

**Town of Cary, North Carolina
Subdivision Plan Staff Report
Canterbury Downs (14-SB-009)
Town Council Quasi-Judicial Hearing
December 8, 2014**

REQUEST

The applicant is requesting approval of a detached residential subdivision plan at the intersection of Farmpond Road and Davis Drive. The subdivision plan includes modifications to the Town's development regulations for connectivity, road improvements, and streetscape buffer width. In addition, the applicant has requested removal/replacement of a champion tree and to make a payment-in-lieu of improvements to Farmpond Road.

SUBJECT PARCELS

Property Owner	Wake County Parcel Identification Number (PIN) (10-digit)	Real Estate ID Number	Deeded Acreage
Engquist Level Development, LLC 450 Main Street Baton Rouge, LA 70801	0743630991	0166374	8.74
Engquist Level Development, LLC 450 Main Street Baton Rouge, LA 70801	0743539444	0217191	4.02
Engquist Level Development, LLC 450 Main Street Baton Rouge, LA 70801	0743631186	0166373	2.00
Total Area			14.76

BACKGROUND INFORMATION

Applicant's Agent	Landon Lovelace Bohler Engineering NC 4011 Westchase Boulevard Suite 290 Raleigh, NC 27607 (919) 578-9000 llovelace@bohlereng.com
General Location	Northwestern quadrant of Davis Drive and Farmpond Road intersection
Land Use Plan Designation	Low-Density Residential (LDR)
Zoning Districts	Residential 8 –Conditional Use (R8-CU) Watershed Protection Overlay – Jordan Lake
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 this hearing:

[Exhibit A](#): Plan Review Application (6 pages)

[Exhibit B](#): Site Plan (25 pages)

[Exhibit C](#): Arborist Report (9 pages)

[Exhibit D](#): Transportation Letter (5 pages)

PROJECT DESCRIPTION/SUMMARY OF REQUEST

Engquist Level Development, LLC, through their agent, Bohler Engineering NC, is requesting approval of a 28-lot detached residential subdivision located on approximately 15 acres at the intersection of Davis Drive and Farmpond Road. The site is bounded on the north by the Stonecrest subdivision and to the west by a large-lot (five to six acres per lot) residential subdivision. The adjacent rights-of-way for Davis Drive and Farmpond Road form the western and southern boundaries of the site. A cluster of residential and agricultural buildings are located in the center of the site, and a pair of farm ponds is located at the northern end of the properties. The topography falls away from the intersection toward the northwestern corner of the site, with an overall elevation change of approximately 51 feet.

Primary access to the development will be via a new street from Davis Drive, with secondary access provided via the extension of Gravel Brook Court south from the Stonecrest subdivision. A cul-de-sac is being provided to serve the new lots on the western half of the site. The two farm ponds are being converted into detention ponds to accommodate the stormwater from the development.

With the exception of the Davis Drive streetscape, perimeter buffers and streetscapes provided in the plan are consistent with the Town's Land Development Ordinance (LDO). The Farmpond Road streetscape will be a 30-foot Type A (opaque) streetscape. A 20-foot Type B (semi-opaque) buffer is provided along the adjacent residential property lines. The applicant is requesting to provide a 30-foot Type A streetscape on Davis Drive instead of the required 50-foot Type A streetscape required by the LDO.

Architectural design is not reviewed for detached residential subdivision plans in which the lots exceed 8,000 square feet. The majority of the home designs will be required to comply with the architectural requirements of Section 8.6 of the LDO, including Anti-Monotony, Garagescapes, and Slab-on-grade Construction. The Anti-Monotony requirements will not apply to the five lots larger than 20,000 square feet.

MODIFICATIONS TO TOWN REQUIREMENTS

Connectivity

The LDO contains a number of provisions regarding vehicular and pedestrian connectivity within and between developments. The purpose of these provisions is to support the creation of a highly connected transportation system in order to provide choices for drivers, bicyclists, public transit passengers, and pedestrians; promote multiple modes of transportation; connect neighborhoods to each other and to local destinations such as schools, parks, and shopping centers; reduce distance and time of travel; improve air quality; increase effectiveness of municipal and emergency service delivery; and free up arterial capacity to better serve regional long distance travel needs.

Section 7.10.3(A)(1) addresses connectivity within residential developments by establishing a connectivity index, or ratio of street links to street nodes:

Any residential development shall be required to achieve a connectivity index of 1.2 or greater. In the event that this requirement is modified pursuant to Section 3.19.1, a six (6)-foot pedestrian trail shall be provided to link any cul-de-sacs within a residential development in which the required connectivity index has been modified. A connectivity index is a ratio of the number of street links (road sections between intersections and cul-de-sacs) divided by the number of street nodes (intersections and cul-de-sac heads). The following illustration provides an example of how to calculate the index. Street links on existing adjacent streets that are not part of the proposed subdivision are not included in the connectivity index calculation.

The layout proposed by the applicant consists of five street links and five street nodes, resulting in a connectivity index of 1.0, less than the 1.2 required by the LDO. The elimination of the western cul-de-sac bulb and extending that street to stub to the western property line would correct this deficit. Such extension supports another section of the LDO addressing connectivity to adjacent properties.

Section 7.10.3(B)(1) is the governing text for this requirement:

The proposed public or private street system shall be designed to provide vehicular and pedestrian 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 (1) 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 due to physical site constraints, such as topography, presence of stream buffers or other natural features, or lot dimensions; or due to presence of existing development or infrastructure, on the subject property or other properties in the area. When the Planning Director deems a vehicular connection not practicable 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 vehicular and pedestrian connections between neighborhoods.

The applicant has provided no vehicular connectivity to the western property line. The Stonecrest subdivision to the north is served by a single access to Davis Drive and also provides no connection to Sherwood Greens subdivision to the west. A driver would need to travel north to Park Village Drive or south to Old Jenks Road to cross the creek corridor and move between Davis Drive and Holt Road/Jenks Carpenter Road, which is the next major road corridor to the west. The distance between Park Village Drive and Old Jenks Road is approximately a mile and a half (8,200 feet).

The Comprehensive Transportation Plan (CTP) identifies Farmpond Road as a future collector street, realigning it to connect westward to Howell Road. This will provide a second connection from Davis Drive to Holt Road. When Farmpond Road is extended west, the distance between Park Village Drive and Farmpond Road will be approximately 3,900 feet, still in excess of the 1,250 to 1,500-foot spacing for connections required by the LDO.

Additionally, when Farmpond Road is extended west as a collector street, the Town would prefer to limit access to this higher-volume roadway to the extent practical. A vehicular connection provided by this developer to their western property line would set the stage for future redevelopment of the larger lots to the west by providing an alternative to having access solely to Farmpond Road.

In addition to the redevelopment benefits of a connection to the west, connecting Gravel Brook Court south to Farmpond Road would be beneficial to the operations of the surrounding community. This connection to Farmpond Road would provide an alternate access to the 59 homes in Stonecrest, which currently use a single access onto Davis Drive. The entrance to Stonecrest is located immediately south of a curve in Davis Drive, creating concerns among the neighborhood about sight distance when trying to turn left onto Davis Drive. The connection to Farmpond Road would provide those residents access to Davis Drive in a straighter segment of the corridor. The subdivision plan proposed by the applicant does not include a connection to Farmpond Road.

In summary, Council may find that, given the connectivity goals of the LDO, connections to the western property line and to Farmpond Road each provide a variety of benefits to the community as a whole and should both be provided by the applicant. Furthermore, Council may find that a connection from Farmpond Road to Stonecrest would provide more ingress and egress options for both communities, thereby ameliorating sight distance and safety concerns expressed by members of both communities.

Payment-in-lieu of Improvements to Farmpond Road

Section 8.1.4 of the LDO enumerates the various infrastructure improvements required to be installed by a developer prior to completion of their proposed projects. As part of these required improvements, developers are required to widen adjacent roadways on which their proposed projects have property frontage. These roads are required to be widened consistent with the cross-sections with which they are identified in the Town's Comprehensive Transportation Plan (CTP).

The CTP identifies Farmpond Road as a future collector street, connecting Southwest Cary Parkway with Holt Road (in conjunction with Westhigh Street and Howell Road). The cross section for Farmpond Road is a 35-foot wide, two-lane roadway within a 60-foot right-of-way. This cross section includes sidewalk on both sides of the street for pedestrians and bike lanes for cyclists.

The applicant has proposed to dedicate the required right-of-way to meet one-half of the 60 feet required. However, the subdivision plan does not include any physical improvements to Farmpond Road, including construction of pedestrian facilities. The plan retains the two-lane, rural cross section existing on Farmpond Road. The applicant has offered to make a payment-in-lieu of construction of the required improvements.

The LDO contains provisions for the Town's acceptance of a payment-in-lieu of construction in Section 8.1.5(A)(2):

The Town Council may approve such payment as part of approving the site plan in a quasi-judicial hearing, upon determining that such improvements are not necessary or desirable at the time but will be needed in the future. This section shall not apply, however, to street improvements that are governed by the fee provisions in Section 8.1.4(A).

Farmpond Road is currently a rural, two-lane cul-de-sac serving 10 lots (6 houses). Approval of the applicant's request for a payment-in-lieu of construction of the improvements will likely require the Town to make the improvements should the collector street be implemented in the future.

In summary, Council may find that the improvements to Farmpond Road will ultimately be necessary upon implementation of the collector street in the future, but are not necessary at the present time, and thus it may be appropriate to accept a payment-in-lieu of construction of these improvements.

Reduction in Davis Drive Streetscape Width

Section 7.2 of the LDO establishes minimum requirements for the provision and maintenance of functionally adequate, attractive screening and buffering of structures, parking areas, and other land uses. The purpose of these buffers is to promote design compatibility between uses; assist in delineating separations of spaces and uses; shield adjacent properties from adverse impacts; promote the preservation of open space, tree canopy, and wildlife habitat; mitigate adverse grade changes between uses; improve the quality of the built environment; and enhance the appearance and value of properties.

Streetscapes along roadways visually and physically separate developments from adjacent roadway corridors and their associated impacts. This separation is especially important for residential development along thoroughfares and collectors. To address this concern, the LDO requires wider streetscapes in these situations, as well as requiring the streetscapes to meet a Type A (opaque) buffer standard.

Section 7.2.4(C)(2) of the LDO specifically governs the width of residential streetscapes:

For residential developments along thoroughfares, the width of the streetscape shall be a minimum of fifty (50) feet; along collectors, a minimum of thirty (30) feet shall be provided.

The subdivision plan includes the 30-foot Type A streetscape along Farmpond Road, which is designated by the CTP as a future collector street. However, the applicant is requesting to reduce the 50-foot Type A streetscape along Davis Drive to 30 feet in width as well. This is, in part, due to the necessity of an asymmetrical widening of Davis Drive due to the CSX right-of-way overlapping the eastern side of the street. The applicant notes that the 30-foot Type A streetscape on Davis Drive is consistent with the streetscape provided for Stonecrest to the north.

While the requested 30-foot Type A streetscape is consistent with Stonecrest, there is an important difference between the two developments that should be noted. Stonecrest was developed in the early 2000s and was not subject to the current requirement for a 10-foot streetside trail on the western side of Davis Drive. Stonecrest provided a standard five-foot sidewalk located outside of the streetscape within the Davis Drive right-of-way. This resulted in the entire 30 feet of streetscape being available for planting. However, this subdivision plan is providing the required streetside trail, which meanders within the streetscape. A 20-foot greenway easement is centered on the meandering streetside trail, effectively reducing large portions of the streetscape to only 10 feet of planting area, often split on either side of the streetside trail.

Council may find that, although the reduced streetscape width is consistent with the subdivision to the north, the required streetside trail reduces the available planting area to the point where a similar reduction in the width of the streetscape is not warranted in this location.

Removal and Replacement of Champion Trees

Section 7.2.5 of the LDO promotes the protection of existing vegetation during development to enhance the visual character of the community, preserve wildlife habitat, control surface water run-off, and moderate temperatures. Section 7.2.5(C) specifically protects large, healthy trees on developing sites, known as “champion trees.”

The tree survey identified seven large diameter trees (32 inches or greater in diameter) on the property. The applicant had an arborist evaluate these trees and the attached arborist report indicates that two of the trees are dead, resulting in their disqualification as champion trees. The applicant is requesting to remove one of the remaining five champion trees from the site.

Tree number 186 is a 53-inch willow oak located adjacent to the existing residential driveway. The asymmetrical widening of Davis Drive along the property frontage will require approximately 44 feet of right-of-way dedication and 52 feet of additional pavement. This asymmetrical widening results in the new western curb line of Davis Drive being behind the location of the champion tree, and will thus necessitate the removal of the tree. The applicant is proposing to install larger caliper street trees than required by the LDO to mitigate the removal of this champion tree.

In summary, Council may find that, given the required widening of Davis Drive, tree 186 is not practical to remain in the proposed subdivision plan.

Waiver of Construction of Davis Drive Median

Section 8.1.4 of the LDO enumerates the various infrastructure improvements required to be installed by a developer prior to completion of their proposed projects. As part of these required improvements, developers are required to widen adjacent roadways on which their proposed projects have property frontage. These roads are required to be widened consistent with the cross-sections that they are identified with in the Town’s Comprehensive Transportation Plan (CTP).

The CTP identifies Davis Drive as being a proposed four-lane, median-divided thoroughfare, which translates into a 78-foot street cross-section within a 100-foot right-of-way. This section includes an 18-foot landscaped median. Typically, each developer is responsible for widening one-half of the ultimate cross-section. However, a CSX railroad right-of-way overlaps the eastern side of the Davis Drive right-of-way, restricting the ability to widen Davis Drive to the east. In addition, the widening must transition to the existing two-lane pavement width to the south of Farmpond Road. These constraints make construction of the median impractical at this time; therefore, the applicant is requesting not to install the median called for in the CTP cross-section.

Council may find that the median required in Davis Drive by the CTP is necessary in the ultimate build-out of the corridor. However, given the constraint of the CSX railroad right-of-way overlapping the eastern side of Davis Drive and the required transition to the two-lane section south of Farmpond Road, the installation of the median is impractical in the short term, making such an improvement undesirable to require of the applicant at this time. Council may also find it appropriate to require the applicant to make a payment-in-lieu for the cost of the median pursuant to Section 8.1.5 of the LDO.

SUMMARY OF PROCESS AND ACTIONS TO DATE

Pre-application Meeting

The applicant attended a pre-application meeting for the subdivision plan on August 14, 2013.

Plan Submittal and Review

The site plan was submitted for its initial review on March 30, 2014, and has been reviewed by the Development Review Committee (DRC) through three review cycles.

Notification and Property Posting

The Planning Department provided notification of the public hearing and posted the property in accordance with local and state regulations.

**SITE PLAN WORKSHEET
AND
SUGGESTED MOTIONS**

A subdivision and/or site plan may be approved by the Town Council only if it satisfies the six approval criteria listed in Section 3.9.2(l) of the LDO. As part of determining whether the first criterion is satisfied, Council must determine whether to grant the requested modification(s) to the Town's development standards. A roadmap of the decisions Council must make is provided below:

WORKSHEET 1

- 1. Does the plan comply with all applicable requirements of the LDO, including the development and design standards of Chapters 7 and 8 as well as the dedication and improvements provisions of Chapter 8 as well as all applicable Town specifications?**

As indicated in the staff report, the applicant has requested that the Council grant several modifications to the Town's development standards. These are detailed further in the attached Worksheet 1.

Once the Council has made a decision on the modification requests, the Council may then turn to the remaining site plan approval criteria.

WORKSHEET 2

- 2. Does the plan adequately protect other property, or residential uses located on the same property, from the potential adverse effects of the proposed development?**
- 3. Does the plan provide harmony and unity with the development of nearby properties?**
- 4. Does the plan provide safe conditions for pedestrians or motorists and prevent a dangerous arrangement of pedestrian and vehicular ways?**
- 5. Does the plan provide safe ingress and egress for emergency services to the site?**
- 6. Does the plan provide mitigation for traffic congestion impacts reasonably expected to be generated by the project?**

WORKSHEET 1

- 1. Does the plan comply with all applicable requirements of the LDO, including the development and design standards of Chapters 7 and 8 as well as the dedication and improvements provisions of Chapter 8 as well as all applicable Town specifications?

Applicant’s Statement: Applicant requested that its site plan designer, Bohler Engineering, NC, PLLC, prepare the site plan in accordance with the design standards of Chapters 7 and 8, the dedication and improvement provisions of Chapter 8, and the other applicable Town specifications. Bohler Engineering, NC, PLLC confirms that, except for the minor modifications noted below, the site plan was prepared as instructed. Applicant is not aware of any assertion by the Town or others that, except for the modifications requested below, the plan fails to comply with applicable regulations.

Staff Observations:

- The Development Review Committee has reviewed the proposed sketch plan for compliance with the LDO and all other applicable regulations through three (3) review cycles.
- There are approximately 10 remaining DRC comments out of a total of 97 comments made through the review process, meaning that approximately 90% of the comments have been adequately addressed by the applicant.
- All DRC staff members have indicated that they do not object to the plan proceeding to Council for review.

TEST SATISFIED? __ YES __ NO

1. The applicant requests a reduction in the connectivity index of the subdivision from 1.2 to 1.0.

Town Council should consider this modification request pursuant to Section 3.19 of the LDO.

Section 3.19.1(C)(2) of the LDO reads as follows:

The Town Council may initiate or approve a minor modification allowed under this section at any time before it takes action on a development application. The Town Council may approve the minor modification only if it finds, after conducting a quasi-judicial hearing, that the modification advances the goals and purposes of this Ordinance and either results in less visual impact or more effective environmental or open space preservation, or relieves practical difficulties in developing a site. In determining if "practical difficulty" exists, the factors set forth in Section 3.20.5, "Approval Criteria" (for Variances) shall be considered. In granting a minor modification allowed under this section, the Town Council may require conditions that will secure substantially the objectives of the standard that is modified and that will substantially mitigate any potential adverse impact on the environment or on adjacent properties, including but not limited to additional landscaping or buffering.

Applicant’s Statement: Applicant requests that the connectivity index required by Section 7.10.3 of the Ordinance be reduced from 1.2 to 1.0. The Ordinance uses the connectivity index as a means of increasing points of access to a property and as a means of discouraging the use of cul-de-sacs. The 28 lots proposed in the subject property have two primary points of access: the Gravel Brook Court connection into Stonecrest subdivision (and from there along Dolomite Drive to Davis Drive) and the Misty Mountain Way connection to Davis Drive. When looking solely at the proposed development, the connectivity index is 1.0; however, the subject property will largely function as an extension of the Stonecrest subdivision. When the subject property is considered in conjunction with the Stonecrest subdivision, the connectivity index is 1.22. In addition, as required by 7.10.3 (A), pedestrian access has been provided to adjacent parcels by a six foot wide private trail between lots 13 and 14 that connects the development to Farm Pond Road, and the Crazy Diamond Court sidewalk has been extended to connect to a 20' pedestrian access

easement between lots 21 and 22 that provides the potential for future access to the adjacent parcel to the west. Please also refer to letter from the traffic engineer, Mr. Will Letchworth.

- **Does the modification advance the goals and purposes of this Ordinance?**

Applicant Response: The Ordinance seeks to provide connectivity to adjoining properties and to major roads. The 28 lots proposed in the subject property have two primary points of access: the Gravel Brook Court connection into the Stonecrest subdivision (and from there along Dolomite Drive to Davis Drive) and the Misty Mountain Way connection to Davis Drive. Every lot in the subject property is within 800 feet of a connection to Davis Drive.

- **Does the modification result in less visual impact or more effective environmental or open space preservation or relieve practical difficulties in developing a site?**

The modification would result in a continuous 30' streetscape buffer, including a landscape berm and plantings meeting the Type 'A' buffer standards along the full frontage of Farm Pond Road, which would result in less visual impact, greater conservation of existing vegetation along this stretch of Farm Pond, and more cohesion with the existing nature of the Farm Pond Subdivision. Eliminating the stub may deter future development of the Farm Pond Road community and may preserve the open space that exists in that community. In addition, eliminating the stub also allows for a continuous 20' type 'B' buffer adjacent to the farm Pond Road Subdivision, without interruption of a stub or street.

Staff Observations:

- Continuing Crazy Diamond Court all the way to the western property line would eliminate the cul-de-sac bulb (one node), resulting in a connectivity index of 1.25. This change would make the subdivision compliant with the LDO in regards to the connectivity index requirement.
- Additional pedestrian connections are required from cul-de-sacs in subdivision with a connectivity index below the 1.2 required by the LDO. The applicant is providing the pedestrian connection to Farmpond Road, though, should the Council approve the requested payment-in-lieu for improvements on Farmpond Road, there will be no sidewalk into which to tie the pedestrian connection.
- No pedestrian access is proposed to the western property line; however, the applicant is proposing a 20-foot pedestrian access easement. The Town is currently unable to require off-site pedestrian improvements unless governed specifically by a zoning condition; therefore, unless the pedestrian connection is required of this subdivision, it is unlikely to be made in the future.
- The elimination of the stub to the western property line eliminates future opportunities for development of a comprehensive, connected series of neighborhoods that provide options to motorists and limit the need to use adjacent thoroughfares and collectors for local trips.

2. The applicant requests to not make a vehicular connection to the western property line.

Town Council should consider this modification request pursuant to Sections 3.19 and 7.10.3(B) of the LDO.

Section 3.19.1(C)(2) of the LDO reads as follows:

The Town Council may initiate or approve a minor modification allowed under this section at any time before it takes action on a development application. The Town Council may approve the minor modification only if it finds, after conducting a quasi-judicial hearing, that the modification advances the goals and purposes of this Ordinance and either results in less visual impact or more effective environmental or open space preservation, or relieves practical difficulties in developing a site. In determining if "practical difficulty" exists, the factors set forth in Section 3.20.5, "Approval Criteria" (for Variances) shall be considered. In granting a minor modification allowed under this section, the Town Council may require conditions that will secure substantially the objectives of the standard that is modified

and that will substantially mitigate any potential adverse impact on the environment or on adjacent properties, including but not limited to additional landscaping or buffering.

Section 7.10.3(B) of the LDO reads as follows:

The proposed public or private street system shall be designed to provide vehicular and pedestrian 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 (1) 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 due to physical site constraints, such as topography, presence of stream buffers or other natural features, or lot dimensions; or due to presence of existing development or infrastructure, on the subject property or other properties in the area. When the Planning Director deems a vehicular connection not practicable 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 vehicular and pedestrian connections between neighborhoods.

Applicant's Statement: Applicant requests that the road connection to Farm Pond Road subdivision required by Section 7.10.3 of the ordinance be eliminated. The Farm Pond Road subdivision is a fully developed subdivision that consist of ten lots and six homes. The homes are accessed by a single cul-de-sac, Farm Pond Road. The lots range in size from approximately 1.1 to 6.1 acres. Assessed values for the properties range from approximately \$160,000 to \$1,276,000, with an average of approximately \$150,000/acre. One or more of the lots include active equestrian facilities such as pastures, barns, training facilities, tracks and similar structures. Owners in the Farm Pond Road subdivision oppose any stub to their subdivision.

- **Does the modification advance the goals and purposes of this Ordinance?**

Applicant Response: The Ordinance seeks to provide connectivity to support future development. Because the Farm Pond Road community is fully developed, has achieved land values of approximately \$150,000/acre, an amount that may exceed the price at which land can economically be acquired for residential development, and is populated by owners who oppose connectivity. The redevelopment of the Farm Pond Road Subdivision seems, at best, a distant and remote possibility, and the goal of providing connectivity seems ill suited to the present application. The Ordinance also seeks to maintain open space and to preserve harmony of uses. Eliminating the stub may deter future development of the Farm Pond Road community, thereby preserving existing open space and may avoid unharmonious interactions between suburban subdivisions like the ones that exist along Davis Drive and the more rural use of the Farm Pond Road Subdivision. Given the goals of the ordinance are advanced by eliminating the stub.

- **Does the modification result in less visual impact or more effective environmental or open space preservation or relieve practical difficulties in developing a site?**

Applicant Response: As noted above, eliminating the stub may deter future development of the Farm Pond Road community and may preserve the open space that exists in that community. Eliminating the stub also allows for a continuous 20' type 'B' buffer, without interruption of a stub or street.

Staff Observations:

- The adjacent subdivision consists of large lots used for residential and agricultural (equestrian) uses. The size of these lots and low intensity of the uses makes these properties likely candidates for redevelopment in the future.

- A street stub to the west would provide a second point of ingress and egress for these lots from Davis Drive, and also set the stage for potential future redevelopment of the larger residential lots on Farmpond Road. Since Farmpond Road is identified by the CTP as a future collector street, and the Town prefers to limit access to such higher-volume roadways to the extent practicable, a western stub would support this goal by providing an alternative means of access for these lots.
- Currently, there is approximately a mile and a half (8,200 feet) between east-west connectors on Davis Drive (Park Village Drive and Old Jenks Road). The future conversion of Farmpond Road to a collector street will reduce this distance to approximately three-quarters of a mile (3,900 feet). The LDO requires connections to adjacent properties every 1,250 to 1,500 feet.
- The elimination of the stub to the western property line eliminates future opportunities for development of a comprehensive, connected series of neighborhoods that provide options to motorists and limit the need to use adjacent thoroughfares and collectors for local trips.
- The elimination of the street stub to the west would likely result in additional pervious area being retained on the property, though there is no forest cover to be retained on-site due to its elimination.

3. The applicant requests to not make a vehicular connection to Farmpond Road.

Town Council should consider this modification request pursuant to Section 3.19 of the LDO.

Section 3.19.1(C)(2) of the LDO reads as follows:

The Town Council may initiate or approve a minor modification allowed under this section at any time before it takes action on a development application. The Town Council may approve the minor modification only if it finds, after conducting a quasi-judicial hearing, that the modification advances the goals and purposes of this Ordinance and either results in less visual impact or more effective environmental or open space preservation, or relieves practical difficulties in developing a site. In determining if "practical difficulty" exists, the factors set forth in Section 3.20.5, "Approval Criteria" (for Variances) shall be considered. In granting a minor modification allowed under this section, the Town Council may require conditions that will secure substantially the objectives of the standard that is modified and that will substantially mitigate any potential adverse impact on the environment or on adjacent properties, including but not limited to additional landscaping or buffering.

Applicant's Statement: Applicant requests that the connection to Farm Pond Road required by Section 7.10.3(A)(2) of the ordinance be waived. The absence of a connection to Farm Pond Road, would not likely create any traffic congestion or safety issues. The plan for the subject property provides two access points to Davis Drive, more than enough for the 28 lots proposed on the subject property. Adding a connection to Farm Pond Road would provide limited utility. Farm Pond Road is a cul-de-sac that serves approximately six houses (ten lots), each located on a multi-acre lot and many with active equestrian facilities. Owners in the Farm Pond Road community believe that connecting the subject property to Farm Pond Road would increase traffic on Farm Pond Road, adversely impacting pedestrian and equestrian uses. Please also refer to letter from the traffic engineer, Mr. Will Letchworth.

- ***Does the modification advance the goals and purposes of this Ordinance?***

Applicant Response: The Ordinance seeks to promote connectivity, safety, and to mitigate congestion. The subject property is connected to the subdivision to the north by Gravel Brook Court and will have adequate access to Davis Drive through Misty Mountain Way and through Dolomite Drive. The plan provides adequate connectivity. The modification also advances congestion concerns. Because a center turn lane is not available at the intersection of Davis Drive and Farm Pond Road, any addition of traffic to Farm Pond Road may result in undue congestion of that road. Finally, omitting an intersection with Farm Pond Road addresses concerns of adjoining landowners and promotes harmony of uses.

- ***Does the modification result in less visual impact or more effective environmental or open space preservation or relieve practical difficulties in developing a site?***

Applicant Response: The modification would result in a continuous 30' streetscape buffer, including a landscape berm and plantings meeting the Type 'A' buffer standards along the full frontage of Farm Pond Road, which would result in less visual impact, greater conservation of existing vegetation along this stretch of Farm Pond, and more cohesion with the existing nature of the Farm Pond Subdivision. The modification also relieves a practical difficulty in developing the site related to the intersection separation requirements discussed above.

Staff Observations:

- Residents in the adjacent residential community spoke at the public hearing for the rezoning regarding sight distance and safety when accessing Davis Drive. Provision of a connection to Farmpond Road would provide options for new and existing residents in the community to access Davis Drive. Such connection will also provide residents opportunity to access Holt Road without having to use Davis Drive once Farmpond Road is extended westward as a collector street.
- Elimination of the connection would preserve additional open space, a majority of which is populated with significant (18 inches or larger) pines and hardwoods.
- The elimination of the connection to Farmpond Road reduces future opportunities for development of a comprehensive, connected series of neighborhoods that provide options to motorists and limit the need to use adjacent thoroughfares for local trips.

4. The applicant requests that the Town accept a payment-in-lieu of construction of improvements on Farmpond Road in the amount of \$89,534.50.

Town Council should consider this modification request pursuant to Section 8.1.5(A)(2) of the LDO, which reads as follows:

The Town Council may approve such payment as part of approving the site plan in a quasi-judicial hearing, upon determining that such improvements are not necessary or desirable at the time but will be needed in the future. This section shall not apply, however, to street improvements that are governed by the fee provisions in Section 8.1.4(A).

Applicant's Statement:

Are such improvements unnecessary or undesirable at the time, but may be needed in the future?

Farm Pond Road is currently a two lane, ditch section cul-de-sac that serves six residences (10 lots, 6 houses). It intersects only with Davis Drive. The Town's Comprehensive Transportation Plan identifies this portion of Farm Pond Road as a Collector Street. While long-range plans contemplate conversion of Farm Pond Road from a cul-de-sac to a through street that connects to Holt Road to the west and Westhigh Street to the east, connection to the west will require extensive re-development or condemnation and connection to the east will require a CSX at-grade crossing, which CSX has been reluctant to grant absent abandonment of two other existing at-grade crossings. Both of these issues call into question the current necessity of improvements to Farm Pond Road. As noted above, Farm Pond Road residents oppose the designation of Farm Pond Road as a collector street; they also oppose improvements to Farm Pond Road. Please also refer to letter from the traffic engineer, Mr. Will Letchworth.

Staff Observations:

- Farmpond Road, in its current state, is a two-lane, rural cul-de-sac serving 10 residential lots. There are no current plans for redevelopment of these lots or for realignment of Farmpond Road as a collector street, limiting the utility of any improvements in the near term.
- The improvements identified in the CTP will be necessary in the event that Farmpond Road is extended west as a collector street. Should the payment-in-lieu be accepted, the Town will likely be responsible for the costs of these improvements when Farmpond Road is extended.
- The applicant's proposal will result in no pedestrian facility along Farmpond Road into which to tie the additional pedestrian connection required in association with the modification of the connectivity index (see modification 1 above). The applicant is terminating the pedestrian connection at the existing edge of pavement of Farmpond Road.

5. The applicant requests to reduce the required 50-foot Type A streetscape along Davis Drive to a 30-foot Type A streetscape.

Town Council should consider this modification request pursuant to Section 7.2.10(A)(3) of the LDO.

Section 7.2.10(A)(3) of the LDO reads as follows:

The Town Council may reduce the width of required streetscapes and buffers to no less than ten (10) feet. Buffer reductions between uses may be considered based on the use of innovative site/building design concepts. The Council may make exceptions to this minimum width for development within the Town Center District and for reuse/redevelopment sites. Reductions in the width of streetscapes and buffers should only be allowed when meeting the required width prevents reasonable use of the property based on the zoning and/or when additional existing healthy vegetation or open space is provided elsewhere on the site. The Planning Director may allow reuse/redevelopment sites to maintain their existing buffer and streetscape widths even if such width is less than current ordinance requirements so long as the proposed development plan does not reduce the existing buffer or streetscape width on the site. If existing pavement, curbs, and/or buildings are being removed from the required buffer and streetscape widths, the Planning Director may require plantings to reasonably meet the intent of the landscape requirements (i.e., parking lot screening, streetscape/buffer and parking lot trees).

Applicant's Statement: Applicant requests a modification from Section 7.2.4 to reduce the streetscape buffer along Davis Drive from 50' to 30'. Development of the subject property requires the construction of 5 additional travel lanes on Davis Drive, which results in road widening and right-of-way expansion totaling approximately 43.5 feet in width. Ordinarily, the applicant would be responsible for half of the ultimate improvements, with the additional construction and right-of-way dedication to be completed when the east side of Davis Drive (the side opposite the subject property) is developed. The east side of Davis Drive is abutted by a CSX rail road line and will not be developed; therefore, applicant is being required by the Town to construct all of the Davis Drive expansion and to dedicate all of the right-of-way required for the road expansion. The shift of a portion of the right-of-way dedication from the east side of Davis Drive to applicant's property diminishes applicant's ability to install a 50 foot street buffer. Property that the applicant would ordinarily use for the streetscape buffer is required for the widening of Davis Drive and for the related right-of-way. Further, the 20' type 'B' buffer provided on the western edge of applicant's property and the requirement that the lots along the western edge of the applicant's property be at least 20,000 sq. ft. limit the applicant's ability to provide a full 50 foot buffer – applicant is being squeezed by the railroad to the east and by the buffer and large lot requirement to the west; meeting the streetscape buffer could result in the elimination of 10 lots along Gravel Brook Court. Loss of those lots would destroy the feasibility of the project. There is little to no significant existing vegetation along the Davis Drive corridor that would otherwise be saved and the 30' buffer will also be planted to the type 'A' opacity standards.

- ***Does meeting the required width prevent the reasonable use of the property based on the zoning and/or is additional existing healthy vegetation or open space provided elsewhere on the site?***

Applicant Response: The CSX railroad along the eastern edge of the Davis Drive and the resulting shift of right-of-way onto applicant's property together with the 20 foot buffer on the western edge of applicant's property and the requirement that the lots along the western edge of the applicant's property be not less than 20,000 sq. ft. limit applicant's ability to provide a full 50 foot buffer – applicant is being squeezed by the railroad to the east and by the buffer and large lot requirement to the west; meeting the streetscape buffer would result in the elimination of all lots along the eastern edge of Gravel Brook Court. Vegetation is being provided to a higher density that is required in the proposed 30 foot streetscape, a berm is also proposed, and a 20 foot buffer is being provided along the western edge of the subject property.

Staff Observations:

- Due to the CSX railroad right-of-way on the eastern side of Davis Drive, the applicant is responsible for improving more than one-half of the required street cross-section on Davis Drive.
- The applicant is providing earthen berms along portions of the streetscape buffer to enhance the screening provided by the required landscaping.
- The request is consistent with the Stonecrest streetscape to the north. However, this plan is subject to construction of a 10-foot-wide streetside trail – an improvement that was not required when Stonecrest was developed in the early 2000s. Furthermore, whereas Stonecrest constructed a five-foot sidewalk within the Davis Drive right-of-way, thereby maintaining the full 30-foot wide streetscape for landscape material, Caterbury Down's meandering streetside trail is proposed to be located in a 20-foot easement that is entirely located within the 30-foot streetscape. Consequently, the meandering streetside trail and easement will severely impact the space available for installation of plant material along the frontage.
- The 10 feet of planting area remaining after meandering the 20-foot easement through the streetscape is often split on either side of the easement. An effective Type A buffer is not feasible in a 10-foot-wide planting area, even when all ten feet are contiguous. Staff maintains that a minimum of 20 feet of contiguous planting area is the minimum width in which an effective, sustainable Type A buffer is feasible.
- Eliminating the meander in the streetside trail, though inconsistent with Transportation and Facilities policy on design of such trails, would provide more usable planting area within the streetscape should the Council choose to accept a reduced streetscape width.
- The proposed subdivision is not substantially different from other subdivision layouts in the Town, utilizing a standard subdivision design.
- Provision of the required 50-foot streetscape would not prevent development of the property for residential purposes; however, the yield on the property would decrease significantly (the applicant has indicted the loss of the 12 units, or 42%, between Gravel Brook Drive and Davis Drive).

6. The applicant requests to remove tree 186, a 53-inch willow oak, and replace 53 inches of caliper by increasing the installation size of the street trees in the subdivision.

Town Council should consider this modification request pursuant to Section 3.19.1(C) of the LDO.

Section 3.19.1(C)(2) of the LDO reads as follows:

The Town Council may initiate or approve a minor modification allowed under this section at any time before it takes action on a development application. The Town Council may approve the minor modification only if it finds, after conducting a quasi-judicial hearing, that the modification advances the

goals and purposes of this Ordinance and either results in less visual impact or more effective environmental or open space preservation, or relieves practical difficulties in developing a site. In determining if "practical difficulty" exists, the factors set forth in Section 3.20.5, "Approval Criteria" (for Variances) shall be considered. In granting a minor modification allowed under this section, the Town Council may require conditions that will secure substantially the objectives of the standard that is modified and that will substantially mitigate any potential adverse impact on the environment or on adjacent properties, including but not limited to additional landscaping or buffering.

Applicant's Statement: A tree survey and subsequent tree report prepared by Amy Trudo, a certified Arborist, revealed a total of five champion trees within the project site. Applicant has worked extensively to design the site around those trees to the greatest extent possible. Those efforts have included the consideration of multiple layouts of lots, drainage, and utilities during the conceptual design phase. Applicant requests permission to remove one champion tree, which is within the limits of the Town required Davis Drive widening. All other trees will be conserved. Applicant will mitigate for the champion tree removed by installing an equivalent number of caliper inches. This mitigation will be accomplished by up-sizing each of the required street trees to obtain the required equivalent caliper inches as shown on the landscape plan.

- **Does the modification advance the goals and purposes of this Ordinance?**

Applicant Response: The maintenance of open space and substantial efforts described above to preserve champion trees, together with the landscape plan, all advance the Ordinance's goal of maintaining significant and meaningful vegetative cover and of maintaining to the maximum extent practical champion trees or providing for trees that will become champion trees.

- **Does the modification result in less visual impact or more effective environmental or open space preservation or relieve practical difficulties in developing a site?**

Applicant Response: The modification relieves the practical difficulties in developing the site. The road widening is a Town required improvement and the one tree to be removed is within the limits of that construction. Other champion trees were preserved through multiple design iterations.

Staff Observations:

- Tree 186 is a 53-inch willow oak located along the Davis Drive frontage of the property. It is in good health and form, with no signs of disease or decay present. The tree is categorized as a Tier 1(i) priority for retention due to the size (larger than 40 inches) and its prominent location along a thoroughfare.
- The applicant is required to widen Davis Drive to the cross section required by the Comprehensive Transportation Plan (CTP). The CSX railroad right-of-way to the east of Davis Drive restricts the ability to widen on that side, requiring more widening than would typically be expected on the western side.
- The additional 52 feet of pavement will encompass the tree's location, making preservation of the tree impossible if the widening is required.

7. The applicant requests to not construct the required median in Davis Drive, nor to make a payment-in-lieu of said construction.

Town Council should consider this modification request pursuant to Section 8.1.5 of the LDO, which reads as follows:

- (A) *Any owner or developer who is required to dedicate or install off-site improvements pursuant to Section 8.1.4 above may make a payment of fees in lieu of such improvements, or part thereof in accordance with the following:*

...

(2) *The Town Council may approve such payment as part of approving the site plan in a quasi-judicial hearing, upon determining that such improvements are not necessary or desirable at the time but will be needed in the future. This section shall not apply, however, to street improvements that are governed by the fee provisions in Section 8.1.4(A).*

(B) *The amount of any such payment shall be one hundred (100) percent of the actual installation and construction cost of such improvements, as estimated by a registered professional engineer selected by the applicant and approved by the Transportation and Facilities Director.*

Applicant's Statement:

North of the subject property Davis Drive has four lanes of travel (two northbound lanes and two southbound lanes) and has no median. In front of the subject property Davis Drive has only two lanes of travel (one northbound lane and one southbound lane). South of the property Davis Drive has only two lanes of travel.

Applicant will improve approximately 1400 linear feet of Davis Drive, which improvement will include expanding Davis Drive from two to five lanes of travel (two northbound lanes, two southbound lanes and a center turn lane). It is unclear when, if ever, a median will be installed in Davis Drive to the north or to the south of the property. The five lane section of Davis Drive applicant will construct must be tapered to join the two lane section of Davis Drive that exists south of the subject property. To meet applicable AASHTO standards (to which both NCDOT and the Town defer in this instance) a lane shift taper of 1650 linear feet will be required. As noted above applicant will only improve approximately 1400 linear feet of Davis Drive; a length that is insufficient for the required taper. Applicant, its consultants or both has held multiple meetings were held with both NCDOT and Town staff regarding the design challenges presented by this road widening project. The parties have agreed upon the design depicted in the construction plans, including the exclusion of a median at this time. Because the Town requires the applicant to construct much more than is typically required, applicant requests that the median fee-in-lieu be waived.

Staff Observations:

- The CSX railroad right-of-way precludes symmetrical widening of Davis Drive. This requires more widening on the western side of Davis Drive than would otherwise be required.
- The proposed five-lane section in the plan will be required to transition to match the two-lane section south of Farmpond Road. Given the large discrepancy between the proposed widening and the existing two-lane section to which it ties, the construction of the median at this time is not practical.
- Section 8.1.5 of the LDO requires the developer to make a payment-in-lieu of construction. The estimated cost of the median is \$74,855.00.

SUGGESTED MOTIONS FOR MODIFICATION REQUESTS

MOTION TO APPROVE ALL MODIFICATION REQUESTS

For the reasons discussed, I move that we **APPROVE** the modification requests made by the applicant, as the requests meet all of the approval criteria of the applicable sections of the LDO.

This approval is conditioned upon the following:

1. *[insert any additional conditions necessary to bring the project into compliance with the LDO or other standards]*

OR

MOTION TO APPROVE INDIVIDUAL MODIFICATION REQUESTS:

For the reasons discussed, I move that we APPROVE modification request(s) number(s) _____ made by the applicant as the request(s) meet all the approval criteria of the applicable sections of the LDO.

This approval is conditioned upon the following:

1. *[insert any conditions necessary to bring the project into compliance with the LDO or other standards]*

OR

MOTION TO DENY ALL MODIFICATION REQUESTS

For the reasons discussed, I move that we DENY the modification requests made by the applicant, as they do not meet all of the approval criteria of the applicable sections of the LDO.

2. Does the plan adequately protect other property, or residential uses located on the same property, from the potential adverse effects of the proposed development?

Applicant’s Statement: The plan adequately protects other property from the potential adverse effects of the proposed development. The subject property is bounded to the north by the Stonecrest subdivision, a residential subdivision with lot and home sizes consistent with those planned for Applicant’s project, Canterbury Downs, to the east by Davis Drive and a CSX Railroad and rail right-of-way with additional residential developments further to the east; to the south by Farm Pond Road, the Town’s corporate limit and lots that abut Farm Pond Road and Davis Drive, and to the west by ten single family lots that are adjacent to Farm Pond Road (referred to herein as the “Farm Pond Subdivision”) , a large lot community with equestrian uses. Applicant’s proposed development is compatible with the uses on surrounding properties and should not adversely impact the values of those surrounding properties. The site plan provides buffering and separation from surrounding properties that minimize visual and auditory impacts, if any. This separation includes a 20 foot buffer between the subject property and the Farm Pond Road Subdivision and larger lots adjacent to the Farm Pond Road Subdivision. The site plan uses existing pond features as stormwater management devices that will avoid stormwater impacts on adjoining properties, and keeps the rural “feel” of the area and surrounding properties.

Staff Observations:

- The proposed 30-foot streetscape for Farmpond Road is consistent with the requirements of the LDO. The 20-foot perimeter buffers adjacent to the existing subdivisions to the west and north of the subject property are consistent with the zoning condition on the property, which exceeds the LDO requirement by requiring the buffer in common open space instead of on individual lots.
- The plan complies with the zoning condition offering larger lot sizes for the lots closest to the existing Farmpond Road residents.
- The 30-foot streetscape on Davis Drive, if approved as a Minor Modification, is less than the required 50 feet in the LDO.

TEST SATISFIED? YES NO

3. Does the plan provide harmony and unity with the development of nearby properties?

Applicant’s Statement: The residential use proposed in the site plan is consistent with the current residential uses of properties around the subject property, including the 20 foot buffer and a volunteered zoning condition that any lot within 50’ of the Farm Pond Road Subdivision be a minimum of 20,000 sf. This minimum lot size provides a density transition from the large lots to the west to the smaller lots to the east.

Staff Observations:

- The proposed detached residential use is consistent with the surrounding residential communities.
- Lot sizes proposed in the subdivision are similar to those in the Stonecrest subdivision, transitioning to larger lots along the shared property line with the Farmpond Road community.

TEST SATISFIED? YES NO

4. Does the plan provide safe conditions for pedestrians or motorists and prevent a dangerous arrangement of pedestrian and vehicular ways?

Applicant's Statement: The site plan provides sidewalks along Gravel Brook Court, Misty Mountain Way, and Crazy Diamond Court and provides for a 10' wide multi-use path along Davis Drive, with crosswalks, and provides for vehicular ingress, circulation, and egress in a safe manner.

Staff Observations:

- The plan complies with the Town's standards and specifications for local street design. It includes pedestrian accommodations as required by the LDO with the exception of the sidewalk along Farmpond Road, which the applicant is requesting not to provide.
- The plan does not provide connectivity to the west to accommodate future redevelopment of the Farmpond Road community. Not providing this required connection will limit opportunities for access to any future development to the west.
- The plan includes the 10-foot streetside trail identified in the Parks, Recreations, and Cultural Resources Facilities Master Plan.

TEST SATISFIED? YES NO

5. Does the plan provide safe ingress and egress for emergency services to the site?

Applicant's Statement: The plan includes roadways designed in accordance with required Town of Cary standards, which are of adequate width for emergency service vehicles and also provides adequate turning radii for emergency vehicles traversing the site. The plan has been reviewed by Town emergency services personnel, during the standard DRC review process, and all comments were have been satisfactorily addressed through mutually agreeable improvements.

Staff Observations:

- The proposed plan is consistent with physical design standards for streets, including the width, curve radii, and cul-de-sac design.
- The plan provides public street access to all lots in the subdivision.
- Connectivity is provided to the Stonecrest subdivision located north of the proposed development. This provides one additional point of access for each of the subdivisions, though that point of access is back onto the same thoroughfare.

TEST SATISFIED? YES NO

6. Does the plan provide mitigation for traffic congestion impacts reasonably expected to be generated by the project?

Applicant's Statement: Applicant has submitted an opinion letter from a professional engineer, specializing in traffic issues, prepared by Mr. Will Litchworth of Volkert Engineering. Mr. Litchworth opines that the 28 lots proposed on the subject property will generate relatively limited traffic impacts and that such impacts will be addressed adequately through the planned widening of Davis Drive and proposed connections, which is described in greater detail below.

Staff Observations:

- Town staff has reviewed the proposed plan and has not expressed concern regarding the amount of traffic generated by the 28 detached residential lots.

TEST SATISFIED? YES NO

SUGGESTED MOTIONS FOR SITE PLAN

MOTION TO APPROVE THE SUBDIVISION PLAN

For the reasons discussed, I move that we **APPROVE** the proposed subdivision plan with conditions as stated below **(ALT: without condition)**, as it meets all of the approval criteria set forth in Section 3.9.2(I) of the LDO.

This approval is conditioned upon the following:

1. The applicant must satisfactorily address all remaining Development Review Committee comments on the master plan set submitted for signature.
2. *[insert any conditions necessary to bring the project into compliance with the LDO or other standards]*

OR

MOTION TO DENY THE SUBDIVISION PLAN

For the reasons discussed, I move that we **DENY** the proposed subdivision plan, as it does not meet all of the approval criteria set forth in Section 3.9.2(I) of the LDO.