

**Town of Cary, North Carolina
Rezoning Staff Report
12-REZ-15 Weston PDD Amendment
Town Council Meeting
November 15, 2012**

REQUEST

The applicant, Glenda S. Toppe and Associates, on behalf of the property owner CV Enterprise LLC, has requested an amendment to the previously approved Weston Planned Development District (PDD) to allow a wellness center, as defined by the Land Development Ordinance, as a permitted use on the property located at 1001 Sheldon Drive in the Weston PDD.

NOTE: The purpose of the rezoning is to determine if the land uses and densities allowed in the proposed zoning district are appropriate for the site. Technical design standards of the Land Development Ordinance are addressed during review of the site or subdivision plan and can be found at: <http://www.amlegal.com/library/nc/cary.shtml>.

SUBJECT PARCELS

Property Owner(s)	County Parcel Number(s) (10-digit)	Real Estate ID(s)	Deeded Acreage
CV Enterprise LLC 1001 Sheldon Drive Ste 101 Cary, NC 27513	0755509936	0185201	11.65 ±
Total Area			11.65 ±

BACKGROUND INFORMATION

Applicant & Agent	Glenda S. Toppe & Associates 4139 Gardenlake Drive Raleigh, NC 27612 Glenda@gstplanning.com		
Acreage	11.65 ±		
General Location	1001 Sheldon Drive		
Schedule	Town Council Public Hearing August 23, 2012	Planning & Zoning Board October 15, 2012	Town Council November 15, 2012
Land Use Plan Designation	Office and Industrial		
Existing Zoning District(s)	Weston Planned Development District (PDD) Major		
Proposed Zoning District(s)	Weston Planned Development District (PDD) Major (Amended to allow a wellness center as a permitted use.)		
Town Limits	The subject property is located inside Cary's corporate limits.		
Valid Protest Petition	Yes		
Staff Contact	Debra Grannan, Senior Planner (919) 460-4980 debra.grannan@townofcary.org		

SITE CHARACTERISTICS

Streams: According to Cary's most current GIS maps, the site is impacted by a stream buffer. The subject property is already developed, and at this time, no increase to the building is proposed as part of this request. Field determination of stream buffers would be required if future building or parking lot expansions are proposed.

Floodplain: Cary's most current GIS maps do not identify any floodplains or wetlands on the subject property.

Adjacent Land Uses

North - Office Building

South - Office Building

East - Residential; Weston Place Townhomes (opposite side of Sheldon Drive)

West - Vacant

CONSISTENCY WITH LAND DEVELOPMENT ORDINANCE

Density and Dimensional Standards

	Existing Weston Planned Development District (PDD)	Land Development Ordinance Standards	Proposed Amendment
Uses and Use Specific Standards	Wellness Centers not listed as permitted use	In the OI district, the use shall be allowed as a permitted use only if all of the following conditions are present: (a) The principal use of the building is office; (b) The total floor area of all such uses is no greater than fifty (50) percent of the total gross floor area of the building, or 10,000 square feet, whichever is less; (c) Such uses combined do not have more than one (1) entrance for customers separate from that of the office use unless required by building or fire code;	Allow a wellness center as a permitted use for the property located at 1001 Sheldon Drive, provided the facility does not exceed 10,000 square feet in area. Each use on the subject property shall comply with the minimum Land Development parking standards with no reductions.

Landscape Buffer

The approved Weston PDD indicates that buffers between individual parcels shall comply with Cary's Ordinance standards. Existing development on the property either meets or exceeds perimeter buffer standards.

Streetscape

The approved Weston PDD requires a 50-foot streetscape buffer along Sheldon Drive. The current development plan provides this buffer. Under the Land Development Ordinance, a 30-foot-wide streetscape is required for the subject property.

Traffic

According to ITE Code 492, the proposed use (initially proposed as a 13,000 SF health/fitness facility) would generate 18 trips during the am peak-hour period and 46 trips during the pm peak-hour period. The previous use of a private school had 49 students and generated 77 trips during the am peak-hours and no trips during the pm peak-hour period due to the school's scheduled operating times. A day care is also an allowed use in this district. A 13,000 SF day care would generate 160 am and 162 pm peak-hour trips. Due to the fact that the proposed use does not generate 50 or more peak-hour trips over the previous use and generates less traffic than other allowed uses, a traffic study would not be required for rezoning or site plan.

The Town of Cary conducted a traffic count for the common driveway serving Excel Body Fitness (Excel) and the adjacent business Educated Design and Development, Inc., (EDDI). The count was conducted on Tuesday, September 18th and Wednesday, September 19th by Traffic Survey Services, Inc., which is an independent traffic consulting firm. Results of two-day traffic count are summarized below:

Tuesday, September 18th

- 3-hour count from 6 a.m. to 9 a.m.
 - Excel Body Fitness: 18 vehicles entering, 12 vehicles exiting
 - EDDI: 16 vehicles entering, 0 vehicles exiting
 - Total Shared Driveway: 34 vehicles entering, 12 vehicles exiting

 - Peak Hour – occurs between 8:00 a.m. and 9 a.m.
 - Excel Body Fitness: 10 vehicles entering, 5 vehicles exiting
 - EDDI: 12 vehicles entering, 0 vehicles exiting
 - Total Shared Driveway: 22 vehicles entering, 5 vehicles exiting

- 3-hour count from 4 p.m. to 7 p.m.
 - Excel Body Fitness: 44 vehicles entering, 33 vehicles exiting
 - EDDI: 0 vehicles entering, 15 vehicles exiting
 - Total Shared Driveway: 44 vehicles entering, 48 vehicles exiting

 - Peak Hour – occurs between 6:00 p.m. and 7 p.m.
 - Excel Body Fitness: 15 vehicles entering, 25 vehicles exiting
 - EDDI: 0 vehicles entering, 1 vehicles exiting
 - Total Shared Driveway: 15 vehicles entering, 26 vehicles exiting

Wednesday, September 19th

- 3-hour count from 6 a.m. to 9 a.m.
 - Excel Body Fitness: 31 vehicles entering, 35 vehicles exiting
 - EDDI: 18 vehicles entering, 1 vehicles exiting
 - Total Shared Driveway: 49 vehicles entering, 36 vehicles exiting

 - Peak Hour – occurs between 7:30 a.m. and 8:30 a.m.
 - Excel Body Fitness: 13 vehicles entering, 14 vehicles exiting
 - EDDI: 11 vehicles entering, 1 vehicles exiting
 - Total Shared Driveway: 24 vehicles entering, 15 vehicles exiting

- 3-hour count from 4 p.m. to 7 p.m.
 - Excel Body Fitness: 57 vehicles entering, 38 vehicles exiting
 - EDDI: 2 vehicles entering, 20 vehicles exiting
 - Total Shared Driveway: 59 vehicles entering, 58 vehicles exiting

 - Peak Hour – occurs between 6:00 p.m. and 7 p.m.
 - Excel Body Fitness: 24 vehicles entering, 27 vehicles exiting
 - EDDI: 0 vehicles entering, 0 vehicles exiting
 - Total Shared Driveway: 24 vehicles entering, 27 vehicles exiting

The complete data collection information can be seen at this link.

Parking Requirements (Land Development Ordinance Chapter 7)

Parking requirements for a wellness center are similar to other personal service uses and require one parking space for every 200 square feet of floor area. Based on this requirement, a 10,000-square-foot wellness center would require 50 parking spaces. There is an existing research facility use on subject property that currently occupies a portion of the building. A research facility requires one parking space for every 500 square feet of building area. A 16,000-square-foot research facility would require 32 parking spaces. The subject property currently has 77 parking spaces, which is five spaces less than what is necessary to comply with LDO parking requirements for these uses. If the zoning is approved to allow a wellness center on the subject property, the site would have to come into compliance with parking requirements before a Certificate of Compliance could be issued for the business.

SUMMARY OF PROCESS AND ACTIONS TO DATE

Neighborhood Meeting

The applicant reported that a neighborhood meeting to discuss the proposed rezoning was held on June 18, 2012 at 7 pm. According to meeting records submitted by the applicant, 12 people attended the meeting. Concerns expressed by adjacent property owners focused on traffic safety.

Notification

On August 7, 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 8 and 15, 2012. Notice of the public hearing was posted on the property on August 8, 2012.

Town Council Public Hearing (August 23, 2012)

Staff presented the request and noted that there is a valid protest petition. The applicant provided a detailed description of the request. The owner and operator of Excel Body Fitness described the nature of the programs offered and the efforts to work with the adjacent property owner. Several citizens spoke in support of the request. The adjacent property owner spoke in opposition to the request citing negative impacts on his business because of the traffic volumes and overflow parking. A representative from Highwoods Properties, the property management company for Weston, voiced support for the type of use but noted an inadequacy of parking on the subject property and concerns for the impacts on the adjacent property owner. Highwoods Properties has also filed a protest petition.

One town council member asked if the applicant had plans to expand the parking. The applicant responded that they did intend to comply with Land Development Ordinance Standards. Another council member questioned the accuracy of the potential trip generation numbers. Staff responded that ITE trip generation numbers were based on national standards. Council asked that the actual numbers be evaluated.

The council forwarded the request to the Planning and Zoning Board.

Planning and Zoning Board Public Hearing (October 15, 2012)

Staff presented the case and noted that there was still a protest petition in place. Staff summarized the concerns and the modifications which the applicant had proposed. The applicant spoke about the nature of the use and benefits to the community. During the public hearing, several members of Excel Body Fitness spoke in support of the use and described their positive experiences with the facility. A representative from Highwoods Properties expressed support for the use, but questioned whether or not the subject property had sufficient infrastructure to support the use. The adjacent property owner spoke in opposition to the request stating that the shared driveway was negatively impacted by the use. Several board members noted that uses such as schools and day care facilities which had the potential to higher traffic counts were currently permitted. The property owner indicated that he was willing to add five parking spaces to the site; however, he noted that adding a second drive aisle to the principal parking lot was cost prohibitive due to the topography of the site.

The Planning and Zoning Board voted to recommend approval by a vote of 7 to 0.

Changes since the Planning and Zoning Board Meeting
None

CRITERIA FOR CONSIDERATION IN REVIEWING REZONINGS

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

1. The proposed rezoning corrects an error or meets the challenge of some changing condition, trend or fact;
2. The proposed rezoning is consistent with the Comprehensive Plan set forth in Section 1.3 (LDO);
3. The Town and other service providers will be able to provide sufficient public safety, educational, recreational, transportation and utility facilities and services to the subject property while maintaining sufficient levels of service to existing development;
4. The proposed rezoning is unlikely to have significant adverse impacts on the natural environment, including air, water, noise, stormwater management, wildlife and vegetation;
5. The proposed rezoning will not have significant adverse impacts on property in the vicinity of the subject tract;
6. The proposed zoning classification is suitable for the subject property.

APPLICABLE COMPREHENSIVE OR AREA PLAN REQUIREMENTS

Comprehensive Plan Element	Consistent	Not Consistent	Not Applicable
Land Use Plan	✓		
Parks, Recreation, and Cultural Resources Facility Master Plan	✓		
Growth Management Plan	✓		
Affordable Housing Plan			✓
Comprehensive Transportation Plan	✓		
Open Space and Historic Resources Plan	✓		

Land Use Plan

According to Cary’s townwide Land Use Plan Map, the subject parcel is designated for Office and Industrial (OI) within a Planned Office/Industrial Park. The Land Use Plan acknowledges that office/industrial parks may need to contain a limited amount of commercial, institutional, and service space in order to provide goods and services required on a regular basis by firms located in the office/industrial park. Such services may include eating establishments, reproduction services, office supplies, health clubs, etc. The subject rezoning request to allow a wellness center within an office/industrial park meets this service standard. It is, therefore, in compliance with the intent of the town wide Land Use Plan.

Growth Management Plan

The Growth Management Plan includes the following Guiding Principle which is relevant to this case:

1. R1 Guiding Principle: Ensure that adequate infrastructure and services are available concurrently with new development.

Comprehensive Transportation Plan

Sheldon Drive is designated as a Collector Avenue.

Existing Section: 2-lane median divided, approximately 70-foot ROW¹

Future Section: Collector Avenue Section; 58-70’ ROW (Options for two collector avenue cross-sections are provided in the Comprehensive Transportation Plan)

Sidewalks: Required on both sides
Bicycle Lanes: 4-foot striped bike lane required
Status of Planned Improvements: N/A

Parks, Recreation & Cultural Resources Facilities Master Plan

According to the Parks Recreation & Cultural Resources Facilities Master Plan, there are no significant resources associated with this site.

Open Space Plan

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

Historic Preservation Master Plan

According to the Historic Preservation Master Plan, the subject site contains no known historic resources.

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, the quality, or the physical features are at the direction of the applicant and may be formulated into a condition:

1. Any issues with the size of the tract?

Response: The size of the tract is appropriate for the proposed use. Given the existing development in the area, this site is appropriate for the proposed use.

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

Response: The request is compatible with the comprehensive plan. The Town of Cary just recently adopted an amendment to the LDO allowing wellness centers in office and industrial zoning districts. Personal gyms and small wellness center uses often want to be located in ORD and O&I zoning districts. Now this type of use is allowed in the LDO provided certain standards are met. Furthermore, the LDO provisions will provide the necessary protection to the neighbors and community.

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

Response: The introduction of this use provides a need that continues to be observed within the Town of Cary. Residents within the area can have access to the use. Small wellness centers and personal gyms are appropriate uses within office and industrial buildings.

Updated Response Provided October 8, 2012

The introduction of this use provides a need that continues to be observed within the Town of Cary. Small wellness centers and personal gyms are appropriate uses within office and industrial buildings. This is particularly the case given the emphasis that is placed on health and wellness today. Workers and residents who live in the surrounding area will have easy and convenient access to the use. Based on the Town of Cary's traffic analysis of the proposed use, the traffic impact is minimal, thus further justifying the appropriateness of this type of use at this location.

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 is compatible with current land uses in the area. Good land use planning principles support this type of use at this type of location as seen with the recent LDO Amendment.

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

Response: Total square footage of building 26,000 square feet. The proposed use occupies 10,000 square feet of the building. The square footage is needed due to the type of facility and its ability to serve the needs of its clients. The square footage proposed will not impact the site and the adjacent area.

ORDINANCE FOR CONSIDERATION

12-REZ-15 Weston PDD Amendment

AN ORDINANCE TO AMEND THE EXISTING WESTON PLANNED DEVELOPMENT DISTRICT TO ALLOW A WELLNESS CENTER, AS DEFINED BY THE LAND DEVELOPMENT ORDINANCE, FOR THE PARCEL LOCATED AT 1001 SHELDON DRIVE AND OWNED BY CV ENTERPRISE, LLC, PROVIDED SUCH A FACILITY DOES NOT EXCEED 10,000 SQUARE FEET IN AREA AND PROVIDED EACH USE ON THE SUBJECT PROPERTY SHALL COMPLY WITH THE MINIMUM LAND DEVELOPMENT ORDINANCE PARKING STANDARDS WITH NO REDUCTIONS.

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)
CV Enterprise LLC 1001 Sheldon Drive Ste 101 Cary, NC 27513	0755509936	0185201	11.65 ±
Total Acres			11.65 ±

Section 2: That this Property is rezoned by amending the existing Weston Planned Development District (PDD) to allow a wellness center as a permitted use for the property located at 1001 Sheldon Drive and is subject to the individualized development conditions set forth herein, within the Weston PDD document and all the requirements of the Cary Land Development Ordinance (LDO) and other applicable laws, standards, policies and guidelines.

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 Weston Planned Development District Amendment dated November 15, 2012 and on file in the Planning Department.

Section 4: This ordinance shall be effective on the date of adoption.
Adopted and effective: *November 15, 2012*

Harold Weinbrecht, Jr.
Mayor

Date