

**Town of Cary, North Carolina
Subdivision Plan Staff Report
Peninsula at Amberly (13-SB-003)
Town Council Quasi-Judicial Hearing
July 10, 2014**

REQUEST

WSP Sells, on behalf of the developer and property owner, has requested approval of a subdivision plan to develop 130 residential lots in the Amberly Planned Development District (PDD). The property has not been rezoned since March 1, 2013; therefore the subdivision, which proposes more than 100 residential units, requires Town Council approval. The plan also includes requests for modifications to the Town's development standards and a payment-in-lieu of construction of road improvements.

Property Owner	Chatham County Parcel Identification Number (PIN) (10-digit)	Real Estate ID Number	Deeded Acreage
IOTA Amberly LLC 482 North Rosemead Boulevard Suite 103 Pasadena, CA 91107	0725230370	63079	102.66
Total Area			102.66

BACKGROUND INFORMATION

Applicant's Agent	Andrew Loftin WSP Sells 15401 Weston Parkway Suite 100 Cary, NC 27513 (919) 678-0035
General Location	Northwestern quadrant of the New Hope Church Road and Yates Store Road intersection
Land Use Plan Designation	Low-Density Residential (LDR) and Parks/Open Space (PKS/OS) in the Northwest Area Plan
Zoning Districts	PDD Major (Amberly PDD – Tract SF-2) 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 (4 pages)
- [Exhibit B](#): Statement of Compliance (3 pages)
- [Exhibit C](#): Subdivision Plan (97 pages)

PROJECT DESCRIPTION/SUMMARY OF REQUEST

The Peninsula at Amberly subdivision was originally approved under Town of Cary project number 03-SB-012 on August 27, 2004. That subdivision plan proposed 319 residential lots on 168 acres in tracts SF-2 and SF-3 of the Amberly PDD. The project was divided into eight phases. Rough grading for

infrastructure was performed for the entire site (all eight phases) and full construction began on phases 1 through 4 (generally the area northeast of the lake and stream buffer). At some point, development work stopped and the plan approval subsequently expired in 2012 without final construction occurring for the infrastructure in phases 5-8. The currently proposed subdivision plan seeks re-approval of the remaining phases of Peninsula at Amberly (phases 5-8) in substantially the same layout as previously approved.

The proposed subdivision plan would be accessed off Yates Store Road through the existing Peninsula at Amberly subdivision and provide a new entrance to the subdivision from New Hope Church Road. The connection to New Hope Church Road will remedy the deficiency in the connectivity of the existing phases (more than 100 units with access off of a single public street). The minimum lot size proposed is 8,495 square feet with an average lot size of 18,411 square feet. This makes the proposed lots larger, on average, than the previously constructed phases. Four new stormwater devices are proposed to manage the stormwater from the development.

A 50-foot undisturbed buffer would be provided along the property lines abutting the American Tobacco Trail and the US Army Corps of Engineers (USACOE) property, consistent with the requirements of the Amberly PDD. While the PDD does refer to these as “undisturbed buffers”, the PDD allows disturbance of the existing vegetation for the installation of roads, stormwater devices, utilities, and trails. The PDD also allows the removal of trees less than five inches in diameter to promote the health of the remaining vegetation. Any portions of the “undisturbed” buffers that are disturbed during development are required to be replanted to a Type C (Aesthetic) buffer standard. The proposed landscape plan denotes these buffers as performing to a Type B (Semi-opaque) buffer standard, which exceeds the requirements of the PDD.

The streetscapes along both Yates Store Road and New Hope Church Road are proposed at 30 feet in depth per the Amberly PDD. These streetscapes would be supplemented with vegetation or graded with earthen berms to achieve a Type A (Opaque) buffer standard. A 10-foot-wide asphalt streetside trail is proposed to meander through the 30-foot streetscape, resulting in limited opportunities to preserve existing vegetation along the streetscape corridor. Streetside trails and other pedestrian accommodations are considered allowable encroachments within a streetscape per the LDO.

MODIFICATIONS TO LAND DEVELOPMENT ORDINANCE (LDO) REQUIREMENTS

Payment-in-lieu of Yates Store Road median

The Comprehensive Transportation Plan calls for Yates Store Road to be improved to a 4-lane section with a landscaped median. The property on the opposite (eastern) side of Yates Store Road is not planned for development at this time. Peninsula at Amberly is unable to construct one-half of the required median, therefore, the applicant has proposed to provide a payment in-lieu of construction of one-half of the median. This payment would be in the amount of \$55,310.75 based on a sealed estimate prepared by a licensed engineer and reviewed by the Town.

Dead-end water line restraints

Section 6010A(6) of the Town Standards and Specifications Manual requires that all joints used in public water line design shall be restrained as described below:

Restraint: All water distribution mains in the Town of Cary water system shall be restrained. The standard joint restraint shall consist of stainless steel rodding and blocking as specified herein. All valves shall be restrained in a manner consistent with operation as a dead end, which includes restraining the valve to the pipe and restraining a sufficient number of pipe joints on both sides of the valve to accommodate dead end valve restraint. The specifications allow for several options to achieve required pipeline restraint, such as wedge action retainer glands, rods, blocking, manufacturer provided restrained joint pipe, concentric ring fittings, etc. All joint restraint products that include the means of restraint within the joint gasket shall be prohibited in the Town of Cary water system.

All plans submitted shall include the pipe restraining plan including the number of joints restrained at fittings, valves, etc. Project designers shall include sufficient detail on the plan and profile drawings that make it clear to contractors what is required to meet the engineered restraining system specified. The pipe restraint plan shall be included under the design responsibility of the NC Professional Engineer sealing the plan drawings. Restraining systems not included within this specification shall require approval from the Town of Cary prior to utilization.

The base infrastructure for phases 5 through 8 of the Peninsula at Amberly subdivision, including the water, sewer, and storm drainage, was installed under the original plan approval. The road infrastructure was cleared and graded, but no asphalt was laid in these phases. The utility lines were installed to the Standards and Specifications in place at the time of the original plan approval. The applicant requests that they be allowed to keep the existing utility lines in place as designed, as upgrading the lines would require their removal and replacement at significant cost.

Cul-de-sac length

Section 8.1.4(A)(6) of the LDO requires that cul-de-sacs comply with the length limits and design standards set forth in the Town's Standards and Specifications Manual. Section 03020(A) of the Standards and Specifications Manual governs the length of cul-de-sacs and reads as follows:

Cul-de-sacs serve either abutting residential or non-residential land uses and terminate in a turnaround. The standard maximum length for a cul-de-sac shall be 900 feet. The length may be varied by the Town Council depending on the density within the subdivision. The recommendation for a variance shall consider the development density, land configuration, as well as all safety concerns. The length of a cul-de-sac shall be measured from the last point of alternate access.

The original subdivision plan approval for Peninsula at Amberly included a cul-de-sac, known as Savoy Park Place, which exceeded the maximum allowable length of 900 feet. The streets were cleared and graded with underground infrastructure being installed based on that approval. The currently proposed subdivision plan carries forward the original layout with the cul-de-sac being approximately 1,700 feet in length, now known as Peninsula Forest Court. This cul-de-sac is bounded by the American Tobacco Trail on the west and US Army Corps of Engineers property on the east, resulting in a long finger of developable land extending north from the main portion of the subdivision.

SUMMARY OF PROCESS AND ACTIONS TO DATE

Pre-application Meeting

The applicant attended a pre-application meeting for the subdivision plan on January 16, 2013.

Plan Submittal and Review

The subdivision plan was submitted for its initial review on February 14, 2013, and has been reviewed by the Development Review Committee (DRC) through four 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 site plan may be approved by the Town Council only if it meets six 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 modifications to the Town's development standards and whether to accept the proposed payment-in-lieu of improvements to Yates Store Road. 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 above, the applicant has requested that 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, it 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: The improvements contemplated as part of the proposed Subdivision and Site plan consist of a 130 single family detached dwellings on 102.6 acres of land. The property is zoned PDD Major and is located within the Amberly Planned Unit Development. Roadways internal to the site have been configured so as to limit encroachment and impact into environmentally sensitive areas. Further, the applicant is making significant improvements to each of Yates Store Pond and New Hope Church Road. As shown on the plan and other materials submitted, the improvements have been designed in compliance with the requirements of the Town’s Land Development Ordinance, including the development and design standards of Chapters 7 and 8 as well as the dedication and improvements provisions of Chapter 8.

Staff Observations: The plan is generally consistent with the requirements of the PDD as indicated by the applicant. However, the plan does propose several modifications to the development standards of the LDO and is inconsistent with the LDO absent approval of all subsequent modification requests.

When considering the requested payment-in-lieu of construction of road improvements required under Section 8.1.4 of the LDO, council must find that the improvements are not necessary or desirable at the moment but will be needed in the future.

When considering the request to waive the maximum cul-de-sac length, council should consider (1) the development density, (2) unique land configuration, as well as (3) potential safety concerns.

TEST SATISFIED? __ YES __ NO

- 1. Request that the Town of Cary accept a payment of \$55,310.75 in-lieu of construction of one-half of the landscape median in Yates Store Road per Section 8.1.5 of the LDO

Applicant’s Statement: The Applicant requests that the Town accept a payment-in-lieu of actual construction for the median portion of the Yates Store Road improvements. The Comprehensive Transportation Plan calls for Yates Store Road to be a 4-lane median divided highway in this area. At this time, the property on the other side of Yates Store Pond Road is not planned for development. Because the proposed development cannot include one-half of the median, which is what is required by the LDO, the Applicant believes it is appropriate for the Town to accept a fee-in-lieu of construction for the portion of the median that is required for this development.

- (1) Is the improvement not desirable or unnecessary at this time, but will be necessary in the future?

Applicant’s Statement: The applicant did not provide a statement specifically addressing this criterion.

Staff Observations: The property on the opposite (eastern) side of Yates Store Road has not developed to date. Construction of one-half of the required landscape median is not feasible without the dedication of the entire right-of-way width, which will be required at the time of development of the property on the eastern side of Yates Store Road.

TEST SATISFIED? __ YES __ NO

- 2. Request to leave the existing water line installations in place as installed to meet an earlier version of the Town’s Standards and Specifications Manual.

Applicant's Statement: The Applicant requests that the Town permit a minor modification to the current Town Standards and Specifications with respect to restraint joints used in public water lines. All public infrastructure, including water lines, have already been installed as part of the prior approved plan for development of this property. The lines were installed in accordance with the Town standards that were in place at that time. Accordingly, this request is made solely so that these water lines will not have to be removed.

Staff Observations: The water lines were installed in these phases under the previously approved plan and were installed consistent with the standards in place at that time. The Water Resources Department has expressed no concern about the existing installation being allowed to remain, provided that the lines pass final field testing once development resumes.

Modification Appropriate? YES NO

3. Request to waive the maximum cul-de-sac length of 900 feet in the case of Peninsula Forest Court.

(1) Considering the development density, land configuration, and safety concerns, if this modification appropriate?

Applicant's Statement: As can be seen on the Original Peninsula Subdivision, a cul-de-sac was approved for the northwestern portion of this site. This cul-de-sac was necessary since no vehicular connection could be made to the American Tobacco Trail – although there are pedestrian connections – or to the property owned by the Army Corps of Engineers. This cul-de-sac is being carried forward as part of the Site and Subdivision Plan. Because the cul-de-sac exceeds 900' in length, a modification is required.

With only 34 units being served by this street, the development density is very low. Moreover, the land configuration is very narrow and surrounded by either the American Tobacco Trail or the Army Corps Property. Finally, the property has been cleared and graded contemplating this cul-de-sac. Based upon the foregoing, the Applicant believes that the Town standards for cul-de-sac length should be modified to permit what is proposed by the Site and Subdivision Plan.

Staff Observations: The portion of the development served by Peninsula Forest Court is bounded by the American Tobacco Trail and the US Army Corps of Engineers, resulting in a long, narrow strip of developable property extending northward from the main portion of the development. The Transportation and Facilities, Police, and Fire Departments have expressed no concerns regarding this request.

Modification Appropriate? YES NO

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 applicable criteria 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 applicable criteria 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 applicable criteria 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 proposed development is for an integrated residential community. A significant 50' undisturbed buffer is being provided between the proposed use and the American Tobacco Trail. Otherwise, buffers internal to the lots and external to the site have been incorporated to comply with the LDO requirements for the same, including the installation of street trees along the portions of the site that front on public streets. The developer submits that the proposed plan adequately protects other property and residential uses on the subject property from the potential adverse effects of the proposed development.

Staff Observations: The proposed plan is consistent with the requirements of the Amberly PDD where specified and the LDO in general.

TEST SATISFIED? __ YES __ NO

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

Applicant's Statement: The subject property is surrounded by complimentary uses. Uses proposed to be located within the vicinity of the site are all residential in nature. The properties in this vicinity are either low or very low density residential properties according to the Town's land use plan. Additionally, the to the immediate southeast of the site is planned for a Town Park, a use that is highly complementary to a residential subdivision. As a result, the proposed townhome community will be in harmony with the development of nearby properties.

Staff Observations: The proposed subdivision is surrounded by other residential and open space uses which are similar in density and design.

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 plan includes sufficient sidewalks to ensure no conflicts between vehicles and pedestrians, and the street network has been designed in a manner that will result in vehicle speeds that are conducive to a single family community. Additionally, the Site and Subdivision Plan includes streetside trails adjacent to Yates Store Road and New Hope Church Road, which will be installed at the time the roadway improvements are made. With the foregoing, the Applicant submits that the plan provides safe conditions for pedestrians or motorists and prevents a dangerous arrangement of pedestrian and vehicular ways.

Staff Observations: The plan is consistent with the standards of the LDO and the Standards and Specifications Manual in regard to vehicular and pedestrian circulation except as noted in the modification portion of the report.

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 three public access points, with two on Yates Store Pond and one onto New Hope Church Road. Further, streets internal to the site have been designed to ensure that emergency vehicles have sufficient access to all of the residences. As a result, the plan provides safe ingress and egress for emergency services to the site.

Staff Observations: The Transportation and Facilities Department and Fire Department have reviewed the proposed plan for access to the site and neither have outstanding comments regarding access and/or circulation on the site.

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: With the installation of roadway improvements to Yates Store Pond Road and New Hope Church Road, the applicant submits that the plan provides mitigation for traffic congestion impacts reasonably expected to be generated by the project.

Staff Observations: The proposed subdivision has widened the adjacent roadways and has no other traffic mitigations associated with it. The PIL requested by the applicant is for one half of the median, which presents constructability issues absent development on the eastern (opposite) side of Yates Store Road.

TEST SATISFIED? __ YES __ NO

SUGGESTED MOTIONS FOR SUBDIVISION 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, 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 any remaining Development Review Committee comments on the master plan set submitted for signature.
2. *[insert any additional 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.