creek, and Kit Creek. The Northwest Plan recommends the open space corridors be approximately 400 feet wide on average -- equivalent to an average 200 feet of open space on each side of the streams. The additional open space was intended to offset water quality impacts associated with high intensity development in the northwest area, as well as to provide linear open space amenities and greenway trails. The northern edge of the subject site is adjacent to Morris Branch and its associated Open Space Corridor, which is why much of the northernmost parcel in the tract is designated for PKS/OS uses. Most of the adjacent and nearby developments have voluntarily accommodated the recommendations for the Morris Branch Open Space Corridor, including developments within the Amberly, Cary Park, and Cameron Pond PDD’s.

The Northwest Plan also recommends that greenways be sited outside of the first 100 feet of the stream’s riparian and UTB buffers. In the case of the subject property, the Morris Branch Greenway has already been constructed offsite on the northern side of Morris Branch, in accordance with those recommendations.

Transitions: A recurring theme and design principle throughout the Town’s area plans and townwide Land Use Plan is that appropriate transitions should be provided between adjacent land uses. Transitions may be provided in a number of ways, including gradual changes in types of land uses, intensities of development, architectural and design transitions, and separation and buffering.

Analysis of Conformance:

- a. Land Use. The Northwest Area Plan recommends “COM or MDR” uses for the majority of the site. However, this designation does not imply that any or all types of COM or MDR uses, or the arrangement of those uses (in a PDP), will necessarily be in conformance with the area plan: The specific types, intensities, and arrangements of uses should also satisfy the plan’s intent that new development should be compatible with – and provide appropriate transitions to – adjacent properties and uses.
- b. Compatibility and Transitions. The site is adjacent to the Arlington Park Subdivision, a medium-density community of small-lot, single-family detached homes. Arlington Park currently has a 30-foot vegetated buffer adjacent to the subject site. When considering compatibility and transitions, factors that should be considered by the council and board include things such as:
 - The distance between homes in Arlington Park and the buildings proposed by the PDP;
 - Visual buffers between Arlington Park homes and uses in the PDP, including things such as vegetated buffers (depth of buffer, plus the types and densities of plantings), fences, and berms;
 - The size and height of the buildings nearest to Arlington Park, compared to the height and size of Arlington Park homes, and – in the case of residential uses – density and type of housing;
 - The design and architecture of buildings in the PDP, and the extent to which compatible architectural or design elements may help to form a transition; and
 - The particular types of uses proposed for the PDP, especially adjacent to Arlington Park. This might include considerations of whether residential, office, or commercial uses are placed next to Arlington Park.
- c. Open Space Corridor. Along about half the length of Morris Branch, at the north end of the site, there is a substantial area of regulatory floodplain, located outside the first 100 feet of combined

buffers along Morris Branch. This additional protected open space helps to provide a portion of the wide open space corridor, since it exists along about half the property's stream frontage. Overall, the PDP provides approximately 50% of the recommended additional open space along the corridor as undisturbed open space. The remaining 50% of the recommended additional open space is designated on the PDP as "General Open Space" which could be disturbed for the purpose of constructing stormwater facilities but would not include any other built-upon area.

Planning History for the Site

- 1996. At the time Cary's townwide Land Use Plan was adopted in 1996, the Plan Map recommended that the subject site be developed as Low Density Residential (LDR), which was defined as single-family, 1-3 dwellings per acre.
- 2002. The future land use recommendations were updated in September 2002, with adoption of the Northwest Area Plan. The Northwest Area Plan changed the future land use recommendations for the area to "MDR to HDR" (with a maximum of 10 dwellings per acre) and "PKS/OS" (reflecting a portion of the Morris Branch Open Space Corridor). The new residential designation conformed to the zoning of the adjacent Amberly PDD Tract MF-2, located immediately west of the subject site.
- 2016. The future land use recommendations for the site were amended to their current state of Commercial or Medium Density Residential (COM or MDR) on February 25, 2016.

Growth Management Plan

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

- **Guiding Principle A1:** Increase permitted densities in preferred growth areas to encourage desired forms of development.
Observation: While this Guiding Principle is usually considered in the context of residential rezonings, it can also be applied to mixed-use and nonresidential development. In this latter case, the Principle would apply to the relative intensity of proposed development, which might be evaluated in terms of numbers of multistory buildings, the use of structured parking, and/or the overall building floor-space to site acreage ratio (FAR) achieved on the site. The proposed PDP does not propose a higher intensity of nonresidential development than might be found in many conventional suburban shopping centers.
- **Guiding Principle R1:** Ensure that adequate infrastructure and services are available concurrently with new development.
Observation: The site is in an infill location, and public services (water, sewer) are or will be available in close proximity.
- **Guiding Principle L1:** Concentrate growth near existing and planned employment centers and available and planned infrastructure to minimize costly service-area extensions.
Observation: The site is located about two miles from the southern entrance to Research Triangle Park, and less than two miles from the Alston Regional Activity Center.
- **Guiding Principle L2:** Ensure that future growth protects sensitive natural resources and protects open space.
Observation: The northern edge of the site abuts Morris Branch and its riparian and urban transition buffers. There is also a substantial amount of regulatory floodplain along this stream branch. Natural resources located within the regulatory buffers and floodplain will be preserved and protected.

Analysis: The proposed rezoning appears to support Principles R1 and L1. The rezoning's PDP does not currently further the goals of Principle A1. The proposed PDP supports Principle L2 through a combination of permanent undisturbed open space and stormwater retention pond sites.

Affordable Housing Plan

The Affordable Housing Plan includes the following goals that may be relevant to this case:

1. Provide for a full range of housing choices for all income groups, families of various sizes, seniors, and persons with special challenges.
2. Encourage the location of high density housing within walking and convenient commuting distance of employment, shopping, and other activities, or within a short walk of a bus or transit stop, through "mixed use" developments, residences created on the upper floors of nonresidential downtown buildings, and other creative strategies.
3. Facilitate the creation of a reasonable proportion of the Town of Cary's housing as affordable units through additional homeownership opportunities for individuals and families earning between 60% and 80% of area median income and affordable apartments for individuals and families earning up to 60% of the area median income.

Analysis: Since the proposed rezoning does not include housing, but could as a recommended use type in the area plan, the case does not appear to help advance goals 1 and 3 above. However, by placing daily shopping conveniences adjacent to residential neighborhoods, the rezoning may advance goal 2 above. In addition, the site would be accessible to a wide number of nearby neighborhoods via the Morris Branch Greenway, at the northern edge of the site.

Comprehensive Transportation Plan

Green Level Church Road is designated as a Major Thoroughfare

Existing Section: 26 feet back-to-back, within approximately 142 feet of right-of-way

Future Section: 4-lane median-divided section within in a 100-foot right-of-way, and 78 feet back-to-back

Sidewalks: Required on both sides

Bicycle Lanes: 14-foot-wide outside lanes

Status of Planned Improvements: N/A

Carpenter Fire Station Road is designated as a Major Thoroughfare

Existing Section: 26 feet back-to-back within 95 to 105 feet of varying right-of-way.

Future Section: 4-lane median-divided section with 100 feet of right-of-way, and 78 feet back-to-back

Sidewalks: Required on both sides

Bicycle Lanes: 14-foot-wide outside lanes

Status of Planned Improvements: N/A

Transit Service: The nearest fixed-route transit service is provided by Go Triangle Bus Route 311, on NC Highway 55, approximately 1.6 miles east of the site.

Parks, Recreation & Cultural Resources

According to the Parks, Recreation and Cultural Resources Facilities Master Plan there are no public parks or greenways proposed for this particular site. The Morris Branch Greenway and Amberly Lake Greenway are located about 500 feet north and west of the subject property, and a street-side trail is located along the opposite side of Green Level Church Road.

A recreation fund payment or park land dedication will be required for any residential development in accordance with the Land Development Ordinance. Staff recommends that a recreation fund payment be made for this site in lieu of a land dedication should any residential development be proposed.

Open Space Analysis: According to the Town's inventory of natural resource areas, the site includes mixed conifers and hardwoods of moderate resource value along the western half of the site, and along Morris Branch at the northern end of the site.

Historic Preservation Master Plan

According to the Historic Preservation Master Plan and historic resources inventory, there are no historic resources associated with this site.

Summary Observations

1. The uses proposed in the rezoning are consistent with the future land use designations given by the Northwest Area Plan. However, the council and board should evaluate whether or not the proposed rezoning and PDP meets the intent for compatibility and transitions.
2. The rezoning request conforms to two of the relevant Guiding Principles from the Growth Management Plan, but does not further the recommendation for a higher-than-average level of development intensity for such a project.
3. The rezoning request would remove some future housing opportunities and potential from the subject site, but would also provide convenient access to shopping and daily conveniences for adjacent and nearby neighborhoods
4. There are no historic resources associated with the site.

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.