

**Town of Cary, North Carolina
Rezoning Staff Report
12-REZ-31 Village Subdivision and Townes
Town Council Public Hearing
May 23, 2013**

REQUEST

The applicant, Glenda S. Toppe & Associates, has requested an amendment to the Town of Cary Official Zoning Map to rezone approximately 37.2 acres located west of Green Level Church Road and south of Wake Road from Office/Research and Development (ORD) and Residential 40 (R-40) to Mixed Use District (MXD) subject to conditions specified on an associated Preliminary Development Plan (PDP). The PDP proposes development of up to 130 townhome units and 30 detached single-family dwellings.

NOTE: The purpose of the rezoning is to determine whether or not the land uses and densities allowed in the proposed zoning district are appropriate for the site. Technical design standards of the Land Development Ordinance are addressed during review of the site or subdivision plan 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
HAB Properties LLC Cabernet Realty I LLC	0726984369	0045896	27.2 ±
Betty Lou Ferrell	0726970344	0173518	10.0 ±
Total Acreage			37.2±

BACKGROUND INFORMATION

Applicant/Agent	Glenda Toppe, Glenda S. Toppe & Associates	
Acreage	37.2±	
General Location	West of Green Level Church Road and south of Wake Road (11525 and 0 Green Level Church Road, and 7505 Wake Road)	
Schedule	Planning & Zoning Board Public Hearing April 15, 2013	Town Council Public Hearing May 23, 2013
Land Use Plan Designation	Medium Density Residential (MDR) and Mixed Use (MXD)	
Existing Zoning Districts	Office /Research and Development (ORD) and Residential 40 (R-40)	
Existing Overlay Districts	Mixed Use Overlay District (MUOD); Watershed Protection Overlay District (Jordan Lake sub-area)	
Existing Zoning Conditions	None	
Proposed Zoning District	Mixed Use (MXD)	
Proposed Zoning Conditions	See Preliminary Development Plan: Cover Sheet Central Layout North Layout South Layout Commercial Concept	
Town Limits	Outside corporate limits, but within Cary's ETJ. Annexation required prior to site plan approval.	
Valid Protest Petition	To be determined prior to the public hearing before Town Council	
Staff Contact	Mary Beerman, AICP (919) 469-4342 mary.beerman@townofcary.org	

SUMMARY

The property includes approximately 12.4 acres on the west side of Green Level Church Road north of the existing Kit Creek Road and its future extension. This area is proposed to be developed with 85 to 99 townhome units.

Approximately 24.8 acres are located south of the Kit Creek Road extension, on the west side of the Alston Ridge Elementary School property. Access to this southern portion would be provided by a proposed local street, identified on the PDP as Road E, that would extend south from the Kit Creek Road Extension to the southern property line.

1. The east side of Road E would be developed with 30 to 35 townhomes, each with direct access to Road E, and backing up to a 100-foot Urban Transition Buffer located adjacent and parallel to the eastern property line south of Kit Creek Road.
2. The west side of Road E would contain single-family residential lots, in addition to an existing 180-foot telecommunications tower.
Access to the residential lots would be provided by two proposed local streets:
 - o Road F is a proposed cul-de-sac serving the property north of the proposed 180-foot radius surrounding the telecommunication tower.
 - o Road G would serve approximately six lots on the south side of the 180-foot radius.

Requested Reductions and Modifications of Standards

The applicant is proposing the following reductions to the standards of the Land development Ordinance (LDO):

1. Reduction of streetscape along Green Level Church Road and Kit Creek Road from 50 feet to 30 feet.
2. Dedication of right-of-way, but no road construction, from end of Road G to the western property line (to meet connectivity requirements).

SUMMARY OF PROCESS AND ACTIONS TO DATE

Neighborhood Meeting

According to meeting minutes provided by the applicant, a neighborhood meeting held on November 26, 2012 was attended by five neighboring property owners. Questions and concerns expressed at the meeting related to screening, lot sizes adjacent to existing residential uses, and the price of the single-family homes. In addition, there were general questions about the existing zoning and the rezoning process.

Notification – April 15, 2013 Planning and Zoning Board Public Hearing

On April 2, 2013, the Planning Department mailed notification of a public hearing on the rezoning request to property owners within 400 feet of the subject property. Notification consistent with General Statutes was published in the Cary News on April 3 and 10, 2013. Notice of the public hearing was posted on the property on April 3, 2013.

Notification – May 23, 2013 Town Council Public Hearing

On May 8, 2013, the Planning Department mailed notification of a public hearing on the rezoning request to property owners within 400 feet of the subject property. Notification consistent with General Statutes was published in the Cary News on May 8 and 15, 2013. Notice of the public hearing was posted on the property on May 8, 2013.

Planning and Zoning Board Public Hearing (April 15, 2013)

Dr. Reiss, the owner of adjacent property to the west, indicated that the developer promised a 100-foot undisturbed buffer, and that the most recent plan indicated a trail and fence within the buffer along the length of the property. He expressed concern with the road stub near the southern end of the property and

stated that the stub to the property line was not needed or desired, noting his intent to place a conservation easement on his property.

In response to board questions concerning the open space, and why the inclusion of a pedestrian trail was necessary, Ms. Beerman explained that there was a specific standard applicable in the Mixed Use Overlay District that limits the maximum buffer width to 65 feet, and that the LDO did not include any provisions to request a waiver of that standard. An option was to incorporate additional HOA property with a trail for use by residents within a 35-foot strip between the buffer and the rear of the residential lots. This 35-foot strip could then be classified as private recreation area rather than buffer area, and as such would comply with LDO requirements while creating minimal impact on the adjacent property.

There was considerable discussion and questions by board members concerning the desire to allow the larger buffer width without requiring a walking trail. There was also discussion and questions regarding the requested waiver of the requirement to construct a road stub to the adjacent property line, considering the adjoining property owner's intent to dedicate a conservation easement on the property. Also discussed was the location of a proposed 8-foot fence behind the residential lots, in relation to the open space. There was concern with having the fence block access to the trail.

The board recommended approval of the request by a vote of 8-1. In addition, a board member suggested that the LDO be modified to remove the maximum buffer width requirement for the Mixed Use Overlay District.

Changes Since the Planning and Zoning Board Public Hearing

The Preliminary Development Plan has been modified to clarify that the trail in the open space along the western property line will be required only if such a feature is required to meet provisions of the Land Development Ordinance in effect at the time of final plat approval. With this change, the trail will not be required in the event that the Land Development Ordinance is amended to remove the maximum buffer width requirement in the Mixed Use Overlay District, as suggested by a Planning and Zoning Board member.

Staff also suggested that the applicant revise the PDP to state that if a pedestrian trail is required and provided, then the 8-foot fence currently proposed adjacent to the rear property line of the residential lots would be relocated such that it is between the pedestrian trail and the western property line of the development, for accessibility to the trail and open space. The applicant chose not to incorporate this suggestion in the PDP, but rather to specify that the trail, if required, would be inaccessible from the adjoining residential lots.

Regardless of the ultimate width of the buffer or open space area, staff is very concerned with the installation of a fence in the open space immediately adjacent to rear boundaries of the residential lots, with no access to the open space by the residents of the development. The individual property owners will not have access to the land owned by their HOA, and likely maintained through payment of HOA dues. Staff has received complaints from homeowners in the past as result of similar situations where HOA open space was not accessible and seeks to avoid such situations in the future.

It should be noted that the rezoning request consists of the MXD zoning district designation, and the Preliminary Development Plan (PDP), with zoning conditions and provisions voluntarily offered by the applicant, and mutually agreed to by the applicant and Town. A decision by Town Council to approve the request must include all of the conditions and provisions as indicated on the PDP and voluntarily offered by the applicant. The request may be denied if the Town is not, on balance, in agreement with the provisions and conditions offered.

SITE CHARACTERISTICS

Streams: Cary's current GIS maps identify a stream buffer along the eastern boundary of a portion of the site south of Kit Creek Road. Field determination of such features will be required at the time of

subdivision plan review.

Wetlands: Field determination and survey of wetlands is required at the time of subdivision plan review.

Adjacent Zoning and Land Use:

North – Office/Research & Development (ORD) and Residential 40 (R-40); Vacant and single-family residential

South – Residential 40 (R-40); Vacant

East – Planned Development District (PDD), Major; Alston Ridge Elementary School, Chancery Village Apartments

West – Wake County Residential 30 (R-30); Single-family residential

CONSISTENCY WITH LAND DEVELOPMENT ORDINANCE

Preliminary development plans associated with a MXD rezoning request are reviewed for consistency with the following requirements and/or provisions of the LDO:

Mixed Use Zoning District (MXD) Provisions (per Section 4.5.2(D))

Land Uses

Uses are allowed in accordance with Chapter 5 of the LDO for the specific type of activity center (Neighborhood Activity Center, in this case).

Dimensional Standards

Dimensional standards are as stated on the approved PDP.

Overlay Districts and Use Regulations (LDO Chapters 4 and 5)

Unless otherwise waived or modified by the PDP, the development must meet applicable overlay district regulations (LDO Chapter 4), and use regulations (LDO Chapter 5).

General Development and Design Standards (LDO Chapter 7).

Requirements related to urban transition buffers, adequate public facility ordinance, stormwater control, and nitrogen reduction may not be waived or modified. (See Section below entitled "Regulations Proposed to be Waived or Modified by the Preliminary Development Plan")

Mixed Use Overlay District (MUOD) Provisions (per Sections 4.4.2(F) and (G))

Buffer Widths

Buffer widths may not exceed the requirements of the LDO.

Connectivity

The road network must ensure that adjacent residential areas will have direct access to the non-residential portions of the activity center. In addition, residential and non-residential uses within the development must be connected in accordance with townwide design guidelines.

• **LAND USE**

The property is in the Mixed Use Overlay District, Village at the Park sub-area. (See "Applicable Comprehensive or Area Plan Requirements", a separate section of this report, for additional detail). The requested rezoning will improve the balance of residential uses within the activity center by adding a medium density residential (townhome) component to the existing housing stock.

PROPOSED	
Residential Unit Type	Number of Units
Detached Single-Family Dwelling	Max. 30
Townhome Units	115 - 130
Total	Max. 160

- **RESIDENTIAL DENSITY**

Residential Units	Area	Density
160	37.2 acres	4.30 units per acre

- **DIMENSIONAL STANDARDS**

PROPOSED DIMENSIONAL STANDARDS FOR RESIDENTIAL USES			
Standard		Single-Family	Townhomes
Minimum Lot Size		5,000 sf	N/A
Minimum Building Setbacks ¹	Front	18'	18'
	Rear	20'	20'
	Side	5'	16' between bldgs
	Corner Side	15'	10'
¹ Eaves may encroach into the side building setback provided that: a minimum separation of six feet is maintained between eaves of adjacent residences; or, firewalls are provided in accordance with applicable building code requirements			

- **STREETSCAPE BUFFER AND STREET-SIDE TRAIL/SIDEWALK**

FRONTAGE	LDO STANDARD	PROPOSED
Green Level Church Road	50' Type A streetscape	30' Type A streetscape
	10' streetside trail	Per LDO
Kit Creek Road and Wake Road	50' Type A streetscape	30' Type A streetscape
	5' sidewalk	Per LDO from Green Level Church Road to Intersection with Streets A and E

- **TRAFFIC**

The existing zoning on the properties is R-40 and ORD. The R-40 zoning district allows maximum residential densities of 1.0 du/acre. As provided by the applicant, the estimated acreage in R-40 is 12.78 acres and 24.42 acres in ORD zoning district. Using the existing zoning, the properties would support approximately 12 single-family lots with an estimated trip generation potential of 18 A.M. peak hour trips and 16 P.M. peak hour trips. It is assumed that 24.42 acres of ORD would yield 244,400 SF of office space, with an estimated trip generation potential of 384 A.M. peak hour trips and 353 P.M. peak hour trips, for a total of 378 A.M. peak hour trips and 369 P.M. peak hour trips. The applicant has voluntarily elected to restrict the residential uses and densities of the properties for single-family and townhomes. Summarized below is the trip generation potential of each of these types of residential uses.

- 30 single-family - 31 A.M. peak hour trips and 36 P.M. peak hour trips
- 130 townhome units - 64 A.M. peak hour trips and 75 P.M. peak hour trips
- Total of 95 A.M. peak hour trips and 111 P.M. peak hour trips

Traffic Study

The rezoning applicant elected to have a traffic study conducted by the Town. Traffic Analysis Report 13-TAR-374 was prepared by the Town's on-call consultant, Ramey Kemp in March 2013. Findings of the study are as follows:

Project Description

- 30 single-family and 130 townhomes
- Trip Generation
 - 1,155 daily trips (24 hour volume) (578 enter, 578 exit)
 - 95 A.M. peak hour trips (19 enter, 76 exit)
 - 111 P.M. peak hour trips (73 enter, 38 exit)
- Intersections Studied:

- Kit Creek Road and Green Level Church Road
- Kit Creek Road and NC 55
- O’Kelly Chapel Road and Green Level Church Road
- Kit Creek Road Extension and Site Roads A & E
- Green Level Church Road and Site Road D
- Wake Road and Site Road B
- Adjacent (Background) Developments: Background traffic considers new trips from approved adjacent development and ambient traffic growth of 2% per year for study intersections. In addition to the ambient growth rate, trips generated by the following adjacent developments are considered in the analysis of background (2015) conditions.
 - Village at the Park
 - Parkside Town Commons
 - Alston Town Center
 - Amberly Town Center
 - Carpenter Park
 - Highcroft Village, Phase 4 & 5
 - Wake Memorial park
 - Stonewater Commercial
 - Pittard Sears Age-Restricted Community
 - Cameron Pond

Results

Level of Service Summary

INTERSECTION		Existing 2012		Background 2015		Combined 2015		Combined 2015 w/ Improvements	
		AM (delay)	PM (delay)	AM (delay)	PM (delay)	AM (delay)	PM (delay)	AM (delay)	PM (delay)
Kit Creek Road & Green Level Church Road	Overall	C (27)	C (30)	D (36)	C (31)	D (40)	C (33)	No Improvements Necessary	
	Overall	D (45)	F (134)	F (114)	F (519)	F (123)	F (570)	F (97)	F (319)
O’Kelly Chapel Road & Green Level Church Road (North Leg)	EB	A ¹	A ¹	A ¹	A ¹	A ¹	A ¹	D (37)	E (69)
	WB	--	--	--	--	--	--		
	NB	--	--	--	--	--	--		
	SB	C ²	D ²	F ² (392)	F ² (7,081)	F ² (385)	F ² (7,039)		
	Overall	N/A	N/A	N/A	N/A	N/A	N/A		
Kit Creek Road Extension & Site Roads A & E	EB	--	--	--	--	--	--	No Improvements Necessary	
	WB	--	--	--	--	A ¹	A ¹		
	NB	--	--	--	--	A ²	A ²		
	SB	--	--	--	--	A ²	A ²		
	Overall	--	--	--	--	N/A	N/A		
Green Level Church Road & Site Road D	EB	--	--	--	--	A ²	B ²	No Improvements Necessary	
	NB	--	--	--	--	--	--		
	SB	--	--	--	--	--	--		
	Overall	--	--	--	--	N/A	N/A		
Green Level Church Road & Site Road D	EB	--	--	--	--	--	--	No Improvements Necessary	
	WB	--	--	--	--	A ¹	B ¹		
	NB	--	--	--	--	A ²	B ²		
	Overall	--	--	--	--	N/A	N/A		

1. Level of service for left turn movement on major approach.
2. Level of service for minor approach.

Roadway Mitigation Findings

- **NC 55 and Kit Creek Road (A zoning condition has been offered by the applicant to construct this suggested improvement)**
 - Provide an additional 2nd left turn lane for the eastbound approach on Kit Creek Road with a minimum storage of 400 feet and an appropriate taper. This will require a protected left turn phase and adjusted signal timings.

- **Kit Creek Road Extension and Site Roads A & E (A zoning condition has been offered by the applicant to construct this suggested improvement)**
 - Construct the extension of Kit Creek Road west of its current terminus and provide NB and SB approaches (Site Roads A & E) with one egress and one ingress lane.
 - Provide STOP control for Roads A&E.
 - Provide an exclusive left turn lane with a minimum of 100 feet of storage and an appropriate taper. The site plan currently shows the storage extending back to the school driveway to the east, which would provide adequate storage.
 - Provide a westbound shared through/right turn lane for the WB approach.
 - Provide a 3-lane section to the west of the intersection to allow for future expansion of the roadway.

- **Green Level Church Road and Site Road D (A zoning condition has been offered by the applicant to construct this suggested improvement)**
 - Provide one ingress and one egress lane for Site Road D and an appropriate island to restrict movements at this driveway to right-in/right-out.
 - Provide stop control for the EB approach.

- **Wake Road and Site Road B (A zoning condition has been offered by the applicant to construct this suggested improvement)**
 - Provide one ingress and one egress lane for Site Road B.
 - Provide stop control for the NC approach.

- **O'Kelly Chapel Road and Green Level Church Road (No zoning conditions have been offered by the applicant to address this suggested improvement)**
 - Realign the southern leg of Green Level Church Road with the north leg.
 - Provide a traffic signal at this intersection when warranted.

Please note that several improvements were noted as being done by other developments with respect to this study and they are as follows:

Parkside Town Commons:

- At the intersection of Kit Creek Road and NC 55, extend the eastbound left turn lane to provide a minimum of 400 feet of storage and an appropriate taper.
- At the intersection of Kit Creek Road and NC 55, provide an additional eastbound lane (Shared through/right turn) with a minimum of 330 feet of storage and an appropriate taper.
- At the intersection of O'Kelly Chapel Road and Green Level Church Road, provide an additional through lane for the eastbound approach.
- At the intersection of O'Kelly Chapel Road and Green Level Church Road, provide an exclusive eastbound 250-foot left turn lane.
- At the intersection of O'Kelly Chapel Road and Green Level Church Road, provide an additional through lane for the westbound approach.
- At the intersection of O'Kelly Chapel Road and Green Level Church Road, provide an exclusive westbound 300-foot left turn lane.
- At the intersection of O'Kelly Chapel Road and Green Level Church Road, provide an additional through lane for the northbound approach.
- At the intersection of O'Kelly Chapel Road and Green Level Church Road, provide an exclusive northbound 200-foot left turn lane.

- At the intersection of O’Kelly Chapel Road and Green Level Church Road, provide shared through/right turn lane for the northbound approach.
- At the intersection of O’Kelly Chapel Road and Green Level Church Road, provide an additional through lane for the southbound approach.

Village at the Park:

- At the intersection of Kit Creek Road and NC 55, provide an additional WB left turn lane with a minimum of 200 feet of storage.
- Provide an additional southbound through lane on NC 55 from Kit Creek Road south along frontage.
- At the intersection of O’Kelly Chapel Road and Green Level Church Road, provide an exclusive eastbound 250-foot left turn lane.
- At the intersection of O’Kelly Chapel Road and Green Level Church Road, provide an exclusive westbound 300-foot left turn lane.
- At the intersection of O’Kelly Chapel Road and Green Level Church Road, provide an additional through lane for the northbound approach.
- At the intersection of O’Kelly Chapel Road and Green Level Church Road, provide an exclusive northbound 200-foot left turn lane.
- At the intersection of O’Kelly Chapel Road and Green Level Church Road, provide shared through/right turn lane for the northbound approach.
- At the intersection of O’Kelly Chapel Road and Green Level Church Road, provide shared through/right turn lane for the southbound approach.

While these improvements are outlined in the Traffic Analysis Reports for the two developments as described above, they are also a mitigation finding for this rezoning case. The Town typically assigns the improvements to whichever development elects to proceed with development construction first.

The executive summary of the Traffic Analysis Report for the rezoning is attached. The report is in a draft stage until action on the rezoning case is taken, at which time it will be finalized.

Additional Staff Observation

Please note that the applicant offers to build the second (2nd) Eastbound 400-foot left turn lane at the intersection of Kit Creek and NC 55, but that is assuming that Parkside Town Commons will extend the existing left turn lane to a 400-foot left turn lane which is being shown as part of their Phase 2 improvements. No provisions have been provided by the applicant to extend the existing eastbound left turn lane to 400 feet if not in place by the time the applicant should build the second 400 foot eastbound left turn lane.

• **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 to pre-development conditions at the discharge point leaving the development.

REGULATIONS PROPOSED TO BE WAIVED OR MODIFIED BY THE PRELIMINARY DEVELOPMENT PLAN *Per Section 4.5.2(D)*

Listed below are standards contained in the LDO proposed to be modified by the applicant. The applicant’s justification and staff’s observation are provided for each. These waivers or modifications are listed for the purpose of understanding the details of the proposed PDP. Because the proposed standards represent zoning conditions voluntarily offered by the applicant, the Planning and Zoning Board recommendation and Town Council action is limited to approval or denial of the requested rezoning application as a whole. While individual waivers and modifications incorporated in the PDP may be taken into consideration, they may not be voted on individually.

1. LDO Section 7.10.2 Connectivity

Standard: Provide road connection to adjacent property to west (from proposed Road G)

Proposed Modification: Dedication of right-of-way, but no road construction, from end of Road G to the western property line.

Applicant Justification:

The request is to not build Road G to the Reiss property line. The right-of-way will be dedicated from the point where the roadway stops to the Reiss property. By having the right-of-way, the road can be built in the future

The Reiss family is planning on applying for a Conservation easement over their entire property. This easement will limit the uses allowed on the property. The Reiss family does not want the connection to their property because of this conservation designation. The requested modification is critical to the preservation of their property. See Waiver Request

Staff Observation:

The proposed Road G does not extend to the property line to support future connection by adjacent property for future development. Project is required to provide roadway connectivity including right-of-way, easements if applicable for future connection, and construction of the roadway infrastructure (27' b/b street section with sidewalk) to the property line. This connection would connect to an approximately 36-acre parcel of land that could be developed and surrounded by other developable properties.

LDO Section 7.10.3 (B) states... *the proposed public or private street system shall be designed to provide vehicular interconnections to facilitate internal and external traffic movements in the area. In addition to the specific connectivity requirements described above, roadway interconnections shall be provided during the initial phase of any development plan between the development site and its adjacent properties with one roadway interconnection every one thousand two hundred fifty (1,250) to one thousand five hundred (1,500) linear feet for each direction (north, south, east, west) in which the subject property abuts. If the common property boundary in any direction is less than one thousand two hundred fifty (1,250) linear feet, the subject property will be required to provide an interconnection if it is determined by the Planning Director that the interconnection in that direction can best be accomplished through the subject property. When the Planning Director deems a vehicular connection not possible due to topographical and/or environmental constraints, he/she may increase the length requirement and/or require pedestrian connections. The Planning Director may delay the interconnection if such interconnection requires state approval. The intent of this standard is to improve access/egress for Town neighborhoods, provide faster response time for emergency vehicles, and improve the connections between neighborhoods.*

Additional Staff Observation:

Proposed cul-de-sac Road F, as shown in the central layout preliminary development plan, technically complies with the connectivity ordinance; however, it is staff's observation that extending the road to the two properties immediately to the north could be deemed beneficial in connecting future Town neighborhoods.

2. LDO Section 7.2.4(C): Required Width of Streetscape

Green Level Church Road and Kit Creek Road

Standard: 50' Type A

Proposed Modification: 30' Type A

Applicant Justification:

The request is to provide for a 30-foot streetscape along the residential portion of the development adjacent to Wake Road, Green Level Church Road and Kit Creek Road. The streetscape is 30 feet. There is a 50-foot building setback from the public right-of-way. There will be a minimum of 50 feet between the public right-of-way and any townhome unit located North of Kit Creek Road. The streetscape will be planted to the same standard as required for a 50-foot streetscape thus giving the units the necessary screening. The side and rear of the buildings are adjacent to the 30-foot buffer. The units will meet the design guidelines for townhomes as per the LDO. The proposed townhome units are located within a MUOD. These areas are designed for higher densities. Given the type of residential development proposed 30 feet is appropriate. The future commercial development that is planned adjacent to Kit Creek Road and Green Level Church Road will be required to provide a 30-foot streetscape. By providing 30 feet adjacent to the residential development, the streetscape will be consistent along the entire portion of the roadway.

Staff Observation:

The proposed streetscape width is consistent with the existing streetscape width for Chancery Village, a 276-unit multi-family development located on the east side of Green Level Church Road across from the subject property. The streetscape for Chancery Village was approved with a width of 30 feet and a decorative wall.

The proposed streetscape width would be consistent with the streetscape that would be required for the adjacent 2.2-acre site at the intersection of Kit Creek Road and Green Level Church Road if that site is developed for non-residential use in the future.

CRITERIA FOR CONSIDERATION IN REVIEWING REZONINGS

Criteria Applicable to All Rezoning Requests

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

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), including the Land Use Plan, Parks, Recreation and Cultural Resources Facilities Master Plan, Growth Management Plan, Affordable Housing Plan, Comprehensive Transportation Plan, open space Plan, and Historic Preservation Master Plan.
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.

Criteria Applicable to MXD Rezoning

Section 4.5.2(E) of the Land Development Ordinance sets forth the following development standards to be considered in reviewing Preliminary Development Plans associated with MXD rezoning requests:

(E) Approval Criteria for Mixed Use District Rezoning

In addition to the criteria for a general rezoning specified in Section 3.4.1(E), rezoning requests to a MXD district shall be reviewed for compliance with the following criteria, as applicable [i.e., it may not be reasonable or practical to expect that some existing or partially-built mixed use districts (formerly activity center concept plans or mixed use sketch plans) to achieve certain design standards]:

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

APPLICABLE COMPREHENSIVE OR AREA PLAN REQUIREMENTS

A. Land Use Plan

For the subject parcels, the governing element of Cary's Comprehensive Plan is the Northwest Area Plan. The land use recommendations for the subject parcels were last amended by council on September 6, 2012 via case 12-CPA-03. The subject parcels are part of an overall mixed-use Neighborhood Activity Center (NAC), and also have the following specific future land use designations:

South of Kit Creek Road:

For the portion of the subject area that is south of the future westward extension of Kit Creek Road the land use designation is Medium Density Residential (MDR). Medium Density Residential (MDR) refers to single-family housing at three to eight dwellings per acre, with housing that typically includes types such as single-family-detached, semi-detached/attached homes, townhomes, patio homes, and/or duplexes. Multi-family housing is typically not envisioned within most MDR areas, however, within the Northwest Area it may be considered when using clustered/conservation site design that preserves significant amounts of the site as permanent open space. A variety of neighborhood-compatible and complimentary institutional uses may also be considered within MDR areas, such as churches, schools, and daycare facilities.

This area is also subject to Map Note #3 on the Northwest Area Plan, which states: "Along the western property boundary, the MDR area will transition to single-family-detached along the common boundary to the west, and the OFC/INS area should transition to office building styles having height, bulk, and design compatible with adjacent VLDR single-family to the west." The term "VLDR" stands for "Very Low Density Residential," and refers to properties west of the activity center, where residential densities should not exceed one dwelling per acre, with lot sizes preferably of 2-3 acres, unless using clustered subdivision design. "OFC/INS" stands for "Office/Institutional" land uses.

North of Kit Creek Road:

For the portion of the subject area that is north of the future westward extension of Kit Creek Road the future land use designation is Mixed Use (MXD). Mixed Use (MXD) is defined as containing "a mix of commercial, office, and medium to high-density residential uses." The Plan also notes that "land uses in

mixed-use areas may be mixed either side-by-side on adjacent lots, sites, or individual tenant spaces in a multi-tenant building, or vertically within buildings,” and that “a single use should not substantially dominate an entire area designated as Mixed Use.” Institutional uses that are compatible and complimentary to the development of a mixed-use area may also be considered – such as churches, schools, libraries, and daycare facilities.

This area is also subject to Map Note #4 on the Northwest Area Plan, which describes the properties as being part of an “Intense mixed use center with focus on commercial/retail and office uses, with some high-density housing, such as apartments over shops or offices. For mixed use areas north of Kit Creek Road and west of Green Level Church Road, any residential uses should be limited to medium-density housing.”

Comparison of Existing and Requested Land Use Plan Designations:

The subject parcels are located within the “Village at the Park” mixed-use Neighborhood Activity Center (NAC). Section 6.2.5 of Chapter 6 of the townwide Land Use Plan provides a set of metrics that can be used to describe and evaluate mixed-use activity centers. It should be noted, however, that since area plans provide parcel-level land use recommendations for their activity centers based on extensive community input during the planning process, the metrics given in Chapter 6 should not be considered as definitive for this particular activity center.

The table below provides estimates of the development mix that currently exists within the overall activity center, the remaining amount allowed within the Village at the Park PDD (not part of this case), the amount requested by the subject rezoning, and an estimated projection of the amount of development that might be feasible on the remaining undeveloped/underdeveloped land within the NAC.

Land Use Category	Village at the Park Neighborhood Activity Center (dwelling units, hotel rooms, floor space)				
	Existing + in Process	Remaining Approved in PDD	Added by Current Case	Capacity of Remaining Land (Est. Avg.)	Projected Buildout
Single-Family (LDR)	58		30	-7 (demol.)	81
Townhomes (MDR)	0		130		130
Condos/Apartments (HDR)	710	45			755
Hotel Rooms		150			150
Institutional (school, church)	105,389			114,000	219,389
Office	0	88,240		272,000	360,240
Commercial/Retail		94,755	16,000		110,755

Analysis

The requested rezoning will improve the balance of residential uses within the activity center, by adding a medium density residential (townhome) component to the housing stock. Under the guidelines for activity centers given in Table 6.1 of Chapter 6 of the Land Use Plan, the recommended range of dwellings for this center at buildout should be in the range of about 235 - 942 units, and at buildout this center would have 972 units, plus 150 hotel rooms. Table 6.1 recommends anywhere from 125,000 to 300,000 square feet of commercial/retail space for an NAC, and from 100,000 to 400,000 square feet of office space. At buildout this particular NAC would be at the low end of commercial/retail space, and towards the higher end of office space. Overall, given the location of the site and its proximity to Research Triangle Park, on balance, the anticipated mix and intensity of uses seems to conform with the Land Use Plan.

B. Parks, Recreation & Cultural Resources Facilities Master Plan

According to the Parks, Recreation and Cultural Resources Facilities Master Plan there are no issues related to the subject parcels.

A payment of recreation funds will be required for residential development, in accordance with the Land Development Ordinance.

These comments were reviewed and approved by the Town's Parks, Recreation and Cultural Resources Advisory Board at its April 8, 2013 meeting.

C. Growth Management Plan

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

Guiding Principle L1: Concentrate growth near existing and planned employment centers and available and planned infrastructure to minimize costly service-area extensions.

Guiding Principle A1: Increase permitted densities in preferred growth areas to encourage desired forms of development.

Analysis: The proposed amendment is consistent with the Guiding Principles.

D. Affordable Housing Plan

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

- Provide for a full range of housing choices for all income groups, families of various sizes, seniors, and persons with special challenges.
- 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.

Analysis: The proposed amendment could help to expand the range of housing product types within the activity center, thereby supporting the first goal listed above. The proposed amendment is supportive of the second goal listed above, when considered in balance with the first goal.

E. Comprehensive Transportation Plan

Kit Creek Road is designated as a minor thoroughfare (rural reservation)

Existing Section: 2-lane undivided with center turn lane, and left- and right-hand turn lanes on eastbound approach to intersection with Green Level Church Road.

Future Section: 2-lane undivided with rural reservation, 88-foot ROW

Sidewalks: Required on both sides

Bicycle: N/A

Green Level Church Road is designated as a major thoroughfare.

Existing Section: 2 lanes, approximately 80-foot ROW, and widened to future section specifications on northbound segment fronting the Chancery Village Apartments

Future Section: 4 lanes with landscaped median, 100-foot ROW

Sidewalks: Required on both sides

Bicycle: 14-foot-wide outside lanes required

Wake Road is designated as a collector avenue.

Existing Section: 2 lanes, approximately 60-foot ROW

Future Section: 2-3 lanes (where turn lanes may be needed), 58-70' ROW depending on the collector avenue option

Sidewalks: Required on both sides

Bicycle: 4-foot striped bicycle lanes required

Transit

The nearest existing bus transit service is provided by Triangle Transit's Route #311, with the nearest stop located on NC Hwy 55 near the intersection of Kit Creek Road, approximately a quarter mile east of the subject parcels. At present, the area is not served by C-Tran bus routes. The Town's long-range bus service expansion plans currently envision C-Tran bus service along Green Level Church Road, extending

as far north as Kit Creek Road and the eastern edge of the subject parcels. However, no date has been set for such a service expansion, and the long-range service expansion plans have not yet been finalized or ratified, and are subject to change and funding.

F. Open Space Plan

According to the Open Space Plan the subject parcels were not identified as priority conservation areas; no significant natural resources were identified.

G. Historic Preservation Master Plan

Other than a communications tower on the Ferrell property, there are no existing structures on the subject parcels.

STAFF EVALUATION - CONSISTENCY WITH THE DESIGN PRINCIPLES FOR MIXED USE CENTERS

Staff makes the following observations regarding the Design Principles for Mixed Use Centers included in the Town of Cary Site Design Standards:

Create a Sense of Place

The sense of place for this development is created through classic residential design with multiple community gathering spaces and private recreation opportunities.

Create Human Scale

The building placement, in a residential setting, will help meet this requirement.

Connect Uses

Vehicular and pedestrian connections are provided into and within this site.

Provide Transitions

Transitions are created through circulation routes, natural features, building placement, and landscape buffers.

Reduce Parking Impacts

The typical parking requirements for residential uses have minimal impact.

Plan for Pedestrians, Bicyclists, and Transit Users

Pedestrian circulation is provided into and within the PDP.

Provide Open Space

Multiple community gathering spaces are provided within the site. Stormwater BMPs will be designed as site amenities.

STAFF EVALUATION - CONSISTENCY WITH SITE DESIGN STANDARDS

Staff makes the following observations regarding the Town's Site Design Standards, the four design standard themes that support and strengthen the Town of Cary's seven design principles:

Vehicular Circulation

Vehicular circulation through the site provides logical connections.

Building Placement

Building placement is logical and efficient based on the shape and natural features of the property.

Pedestrian Circulation

Pedestrian circulation is provided into and within the proposed PDP.

Community Spaces

Multiple community gathering spaces with play areas, gardens, seating and landscaping will be provided. Stormwater BMPs will be designed as site amenities.

OTHER REFERENCE INFORMATION

Schools <i>This information is being provided for your review; however, the Wake County Board of Education controls capital projects for school capacities.</i>	Type ¹	Projected Range of Additional Students ²
	Elementary School	21 - 57
	Middle School	9 - 34
	High School	6 - 30
Total Projected range of additional students ²		36 - 121
¹ Information regarding specific Wake County Public School assignment options may be found by visiting the following: http://assignment.wcpss.net		
² The <i>Projected Range of Additional Students</i> is a rough approximation. The actual number of students will vary depending on variables, such as the number of bedrooms, dwelling size, and other factors. For example: a site with 12 three-bedroom homes could yield six additional students, while 12 homes with greater than three bedroom units could yield 10 students. The basis for making this calculation is based on multipliers provided by the Wake County Schools Office of Student Assignment. At rezoning, student yield can not be accurately determined due to unknown variables.		

APPLICANT'S JUSTIFICATION STATEMENT

Attached are the applicant's responses to the justification questions contained in the application form. Please note that these statements are that of the applicant and do not necessarily represent the views or opinions of the Town of Cary.

ORDINANCE FOR CONSIDERATION

12-REZ-31 Village Subdivision and Townes

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF THE TOWN OF CARY TO CHANGE THE ZONING OF APPROXIMATELY 37.2 ACRES LOCATED SOUTH OF WAKE ROAD AND WEST OF GREEN LEVEL CHURCH ROAD BY REZONING FROM OFFICE/RESEARCH AND DEVELOPMENT (ORD) AND RESIDENTIAL 40 (R-40) TO MIXED USE DISTRICT (MXD).

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(s) (10-digit)	Real Estate ID(s)	Deeded Acreage
HAB Properties LLC Cabernet Realty I LLC	0726984369	0045896	27.2 ±
Betty Lou Ferrell	0726970344	0173518	10.0 ±
Total Acreage			37.2±

Section 2: That this Property is rezoned from ORD and R-40 to MXD subject to the individualized development conditions set forth in "Village Subdivision and Townes Preliminary Development Plan" dated May 8, 2013 and on file in the Planning Department, and to all the requirements of the Cary Land Development Ordinance (LDO) and 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 "Village Subdivision and Townes Preliminary Development Plan" dated May 8, 2013 and on file in the Planning Department.

Section 4: This ordinance shall be effective on the date of adoption.

Adopted and effective: May 23, 2013

Harold Weinbrecht, Jr.
Mayor

Date