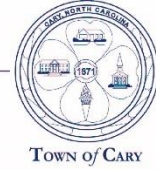


Staff Report for Town Council



Meeting Date: July 26, 2018

18-A-05 Duke University Health Systems, Inc. Annexation

Purpose: Conduct public hearing and defer action on requested annexation to allow final vote to coincide with final action on associated rezoning.

Prepared by: Wayne Nicholas, Planning

Speaker: Wayne Nicholas, Planning

Executive Summary: The owners of property located at 3113, 3117, 3133, 3208, and 3224 Green Level West Road (on Green Level West Road, 545 feet west of NC 540) have petitioned for annexation of the property. Pursuant to statute, the Town Council must hold a public hearing before taking action on the request.

Associated Case(s): Rezoning 18-REZ-04 (Green Level Mixed Use Destination Center PDP).

Recommendation: That Council conduct a public hearing and defer action on requested annexation to a future council meeting to allow final vote on the annexation to coincide with the final action on the associated Rezoning 18-REZ-04 (Green Level Mixed Use Destination Center PDP).

Background:

Owners of property located outside of the corporate limits of the Town that desire to develop using Town utilities or that otherwise desire to be located in the corporate limits must first petition to be annexed, pursuant to the requirements of either NCGS Chapter 160A, Article 4, Part 1, when their property is contiguous to the corporate limits, or to NCGS Chapter 160A, Article 4, Part 4, when their property is not contiguous to the corporate limits. In either case, Council must conduct a public hearing on the annexation request prior to taking action. At the public hearing on a request for contiguous annexation, such as this, the owner may speak and allege that the petition contains an error, and any town resident may speak and question the necessity for the annexation.

Once property is annexed, the property and its citizens become subject to all the laws, ordinances, and regulations of the Town and are entitled to receive the services the Town provides (fire and police protection; solid waste; utilities; etc.). If the annexed property is located in an area served by a rural fire department, the Town may also be required to assume a proportionate share of any debt related to equipment or facilities of the rural fire department. If the property is located outside of the Town's extraterritorial jurisdiction, the property owner must also submit a rezoning application in order to establish initial Town zoning designation upon annexation.

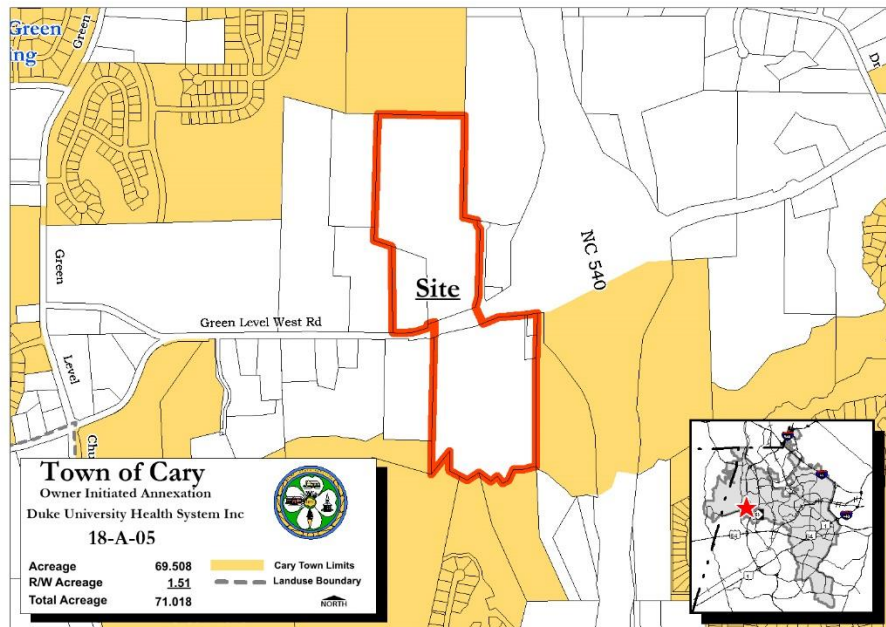
Discussion:

The owners of the following property filed an annexation petition with the Town on 1/25/2018

OWNER(S) AND PARCEL INFORMATION:

Property Owner(s) Address List	Property Location	Wake County Parcel Number (10-digit)	Wake County Real Estate ID	Acreage
Duke University Health Systems, Inc. 324 Blackwell Street Suite 290 Durham, NC 27701	3224 Green Level West Road	0733290634	0100666	38.016 Area "A"
	3208 Green Level West Road	0734202324	0071153	
	3133 Green Level West Road	0733287626	0047464	31.492 Area "B"
	3113 Green Level West Road	0733391175	0094241	
	3117 Green Level West Road	0733391396	0007914	
	Adjacent Right-of-Way			1.51
	Total Acres			71.018

VICINITY MAP



[Click the map to see surrounding development activity.](#)

This annexation is associated with a rezoning case (18-REZ-04) that proposes to apply initial Town of Cary zoning to the annexation area on the south side of Green Level West Road and rezone the properties within the remaining annexation area which already have a Cary zoning designation. The proposed annexation area on the north side of Green Level West Road is within Cary's extra-territorial jurisdiction (ETJ) and currently has a Cary zoning designation of R-40. The annexation area south of Green Level West Road is outside the Town's ETJ and currently has a Wake County zoning designation of R-40W. Based on Wake County tax records, four of the properties each contain a detached dwelling while the remaining parcel is vacant.

The associated rezoning proposes to rezone the entire annexation area by adding the subject properties to the Mixed Use Overlay District and designating the base zoning as Mixed Use (MXD). The rezoning includes a preliminary development plan (PDP) that proposes a mixed use development including office, commercial, hotel and residential uses. In order to develop under Cary's zoning regulations, the subject area on the south side of Green Level West Road must be annexed into Cary's corporate limits and an initial Cary zoning designation must also be applied to these properties. The properties north of Green Level West Road are within the Town's ETJ and already have Cary zoning, and although annexation is not required in order to rezone these particular parcels, the applicant has requested annexation of all the property that is part of the proposed overall mixed use development.

As required by statute, the Town Clerk has certified that the Petition is valid. On 6/28/2018, the Town Council adopted a Resolution calling for the public hearing on 7/26/2018

The following information may inform Council's decisions on this matter.

ZONING & PROPOSED USE:

Current Zoning: Wake County Residential 40 Watershed (R-40W) – Portion of site south of Green Level West Road;

Residential 40 (R-40) – Portion of site north of Green Level West Road.

Acreage: 69.508 plus 1.51 adjacent right of way = 71.018 total acres

Contiguous to Primary Corporate Limits: Yes; 38.9 % contiguous (excluding satellite town limits)

Existing Use: Detached Residential and vacant

Proposed Use: Mixed Use (Office, Commercial, Hotel and Residential)

UTILITIES:

<i>REID</i>	<i>Sewer</i>	<i>Water</i>
0100666	1,000 feet northwest	Adjacent to site
0071153	260 feet northwest	
0047464	Adjacent to site	
0094241	900 feet south	
0007914	1,100 feet south	

DISTRICTS & TAX VALUE:

Fire District: Morrisville

Voting District: A

Tax Value: \$5,069,972.

DRAFT Ordinance

18-A-05

Duke University Health Systems, Inc.

AN ORDINANCE ANNEXING LANDS CONTIGUOUS TO THE MUNICIPAL BOUNDARIES

OF THE TOWN OF CARY

WHEREAS, the Town Council has been petitioned under G.S. 160A-31 to annex the area described below in Section 1 (the “Annexation Area”); and

WHEREAS, the Annexation Area is contiguous to existing Town limits; and

WHEREAS, the Town Clerk of the Town of Cary certified the sufficiency of said Petition, the same being duly made after investigation; and

WHEREAS, on **6/28/2018**, the Town Council of the Town of Cary ordered a public hearing on the question of said annexation and Notice of a Public Hearing was published as required by law, which publication may have been on the Town of Cary website; and

WHEREAS, the matter came for public hearing before the Town Council of the Town of Cary on **7/26/2018**, at which time the owner of the Annexation Area and all Town residents were allowed to be heard; and

WHEREAS, the Town Council finds that the Petition above mentioned meets all the requirements of G.S. 160A-31.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Cary, North Carolina that:

Section 1. The Annexation Area described below is hereby annexed to and made a part of the Town of Cary, effective on the date written below with a condition that the property owner connect to Town of Cary utilities based upon the Town’s policy(ies) in place on the effective date of this ordinance.

ANNEXATION AREA:

Wake County Parcel Identification #**0733290634; 0734202324; 0733287626; 0733391175; 0733391396**

LEGAL DESCRIPTION:

Annexation Area "A"

Beginning at an existing iron pipe in the northern right of way of Green Level West Road (Variable Width Public R/W); thence leaving said right of way N01°14'23"W a distance of 806.40 feet to an existing iron pipe; thence N 71°15'13" W a distance of 172.10 feet to an existing iron pipe; thence N 01°45'33" E a distance of 126.62 feet to an existing iron pipe; thence N 01°46'45" E a distance of 1061.48 feet to an existing iron pipe; thence S 89°37'26" E a distance of 827.82 feet to an existing iron pipe; thence S 01°05'16" W a distance of 957.21 feet to an existing iron pipe; thence S 79°36'48" E a distance of 140.89 feet to a NCDOT RW Disc; thence S 01°46'54" W a distance of 50.99 feet to a NCOT RW Disc; thence S 39°03'38" E a distance of 45.72 feet to a NCDOT RW Disc; thence S 01°47'32" W a distance of 635.23 feet to a NCDOT RW Disc; thence S13°17'48"W a distance of 104.27 feet to a NCDOT RW Disc, said Disc being located in the northern right of way of Green Level West Road; thence with the northern right of way of Green Level West Road the following seven (7) calls thence S 70°41'53" W a distance of 481.00 feet to a NCDOT RW Disc; thence S 00°51'35" E a distance of 32.99 feet to a NCDOT RW Disc ; thence S 72°53'57" W a distance of 62.99 feet to an existing iron pipe; thence S 75°28'14" W a distance of 67.45 feet to a point; thence S 80°47'38" W a distance of 50.93 feet to a point; thence S 88°13'08" W a distance of 58.42 feet to a point; thence S 89°28'01" W a distance of 100.40 feet to the point of beginning containing 1,655,961 square feet or 38.016 acres more or less.

Annexation Area "B"

Beginning at an existing iron pipe in the southern right of way of Green Level West Road (Variable Width Public R/W), thence with the southern right of way of Green Level West Road the following six (6) calls thence N 65°37'26" E a distance of 9.67 feet to a NCDOT RW Disc; thence N 65°37'26" E a distance of 63.13 feet to a NCDOT RW Disc; thence N 77°50'28" E a distance of 319.23 feet to a NCDOT RW Disc; thence N 68°55'27" E a distance of 244.59 feet to a NCDOT RW Disc; thence N 84°05'25" E a distance of 263.31 feet to a NCDOT RW Disc; thence N 83°38'11" E a distance of 111.79 feet to a NCDOT RW Disc; thence leaving said right of way S01°43'45"W a distance of 199.74 feet to a point; thence S01°43'48"W a distance of 217.85 feet to a point; thence S89°15'28"E a distance of 7.43 feet an existing iron pipe; thence S00°44'30"W a distance of 1033.94 feet to a point in the creek; thence with the creek the following forty-five (45) calls S88°45'40"W a distance of 25.88 feet; thence S85°13'37"W a distance of 73.17 feet to a point; thence S39°35'18"W a distance of 31.68 feet to a point; thence S13°00'26"W a distance of 20.43 feet to a point; thence N77°08'25"W a distance of 30.10 feet to a point; thence N02°08'34"W a distance of 21.05 feet to a point; thence N47°17'25"W a distance of 7.39 feet to a point; thence N83°41'48"W a

distance of 47.21 feet to a point; thence S68°44'55"W a distance of 10.96 feet to a point; thence S34°37'45"W a distance of 33.60 feet to a point; thence S14°19'14"W a distance of 57.88 feet to a point; thence S44°32'17"W a distance of 42.91 feet to a point; thence S78°58'26"W a distance of 30.51 feet to a point; thence N84°26'21"W a distance of 21.02 feet to a point; thence N48°58'00"W a distance of 56.87 feet to a point; thence N89°22'36"W a distance of 10.52 feet to a point; thence S38°54'08"W a distance of 17.03 feet to a point; thence S66°37'34"W a distance of 36.06 feet to a point; thence N76°05'10"W a distance of 23.47 feet to a point; thence N41°03'31"W a distance of 42.76 feet to a point; thence N56°45'35"W a distance of 64.50 feet to a point; thence S86°15'04"W a distance of 31.19 feet to a point; thence S48°47'31"W a distance of 28.40 feet to a point; thence S28°30'12"W a distance of 18.97 feet to a point; thence S69°49'02"W a distance of 44.12 feet to a point; thence S47°31'42"W a distance of 14.88 feet to a point; thence N89°48'20"W a distance of 35.20 feet to a point; thence N61°13'21"W a distance of 76.48 feet to a point; thence N46°06'47"W a distance of 31.01 feet to a point; thence N60°10'03"W a distance of 34.29 feet to a point; thence N22°15'58"W a distance of 13.45 feet to a point; thence N07°36'57"W a distance of 17.60 feet to a point; thence N32°42'33"W a distance of 31.10 feet to a point; thence N17°05'46"W a distance of 22.86 feet to a point; thence N23°59'43"W a distance of 19.59 feet to a point; thence N07°52'58"E a distance of 26.65 feet to a point; thence N73°09'23"W a distance of 9.91 feet to a point; thence S35°12'12"W a distance of 5.29 feet to a point; thence S84°54'48"W a distance of 10.68 feet to a point; thence N69°33'29"W a distance of 29.46 feet to a point; thence N79°13'03"W a distance of 29.23 feet to a point; thence N61°00'07"W a distance of 38.24 feet to a point; thence N00°09'34"W a distance of 65.66 feet to a point; thence N36°16'15"W a distance of 22.49 feet to a point; thence S76°12'04"W a distance of 19.32 feet to a point; thence leaving the creek N01°07'41"E a distance of 1032.71 feet to the point of beginning containing 1,371,804 square feet or 31.492 acres more or less.

The Annexation Area also includes all intervening streets, street rights-of-way, creeks, rivers, rights-of-way of any railroad or other public service corporation, or lands owned by the State of North Carolina or any of its political subdivisions. The annexation includes 1.51 acres of adjacent right-of-way.

Section 2. That from and after the effective date of this ordinance, the Annexation Area and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the Town of Cary, and shall be entitled to the same privileges and benefits as other parts of the Town. The Annexation Area shall be subjected to municipal taxes according to G.S. 160A-58.10.

Section 3. The Mayor of the Town of Cary shall cause an accurate map of the newly annexed territory together with a copy of this ordinance, duly certified, to be recorded in the Office of the Register of Deeds of Wake County or Chatham County, whichever is applicable to the annexed property, and in the Office of the Secretary of State of North Carolina.

Section 4. Pursuant to G.S. 160A-22, the Town Clerk is directed to update the Official Town Map ("Map") by drawing in the territory annexed, or setting out the boundaries in a written description, or showing the current Town boundaries by a combination of these techniques.

Section 5. Pursuant to G.S. 160A-23, the boundaries of Electoral District A are hereby revised to account for and include the territory annexed, and the Official Town Map of Electoral Wards is hereby amended to include the annexed territory in the said Electoral District. A copy of the Map shall be delivered to the Wake County Board of Elections or Chatham County Board of Elections, whichever is applicable to the annexed property, as required by G.S. 163-288.1.