

**Town of Cary, North Carolina  
Special Use Staff Report  
12-SU-002 St. Paul's Episcopal Church  
Town Council Public Hearing  
July 26, 2012**

**REQUEST**

The applicant, Mary Kintz, as agent for the property owner, St. Paul's Episcopal Church, has requested approval of a Special Use Permit to expand an existing religious assembly use into the existing structure located at 511 Kent Drive. The property is located in the Town Center (TC) zoning district in the Low-Density Residential (LDR) sub-district, which permits religious assembly uses on property less than 20 acres in size only as a Special Use.

**SPECIAL USE NOTES:**

*Special uses are generally compatible with other land uses permitted in the zoning district. However, because of the unique characteristics or potential impacts on the surrounding neighborhood and on the Town as a whole, they require individual consideration as to location, design, configuration, and/or operation at a particular location. [LDO Sec. 3.8.1(A)].*

*In accordance with Section 3.8.3(C) of the LDO, the Town Council must follow quasi-judicial procedures when deciding special use permits.*

**SUBJECT PARCELS**

Property Owner	Wake County Parcel Identification Number (PIN) (10-digit)	Real Estate ID Number	Deeded Acreage
St. Paul's Episcopal Church 211 Union St. Cary, NC 27511-3763	0763197304	0310504	2.54
<b>Total Area</b>			2.54

**BACKGROUND INFORMATION**

Applicant & Agent	Mary Kintz St. Paul's Episcopal Church 221 Union St. Cary, NC 27511
General Location	511 Kent Drive (Note that once the access to Kent Drive is terminated, the address will be amended to 201 Union Street)
Land Use Plan Designation	Low-Density Residential (LDR)
Zoning Districts	Town Center (TC) – Low-Density Residential (LDR) in the Swift Creek Watershed Protection Overlay District (Existing Urban sub-district)
Within Town Limits	Yes
Staff Contact	Kevin A. Hales, Senior Planner Town of Cary Planning Department P.O. Box 8005 Cary, NC 27512-8005 (919) 462-3944 kevin.hales@townofcary.org

**LIST OF EXHIBITS**

The following documents incorporated into this staff report are to be entered into the record for the Special Use Permit and development plan applications:

- Exhibit A: 12-SU-002 Application and Justification Statement (4 pages)
- Exhibit B: Kent Drive Survey (1 page)
- Exhibit C: 12-MA-097 Minor Alteration Application
- Exhibit D: Survey Base
- Exhibit E: Church Base to Client

**SITE CHARACTERISTICS**

**Streams:** The Town of Cary GIS information indicates a potential stream located along the northern property line. An existing structure is located outside of a potential stream buffer; however, a portion of the existing private access drive is located within the potential stream buffer. The applicant has proposed no improvements to the property which would impact the potential stream buffer.

**Floodplain:** The Town of Cary GIS information does not indicate the presence of floodplain or flood hazard area on the property.

**Wetlands:** The Town of Cary GIS information does not indicate the presence of wetlands on the property.

**Topography:** The property slopes downward from the church parking lot to the south toward the creek along the northern property line.

**Surrounding Land Uses:**

**North:** Detached Dwellings (Carr Hills Subdivision)

**South:** Religious Assembly (St. Paul's Episcopal Church)

**East:** Religious Assembly (St. Paul's Episcopal Church) and Detached Dwellings

**West:** Religious Assembly (St. Paul's Episcopal Church)

**SUMMARY OF PROCESS AND ACTIONS TO DATE**

**Pre-application Conference**

The applicant attended a Development Review Committee (DRC) pre-application conference regarding the Special Use on August 3, 2011.

**Notification**

The Planning Department mailed notification of the public hearing on the Special Use to property owners within 400 feet of the site on July 10, 2012. Notification consistent with North Carolina General Statutes was published in The Cary News on July 11 and 18, 2012.

**Property Posting**

Notice of the public hearing was posted on the property on July 11, 2012.

**COMPREHENSIVE PLAN SUMMARY**

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 and Historic Resources Plan			X
G. Historic Preservation Master Plan			X

**A. Land Use Plan**

The current land use designation for the subject parcel is Low Density Residential (LDR), which is typically defined as single-family-attached or as detached housing at 1 to 3 units per acre. Institutional uses such as churches, schools, libraries, and daycare facilities that are compatible and are complementary to the surrounding neighborhood may also be considered.

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

The Parks, Recreation and Cultural Resources (PRCR) Facilities Master Plan identifies no improvements that would impact the subject property. A future greenway corridor is proposed along the southern and eastern sides of the larger church property.

**C. Growth Management Plan**

The applicant is proposing to utilize an existing structure on the property for religious assembly uses. The Growth Management plan is not applicable to the case since no new development is contemplated at this time.

**D. Affordable Housing Plan**

The Affordable Housing Plan is not applicable to non-residential development.

**E. Comprehensive Transportation Plan (CTP)**

The site is located on a private access drive at the end of Kent Drive. Since the property has no road frontage, the applicant proposes to recombine the 2.54-acre lot with the larger church parcel and to provide access from the existing church facilities. Since there is no street frontage involved with the subject parcel, the Comprehensive Transportation Plan is not applicable to this case.

**F. Open Space Plan**

There are no significant resources located on the subject property.

**G. Historic Preservation Master Plan**

There are no historic structures located on the property.

**CONSISTENCY WITH THE LAND DEVELOPMENT ORDINANCE (LDO)**

**Traffic**

The proposed conversion of the existing detached dwelling into a religious assembly use would not generate more than 50 peak-hour vehicular trips; therefore, a traffic impact analysis is not required for this project.

**Buffers and Streetscapes**

The property is heavily wooded currently. When the property is recombined with the overall church property, the buffers associated with the western, southern, and a portion of the eastern property lines would no longer be applicable. Where the property abuts detached dwellings, evergreen plant material will be provided as necessary to establish a Type A (opaque) buffer. Property located in the Town Center District is exempt from meeting a proscribed buffer width that would otherwise be applicable in other areas of town.

**Architectural**

The façade of the existing structure would not be modified in association with this proposed use. The structure is typical two-story residential design with a pitched, asphalt shingle roof.

**USE SPECIFIC STANDARDS [LDO SECTION 5.2.2(E)]**

- (1) Such uses shall obtain a Special Use Permit consistent with Section 3.8 of this Ordinance. This requirement shall also apply to residentially-zoned properties twenty (20) acres in size or smaller located within a mixed use center overlay and/or a residentially-designated portion of a planned development district;

Staff Comments: The applicant has submitted an application for Special Use for consideration and approval by Town Council.

- (2) New or proposed religious or other assembly uses shall be located on parcel or site which fronts a thoroughfare or collector roadway; and

Staff Comments: This application represents an expansion of an existing religious assembly use which abuts three sides of the subject parcel. The subject parcel is currently land-locked and would be recombined with the larger church property, providing direct access to the public street network (Union Street).

- (3) Such uses shall meet all the development standards of this Ordinance, and minor modifications or other reductions to the standards shall not be granted. Existing religious or other assembly uses shall meet this requirement to the maximum extent practicable.

Staff Comments: The applicant has requested no modifications to the development standards of this ordinance as part of the proposed religious assembly use.

- (4) Any subsequent principal or accessory use associated with an existing religious or other assembly (which is required to obtain a Special Use Permit) that would increase the intensity of the facility shall also be required to obtain a special use. For the purposes of this Section, increases in intensity shall be measured as increases in vehicular trips generated and/or increases in impervious surface by five (5) percent or more for either aspect.

Staff Comments: The applicant has requested a special use for this expansion of the existing church facilities.

- (5) Uses that have or are intended to have more than one worship ceremony or meeting within any two (2) hour window shall be required to provide overflow parking at one (1) space for every two and one-half (2.5) persons of maximum fire-rated occupancy in addition to the standard parking requirements listed in Section 7.8.

Staff Comments: The layout of the existing structure would not be suitable for use as a second assembly space for worship services. The church anticipates using the structure as additional office and small-group meeting space to serve the outreach programs of the church.

**PROPOSED CONDITIONS FOR THE SPECIAL USE**

Staff has reviewed the application and the materials provided by the applicant both for compliance with the requirements of the LDO and for consistency with the Comprehensive Plan. Staff has included a brief discussion of the special use in relation to the general criteria for approval of a Special Use Permit in this staff report and in the attached Town Council worksheet.

Based on information submitted by the applicant and on the analysis presented within this staff report, the Development Review Committee (DRC) recommends the attachment of the following conditions to this Special Use Permit request:

1. The Resolution and Permit approved by the Town Council in this special use application shall be recorded with the Wake County Register of Deeds upon the expiration of the appeal period, per Section 3.8.4(E) of the LDO. The original recorded Resolution and Permit shall be returned to the Planning Department when received from the Register of Deeds.
2. A Minor Alteration limited shall be approved by staff record the change in use of the existing structure.
3. A recombination plat shall be recorded with the Wake County Register of Deeds to recombine the subject property with the overall church property.

In approving a Special use, the Town Council may attach such conditions as it deems necessary to have the proposed use meet the standards set forth in this Ordinance and to protect the public health, safety, and general welfare. All such conditions shall be stated in the resolution approving the application. [LDO Section 3.8.4(A)]

**CARY TOWN COUNCIL  
SPECIAL USE WORKSHEET  
AND  
SUGGESTED MOTIONS**

Section 3.8.3 of the LDO states the following: *The Town Council shall not approve a proposed special use and any accompanying site plan unless and until it determines that the proposed use meets all the criteria set forth below, based on the evidence and testimony received at the public hearing or otherwise appearing in the record of the case:*

- (A) *The proposed use or development of the land will generally conform with the Comprehensive Plan, other official plans and manuals or documents adopted by the Town;*

**Staff Comments:** Staff has included a discussion of the Special Use's consistency with various elements of the Comprehensive Plan and with general LDO requirements earlier in this report.

**TEST SATISFIED? \_\_ YES \_\_ NO**

- (B) *The proposed use or development of the land will not materially endanger the public health or safety;*

**Staff Comments:** The proposed religious assembly use would be entirely contained within the existing structure on the property. The existing structure and associated property would be an expansion of an existing religious assembly use on the adjoining properties. The Town is unaware of any incidents of material danger to public health and safety caused by the existing church.

**TEST SATISFIED? \_\_ YES \_\_ NO**

- (C) *The proposed use is reasonably necessary for the public health or general welfare, such as by enhancing the successful operation of the surrounding area in its basic community functions or by providing an essential service to the community;*

**Staff Comments:** Churches serve a variety of needs in the community, including hosting programs designed to improve the lives of citizens not directly involved with the religious worship activities of the church. The proposed expansion of St. Paul's Episcopal Church will allow more space for continued growth of their community outreach programs.

**TEST SATISFIED? \_\_ YES \_\_ NO**

- (D) *The proposed use or development of the land will not substantially injure the value of adjoining or abutting property;*

**Staff Comments:** The existing structure on the property is located closer to the St. Paul's Episcopal Church parking lot than to any adjoining residence. Additionally, the church does not propose to continue using the private access drive from Kent Drive to access the property. The reduction in vehicular traffic across the two lots on Kent Drive, in addition to the spatial separation from the lots, should ensure that there would be no adverse impacts to adjoining property values.

**TEST SATISFIED? \_\_ YES \_\_ NO**

- (E) *The proposed use or development of the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located;*

**Staff Comments:** The proposed use of the building would not alter the scale, bulk, coverage, or density of the existing site, nor the surrounding community.

**TEST SATISFIED? \_\_ YES \_\_ NO**

(F) *The proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities;*

**Staff Comments:** By accessing the site through the existing church parking lot, the proposed expansion would have access to transit and to the public street network. Existing public utility and public safety services would not be disrupted. Waste removal would be through a private contractor associated with the church's waste removal contract.

**TEST SATISFIED? \_\_ YES \_\_ NO**

(G) *The proposed use will not cause undue traffic congestion or create a traffic hazard or unsafe pedestrian pathway.*

**Staff Comments:** The proposed use is not anticipated to generate a significant increase in the vehicular trips associated with the church. The projected volume of the project is approximately 40 vehicle trips during an 8-hour business day.

**TEST SATISFIED? \_\_ YES \_\_ NO**

**SUGGESTED MOTIONS FOR SPECIAL USE**

**MOTION TO GRANT THE APPLICATION**

Upon conducting a duly-advertised public hearing and considering the application materials, the testimony, and the evidence presented at the hearing or otherwise appearing in the record and upon considering the approval criteria of Section 3.8.3, I move that we APPROVE the request and adopt the proposed RESOLUTION AND PERMIT including the staff comments shown on the worksheet [ALT: with the following changes to the staff comments\_\_\_\_\_] as findings to support the determination that the proposed use meets all of the approval criteria set forth in Section 3.8.3. This approval shall include the following conditions:

- 4. The Resolution and Permit approved by the Town Council in this special use application shall be recorded with the Wake County Register of Deeds upon the expiration of the appeal period, per Section 3.8.4(E) of the LDO. The original recorded Resolution and Permit shall be returned to the Planning Department when received from the Register of Deeds.
- 5. A Minor Alteration limited shall be approved by staff record the change in use of the existing building.
- 6. A recombination plat shall be recorded with the Wake County Register of Deeds to recombine the subject property with the overall church property.

In approving a special use, the Town Council may attach such conditions as it deems necessary to have the proposed use meet the standards set forth in this Ordinance and to protect the public health, safety, and general welfare. All such conditions shall be stated in the resolution approving the application. [LDO Section 3.8.4(A)]

**OR**

**MOTION TO DENY THE APPLICATION**

Upon conducting a duly-advertised public hearing and upon considering the application materials, the testimony, and the evidence presented at the hearing or otherwise appearing in the record and upon considering the approval criteria of Section 3.8.3, I move that we DENY the request and adopt the following RESOLUTION, finding that the proposed use does not meet all of the approval criteria set forth in Section 3.8.3 based on the following findings, which shall be set forth in the RESOLUTION. Specifically, the application does not: [choose the criteria below that have not been met and state the reason why it is not met.]

- Does not conform to the Comprehensive Plan or other adopted plans because \_\_\_\_\_;
- Endangers the public health and safety because \_\_\_\_\_;
- Does not enhance the successful operation of the surrounding area in its community functions or provide an essential service to the community because \_\_\_\_\_;
- Substantially injures the value of adjoining or abutting property owners because \_\_\_\_\_;
- Is not harmonious with the scale, bulk, coverage, density, or character of the area because \_\_\_\_\_;
- Is not appropriately located with respect to transportation facilities, water supply, fire or police protection, waste disposal or similar facilities because \_\_\_\_\_;
- Will cause undue traffic congestion or will create a traffic hazard or unsafe pedestrian pathway because \_\_\_\_\_.