

**STAFF REPORT**

Town Council Meeting, June 25, 2015

**Land Development Ordinance Text Amendments Round 32 (PL15-061b)**

Consideration of proposed Round 32 amendments to the Land Development Ordinance (LDO)

Speaker: Ms. Mary Beerman

From: Laura Cove, PE, Transportation & Facilities Director; Jeffery Ulma, Planning Director

Prepared by: Jerry Jensen, PE, Transportation Manager; Mary Beerman, Senior Planner

Approved by: Ben Shivar, Town Manager

Approved by: Russ Overton, Assistant Town Manager

**EXECUTIVE SUMMARY**

Proposed amendments to the Land Development Ordinance (Round 32, Items A and B) have been prepared in response to direction provided by Town Council.

**OVERVIEW**

**SCHEDULE:**

Public Hearing	May 21, 2015
Planning and Zoning Board Meeting	June 15, 2015
Final Action by Town Council	June 25, 2015
Effective	July 1, 2015

\* Italicized dates are tentative.

**SUMMARY OF PROPOSED AMENDMENTS:**

A brief description of each proposed amendment is provided below. More detailed background information is included in the section of this report entitled "DETAILS REGARDING PROPOSED LDO AMENDMENTS".

**Item A TRANSPORTATION DEVELOPMENT FEES**

The proposed amendments are largely clarifying amendments that conform the language of the TDF ordinance more closely to that of the local bill and to current practice in implementing the system. *There were no citizen or council comments at the public hearing, The Planning and Zoning Board recommended approval by a vote of 8-0.*

**Item B CONSERVATION RESIDENTIAL OVERLAY DISTRICT (CROD) STANDARDS**

The proposed amendment eliminates aspects of pedestrian connectivity requirements applicable in the CROD that are associated with rural road design standards. [This LDO Amendment is associated with a Comprehensive Transportation Plan Amendment ([15-CPA-03](#) Rural Road Standards) under consideration that would remove the rural road design standard classification for streets within the Southwest Area Plan.] *There were no citizen or council comments at the public hearing. The Planning and Zoning Board recommended approval by a vote of 8-0.*

**FISCAL IMPACT:**

Implementation of these amendments is not expected to have an impact on resources.

**STAFF RECOMMENDATION:**

Staff recommends approval of the proposed Round 32 amendments to the Land Development Ordinance (LDO).

## DETAILS REGARDING PROPOSED LDO AMENDMENT

### ITEM A – TRANSPORTATION DEVELOPMENT FEES

#### BACKGROUND

In 1987, a local bill was approved by the NC General Assembly authorizing the Town's collection of a "road project fee" (which the Town refers to as a "transportation development fee" or "TDF") on all new construction within the Town limits and extraterritorial jurisdiction. In 1989, the Town Council adopted an ordinance establishing transportation development fees and requiring traffic studies for large developments. Many of the components of the original TDF ordinance are still in place today, and the last substantive amendments to the ordinance were made in 2008.

The proposed amendments are largely clarifying amendments that conform the language of the TDF ordinance more closely to that of the local bill and to current practice in implementing the system. Text is rearranged and simplified for ease of understanding and terminology is updated. More comprehensive definitions of the transportation zones (central and base) are included as well; these definitions had formerly been in the Adequate Public Facilities Ordinance which was repealed in 2013. Section 7.11.9 ("Collection of Fees") is recommended for deletion as it is largely redundant with Section 7.11.7 ("Fees"); similarly, 7.11.16 ("Developer Agreements") is recommended for deletion with its text merged into Section 7.11.14 ("Offsets; TDF Agreements"). Section 7.11.10 ("Fund Accounting") was streamlined to remove text which merely repeated standard Town financial practices.

These updates are recommended to coincide with council's review of the Transportation Development Fee Schedule (TF15-067) and to have an effective date of July 1, 2015. As discussed previously with council and described in the [Transportation System Requirements Proposed Approach white paper](#), further TDF amendments are envisioned that will simplify the credit process and potentially eliminate the cash reimbursement aspect of the TDF system.

#### PROPOSED TEXT

### SECTION 7.11 TRANSPORTATION DEVELOPMENT FEES

#### 7.11.1 Purpose

~~The purpose of this section is to establish a procedure to impose and collect fees to finance additional road improvements within the Town limits and extraterritorial jurisdiction as authorized by NC Session Law 1987-801, assist in the funding of road improvements required by new growth in the Town's jurisdiction. This road project fee, or transportation development fee, shall be imposed on all new construction within the Town limits and extraterritorial jurisdiction. It is not the intent of this section to require the developer to pay for all new road construction. The Town provides a fee schedule in this section so that a procedure is in place for new development to pay a prorated share of road costs required to provide adequate road improvements to serve new construction before the new development is completed.~~

#### 7.11.2 Authority

~~This section is adopted pursuant to the powers conferred by the General Assembly of North Carolina and set forth in House Bill 684 of the 1987 Session NC Session Law 1987-801 and incorporated in Section 7.4 of the Charter of the Town of Cary.~~

#### 7.11.3 Findings

- (A) ~~The Town continues to~~ is experiencing rapid population and employment growth, in part, because of its proximity to regional employment facilities such as the Research Triangle Park and Raleigh Durham International Airport.

- (B) The anticipated population and employment growth in the Town creates demand for additional capital improvement funds for roadway facilities, which include but are not limited to, streets, intersection improvements, culverts and road-related drainage improvements, turn lanes, and signalization.
- (C) ~~The Town is and the North Carolina Department of Transportation are responsible for and committed to the provision of such road-related improvements at a level of service necessary to support anticipated residential and employment growth.~~
- (D) ~~The Town has adopted a and the North Carolina Department of Transportation has approved, the Town of Cary Official Map of Thoroughfare Plan, which identifies additional road capital improvements necessary to serve new construction. The Town has also developed the Cary Comprehensive Transportation Plan (CTP), which addresses long-term road improvements needs to the year 2015 and beyond. The Planned Roadway Widths map of the CTP identifies additional road capital improvements necessary to serve new construction.~~
- (E) The General Assembly of North Carolina has authorized the Town to impose a regulatory or development fee defined as a road project fee, and known within the Town as a transportation development fee, on new construction within the Town limits and extraterritorial jurisdiction.
- (F) The transportation development fee herein established is directly roughly proportional to the need for new capacity-related road improvements generated by new construction and reasonably benefits the construction that pays the fee.

**7.11.4 Applicability**

This section shall apply to all new construction within the Town's corporate limits and extraterritorial planning jurisdiction, ~~and shall apply within each transportation zone.~~

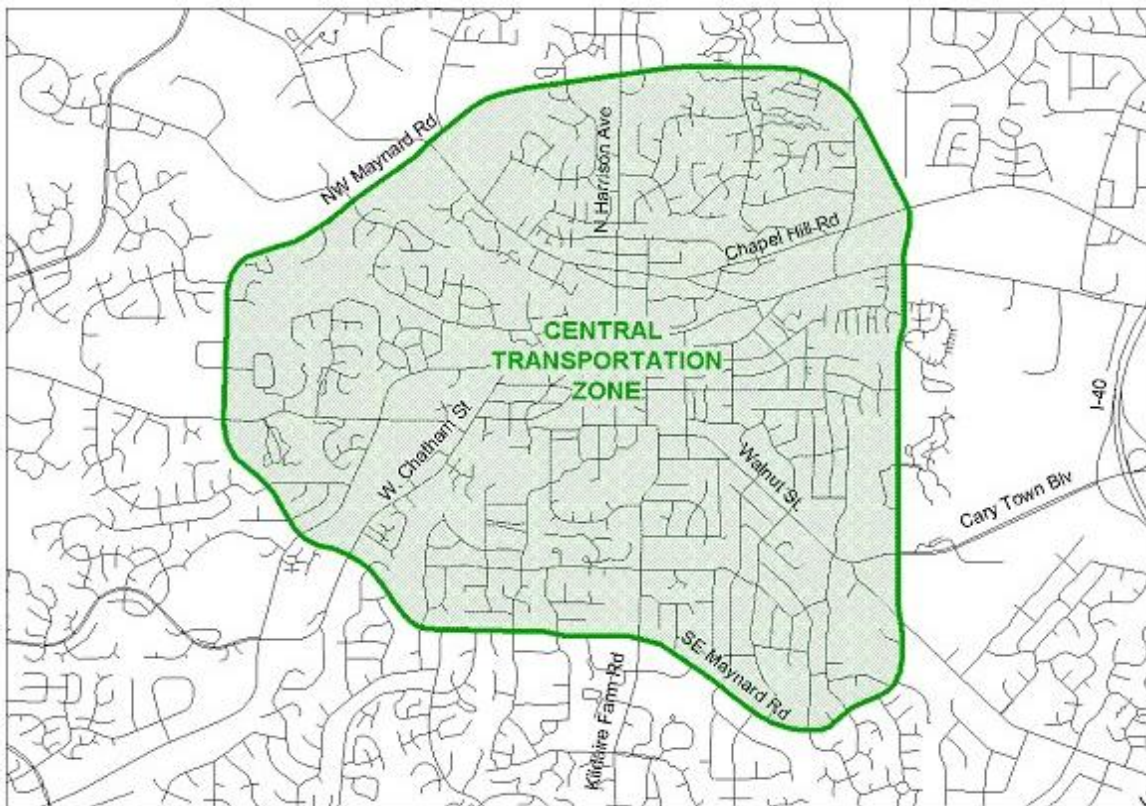
**7.11.5 Condition of Approval**

No building permit shall be issued for construction within the Town's jurisdiction unless and until such the required transportation development fee has been paid in full. ~~No certificate of compliance under the North Carolina State Building Code shall be issued for new construction within the jurisdiction of this Ordinance unless and until the required transportation development fee herein established has been paid in full.~~

**7.11.6 Transportation Zones**

Two Transportation Zones have been established for the purpose of assessing transportation development fees. ~~There shall be two (2) transportation zones, which together encompass the entire planning jurisdiction of the Town. The zones are the central zone and base zone (any other area of the planning jurisdiction).~~ The purposes of the transportation zones are to help ensure that adequate funding is available in different areas of the Town's ~~planning jurisdiction~~ to pay for road improvements needed to maintain adequate levels of service appropriate to each area. The transportation fees paid by new development in each zone represent the cost of replacing the roadway capacity that traffic from the new development will consume on the major roadway system. ~~are based on the unit cost to replace the capacity based on the new travel demand.~~ Fees collected must be used for road improvements within Cary's town limits and extraterritorial planning jurisdiction.

The Central Zone encompasses all land within the innermost right-of-way boundary of Maynard Loop and excluding Maynard Road itself. This includes all of the downtown area. This zone's primary focus is to encourage redevelopment and infill. The Level of Service standard is "F" based upon a 90-minute average peak. The Base Zone contains the remainder of the Town's corporate limits and extraterritorial jurisdiction not within the Central Zone. The Level of Service standard is "D" based upon the standard Institute for Transportation Engineers (ITE) average peak hour. Boundaries of the central zone are shown on the following exhibit map.



**Central Transportation Zone**

**7.11.7 Fees**

- (A) Every person seeking a building permit, ~~certificate of compliance, or business privilege license~~ for construction for which a transportation development fee is due but has not been paid shall pay such transportation development fee prior to the issuance of the building permit, ~~certificate of compliance, or business privilege license, as the case may be.~~
- (B) The transportation development fee shall be computed by proposed building use and based on the construction plans submitted for approval, according to the schedule set forth in the annual Town of Cary operating budget (TDF Schedule), except for fees computed by an individual assessment in accordance with Section 7.11.8, Individual Assessments, below.
- (C) The transportation development fee for proposed new commercial or industrial construction that is speculative construction shall be computed in conjunction with the application for a building permit for the expected use. An additional transportation development fee may be due for the fit-up to be constructed within the shell; however, no refunds will be given. This additional fee will be calculated as the difference in fees between what was paid at the time of speculative construction and what the new use would pay under the TDF Schedule, and shall be paid prior to issuance of the building permit for the fit-up.
- (D) If the proposed new construction contains a mix of building uses, the transportation development fee shall be calculated separately for each use according to the fee TDF Schedule. If the building has a single primary use, the transportation development fee shall be calculated for a single use, according to the fee TDF Schedule.

- (E) The transportation development fee shall be collected for additions to and remodeling ~~to~~ of existing structures and shall be calculated based on ~~for~~ that portion of the structure that represents an increase above the number of dwelling units or the floor area of the building, as it exists prior to the addition or remodeling ~~on the date of adoption of this Ordinance~~. If the addition or remodeling results in a use change that increases trip generation, the transportation development fee will be calculated as the difference in fees between what the existing and new use would pay under the TDF Schedule ~~and will be paid based on current fee rates for both old and new use~~. If the addition or remodeling results in a use change that decreases trip generation, no transportation development fee will be charged. No refunds will be given.
- (F) The following shall be exempt from the terms of this ~~Ordinance~~ Section 7.11.
- (1) Alteration or expansion of an existing building where no additional dwelling units are created, the use is not changed, and where no additional vehicle trips will be produced over and above that produced by the existing use.
  - (2) The construction of accessory buildings or structures that will not produce additional vehicle trips over and above that produced by the principal building or use of the land.
  - (3) The replacement of a destroyed or partially destroyed building or structure with a new building or structure of the same size and use, provided that no additional trips will be produced over and above that produced by the original use of the land.
  - (4) Private recreational facilities provided that such facilities are restricted for use by residents and their guests without charge and no additional vehicle trips will be produced over and above that produced by the principal residential use.

#### 7.11.8 Individual Assessments

- (A) If any person believes that his or her proposed construction is unique in the traffic impacts that it will generate, such person may request that the Town perform an individual assessment of the traffic impacts of the proposed construction. Such person shall pay to the Town, in escrow, a sufficient fee to pay the cost of obtaining such assessment from a professional engineer selected and hired by the Town. The Town shall then obtain the services of the professional engineer to perform the assessment, paying the engineer from the escrow account and remitting the balance, if any, to the person requesting the assessment. The Town Council shall, at a quasi-judicial public hearing, consider the request of the applicant to pay the transportation development fee based on the individual assessment. The Town shall assess the transportation development fee based on the individual assessment if the Town Council finds that:
- (1) The proposed construction is in fact so unique that the application of the ~~fee~~ TDF ~~S~~ Schedule adopted by the Town would result in the collection of a fee that is not proportionate to the traffic impact of the proposed construction; and
  - (2) There is a difference between the fees computed under the ~~fee~~ TDF ~~S~~ Schedule and the fees computed in accordance with the individual assessment of at least five thousand dollars (\$5,000.00) or five (5) percent of the total fees ~~computed under this chapter~~, whichever amount is greater.
- (B) The professional engineer to perform each individual assessment shall be selected by the ~~Town Manager or his or her designee~~ Transportation and Facilities Director from a list of qualified engineers maintained by the Town. The list shall contain the names of at least three (3) engineers or engineering firms, and shall be updated regularly ~~and approved as required by Town policy~~. The Town Council reserves the right to dispute the assumptions, methodology, or conclusions of individual assessments. An individual assessment may take into consideration such factors as internal capture of trips in mixed use projects and higher rates of pass by trips than indicated by ITE if supported by reliable local data.

- (B) Transportation development Fees computed under this section shall be computed in dollars per dwelling unit (for residential uses) or typically dollars per one thousand (1,000) square feet of non-residential floor area (for non-residential uses), using the following consumption based system formula(e):

**FIGURE 8.-TRANSPORTATION DEVELOPMENT FEE FORMULA**

FEE	= VMT x NET COST/VMT
VMT	= TRIPS x % NEW x LENGTH ÷ 2
NET COST/VMT	= COST/VMT - CREDIT/VMT
COST/VMT	= COST/VMC x VMC/VMT x <u>TDF SHARE</u>
CREDIT/VMT	= Revenue credit per VMT
<u>Where:</u>	
TRIPS	= Trip ends during the evening peak-hour on a weekday
% NEW	= Percent of trips that are primary, as opposed to pass-by or diverted-link trips
LENGTH	= Average length of a trip on the major roadway system
÷ 2	= Avoids double-counting trips for origin and destination
COST/VMC	= <u>Average cost to add a new peak hour vehicle-mile of capacity</u> <del>System-wide ratio of vehicle-miles of capacity to vehicle-miles of travel on major roadway system (assumed 1:1)</del>
VMC/VMT	= <u>System-wide ratio of vehicle-miles of capacity to vehicle-miles of travel on major roadway system (assumed 1:1)</u>
TDF SHARE	= % of cost not covered by developer frontage improvement requirements

**7.11.9 Collection of Fees [Reserved]**

- (A) ~~The transportation development fee for proposed new residential construction shall be computed in conjunction with the application for a building permit, and shall be collected prior to or simultaneously with the issuance of the building permit, unless otherwise provided herein.~~
- (B) ~~The transportation development fee for proposed new office, commercial, or industrial construction that is not speculative construction shall be computed in conjunction with the application for a building permit and shall be collected prior to or simultaneously with the issuance of the building permit, unless otherwise provided herein.~~
- (C) ~~The transportation development fee for proposed new commercial or industrial construction that is speculative construction shall be computed in conjunction with the application for a building permit for the expected use and any increase in use shall be collected prior to or simultaneously with the issuance of the building permit for the fit-up to be constructed within the shell.~~
- (D) ~~When any person applies for a business license for a use in a structure for which a building permit or a Certificate of Occupancy is not required, the transportation development fee shall be collected at the time the application for the business license is made.~~

### 7.11.10 Fund Accounting

- (A) The Town shall establish an account into which the transportation development fees collected shall be credited. Interest at the actual rate of return on invested funds of the Town shall be credited ~~periodically, but not less often than quarterly,~~ in accordance with the accounting policies of the Town.
- ~~(B) Interest earned on the account into which the development fees are deposited shall accrue to the account and shall be used for the purposes specified for such account.~~
- ~~(C) The Town shall maintain and keep financial records for each account showing the revenues to the account and the disbursements from the account, in accordance with normal Town accounting practices. The records of the account shall be open to public inspection in the same manner as other financial records of the Town.~~

### 7.11.11 Use of Funds

- (A) The revenues from transportation development fees and accrued interest on such revenues shall be spent on qualifying road improvements.
- (B) Qualifying road improvements include improvements to thoroughfares shown on the Planned Roadway Widths map of Thoroughfare Plan within the Cary Comprehensive Transportation Plan anywhere within the Town's planning corporate limits or extraterritorial jurisdiction.
- (C) Transportation development fees may be used to finance direct project costs of qualifying road improvements, including:
  - (1) The acquisition cost of rights-of-way;
  - (2) The construction cost of improvements, and drainage improvements (excluding pedestrian facilities);
  - (3) Signalization and intersection improvements at major thoroughfare intersections; and
  - (4) The principal sum and interest and other financing costs on bonds, notes, or other obligations issued by or on behalf of the Town to finance qualified road improvements.
- (D) ~~Transportation D~~development fees ~~collected pursuant to this section~~ shall not be used to pay for any of the following:
  - (1) Construction, acquisition, or expansion of public facilities other than road improvements;
  - (2) Repair, operation, or maintenance of existing or new road improvements.
- (E) Up to 30 percent of all transportation development fees collected shall be reserved for eligible cash reimbursement to developers for qualifying road improvements. An eligible cash reimbursement consists of eligible excess construction costs and excess costs of right of way, as defined below in Section 7.11.14, that exceed the value of offsets. Eligible cash reimbursements must be established through an approved TDF Agreement as described below in Section 7.11.16. The amount of such any reimbursements shall not exceed the value of such improvements in excess of the amount of transportation development fees that would otherwise be payable for the proposed development, unless the substitution of cash reimbursements for development fee offsets is specifically approved by the Town Council. At the end of each fiscal year, the amount of collected transportation development fees eligible for cash reimbursements shall be calculated, and if the total amount of reimbursements owed exceeds the amount of eligible fees available, the fees shall be remitted to developers in proportion to the amount of cash reimbursements owed.

### 7.11.12 Refunds

- (A) Any transportation development fee or portion thereof ~~collected pursuant to this chapter~~ which has not been expended within ten years from the last day of the fiscal year in which it was paid, shall be refunded to the record owner of the property for which the transportation development fee was paid, upon written application by the record owner, with accrued interest at the rate of return on investments earned by the Town on such amount.
- (B) The Town may charge a reasonable administrative fee, not to exceed five percent of the refund due, for verifying and computing the refund.

### 7.11.13 Updates and Revisions

~~Following a public hearing, the~~ The Town shall ~~recalculate~~ evaluate the TDF Schedule of development fees as part of the annual budget process. The frequency of any updates to the TDF Schedule may be influenced based upon growth in residential and non-residential construction, road improvements actually constructed, changing levels of service, inflation, revised cost estimates for road improvements, changes in the availability of other funding sources, and such other factors as may be relevant. ~~Each time the schedule of development fees is recalculated there shall be a public hearing prior to the adoption of the new fee schedule (This may be done through the normal budget public hearing). No increase to the fee schedule shall be made unless there is a written analysis made available to the public showing that the amended fees are based on reliable data and the formula set forth in Section 7.11.8(C).~~

### 7.11.14 Offsets; TDF Agreements

The Town shall grant offsets to transportation development fees for eligible qualifying road improvements ~~cost~~ that exceed the requirements for a collector road in accordance with this section ~~or Section 7.11.16, Developer Agreements~~. There shall be no other offsets to transportation development fees.

- (A) Where a development includes an eligible qualifying road improvement, the Town and the developer, by mutual consent, may enter into a TDF Agreement regarding the terms of the participation of the developer in the construction or financing of such improvement. Such agreement may provide for cash reimbursements, offsets, or other appropriate compensation to the developer for his or her participation in the financing and/or construction of the road. The TDF Agreement shall be on a form approved by the Town Council and shall include:
  - a. The estimated eligible excess costs of right of way acquisition and the estimated eligible excess construction costs;
  - b. An estimated offset amount and cash reimbursement amount, if any;
  - c. The land development project for which the offset may be used;
  - d. A requirement that the developer must solicit bids in accordance with Article 8 of Chapter 143 of the N.C. General Statutes;
  - e. A requirement that the qualifying road improvement be designed and completed to Town standards; and
  - f. Such other terms and conditions as deemed necessary by the Town Council.
- (B) ~~Offset value calculations shall depend on the following factors~~ The amount of any offset is calculated by adding the eligible excess costs of right of way acquisition and the eligible excess construction costs.:
  - a. Eligible excess costs of right of way means ~~the~~ the value of the road right-of-way dedicated by the developer to the Town that is required by the Comprehensive Transportation Plan in excess of a collector street for a



qualifying road improvement. The value of the road right-of-way to be used in this calculation shall be the actual sale value of the land, if the land has been sold within the last three (3) years before dedication; if the land has not sold within the last three (3) years before the dedication, the applicable value shall be determined by professional appraisal. The appraisal shall be performed in accordance with the Town's Standard Procedures.

- b. Eligible excess construction costs means the actual construction costs in excess of those for a collector street and equal to the lowest responsible, responsive bid amount plus or minus the cost of any change orders approved by the Town paid at the time of construction by the developer for qualifying road improvements. Final eligible excess construction cost may not be determined until after acceptance of the qualifying road improvements by the Town.

- (C) Offsets will not be ~~paid~~ credited for any road construction that exceeds the standards of the Town's Standard Specifications and Details Manual.

#### 7.11.15 **Certificate Use of Offset**

- (A) ~~Upon computation by the Town Manager, or his or her designee, Transportation and Facilities Director shall compute the final amount of the offset allowed credited to a developer, the Town shall identify the amount of offset within the Developer Agreement and the land development project for which such Certificate was approved.~~
- (B) Any offset may be used by the registered owner of such offset against a transportation development fee imposed on construction of a building in the designated land development project. Certificates Offsets may not be used for payment of any other fees, taxes, or amounts due the Town, and shall not have any intrinsic value. The Town shall have no obligation to the holder of any offset who, for any reason, owes no development fees during the life of the offset and thus has no use for the offset.
- (C) Each offset shall be valid from the date of issuance until ten (10) years after the effective date of the TDF Agreement its issuance or the last date of construction within the project, whichever occurs first, unless an extension not to exceed ten (10) years is granted by the Town Council prior to the termination of the earlier of these periods.
- (D) An offset shall be credited in dollars against the applicable transportation development fees in effect on the date when such fees become due under this ~~chapter~~ Section 7.11.
- (E) When the TDF Schedule is revised, holders of active offsets that are eligible for recalculation shall may apply to the Town Manager or his or her designee Transportation and Facilities Director for recalculation within one (1) year from the effective date of fee changes. The recalculated value of unused offsets shall be the ratio of the revised fee to the fee in place when the offset was given or most recently revised. The amount eligible for offset will be determined under the revised offset provisions in effect when the fees are modified. The applicant requesting recalculation shall be responsible for providing the information needed to recalculate the offset.

#### 7.11.16 **Developer Agreements [Reserved]**

~~Where a development includes a qualifying road improvement, the Town and the developer, by mutual consent, may enter into an agreement regarding the terms of the participation of the developer in the construction or financing of such road. Such agreement may provide for cash reimbursements, offsets, or other appropriate compensation to the developer for his or her participation in the financing and/or construction of the road. The agreement shall be on a form approved by the Town Council, after review and recommendation by the Town Manager or designee, and shall:~~

- ~~(D) The estimated cost of the road improvement in excess of a collector road, based on the approved bidding process and using the lowest bid approved by the Director of Transportation and Facilities;~~
- ~~(B) An offset amount and cash reimbursement amount;~~
- ~~(C) A requirement that the improvement be designed and completed to Town standards;~~
- ~~(D) Such other terms and conditions as deemed necessary by the Town Council.~~

**7.11.17 Other Financing Methods**

The Town may finance road improvements through the issuance of bonds, through the formation of assessment districts, or through any other authorized mechanism, in such manner and subject to such limitations as may be provided by law, in addition to the use of transportation development fees. Except as otherwise provided herein, the collection of a transportation development fee shall be additional and supplemental to, and not in substitution of, any other tax, fee, charge, or assessment which is imposed on and due against the property under the authority granted by the State of North Carolina.

**7.11.18 Fee as Supplemental Regulation**

The transportation development fee established by this chapter is additional and supplemental to, and not in substitution of, any other requirements imposed by the Town on the development of land or the issuance of building permits or certificates of occupancy. Such fee is intended to be consistent with and to further the policies of the Town's comprehensive plan, capital improvements plan, other chapters of this Ordinance, and other policies, ordinances, and resolutions by which the Town seeks to ensure the provision of road facilities in conjunction with the development of land.

**7.11.19 Reserved**

**7.11.20 Relief Procedures**

- (A) The developer or owner of property for which a transportation development fee is owed may appeal the assessment of ~~a the fee under this chapter~~ to the Town Council. After a quasi-judicial hearing, ~~of which the Town Council shall give quasi-judicial public notice in accordance with Section 7.11.21, Hearings, below,~~ the Town Council shall take one of the following actions:
  - (1) If the Town Council finds that there has been an error by the Town in assessing the transportation development fee, then the Town Council shall correct the error;
  - (2) The Town Council may modify or waive the requirements of this ~~chapter~~ Section 7.11, but only upon finding that a strict application of such requirement would result in confiscation of the property, taken as a whole;
  - (3) The Town Council may, upon recommendation of the Town Manager, ~~waive~~ authorize the Town to pay, on behalf of the developer, the transportation development fee for a project of public interest, where the Town Council finds that such waiver is in the best interest of the Town.
- (E) Unless the Town Council makes one of the findings set forth in subsection (A) above, the Town Council shall confirm the transportation development fee assessed.
- (C) If the Town Council modifies or waives the amount of the transportation development fee ~~due for new construction~~, it shall cause to be appropriated from other Town funds the amount of the reduction in the transportation development fee ~~to the benefit district account in which the property is located.~~

### 7.11.21 Hearings

- (A) ~~All The~~ hearings described in Sections 7.11.8 and 7.11.20 ~~relating to transportation development fees~~ shall be governed by the procedure of this section.
- (B) The date of the hearing may be set by the Town Manager or his or her designee without prior action by Council.
- (C) The hearing shall not take place without prior notice, given in accordance with LDO Section 3.1.6(A), (B), (C)(2), and (D)~~the following manner:~~
  - ~~(1) Notice shall be published at least ten (10) days prior to the hearing date, in the same manner as legal notices are published for the Town;~~
  - ~~(2) Notice shall be mailed at least ten (10) days prior to the hearing date, by the Town Manager, to all persons listed on a mailing list containing the names of persons interested in transportation development fees.~~

## ITEM B – CONSERVATION RESIDENTIAL OVERLAY DISTRICT STANDARDS

### BACKGROUND

This LDO Amendment is associated with a Comprehensive Transportation Plan Amendment (15-CPA-03 Rural Road Standards) under consideration that would remove the rural road design standard classification for streets within the Southwest Area Plan, *(A public hearing on 15-CPA-03 was conducted on May 21, 2015 and the CTP amendment is on this agenda for a final vote [see TF15-068 ([15-CPA-03](#))]*.

Rural road design standards call for swale and ditch sections instead of curb and gutter, and paved shoulders instead of sidewalks, without conventional street-lighting. Removal of the rural road designation would provide for development of a street cross-section that includes curb, gutter, sidewalk and street lighting.

The proposed LDO amendment removes pedestrian connectivity requirements in the Conservation Residential Overlay District (CROD) that are specifically applicable to rural roads. The CROD standards would continue to require pedestrian connections consisting of public sidewalks and greenways, and secondary trails consisting of private trails, to ensure connections within the development from public sidewalks and greenways to open space areas.

### PROPOSED LDO TEXT AMENDMENT

#### 4.4.3 Conservation Residential Overlay District

##### (H) Additional Design Requirements

- ~~(7) The use of curb and gutter is allowed provided Low Impact development (LID) requirements are met. [Reserved]~~
- (9) Pedestrian Connectivity:** ~~A comprehensive pedestrian system shall be provided that makes the contiguous open space accessible to neighborhood residents and connects the open space to neighborhood streets and to planned or developed private/public trails. Due to environmental reasons, limited pedestrian access shall be provided through the Urban Transition Buffers and floodplain areas in accordance with the standards of this Ordinance. Safe access to and from subdivision entrances shall be provided through use of trails and/or sidewalks. Sidewalks, in addition to trails, may be used to provide safe pedestrian movement on streets.~~

~~Pedestrian systems will consist of an integrated combination of sidewalks and trails. There may be three (3) trail types: primary, secondary and spur trails. Primary greenway trails will be those depicted on the Parks, Recreation and Cultural Resources Facilities Master Plan and shall be ten (10) feet wide (i.e. the public greenway system). Secondary greenway trails will be eight (8) feet wide and will replace sidewalks within each subdivision to provide pedestrian connections. Secondary greenway trail systems shall be designed so as to provide sufficient pedestrian access within the subdivision. These trails should be similar in connectivity to a traditional sidewalk system. Spur trails will be those trails that are located between lots, or that connect cul-de-sacs to either primary or secondary trails. Spur trails shall be a minimum of six (6) feet wide.~~

~~All trails (primary, secondary and spur) will be paved asphalt (exceptions can be made for multi-use trails). Construction of all primary, secondary and spur trails is required at the time of development. All greenways will be constructed in accordance with Town standards. A thirty (30) foot wide permanent Town of Cary greenway easement centered on all primary trails must be dedicated to the Town. The Town shall maintain all primary trails. Secondary and spur trails shall be owned and maintained by the subdivision Homeowners' Association (HOA), and shall be open to public use. All secondary and spur trails will preferably be located within HOA maintained common open space. In cases where this is not feasible, a twenty (20) foot wide private pedestrian greenway easement centered on these trails must be recorded and the required side yard setback shall be calculated from the outside boundary of the easement on the lot.~~

A comprehensive pedestrian system shall be provided that makes the contiguous open space accessible to neighborhood residents and connects the open space to neighborhood streets. Limited pedestrian access shall be provided through Urban Transition Buffers buffers and floodplain areas in accordance with the standards of this Ordinance.

Pedestrian connectivity shall be provided through an integrated combination of: primary trails, consisting of public sidewalks and greenways; and secondary trails consisting of private trails that provide connections within the development from public sidewalks and greenways to open space areas.

Public greenway trails shall be those depicted on the Parks, Recreation and Cultural Resources Facilities Master Plan. Such trails shall be ten (10) feet wide and constructed within a thirty (30) foot wide permanent Town of Cary greenway easement. The Town shall maintain all public greenway trails.

Secondary trails shall be constructed of asphalt, with a minimum width of eight (8) feet. Where feasible, secondary trails shall be located within Homeowners' Association (HOA) maintained common open space. In cases where this is not feasible, a twenty (20)- foot wide private pedestrian easement centered on these trails must be recorded and any required building setback shall be calculated from the outside boundary of the easement on the lot. All secondary trails shall be owned and maintained by the subdivision HOA and shall be available for public use.

### **6.3.1 SETBACK MEASUREMENT AND REQUIREMENTS: Definition/Measurement**

#### **(A) Setback Line**

That line that is the required minimum distance from any lot line, or pedestrian easement in the Conservation Residential Overlay District, and that establishes the area within which the principal structure must be erected or placed.