1. **COMMENCEMENT**

Weinbrecht called the meeting to order at 6:30 p.m. and noted that Robinson is not in attendance due to work.

**Call to Order and Ceremonial Opening**

Weinbrecht announced the Cyber Security Proclamation will be removed from tonight’s agenda. The topic, Online Safety, will be presented at a future meeting.

**Adoption of agenda**

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<th>RESULT:</th>
<th>APPROVED WITH AMENDMENTS [UNANIMOUS]</th>
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<tr>
<td>MOVER:</td>
<td>Jack Smith, District C Representative</td>
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<td>SECONDER:</td>
<td>Ken George, Lori Bush</td>
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<td>AYES:</td>
<td>George, Weinbrecht, Smith, Frantz, Bush, Yerha</td>
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<td>ABSENT:</td>
<td>Robinson</td>
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2. **PRESENTATIONS**

2.1 Presentation of Cyber Security Month Proclamation

This item was removed from the agenda at the beginning of the meeting.

3. **PUBLIC HEARING**

3.1 **ACT 6 Land Development Ordinance Amendments**

Transit Planner Christine Sondej presented staff’s report. The presentation is attached as ACT 6 Land Development Ordinance Amendments Presentation Exhibit A.

Weinbrecht opened the hearing and no one spoke.

Bush asked about plan to bring old bus stops up to code. Sondej shared that existing stops have to be updated if effect by redevelopment or new development. Existing stops will be updated as part of the plan; funded by Wake Transit.

Recommendation: That Council conduct the public hearing and refer the proposed ACT 6 LDO Amendments to the Planning and Zoning Board for a recommendation.

Weinbrecht stated this case will be forwarded to Planning and Zoning Board.

Council Members took a recess and reconvened the meeting at 6:45 p.m.

RESULT: REFERRED TO PLANNING & ZONING

4. **QUASI-JUDICIAL PUBLIC HEARINGS**
4.1 Twin Lakes Center Development Plans/ 18-DP-0135 and 19-DP-0037

Weinbrecht: We'll reconvene our meeting and start the QJ meeting. We are at our first evidentiary hearing Twin Lakes Center development plans 18-DP-0135 and 19-DP-0037. This case is before us tonight because the applicant has proposed revisions to the prior development plan approved by council. As a reminder to those in attendance even though we're in the council chambers an evidentiary hearing is more like a court case and council acts like the judge and can only accept evidence that is competent, material, and substantial. The North Carolina and the United States Constitution give the applicant certain due process rights in an evidentiary hearing that the council must comply with. The Constitution really ties our hands-on evidence we can accept, and I apologize in advance for what might seem burdensome or complex process. We will consider competent, material, and substantial evidence from anyone who testifies. By law, we can only accept testimony from expert witnesses regarding whether this development will affect property values and whether it will increase traffic resulting from this development or if it will pose a danger to public safety. Those who are with us this evening intending to testify that are not qualified as experts, we can only accept testimony from you on factual issues that you have observed. Our contractual attorneys sitting to my left will help determine who's an expert and whatever what evidence can be considered. The hearing procedures detailed rules are attached to the printed agenda. All speakers who want to speak during the public hearing must be administered an oath Mrs. Johnson who is to my right. We'll pause at this time to allow those individuals who would like to speak at the public hearing to approach Mrs. Johnson and receive their oaths in Council will refrain from continuing until this has been completed.

Town Clerk Johnson provided oaths to potential witnesses.

Weinbrecht: At this time, I'll ask councilmembers if they've had any site visits, ex-parte communications, financial relationships, specialized knowledge, or close relationships to an effective person to disclose.

Council Member Present had no disclosures.

Weinbrecht: Based on the disclosures you've heard from council members, at this time out invite any party to the podium; any party to this matter that has an objection to any council members participation in the hearing. Seeing no one will continue and I'll open the quasi-judicial public hearing. Mr. Loveland of our staff will introduce the hearing. Mr. Loveland.

Loveland: Thank You Mr. mayor. Good Evening Council. This is a request by Leyland Twin Lakes LLC for consideration of a revised development plan. Council reviewed and approved this sketch plan for Twin Lakes Development Center on July 13 2017. Consequently, Town staff reviewed the full development plan and determined that it was consistent with the council approved plan and therefore approved that document in April of this year. After the approval of that document the development plan the applicant came back to town requesting some changes to the plan. It was determined that those changes were not fully consistent with the adopted plan; hence, they needed to come back for approval and we are here tonight. To remind the audience where this site is located is south of the Airport Boulevard, east of Davis Drive, west of Hatches Pond. We'll review the approved and revised development plans in just a moment. First, this summary table does a good job of highlighting the proposed changes. The square footage for the development plan, revised development plan, is 27,000 square feet less than the approved development plan. The reason for that is because the large retail building has decreased from 130,000 square feet to 103,000 square feet. The number of plazas or community gathering spaces is increasing from five to six, you'll see that in a moment. The approved of development plan had 144 structured parking spaces underneath the large retail building. Those have been removed. They are not included in the revised development plan. The number of surface parking spaces for the development remains constant at 778 spaces; so overall there's been a decrease of 144 spaces. This is the approved site layout. Before I mention the buildings, I will note that there were no changes to any of the proposed vehicular or pedestrian connection points. Those remain the same. All the off-site roadway
improvements are offered by the approved development plan are also still offered by the revised development plan. There are four buildings in the approved development plan. You can see there are two stormwater ponds. The large retail building on the left-hand side of the slide at 130,000 square feet. The structured lower level parking was to the northeast side of the building; access drive from Chessway drive. Building A is a multi-tenant building that was approximately 19,000 square feet. Building B in the middle for retail / office use of 6,000 square feet and finally Building C, 3,000 square feet with the drive-thru. The buildings and all the site infrastructure associated with that are to the right or to the southeast of Chessway Drive are now proposed for changes with this with this revised plan. This slide shows the community gathering areas or plaza areas which are an item that is brought out of some importance in that PDD are shown in this slide. There are five of them offered in the approved development plan. The revised layout, the large difference is the size changing from 130,000 to 103,000 square feet for the large retail building and the removal of the structured parking as we've covered. There are also been some changes to the layout of the site of the surface parking around this large building. Notably, there have been 28 parking spaces removed from the southeast corner of the building. Those have been relocated to the northeast of the building such that they are located in between the building and Chessway Drive. Also you can see highlighted, there has been an access drive to the surface parking lot that has been relocated. That was shifted farther from the intersection of Chessway Drive and Davis Drive at the request of town staff to result in better internal circulation. The applicant still has to demonstrate that this plan meets the findings, the six criteria of approval for a site plan. One of it being conformance with the zoning. I just briefly want to touch on the existing zoning for the site. The property is located in the Twin Lakes planned development district PDD. This PDD has five mixed-use parcels this site is located in one of them, MU2. The properties are the mixed-use parcels allow retail, office, and residential developments or allocations. The approved development plan was within the allocations for retail and office. In other words, it was not exceeding what was permitted for this parcel. It proposed no residential dwelling units. The revised plan as it is smaller is also meeting these maximums are within the maximum as and again it proposes no residential land uses. You see the conceptual master land-use plan here from the PDD. It was of course determined in the process of approving the plan that it was in conformance with this conceptual master plan. That concludes staff’s initial presentation and I’ll return once the applicant and public has spoken to present our final observations.

Weinbrecht: Thank You Mr. Loveland. This time we’ll call on the applicant’s attorney to present arguments and evidence in support of the application by addressing the applicable approval criteria.

Schwedler: Thank You Mr. Mayor. Good Evening Council. My name is Jamie Schwedler with Parker Poe, 301 Fayetteville Street as the attorney on behalf of the applicant. We're happy to be back before you tonight and I thank Doug for his great summary of the changes that were bringing before you tonight to this approved development plan. I think you did a great job in summarizing some of those high-level changes and we'll go through the testimony tonight and hear from the witnesses about why those changes are necessary and what some of those entail. With all plans, there's going to be somewhat of a trade-off in terms of things that change and things we're able to recapture and make better in terms of this the site plan. So, let me get first to why this change is necessary. As the council is probably aware at this point, the main grocery store that's changing is subject to a lease of our anchor tenant. Since the sketch plan was approved by council in 2016, the market has changed quite a bit. The way people use grocery and interact with the space has changed quite a bit. That initial plan was submitted based on the time when Wegmans was just coming into North Carolina and was using a prototype from 2016. There're some insignificant changes that this Town has seen since 2016 in terms of the way that that people interact with grocery and the way that that grocery space is used, including the shutting of the Kroger in town, several other grocery stores that have left Cary, and then of course the advent of delivery groceries to your door. All these changed the way people have needed the space to operate and so this change really allows our main tenant to be more efficient in that space to make Cary a hub for their offices and still provide the same parking and convenience and customer service related activities that made this site successful when it was initially approved in 2017. That modification summary had
included from Doug the smaller footprint for the grocery were going from 130,000 to 103,000 and the removal of the underground parking. But we were also able to increase the green spaces. We'll go through those in some detail and show you how that's changed on the plan. It also resulted in some other high level benefits: including expanding and existing outdoor plaza outside of the market café, adding a brand new plaza that is approximate to the new Greenway connection so that people have a place to gather as they come off the transition to going to get their groceries, a reduction in some of the surface parking that you should be able to see from Davis Drive, and a better overall traffic circulation and design. With that I'd like to call my first witness, Mr. Steve Leaty.

Leaty: Evening council members, my name is Steve Leaty and I'm a project management manager with Wegmans food markets 100 Wegmans Market Street Rochester New York. We are the anchor tenant in the main retail building, I think was A on your drawing. Twin Lake Center is a Class A project thanks to a successful collaboration between the Town of Cary planning staff, the project developer Leyland, and Wegmans food markets it is something we are very excited to be a part of. When this sketch plan was conceived in 2016, the plan used a prototypical building footprint and parking. Since then there have been many changes in the retail environment including the way that we do business. We are seeing changes in the way people grocery shop. Customers buy online for home delivery. They order online for in-store pickup or curbside pick-up. Large companies are acquiring competition. New competitors are entering the market. Some of this has caused other competition to slow or cancel expansions. To remain competitive in the market and keep this project on track, we are asking to decrease the overall square footage to 103,000 square feet and eliminate the underground parking. We have been able to create efficiencies inside of the building: better inventory control on the back of house, new prep kitchen and prepared food layouts, new programs that fit the way customers shop and much more have allowed us to do more with less. We have been able to incorporate these changes into the plans and make the project even better. The surface parking is configured to maintain convenient parking at an ideal parking ratio. We can add 1,500 additional square feet to the back of the reconfigured grocery area to build a district office which will serve as a store operations hub for North Carolina stores throughout the Triangle area. We have increased the outdoor seating and amenity area near the market cafe along with other site changes that will be detailed. We are committed to building in Twin Lake Center and in the Town of Cary. Wegmans has been rated as the number one grocery store in America. Something we're very proud of Wegman's will be a great neighbor and we will bring 400-500 new jobs to the area. We will partner in donate to the local food bank, school district, and United Way. We only open three stores a year. It is challenging and competitive to get a store slotted in our schedule. There is a slot to begin this store next year and have it open in 2020. I look forward to your support on this relatively small site plan revision so that we can make that happen. I would be happy to answer any questions. Thank you.

Weinbrecht: Thank You

Schwedler: Seeing no questions, I'd like to call our next witness Mr. Bill Derks.

Dirks: Good evening. I'm Bill Derks with the John McAdams company. I've been practicing civil engineering been licensed civil engineer in North Carolina since 1996 and have done majority of my work all around the Triangle area. I'm just going to walk quickly through the changes that are on this plan. We walk around this plan, the building you can see is significantly smaller 27,000 square feet and what that has allowed us to do is to create by this (inaudible) in the parking and the building getting smaller a larger cafe outdoor seating area at that end of the building. I have a detailed plan that I'll show that to you later. The bump out on the back where the regional offices will be has actually allowed a better screening of the loading dock in the back. We also took advantage of this time of increasing the plantings along Chessway and the stormwater pond to provide better screening of the loading dock. With the shorter building, we were able to move some parking along this side which is more convenient to the store itself. We were able to remove that from this inside the curve of Chessway Drive. The Greenway Trail connection that comes up along the stormwater pond will go across the street. There's a little seating area there and then it's connected by sidewalks that you can get into the grocery store or

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onto the main street with retail shops. We also revised some of the plantings along the parking area here because of concerns of the neighbors of streetlights from the parking lot. So instead of the required single row of bushes along there, we've doubled it up and are planning them larger than required so provide the screening from the outside of the project. Lastly, Doug mentioned that the entry Drive off from Chessway has been moved further away from Davis Drive. It was originally at this second drive aisle. With this change, we were able to actually lower the building. The building is two feet lower, so it will be not quite as tall from Davis Drive. It will be a little shorter and not over the top of Chessway on this end and that since that's two feet lower moving the entrance down on the road. We will also get a better separation from the intersection of Davis Drive. This next slide is just a comparison kind of a bird's eye view of both plans. You can see to a large degree. They're not from bird's eye view not significantly different. The impervious area on the site has been reduced with a smaller building and more green space. As I said the building itself is 2 feet lower, so it's relative to surrounding streets and the neighbors it's a little bit smaller view. This is the plaza on the market cafe and of the Wegmans. The view on the top was what was approved in the sketch plan and it was identical in the development plan approval. Since the building gotten smaller, we were able to swing the parking lot out further. Actually, this seating area right here is equivalent to this entire hatched area before which at that time included sidewalks along the parking area. The seating area has increased quite a bit in this plan. This is the second the amenity that was added. Again, this is stormwater pond with the Greenway connection that comes up over the top and you come across with a hardscape area and some benches and then the sidewalks that connect either down through this landscape drive aisle in the parking lot or around this way to the Wegmans store or across to the main street on the other side.

Schwedler: (inaudible)

Derks: The new amenity area - that's about 5,600 square feet of land, new landscaped and in pedestrian area. This shows the end of the Wegmans store more closely. If you remember from the original plan, there was access to the lower level parking. The building was right up along Chessway. We were able to move it further away reducing the impact on that on that street and reconfigured the parking to get it more proximate to the Wegman Center.

Schwedler: Based on that revised layout, Mr. Derks however the changes impacted conditions for pedestrians

Derks: Pedestrians is actually I think been improved with the addition of this intermediate crosswalk and the connection for the for the Greenway Trail. Otherwise they're essentially all identical to the approved plan.

Schwedler: Does this layout impact access for emergency vehicles

Derks: Access is the same emergency vehicles wrap around the Wegmans for heavy-duty pavement fire hydrants every 500 feet, so it provides the same access that was there before.

Schwedler: Thank you I have no further questions. I'd like to call my next witness, Mr. Earl Lewellyn

Lewellyn: Good Evening, Earle Lewellyn, Traffic engineer with Kimley-Horn and Associates. We prepared the original traffic study for this project; back as part of the original QJ which obviously included the larger Wegmans footprint. Since then and as a result of that reduction some of the other uses have changed slightly too as far as the trip generation of the resulting project. This site will be significantly less than what was analyzed in the traffic study for that project; nevertheless, as was said earlier they're still committed doing all the roadway improvements which are indicated in the bubbles in green here. I think they're listed in your staff report as well. I won't go through those and unless you would like. In summary, because they are committed to doing the same improvements and the trip generation traffic
impact is less, it's my professional opinion that committed improvements mitigate the traffic impacts expected from the project.

Schwedler: Mr. Lewellyn, did you say you were traffic engineer that performed the transportation impact analysis, is that right?

Lewellyn: That's correct

Schwedler: Could you give the council a brief description of your background and licensing?

Lewellyn: Sure, I've been working in the transportation field since 1988 and have been a registered professional engineer since 1993.

Schwedler: At this time, I'd like to tender Mr. Lewellyn as an expert in traffic congestion and mitigation. Thank you, Mr. Lewellyn. At this time, I'd like the TIA to be admitted into evidence to the extent it hasn't already been in evidence with the Town's records. We can leave that with Miss Johnson. I'd like to call my next witness, Mr. Rich Kirkland. Mr. Kirkland, could you state your name and address please.

Kirkland: Rich Kirkland, 9408 Northfield Court Raleigh

Schwedler: Could you give the council a brief description of your background and certifications, please?

Kirkland: Sure, I'm a commercial real estate appraiser. I'm certified in the State of North Carolina and a couple other states. I've been appraising in the Triangle area for last 23 years. I'm an MAI through the Appraisal Institute and grew up in Cary so I'm very familiar with the area.

Schwedler: At this time, I like to tender Mr. Kirkland as an expert in the field of appraisal and impacts to real property. Could you please give the council a brief description of your analysis of the property?

Kirkland: I've been sure I looked at the site plan the development and looked at surrounding area inspected the site; was really focusing on in question of harmony and how well it fits in with the adjoining uses. Just to start with the conclusion: it's my professional opinion that this is going to be in harmony with the area and it's not going to have any negative impact on adjoining property values. Again, I know that this was before the board before and that similar conclusions were found for a larger facility at this location. But looking at the specifics on this when I'll know that it still is going to architectural it will have to be consistent with a Twin Lakes planned development. Visually it's going to have that consistency. Again, compared to the original plan the building footprint is smaller and lower to the ground. Those all really go towards speaking towards a less of an impact on adjoining property values. I looked at the number of other similar developments. Since this pattern of developments are so common, having the commercial blending over into the residential. I just looked at projects up and down Davis Drive. I believe there's a copy of my report in the record. There is; so, you can just start on page four that impact analysis. I looked at the McCrimmon Corner shopping center and showing proximity of residential and townhomes to those shopping centers and how those set up. Homes in that situation are much closer than in this this predict this project. I looked at the Shops at Morrisville market shopping center right there at Morrisville carpenter Road intersection. Again, I've got townhomes and single-family homes in proximity in fact close for proximity in this project. Cornerstone Village Shopping Center, I've got again single-family housing much closer to that projects then in the Twin Lakes project. Again, just looking at those that I looked up and down Davis Drive the in the Cary jurisdiction I was looking. And found that it's a very consistent and pattern of development and that there's really been no sign of any impact on those property values. It's very harmonious location and the other point for this is essentially that there's a large amenity with green space between the homes and the shopping center at this location which even if there was something to think about there's a huge buffer between this and the
adjoining residential uses. That is the basis for my conclusion there's no impact on adjoining property value and that this is a harmonious location for this project.

Schwedler: Thank You Mr. Kirkland. Did you also examine aspects of the plan that address potential adverse impacts?

Kirkland: I did. I looked specifically at the aesthetics, the buffers, and the various green space conclusions.

Schwedler: Did you draw a conclusion about the way that this layout minimizes any of those impacts?

Kirkland: I did. Again, the aesthetics is back to again the building's lower there's going to be more screening too specifically towards Chessway and Davis Drive. The buffers allow for a 100-foot buffer around Hatch's pond but also a 15-foot streetscape along Chessway and along Hatch's pond Lane. There's more green space included in this plan than the original.

Schwedler: In your professional opinion, will this modified plan adequately protect other property from potential adverse impacts?

Kirkland: It is my; it will.

Schwedler: Thank you, Mr. Kirkland. I have no further witnesses at this time and be happy to answer questions or provide a summary of our evidence to date. I believe the testimony we've offered is competent, material, and substantial that meets all of the six factors. We heard from Mr. Leaty about why this change is necessary in order for Wegmans to continue and how those impacts really reflect the changing use of the grocery building in and of itself. Those are all consistent with some of the shape and shop and work policies that were cited in the justification statement and providing convenient service oriented retail to the people within the Twin Lakes community that are able to walk and able to have workforce abilities by bringing the 480 jobs that are in close walking distance the proximity to the Twin Lakes neighborhood. Also, the shop chapters this is already designated as an area that will support that shopping use. As to factors, two and three, Mr. Kirkland testified in his opinion, these reductions and changes to the plan minimize potential adverse impacts and that the plan will still be in harmony with nearby properties. The changes of plan, notwithstanding. Factors four, five, six were addressed by Mr. Derk's and Mr. Lewellyn. That the changes to the plan still provide safe pedestrian connectivity safe ingress and egress for emergency vehicles. Mr. Lewellyn testified as to the changes in the traffic impact analysis. This is a reduction in square footage but we're still committing to all of those traffic improvements that we committed to any initial approval so for that reason. I'd requests that the council make a favorable finding on all six factors and grant the modification.

Weinbrecht: Thank you. I have a question about the traffic impact analysis that was submitted today. That is different from the one that's in the staff report or is it the same?

Schwedler: It's my understanding there was not a on the link of the agenda there wasn't a TIA that was a linked. I'd be happy for staff to correct me, but I instructed Mr. Lewellyn to bring that original 2016 TIA that it was submitted with the sketch plan.

Weinbrecht: Based on that, I need to ask Council members if they feel they need time to review the traffic impact analysis or have a delay at all. Just my duty, but it's my understanding if things are better, not worse, and so based on that. I don't personally have any doubt is.

Frantz: The reality is the square footage of the building is reduced but yet they're still making the same traffic improvements as previously approved. So, in my opinion it's a better situation than it was okay.
Weinbrecht: We'll move along in the quasi-judicial hearing and now that is a time I'll invite speakers who have been sworn in who wish to speak in support of this project application to approach the podium. Anyone to speak in favor? Seeing none, I'll move on to anyone who opposed to the request that's been sworn in that would like to speak. Seeing no one. Let's see. We'll call on staff to provide professional observations about the requests.

Loveland: The inclusion of a large-scale building in the development is permitted by the planned development district but is not keeping with some of the goals of the PDD in terms of walkability and human scale. If they're reducing the size of that, that's obviously a beneficial towards those goals. The removal of the structured parking and the and placing parking next to the building is counter to some of the goals of the PDD in terms of screening parking; however, this is probably offset to some extent by the landscaped plaza area that they added in the southeast corner from where the parking spaces came from. Staff has suggested a condition of approval, should council wish to approve this request, that would clarify potential changes to the development at how much change could be approved by staff and how much at what point would it require council approval or review. I will also clarify that any reduction in the size of the building shown on the plan today should the applicant seek to do that would also have to be accompanied by a change in the parking amount. We'd also note that if council were to deny this plan today that the previously approved plan would remain valid and would authorize construction of all the buildings you saw in that approved plan. I would also like to note the applicant talked of inclusion of a regional office in the large retail building; that is not a condition of the plan and is not enforceable unless someone would make that a condition otherwise. There are no modifications requested so council is simply reviewing a development plan against the six approval criteria; however, the focus really should be on how the proposed revisions are affecting that plan. With that, staff would be happy to answer any questions.

Weinbrecht: Cross-examination?

Schwedler: No, sir

Weinbrecht: Thank you, Mr. Loveland. Now it's time for council members to let me know, in addition to the question I asked you earlier, if there's anything else that's been presented tonight that would warrant a continuance of this hearing. Now's the time to speak. All right so we're going to move on to the deliberative phase of the hearing and I'll open it up to council members for questions or comments.

Frantz: A question for staff or the applicant. The parking reduction is basically down to 144 less spaces than what was a previously approved; so, a total now is 778. How does that compare to a typical 103,000 foot grocery store? Is it low? Is it high?

Loveland: It is in excess of the parking requirements of the PDD. I think I'd have to turn to the applicant about how that reflects a market.

Frantz: It's above what's required for what's proposed.

Loveland: Correct

Frantz: The office building, the 1,500 square feet, is not a condition?

Loveland: They mentioned a regional office within the large retail building itself. That's not a condition, so that's not a binding offer at this point.

Frantz: It's kind of interesting that they would mention that and that they were going to do it but not make that condition. You can't say 1,500 square feet of an office as much of an office anyway. I don't have a problem with what's proposed. I still think it's a good use and a good development, but I would
argue that this is better than what was previously approved. I was disappointed to see the underground parking removed and not surface parking removed. I think that this had an opportunity to do something different and remarkable in the Town, set a precedent and set a high bar for what we're looking for in future grocery development. I just feel like this is just not quite as good as what was approved before. That said I think it's still a great project. I think we're all excited about Wegmans coming to town. I just like the other plan better, but I don't know that's going to make me vote against it.

Bush: Not to repeat anything you said, I like the idea that they took the opportunity to do a little bit more around the greenway. You come off - the greenway. I do like the expansion. I do think that people do like to sit outside and eat. Having been a Wegmans customer in the past, this store is three times the size of the average Harris Teeter. That's one thing to keep in mind that we don't have. You asked the question earlier, how this compares to other 130,000 square foot grocery stores. We don't have anything; so, it does it. But if you went to Wegman's in Tyson's Corner and any others, then you'd know what it feels like. I did think it would have been a really great opportunity. I know it's more expensive. We all know structured parking is more expensive. It would have been great to have been able to take the extra parking that they didn't need, now that it reduced and still kept the structured parking, then used the green space for something more interesting and reduced the impervious surface. That would have been a win-win-win-win rather here what we've got is just a smaller building. I don't disagree that it's still greater and better than the average grocery store applicant we get.

Weinbrecht: Other comments.

George: I'd comment that I do like the reduction in height. A couple of things that's enabled and I didn't realize until I went to the new Publix out on Green Level West. That requiring connectivity to the neighborhood made them raise the building ten feet because these entrances and exits all have to meet ADA requirements and stuff. So, knowing that they moved an exit back and reduce the size of the building, let the building come down two feet, it's a positive thing for me. I think that that height the mammoth height of a building is just kind of jumps out at you when you realize that. Rather than towering over or stuff around, I like that like the lower building. I think it's that that's the biggest positive to me as a small the lower building height.

Weinbrecht: Any other comments? If not, we're probably in position to make a motion and I would entertain one.

Bush: For the reasons discussed, I move that we approve the proposed development plan with the conditions as stated below: as it meets all the approval criteria set forth in Section 3.9.2i of the LDO. This approval is conditioned upon the following that the applicant must satisfactorily address all remaining Development Review Committee comments on the master plan set submitted for signature and two, an increase or decrease of the proposed floor area of up to 5% may be approved administratively by the Planning and Development Service Director and any change greater than 5% shall require council approval and then decrease in the floor area of the building shown of the development plan shall also require commiserate decrease in the number of parking spaces provided such that the approved parking ratio is maintained.

Frantz: Second

Weinbrecht: There's a motion and a second. Discussion? All in favor, please say aye.

All members present said aye.

Weinbrecht: Any Opposed? Motion carries unanimously.

ACTION (capture in the verbatim transcription above):
Motion: For the reasons discussed, Bush moved that council approve the proposed development 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 all remaining Development Review Committee comments on the master plan set submitted for signature.; 2) An increase or decrease of the proposed floor area of up to 5% may be approved administratively by the Planning and Development Services Director. Any change greater than 5% shall require Council approval. Any decrease in the floor area of the buildings shown on the development plan shall also require a commensurate decrease in the number of parking spaces provided such that the approved parking ratio is maintained.
Second: Frantz
Vote: Unanimously approved (6 – 0)

Weinbrecht: Mr. Gadd, I'll ask that this time is if everything's in order?

Gadd: Everything's in order.

Weinbrecht: Alright. Seeing that, I'll close the public hearing.

RESULT: APPROVED [UNANIMOUS]
AYES: George, Weinbrecht, Smith, Frantz, Bush, Yerha
ABSENT: Robinson

**5. CLOSED SESSION**

**MOTION:** [pursuant to G.S. 143-318.11(a)(1), (3), (4) and (5)] To hold a closed session to 1) consult with attorneys employed by and/or retained by the Town in order to preserve the attorney-client privilege between the attorneys and the town; among other things, the council expects to receive advice concerning the following lawsuits: *Town of Cary v. Time Warner Cable, Inc., et al.;* 2) discuss matters relating to the location or expansion of industries or other businesses in the town, including agreement on a tentative list of economic development incentives that may be offered by town in negotiations; 3) instruct the town staff concerning the position to be taken by or on behalf of the town in negotiating the price and material terms of contract or proposed contract for acquisition of property owned by Joseph Harris, located at 7117 Carpenter Fire Station Road, Cary, North Carolina; 4) to prevent the disclosure of information that is made privileged or confidential by G.S. 132-1.2 and/or 143-318.10(e).

The motion was made at 7:20 p.m.

RESULT: MOVED TO START CLOSED SESSION [UNANIMOUS]
MOVER: Lori Bush, At-Large Representative
SECONDER: Ed Yerha, At-Large Representative
AYES: George, Weinbrecht, Smith, Frantz, Bush, Yerha
ABSENT: Robinson

**6. ADJOURNMENT**

Council returned from closed session and adjourned the meeting at 7:58 p.m.
<table>
<thead>
<tr>
<th>RESULT:</th>
<th>ADJOURNED [UNANIMOUS]</th>
</tr>
</thead>
<tbody>
<tr>
<td>MOVER:</td>
<td>Jack Smith, Don Frantz</td>
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<tr>
<td>SECONDER:</td>
<td>Ken George, District D Representative</td>
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<tr>
<td>AYES:</td>
<td>George, Weinbrecht, Smith, Frantz, Bush, Yerha</td>
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<tr>
<td>ABSENT:</td>
<td>Robinson</td>
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