

**Town of Cary, North Carolina
Site Plan Staff Report
Patel Brothers Retail Shops (13-SP-066)
Town Council Quasi-Judicial Hearing
August 7, 2014**

REQUEST

Triangle CivilWorks, PA has requested approval of a sketch site plan for a 4,800-square-foot commercial building on approximately 1.24 acres located at 810 East Chatham Street. The proposal includes several modifications to Town standards, including a modified right-of-way dedication on East Chatham Street, an increase in the allowable parking, a reduction in the width of the East Chatham Street streetscape, and a reduction in the width of the western perimeter buffer.

SUBJECT PARCELS

Property Owner	Wake County Parcel Identification Number (PIN) (10-digit)	Real Estate ID Number	Deeded Acreage
Edna Earle Sturdivant and Wade T Cooper Sr. 1205 Fairlane Road Cary, NC 27511	0774032065	0174375	1.24
Total Area			1.24

BACKGROUND INFORMATION

Applicant's Agent	Chad Simmons Triangle Civilworks PA 211 Tyler Drive Smithfield, NC 27577 (919) 209-1045 chad.simmons@trcivil.com
General <u>Location</u>	810 East Chatham Street
<u>Land Use Plan</u> Designation	Commercial (COM)
<u>Zoning</u> Districts	General Commercial (GC)
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 (2 pages)
- [Exhibit B](#): Applicant's Statement of Compliance (6 pages)
- [Exhibit C](#): Sketch Site Plan (3 pages)

PROJECT DESCRIPTION/SUMMARY OF REQUEST

Triangle CivilWorks, PA has requested, on behalf of the property owners, Edna Earle Sturdivant and Wade T. Cooper, Sr., approval of a sketch site plan for commercial development of the property at 810 East Chatham Street. The proposed improvements are associated with the adjacent Patel Brothers

Grocery and would tie into the Patel Brothers Grocery loading dock improvements on the adjacent property approved by Town Council earlier this year.

The proposed development consists of a single-story commercial building of 4,800 square feet set back from East Chatham Street to be consistent with the adjacent Patel Brothers Grocery. A new private street would be provided along the property line with the Cooper's Furniture site. This new street, in conjunction with a new cross-access provision to the Patel Brothers Grocery site would provide access to both East Chatham Street and Southeast Maynard Road for all three properties located at this corner. Pedestrian access to the new development would be provided via sidewalk connections to the Patel Brothers Grocery site and to the public sidewalk required along East Chatham Street. Topographical considerations along the rear half of the site preclude provision of accessible pedestrian facilities out to Southeast Maynard Road. Given the service nature of the rear of all three sites, pedestrian traffic would be expected to be low in that area. Stormwater, though not fully designed at the sketch plan stage, is proposed to be treated through the use of a subsurface BMP (i.e., sand filter) located behind the proposed building.

The proposed use is similar in nature to the surrounding land uses, requiring minimal buffering between the proposed development and the existing developments. A 20-foot Type C (aesthetic) buffer is required along all three property lines. This buffer would be provided as required along the eastern and southern property lines, with ten feet being provided on each side of the property line. The applicant has requested a reduction in the buffer along the western property line (Patel Brothers Grocery) from 20 feet to 10 feet in width. Likewise, the applicant has requested approval of a 10-foot streetscape along East Chatham Street in-lieu of the 30-foot streetscape required by the Land Development Ordinance (LDO).

This is a sketch site plan; therefore, no details of the architectural design of the building are included for consideration. The building will be required to comply with the architectural standards in effect at the time the full site plan is submitted for administrative approval. Failure to comply may result in the plan being deferred to Town Council for action on the subsequent site plan.

MODIFICATIONS TO LAND DEVELOPMENT ORDINANCE (LDO) REQUIREMENTS

Modification of right-of-way dedication for East Chatham Street

East Chatham Street is predominantly located within a 200-foot-wide CSX railroad right-of-way along this portion of the corridor, which precludes widening on the north side of East Chatham Street as would typically be required by the Comprehensive Transportation Plan (CTP). In addition to bearing the full brunt of the road widening on the south side of East Chatham Street, there is uncertainty about the future improvements at the intersection. Given these constraints, the applicant has requested a waiver from the requirement to dedicate the full right-of-way required by the CTP. Instead, the applicant proposes to dedicate a variable-width right-of-way to tie into the dedication made in association with the Patel Brothers Grocery project and widening out to match the right-of-way dedicated in association with the Chatham Village project farther to the east. This right-of-way dedication varies in width from 27.5 feet on the western end of the site to 30 feet on the eastern end of the site, resulting in a deviation of two and a half feet from the CTP requirement. LDO Section 8.1.4(A)(10) requires the full right-of-way required by the CTP to be dedicated absent waiver of such dedication by Town Council.

Increase in amount of parking permitted on site

Section 7.8.2(C)(4) of the LDO establishes commercial parking maximums based on the gross floor area of the proposed building. The maximum parking for the site may only be exceeded provided the applicant provides adequate information to determine the cumulative parking needs for the site. Small shopping centers such as the one proposed by the applicant are parked per the use of each tenant space, which is typically unknown at this stage of development. Typically in these situations, the Town calculates the building at a Retail ratio of one space per 250 square feet of floor area, which would result in a requirement, and maximum, of 20 parking spaces.

The applicant has proposed to provide 48 parking spaces for the site. This request is based on a desire to share the parking with the Patel Brothers Grocery site to supplement the available parking for that existing use (although 54 parking spaces were required for Patel Brothers Grocery, only 45 were provided due to site constraints and re-use of the existing building). In addition, it is anticipated that future improvements along East Chatham Street will eliminate the 17 spaces currently located within the right-of-way, resulting in a parking count below the LDO requirement. An additional five spaces are proposed

to be eliminated from the Patel Brothers Grocery site to accommodate the proposed cross-access with the Retail Shops.

Development of the retail shops parcels with the proposed 48 parking spaces will bring the sites, collectively, to a total of 88 parking spaces, an increase of 14 spaces (19%) over the LDO maximum of 74. However, the loss of the 17 spaces in the right-of-way assuming East Chatham Street is widened to the intersection in the future would result in a cumulative parking count of 71 spaces of the required 74, a 4% **reduction** in the anticipated ultimate condition.

Buffer and Streetscape Reductions

The proposed project includes two modifications to the buffering requirements of the LDO. The first request is for a reduction to the width of the required perimeter buffer along the western property line, adjacent to the Patel Brothers Grocery. Section 7.2.3(B) of the LDO requires a 20-foot Type C (aesthetic) buffer between two like commercial uses. This buffer is typically shared equally between the two properties, 10 feet being provided on either side of the property line. However, the Patel Brothers Grocery building, a re-purposed convenience store, is located within six feet of the property line. This obligates the Patel Brothers Retail Shops site to provide the remainder of the 20 feet on their property. The restricted width of the property, especially toward the rear of the property, limits the applicant's ability to provide the width in excess of the 10 feet that would typically be required.

The additional widening encumbrance for East Chatham Street due to the CSX railroad corridor has prompted the applicant to also request a reduction to the streetscape along East Chatham Street. Section 7.2.4(C) of the LDO establishes a width of 30 feet for non-residential streetscapes along Thoroughfares and Collectors. The applicant has requested a reduction in the streetscape width from the required 30 feet to 10 feet.

SUMMARY OF PROCESS AND ACTIONS TO DATE

Pre-application Meeting

The applicant attended a pre-application meeting for the site plan on May 29, 2013.

Plan Submittal and Review

The site plan was submitted for its initial review on December 12, 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 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 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: Other than the modifications requested, the Sketch Plan complies with the development and design standards of the LDO as evidenced by staff’s multiple reviews of the plan for compliance. Applicant agrees that the plan presented for Site Plan approval will meet the standards of development of the LDO.

Staff Observations: The Development Review Committee has reviewed the proposed sketch plan for compliance with the LDO and all other applicable regulations through four review cycles. There are three remaining review comments, all of which are informational in anticipation of the submittal of full site plan for the project in the future.

TEST SATISFIED? __ YES __ NO

- 1. The applicant requests that the Town of Cary accept a modified right-of-way dedication along the subject property’s East Chatham Street frontage.

Town Council should consider this modification request pursuant to Section 8.1.4(A)(10) of the LDO.

Section 8.1.4(A)(10) of the LDO reads as follows:

“Land needed for right-of-way as depicted on the Comprehensive Transportation Plan shall be dedicated at the time of final plat for approval, unless such dedication is waived by the Town Council as part of approving the site plan in a quasi-judicial hearing or the subdivision/site plan is classified as an "exempt" subdivision/site plan. The amount of land to be dedicated shall be based upon the requirements listed in the Comprehensive Transportation Plan.”

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

Staff Observations: Typically, a developer is responsible for providing one-half of the right-of-way and making improvements along their frontage to one-half of the required cross-section in conformance with the CTP. However, in this instance, the presence of the CSX Railroad right-of-way restricts the ability to widen on the north side of East Chatham Street. This puts a larger proportion of the widening responsibility on the properties south of East Chatham than would otherwise be the case. In addition, the tracks and right-of-way begin to separate from East Chatham as they move closer to the intersection with Maynard Road. This creates some level of uncertainty regarding the ultimate configuration of the intersection and the improvement necessary the closer one gets to Maynard Road.

The applicant has proposed to tie the right-of-way dedication at the western side of the property into the right-of-way dedicated with the Patel Brothers Grocery redevelopment plan. This measures 27.5 feet, approximately three feet short of the required right-of-way based on holding the northern edge of pavement on East Chatham Street. The proposed right-of-way then widens out to the full 30 feet of dedication at the eastern property line, which is consistent with the dedication provided for other properties developed along the corridor.

- 2. The applicant requests that the maximum number of parking spaces provided on the proposed site be increased from 20 spaces to 48 spaces.

Town Council should consider this modification request pursuant to Sections 3.19.1(C)(2) and 7.8.2(C)(4) of the LDO. In order to approve the requested modification, the council must find the following:

(1) Does the modification advance the goals and purposes of this Ordinance?

Applicant's Statement: This modification advances the goal of providing sufficient off-street parking spaces for all employees, customers, visitors, and others who may spend time at the adjacent grocery use.

If plans for improvements to East Chatham Street and SE Maynard Road are implemented, 17 existing parking stalls serving the Patel Grocery use to the west of the proposed shops development will be lost, severely impacting the applicant's ability to provide the parking necessary to support the use.

It is proposed that the excess parking provided on the Shops development parcel be accessed by agreement for the benefit of the Grocery.

Staff Observations: The purpose of the parking regulations in the Town is "...to relieve traffic congestion in the streets, to minimize any detrimental effects of off-street parking areas on adjacent properties, to ensure the proper and uniform development of parking areas throughout the Town, and to support opportunities for development and redevelopment of businesses in the portions the town center with the most intensive development potential, off-street parking and loading spaces for each land use shall be provided in accordance with the standards established in this section." The Patel Brothers Grocery site, which was a Re-use/Re-development plan, was under-parked based on the existing conditions. The development of the Retail Shops and the potential widening of East Chatham Street will also both eliminate additional parking, worsening the parking situation for the existing use. The provision of additional parking spaces on the proposed Retail Shops plan will create additional parking available to the patrons of the Grocery site. This will offset the future loss of parking on their site in the long term.

TEST SATISFIED? __ YES __ NO

(2) 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's Statement: The modification relieves the practical difficulties present in providing sufficient parking to support the grocery parcel when planned widening is made to East Chatham Street and SE Maynard Road. The widening will result in the loss of use of 17 parking spaces on the grocery parcel.

Further loss of parking on the grocery parcel is mitigated by the proposed cross-connection drive that is planned to be constructed at the western boundary of the shops parcel.

Staff Observations: The site has been cleared and maintained free of vegetation for years. The additional parking will not result in additional loss of existing vegetation during development of the site. The additional surface area necessary for parking will reduce the amount of land area available for re-vegetation or buffering. However, as discussed previously, the additional parking will provide some relief to existing and future parking concerns on the adjacent Patel Brothers Grocery site.

TEST SATISFIED? __ YES __ NO

(3) Has the applicant provided adequate information to determine the cumulative parking needs for the site?

Applicant's Statement: The grocery parcel currently has 45 parking spaces provided on-site.

Planned improvements to E. Chatham St. and SE. Maynard Rd. will reduce the provided parking to only 28 parking spaces. Further development of vehicular cross-connection to the Shops parcel will reduce parking further to only 23 spaces provided on-site. Current

Town of Cary off-street parking standards require 1 space / 250 sf, or 53.7 spaces, leaving the grocery parcel short of parking by 31 spaces.

To overcome this impending significant parking shortfall, applicant proposes to over-park the Shops development and lease back, by agreement, the overage to the existing Grocery use. Applicant proposes to develop 48 parking spaces on the Shops parcel. Nineteen of these spaces would be assigned to the Shops development and the remaining 29 spaces would be assigned to the existing Grocery use. Current Town of Cary off-street parking standards require 1 space / 250 sf or just 19.2 spaces for the Shops development.

The resulting parking assignment would be as follows:

	Required by TOC Code	Planned on each Parcel	Existing plus Assigned by Agreement
Existing Grocery Parcel	53.7	23	52
Proposed Shops Parcel	19.2	48	19

Staff Observations: The development of this plan and improvements to East Chatham Street will reduce the available parking on the Patel Brothers Grocery site, worsening the parking shortage on the property. In the ultimate condition as currently anticipated, the two sites (Retail Shops and Patel Brothers Grocery) will be cumulatively under-parked by approximately 4% (three spaces).

3. The applicant requests to reduce the width of the perimeter buffer along the western property line from 20 feet to 10 feet.

Town Council should consider this modification request pursuant to Section 7.2.10 of the LDO. In order to approve the requested modification, the council must find the following:

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

Applicant’s Statement: Meeting the required 20-foot width would result in the loss of 13 planned parking spaces (7 at the front, 6 in the service access area), reducing the applicant’s ability to provide sufficient parking to meet the demands of both parcels.

The site has been reconfigured through the design and review process to preserve an existing champion tree on the western boundary within the modified 10-foot buffer.

Additional open/landscaped area is maintained immediately adjacent to the new shops’ west wall and in the open area in the center of the proposed front parking lot. Other landscape buffers are maintained elsewhere on site as directed by the LDO.

Staff Observations: The width of the site tapers from 170 feet at East Chatham Street to 91 feet at the southern end of the property. The width is 134 feet at the front building façade. The provision of the private street along the western property line impacts the available width and the provision of an additional ten feet of buffer along the eastern property line would further reduce the amount of space available for development, resulting in the loss of parking needed to satisfy the cumulative needs of the two sites (Patel Brothers Grocery and Retail Shops) and reducing the space available for required screening and landscaping internal to the site.

The site has been previously cleared and maintained free of forest cover. Therefore, the proposed reduction would not result in the preservation of additional existing vegetation elsewhere on the site.

TEST SATISFIED? __ YES __ NO

4. The applicant requests to reduce the width of the East Chatham Street streetscape from 30 feet to 10 feet.

Town Council should consider this modification request pursuant to Section 7.2.10 of the LDO. In order to approve the requested modification, the council must find the following:

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

Applicant's Statement: Meeting the required 30-foot width would result in the loss of 12 planned parking spaces, reducing the applicant's ability to provide sufficient parking to meet the demands of both parcels.

For the foreseeable future approximately 40 feet of open area is secured between the parking lot and the existing East Chatham Street right-of-way.

Staff Observations: The CSX Railroad right-of-way requires that this property bear a larger portion of the required roadway improvements than would typically be required. The provision of a 30-foot streetscape would eliminate 12 spaces from the proposed layout. This would impact the applicant's intention of providing additional parking on the Retail Shops site to make up deficiencies on the Grocery site. The properties located to the east and west of the subject property did not provide streetscapes at the time of their development.

The site has been previously cleared and maintained free of forest cover. Therefore, the proposed reduction would not result in the preservation of additional existing vegetation elsewhere on the site.

TEST SATISFIED? __ 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 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: There are no residential uses proposed on the subject parcel, nor is any existing on any adjacent parcel. Adjacent commercial uses will be protected with the establishment of landscape buffers. To the west (Patel Brothers Grocery), a 10-foot landscape buffer is proposed. To the east (Cooper Furniture), a split and shared 20-foot landscape buffer is proposed. Ten feet of this buffer will be established on both sides of the proposed private street. Short of the champion tree in the western buffer, there is no other existing vegetation proposed to be preserved. Applicant proposes to plant the buffers in accordance with Town of Cary LDO standards.

Staff Observations: The surrounding properties are all developed for commercial uses. Perimeter buffering is being provided with the exception of the requested modifications to the streetscape and western perimeter buffer.

TEST SATISFIED? YES NO

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

Applicant's Statement: Adjacent uses are commercial retail establishments in the General Commercial Zoning District. To the west is the existing 13,343 sf Patel Brothers Grocery with which parking will be shared. To the east is the existing Cooper Furniture store. On both parcels, there is no existing streetscape buffer provided. On the Grocery parcel, there is no adjacent landscape buffer provided. The establishment of reduced streetscape and landscape buffers on the Shops parcel is in keeping with the nature of the uses on the adjacent parcels.

Unity with adjacent parcels is solidified with the proposed pedestrian and vehicular cross-connections.

Staff Observations: The proposed commercial use is consistent with the commercial uses located on the adjacent parcels. The proposed building is located on the property consistent with the location of the adjacent Patel Brothers Grocery building. The adjacent parcels to the east and west did not provide streetscapes when they were developed; therefore, the reduction to the streetscape width along East Chatham Street would create a more consistent appearance with the adjacent parcels.

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 proposed development provides safe conditions for both pedestrians and motorists with the creation of crosswalks and physical separation of pedestrians from vehicular travel ways. Pedestrians may cross between the existing Grocery and the proposed shops with a walkway and stair connection between the two properties. Vehicular cross-connection with the Grocery is located away from this pedestrian connection.

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 minor modification portion of the report. The provision of the cross-connection with the Patel Brothers Grocery site in addition to the private street along the Coopers Furniture property line will improve access to all of three businesses located on the corner and help alleviate some of the access concerns with the existing Patel Brothers Grocery site.

TEST SATISFIED? YES NO

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

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

Staff Observations: The Transportation and Facilities Department and Fire Department have reviewed the proposed plan for access to the site and neither department has 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: The plan provides for multiple points of ingress/egress from all of the connected developments: Patel Brothers Grocery, Shops, and Cooper Furniture. The proposed traffic movements have been reviewed by both Town of Cary Transportation Department and NCDOT in multiple planning sessions and have been deemed adequate. The plan allows users of all three establishments ingress/egress from/to the East on E. Chatham St. or South on SE Maynard Rd. without passing through the existing signalized intersection.

Staff Observations: The Transportation and Facilities Department has reviewed the plans and has offered no outstanding comments regarding traffic concerns. The applicant has not provided staff any documentation supporting their traffic generation and any proposed improvements to mitigate their traffic. However, the development of this plan would be expected to improve the traffic concerns on the adjacent Patel Brothers Grocery site, which currently only has access to SE Maynard Road via a driveway located in close proximity to the intersection.

TEST SATISFIED? __ YES __ NO

SUGGESTED MOTIONS FOR SITE PLAN

MOTION TO APPROVE THE SITE PLAN

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

(ALT: 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 THE SITE PLAN

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