

**Town of Cary, North Carolina  
Site Plan Staff Report  
Centregreen Park at Weston (13-SP-067)  
Town Council Quasi-Judicial Hearing  
April 3, 2014**

**REQUEST**

Withers and Ravenel, on behalf of Highwoods Realty Limited Partnership, the property owner, has requested approval of a site plan for development of up to 165,250 square feet in an office building located in Centregreen Park at Weston. This building was identified as Building 3 in the overall master plan for Centregreen at the Park. The plan requires Town Council action because it proposes 100,000 square feet or more of non-residential uses and the property has not been rezoned after March 1, 2013. The plan includes no Minor Modification requests to the Town's development standards.

**SUBJECT PARCELS**

Property Owner	Wake County Parcel Identification Number (PIN) (10-digit)	Real Estate ID Number	Deeded Acreage
Highwoods Realty Limited Partnership 3100 Smoketree Court Suite 600 Raleigh, NC 27604	0765058738	0247286	9.17
<b>Total Area</b>			9.17

**BACKGROUND INFORMATION**

Applicant's Agent	Dale Werenko Withers and Ravenel 111 MacKenan Drive Cary, NC 27511 (919) 469-3340 <a href="mailto:dwerenko@withersravenel.com">dwerenko@withersravenel.com</a>
General <a href="#">Location</a>	5000 Centregreen Way
<a href="#">Land Use Plan</a> Designation	Office and Institutional (OFC/INS)
<a href="#">Zoning</a> Districts	PDD Major (Weston PDD)
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 <a href="mailto:kevin.hales@townofcary.org">kevin.hales@townofcary.org</a>

**LIST OF EXHIBITS**

The following documents incorporated into this staff report are to be entered into the record for this hearing:

- [Exhibit A](#): 13-SP-067 Application (4 pages)
- [Exhibit B](#): 13-SP-067 Plan Set (45 pages) (*FTP site – Planning/Quasi-Judicial Cases/*)
- [Exhibit C](#): 13-SP-067 TIA Executive Summary (10 pages)
- [Exhibit D](#): APF Waiver Request (4 pages)

## PROJECT DESCRIPTION/SUMMARY OF REQUEST

Withers and Ravenel, on behalf of Highwoods Realty Limited Partnership, the property owner, has requested approval of a site plan for development of an office building located in Centregreen Park at Weston. This building was identified as Building 3 in the overall master plan for Centregreen at the Park. The plan for this building has been approved in previous plans over the last decade, most recently in 2007 as 07-SP-034 with a subsequent revision to add square footage in 2011. The plan is subject to the requirements of the former Adequate Public Facilities Planning and Development for Roads Ordinance (APFO). As further explained below, the applicant has asked for Town Council review of the plan pursuant to the revised Land Development Ordinance (LDO) Section 3.23 that provides that Town Council may determine “whether the applicant must construct any improvements required by a Traffic Impact Assessment.”

The proposed plan includes an office building of up to five stories and 165,250 square feet. The building would provide the terminating vista of Centregreen Way, being located at the eastern end of the loop road. The majority of the parking would be located to the sides and rear of the building, tying into existing parking lots for the buildings located at 2000 and 4000 Centregreen Way. The plan also includes the design of a 113-space parking structure to be constructed if parking needs of prospective tenants require additional spaces.

## SITE CHARACTERISTICS

**Streams:** There are no stream buffers that would impact the development of the property. A stream buffer is located along the eastern property line, outside of the development footprint.

**Floodplain:** There is no floodplain or flood hazard area that would impact the development of the property.

**Wetlands:** There are no wetlands that would impact the development of the property.

**Topography:** The property has been graded to a pad-ready state as part of the original site development.

**Surrounding Land Uses:**

North – Office (2000 Centregreen Way with Lucy Daniels Association and Weston Parkway beyond)

South – Office (4000 Centregreen Way with Weston Pointe subdivision beyond)

East – Open space (Weston Association property with Bexley at Weston subdivision beyond)

West – Office (2000 and 4000 Centregreen Way; central plaza area)

## SUMMARY OF PROCESS AND ACTIONS TO DATE

### Plan Submittal and Review

As mentioned previously, the development of this parcel has been previously approved in several iterations over the past 15 years. The original development plans for Centregreen Park at Weston reached their sunset date (five years from the date of approval) years ago; therefore, the applicant submitted new plans for Building 3 in spring 2007. These plans were approved by staff, and the Permit Extension Act extended that approval until spring 2013.

Two subsequent extensions of the approval have been granted by staff, subject to the plan meeting the requirements of the APFO. The latest revision to the site plan was submitted in May 2013 and has been reviewed by the Development Review Committee (DRC) through four review cycles.

### Notification and Property Posting

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

## CONSISTENCY WITH THE LAND DEVELOPMENT ORDINANCE (LDO)

### Traffic

The applicant submitted the latest series of plans (07-SP-034) for the proposed Building 3 in March 2007. These plans were approved administratively in May 2007. A subsequent revision to the plans (07-SP-035-A) was submitted in November 2010 and was approved administratively in February 2011. This date

was considered as the approval date for purposes of the expiration of the plan approval, which is two years from the date of approval unless substantial progress is made on the site.

The project did not move forward prior to the expiration date of February 3, 2013; therefore, the applicant, requested an extension to the plan approval per Section 2.9.2(K) of the LDO. A 12-month extension was granted administratively with the following conditions:

1. The original traffic study has expired, and a new traffic study meeting the requirements of the Land Development Ordinance (LDO) prior to March 1, 2013 must be performed; and
2. The necessary modifications must be made to the plan to bring it up-to-date with LDO requirements and with standards that existed as of February 3, 2011.

A TIA was performed by Hatch, Mott, Macdonald, under the former APFO model for site plans. The executive summary of the TIA (13-TAR-377) is attached to this report as Exhibit C.

To date, substantial progress has not been made on the project, and the applicant requested a second, one-year extension of the project approval. The extension was granted on January 22, 2014, subject to the same conditions as the original extension. The applicant has not committed to making all of the improvements identified in 13-TAR-377; therefore, no Certificate of Adequate Public Facilities for Roads (CAPFR) could be issued for the project (as required under the former APFO). The applicant has requested Town Council review of the plan pursuant to revised Section 3.23 of the LDO, which reads as follows:

**3.23 APPEAL FROM ADEQUATE PUBLIC FACILITIES PLANNING AND DEVELOPMENT FOR ROADS ORDINANCE REQUIREMENTS**

*Applicants for projects which obtained a Certificate of Adequate Public Facilities for Roads between March 1, 2011 and February 28, 2013, but for which improvements required by the CAPFR have not yet been constructed, may file an appeal to the Town Council seeking relief from the obligation to build the required improvements. Additionally, applicants for projects for which subdivision or site plan requests were filed prior to March 1, 2013, but for which no CAPFR has yet been issued, may request that their plan be reviewed by the Town Council pursuant to Section 3.9.2(I) and that Council determine, using the criteria of this Section 3.23, whether the applicant must construct any improvements required by a Traffic Impact Assessment. The Town Council may waive some or all of the required improvements after holding a quasi-judicial hearing on the request. Improvements that could otherwise be required pursuant to the Land Development Ordinance, or in accordance with G.S. Chapter 160A, will not be waived. Other improvements may be waived if Council finds that waiver of such improvements will not result in:*

- (1) unsafe conditions for pedestrians or motorists or a dangerous arrangement of pedestrian and vehicular ways;*
- (2) unsafe ingress and egress for emergency services to the site; and*
- (3) traffic congestion impacts reasonably expected to be generated by the project that will not be mitigated.*

A discussion of the mitigations suggested by the TIA and the applicant's position on each follows:

Weston Parkway/Richard Drive and North Harrison Avenue (signalized)

Several potential mitigations were considered for this intersection; however, due to the scope of the study and the concerns with sight-distance and the geometry of the intersection, the following mitigations were proposed in the TIA:

- Convert the existing full southbound right-turn lane to a through-lane
  - The applicant has not committed to making this improvement.
- Extend the outside southbound receiving lane to provide 1,000 feet of full lane with appropriate taper for merging
  - The applicant has not committed to making this improvement.

- Provide an exclusive southbound right-turn lane with appropriate taper beginning immediately south of the right-in/right-out entrance to Harrison Square and maintain the free-flow movement in the existing condition
  - The applicant has not committed to making this improvement.

A letter detailing the applicant's justification for not committing to the above improvements has been prepared by Mr. Richard Adams, P.E., of Kimley-Horn and Associates, Inc. and is attached to this report as Exhibit D.

Cary Parkway and Norwell Boulevard (un-signalized)

- Provide a three-phase signal at this intersection
  - The developer has committed to providing a letter of credit for the cost of the signal prior to issuance of a CO for Building 3. A warrant analysis would be performed once the building construction is complete and the building is substantially occupied. The developer would install a signal if the Town determines that one is warranted; if not, the letter of credit would be released back to the developer. Staff is concerned about the wording of the applicant's commitment and has proposed alternative language to be included in the traffic mitigation table as a condition of the approval.

Weston Parkway and Centregreen Way (un-signalized)

- Provide a three-phase signal at this intersection
  - This improvement has been committed to by the developer of Weston Lakefront Offices (Highwoods) in association with 13-SP-036, if that project is constructed.

**Comprehensive Transportation Plan (CTP) Improvements**

The proposed site plan is accessed via Centregreen Way, which is a private street. There is no public road frontage and, therefore, no road widening is associated with the proposed plan.

**Buffers and Streetscapes**

The proposed plan would not alter the buffers established with the original Centregreen Park at Weston development plan. The master plan includes a 25-foot Type A (opaque) buffer around the perimeter of the Centregreen Park site. There are no internal buffers between the individual office parcels within the office park.

**DEVELOPMENT PLAN WORKSHEET  
AND  
SUGGESTED MOTIONS**

Section 3.9.2(l) of the LDO states that a development plan may be approved by the Town Council only if it meets six listed criteria. As part of determining whether the first criterion is satisfied, Council must determine whether to grant the requested waiver of the APFO (LDO Section 3.23). 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 waive certain of the mitigations recommended in the TIA. Council must find that the waiver will not result in (1) unsafe conditions for pedestrians or motorists or a dangerous arrangement of pedestrian and vehicular ways; (2) unsafe ingress or egress for emergency services to the site; or (3) traffic congestion impacts reasonably expected to be generated by the project that will not be mitigated.*

Once the council has made a decision on the waiver request, 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?

*Town Council should consider the waiver request pursuant to Section 3.23 of the LDO. In order to grant the waiver, council must find that the waiver will not result in (1) unsafe conditions for pedestrians or motorists or a dangerous arrangement of pedestrian and vehicular ways; (2) unsafe ingress or egress for emergency services to the site; or (3) traffic congestion impacts reasonably expected to be generated by the project that will not be mitigated.*

### 1. Request that the Town Council waive the construction of improvements to the Weston Parkway/Richard Drive and North Harrison Avenue.

**Applicant's Statement:** The subject request is for the Town Council's approval of a site plan for an office building to be located within Centregreen Park at Weston. The office building, which includes up to 165,250 square feet, is referred to on Town of Cary Site Plan No. 07-SP-034 as "Building 3." This building, along with four (4) others, was originally approved as part of 07-SP-034 (the "Original Site Plan"). The remaining office buildings have previously been built. The Original Site Plan was extended by the Town on two occasions, with the most recent extension extending the validity of the Original Site Plan to April 5, 2015. As indicated in the most recent extension, the conditions of approval included, among other things, that the developer perform a new traffic study meeting the requirements of the Land Development Ordinance as it existed prior to March 1, 2013. The developer has performed the required traffic study, a copy of which is included in the enclosed materials. The developer seeks relief from making improvements recommended for the Weston Parkway/Richard Drive and N. Harrison Avenue intersection. Pursuant to the requirements of Section 3.23 of the LDO, the applicant is required to bring the entire plan to the Council for approval pursuant to Section 3.9.2(I) and that the Council determine whether the applicant must make the improvements in question. As described in greater detail below, the primary basis for the Applicant's request for relief is that multiple other properties have identified the need for the improvements in question. However, in each instance, the Council has found, after conducting a quasi-judicial hearing, that it was not practical to require the applicants to make the improvements. Because there has been no material change in conditions since these other cases were approved, the applicant believes that similar relief should be granted in this instance.

Otherwise, the site plan complies with the approved Original Site Plan and has been modified to bring the site into compliance with the Town's current stormwater standards.

The improvements contemplated by this site plan consist of up to 162,500 square feet of office along with associated parking facilities (including a parking deck). As shown on the Original Site Plan, Building 3 can either be developed as a 4-story, 132,100 sf office building with 586 surface parking spaces, or as a 5-story, 165,250 sf office building with 569 surface parking spaces 113 parking spaces in a parking deck. As indicated on the proposed 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.

A traffic impact analysis has been performed by the Town. The developer is complying with the recommended improvements contained within the analysis, except with respect to intersection improvements recommended at Weston Parkway and Harrison. These improvements recommend the following:

- Convert the existing full southbound right-turn lane to a through lane
- Extend the outside southbound receiving lane to provide 1,000 feet of a full lane width appropriate taper distance for merging

- Provide an exclusive southbound right-turn lane with appropriate taper beginning just south of the existing right-in and right-out driveway (approximately 400 feet from the driveway southbound stop bar at Weston Parkway) and maintain the free flow movement that exists today.

As indicated in the January 7, 2014 letter Request for Waiver submitted by Kimley Horn, the applicant seeks relief from these improvements for the following reasons:

- There are right-of-way constraints that make the improvements not feasible. These constraints include:
  - o The improvements will require right-of-way, slope easements, or both from the Wells Fargo and Burger King properties
  - o Slope easements may be required from various properties to extend the southbound receiving lane
- There are constructability issues that make the improvements not feasible. These issues include:
  - o Retaining walls may be required to avoid impacting the circulation for the Burger King and Wells Fargo properties
  - o The improvements would likely require removal of trees along the frontage of Wells Fargo and Burger King
  - o The widening to construct a southbound right-turn lane in front of Burger King and Wells Fargo would likely require the relocation of three major utility poles paralleling North Harrison Avenue
  - o The proposed improvements will require relocation of the Town's variable message sign, as well as four street light poles south of Weston Parkway
- There are traffic issues that make the improvements not feasible. These issues include:
  - o The proposed improvements will have little-to-no practical usefulness from a traffic standpoint; without extending the proposed through lane substantially further, the additional through lane is expected to be grossly under-utilized based on experience with similar improvements
  - o The intersection only marginally meets the threshold for even being analyzed as a part of the Centregreen Office TAR (8% impact for the eastbound right-turn lane movement in the PM peak hour, vs. a minimum threshold of 7% for the intersection to be included in the study)
  - o In the Traffic Impact Analysis prepared for the Weston Lakefront development, this intersection was analyzed and no improvements were required by the Town
  - o In the Traffic Impact Analysis prepared as part of the SAS submittal that was approved by the Town on March 6, 2014, this intersection was analyzed and no improvements were required by the Town
  - o In each of the Weston Lakefront and SAS cases, the Town staff concurred that no requirement should be placed upon those developments

Based upon the foregoing, it is the opinion of Richard Adams of Kimley Horn and Associates that the waiver of these intersection improvements will not result in (1) unsafe conditions for pedestrians and motorists or a dangerous arrangement of pedestrian and vehicular ways; (2) unsafe ingress and egress for emergency services to the site; and (3) traffic congestion impacts reasonably expected to be generated by the project that will not be mitigated. With the improvements that are being made by others, the plan provides mitigation for traffic congestion impacts reasonably expected to be generated by the project.

**Staff Observations:** Town staff has reviewed four submittal sets of the proposed site plan, and there are only seven outstanding comments. The remaining comments are minor in nature and relate to general plan labels, striping and signage details, the depiction of the construction entrance, and to traffic mitigations. As the applicant has mentioned, the improvements identified at the Weston Parkway and North Harrison Avenue intersection have appeared in other recently approved subdivision and/or site plans. The same lists of reasons considered for not making the improvements has been presented in each case.

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

## SUGGESTED MOTIONS FOR WAIVER REQUEST

### MOTION TO APPROVE THE WAIVER REQUEST

For the reasons discussed, I move that we **APPROVE** the waiver requested by the applicant, as it meets all of the approval criteria of Section 3.23 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 DENY THE WAIVER REQUEST

For the reasons discussed, I move that we **DENY** the waiver requested by the applicant, as it does not meet all of the approval criteria of Section 3.23 of the LDO.

## 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?

**Applicant's Statement:** Building 3 is part of Centregreen Park at Weston, an office park owned and developed by Highwoods Properties which will, at full development, include five (5) office buildings and a parking deck. Accordingly, there are no residential uses on the subject property. Moreover, the subject property is located within the Weston Planned Development District. Although a handful of properties within the Weston PDD have been developed for other uses, the vast majority of properties in this area have developed for office and institutions uses.

Further, the subject property includes sufficient buffering from adjacent properties. Landscaped buffers are included along the western and southern boundaries of the property which abut residential uses. With respect to the western boundary, there are significant environmentally sensitive areas immediately adjacent to the site which serve to further buffer Building 3 from the residences in the vicinity. 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 development would not impact the perimeter buffers of the Centregreen Park at Weston development. These buffers were installed with the original phase of development on the site and would be maintained during and following construction activities associated with Building 3.

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

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

**Applicant's Statement:** As indicated, Building 3 is part of an office park that, when completed, will include five (5) office buildings. Further, development of the property for this additional office building furthers the development of properties in this area, which have developed for primarily office uses.

As a result, development of the property to include Building 3 will be in harmony with the development of nearby properties.

**Staff Observations:** The proposed building is similar architecturally with the other office buildings in the development. The scale of the proposed Building 3 is larger than the previous four buildings; however, the building's mass is consistent with the previous structures.

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 from the parking areas to entrances to Building 3 to ensure no conflicts between vehicles and pedestrians.

**Staff Observations:** The plan provides sidewalks throughout the parking lot to separate the pedestrian and the vehicular traffic patterns to the extent possible.

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 two public access points. The primary entrance to Centregreen via Centregreen Way is being signalized as part of the MetLife office development.

With the signalization of this intersection, the plan provides safe ingress and egress for emergency services to the site.

**Staff Observations:** The proposed plan would not alter the existing ingress to or egress from the Centregreen Park development.

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:** See the applicant's response to item 1 on Worksheet 1, which concludes as follows:

"it is the opinion of Richard Adams of Kimley Horn and Associates that the waiver of these intersection improvements will not result in (1) unsafe conditions for pedestrians and motorists or a dangerous arrangement of pedestrian and vehicular ways; (2) unsafe ingress and egress for emergency services to the site; and (3) traffic congestion impacts reasonably expected to be generated by the project that will not be mitigated. With the improvements that are being made by others, the plan provides mitigation for traffic congestion impacts reasonably expected to be generated by the project."

**Staff Observations:**

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 with conditions as stated below, as it meets all of the approval criteria of 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. Add the following language regarding the signalization of the Norwell Drive/Cary Parkway intersection in the Traffic Mitigation Summary:

*As soon as is warranted and approved by the Town of Cary and the North Carolina Department of Transportation, the Owner shall construct and install a traffic signal (per Cary standards) at the intersection of Cary Parkway and Nowell Road, as recommended by the TIA on file with the Town of Cary dated September 2013 (13-TAR-377). A full signal warrant analysis shall be provided by the developer or owner of the subject property prior to issuance of a certificate of occupancy of the building. If this signal is not warranted or if it is warranted but not yet installed at the time a certificate of occupancy is issued, then the developer or owner shall provide a comprehensive opinion of cost in the form of a report, including signal design and review fees, prepared by a professional engineer. The developer or owner shall provide a financial guarantee of construction in the form of cash or a letter of credit equal to 1.5 times the cost determined in this report before any certificate of occupancy is issued. Such financial guarantee shall be administered by the Town in accordance with its standard practices and procedures for financial guarantees and shall remain in effect until used or released in accordance with this condition. A final signal warrant analysis shall be performed by the developer or owner of the subject property within 12 months of certificate of occupancy issuance. If a signal is not warranted at that time, then the financial guarantee shall be released by the Town to the person or entity that posted the guarantee.*

3. **[insert any additional 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 of Section 3.9.2(I) of the LDO.