

# FINAL REPORT TO THE TOWN OF CARY

## Conclusions and Recommendations

October 21, 2016

## ***All Site Conclusions and Recommendations***

### **Background**

The Americans with Disabilities Act (ADA) requires the Town of Cary, and all other units of state and local government, to evaluate existing facilities and sites for accessibility. In addition, the ADA requires that the programs or opportunities within Town of Cary sites be made accessible, and that often requires a retrofit to an existing building or site.

While not necessarily every existing site must be made accessible, a complex analysis is necessary to determine which sites, and what elements at those sites, will be made accessible. This process, described more fully in this report, also identifies those Town assets that will be left as is and inaccessible.

This report is a complement to the individual access audit site reports. It offers a step-by-step approach to help the Town understand and address the deficits in the individual site reports.

We recommend the following steps to accomplish the goal of making opportunities in Town sites more accessible to people with disabilities.

### **A Guide to this Section**

There are approximately 12,000 access deficits identified in the 70 site reports plus 51 greenways reports.

The ADA requires the identification of every access deficit at every site and facility. And, for every deficit, a solution must be identified. Another way to consider this though is that for every deficit we found, we observed 10 elements that complied with the access requirements. In other words, we saw approximately 120,000 access features that complied.

***This section is all about the big picture.*** As discussed in the cover letter with this report, the Town does ***not necessarily have to make every site accessible.*** It ***does*** have to make every program it conducts within its sites accessible.

We have attempted to identify some broad solutions, such as the refreshing of all accessible parking, to address issues identified in the 70 site reports, and as a way for the Town to better manage compliance. This approach also gives the Town flexibility in its compliance efforts to move resources so that they are applied with optimal impact.

Consider these systemic changes as a complement to a site-by-site approach. However, the scope of our work does ***not*** include the design of a solution. Rather, it is performance based. For example, if a park restroom needs to be made accessible we'll make that recommendation. We will not design a solution that includes walls to be removed or plumbing solutions. Those are tasks for Town staff or contractors.

We know of qualified and capable designers. If, once you are considering implementation, referrals are needed we can certainly help.

***This is also about accountability.*** The adjustments to door closers, eliminating changes in level, and other recommendations are ineffective if not regularly maintained by Town employees. We recommend the following to facilitate review:

***First, read the final report cover letter to Reid Saunders.*** It describes the concepts and requirements invoked throughout the report.

***Second, read this Conclusion section.*** As mentioned above, this is a big picture review of the issues and solutions we recommend.

***Third, read the 70+ site reports.*** Use your computer and you'll have instant access to the report for that site, the photos, and the checklists. We caution Town staff to avoid the site reports until the Conclusion has been digested, as there is simply too much detail in the site reports. We'd prefer that Town staff see the forest before the trees.

***Fourth, use your knowledge of the sites and of your staffs' expertise.*** You know the Town of Cary sites better than we do, and you know the staff better than we do. Blend in what you know with our recommendations. There is always another way to solve an access problem...perhaps you'll be the one to see that solution.

### Common Issues

In our evaluation, some common issues arose. These included the way maintenance affects accessibility to Town of Cary assets. The common issues are also "big picture" items for the Town and incorporate many of the specific site recommendations.

#### Maintenance

The Town uses a conscientious staff to maintain its facilities and sites. However, over time, every facility and site yields to wear and tear. The recommendations below describe ways in which attention to maintenance can specifically address some access deficits.

1. ***Provide training*** to maintenance staffs regarding the features of an accessible route and how to ensure that it remains unobstructed so that park amenities, e.g., garbage cans or signs, are placed adjacent to the accessible route.
2. ***Provide training*** to Town staffs regarding the features of an accessible route and how to ensure that it remains unobstructed.
3. ***Purchase some new tools.*** The Town should have enough battery-powered digital levels, and tools to measure pounds of force for doors, to equip some staff for occasional spot-checks. A great website for gauges is:

<http://www.technologylk.com/crl-door-pressure-gauge-lk-HMC035.htm?src=froogle>.

### Changes in Level and Gaps

The routes and sidewalks that make up the Town 's network of accessible routes are in fair condition. Wear and tear, settling, weather, and other factors combine to cause changes in level and gaps along portions of those accessible routes, making that portion noncompliant and a barrier to many customers with physical and sensory disabilities.

Removing changes in level and gaps has a significant universal design benefit too, as more people with all types of conditions can more easily use Town routes, such as staff pushing carts of supplies, parents with kids in strollers, and people using an assistive device such as a wheelchair, Segway, or walker.

4. ***Eliminate changes in level*** by the end of 2016. Using the rationale that the most severe changes in level are the greatest barriers to access, make changes in level of greater than .75" the highest priority. Make changes in level of between .5" and .75" the second priority. Make beveling of changes in level of .25" to .5" the third priority.
5. ***Add change in level of more than .25" to park maintenance safety checklists*** in 2016. This will help identify and correct these problems before they expand. Make or buy pre-measured shims and distribute to employees for their use and ease of measurement.
6. ***Add inspections for gaps of greater than .5" to park maintenance safety checklists*** in 2016. Identify and fill these gaps before they expand. ***In the alternative, consider resurfacing segments of deteriorated asphalt routes.***
7. ***Adopt*** a policy, or develop a procedure, about the use of other Other Power Driven Mobility Devices in Town facilities and at Town sites, and promote that policy to the general public. Every day, more people with limited physical mobility start to use a Segway or similar machines.

***Pursuant to the new ADA title II regulation published September 14, 2010, this policy or procedure was to have been in place by March 15, 2011.***

These assistive devices provide great benefits to people with disabilities and the sooner the Town has a policy in regard to their use the better. The policy could, at a minimum, address times of allowed use (dawn to dusk), speed limits, off-limits areas, status of the user as a person with a disability, and minimum age.

It is important to note that a power driven mobility device is not a wheelchair. That device has a separate definition and is already allowed in facilities and parks.

The US DOJ published a technical assistance piece on [this subject](#). Additionally, we have some thoughts on the needed elements of a policy or procedure, and they are reviewed below. ***The Town is welcome to use some, all, or none of this, but a policy must be in place. We recommend at least the following statements:***

**Definition:** *Other power-driven mobility device* (OPDMD) means any mobility device powered by batteries, fuel, or other engines—whether or not designed primarily for use by individuals with mobility disabilities—that is used by individuals with mobility disabilities for the purpose of locomotion, including golf cars, electronic personal assistance mobility devices (EPAMDs), such as the Segway® PT, or any mobility device designed to operate in areas without defined pedestrian routes, but that is not a wheelchair within the meaning of this policy.

**Definition:** *An electronic personal assistive mobility device* (EPAMD) is a device used by a person with a mobility impairment for ambulation. This definition does *not* include gasoline powered devices, golf cars, or riding lawn mowers.

**Permission:** The Town of Cary authorizes persons with mobility impairments to use OPDMDs and EPAMDs in Town facilities and sites subject to the following restrictions:

1. The operator of the device must be a person with a mobility impairment, and Town officials may request proof of disability;
2. The device, if used in a facility or in a park, is allowed in any area of the facility or park in which the general public is allowed, with the exception of employee only spaces, stairways, and identified hazardous areas;
3. The device, if used in a facility, must be controlled by the operator. It:
  - A. may not exceed 4 mph (the speed at which a typical person walks);
  - B. shall be driven on the right side of the circulation route;
  - C. is prohibited from carrying another person on the frame, or any object on the frame that may make the device less stable; and
  - D. must not be operated in a dangerous or reckless manner that jeopardizes the safety of the operator, Town employees, or Town participants.
4. The device, if used in a park or outside, must be controlled by the operator. It:
  - A. may not be operated between dusk and dawn unless equipped with headlights that are visible at 300';
  - B. may not exceed 6 mph;
  - C. shall not be driven into wet or ecologically sensitive areas which are posted as such;
  - D. shall be driven on the right side of the circulation route;

- E. is prohibited from carrying another person on the frame, or any object on the frame that may make the device less stable; and
  - F. must not be operated in a dangerous or reckless manner that jeopardizes operator safety, Town employees, or Town participants.
5. The Town accepts no responsibility for storage of the device.
  6. The Town accepts no liability for damage to the device, or injury to the operator, whether caused by the operator, another visitor to a Town facility or site, or any other circumstance.
  7. The Town accepts no liability for damage caused by the operator of the device, or injury to others caused by the operator of the device.
  8. The Town reserves the right to suspend the use of facilities or sites by the operator if doing so is in the best interests of the Town and its participants.
  9. The Town reserves the right to change, modify, or amend this policy at any time, as it would any other policy.

### Obstructed Accessible Routes

Employees *may* see an accessible route as an empty 36" wide space in which a potted plant or garbage can is a perfect fit. However, that blocks or obstructs the accessible route

8. ***Provide training to park maintenance, recreation, and administration staffs*** regarding maintenance of accessible routes in parks and in recreation facilities.

### Employee Work Areas

The Town of Cary employs many qualified and skilled full time staff, making Town services available to residents. The Town employs many more on a part-time or seasonal basis. The Town likely has employees with disabilities and in the future, will have ***more*** employees with disabilities, in all categories...full time, seasonal, and regular part time.

It is important to address access to work areas, and both the title II regulation and the 2010 Standards do so. In section 203.9 of the 2010 Standards, the treatment of employee areas is made clear.

Generally, a person with a disability should be able to ***approach, enter, and exit*** the work area. This is addressed by requirements for accessible routes and accessible means of egress. Other factors are door width, and threshold changes in level.

Excluded from this exception are several types of common spaces in employee areas. Spaces such as the ones below must meet the access guidelines as they are excluded from the definition of employee-only areas:

- corridors;
- toilet rooms;
- kitchenettes for employee dining use, and
- break rooms.

In short, the key issues are the accessible route, changes in level, doors and entries, and maneuvering space once within the work area. This approach is effective so long as when the Town hires an employee with a disability, or a current employee acquires a disability, it will remove architectural barriers in work areas or make other accommodations.

The two recommendations below are important for all employees at all Town sites.

9. **Address accessibility in the Town personnel policies**, and note that, upon request by an employee, the Town will make reasonable accommodations, which *may* include the removal of architectural barriers in work spaces.
10. **Require new construction, and alterations or additions** that include employee work areas to be designed and constructed so they are compliant with the 2010 Standards for Accessible Design.

### Accessible Parking

The Town maintains approximately 4,000 standard parking spaces at sites, and 200 more that are designated as accessible parking stalls. In correcting its accessible stalls, the Town may choose efficiencies, such as addressing all of them at once. This can be less expensive, can eliminate inconsistencies, and make this key site element compliant.

11. **Create a parking stall template.** A suggested template is below.

### Parking Stall Dimensions

Stalls are a minimum of 8' wide. An adjacent access aisle must also be a minimum of 5' wide and can be shared with another accessible stall. The access aisle must be diagonally striped with **high quality paint**.

The collection of signs must include the US Department of Transportation R7-8 standard sign (the blue icon in a wheelchair). Below that must be the statewide fine sign. Unless the Town of Cary has adopted a higher fine by ordinance, the sign must note the statewide fine.

Federal settlement agreements require a third sign, on at least one stall, that says VAN ACCESSIBLE. This stall must be 11' wide with a 5' access aisle. An acceptable alternate is 8' and 8'.

Finally, the bottom edge of the R7-8 sign is a minimum of 60" above the finished grade and in a location that does not obstruct the route (such as being mounted on a building). We suggest that the signpost be centered at the head of the accessible stall and we suggest that the curb cut and detectable warning run the distance of the access aisle.

***The most common deficit*** in accessible parking stalls and access aisles is the slope. The 2010 standards limit the slope to ***not more than 2.08% in any direction***. ***This is a challenging requirement that can take considerable effort to meet.***

### **Connection to the Accessible Route**

The access aisles should connect to an accessible route. The maximum running slope for the accessible route is 5%, and to account for heaving and settling, we recommend 4%. The maximum cross slope is 2%.

### **Passenger Loading Zone**

The loading zone must have an access aisle adjacent and parallel to vehicle pull-up space. The loading zone access aisle must be a minimum of 60" wide and 20' long.

Confirm this template to ensure compliant stalls.

12. In 2017 or 2018 ***implement a plan to correct or refresh every accessible stall*** at every Town facility. Incorporate this task into other plans that require parking lot repair, restriping, or resurfacing.

### **Running Slope and Cross Slope**

We saw running slopes steeper than permitted. At some sites this was a minimal issue, but at other sites it was a significant variance.

This condition naturally occurs when concrete settles, or when connections between new and old routes are off by fractions of an inch. Cross slope is equally important, as it serves drainage as well as access purposes.

13. ***Adopt a policy*** that in new construction and alterations the slope of the AR shall not exceed 1:21, or 4.7%, as opposed to 1:20, or 5%. This allows room for field error.
14. ***Adopt a policy*** that in new construction and alterations the ramp slope shall not exceed 1:13, or 7.7%, as opposed to 1:12, or 8.33%. This allows room for field error. It also makes ramps easier to use for everyone, not just people with disabilities. This universal design approach is also a risk management tool.
15. ***Adopt a policy*** that in new construction or alterations the cross slope shall be an integral part of the project and shall not exceed 2% or 1:50.



### Detectable Warnings

When the Access Board developed the 1991 Standards for Accessible Design (ADAAG), the guidelines contained a requirement for detectable warning surfaces on curb ramps. There evolved some disagreement between persons with sight impairments and persons who used mobility devices about whether raised truncated domes were helpful or were a barrier.

The requirement for detectable warnings was temporarily suspended between 1994 and 2001 pending additional research and review of issues relating to requirement, conducted by the US Access Board. The Access Board chose to defer addressing detectable warning surfaces on curb ramps in the 2004 ADA and ABA Accessibility Guidelines, pending completion of the guidelines for pedestrian facilities in the public right-of-way (the final guideline now known as PROWAG).

Many jurisdictions, Cary included, continued to apply a type of detectable warning. Some of these are a cross-cut of concrete, or a grid laid on wet concrete to create a diamond-shaped indentation. Over time these should be replaced.

As a result of these actions, there are different requirements for detectable warning surfaces on curb ramps in the accessibility standards included within the regulations issued by the Department of Justice implementing Title II of the Americans with Disabilities Act and by the Department of Transportation implementing Section 504.

***We still, however, as a smart practice, recommend the use of detectable warnings.*** We believe the safety value is important. It is typical to see noncompliant detectable warnings in every community.

16. As with parking, ***develop a template for detectable warnings.***
17. In the same year that parking is refreshed, ***implement a plan to correct or refresh every detectable warning*** at every curb or crossing at Town facilities. If necessary, phase this out over a two or three-year period.

### Door Opening Force Requirements

In Town buildings and facilities, there are approximately 2,300 doors. Many have closer mechanisms. Some of these need adjustment to bring the pounds of force (lbf) necessary into compliance (5 lbf for interior doors and 8.5 lbf for exterior doors as a smart practice). However, some of the closers are just old. The wear and tear of 20 or more years erodes the closer effectiveness.

18. ***Evaluate and determine the age of door closers.***
19. ***Add door closer maintenance checks*** to safety checklists in 2016 and for closers with 10 years of service or less, aggressively maintain them for effectiveness.

20. **Purchase and install new door closers** for all exterior doors (with closers 20 years old or more) and 50% of interior doors in 2017 or as soon as is possible.
21. **Purchase and install** new door closers for all remaining interior doors (with closers 20 years old or more) in 2019 or as soon as is possible.

### Signage

Town signs serve several purposes. First, signs assist wayfinding in buildings, such as the Administration Buildings.

Second, signs identify important permanent elements of facilities, such as restrooms. Third, signs facilitate access by people with vision and physical limitations. We did not note a consistent signage template at the sites we evaluated.

The 2010 Standards treats two types of signs differently. Signs for permanent spaces, such as a bathroom, must be in both Grade 2 Braille and raised lettering. Signs that are directional or informational only require visual lettering of a certain size. Be certain to incorporate these approaches into signs in buildings and sites operated by the Town.

22. **Develop a sign template** in 2016 that describes where and in what facilities signs will be used. The template could include size of sign, mounting height, mounting location, size of characters, space between characters, contrast between characters and background, icons or symbols used in the signs, Town information in the signs (name of facility? phone number? main office number?), and more.
23. **Implement signage template and refresh** Town site signage in 2017.

### Bathrooms

Bathrooms are an essential part of a visit to a Town of Cary site. Exercise, food and beverage, social activities, and more all rely on one of the oldest designs known to us. Making those facilities accessible is tremendously important.

Additionally, **portable toilets** placed temporarily at sports fields and event venues **must** be accessible and **must be served by an accessible route**.

24. **Develop a bathroom template in 2016.** Confirm it with the State of North Carolina. Be sure to include temporary facilities such as portable toilets in the template. The template should address the toilet, grab bars, items in the stall such as toilet paper and hooks, the stall, operating mechanisms, mirrors, sinks, hand towels, and more.
25. **Include bathroom renovations** at facilities in the Town Capital Acquisition and Improvement Plan.
26. **Consider the use of automatic flush controls.** These have environmental benefits and are also a great way to eliminate some accessibility problems.

27. ***In the interim, implement non-structural modifications recommended in each section of this report***, such as lowering mirrors, remounting grab bars, changing the height of toilets and urinals, installing compliant stall hardware, and so forth. These less costly changes on a site-by-site basis will serve your customers well until resources are available to renovate restrooms on a comprehensive scale.
28. ***Make one portable toilet***, if one is provided at a park or outdoor site, accessible. This includes a portable toilet placed at a picnic shelter or adjacent to sports fields. These must be accessible and must be served by ***an accessible route***.

***The Town has sites with portable toilets; this must be addressed. Use our single-user toilet checklist, and require compliance by Town vendors.***

### Alarms

In existing facilities where an aural or audible fire alarm system is provided, a visual alarm is not required unless the building was constructed after January 26, 1992 or if the alarm system has been upgraded since that same date.

If an alarm in an existing facility is audible only, and was installed before the date above, it need not be modified to include a visual alarm unless it is replaced or upgraded in the future.

29. ***Determine in 2016*** if systems have been upgraded or replaced since 1992.
30. ***Develop a plan in 2016*** for the installation of aural and visual alarms in renovations.
31. ***Retrofit construction that has occurred since 1992*** to include aural and visual alarms by the end of 2018.

### Brochures

The use of a park grid in the Town brochures is an important tool for residents and can now be used to communicate about accessibility. Create one to incorporate the access work the Town staff completes and indicate in your grid where, for example, the accessible picnic areas are, or where the accessible playgrounds are.

32. ***Update the parks and facilities*** information on the website to reflect Town plans regarding our recommendations, and to note which sites are accessible or will be made accessible.

### Website

The title II regulation requires that all public communication used by the Town be available to people with disabilities. Many people with vision impairments use websites every day with the aid of technical equipment.

The Town is required to evaluate its website and make necessary changes so that the website can be read by that type of equipment.

A link at the US Town of Justice website offers guidance on this. However, this is a rapidly evolving area and the US DOJ has just announced plans to seek more feedback from governments and the tech sector regarding the optimal ways to make municipal websites accessible.

That said, the Town website is a Town communication and must be accessible, even in the absence of a standard. The Town IT staff should become familiar with this issue. Go to <http://www.ada.gov/websites2.htm>. The Town can also check the accessibility of its website at a free service. Link to Cynthia Says at [http://www.icdri.org/test\\_your\\_site\\_now.htm](http://www.icdri.org/test_your_site_now.htm) and test your website.

33. **Evaluate the Town website** and make changes so that the information on the site is accessible to people with disabilities.

### Maintenance Buildings

In individual site reports, we address maintenance areas. As noted earlier, the Town can apply a different standard to spaces used only as employee work areas.

Town maintenance staff should receive training in regard to the application of the **approach, enter, and exit** strategy so that they understand the reason for the various requirements.

34. **Train maintenance staff supervisors** in accessibility concepts that are applicable to the maintenance building.
35. **Implement recommendations regarding parking, accessible route, changes in level, gaps, doors, and alarm systems** at the maintenance areas.

### Fire Stations

Town of Cary fire stations present a unique issue. As an employee space, they are not subject to the same technical standards as a public area. However, the Town of Cary invites the public to visit any station at any time to tour the facility. In addition, birthday parties can be hosted at fire stations. In effect, this converts the stations to public areas. Due to the number of stations, and the sheer amount of rooms and spaces that this would entail, we suggest the following.

- Assure that each station has at least one single user accessible restroom that is easily accessible from the day rooms
- If a citizen inquires about a tour in advance, ask about the need for reasonable modifications due to a physical disability, and if a modification is needed, have the Town ADA Coordinator reach the family and arrange their use of an accessible fire station

- If a citizen drops in for a tour and it is apparent they have a limiting condition, ask if there are specific areas they are interested in touring, and let them know which areas have limited access. If they want a more thorough tour, refer them to a more accessible station
- For birthday parties, limit the sites to only those with the greatest access, such as accessible restrooms, larger meeting space, routes through the building
- As renovations occur, assure new rooms and spaces are built to the 2010 Standards for accessibility

### 2 to 5 Playgrounds

The *minimum required* of the Town by title II of the ADA is that the “program” of playgrounds be accessible to residents. This is measured by the “program access test” described in section 35.150 of the title II regulation (see 28 CFR Part 35).

For similar multiple sites, no guidance is given as to how many existing 2 to 5 playgrounds should be made accessible. Again, a good practice is to treat this as a planning exercise and aim for 1 of 3 playgrounds being made accessible.

***Our evaluation included 11 playgrounds for children aged 2 to 5 or 2 to 12. Of that number, 9 are accessible. We recommend no new access.*** Any existing playgrounds to be replaced in the future must comply with the 2010 Standards and will therefore be accessible.

The Program Access Chart, along with the Cary Playground Map at the end of this section, illustrates the areas where work is recommended so that every resident of the Town is close to an accessible 2 to 5 playground. [[Cary 2 to 5 Playground Map](#)]

36. ***Make the corrections*** so the 2 to 5 playground at the sites below ***remain*** accessible:

- ***Harold Ritter Park***
- ***MacDonald Woods Park***
- ***Marla Dorrel Park***
- ***Middle Creek School Park***
- ***North Cary Park***
- ***Rose St. Park***
- ***Sears Farm Rd. Park***
- ***Thomas E. Brooks Park***
- ***Urban Park***

37. ***Leave as is*** the playgrounds at the parks named below, and when future alterations or renovations occur at those sites, make them accessible.

- ***Fred G. Bond Metro Park***
- ***White Oak Park***

38. **Advertise the accessible 2 to 5 playgrounds** in the Town website and publications. This is an important way to make the public aware of opportunities, and complies with the section 35.106 notice requirement in the title II regulation.

### 5 to 12 Playgrounds

The **minimum required** of the Town by title II of the ADA is that the “program” of 5 to 12 playgrounds be accessible to residents. This is measured by the “program access test” described in section 35.150 of the title II regulation (see 28 CFR Part 35).

For similar multiple sites, no guidance is given as to how many existing 5 to 12 playgrounds should be made accessible. Again, a good practice is to treat this as a planning exercise and aim for 1 of 3 playgrounds being made accessible.

We evaluated 17 playgrounds for children aged 5 to 12. Of these, 8 are accessible. **We recommend no new access.** Any existing playgrounds to be replaced must comply with the 2010 Standards and will therefore be accessible.

The Program Access Chart, along with the Cary Playground Map at the end of this section, illustrates the areas where work is recommended so that every resident of the Town is close to an accessible 5 to 12 playground. [[Cary 5 to 12 Playground Map](#)]

39. **Make corrections** cited in the reports so the 5 to 12 playgrounds below **remain** accessible:

- **Harold Ritter Park**
- **Lexie Lane Park**
- **MacDonald Woods Park**
- **Marla Dorrel Park (1 of 2)**
- **Middle Creek School Park**
- **R.S. Dunham Park**
- **Urban Park**
- **Walnut St. Park**

40. **Leave as is** the playgrounds at the parks named below, and if future alterations or renovations occur at those sites, make them accessible.

- **Annie Jones Park**
- **Davis Dr. Park**
- **Fred G. Bond Metro Park**
- **Green Hope ES Park**
- **Marla Dorrel Park (1 of 2)**
- **Robert V. Godbold Park**
- **Sears Farm Rd. Park**
- **Thomas E. Brooks Park**
- **White Oak Park**

41. **Advertise the accessible 5 to 12 playgrounds** in the Town website and publications.

### Volleyball

The **minimum required** of the Town by title II of the ADA is that the “program” of volleyball be accessible to residents. This is measured by the “program access test” found in section 35.150 of the title II regulation (see 28 CFR Part 35).

For similar multiple sites, no guidance is given as to how many existing volleyball courts should be accessible. We recommend that at least one of every three be accessible.

There are eight courts and none are accessible. **We recommend access to two.**

The Program Access Chart at the end of this section, along with the Cary Volleyball Map, illustrates the areas where work is recommended so that every resident of the Town is close to an accessible volleyball court. [[Cary Volleyball Map](#)]

42. **Make corrections** cited in reports so the volleyball courts below **become** accessible:

- **North Cary Park (2 of 4)**

43. **Leave as is** the courts at the following sites:

- **Green Hope ES Park (4 of 4)**
- **North Cary Park (2 of 4)**

44. **Advertise the accessible volleyball courts** in Town website and publications.

### Tennis

The **minimum required** of the Town by title II of the ADA is that the “program” of tennis be accessible to residents. This is measured by the “program access test” found in section 35.150 of the title II regulation (see 28 CFR Part 35). For similar multiple sites, no guidance is given as to how many existing tennis courts should be accessible. We recommend that a minimum of one area of every three be accessible. We saw 55 tennis courts and 48 are accessible. **We recommend no new access.**

The Program Access Chart at the end of this section, along with the Cary Tennis Map, illustrates the areas where work is recommended so that every resident is close to an accessible tennis court. [[Cary Tennis Map](#)]

45. **Make corrections** cited in the reports so the tennis courts below remain accessible:

- **Annie Jones Park (6)**
- **Cary Tennis Park (30)**
- **Middle Creek School Park (8)**
- **Robert V. Godbold Park (4 of 6)**

46. **Leave as is** the tennis courts at the following sites:

- **R. S. Dunham Park (5)**
- **Robert V. Godbold Park (2 of 6)**

**Advertise the accessible** tennis courts in Town website and publications.

### **Basketball**

The **minimum required** of the Town by title II of the ADA is that the “program” of basketball be accessible to residents. This is measured by the “program access test” found in section 35.150 of the title II regulation (see 28 CFR Part 35). For similar multiple sites, no guidance is given as to how many existing basketball courts should be accessible.

We recommend that a minimum of one area of every three be accessible. We saw 23 basketball courts and 16 are accessible. **We recommend no new access.**

The Program Access Chart at the end of this section, along with the Cary Basketball Map, illustrates the areas where work is recommended so that every resident is close to an accessible basketball court. [[Cary Basketball Map](#)]

47. **Make corrections** cited in reports so the basketball courts below remain accessible:

- **Davis Dr. Park**
- **Davis Dr. School Park**
- **Green Hope ES School**
- **Harold Ritter Park**
- **MacDonald Woods Park**
- **Marla Dorrel Park**
- **Middle Creek School Park (2)**
- **North Cary Park (2)**
- **R.S. Dunham Park (2)**
- **Rose St. Park**
- **Thomas E. Brooks Park (2)**
- **White Oak Park**

48. **Leave as is** the basketball courts at the following sites:

- **Annie Jones Park (2)**
- **Lexie Lane Park**
- **Robert V. Godbold Park (2)**
- **Sears Farm Rd. Park**
- **Urban Park**

**Advertise the accessible** basketball courts in Town website and publications.



## Baseball

The *minimum required* of the Town by title II of the ADA is that the “program” of baseball be accessible to residents. This is measured by the “program access test” found in section 35.150 of the title II regulation (see 28 CFR Part 35).

For similar multiple sites, no guidance is given as to how many existing baseball fields should be accessible. We recommend that at least one of every three be accessible.

There are 28 fields and seven are accessible. ***We recommend access to one more field.***

The Program Access Chart at the end of this section, along with the Cary Baseball Map, illustrates accessible ball fields so that every resident of the Town is close to an accessible ball field. [[Cary Baseball Map](#)]

49. ***Make corrections*** cited in report so the ball fields below ***remain*** accessible:

- ***Davis Dr. School Park (2)***
- ***Lexie Lane Park***
- ***Thomas E. Brooks Park (4)***

50. ***Make corrections*** cited in report so the ball field below ***becomes*** accessible:

- ***Cary HS Ball field***

51. ***Leave as is*** the ball fields at the following sites, until altered for other purposes:

- ***Annie Jones Park***
- ***Fred G. Bond Metro Park (4)***
- ***Green Hope HS Park (2)***
- ***Harold Ritter Park (2)***
- ***Lions Park (2)***
- ***Middle Creek School Park (4)***
- ***Mills School Park***
- ***USA Training Fields (4)***

52. ***Advertise the accessible ball fields*** in Town website and publications.

## Athletic Fields

The *minimum required* of the Town by title II of the ADA is that the “program” of athletic fields (for soccer, football, lacrosse, and other sports played on a rectangular field) be accessible to residents. This is measured by the “program access test” found in section 35.150 of the title II regulation (see 28 CFR Part 35). For similar multiple sites, no guidance is given as to how many existing fields should be accessible.

We recommend that at least one of every three be accessible. There are 32 fields and five are accessible. **We recommend access to five more.**

The Program Access Chart at the end of this section, along with the Cary Athletic Fields Map, illustrates accessible athletic fields so that every resident of the Town is close to an accessible field. [[Cary Athletic Fields Map](#)]

53. **Make corrections** cited in the reports so the athletic fields below **remain** accessible:

- **Harold Ritter Park**
- **Mills School Park (1 of 3)**
- **Sears Farm Rd. Park**
- **WakeMed Soccer Park (2 of 7)**

54. **Make corrections** cited in the reports so the athletic fields below **become** accessible:

- **Davis Dr. School Park (2)**
- **Middle Creek School Park (2)**
- **Preston Soccer Fields (1 of 2)**

55. **Leave as is** the fields at the following sites:

- **Davis Dr. Park (4)**
- **Green Hope ES Park (6)**
- **Mills School Park (2 of 3)**
- **North Cary Park**
- **Preston Soccer Fields (1 of 2)**
- **Thomas E. Brooks Park (2)**
- **WakeMed Soccer Park (5 of 7)**
- **White Oak Park**

56. **Advertise the accessible athletic fields** in Town website and publications.

### Picnic Areas

The **minimum required** of the Town by title II of the ADA is that the “program” of picnicking be accessible to residents. This is measured by the “program access test” described in section 35.150 of the title II regulation (see 28 CFR Part 35).

For similar multiple sites, no guidance is given as to how many existing picnic sites should be accessible. We saw 30 picnic areas and 27 are accessible.

**We recommend no new access. Many of these sites need tables or minor corrections.**

**The issue of picnic area access is not yet settled as a final and enforceable standard.**

There is significant guidance from the US Access Board, and we have applied it here to Town picnic areas.

However, the US Access Board does not have the authority to establish a Standard, which is the step above the *final guideline* that exists today. That said, we recommend the Town continue as a smart practice to adhere to the Access Board guidance on this matter.

The Program Access Chart at the end of this section, with the Cary Picnic Areas Map, illustrates accessible picnic areas so that every resident of the Town is close to an accessible picnic area. [[Cary Picnic Areas Map](#)]

57. **Make corrections** needed to **maintain or create access**, including adding tables, to picnic areas at:

- **Annie Jones Park**
- **Davis Dr. Park**
- **Fred G. Bond Metro Park (2 of 3)**
- **Green Hope ES Park**
- **Harold Ritter Park**
- **Hemlock Bluffs Nature Preserve**
- **Lions Park**
- **Marla Dorrel Park**
- **Middle Creek School Park**
- **Mills School Park**
- **North Cary Park (7)**
- **R. S. Dunham Park**
- **Sears Farm Rd. Park (3)**
- **Thomas E. Brooks (1 of 2)**
- **Walnut St. Park (2)**
- **White Oak Park (2)**

58. **Leave as is** the picnic areas at the following sites:

- **Fred G. Bond Metro Park (1 of 3)**
- **Thomas E. Brooks (1 of 2)**
- **Robert V. Godbold Park**

59. **Advertise accessible picnic areas** in the Town website and publications

### Greenways and Street Side Trails

The minimum required of the Town by title II of the ADA is that the “program” of greenways and street side trails be accessible to residents. These existing sites are measured by the “program access test” found in section 35.150 of the title II regulation (see 28 CFR Part 35).

The Town of Cary has multiple outdoor routes designed and intended for pedestrian use or shared use between pedestrians and cyclists. The Town refers to all of these with the general term of “greenways”.

**However, all greenways are not alike.** Some may be by definition a trail, others may be by definition a shared use path, others may be by definition an accessible route, others may be by definition an outdoor recreation accessible route (ORAR), and still others may be a part of the public right-of-way.

In this section of our report we will define each of those five types of passages. Following the definitions, we will also describe the requirement faced by the Town. The treatment of routes and trails differs based on the intended use of that route.

**Accessible Route:** accessible routes are an unobstructed path that a pedestrian or wheelchair user may use to reach the accessible elements at a site or facility. It includes walking surfaces with a maximum running slope of 5%, doorways, ramps, stairs, curb ramps excluding the flared sides, elevators, and platform lifts. Accessible routes are a staple of the accessibility standards and are a part of the 2010 Standards for Accessible Design.

**Shared Use Paths:** paths that are designed and intended for use by pedestrians and bicyclists, as both a transportation alternative and a recreation asset, are known as shared use paths. Shared use paths are physically separated from motor vehicle traffic by an open space or barrier, and are either within the highway right-of-way or an independent right-of-way. Shared use paths are currently the subject of rulemaking by the US Access Board. We recommend it to the Town as a smart practice, in the absence of a standard.

**Outdoor recreation accessible route:** a route at an outdoor recreation site, such as a trailhead, that is used to connect outdoor recreation assets such as picnic areas, trailhead signs, restrooms, campsites, and camping features is an outdoor recreation accessible route (ORAR). The ORAR is currently defined in the 2013 Final Guideline for Federally Owned and Operated Outdoor Developed Sites, published by the US Access Board. We recommend it to the Town as a smart practice, in the absence of a standard.

**Trails:** a pedestrian route developed primarily for recreation purposes is the current definition of a trail. A trail is not intended as a connecting path between elements at a site, nor as a transportation alternative. Trails are currently defined in the 2013 Final Guideline for Federally Owned and Operated Outdoor Developed Sites, published by the US Access Board. We recommend it to the Town as a smart practice, in the absence of a standard.

**Pedestrian Access Routes:** a pedestrian access route shall be provided within pedestrian circulation paths located in the public right-of-way. The pedestrian access route shall connect to accessible elements, spaces, and facilities, and to the accessible routes that connect building and facility entrances to public streets and sidewalk

With the exception of the accessible route, for all of these different passages, there currently is no final and enforceable standard for scoping and technical requirements for the Town.

There is, however, final guidance from PROWAG (public rights of way accessibility guidelines) and the Outdoor Developed Sites Guidelines (currently only applicable to Federal sites). In the absence of final and enforceable guidelines, we will always defer to the most recent guidance for our recommendations.

We believe the greenways would most likely be considered shared use paths. In our work, we therefore applied the US Access Board evolving shared use path requirements. For curb ramps along shared use paths we applied PROWAG requirements, as well as the 2010 Standards. For existing paths, when additions or alterations occur, the altered area must meet the PROWAG requirements, the shared use path requirements, or the requirements of the 2010 Standards. For example, if a curb ramp that serves a shared use path of replaced or repoured, it must meet all of the requirements of the 2010 Standards.

For similar multiple sites, no guidance is given as to how many existing trails must be made accessible. We recommend that approximately one-third be accessible. In our work we saw more than 74 miles of greenways at 51 sites, and all were accessible to a degree, or had portions that were accessible.

Our general recommendations regarding these assets are below.

60. ***Implement the recommendations in the Greenways site reports.***

61. ***Advertise accessible greenways*** in the Town website and publications

### Town Communications to the Public

The title II regulation requires that Town communications to the public be accessible. The Town has several forms of communication. One is the Town channel on cable television. Another is the Town website. Another is the Town telephone system. Another is public meetings regarding Town activity.

Assistive listening systems are amplification systems that use transmitters, receivers, and coupling devices to bypass the acoustical space between a sound source, such as a person speaking, and a listener who has a hearing impairment. The bypass occurs by way of an induction loop, or radio frequency, or infrared transmission, or direct-wired equipment.

The 2010 Standards requires that buildings designed and constructed after March 15, 2012 have such a system. Buildings that existed before that date are required to be evaluated for such a system, and we have done so in our work. As a matter of preference, induction loop systems are preferred, as these require fewer parts to be maintained by Town employees, and are simpler to use by persons who are hard of hearing.

On a related matter, we did not evaluate Town broadcasts on the public access channel. Town Council meetings are broadcast on that channel. These must be captioned.

The title II requirements also require that notices of Town meetings use consistent language to invite attendees who may have disabilities, including impairments of speech or hearing. The invitation language should be designed to make it easy to request communication support from the Town. Although this was not within our scope, we offer a recommendation below on this subject.

The title II regulation has several requirements regarding communication. They are:

- Section 35.160 discusses general obligations, ranging from website readability to the provision of sign language interpreters.
- Section 35.161 reviews the requirements for accessibility in telephone communication systems, including real-time capability.
- Section 35.162 reviews the requirements for emergency systems, such as 9-1-1 telephone systems.
- Finally, section 35.163 reviews the requirements for information and signage.

Communication policies and supports that are not related to the Town infrastructure was not part of the scope of this project. That said, we have offered some recommendations on these subjects below.

62. ***Implement captioning of Town broadcasts featuring councils, commissions, and committees.***
63. ***Replace FM transmitter systems with induction loop systems*** for more effective assistive listening systems.
64. ***Evaluate Town telephone communications*** with the general public for 35.161 compliance.
65. ***Evaluate Town telephone emergency systems*** for 35.162 compliance.
66. As recommended earlier in this report, ***develop a signage template*** for use by Town employees and contractors.
67. ***Include language like that below*** in all Town notices, print and online, for meetings of Town Council, committees, commissions, and staff that are open to the public:

The Town of Cary invites persons with disabilities to all public meetings. If, because of disability, a communication modification is necessary, please reach the Town at [ADA.communication@townofcary.org](mailto:ADA.communication@townofcary.org) as soon as possible before the meeting.

### **Other Sites and Public Activity**

The Town of Cary has other facilities that are principally employee work areas. However, the Town has, in an effort to have its citizens understand Town government, made those sites available to the public in ways that are different from other municipal entities. For example, Cary residents can stop by and tour a water treatment facility, or have a birthday party at a fire station, or through the innovative Town of Cary School of Government, learn exactly how a water treatment facility accomplishes its important municipal function.

These initiative effectively convert employee spaces to public spaces, thereby triggering a higher requirement for accessibility. We appreciate the citizen initiative on display with these

programs. We simply urge the Town to be aware of the accessibility requirements and when Town staffs give consent for tours, parties, School of Government, and related activities, plan and implement modifications to make the facilities physically accessible for persons with mobility impairments, and make communication modifications as discussed above on pages 21 and 22.

68. **Advertise the availability** of accessibility supports when Town facilities are used by citizens for initiatives or activities that increase citizen awareness of Town operations.

### Community Engagement

An integral part of the development of a transition plan is the solicitation of public feedback. We conducted, with Town staff, a public feedback forum on April 25, 2016. The purpose of the event was to gather information about the accessibility priorities and preferences for Town operations.

The event was attended by approximately 20 citizens. We facilitated a discussion about the access audit process, and the development of phased retrofit work plans.

We also asked citizens for their feedback and received several suggestions regarding communication tools for use by Town employees. Other suggestions were made regarding whether unique Town sites should be addressed, or whether the Town should start with the basics such as parking and entries. Town staff are evaluating the ideas and will blend those into implementation plans.

### Transition Plan

The Town must have a transition plan per 35.150(d) of the DOJ title II regulation. The plan should identify the barrier, the corrective work, the date by which the work will occur (in our reports, the Phase), and the person responsible for barrier removal. **Barriers should be removed as soon as is possible.** Phasing the work to be done allows for access to occur and makes the best use of the resources of the Town of Cary.

In the view of DOJ, the design requirements were available to the Town since 2004, if not earlier. Enforcement staff has said at meetings and in conversations that work should have already been underway to identify and remedy access deficits.

We recommend work in three phases. In a category titled Town Option, we also note work that we believe need not occur. Should the Town plans change, or should other resources become available, the corrective work needed at the Town Option sites is known. It is our belief that each phase likely requires three fiscal years for completion.

We have made cost **references** for the corrective work recommended. We note that these are not estimates and should be used only for planning purposes. We use the publication titled Means ADA Compliance Pricing Guide, 2<sup>nd</sup> Edition, published by RS Means in 2004. These cost references do not include the time of Town staff or the management of projects.

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The Means costs do not reflect the time of Town staff, or design costs. They do however include contractor profit and overhead, labor, and materials. We have increased the cost references by at least 20% to reflect the age of the Means document.

Many factors influence retrofit cost. The final design of the retrofit, the year in which the work will occur, the relationship with the contractor, and many other factors must be considered before a cost estimate is made.

The total of corrective work we recommend is \$5,251,915.75. We believe the retrofit work can be implemented over a nine-year period. Town staff have suggested that as Town budgets are approved, resources will be requested of the Town Council and retrofit work will be implemented.

In Phase One, we recommend work that falls into two categories: easy to do with existing staff and resources (low-hanging fruit), and old requirements (such as parking) at sites otherwise accessible. It also captures sites where funding for projects is already in the pipeline, such as at Koka Booth Amphitheatre and Sertoma. The Town can decide how many years are required to complete a phase, but we believe Phase One should require only one year.

In Phase Two, we recommend work that falls into two categories: changes to recreation amenities, such as playground surfaces, ball fields, and athletic fields, as well as changes to unique Town facilities such as the Administration Buildings, Cary Tennis Center, Cary Arts Center, and Cary Senior Center. The Town can decide how many years are required to complete a phase, but we suggest that Phase Two be no longer than four years.

In Phase Three, we recommend work that falls into three categories: elements not yet addressed by a final Standard, such as trails, other facilities not yet addressed, and elements where correction is complex or costly. The Town should decide how many years are required to complete this phase, but we suggest Phase Three be no longer than four years.

We identified work in the amount of \$337,847.25 in Town Option. This is work at a site or element with access deficits where we believe the Town already meets the program access test and need not make these sites accessible, until later altered for another purpose, or where the work is technically infeasible.

It is important to restate that the Town can shift the retrofit work that occurs within phases. Where we may recommend that work on a site, such as the greenways, occurs in Phase Three, if the Town places a high value on greenways, it certainly can advance that work to Phase One or Phase Two. The point we make is to make certain that in every year the Town can demonstrate it is committed to access both in principal and in its budget.

### **Funding Access Retrofits**

We have developed this section to discuss some of the funding sources other towns, counties, park districts, and governmental entities have used for accessibility compliance. This is not intended as a comprehensive list, but is a good primer on this topic.



### ***No Dedicated Federal Source***

There is no dedicated source of federal funds for accessibility renovations to existing sites. This will not likely change in the future.

As an example of the unpredictability of federal funding, we look to the Land and Water Conservation Fund. The LAWCON stateside portion, even with a dedicated funding source, is typically underfunded by as much as 80%.

### ***Earmarks***

Some of our clients have pursued Congressional earmarks for accessibility work. Earmarks are increasingly unpopular, and difficult to obtain. However, the Congressional practice of adding grant earmarks to bills proceeding through the US Congress still exists.

We would suggest that this is a viable option for a community of influence such as the Town of Cary.

### ***Community Development Block Grant Funds***

Several of our clients have acquired federal Community Development Block Grant (CDBG) funds for accessibility renovations at existing sites. Administered through local entities, CDBG funds often have a priority. It would be important to establish accessibility as a priority for CDBG applications, which are very competitive.

### ***State Grants Programs***

Several states, and several of our clients, have successfully pursued state legislation to set aside dedicated state funds that can be used for recreation purposes, including access retrofits. To name a few, Illinois, New Jersey, Colorado, Ohio, Florida, and Texas all have sources of revenue funded in various ways, such as the real estate transfer tax.

While the various states have all at times not fully funded these grant programs, they remain an effective tool for parks and recreation site acquisition and development.

### ***State Discretionary Funds***

Every state legislature provides some type of discretionary funding for members of the legislature. In some states, these are relatively small grants of under \$50,000. In other states, it is common to see legislative grants of \$500,000 or more. As with Congressional earmarks these have become less popular in recent years, but still exist in most states.

### ***Special Accessibility Legislation***

At least one state (Illinois) has adopted legislation that allows park districts or municipalities to levy a tax that can be used only for recreation for people with disabilities. The funds can

be used for access retrofits at existing sites and facilities. Statewide, local entities in Illinois levy and expend an estimated \$50,000,000 annually on this purpose.

### ***Private Giving***

Some of our clients have successfully sought private gifts for accessibility purposes. The private giving area is subject to fluctuations depending on the economy, political issues, and related fiscal impacts. In our experience, private giving works best when an agency such as the Town has an employee dedicated to this purpose.

### ***Corporate Giving***

Some of our clients have successfully sought grants from corporations. These may, for corporate purposes, come from marketing (such as naming rights to a Cary facility) or from community giving. Also, many corporations have a related foundation that manages corporate giving. A good example here is the Mitsubishi Foundation. In our experience, corporate giving works best when an agency such as the Town has an employee dedicated to this purpose.

### ***Community Foundations and Other Foundations***

Community foundations, which operate on a regional basis, have also been involved in accessibility giving. Perhaps the greatest example here is the multi-million dollar Kellogg Foundation project that improved accessibility in Michigan, Ohio, Indiana, Illinois, and other states that bordered the Kellogg headquarters in Michigan.

### ***Other Methods***

There are other methods. Each works in that community and may not work in Cary.

A New Jersey community takes 100% of accessible parking fines and applies those towards recreation for people with disabilities.

Several Illinois park districts have added a \$1 to \$10 surcharge to every registration, with the fees generated being earmarked for access and inclusion expenses.

Several communities have successfully sought budget increases to address accessibility backlogs, just as they have with maintenance backlogs. Those increases may be general fund allocations, proceeds from successful referenda, or reallocations of underexpended funds originally budgeted for other municipal purposes.

### ***Risk Management***

Investing in playground safety saves money for a town by avoiding legal expenses related to playground injuries. The same concept applies here. Investing in accessibility retrofits saves the Town of Cary the cost of staff time and attorneys to defend against ADA lawsuits or administrative complaints.

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While we do not believe a decision about access should hinge solely on risk management factors, we do recommend that the Town be aware of this factor going forward. ADA enforcement continues to grow and touch more and more communities.

**Conclusion**

The Town of Cary has a variety of facilities and sites. The skilled staff operates facilities and sites the community wants and enjoys. This report identifies some issues that are typical in a Town infrastructure. The Town of Cary takes steps towards accessibility every year and that undoubtedly helped.

The Town should determine to what extent it will act on our recommendations and any staff recommendations. Access work should occur every year during the transition plan.

While no one can say with certainty how long the Town can stretch these projects, the Town should make access retrofits an ongoing part of its annual plans and budgets. US DOJ officials have said work must be completed as soon as is possible.

***Be certain to understand that the Town of Cary could be forced to accelerate its pace. Making access work a high priority is critical.***

Your strategy should definitely address the common issues identified in this report. The Town should also make the remaining steps, such as a policy review, and a review of the ways in which persons with disabilities are supported in all Town of Cary programs and services.

The Town of Cary should be commended for undertaking this task. Although this access audit and the transition plan are both mandated tasks, some of your neighbors have not completed these steps.

In closing, thanks again to the staff at the Town for their cooperation and spirit. All of the team at our firm enjoyed working with them. Reid Saunders was particularly helpful.

Call me at Recreation Accessibility Consultants at 224/293-6451 if there are any questions. Thanks again for inviting us to work with the Town of Cary.

Submitted by

  
\_\_\_\_\_  
**John N. McGovern, J.D., President**  
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CARY CONCLUSIONS 201602