

**Town of Cary, North Carolina  
Rezoning Staff Report  
12-REZ-10 Cary Retirement Residence  
Town Council Public Hearing  
October 25, 2012**

**REQUEST**

The applicant, Lenity Group, LLC, has requested an amendment to the Town of Cary Official Zoning Map to rezone approximately 3.52 acres located at 105 Convention Drive from General Commercial (GC) to Mixed Use District (MXD) subject to conditions specified on an associated Preliminary Development Plan (PDP). The PDP proposes a four-story, 128-unit life care community with a common dining facility.

**Preliminary Development Plan**

NOTE: The purpose of the rezoning is to determine if the land uses and the 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 either the site or the subdivision plan and can be found at <http://www.amlegal.com/library/nc/cary.shtml>.

**SUBJECT PARCELS**

Property Owner(s)	County Parcel Number (10-digit)	Real Estate ID(s)	Deeded Acreage
Rickey G. Edwards Garry S. and Jeanne G. Edwards Michael Edwards Paul & Dorothy Mills Stam c/o Edwards & Edwards Real Estate 2401 Weston Parkway Ste. 103 Cary, NC 27513-5596	0773175435	0205074	3.52 ±
<b>Total Area</b>			3.52 ±

**BACKGROUND INFORMATION**

Applicant & Agent	Mark D. Lowen Lenity Group, LLC 471 High Street SE #10 Salem, OR 97301 markl@lenitygroup.com (503) 399-1090	
Acreage	3.52 ±	
Location	105 Convention Drive	
Schedule	<b>Planning &amp; Zoning Board Public Hearing</b> September 10, 2012	<b>Town Council Public Hearing and Council Action</b> October 25, 2012
Land Use Plan Designation	Commercial (COM), within an Activity Center	
Existing Zoning District(s)	General Commercial (GC), Mixed Use Overlay District and Thoroughfare Overlay District	
Proposed Zoning District(s)	Mixed Use District (MXD), Mixed Use Overlay District and Thoroughfare Overlay District	
Protest Petition	To Be Determined Prior to the Town Council Public Hearing	
Town Limits	Yes	
Staff Contact	Debra Grannan, Senior Planner (919) 460-4980 debra.grannan@townofcary.org	

**SITE CHARACTERISTICS**

**Streams:** Cary’s GIS maps indicate a stream buffer along the northern side of the subject property. Exact field determination is required at the time of site plan review.

**Floodplain and Wetlands:** Cary’s most current GIS maps do not indicate the presence of either floodplains or wetlands on the subject property. Field verification of such features is required at the time of site plan review.

**Topography:** Cary’s most current GIS maps and the PDP submitted by the applicant indicate a decrease in elevation of between 20 to 30 feet from the portion of the property along Convention Drive to the portion of the property along Cary Town Boulevard. The plan includes several retaining walls to address the topography issues.

**Stormwater:**

At the time of site plan review, the future plan must meet all stormwater management and detention requirements. Peak flow from the one-, two-, five- and 10-year storm events must be determined and must be attenuated back to pre-development conditions from the discharge point leaving the development.

**Adjacent Land Uses:**

- North – School (Opposite side of Cary Towne Boulevard, Adams Elementary)
- South – Shopping Center (Cary Towne Center Mall; opposite side of Convention Drive)
- East – Office and Institutional Baptist State Convention of NC Building)
- West – Commercial Parcel (Restaurant)

**CONSISTENCY WITH LAND DEVELOPMENT ORDINANCE**

**Density and Dimensional Standards**

Metric	Existing General Commercial Zoning District	LDO Standard for Life Care Community	Proposed Preliminary Development Plan
Max. Gross Density (Dwelling Units/Acre)	NA	12 (for properties not located within Mixed Use Overlay Districts or Planned Development Districts.)	36 <i>(When requesting MXD zoning, densities are subject to those approved on a Preliminary Development Plan.)</i>
Setbacks from Perimeter Buffers	10 feet for principal buildings; 5 feet for accessory structures and parking lots	10 feet for principal buildings; 5 feet for accessory structures and parking lots	Plan reflects some reductions to the setbacks for parking and garage areas.
Max. Building Height (Feet)	35 feet, plus one foot for every additional foot provided between the building footprint and the minimum required setbacks	35 feet, plus one foot for every additional foot provided between the building footprint and the minimum required setbacks	55 <i>(Increases in height may be considered with MXD zoning, subject to Preliminary Development Plan Approval.)</i>

**Open Space**

On the proposed Preliminary Development Plan, the applicant identifies approximately 1.55 acres of land as open space. This open space includes required streetscape and perimeter buffers and approximately 0.18 acres for community gathering areas.

**Landscape Buffer**

In accordance with Chapter 7 of the LDO, a 20-foot Type B (semi-opaque) Buffer is required between the

proposed use and the existing office development to the east of the subject property. The proposed PDP meets this buffer requirement by providing half of the required buffer.

**Streetscape and Thoroughfare Overlay District Buffers:** According to Chapter 4, section 4.4.4 of the LDO within the Thoroughfare Overlay District, a buffer strip width extending 50 feet from and parallel to the right of way for interchange ramps shall be maintained on all property within the Thoroughfare Overlay. Cary Towne Boulevard functions as an interchange access point to Interstate 40. The applicant proposes an opaque buffer with a minimum width of 30 feet along this roadway.

According to Chapter 7 of the LDO, A 15-foot streetscape is required along Convention Drive which is provided on the PDP.

**Traffic:** No traffic study was required to meet the APFO. Access points to the subject property were evaluated and consideration was given to shifting the access further to the east to accommodate queues and increase safety. The applicant conducted an independent traffic queuing analysis. The study results were submitted to the Engineering staff for review. Engineering determined that there were not issues with the traffic volumes that would require relocation of the access drive.

**Request of Waiver for Road Improvements:**

The applicant has requested a waiver for required roadway improvements along Cary Towne Boulevard and provided a waiver request and justification letter. Staff's evaluation of the request is addressed in a separate staff report and will be a separate action item following the determination of the proposed rezoning case.

**SUMMARY OF PROCESS AND ACTIONS TO DATE**

**Changes Since the Planning and Zoning Board Public Hearing**

In response to a recommendation for the Planning and Zoning Board, the applicant enhanced the landscape buffer area along Cary Towne Boulevard.

**Planning and Zoning Board Public Hearing (September 10, 2012)**

Staff presented the request and noted that the case would follow the process for rezoning to Mixed Use District with an associated Preliminary Development Plan; therefore, no protest petitions could be submitted until the Town Council public hearing. Staff provided an overview of the plan and noted that the applicant had requested a 20-foot reduction to the required 50-foot buffer along Cary Towne Center Boulevard. The applicant, Mark Lowen with Lenity Architecture, spoke in detail about the proposed use of the property and provided justification for the requested reductions. No citizen opposition was voiced during the public hearing.

During the discussion portion of the presentation, the board verified that the request was for 128 units and asked about the proposed density. Staff explained that there were no density limits when a proposed use was located within a Mixed Use Overlay District. They asked for information regarding other developments in the vicinity that had been granted reductions to buffer requirements. The board discussed buffer requirements and on- and off-site pedestrian circulation and design. One board member expressed concern about the reduction to buffer width and suggested consideration be given to enhancing that buffer. The applicant agreed to enhance the buffer performance along Cary Towne Boulevard. The board forwarded the request with a recommendation for approval 9-0.

**Notification**

On August 27, 2012 the Planning Department mailed notification of a public hearing on the request to property owners within 400 feet of the subject property. Notification consistent with General Statutes was published in the Cary News on August 29 and September 5, 2012. Notice of the public hearing was posted on the property on August 29, 2012.

**Community Meeting**

The applicant conducted a community meeting, as required by the LDO, and invited property owners within 400 feet of the subject property. The meeting took place on April 24, 2012. Based on information provided by the applicant, six people attended the meeting. The applicant reported that adjacent property owners had no objections to the proposed use.

**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 or trend or fact;
2. The proposed rezoning is consistent with the Comprehensive Plan 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 have no significant adverse impacts on 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 general rezoning specified above, rezoning requests to a MXD district shall be reviewed for compliance with the following criteria from LDO Section 4.5.2 (E), as applicable:**

1. Intensity, Type and Mix of Uses
2. Site Design
3. Expected Land Uses
4. Public Spaces
5. Scale and Context

**ANALYSIS OF CONFORMANCE WITH THE COMPREHENSIVE PLAN**

Comprehensive Plan Element	Consistent	Not Consistent	Not Applicable
A. Land Use Plan	X		
B. Parks, Recreation, and Cultural Resources Facility Master Plan	X		
C. Growth Management Plan	X		
D. Affordable Housing Plan	X		
E. Comprehensive Transportation Plan	X		
F. Open Space Plan	X		
G. Historic Preservation Master Plan			X

**A. Land Use Plan**

As per the Town of Cary Land Use Plan, the future land use designation of the subject parcel is Office/Institutional (OFS/INS). The subject property is also located within the Cary Towne Regional Mixed Use Center, which allows both flexibility and a mix of uses within such a center. A regional center provides goods, services, facilities, office space, plus high and medium-density housing. The principal commercial establishment is typically a large regional shopping mall or traditional commercial district. A regional center has the potential for a more diverse and intense mixing of land uses than a community or neighborhood center.

**Analysis:** This request is consistent with the goals of the Town of Cary Land Use Plan. The Cary Towne Mixed Use Center currently has no assisted living facilities, so a life care community would be a positive addition to this regional mixed use center.

**COMPARISON OF EXISTING AND REQUESTED LAND USE PLAN DESIGNATIONS:**

Cary Towne Center Regional Mixed Use Center				
Land Use Category	Existing Development	Proposed by Case	Projected Buildout of Remaining Undeveloped Parcels	Projected Total Buildout of Activity Center
Medium Density Residential dwellings (Townhomes)	146	0	379	525
High Density Residential units (apts.)	336	0	0	336
Institutional floor space (schools & daycares, assisted living facilities, places of worship)	501,972	124,000	0	625,972
Office/Institutional floor space, est. range (sq. ft.)	219,371	0	100,000	319,371
Commercial/Retail floor space, est. range (sq. ft.)	1,428,880	0	0	1,428,880

The Cary Towne Center Regional Mixed Use Center is proportionally higher in the commercial/retail floor space versus office/institutional floor space and residential units. According to the Town of Cary Land Use Plan, the typical range of commercial/retail floorspace is 500,000 – 2,250,000 square feet, and this center includes slightly more than 1.4 million square feet. The typical range of office/institutional floorspace in a regional center is 600,000 – 1,500,000 square feet, and this center includes a little more than 200,000 square feet. The typical number of residential units per 1,000 square feet of nonresidential space is ½ to 4, with the ideal number falling at 1.25. The Cary Towne Mixed Use Center includes slightly more than ½ a residential unit per 1,000 square feet of nonresidential floorspace. Adding more institutional space, such as assisted living facilities, is a use that is complimentary to what currently exists and could be developed or redeveloped in the future in this mixed use center.

**B. Parks, Recreation & Cultural Resources Facilities Master Plan**

According to the Parks, Recreation and Cultural Resources Facilities Master Plan, a street side trail is proposed along the north side of Convention Drive along the subject property frontage. Construction of this trail will be required in accordance with the Land Development Ordinance.

**C. Growth Management Plan**

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

1. L1 Guiding Principle: Concentrate growth near existing and planned employment centers and available and planned infrastructure to minimize costly service-area extensions.
2. A1 Guiding Principle: Increase permitted densities in preferred growth areas to encourage desired forms of development.

**Analysis:** The subject property is located within a preferred growth area – the Cary Towne Regional Mixed Use Center.

**D. Affordable Housing Plan**

The Affordable Housing Plan includes the following goals that may be applicable 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. Assure both a quality living environment and access to public amenities for all residents, present and future, of the Town of Cary, regardless of income.

**Analysis:** A senior housing product, located in a Mixed Use Center, has the potential to support the above goals of the Affordable Housing Plan.

#### **E. Comprehensive Transportation Plan**

The applicant has submitted a request for a waiver to road improvements associated with Cary Towne Boulevard. This waiver is forthcoming and will go before Town Council under a separate action request.

#### **Cary Towne Boulevard is designated as a Major Thoroughfare.**

**Existing Section:** 4-lane median divided roadway

**Future Section:** 6-lane median divided roadway

**Sidewalks:** Required on both sides

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

**Status of Planned Improvements:** None scheduled by the Town

**Transit:** No improvements required

#### **F. Open Space Plan**

According to the Open Space Plan, no issues are related to this site.

#### **G. Historic Preservation Master Plan**

According to the Historic Preservation Master Plan, no known historic buildings are on the subject property.

### **MIXED USE OVERLAY DISTRICT DESIGN PRINCIPLES**

The Preliminary Development Plan (PDP) was evaluated against the following Mixed Use Overlay District Design Principles, and staff makes the following observations:

**Create Human Scale:** Proportional relationships between the buildings and pedestrian areas create a comfortable realm for residents.

**Create a Sense of Place:** Small amenity features for gathering or passive recreation are provided. The internal sidewalks support the creation of a sense of place.

**Connect Uses:** A pedestrian trail is proposed with connectivity to the adjacent property to the west of the site. The subject property is in close proximity to a shopping center and elementary school.

**Provide Transitions:** Transitions may be achieved by providing both gradual changes in the intensity of uses and implementing buffers that meet or exceed LDO standards. Both methods are used in the Preliminary Development Plan.

**Reduce Parking Impacts:** The proposed use meets the Town of Cary LDO Parking Standards. Guest parking areas are evenly spaced throughout the site and vehicular use area screening will be required at the time of site plan review.

**Plan for Pedestrians, Bicyclists and Transit Users:** A C-Tran route is located in close proximity to the subject property.

**Provide Open Space:** In addition to providing required open space in the form of streetscapes and perimeter buffers, the PDP provides a small outdoor gathering space.

**In evaluating the plan for compliance with the following criteria from LDO Section 4.5.2 (E), staff makes the following observations:**

**1. Intensity, Type and Mix of Uses:** The proposed life care community is less intense than the Commercial Low Intensity designation on Cary's Land Use Plan. The proposed use adds a residential use in an area with existing commercial and office use.

**2. Site Design:** At the time of this report, issues related to vehicular access on the subject property are still being discussed with the applicant.

**3. Expected Land Uses:** Based on the established matrix for the Mixed Use Overlay district, the proposed use is supported by the Land Use Plan.

**4. Public Spaces:** In-fill projects such as this that propose a single use on a small area typically do not create a practical opportunity to provide formal outdoor spaces for public use. The PDP does, however, show connections from the site to sidewalks and also provides passive outdoor recreation space for future residents.

**5. Scale and Context:** Staff notes that the PDP demonstrates that the proposed development is appropriate with regard to context and location.

## APPLICANT'S JUSTIFICATION STATEMENT

The following statements are provided by the applicant (shown below *in italics*) in response to the criteria established in the application (shown below in **bold**) and do not necessarily represent the views or opinions of the Town of Cary. Any statements as to the type, quality, or physical features are at the direction of the applicant and may be formulated into a condition.

### **1. Are there any issues with the size of the tract?**

**Response:** *We respectfully request consideration of a rezoning and Preliminary Development Plan approval for the 3.522 acre site at the 200 Block of Convention Drive in Cary. The Rezoning and Development Plan approvals are sought to allow development of a 128 suite congregate care retirement residence (Life care community) with the additional use of an on-premises beauty/barber shop. This site will provide a positive, quality low impact addition to the local neighborhood as well as the greater community of Cary.*

*This site is ideally suited for our senior housing use. It has close proximity to services such as shopping, recreation and medical needs while still being near established residential uses. The unique and unusual shape and topography of this site creates some additional challenges requiring special attention to the sites grading, stormwater site retaining walls and other related issues. This also necessitates that we request a variance to the thoroughfare corridor buffer that runs along the line between the southerly edge of Cary Towne Boulevard and the northerly boundary of our site. .*

### **2. How is the request compatible with the comprehensive plan (i.e. Land Use, Transportation, Open Space and Historic Resources)?**

**Response:** *The proposed use for this site is compatible with the current comprehensive plan while providing a positive residential/senior housing component currently lacking in this area.*

### **3. What are the benefits and detriments to the owner, neighbors and the community?**

**Response:** *Rezoning the site to allow the Congregate Care Retirement Residence (Life Care Community) provides the following benefit to the owner, neighbors and surrounding community:*

- Consistent with planning and zoning goals – Address the need of residential component and senior housing in this area*
- Transitional site providing a buffer between more intense and less intense uses*
- Located near single family<sup>6</sup> and multi family neighborhoods to allow seniors to remain a part of the community*
- Excellent access to city services with no significant impact on traffic especially during peak traffic hours*
- Ample parking will be provided for staff, residents and guests*
- A majority of sites open space will be landscaped with walking paths, seating areas and gardens benefiting our residents and the surrounding community*

### **4. How are the allowable uses with the proposed rezoning compatible with, or how do they relate to, the uses currently present on adjacent tracts?**

**Response:**

*The proposed use of Congregate Care Retirement Residence (Life Care Community) creates a valuable component to the surrounding businesses, schools and other neighbors.*

*The resident base of seniors will provide  
An additional nearby customer base for Cary Town Center Mall and other nearby business and vendors (like Pharmacy's restaurants grocery stores, etc.)  
A reliable pool of volunteers for nearby schools that is readily available during school hours*

*This Hawthorn Retirement Group proposal is a valuable component in meeting the changing demands and the current needs of seniors in Cary and the surrounding community.*

*This project offers benefits which include:*

- *Open spaces and generous setbacks along Cary Town Boulevard and Convention Drive Over 44% of the site will be landscaped open space, providing large open spaces and ample setbacks to create park-like setting and help buffer neighboring properties.*
- *Quite Senior Residential Use – the proposed retirement residence has 118 suites, which include studios, one bedroom and two bedroom types.*
- *Low Traffic generation – Our project will generate approximately 264 trips per day with less than 30 peak hour trips*
- *Increases local tax base – It is estimated that this project will contribute 240,000 annually in taxes  
750,000 annually in salaries and benefits to local staff  
180,000 annually in additional local utility and service contracts  
This project is privately funded and has no government assistance. This development will not receive tax credits*
- *Low Impact on Public Services – including parks schools libraries utilities and transportation systems*
- *Fulfills Need for Retirement Housing – Our research has found that there is a high demand for the unique Harvest program in this area. Recent reports by the HGAC have determined that the demand for senior housing out paces development and will increase in the coming years. This development would complement the other choices available in Cary and allow seniors in Cary to remain in or near the neighborhoods they have enjoyed for many years.*

**5. What reductions/amendments and/or modifications to the development standards of the LDO are being requested and how are they justified? Applicants must list these items and/or clearly highlight them within the Planned Development document.**

**Response:** *We are requesting a reduction from the current buffer width of 50 feet to a width of 30 feet in order to accommodate the retaining walls and grading necessary to safely and successfully develop this site. [Pertains to Thoroughfare corridor buffer along Cary Towne Boulevard]*

## **ORDINANCE FOR CONSIDERATION 12-REZ-10 CARY RETIREMENT RESIDENCE**

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF THE TOWN OF CARY TO CHANGE THE ZONING OF APPROXIMATELY 3.52 ACRES LOCATED AT 105 CONVENTION DRIVE FROM GENERAL COMMERCIAL (GC) TO MIXED USE DISTRICT (MXD) SUBJECT TO CONDITIONS SPECIFIED ON A PRELIMINARY DEVELOPMENT PLAN THAT WOULD ALLOW A 4-STORY, 128-ROOM LIFE CARE COMMUNITY. THE SUBJECT PROPERTY SHALL REMAIN WITHIN THE THOROUGHFARE OVERLAY DISTRICT.

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

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

**PARCEL & OWNER INFORMATION**

Property Owner(s)	County Parcel Number (10 digit)	Real Estate ID(s)	Area ± (Acres)
Rickey G. Edwards Garry S. and Jeanne G. Edwards Michael Edwards Paul & Dorothy Mills Stam c/o Edwards & Edwards Real Estate 2401 Weston Parkway Ste. 103 Cary, NC 27513-5596	0773175435	0205074	3.52 ±
<b>Total Acres</b>			3.52 ±

Section 2: That this Property is rezoned from General Commercial (GC) to Mixed Use District (MXD) subject to the individualized development conditions set forth herein, and identified on the associated Preliminary Development Plan (PDP), and subject to all the requirements of the Cary Land Development Ordinance (LDO) and to other applicable laws, standards, policies and guidelines all of which shall constitute the zoning regulations for the approved district and are binding on the Property.

Section 3:  
 The conditions proposed by the applicant to address conformance of the development and use of the Property to ordinances and officially adopted plans, to address impacts reasonably expected to be generated by the rezoning, and to promote the public health, safety and general welfare, and accepted and approved by the Town are set forth in the "Cary Retirement Residence Preliminary Development Plan" dated October 25, 2012 and on file in the Planning Department.

Adopted and effective: October 25, 2012

\_\_\_\_\_  
 Harold Weinbrecht, Jr.  
 Mayor

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 Date