I. CALL TO ORDER

McDarris: The time is 6:30 p.m., March 2nd, 2020. I would like to welcome everyone to the Town of Cary Zoning Board of Adjustment. I’m a little bit at a disadvantage this evening. I had shoulder surgery a couple of weeks ago, and battling that. But most importantly, I sat down here and realized that I left my reading glasses at home, so it will be a struggle this evening. I’m sure I’ll be taking my glasses off a lot.

II. ADOPTION OF AGENDA

The agenda is the first item that we have. Has everyone had a chance to look at the agenda? And if so, I would entertain a motion to adopt the agenda.

Weiss: I’ll move to adopt the agenda.

Kent: I’ll second.

McDarris: Any discussion? All in favor?

RESULT: APPROVED [UNANIMOUS]

MOVE R: Jamie Weiss, Board Member

SECONDER: Michael Kent, Vice Chairman

AYES: Weiss, Kent, Kalland, Hilliard, McDarris

ABSENT: Sharlow, Roberts

III. APPROVAL OF MINUTES

McDarris: Next item is the approval of the minutes for February 3rd, 2020. Has everyone had a chance to look at the minutes? Are there any corrections that need to be made? Any comments at all?

M: No.

M: No.

McDarris: If none, I would entertain a motion to adopt the minutes for February 3rd, 2020.

Kalland: So moved.

McDarris: Is there a second?

Weiss: Second.

McDarris: Any further discussion? All in favor?
M/F: Aye.

McDarris: I would like to bring up one thing for the staff, and I don’t mean to put our staff attorney and the rest of the staff on the—sort of on the hot seat here—but we have sort of had a general discussion up here just about the minutes. I know that the open meetings law just says that we need to keep accurate minutes. And I’ll be honest, in 25-plus years of representing governmental agencies, I’ve never seen detailed minutes where it’s just a verbatim transcript. And quite honestly, I really feel sorry for the staff member that has to go through and type these out. It has to take a long time, and we do appreciate it.

But could we consider doing a shorter version of the minutes, and then if a matter is appealed to Superior Court, of course we would need the verbatim transcript at that point. But it would make it much easier for us to get through the minutes. I spend as much time going through the minutes just reading—I mean, I think there were 27 pages, and it was almost as much time as we spent on the case. Is there some way that we shorten those down to three, four, or five pages?

Glover: Let me explain the history.

McDarris: Okay. That would be wonderful.

Glover: Because it actually is not a Cary staff member who does the verbatim transcript.

McDarris: Okay.

Glover: We send that out and have it done. And it’s actually—it partly is a resource issue, that—so that our staff does not have to try to figure out how to condense your, you know, hour-long meeting into five pages. We just go ahead and do the verbatim transcript, and then that way if we are sued later over it, it’s already done. So the decision was made several years ago, that in terms of sort of efficiency and then not having staff spend time trying to distill the minutes down, we would just go ahead and do the verbatim transcript each time. It actually works out to be quicker and easier for staff to do it that way than to try to distill it down.

If something that the board is interested in, we could talk about it among staff. We wouldn’t need to talk about it with the clerk’s office, who’s not here tonight, and get their thoughts on it. But that’s the reasoning behind why we’ve been doing it that way for a while.

McDarris: Well, my thought is just to take the agenda and elaborate on the items just a bit. You know, you’d put in who made the motion to adopt the agenda and the second and so forth. And then, you know, just like that, and you get down to the case hearing, and you would have, you know, just a very brief summary of the case, and that it was approved or denied, what have you. And really kind of keep that short, just two, three, four pages. If you can just discuss that and see, because it does take a lot of time for us to go through it, and then,
you know, we don’t have access to the recording, so sort of—we’re trying to remember what we said, but.

Glover: Yeah. We can take that back and talk about it.

McDarris: Okay. Wonderful. And we can talk about that at the next meeting, if you can just put it on as a little agenda item, and if we need to keep it the same, that’s fine. I don’t think we have a problem, but just general discussion, it would probably help us out.

Glover: Okay.

RESULT: APPROVED [UNANIMOUS]
MOVER: Stephen Kalland, Board Member
SECONDER: Jamie Weiss, Board Member
AYES: Weiss, Kent, Kalland, Hilliard, McDarris
ABSENT: Sharlow, Roberts

3.1 Zoning Board of Adjustment - Quasi-Judicial Meeting - Feb 3, 2020 6:30 PM

IV. CASE HEARINGS

RESULT: APPROVED [UNANIMOUS]
MOVER: Michael Kent, Vice Chairman
SECONDER: Jamie Weiss, Board Member
AYES: Weiss, Kent, Kalland, Hilliard, McDarris
ABSENT: Sharlow, Roberts

4.1 19-DP-7894 Fifth Third Bank at Amberly Place

McDarris: So, wonderful. The first case that we have today is 19-DP-7894, Fifth Third Bank at Amberly Place. I assume that everyone is here for the matter this evening.

Just a few process notes before we get started. For the applicant and for any member of the public that we have here this evening to speak—either in favor of the application or in opposition to the application—the process this evening is that we’ll begin by having the staff give the report, and then the applicant will be able to address the board, answer any questions. Of course, cross-examination will be allowed of both the Town staff as well as the applicant. If anyone in the audience is here, as I said, for or against the matter, you’ll, of course, have to be sworn in. But then we’ll hear from you, let you come and make a
presentation to the board.

There are guidelines that we have to follow for public members giving testimony. There is a speakers' guideline sheet. There are certain testimony that has to be—by state law, it has to be given by an expert witness. For example, if someone wants to come up and talk about the number of cars going through an intersection, that would need to be part of a traffic analysis report that would be done by a traffic engineer. Or, if someone wants to come up and speak on the impact, the negative or positive impact of property values on a certain piece of land, we would need an expert witness for that. You can certainly give testimony based on your own personal knowledge and belief, but if someone does come up and speak, we'll need to limit that testimony.

Once we have heard for anyone from the public, we'll then, of course, allow the applicant and the Town staff any rebuttal time to address any issues that may have been raised.

This being a quasi-judicial proceeding, we’re sitting here as a court. Therefore, constitutionally, we all need to be free of any conflict of interest, so at this point in time I would ask any of the board members if you have or know of a direct conflict of interest, or either an appearance of a conflict of interest. Does anyone have any, after looking through the material?

M: No.
M: No.

McDarris: And has anyone visited the property and spoken to anyone at the property?
M: No.
M: No.
M: No.

McDarris: Okay.
M: I—let me just [ph] say, I live about two miles from the property, so I know where it is. I was at the Publix in that shopping center this weekend, but I don’t have anything that would—I haven’t visited this exact site.

McDarris: Okay. I do know that one of my neighbors is an employee of the bank that’s before us this evening. I don’t know what job she holds, have not spoken to her about this application, and I know that she travels to Charlotte a lot. That’s really all that I know that she does with the bank. But I would like to just point that out, that I do have a neighbor that works with the bank, but that does not pose any kind of bias or conflict for me either.

Next, if we could ask that the witnesses be sworn in.

[OATHS ADMINISTERED]
McDarris: Just to let us know and have some idea of the timing this evening, do we have anyone from the public who plans to speak for or against the project? Is everyone a staff member and your witnesses? Okay, thank you.

I would like to point out there is a list of exhibits that is in the staff report. And if there is any reference to an exhibit this evening, if everyone could make sure to use that list of Exhibits A through G, just so that we'll know which documents are being discussed, and that will be our master hearing list. I'm assuming that the staff and the applicant have worked together on putting this list together. Will there be any objections, is really what I'm—

Harris: No. No. This is Phillip Harris, and I represent the applicant. And, no, there won't be any objections, but if I could see that list of exhibits, because we will refer to it, just a couple of them.

McDarris: Okay. Wonderful.

Harris: [INDISCERNIBLE]

McDarris: Okay. So, I think that we've finished all preliminary matters. Anything else that we need to do before? I think that we're ready to open the hearing? Okay. With that, we will open 19-DP-7894, Fifth Third Bank at Amberly Place, and we'll call on the staff to begin the presentation.

Bucher: Thank you. Good evening, Mr. Chairman and members of the board. Tonight's item for consideration by the board is a request by Fifth Third Bank to construct a bank with drive-through service on an outparcel located within the Amberly Place shopping center. This request involves consideration of the development plan to determine if the form of the development is appropriate.

The subject property is surrounded by several active developments, such as the Park Corner retail center, fire station, professional park [ph], and the Water’s Edge subdivision, to name a few. More specifically, the site is located at the intersection of Carpenter Fire Station Road and Green Level Church Road.

The property is zoned mixed-use district. Banks with drive-throughs are considered a permitted use within this district. The site is an outparcel located within the approved Amberly Place Development Plan. Existing development consists of the Publix grocery store, as well as several in-line tenants. The Arlington Park at Amberly subdivision is located directly west of the property. The subdivision is separated by a combined total of 60 feet of vegetative buffer. Other surrounding development consists of a mix of commercial and retail.

The proposed bank is approximately 2,800 square feet. The development plan meets Town standards for pedestrian connectivity, providing access from Carpenter Fire Station Road and the internal
access road within Amberly Place. The site is located within a mixed-use overlay district and therefore does not have a permitted—a perimeter buffer requirement. The 30-foot streetscape requirement is being met as shown.

The drive-through is located at the northern building façade and consists of two lanes and one bypass lane. The proposed development plan contemplates subdividing the property along the dashed red line, as shown. The associated preliminary development plan does account for two buildings being located on the entire outparcel.

Shown here are the proposed street-facing building facades. The building is single-story, architecturally consistent with the surrounding development, and meets all our architectural requirements. I’ll now hand it over to the applicant to discuss the proposed development.

McDarris: Can you state your name for the record, too? We know who you are, but just—

Bucher: Sorry. My name is Justin Bucher.

McDarris: Thank you.

Harris: Good evening, Chair McDarris and the members of the Town of Cary Board of Adjustment. My name is Phillip Harris. I’m an attorney at the law firm of Kilpatrick Townsend & Stockton in Raleigh, located at 4208 Six Forks Road. As Mr. Bucher mentioned, we are here for the quasi-judicial review of the development plan for a Fifth Third Bank branch in the Amberly Place Shopping Center.

The first thing we’d like to do is to thank Mr. Bucher and the planning staff because they’ve done an excellent job of walking us through the process and they’ve been with us the entire way. And we appreciate all their hard work, hard work and thoroughness. He basically has provided a pretty thorough review of the project, and I just want to touch on a few things through a few slides that we have here, and then we’ll present a total of four witnesses. It looked like there were a whole host of witnesses, but only four will be presenting. And I’ll just give you a heads-up that as preparation for that, each of these witnesses are prepared to give a three to five minute just project narrative summary, and they’re available for any of your questions. So, we do not plan to be here longer than we have to. So hopefully we’ll be able to get everyone home and on the road pretty quickly.

So as Mr. Bucher mentioned, it’s a 2,800 square foot bank branch. It’s located at 7704 Carpenter Fire Station Road. It’s at the corner with Green Level Church Road. It’s for a two-lane drive-through, and it’s located within the Amberly Place shopping center. And, as he mentioned as well, it’s within the mixed-use district.

The reason that we’re here is because the LDO requires
approval by the Board of Adjustment for any plans that would construct a new drive-through facility. And we’ve got—there is criteria in Section 3.92(I). There are six criteria that have to be met and satisfied for the approval of a development plan for a new drive-through facility.

Here, again, is just a list, a look at a Google Maps view of the actual project. You can look generally—that’s the lot that will be developed. You can see the Publix that’s right there. In fact, I took a trip to the Publix the weekend before. There are a variety of other shops and retail locations in there. Directly to the south, there actually is a bank, First Horizon Bank, and to the southeast there is actually a Wells Fargo bank, as well. Those are both drive-through facilities.

Here’s just a quick look at the property conditions. When you look here, this is looking north. This is looking north from Carpenter Fire Station Road and you can see in the back, the left picture shows the actual Amberly Place shopping center. The other side shows looking south, and that shows the intersection of Carpenter Fire Station and Green Level Church Road.

And here, this is looking west towards the residential development that Mr. Bucher mentioned. You can see the sidewalk is already there, and you can see that middle lane, that’s the access point into the area, as well as this side road that comes off of Green Level Church Road. That’s the interior access where folks will drive into, and then they will make a left on this cutout, on the righthand side, right where you can see the sidewalk there.

And these are just some additional pictures that just show alternate views. You can see a larger version of the actual Amberly Place shopping center in these pictures.

And here is the actual development plan. Just a couple things to point out. Number one, you can see the entry point here. And it—and again, the access will be coming from that in—from that internal access point off—and within Amberly Place shopping center. And there’s room for two drive-through lanes, and we satisfy all the stacking requirements for vehicles behind the drive-through lanes. And we’ve also worked with planning to create this other sidewalk that connects directly to Carpenter Fire Station Road that’s—that hugs the side of the property.

And we do have four witnesses, as I mentioned. And each witness will basically present their background, then they’ll provide a summary of their expert opinions on how the proposed development satisfies the approval criteria. I may interject a bit from time to time, and I’ll be sitting right here, if it’s okay to sit. I would appreciate if I could.

McDarris: Yes.

Harris: But they will all be prepared to testify and to answer any questions that you may have. With that, I’ll turn it to the approval criteria.
I’ll leave this up for reference for everyone who’s here. And I’d like to call our first witness, who is Nisit Sapparkhao.

Sapparkhao: Good evening. My name is Nisit Sapparkhao. I am a professional engineer licensed in the State of North Carolina. I granted [ph] bachelor’s degree in civil engineering from Thailand. First become professional engineer in the State of Florida. I’m currently registered in 33 states throughout United States. I have 20 years’ experience with commercial land development and 13-years experience with financial banking development within the State of North Carolina and other states.

Harris: And I—and this is Phillip Harris again. I would tender Mr. Sapparkhao as an expert in the field of financial institution site design and development.

McDarris: If he’s licensed in 33 states, we’ll take him as a—as an expert.

Sapparkhao: Thank you. So, as a civil engineer record [ph], I hereby certify that this project meets the requirement of the Town of Cary Land Development Ordinance. Through our design approval, we—Infinity Engineering Group team working with staff to create a safe and compliant site layout. We worked with the Town on the following design perimeter, the orientation of the building drive-through. At the beginning, the project was 45-degree rotate to the intersection. And with staff feedback, you know, we rotated the building so the exit can be 90-degree back to the shopping plaza for the safe maneuvering.

LDO 7.2.8.4, “No parking is permitted between nonresidential building and the right of way for the individual building locate on site at the intersection of the thoroughfare unless the building floor elevation is 10 foot or more below existing grade of adjacent roadway.” We actually lowered the site to meet the requirement in this section. Drive-through stack for parking—for stacking space required for the ___lane and five stacking [ph] spacing for the ATM lane. The site provide —require drive-through stacking requirements.

Section 8.1.1(E)—walkway shall be located so pedestrian walk—between the store and store, or the building to building to the site on adjacent property within minimum possible conflict from vehicle traffic.

ADA compliance: pedestrian ramp system was designed to provide access from Carpenter Lane—Fire Station, and pedestrian sidewalk was also designed to connect to existing sidewalk within Amberly Place development in the rear of the property. The pedestrian sidewalk located outside vehicular use area to minimize the conflict between the vehicular traffic.

The LDO section 7.8.2, “Parking must be at least 10 foot from the building.” The site design meets the requirements. LDO 7.8.2(G)(4), “Vehicular use area must be a five-foot setback from streetscape buffer.” The requirement of the street buffer and vehicle use area are met.
So in my professional opinion, this project comply with all applicable requirement for the Land Development Ordinance, include an applicable Town specification, official plan manual, and document adopted by the Town of Cary.

This site is also located with commercial outparcel within Amberly Place shopping. There are no proposed driveway connection into the Carpenter Fire Station Road or Green Level Church Road. Access project, we have the internal driveway connection to the Amberly Place shopping center. Pedestrian pathway is provided to Carpenter Fire Station Road and Amberly Place shopping center. Amberly Place shopping center construct the master storm-water management system. Potable water, gravity sewer service connection also construct for this outparcel.

So in my professional opinion, that the plan adequately protect all the properties or resident use located within the same property from potential it would effect from the proposed development.

The proposed bank with drive-through is proposed within the mixed use of the commercial shopping center. The use will be complement to adjacent commercial use within shopping center. The development is not intensive with 2,800 square foot proposed building area with drive-through lanes. There are also existing two bank with drive-through located across Carpenter Fire Station Road.

So it is my professional opinion that the plan provides harmony and unity with development of the nearby properties. We also work with Town of Cary staff on the ingress-egress for the both [ph] motorist, pedestrian. Motorists ingress-egress was provided through our existing internal driveway connection. There are no direct access to Carpenter Fire Station Road, Green Level Church Road. The required drive-through stack is provide an egress from the drive-through to internal access to the development. The site is designed to provide the ADA compliance parking ramp and the path of the travel.

The pedestrian ramp system connect to the Carpenter Fire Station Road to the internal sidewalk with the development is designed to be full ADA compliance. Route parallel with the vehicle use way and limit crossing of the vehicular use way, only one crossing point. So we worked extensively with Town staff, and thank you very much you guys for helping us reach this design.

So in my professional opinion, the plan provide a safe condition for the pedestrian and motorist to prevent dangerous movement for pedestrian and vehicular way. The plan also provide the safe ingress-egress for emergency service for the site. We also work extensively with Town staff, fire marshal on the egress and ingress requirement for the emergency service. The site design and has been review and approved.
by staff for ingress-egress movement.

So, finally, in my professional opinion the plan provides a safe ingress-egress for emergency service for the site.

Harris: Thank you, Mr. Sapparkhao.

McDarris: Think—does staff have any questions?

M: No.

McDarris: Board members have any questions at all? Thank you.

Sapparkhao: Thank you.

Harris: Next, we would like to call Jack Marshall.

Marshall: Good evening. My name is Jack Marshall. I'm an architect with BDG Architects, Birmingham, Alabama. It's 2100 First Avenue North, Suite 100, Birmingham 35203. I have a degree in architecture from Auburn University, graduated in 1985. My first registration was in 1990. I am only registered in nine states. So, since 1994, I have exclusively worked with financial institutions on their retail banking. I've worked with AmSouth, the current region’s Fifth Third, Liberty Bank, Cadence Bank, National Bank of Commerce, and have done 250-plus projects in the retail banking sector, all with a drive-through. I've been involved from site design to construction administration of the projects.

Harris: And Chair McDarris, I would tender Mr. Marshall as an expert in site layout and design of financial institutions.

McDarris: And I'm assuming that he is licensed in North Carolina.

Marshall: I am not licensed in North Carolina.

McDarris: Okay. Well, we would accept him as an expert.

M: Okay.

Marshall: My involvement in this job is mainly with the architecture of the building. This is a Fifth Third standard prototype, 2,800, with the two drive-through lanes. We've taken the exterior elevations to work with the Cary Design Guidelines to incorporate additional transparency, add more detail to the building to give you the facades—to break the facades up. We've worked with the colors to work with the development, and we've worked with proportions on the building to help with those.

It's much more simple than the site and if you have any questions. In my opinion, the—professional opinion that this—the building will work within the neighborhood and not cause any harm or neglect, and it works also with harmony and unity of the development.

Harris: Chair McDarris, if I may ask him just a couple questions?

McDarris: Yes.
Harris: Okay. All right. Mr. Marshall, is it your professional opinion that this project and the development plan complies with all the applicable requirements of the Land Development Ordinance?

Marshall: Yes. That’s what we worked with.

Harris: Okay. And it is—is it your professional opinion that the plan adequately protects other property or residential units located on the same property from the potential adverse effects of the proposed development?

Marshall: Yes, it does.

Harris: And, is it your professional opinion that the plan provides harmony and unity with the development of nearby properties?

Marshall: Yes.

Harris: Okay. Thank you. No further questions.

Marshall: All right.

McDarris: Does staff have any questions? Board members have any questions at all?

Harris: Next we would like to call Travis Fluitt, who is the traffic engineer. And for reference, if you can refer to Exhibit B, that’s the traffic assessment that Mr. Fluitt drafted.

Fluitt: Good evening. Travis Fluitt with Kimley-Horn and Associates, 421 Fayetteville Street, Suite 600, Raleigh 27601. I have a master’s degree in transportation engineering from the University of Texas at Austin. I am a professional engineer in North Carolina, and North Carolina only, but it’s the one that matters for today. And I have 16 years of experience performing hundreds of traffic impact and capacity analyses for public and private-sector projects in the state of North Carolina, and I prepared the traffic assessment memorandum for the proposed Fifth Third Bank dated February 10th of this year.

Harris: And we would tender Mr. Fluitt as an expert in the field of traffic engineering.

McDarris: I guess we’ll accept him as an expert.

Fluitt: A traffic analysis report, TAR, was prepared for the entire Amberly Place development by Ramey Kemp & Associates in September of 2015, during the rezoning of that development. That TAR assumed a three-lane drive-in bank within this development, but on a different outparcel. The outparcel that the bank is proposed to be located on was assumed to be a convenience market with 16 fueling positions. The proposed bank will only have two drive-through lanes and is projected to generate less traffic than either the bank or convenience market assumed in the TAR.

The Amberly Place development as a whole will also still be
below the trip thresholds from the TAR with the proposed bank in place. All but one of the offsite roadway improvements that were committed to be performed by the Amberly Place development have been performed. Those improvements include the turn lanes at all the site driveways. Those are circled on the exhibit on the screen. As well as the extension of the southbound through right lane on Green Level Church Road at McCrimmon Parkway, which is just to the north off of this exhibit.

The only improvement that has not yet been performed is the installation of a traffic signal at the site driveway on Green Level Church Road, and that is because it has not yet been warranted. Certain volume thresholds have to be met before a signal can be installed, and those thresholds have not been met. A signal warrant analysis will have to be performed at the total build-out of the site when the other outparcels are completed.

As for the proposed bank site, it is expected to result in less traffic than what was originally anticipated for this site in the TAR. Therefore, it is my professional opinion that the traffic from the proposed bank is expected to have an insignificant impact on the surrounding roadway network. It is also my professional opinion that with respect to traffic, the plan adequately protects other property or residential uses located on the same property from the potential adverse effects of the proposed development.

It is also my professional opinion that with respect to traffic, the plan provides harmony and unity with the development of nearby properties. It is my professional opinion that the plan provides safe conditions for pedestrians and motorists, and prevents a dangerous arrangement of pedestrian and vehicular ways. It is also my professional opinion that the plan provides safe ingress and egress for emergency services to the site.

Finally, as all but one of the appropriate improvements for Amberly Place have been performed, it is my professional opinion that the plan provides mitigation for traffic congestion impacts reasonably expected to be generated by the project.

I’d be happy to answer any questions you may have.

McDarris: Any questions from staff?
M: No [ph].
McDarris: Any questions from the board? You had a fairly easy job, I believe, when—
Fluitt: Indeed. Thank you.
McDarris: Not often that you see a reduction in traffic. Thank you.
Harris: All right. And our final witness will be Nick Kirkland, an
appraiser.

Kirkland: Hi. My name is Nick Kirkland with Kirkland Appraisals. My address is 901 Occoneechee Drive, Fuquay Varina in North Carolina. I am a licensed residential real estate appraiser. I have almost five years of experience and I have been accepted as an expert in property value impacts in hearings just like this, and about 56 of them, so far.

Harris: And I would tender Mr. Kirkland as an expert in the field of property evaluation.

McDarris: We will accept him.

Kirkland: Thank you. I'm here to present the Kirkland Appraisals impact study. Which exhibit is that?

Harris: Yeah. And that's the one thing I didn't see. I didn't see the impact analysis as an actual exhibit to exhibit here. I've got the staff report, traffic assessment, statement of justification. And I don't know if it's buried somewhere in the development plan or application.

Kirkland: Okay. At Kirkland Appraisals, we've prepared the impact analysis for two portions of this special use permit. Excuse me. First, I'll address the harmony and unity question, and second, I'll address the potential to impact the adjoining property values.

We have looked at a number of other bank branches with drive-throughs in the Town of Cary. We've found that bank branches in the Town of Cary primarily do have drive-throughs and we did not actually identify any that do not have drive-throughs. However, I'm sure there's at least one.

This is a commercial outparcel, and it's on the corner of Carpenter Fire Station Road and Green Level Church Road. Two of the other three corners already have bank branches, both of which have drive-throughs with more than two drive-through lanes. Based on this information, it is my professional opinion that this bank site is—would be located in harmony were it to be located here. It is my professional opinion that the plan provides harmony and unity with the development of nearby properties.

Furthermore, matched pair, or paired sales analysis, is a methodology that is supported by the Appraisal Institute and is outlined in detail in the Appraisal Institute textbook, *Real Estate Damages*, which was written by Randall Bell. In short, this involves comparing a sale that has occurred adjacent to a bank branch—in this case with a drive-through—and comparing that to another property that sold that was not adjacent to the bank branch in order to measure for any difference. We have identified three matched pairs where commercial vacant land has sold adjacent to a bank branch with a drive-through and compared each of those to other vacant commercial land that does not adjoin the drive-
through in order to measure for any difference.

We found no significant impact to the adjoining property values for the vacant commercial land that was adjoining the bank branch with the drive-through. This particular proposed site does not have any residential uses. It only adjoins commercial uses. Based on this information, it is my professional opinion that the plan adequately protects other property or residential uses located on the same property from the potential adverse effects of the proposed development.

And I’m happy to go into further detail or answer further questions if you have any. Thank you.

McDarris: Does staff have any questions?

Hales: No.

Loveland: No.

McDarris: Board members? Mr. Harris, we do need to include his report. I don’t have that in the material. I’m not sure—does staff have a copy of the report?

[INAUDIBLE]

Hales: I don’t see a record of it. If he wants to introduce it, we can make copies of it and get it to you, but it’s—get it added to the—

Loveland: I would like to point out that it’s not necessarily something that would be subject to needing prior staff review. We’re not license appraisers. We’re actually not even qualified to comment on the contents of it. I understand you wanting to get it available for your review, but it would not necessarily be something we need to review ahead of time, like a traffic—

McDarris: I understand that, but just as far as creating the record and having that in is really my interest. I don’t know that we need it right now, but if you have a copy, if you can give it to staff, and can the parties stipulate that that would be Item H, that it would be Exhibit H? Would that be acceptable to everyone?

Harris: Yeah, that’s—

McDarris: Okay, we’ll include it and it will be as part of the record.

Harris: All right. So, thank you, Mr. Chair, and members of the board. We presented substantial competent and material evidence to satisfy all six of the approval criteria for the approval of the drive-through bank branch. I would now move for the admission of the staff report and all of the exhibits and all of the application materials submitted for the Planning and Development department, including the appraisal information, as well.

McDarris: It would be H.

Harris: Yep. And lastly, we would just ask the board that it move to
approve and then ultimately approve the development plan as submitted to the development staff and considered by the board tonight. Thank you.

McDarris: We’ll accept all of the Exhibits A through H, into the record.

Harris: Thank you. Do you have any other questions at all for any of—for the applicant, at all?

McDarris: Board members, any questions? Does staff have any questions at all?

Loveland/Bucher: No.

McDarris: Thank you. Mr. Harris, thank you. And I do not believe that we have anyone from the public. Is anyone here, anyone maybe stepped in late, here to speak for or against the proposed project? Hearing none, I assume that—does staff have any rebuttal information to provide?

Bucher: So, we just have some staff observations. Staff has found the proposed development to be consistent with zoning. The plan is meeting all LDO landscaping requirements. The proposed building meets the Town’s architectural requirements and is compatible with the surrounding development. And Town staff has reviewed the traffic assessment and concurs with applicant findings.

McDarris: Thank you. Anything further? With that, we will close the hearing and I’ll turn to the board members. Any comments? I do have a quick question. Were there any conditions that will be part of an approval if we so decide to approve?

Loveland: We usually have a condition, a standard condition just asking the applicant to satisfactorily address all the open development review comments before the development plan is formally approved.

McDarris: Which I think that we have that in our packet—proposed.

Loveland: That’s just the default.

McDarris: Okay.

Loveland: Staff was not recommending any other—

McDarris: I just wanted to make sure there was nothing else. Okay. Any comments?

Kent: Pretty straightforward.


McDarris: If there are no comments, I would entertain a motion on the application.

Kent: Mr. Chairman, I will move to approve the development plan for the reasons discussed and the evidence presented with the conditions as stated below, because I think it meets all six of the approval criteria set forth in Section 3.9.2(I) of the Land Development Ordinance. The
approval would be conditioned upon the following: the applicant must satisfactorily address all remaining development review committee comments on the master plan set submitted for signature.

Weiss: I’ll second the motion.

McDarris: Okay. We have a motion and second to approve the development plan application. Any further discussion? Hearing none, all in favor of the motion say “aye.”

M: Aye.

McDarris: Any opposed? Project is approved.

Harris: Thank you, Chairman.

McDarris: Thank you. Once again, thank you to the applicant and the staff for having a very concise report. It makes it very easy to follow.

V. NEW/OLD BUSINESS

5.1 Ratification of Resolution for James Grove At Alston Town Center 19-DP-6076

McDarris: The next item on the agenda is old business from the last meeting. We have before us the ratification of a resolution for James Grove at Alston Town Center, 19-DP-6076. I think we have that in our agenda packet. Is there any discussion, any thoughts on the resolution?

If there are no comments or corrections to be made, I would entertain a motion to ratify the resolution for James Grove at Alston Town Center.

Weiss: So moved.

Kalland: Second.

McDarris: We have a motion and second. Any further discussion on the resolution to approve? Hearing none, all in favor say “aye.”

M: Aye.

McDarris: No one opposed. So, the resolution is adopted. Is there any further business from staff? Ms. Glover, do you have anything? No? You always have something - ok. Anything from board members?

Kalland: Only if there was any kind of update on the status of finding an alternate.

McDarris: Yes. We can’t get out this quickly.

Schumacher: I don’t know if I can talk for 20 minutes about alternates. We are continuing to look for alternates, but part of that is also working with the Clerk’s Office. There’s a number of vacancies on other boards,
as well. And so we’re looking at the best way to move forward as a combined group and look at the need and how we might accomplish that.

McDarris: Wonderful. Thank you.

Hilliard: I’m sorry, and then last time when there was a discussion about looking for a volunteer from this group to fill a committee slot for something that I can’t remember what it was.

Schumacher: Yes. We are still looking for a volunteer from the ZBOA Board to fill a slot on the Sesquicentennial Celebration Committee.

McDarris: That’s what it was [ph].

Schumacher: And Mr. Hilliard, you had been on that committee previously, I know. Just to match your time, can you speak at all to what that board does? I apologize. I’m not—


Schumacher: But that’s planning for events for the Sesquicentennial Celebration for the Town of Cary. So if you’re interested, talk amongst yourselves and then just email me, and we can get that out to the Clerk’s Office.

McDarris: Okay, wonderful. Thank you. We’ll talk in just a minute about that, then.

Weiss: Yeah. I was going to say, pursuant to that, do you want—could you send us more information about what that is?

Schumacher: Oh, sure. Yes.

McDarris: That would be helpful.

Schumacher: Okay.

McDarris: Wonderful. Thanks. And I think just a quick update from staff also. You had the meeting that—the get together went well and from what I understand? Can you report on that?

Schumacher: It did. Yes. So, there was a board mixer on last Tuesday. Jamie represented the—or Mr. Weiss represented the board very well. Jamie, do you want to speak more towards that?

McDarris: I just want to get a compliment on the minutes for attending that for us

Schumacher: Thank you to Mr. Weiss for showing up and representing the board very effectively.

Weiss: Thank you.

Schumacher: They had the dessert table, so—

Kalland: I was going to say—and thanks to the staff for getting us the
desserts. People actually came to our table.

Schumacher: It was all the Clerk’s Office.

McDarris: Thank you very much.

Schumacher: Thank you.

VI. CLOSED SESSION

VII. ADJOURNMENT

McDarris: Is there any further business? If not, I would entertain a motion to adjourn.

Kent: So moved.

McDarris: Second?

Hilliard: Second.

McDarris: Okay, a motion and second. All in favor say “aye.”

M: Aye.

McDarris: No one opposed to that. Thank you, everyone.

[INAUDIBLE]
[END RECORDING]

RESULT: ADJOURNED [UNANIMOUS]

MOVED: Michael Kent, Vice Chairman

SECONDER: Craig Hilliard, Board Member

AYES: Weiss, Kent, Kalland, Hilliard, McDarris

ABSENT: Sharlow, Roberts
19-DP-7894 Fifth Third Bank at Amberly Place

**Purpose:** Conduct a quasi-judicial hearing and consider action on the proposed development plan.

**Prepared by:** Julie Mitchell, Planning & Development Services

**Speaker:** Justin Bucher, Planning and Development Services

**Executive Summary:** GB Amberly Place, LLC is proposing a new 2,756 square foot bank building with a drive through on a 1.52 acre out parcel at the northwest intersection of Carpenter Fire Station Road and Green Level Church Road. Development plans including drive throughs require quasi-judicial approval by the Zoning Board of Adjustment.

**Recommendation:** Conduct a quasi-judicial hearing and consider action on the proposed development plan.
Figure 1: Project Vicinity Map

Physical Address: 7704 Carpenter Fire Station Road
Property Owner: GB Amberly Place, LLC
Real Estate ID Number: 0461564
Acreage: 1.52
Zoning: Mixed Use (MXD)
   Mixed Use Overlay District (Cary Park)

LIST OF EXHIBITS

A. 19-DP-7894 Staff Report
B. 19-DP-7894 Traffic Assessment
C. 19-DP-7894 Statement of Justification
D. 19-DP-7894 Plan Review Application
F. 19-DP-7894 Development Plan (6th Submittal)
G. 19-DP-7894 March 2, 2020 Presentation

PROJECT DESCRIPTION
GB Amberly Place, LLC is proposing the development of a bank with a drive through on an outparcel located in the Amberly Place shopping center. The Land Development Ordinance (LDO) requires review and approval of any development plan that includes a new drive-through by the Zoning Board of Adjustment following a quasi-judicial public hearing.

The Amberly shopping center property was rezoned to Mixed Use District (MXD) in 2015 and is subject to the individualized development conditions set forth in the associated Preliminary Development Plan (PDP). According to the PDP, a ‘bank, with drive-through services’ is a permitted use. The proposed development plan (19-DP-7894) meets the conditions set forth within the associated PDP.

The Amberly Place shopping center consists of 21.46 acres and is located at the northwest corner of the Carpenter Fire Station Road and Green Level Church Road intersection. Park Corner Retail shopping center is located directly east of the site, across from Green Level Church Road. The ‘Arlington Park at Amberly’ subdivision is located directly west of the Amberly Place shopping center, separated by a combined, 60-foot buffer (see figure 2).

The subject property is a 1.518 acre outparcel located at the southeastern corner of Amberly Place. The proposed development plan contemplates subdividing the property along the dashed red line as shown in figure 2. This would result in one 0.653 ac. property and one 0.865 ac. property, the latter of which is the location of the proposed bank.

The proposed building has a floor area of 2,756 square feet and the new drive through window would be on the northern side of the building. The entire drive-through consists of two lanes covered by a 20.2’ (L) x 19.8’(W) canopy. The exterior, northernmost lane includes a night depository drop box, a drive-up ATM, and a remote teller (see figure 5).
The proposed building sits 10 feet below the intersection of Green Level Church Road and Carpenter Fire Station Road. In conjunction with the required 30-foot streetscape width along Green Level Church Road and other various landscaping requirements, direct visibility of the drive-through window would be limited from Green Level Church Road.

**ANALYSIS OF APPROVAL CRITERIA**

The decision before the Zoning Board of Adjustment is consideration of a development plan to permit a bank with a drive-through. A development plan may only be approved by the Board if it satisfies the approval criteria listed in Section 3.9.2(I) of the Land Development Ordinance (LDO).

1. Does the plan comply with all applicable requirements of the LDO, including all applicable Town specifications and official plans and manuals or documents adopted by the Town?

   **Applicant’s Statement:** *The improvements contemplated by this development plan consist of an approximately 2,800 square foot building with a drive-through on a currently wooded and undeveloped lot. As indicated on the proposed plan and other materials submitted, the improvements have been designed in compliance with the requirement of the Town’s LDO, including the development and design standards of Chapters 7 and 8 and the dedication and improvements provisions of Chapter 8. Further, the plan does not include any requests for minor modifications. As a result, the plan is fully compliant with the standard provisions of the LDO. Moreover, the plan complies with the Town’s Future Growth Framework Map, Cary Community Plan, the Town’s Community Appearance Manual, and other relevant Town provisions. Specifically, the area is noted as a Commercial Center Mixed Use in the Town’s Future Growth Framework Map and the plan establishes that the bank will add to the integrated mix of shopping, services, office and residential uses in the area. The proposed use as a bank meets several of the policies and chapters of the Cary Community Plan particularly those related Work, Shop, and Shape. Specifically, the Work Chapter recognizes the needs for a growing a diverse workforce, and the plan supports this policy by providing new employment opportunities at the proposed bank. The Shop and Shape Chapters directs new commercial development to appropriate locations and because the proposed site is located within Commercial Center Mixed Use, its commercial nature adds to the integrated mix of shopping, services, and other uses in the area. As to the Town’s Community Appearance Manual, the plan meets the intent of the manual as the proposed drive-through bank is designed to comport with the Town’s expectations with regard to design, materials, and aesthetics."

   **Staff Observations:**

   - The site is zoned MXD and subject to the development conditions established in the "Lewter Property at Carpenter Fire Station Road (Amberly Village) Preliminary
Development Plan”. The zoning authorizes banks, with drive-through services, as a permitted use.

- Cary’s Development Review Committee (DRC), which is comprised of staff from multiple Town of Cary departments, has reviewed the plan and found it to substantially comply with the requirements of the LDO, Community Appearance Manual, and Standard Specification and Details Manual.

- The remaining review comments associated with the development plan are minimal and do not require redesign of the proposed layout. The applicant will be required to address any remaining comments prior to receiving final approval of the development plan.

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 currently on this property and the site has been designed with streetscape along the Green Level Church Road and Carpenter Fire Station Road frontage. The drive-through use is located to the rear of the property, and not on Green Level Church Road and Carpenter Fire Station Road, providing convenient access and reducing vehicular traffic through the site to reach this use. The vehicular access to the property is internal to the Amberly Place shopping center. The proposed use is consistent with the surrounding area uses in the nearby shopping centers and banks on the opposing corners of Carpenter Fire Station Road and Green Level Church Road. Fifth Third will present expert testimony that the plans will not: (1) adversely affect the value of surrounding properties and (2) cause adverse traffic effects. On November 2, 2019, Kirkland Appraisers submitted an analysis of the impact of the proposed drive-through bank. The analysis concluded that: (1) the proposed use is consistent with the existing uses in the area; (2) the matched pair analysis showed no sign of a negative impact on adjoining commercial property; and (3) the plan adequately protects other property, or residential uses located on the same property, from the potential adverse effects of the proposed development. Kimley Horn prepared a Traffic Assessment on October 29, 2019 for the proposed bank and submitted the assessment to the Town. The analysis shows that bank traffic is expected to have an insignificant impact on surrounding area network and no roadway improvements are needed to accommodate bank traffic, as all of the roadway improvements for the Amberly Place Shopping Center have been completed or are under construction. Therefore, there will be no adverse effects on the surrounding property based on the typical operation of a bank at this location.”

**Staff Observations:**

- There are no existing or proposed residential uses within the Amberly Place shopping center. The closest residential lot is located within the Arlington Park at Amberly subdivision and is approximately 520 feet from the proposed drive-through.

- The existing building is located on an outparcel within the Amberly Place shopping center. The PDP, approved by Town Council, considers building placement, internal traffic flow, development standards, and permitted uses. The proposed bank is consistent with the Amberly PDP.

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

**Applicant’s Statement:** “The plan provides harmony and unity of development with nearby properties and other land uses in the area. The plan proposes the construction of a roughly 2,800 square foot bank with a drive-through. There is no significant change from the prior proposed construction on this lot as this
proposed construction is similar to the proposed construction of a drive-through bank on the neighboring lot originally proposed in 2015. Nearby property, including the Amberly Place Shopping Center development, are zoned non-residential, as General Commercial and Office Industrial Districts. The proposed use as a drive-through bank is in harmony and unity with the land uses immediately surrounding the site, which include the Publix at Amberly Place and other restaurant, retail, and other businesses. A Walgreens Pharmacy is located across Green Level Church Road and two other banks with drive-through are located across Carpenter Fire Station Road. The proposed drive-through bank complements the surrounding use as it will allow customers, residents, and employees with banking services. The use as drive-through bank will also differ from, for example, other drive-through uses as the bank will not be open late at night and the use will not create significant traffic volume. This traffic will also utilize an existing internal access through the Amberly Place Shopping Center development that is in harmony and unity with the vehicle type and trip generation of the bank’s use. On November 2, 2019, Kirkland Appraisers submitted an analysis of the impact of the proposed drive-through bank. The analysis concluded, in addition to that noted above, that because of bank branches in the Town commonly including drive-throughs and nearby banks to the plan site, the plan provides harmony and unity with the development of nearby properties. Accordingly, the development provides harmony in that the use is similar to others that have been established in this area.”

Staff Observations:

- The proposed use is consistent with the uses permitted in the Amberly Village PDP. The proposed building is architecturally compatible with the existing Amberly Place shopping center.

- In addition to other retail and commercial uses within the Amberly Place shopping center, substantially similar uses are present in the surrounding area. Most notably, two other banks with drive throughs are located at the intersection of Carpenter Fire Station Road and Green Level Church Road.

- The property is an existing outparcel of the Amberly Place shopping center which hosts several in-line tenants and a large anchor store.

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 provides safe conditions for pedestrians or motorists and prevents a dangerous arrangement of pedestrian and vehicular ways. Vehicular access is available through a driveway that is internal to the Amberly Place Shopping Center development. As such, the plan will use the traffic and circulation systems within the existing Amberly Place Shopping Center. The drive-through bank will not change the existing access to Green Level Church Road and will not disrupt vehicular patterns relied on by other uses of the Amberly Place Shopping Center. The drive-through exists fully within the site for the bank and is located opposite the parking lot for the bank’s customers, thereby reducing a mix of vehicular and pedestrian traffic. The drive-through complies with the LDO’s stacking requirements and it is oriented such that it will reduce conflicts with traffic in the Amberly Place Shopping Center development. The plan provides for pedestrian connections to both the external and internal sidewalk networks. New pedestrian walkways will be constructed parallel to Green Level Church Road and an ADA compliant ramp and walkway will connect with the sidewalk on Carpenter Fire Station Road. A crosswalk will be provided across the sole access point onto the site, with new concrete sidewalk constructed on both sides of the crosswalk. Therefore, the plan complies in all respects with all Town requirements.”

Staff Observations:
- Access to the site is from an internal Amberly Place drive aisle.

- The proposed development plan provides pedestrian access from Carpenter Fire Station Road and ties into a sidewalk that provides pedestrian access from Green Level Church Road. This will improve pedestrian access to the site from the surrounding community.

Figure 6: Proposed pedestrian access

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

**Applicant's Statement:** "The plan provides safe ingress and egress for emergency services to the site. The proposed drive-through bank will use existing access and traffic circulation systems within the Amberly Place Shopping Center. The Amberly Place Shopping Center development is currently served by emergency services and provides ingress and egress for emergency services into the development and into the site. The plan provides for one point of vehicular access into the Amberly Place Shopping Center development that provides adequate width and turning radii to facilitate the movements of emergency vehicles at the entrance to property. Within the site, the building is accessible to fire and other emergency services with sufficient turning radii as required by the LDO and with a fire hydrant located near the entrance to the site. The stacking of vehicles and vehicular access will not hinder the safe ingress and egress for emergency services vehicles as these meet the LDO and relevant emergency service requirements."

**Staff Observations:**
- Emergency service providers have reviewed the proposed plan for compliance with Fire Code and emergency access and have indicated that they have no concerns regarding the proposed plan.

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

**Applicant's Statement:** “Fifth Third will present expert testimony that establishes that the proposed plans will have an insignificant impact on the surrounding roadway network. The Traffic Analysis Report ("TAR") for the Amberly Place development (15-TAR-398) prepared in September 2015 by Ramey Kemp & Associates included a proposed 3-lane drive-through bank on a different parcel and a convenience market on this parcel. The current proposed bank is expected to generate fewer peak hour trips than either of these uses from the TAR. Therefore, the traffic impacts from this development have already been mitigated by the roadway improvements created for the Amberly Place Shopping Center development. Kimley Horn further prepared a Traffic Assessment on October 29, 2019 for the proposed bank and submitted the assessment to the Town. The analysis shows that bank traffic is expected to have an insignificant impact on surrounding area network and no roadway improvements are needed to accommodate bank traffic, as all of the roadway improvements for the Amberly Place Shopping Center have been completed or are under construction. The plans show that the drive-through meets the Town’s stacking standards and will not disrupt traffic patterns relied upon by other uses of the Amberly Place Shopping Center development.”

**Staff Observations:**
- A traffic impact analysis dated February 10, 2020 completed by Kimley Horn was provided in conjunction with the subject development plan. For purposes of their analysis a 2,800 square foot (SF) building was assumed. Based on the analysis the site is anticipated to generate 175 daily trips, with 27 weekday AM peak trips and 57 weekday PM peak trips. Access to the proposed development will be provided via a full-movement entrance internal to the Amberly Place Shopping Center. All of the roadway improvements for the shopping center have been completed. The following is a trip generation summary for the proposed use:

<table>
<thead>
<tr>
<th>Land Use</th>
<th>Size</th>
<th>Daily In</th>
<th>Daily Out</th>
<th>AM Peak Hour In</th>
<th>AM Peak Hour Out</th>
<th>PM Peak Hour In</th>
<th>PM Peak Hour Out</th>
</tr>
</thead>
<tbody>
<tr>
<td>Drive-in Bank</td>
<td>2,800 SF</td>
<td>175</td>
<td>175</td>
<td>16</td>
<td>11</td>
<td>29</td>
<td>28</td>
</tr>
</tbody>
</table>

The proposed bank site is expected to generate less traffic than was originally anticipated for this site per 15-TAR-398. In summary, traffic from the proposed bank is not expected to be significant. Town Staff reviewed the traffic analysis and concur with the results of the traffic analysis.
- Staff reviewed the traffic analysis and concurs with its recommendation due to the low peak hour trip generation of the proposed use.

**NEXT STEPS AND PROJECT TIMELINE**

- The development plan was submitted for its first review on April 26, 2019 and has been reviewed through five cycles by the DRC.

- Notice of the quasi-judicial public hearing on the proposed site plan was mailed to property owners within 400 feet of the subject property, published on the Town’s website, and posted on the subject property.

- The Zoning Board of Adjustment will hold a quasi-judicial public hearing on March 2, 2020 to review the proposed development plan.

- The Zoning Board of Adjustment may take final action on March 2, 2020 and will adopt a written resolution memorializing its decision at a future meeting.

- If approved, the applicant would be eligible to complete the development plan process and proceed to construction.

**SUMMARY OF APPROVAL CRITERIA**

Staff has prepared a concise summary of the approval criteria for each item as follows. Motions and proposed conditions will be provided at the hearing.

1. Does the plan comply with all applicable requirements of the LDO, including all applicable Town specifications and official plans and manuals or documents adopted by the Town?

   TEST SATISFIED? __ YES __ NO

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?

   TEST SATISFIED? __ YES __ NO

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

   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?

   TEST SATISFIED? __ YES __ NO
5. Does the plan provide safe ingress and egress for emergency services to the site?

TEST SATISFIED? __ YES __ NO

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

TEST SATISFIED? __ YES __ NO

**STAFF CONTACT**

Justin Bucher  
Planning and Development Services Department  
P.O. Box 8005  
Cary, NC 27512-8005  
(919) 462-3801  
justin.bucher@townofcary.org

**APPLICANT'S REPRESENTATIVE**

Phillip A. Harris, Jr.  
Kilpatrick Townsend & Stockton  
4208 Six Forks Road, Suite 1400  
Raleigh, NC 27609  
(919) 420-1733  
pharris@kilpatricktownsend.com

#4051

History:  
03/02/20 Zoning Board of Adjustment  
McDarris: So, wonderful. The first case that we have today is 19-DP-7894, Fifth Third Bank at Amberly Place. I assume that everyone is here for the matter this evening. Just a few process notes before we get started. For the applicant and for any member of the public that we have here this evening to speak—either in favor of the application or in opposition to the application—the process this evening is that we'll begin by having the staff give the report, and then the applicant will be able to address the board, answer any questions. Of course, cross-examination will be allowed of both the Town staff as well as the applicant. If anyone in the audience is here, as I said, for or against the matter, you'll, of course, have to be sworn in. But then we'll hear from you, let you come and make a presentation to the board. There are guidelines that we have to follow for public members giving testimony. There is a speakers' guideline sheet. There are certain testimony that has to be—by state law, it has to be given by an expert witness. For example, if someone wants to come up and talk about the number of cars going through an intersection, that would need to be part of a traffic analysis report that would be done by a traffic engineer. Or, if someone wants to come up and speak on the impact, the negative or positive impact of property values on a certain piece of land, we would need an expert witness for that. You can certainly give testimony based on your own personal knowledge and belief, but if someone does come up and speak, we'll need to limit that testimony. Once we have heard for anyone from the public, we'll then, of course, allow the applicant and the Town staff any rebuttal time to address any issues that may have been raised. This being a quasi-judicial proceeding, we're sitting here as a court. Therefore, constitutionally, we all need to be free of any conflict of interest, so at this point in time I would ask any of the board members if you have or know of a direct conflict of interest, or either an appearance of a conflict of interest. Does anyone have any, after looking through the material?
McDarris: And has anyone visited the property and spoken to anyone at the property?
M: No.
M: No.
McDarris: Okay.
M: I—let me just [ph] say, I live about two miles from the property, so I know where it is. I was at the Publix in that shopping center this weekend, but I don’t have anything that would—I haven’t visited this exact site.
McDarris: Okay. I do know that one of my neighbors is an employee of the bank that’s before us this evening. I don’t know what job she holds, have not spoken to her about this application, and I know that she travels to Charlotte a lot. That’s really all that I know that she does with the bank. But I would like to just point that out, that I do have a neighbor that works with the bank, but that does not pose any kind of bias or conflict for me either.

Next, if we could ask that the witnesses be sworn in.

[OATHS ADMINISTERED]

McDarris: Just to let us know and have some idea of the timing this evening, do we have anyone from the public who plans to speak for or against the project? Is everyone a staff member and your witnesses? Okay, thank you.

I would like to point out there is a list of exhibits that is in the staff report. And if there is any reference to an exhibit this evening, if everyone could make sure to use that list of Exhibits A through G, just so that we’ll know which documents are being discussed, and that will be our master hearing list. I’m assuming that the staff and the applicant have worked together on putting this list together. Will there be any objections, is really what I’m—

Harris: No. No. This is Phillip Harris, and I represent the applicant. And, no, there won’t be any objections, but if I could see that list of exhibits, because we will refer to it, just a couple of them.

McDarris: Okay. Wonderful.

Harris: [INDISCERNIBLE]

McDarris: Okay. So, I think that we’ve finished all preliminary matters. Anything else that we need to do before? I think that we’re ready to open the hearing? Okay. With that, we will open 19-DP-7894, Fifth Third Bank at Amberly Place, and we’ll call on the staff to begin the presentation.

Bucher: Thank you. Good evening, Mr. Chairman and members of the board. Tonight’s item for consideration by the board is a request by Fifth Third Bank to construct a bank with drive-through service on an outparcel located within the Amberly Place shopping center. This request involves consideration of the development plan to determine if the form of the development is appropriate.

The subject property is surrounded by several active developments, such as the Park Corner retail center, fire station, professional park [ph], and the Water’s Edge subdivision, to name a few. More specifically, the site is located at the intersection of Carpenter Fire Station Road and Green Level Church Road. The property is zoned mixed-use district. Banks with drive-throughs are considered a permitted use within this district. The site is an outparcel located within the approved Amberly Place Development Plan. Existing development consists of the Publix grocery store, as well as several in-line tenants. The Arlington Park at Amberly subdivision is located directly west of the property. The subdivision is separated by a combined total of 60 feet of vegetative buffer. Other surrounding development consists of a mix of commercial and retail.

The proposed bank is approximately 2,800 square feet. The development plan meets Town standards for pedestrian connectivity, providing access from Carpenter Fire Station Road and the internal access road within Amberly Place. The site is located within a mixed-use overlay district and therefore does not have a permitted—perimeter buffer requirement. The 30-foot streetscape requirement is being met as shown.

The drive-through is located at the northern building façade and consists of two lanes and one bypass lane. The proposed development plan contemplates subdividing the property along the dashed red line, as shown. The associated preliminary development plan does account for two buildings being located on the entire outparcel. Shown here are the proposed street-facing building facades. The building is single-story, architecturally consistent with the surrounding development, and meets all our architectural requirements. I’ll now hand it over to the applicant to discuss the proposed development.

McDarris: Can you state your name for the record, too? We know who you are, but just—
Bucher: Sorry. My name is Justin Bucher.

McDarris: Thank you.

Harris: Good evening, Chair McDarris and the members of the Town of Cary Board of Adjustment. My name is Phillip Harris. I’m an attorney at the law firm of Kilpatrick Townsend & Stockton in Raleigh, located at 4208 Six Forks Road. As Mr. Bucher mentioned, we are here for the quasi-judicial review of the development plan for a Fifth Third Bank branch in the Amberly Place Shopping Center.

The first thing we’d like to do is to thank Mr. Bucher and the planning staff because they’ve done an excellent job of walking us through the process and they’ve been with us the entire way. And we appreciate all their hard work, hard work and thoroughness. He basically has provided a pretty thorough review of the project, and I just want to touch on a few things through a few slides that we have here, and then we’ll present a total of four witnesses. It looked like there were a whole host of witnesses, but only four will be presenting. And I’ll just give you a heads-up that as preparation for that, each of these witnesses are prepared to give a three to five minute just project narrative summary, and they’re available for any of your questions. So, we do not plan to be here longer than we have to. So hopefully we’ll be able to get everyone home and on the road pretty quickly.

So as Mr. Bucher mentioned, it’s a 2,800 square foot bank branch. It's located at 7704 Carpenter Fire Station Road. It’s at the corner with Green Level Church Road. It’s for a two-lane drive-through, and it’s located within the Amberly Place shopping center. And, as he mentioned as well, it’s within the mixed-use district.

The reason that we’re here is because the LDO requires approval by the Board of Adjustment for any plans that would construct a new drive-through facility. And we’ve got—there is criteria in Section 3.92(I). There are six criteria that have to be met and satisfied for the approval of a development plan for a new drive-through facility.

Here, again, is just a list, a look at a Google Maps view of the actual project. You can look generally—that’s the lot that will be developed. You can see the Publix that’s right there. In fact, I took a trip to the Publix the weekend before. There are a variety of other shops and retail locations in there. Directly to the south, there actually is a bank, First Horizon Bank, and to the southeast there is actually a Wells Fargo bank, as well. Those are both drive-through facilities.

Here’s just a quick look at the property conditions. When you look here, this is looking north. This is looking north from Carpenter Fire Station Road and you can see in the back, the left picture shows the actual Amberly Place shopping center. The other side shows looking south, and that shows the intersection of Carpenter Fire Station and Green Level Church Road.

And here, this is looking west towards the residential development that Mr. Bucher mentioned. You can see the sidewalk is already there, and you can see that middle lane, that’s the access point into the area, as well as this side road that comes off of Green Level Church Road. That’s the interior access where folks will drive into, and then they will make a left on this cutout, on the right hand side, right where you can see the sidewalk there.

And these are just some additional pictures that just show alternate views. You can see a larger version of the actual Amberly Place shopping center in these pictures.

Here and here is the actual development plan. Just a couple things to point out. Number one, you can see the entry point here. And it—and again, the access will be coming from that in—from that internal access point off—and within Amberly Place shopping center. And there’s room for two drive-through lanes, and we satisfy all the stacking requirements for vehicles behind the drive-through lanes. And we’ve also worked with planning to create this other sidewalk that connects directly to Carpenter Fire Station Road that’s—that hugs the side of the property.

And we do have four witnesses, as I mentioned. And each witness will basically present their background, then they’ll provide a summary of their expert opinions on how the proposed development satisfies the approval criteria. I may interject a bit from time to time, and I’ll be sitting right here, if it’s okay to sit. I would appreciate if I could.

McDarris: Yes.

Harris: But they will all be prepared to testify and to answer any questions that you may have. With that, I’ll turn it to the approval criteria. I’ll leave this up for reference for everyone who’s here. And I’d like to call our first witness, who is Nisit Sapparkhao.

Sapparkhao: Good evening. My name is Nisit Sapparkhao. I am a professional engineer licensed in the State of North Carolina. I granted [ph] bachelor’s degree in civil engineering from Thailand. First become professional engineer in the State of Florida. I’m currently registered in 33 states throughout United States. I
have 20 years’ experience with commercial land development and 13-years experience with financial banking
development within the State of North Carolina and other states.
Harris: And I—and this is Phillip Harris again. I would tender Mr. Sapparkhao as an expert in the field of
financial institution site design and development.
McDarris: If he’s licensed in 33 states, we’ll take him as a—as an expert.
Sapparkhao: Thank you. So, as a civil engineer record [ph], I hereby certify that this project meets the
requirement of the Town of Cary Land Development Ordinance. Through our design approval, we—Infinity
Engineering Group team working with staff to create a safe and compliant site layout. We worked with the
Town on the following design perimeter, the orientation of the building drive-through. At the beginning, the
project was 45-degree rotate to the intersection. And with staff feedback, you know, we rotated the building so
the exit can be 90-degree back to the shopping plaza for the safe maneuvering.
LDO 7.2.8.4, “No parking is permitted between nonresidential building and the right of way for the
individual building locate on site at the intersection of the thoroughfare unless the building floor elevation
is 10 foot or more below existing grade of adjacent roadway.” We actually lowered the site to meet the
requirement in this section. Drive-through stack for parking—for stacking space required for the ___lane and
five stacking [ph] spacing for the ATM lane. The site provide —require drive-through stacking requirements.
Section 8.1.1(E)—walkway shall be located so pedestrian walk—between the store and store,
or the building to building to the site on adjacent property within minimum possible conflict from vehicle traffic.
ADA compliance: pedestrian ramp system was designed to provide access from Carpenter Lane—Fire Station, and pedestrian sidewalk was also designed to connect to existing sidewalk within Amberly Place development in the rear of the property. The pedestrian sidewalk located outside vehicular use area to minimize the conflict between the vehicular traffic.
The LDO section 7.8.2, “Parking must be at least 10 foot from the building.” The site design meets the
requirements. LDO 7.8.2(G)(4), “Vehicular use area must be a five-foot setback from streetscape buffer.” The
requirement of the street buffer and vehicular use area are met.
So in my professional opinion, this project comply with all applicable requirement for the Land Development
Ordinance, include an applicable Town specification, official plan manual, and document adopted by the Town
of Cary.
This site is also located with commercial outparcel within Amberly Place shopping. There are no proposed
driveway connection into the Carpenter Fire Station Road or Green Level Church Road. Access project, we
have the internal driveway connection to the Amberly Place shopping center. Pedestrian pathway is provided
to Carpenter Fire Station Road and Amberly Place shopping center. Amberly Place shopping center construct
the master storm-water management system. Potable water, gravity sewer service connection also construct
for this outparcel.
So in my professional opinion, that the plan adequately protect all the properties or resident use located within
the same property from potential it would effect from the proposed development.
The proposed bank with drive-through is proposed within the mixed use of the commercial shopping center.
The use will be complement to adjacent commercial use within shopping center. The development is not
intensive with 2,800 square foot proposed building area with drive-through lanes. There are also existing two
bank with drive-through located across Carpenter Fire Station Road.
So it is my professional opinion that the plan provides harmony and unity with development of the nearby
properties. We also work with Town of Cary staff on the ingress-egress for the both [ph] motorist, pedestrian.
Motorists ingress-egress was provided through our existing internal driveway connection. There are no direct
access to Carpenter Fire Station Road, Green Level Church Road. The required drive-through stack is provide
an egress from the drive-through to internal access to the development. The site is designed to provide the
ADA compliance parking ramp and the path of the travel.
The pedestrian ramp system connect to the Carpenter Fire Station Road to the internal sidewalk with the
development is designed to be full ADA compliance. Route parallel with the vehicle use way and limit crossing
of the vehicular use way, only one crossing point. So we worked extensively with Town staff, and thank you
very much you guys for helping us reach this design.
So in my professional opinion, the plan provide a safe condition for the pedestrian and motorist to prevent
dangerous movement for pedestrian and vehicular way. The plan also provide the safe ingress-egress for
emergency service for the site. We also work extensively with Town staff, fire marshal on the egress and
ingress requirement for the emergency service. The site design and has been review and approved by staff for
ingress-egress movement.
So, finally, in my professional opinion the plan provides a safe ingress-egress for emergency service for the
site.
Harris: Thank you, Mr. Sapparkhao.
McDarris: Think—does staff have any questions?
M: No.
McDarris: Board members have any questions at all? Thank you.
Sapparkhao: Thank you.
Harris: Next, we would like to call Jack Marshall.
Marshall: Good evening. My name is Jack Marshall. I’m an architect with BDG Architects, Birmingham, Alabama. It’s 2100 First Avenue North, Suite 100, Birmingham 35203. I have a degree in architecture from Auburn University, graduated in 1985. My first registration was in 1990. I am only registered in nine states. So, since 1994, I have exclusively worked with financial institutions on their retail banking. I’ve worked with AmSouth, the current region’s Fifth Third, Liberty Bank, Cadence Bank, National Bank of Commerce, and have done 250-plus projects in the retail banking sector, all with a drive-through. I’ve been involved from site design to construction administration of the projects.
Harris: And Chair McDarris, I would tender Mr. Marshall as an expert in site layout and design of financial institutions.
McDarris: I guess we’ll accept him as an expert.
M: Okay.
Marshall: My involvement in this job is mainly with the architecture of the building. This is a Fifth Third standard prototype, 2,800, with the two drive-through lanes. We’ve taken the exterior elevations to work with the Cary Design Guidelines to incorporate additional transparency, add more detail to the building to give you the facades—to break the facades up. We’ve worked with the colors to work with the development, and we’ve worked with proportions on the building to help with those.
Harris: Chair McDarris, if I may ask him just a couple questions?
McDarris: Yes.
Harris: Okay. All right. Mr. Marshall, is it your professional opinion that this project and the development plan complies with all the applicable requirements of the Land Development Ordinance?
Marshall: Yes. That’s what we worked with.
Harris: Okay. And it is—is it your professional opinion that the plan adequately protects other property or residential units located on the same property from the potential adverse effects of the proposed development?
Marshall: Yes, it does.
Harris: And, is it your professional opinion that the plan provides harmony and unity with the development of nearby properties?
Marshall: Yes.
Harris: Okay. Thank you. No further questions.
McDarris: All right.
McDarris: Does staff have any questions? Board members have any questions at all?
Harris: Next we would like to call Travis Fluitt, who is the traffic engineer. And for reference, if you can refer to Exhibit B, that’s the traffic assessment that Mr. Fluitt drafted.
Fluitt: Good evening. Travis Fluitt with Kimley-Horn and Associates, 421 Fayetteville Street, Suite 600, Raleigh 27601. I have a master’s degree in transportation engineering from the University of Texas at Austin. I am a professional engineer in North Carolina, and North Carolina only, but it’s the one that matters for today. And I have 16 years of experience performing hundreds of traffic impact and capacity analyses for public and private-sector projects in the state of North Carolina, and I prepared the traffic assessment memorandum for the proposed Fifth Third Bank dated February 10th of this year.
Harris: And we would tender Mr. Fluitt as an expert in the field of traffic engineering.
McDarris: I guess we’ll accept him as an expert.
Fluitt: A traffic analysis report, TAR, was prepared for the entire Amberly Place development by Ramey Kemp & Associates in September of 2015, during the rezoning of that development. That TAR assumed a three-lane drive-in bank within this development, but on a different outparcel. The outparcel that the bank is proposed to be located on was assumed to be a convenience market with 16 fueling positions. The proposed bank will only
have two drive-through lanes and is projected to generate less traffic than either the bank or convenience market assumed in the TAR.

The Amberly Place development as a whole will also still be below the trip thresholds from the TAR with the proposed bank in place. All but one of the offsite roadway improvements that were committed to be performed by the Amberly Place development have been performed. Those improvements include the turn lanes at all the site driveways. Those are circled on the exhibit on the screen. As well as the extension of the southbound through right lane on Green Level Church Road at McCrimmon Parkway, which is just to the north off of this exhibit.

The only improvement that has not yet been performed is the installation of a traffic signal at the site driveway on Green Level Church Road, and that is because it has not yet been warranted. Certain volume thresholds have to be met before a signal can be installed, and those thresholds have not been met. A signal warrant analysis will have to be performed at the total build-out of the site when the other outparcels are completed.

As for the proposed bank site, it is expected to result in less traffic than what was originally anticipated for this site in the TAR. Therefore, it is my professional opinion that the traffic from the proposed bank is expected to have an insignificant impact on the surrounding roadway network. It is also my professional opinion that with respect to traffic, the plan adequately protects other property or residential uses located on the same property from the potential adverse effects of the proposed development.

It is also my professional opinion that with respect to traffic, the plan provides harmony and unity with the development of nearby properties. It is my professional opinion that the plan provides safe conditions for pedestrians and motorists, and prevents a dangerous arrangement of pedestrian and vehicular ways. It is also my professional opinion that the plan provides safe ingress and egress for emergency services to the site.

Finally, as all but one of the appropriate improvements for Amberly Place have been performed, it is my professional opinion that the plan provides mitigation for traffic congestion impacts reasonably expected to be generated by the project.

I’d be happy to answer any questions you may have.

McDarris: Any questions from staff?

M: No [ph].

McDarris: Any questions from the board? You had a fairly easy job, I believe, when—

Fluitt: Indeed. Thank you.

McDarris: Not often that you see a reduction in traffic. Thank you.

Harris: All right. And our final witness will be Nick Kirkland, an appraiser.

Kirkland: Hi. My name is Nick Kirkland with Kirkland Appraisals. My address is 901 Occoneechee Drive, Fuquay Varina in North Carolina. I am a licensed residential real estate appraiser. I have almost five years of experience and I have been accepted as an expert in property value impacts in hearings just like this, and about 56 of them, so far.

Harris: And I would tender Mr. Kirkland as an expert in the field of property evaluation.

McDarris: We will accept him.

Kirkland: Thank you. I’m here to present the Kirkland Appraisals impact study. Which exhibit is that?

Harris: Yeah. And that’s the one thing I didn’t see. I didn’t see the impact analysis as an actual exhibit to exhibit here. I’ve got the staff report, traffic assessment, statement of justification. And I don’t know if it’s buried somewhere in the development plan or application.

Kirkland: Okay. At Kirkland Appraisals, we’ve prepared the impact analysis for two portions of this special use permit. Excuse me. First, I’ll address the harmony and unity question, and second, I’ll address the potential to impact the adjoining property values.

We have looked at a number of other bank branches with drive-throughs in the Town of Cary. We’ve found that bank branches in the Town of Cary primarily do have drive-throughs and we did not actually identify any that do not have drive-throughs. However, I’m sure there’s at least one.

This is a commercial outparcel, and it’s on the corner of Carpenter Fire Station Road and Green Level Church Road. Two of the other three corners already have bank branches, both of which have drive-throughs with more than two drive-through lanes. Based on this information, it is my professional opinion that this bank site is—would be located in harmony were it to be located here. It is my professional opinion that the plan provides harmony and unity with the development of nearby properties.

Furthermore, matched pair, or paired sales analysis, is a methodology that is supported by the Appraisal Institute and is outlined in detail in the Appraisal Institute textbook, Real Estate Damages, which was written by Randall Bell. In short, this involves comparing a sale that has occurred adjacent to a bank branch—in this
case with a drive-through—and comparing that to another property that sold that was not adjacent to the bank branch in order to measure for any difference. We have identified three matched pairs where commercial vacant land has sold adjacent to a bank branch with a drive-through and compared each of those to other vacant commercial land that does not adjoin the drive-through in order to measure for any difference. We found no significant impact to the adjoining property values for the vacant commercial land that was adjoining the bank branch with the drive-through. This particular proposed site does not have any residential uses. It only adjoins commercial uses. Based on this information, it is my professional opinion that the plan adequately protects other property or residential uses located on the same property from the potential adverse effects of the proposed development.

And I’m happy to go into further detail or answer further questions if you have any. Thank you.

McDarris: Does staff have any questions?
Hales: No.
Loveland: No.
McDarris: Board members? Mr. Harris, we do need to include his report. I don’t have that in the material. I’m not sure—does staff have a copy of the report?
[INAUDIBLE]
Hales: I don’t see a record of it. If he wants to introduce it, we can make copies of it and get it to you, but it’s—get it added to the—
Loveland: I would like to point out that it’s not necessarily something that would be subject to needing prior staff review. We’re not license appraisers. We’re actually not even qualified to comment on the contents of it. I understand you wanting to get it available for your review, but it would not necessarily be something we need to review ahead of time, like a traffic—
McDarris: I understand that, but just as far as creating the record and having that in is really my interest. I don’t know that we need it right now, but if you have a copy, if you can give it to staff, and can the parties stipulate that that would be Item H, that it would be Exhibit H? Would that be acceptable to everyone?
Harris: Yeah, that’s—
McDarris: Okay, we’ll include it and it will be as part of the record.
Harris: All right. So, thank you, Mr. Chair, and members of the board. We presented substantial competent and material evidence to satisfy all six of the approval criteria for the approval of the drive-through bank branch. I would now move for the admission of the staff report and all of the exhibits and all of the application materials submitted for the Planning and Development department, including the appraisal information, as well.

McDarris: It would be H.
Harris: Yep. And lastly, we would just ask the board that it move to approve and then ultimately approve the development plan as submitted to the development staff and considered by the board tonight. Thank you.

McDarris: We’ll accept all of the Exhibits A through H, into the record.
Harris: Thank you. Do you have any other questions at all for any of—for the applicant, at all?
Loveland: Staff members, any questions? Does staff have any questions at all?

McDarris: Thank you. Mr. Harris, thank you. And I do not believe that we have anyone from the public. Is anyone here, anyone maybe stepped in late, here to speak for or against the proposed project? Hearing none, I assume that—does staff have any rebuttal information to provide?
Bucher: So, we just have some staff observations. Staff has found the proposed development to be consistent with zoning. The plan is meeting all LDO landscaping requirements. The proposed building meets the Town’s architectural requirements and is compatible with the surrounding development. And Town staff has reviewed the traffic assessment and concurs with applicant findings.

McDarris: Thank you. Anything further? With that, we will close the hearing and I’ll turn to the board members. Any comments? I do have a quick question. Were there any conditions that will be part of an approval if we so decide to approve?

Loveland: We usually have a condition, a standard condition just asking the applicant to satisfactorily address all the open development review comments before the development plan is formally approved.

McDarris: Which I think that we have that in our packet—proposed.

Loveland: That’s just the default.

McDarris: Okay.

Loveland: Staff was not recommending any other—

McDarris: I just wanted to make sure there was nothing else. Okay. Any comments?

Kent: Pretty straightforward.
McDarris: If there are no comments, I would entertain a motion on the application.
Kent: Mr. Chairman, I will move to approve the development plan for the reasons discussed and the evidence presented with the conditions as stated below, because I think it meets all six of the approval criteria set forth in Section 3.9.2(l) of the Land Development Ordinance. The approval would be conditioned upon the following: the applicant must satisfactorily address all remaining development review committee comments on the master plan set submitted for signature.
Weiss: I'll second the motion.
McDarris: Okay. We have a motion and second to approve the development plan application. Any further discussion? Hearing none, all in favor of the motion say “aye.”
M: Aye.
McDarris: Any opposed? Project is approved.
Harris: Thank you, Chairman.
McDarris: Thank you. Once again, thank you to the applicant and the staff for having a very concise report. It makes it very easy to follow.
Speaker: Justin Bucher, Planning and Development Services

Executive Summary: GB Amberly Place, LLC is proposing a new 2,756 square foot bank building with a drive through on a 1.52 acre out parcel at the northwest intersection of Carpenter Fire Station Road and Green Level Church Road. Development plans including drive throughs require quasi-judicial approval by the Zoning Board of Adjustment.

Recommendation: Conduct a quasi-judicial hearing and consider action on the proposed development plan.

SUBJECT PARCEL

Figure 1: Project Vicinity Map

Physical Address: 7704 Carpenter Fire Station Road
Property Owner: GB Amberly Place, LLC
Real Estate ID Number: 0461564
Acreage: 1.52
Zoning: Mixed Use (MXD)
  Mixed Use Overlay District (Cary Park)
GB Amberly Place, LLC is proposing the development of a bank with a drive through on an outparcel located in the Amberly Place shopping center. The Land Development Ordinance (LDO) requires review and approval of any development plan that includes a new drive-through by the Zoning Board of Adjustment following a quasi-judicial public hearing.

The Amberly shopping center property was rezoned to Mixed Use District (MXD) in 2015 and is subject to the individualized development conditions set forth in the associated Preliminary Development Plan (PDP). According to the PDP, a ‘bank, with drive-through services’ is a permitted use. The proposed development plan (19-DP-7894) meets the conditions set forth within the associated PDP.

The Amberly Place shopping center consists of 21.46 acres and is located at the northwest corner of the Carpenter Fire Station Road and Green Level Church Road intersection. Park Corner Retail shopping center is located directly east of the site, across from Green Level Church Road. The ‘Arlington Park at Amberly’ subdivision is located directly west of the Amberly Place shopping center, separated by a combined, 60-foot buffer (see figure 2).

The subject property is a 1.518 acre outparcel located at the southeastern corner of Amberly Place. The proposed development plan contemplates subdividing the property along the dashed red line as shown in figure 2. This would...
result in one 0.653 ac. property and one 0.865 ac. property, the latter of which is the location of the proposed bank.

The proposed building has a floor area of 2,756 square feet and the new drive through window would be on the northern side of the building. The entire drive-through consists of two lanes covered by a 20.2’ (L) x 19.8’(W) canopy. The exterior, northernmost lane includes a night depository drop box, a drive-up ATM, and a remote teller (see figure 5).
The proposed building sits 10 feet below the intersection of Green Level Church Road and Carpenter Fire Station Road. In conjunction with the required 30-foot streetscape width along Green Level Church Road and other various landscaping requirements, direct visibility of the drive-through window would be limited from Green Level Church Road.

**ANALYSIS OF APPROVAL CRITERIA**

The decision before the Zoning Board of Adjustment is consideration of a development plan to permit a bank with a drive-through. A development plan may only be approved by the Board if it satisfies the approval criteria listed in Section 3.9.2(I) of the Land Development Ordinance (LDO).

1. Does the plan comply with all applicable requirements of the LDO, including all applicable Town specifications and official plans and manuals or documents adopted by the Town?

   **Applicant’s Statement:** *The improvements contemplated by this development plan consist of an approximately 2,800 square foot building with a drive-through on a currently wooded and undeveloped lot. As indicated on the proposed plan and other materials submitted, the improvements have been designed in compliance with the requirement of the Town’s LDO, including the development and design standards of Chapters 7 and 8 and the dedication and improvements provisions of Chapter 8. Further, the plan does not include any requests for minor modifications. As a result, the plan is fully compliant with the standard provisions of the LDO. Moreover, the plan complies with the Town’s Future Growth Framework Map, Cary Community Plan, the Town’s Community Appearance Manual, and other relevant Town provisions. Specifically, the area is noted as a Commercial Center Mixed Use in the Town’s Future Growth Framework Map and the plan establishes that the bank will add to the integrated mix of shopping, services, office and residential uses in the area. The proposed use as a bank meets several of the policies and chapters of the Cary Community Plan particularly those related Work, Shop, and Shape. Specifically, the Work Chapter recognizes the needs for a growing a diverse workforce, and the plan supports this policy by providing new employment opportunities at the proposed bank. The Shop and Shape Chapters directs new commercial development to appropriate locations and because the proposed site is located within Commercial Center Mixed Use, its
commercial nature adds to the integrated mix of shopping, services, and other uses in the area. As to the Town’s Community Appearance Manual, the plan meets the intent of the manual as the proposed drive-through bank is designed to comport with the Town’s expectations with regard to design, materials, and aesthetics.”

**Staff Observations:**

- The site is zoned MXD and subject to the development conditions established in the “Lewter Property at Carpenter Fire Station Road (Amberly Village) Preliminary Development Plan”. The zoning authorizes banks, with drive-through services, as a permitted use.

- Cary’s Development Review Committee (DRC), which is comprised of staff from multiple Town of Cary departments, has reviewed the plan and found it to substantially comply with the requirements of the LDO, Community Appearance Manual, and Standard Specification and Details Manual.

- The remaining review comments associated with the development plan are minimal and do not require redesign of the proposed layout. The applicant will be required to address any remaining comments prior to receiving final approval of the development plan.

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 currently on this property and the site has been designed with streetscape along the Green Level Church Road and Carpenter Fire Station Road frontage. The drive-through use is located to the rear of the property, and not on Green Level Church Road and Carpenter Fire Station Road, providing convenient access and reducing vehicular traffic through the site to reach this use. The vehicular access to the property is internal to the Amberly Place shopping center. The proposed use is consistent with the surrounding area uses in the nearby shopping centers and banks on the opposing corners of Carpenter Fire Station Road and Green Level Church Road. Fifth Third will present expert testimony that the plans will not: (1) adversely affect the value of surrounding properties and (2) cause adverse traffic effects. On November 2, 2019, Kirkland Appraisers submitted an analysis of the impact of the proposed drive-through bank. The analysis concluded that: (1) the proposed use is consistent with the existing uses in the area; (2) the matched pair analysis showed no sign of a negative impact on adjoining commercial property; and (3) the plan adequately protects other property, or residential uses located on the same property, from the potential adverse effects of the proposed development. Kimley Horn prepared a Traffic Assessment on October 29, 2019 for the proposed bank and submitted the assessment to the Town. The analysis shows that bank traffic is expected to have an insignificant impact on surrounding area network and no roadway improvements are needed to accommodate bank traffic, as all of the roadway
improvements for the Amberly Place Shopping Center have been completed or are under construction. Therefore, there will be no adverse effects on the surrounding property based on the typical operation of a bank at this location.”

**Staff Observations:**

- There are no existing or proposed residential uses within the Amberly Place shopping center. The closest residential lot is located within the Arlington Park at Amberly subdivision and is approximately 520 feet from the proposed drive-through.

- The existing building is located on an outparcel within the Amberly Place shopping center. The PDP, approved by Town Council, considers building placement, internal traffic flow, development standards, and permitted uses. The proposed bank is consistent with the Amberly PDP.

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

**Applicant’s Statement:** “The plan provides harmony and unity of development with nearby properties and other land uses in the area. The plan proposes the construction of a roughly 2,800 square foot bank with a drive-through. There is no significant change from the prior proposed construction on this lot as this proposed construction is similar to the proposed construction of a drive-through bank on the neighboring lot originally proposed in 2015. Nearby property, including the Amberly Place Shopping Center development, are zoned non-residential, as General Commercial and Office Industrial Districts. The proposed use as a drive-through bank is in harmony and unity with the land uses immediately surrounding the site, which include the Publix at Amberly Place and other restaurant, retail, and other businesses. A Walgreens Pharmacy is located across Green Level Church Road and two other banks with drive-through are located across Carpenter Fire Station Road. The proposed drive-through bank complements the surrounding use as it will allow customers, residents, and employees with banking services. The use as drive-through bank will also differ from, for example, other drive-through uses as the bank will not be open late at night and the use will not create significant traffic volume. This traffic will also utilize an existing internal access through the Amberly Place Shopping Center development that is in harmony and unity with the vehicle type and trip generation of the bank’s use. On November 2, 2019, Kirkland Appraisers submitted an analysis of the impact of the proposed drive-through bank. The analysis concluded, in addition to that noted above, that because of bank branches in the Town commonly including drive-throughs and nearby banks to the plan site, the plan provides harmony and unity with the development of nearby properties. Accordingly, the development provides harmony in that the use is similar to others that have been established in this area.”

**Staff Observations:**

- The proposed use is consistent with the uses permitted in the Amberly Village PDP. The proposed building is architecturally compatible with the existing Amberly Place shopping center.
In addition to other retail and commercial uses within the Amberly Place shopping center, substantially similar uses are present in the surrounding area. Most notably, two other banks with drive throughs are located at the intersection of Carpenter Fire Station Road and Green Level Church Road.

The property is an existing outparcel of the Amberly Place shopping center which hosts several in-line tenants and a large anchor store.

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 provides safe conditions for pedestrians or motorists and prevents a dangerous arrangement of pedestrian and vehicular ways. Vehicular access is available through a driveway that is internal to the Amberly Place Shopping Center development. As such, the plan will use the traffic and circulation systems within the existing Amberly Place Shopping Center. The drive-through bank will not change the existing access to Green Level Church Road and will not disrupt vehicular patterns relied on by other uses of the Amberly Place Shopping Center. The drive-through exists fully within the site for the bank and is located opposite the parking lot for the bank’s customers, thereby reducing a mix of vehicular and pedestrian traffic. The drive-through complies with the LDO’s stacking requirements and it is oriented such that it will reduce conflicts with traffic in the Amberly Place Shopping Center development. The plan provides for pedestrian connections to both the external and internal sidewalk networks. New pedestrian walkways will be constructed parallel to Green Level Church Road and an ADA compliant ramp and walkway will connect with the sidewalk on Carpenter Fire Station Road. A crosswalk will be provided across the sole access point onto the site, with new concrete sidewalk constructed on both sides of the crosswalk. Therefore, the plan complies in all respects with all Town requirements.”

**Staff Observations:**

- Access to the site is from an internal Amberly Place drive aisle.

- The proposed development plan provides pedestrian access from Carpenter Fire Station Road and ties into a sidewalk that provides pedestrian access from Green Level Church Road. This will improve pedestrian access to the site from the surrounding community.
5. Does the plan provide safe ingress and egress for emergency services to the site?

**Applicant’s Statement:** “The plan provides safe ingress and egress for emergency services to the site. The proposed drive-through bank will use existing access and traffic circulation systems within the Amberly Place Shopping Center. The Amberly Place Shopping Center development is currently served by emergency services and provides ingress and egress for emergency services into the development and into the site. The plan provides for one point of vehicular access into the Amberly Place Shopping Center development that provides adequate width and turning radii to facilitate the movements of emergency vehicles at the entrance to property. Within the site, the building is accessible to fire and other emergency services with sufficient turning radii as required by the LDO and with a fire hydrant located near the entrance to the site. The stacking of vehicles and vehicular access will not hinder the safe ingress and egress for emergency services vehicles as these meet the LDO and relevant emergency service requirements.”

**Staff Observations:**

- Emergency service providers have reviewed the proposed plan for compliance with Fire Code and emergency access and have indicated that they have no concerns regarding the proposed plan.
6. Does the plan provide mitigation for traffic congestion impacts reasonably expected to be generated by the project?

**Applicant's Statement:** “Fifth Third will present expert testimony that establishes that the proposed plans will have an insignificant impact on the surrounding roadway network. The Traffic Analysis Report (“TAR”) for the Amberly Place development (15-TAR-398) prepared in September 2015 by Ramey Kemp & Associates included a proposed 3-lane drive-through bank on a different parcel and a convenience market on this parcel. The current proposed bank is expected to generate fewer peak hour trips than either of these uses from the TAR. Therefore, the traffic impacts from this development have already been mitigated by the roadway improvements created for the Amberly Place Shopping Center development. Kimley Horn further prepared a Traffic Assessment on October 29, 2019 for the proposed bank and submitted the assessment to the Town. The analysis shows that bank traffic is expected to have an insignificant impact on surrounding area network and no roadway improvements are needed to accommodate bank traffic, as all of the roadway improvements for the Amberly Place Shopping Center have been completed or are under construction. The plans show that the drive-through meets the Town’s stacking standards and will not disrupt traffic patterns relied upon by other uses of the Amberly Place Shopping Center development.”

**Staff Observations:**

- A traffic impact analysis dated February 10, 2020 completed by Kimley Horn was provided in conjunction with the subject development plan. For purposes of their analysis a 2,800 square foot (SF) building was assumed. Based on the analysis the site is anticipated to generate 175 daily trips, with 27 weekday AM peak trips and 57 weekday PM peak trips. Access to the proposed development will be provided via a full-movement entrance internal to the Amberly Place Shopping center. All of the roadway improvements for the shopping center have been completed. The following is a trip generation summary for the proposed use:

<table>
<thead>
<tr>
<th>Land Use</th>
<th>Size</th>
<th>Daily</th>
<th>AM Peak Hour</th>
<th>PM Peak Hour</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>In</td>
<td>Out</td>
</tr>
<tr>
<td>Drive-in Bank</td>
<td>2,800 SF</td>
<td>175</td>
<td>175</td>
<td>16</td>
</tr>
</tbody>
</table>

The proposed bank site is expected to generate less traffic than was originally anticipated for this site per 15-TAR-398. In summary, traffic from the proposed bank is not expected to be significant. Town Staff reviewed the traffic analysis and concur with the results of the traffic analysis.
- Staff reviewed the traffic analysis and concurs with its recommendation due to the low peak hour trip generation of the proposed use.

**NEXT STEPS AND PROJECT TIMELINE**

- The development plan was submitted for its first review on April 26, 2019 and has been reviewed through five cycles by the DRC.
- Notice of the quasi-judicial public hearing on the proposed site plan was mailed to property owners within 400 feet of the subject property, published on the Town’s website, and posted on the subject property.
- The Zoning Board of Adjustment will hold a quasi-judicial public hearing on March 2, 2020 to review the proposed development plan.
- The Zoning Board of Adjustment may take final action on March 2, 2020 and will adopt a written resolution memorializing its decision at a future meeting.
- If approved, the applicant would be eligible to complete the development plan process and proceed to construction.

**SUMMARY OF APPROVAL CRITERIA**

Staff has prepared a concise summary of the approval criteria for each item as follows. Motions and proposed conditions will be provided at the hearing.

1. Does the plan comply with all applicable requirements of the LDO, including all applicable Town specifications and official plans and manuals or documents adopted by the Town?
   
   TEST SATISFIED? __ YES __ NO

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?
   
   TEST SATISFIED? __ YES __ NO

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?

TEST SATISFIED? __ YES __ NO

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

TEST SATISFIED? __ YES __ NO

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

TEST SATISFIED? __ YES __ NO

STAFF CONTACT

Justin Bucher
Planning and Development Services Department
P.O. Box 8005
Cary, NC 27512-8005
(919) 462-3801
justin.bucher@townofcary.org

APPLICANT’S REPRESENTATIVE

Phillip A. Harris, Jr.
Kilpatrick Townsend & Stockton
4208 Six Forks Road, Suite 1400
Raleigh, NC 27609
(919) 420-1733
pharris@kilpatricktownsend.com
October 29, 2019
Bethany Rooney
BDG Architects
2100 1st Avenue North, Suite 100
Birmingham, AL  35203

RE: Fifth Third Bank, Amberly Place, Cary, NC – Traffic Assessment

Kimley-Horn has prepared an assessment of the traffic impacts of the proposed Fifth Third Bank site to be located in the Amberly Place Shopping Center on the northwest quadrant of the intersection of Green Level Church Road at Carpenter Fire Station Road in Cary, NC. As currently envisioned the development will consist of an approximately 2,800-square foot bank with 2 drive-through lanes on the hard corner of the intersection. The site will have no direct access to either Green Level Church Road or Carpenter Fire Station Road. All access will be through the shopping center.

A traffic analysis report (TAR) was prepared for the Amberly Place shopping center (15-TAR-398, Lewter Property) by Ramey Kemp & Associates, Inc. in September 2015. That report included a 3-lane drive-in bank on a different parcel and a 16-fueling position convenience market with gas pumps on the outparcel where the bank is proposed. Tables 1 and 2 show the trip generation from the Lewter Property TAR for the bank and convenience market outparcels, respectively.

### Table 1

<table>
<thead>
<tr>
<th>Land Use</th>
<th>Size</th>
<th>Daily Weekday</th>
<th>Weekday PM Peak</th>
<th>Saturday Peak Hour</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>In</td>
<td>Out</td>
<td>In</td>
</tr>
<tr>
<td>Drive-in Bank</td>
<td>3 lanes</td>
<td>200</td>
<td>200</td>
<td>17</td>
</tr>
<tr>
<td>Pass-By Capture</td>
<td></td>
<td>94</td>
<td>94</td>
<td>0</td>
</tr>
<tr>
<td><strong>Total Net New External Trips</strong></td>
<td></td>
<td>106</td>
<td>106</td>
<td>17</td>
</tr>
</tbody>
</table>

### Table 2

<table>
<thead>
<tr>
<th>Land Use</th>
<th>Size</th>
<th>Daily Weekday</th>
<th>Weekday PM Peak</th>
<th>Saturday Peak Hour</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>In</td>
<td>Out</td>
<td>In</td>
</tr>
<tr>
<td>Convenience Market w/ Gas Pumps</td>
<td>16 f.p.</td>
<td>4,350</td>
<td>4,350</td>
<td>133</td>
</tr>
<tr>
<td>Pass-By Capture</td>
<td></td>
<td>1,005</td>
<td>1,005</td>
<td>84</td>
</tr>
<tr>
<td><strong>Total Net New External Trips</strong></td>
<td></td>
<td>3,345</td>
<td>3,345</td>
<td>49</td>
</tr>
</tbody>
</table>

Traffic for the proposed bank was generated using ITE 10th Edition rates based on the building square footage, which is more conservative than using the number of drive-through lanes. No internal capture was applied between the proposed bank and the rest of the shopping center to be consistent with the
methodology from the Lewter Property TAR. Pass-by traffic reductions were applied using ITE rates. It should be noted that the PM peak hour pass-by capture rate for drive-in banks decreased from 47% in the 9th Edition to 35% PM in the 10th Edition. The site trip generation is summarized in Table 3 below, and detailed trip generation calculations are attached.

Table 3
ITE Trip Generation (Vehicles) – Fifth Third Bank

<table>
<thead>
<tr>
<th>Land Use</th>
<th>Size</th>
<th>Daily Weekday</th>
<th>Weekday PM Peak</th>
<th>Saturday Peak Hour</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>In</td>
<td>Out</td>
<td>In</td>
</tr>
<tr>
<td>Drive-in Bank</td>
<td>2,800 SF</td>
<td>175</td>
<td>175</td>
<td>16</td>
</tr>
<tr>
<td>Pass-By Capture</td>
<td></td>
<td>56</td>
<td>56</td>
<td>5</td>
</tr>
<tr>
<td>Total Net New External Trips</td>
<td></td>
<td>119</td>
<td>119</td>
<td>11</td>
</tr>
<tr>
<td>Difference vs. 15-TAR-398 Bank</td>
<td></td>
<td>13</td>
<td>13</td>
<td>-6</td>
</tr>
<tr>
<td>Difference vs. 15-TAR-398 Convenience Market</td>
<td></td>
<td>-3,226</td>
<td>-3,226</td>
<td>-38</td>
</tr>
</tbody>
</table>

Table 1 shows that the proposed development is projected to generate approximately 238 new daily trips, 19 new AM peak hour trips, and 37 new PM peak hour trips. These values are well below the Town of Cary’s thresholds of 1,000 daily trips or 100 peak hour trips. Table 1 also shows that the proposed bank is expected to generate fewer peak hour trips than either the bank or convenience market included in the Lewter Property TAR.

All of the roadway improvements for the Amberly Place Shopping Center have either been completed or are under construction. Based on this and that the proposed bank site is expected to result in less traffic than what was originally anticipated for this site in the TAR, it is my professional opinion that the traffic from the proposed bank is expected to have an insignificant impact on the surrounding roadway network.

Please let me know if you have any questions or require any further information. We appreciate the opportunity to provide these services to you.

Sincerely,

KIMLEY-HORN AND ASSOCIATES, INC.

Travis Fluitt, P.E.
Senior Project Manager
TRAFFIC ANALYSIS REPORT (15-TAR-398)

LEWTER PROPERTY

LOCATED IN
CARY, NORTH CAROLINA

Prepared For:
Town of Cary
316 N. Academy Street
Cary, NC 27512

Prepared By:
Ramey Kemp & Associates, Inc.
5808 Faringdon Place, Suite 100
Raleigh, NC 27609
NC Corporate License # C-0910

September 2015

RKA Project #14144-002
Conceptual Master Plan

Lewter Property
15-TAR-398
Cary, NC

Scale: Not to Scale

Attachment: 19-DP-7894 Traffic Assessment (19-DP-7894 Fifth Third Bank at Amberly Place)
5. **TRIP GENERATION**

The proposed development is expected to consist of a 55,000 square foot grocery store with a drive-thru, 25,000 square feet of retail, a bank with three drive-thru lanes, a 7,500 square foot convenience market with 16 fueling positions, and a 5,500 square foot fast food restaurant. Average weekday daily, AM peak hour, and PM peak hour trips for the proposed development were estimated utilizing methodology contained within the ITE *Trip Generation Manual*, 9th Edition. Table 2 provides a detailed summary of the trip generation potential for the site.

### Table 2

**Site Trip Generation (Full Build Out)**

<table>
<thead>
<tr>
<th>Land Use (ITE Land Use Code)</th>
<th>Size</th>
<th>Weekday Daily Traffic (vpd)</th>
<th>AM Peak Hour (vph)</th>
<th>PM Peak Hour (vph)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Enter</td>
<td>Exit</td>
<td>Enter</td>
</tr>
<tr>
<td>Supermarket (850)</td>
<td>55,000 s.f.</td>
<td>5,100</td>
<td></td>
<td>116</td>
</tr>
<tr>
<td>General Retail Space (820)</td>
<td>25,000 s.f.</td>
<td>1,100</td>
<td></td>
<td>15</td>
</tr>
<tr>
<td>Convenience Market with Gas Pumps (853)</td>
<td>16 f.p.</td>
<td>8,700</td>
<td></td>
<td>133</td>
</tr>
<tr>
<td>Fast Food with Drive-thru (934)</td>
<td>5,500 s.f.</td>
<td>2,700</td>
<td></td>
<td>128</td>
</tr>
<tr>
<td>Drive-in Bank (912)</td>
<td>3 Lanes</td>
<td>400</td>
<td></td>
<td>17</td>
</tr>
<tr>
<td><strong>Total Trips</strong></td>
<td>18,000</td>
<td>409</td>
<td>345</td>
<td>596</td>
</tr>
<tr>
<td><strong>Net New External Trips</strong></td>
<td></td>
<td>264</td>
<td>200</td>
<td>321</td>
</tr>
</tbody>
</table>

It is estimated that full build out will generate approximately 18,000 new trips during a typical 24-hour weekday period. Of the daily traffic volume, it is anticipated that 464 new primary trips (264 entering and 200 exiting) will occur during the weekday AM peak hour, and 628 new primary trips (321 entering and 307 exiting) will occur during the weekday PM peak hour. All of the proposed land uses will attract pass-by trips. The ITE pass-by trips are shown in...
<table>
<thead>
<tr>
<th>Land Use</th>
<th>Intensity</th>
<th>Daily</th>
<th>AM Peak Hour</th>
<th>PM Peak Hour</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Total</td>
<td>In</td>
<td>Out</td>
</tr>
<tr>
<td><strong>912 Drive-In Bank</strong></td>
<td>2,800 s.f.</td>
<td>350</td>
<td>175</td>
<td>175</td>
</tr>
<tr>
<td><strong>Pass-By Traffic (ITE)</strong></td>
<td></td>
<td>AM 29%</td>
<td>112</td>
<td>56</td>
</tr>
<tr>
<td></td>
<td></td>
<td>PM 35%</td>
<td>56</td>
<td>56</td>
</tr>
<tr>
<td><strong>Total Net New External Trips</strong></td>
<td></td>
<td></td>
<td>238</td>
<td>119</td>
</tr>
</tbody>
</table>
November 19, 2019

To: Town Cary Planning and Development Services Staff

From: Phillip A. Harris, Jr.

Re: Fifth Third Bank Application for Development Plan Approval (Amberly Place)

This law firm represents Fifth Third Bank (“Fifth Third” or the “Applicant”). On or about November 18, 2019, Fifth Third, through its agent BDG Architects LLP, submitted an application requesting approval of a development plan (the “plan”) for a roughly 2,800 square foot bank with a 2-lane drive-through on a 1.52 acre portion of property located within the General Commercial District and located at 7704 Carpenter Fire Station Road. The property is currently undeveloped. The development plan includes one point of vehicular access that is connected to the Amberly Place Shopping Center development and located to the north of the property. The development plan provides for sidewalks along Carpenter Fire Station Road and parallel to Green Level Church Road to facilitate pedestrian movement in a safe manner.

Because of the drive-through element, the plan application requires that the Town of Cary’s (the “Town”) Zoning Board of Adjustment approve the plan after quasi-judicial review pursuant to the Town’s Land Development Ordinance (the “LDO”). Quasi-judicial review is required for any plans that include the construction of a new drive-through facility. LDO, § 3.9.2(F)(1)(d). The Zoning Board of Adjustment reviews an application pursuant to the six criteria listed in § 3.9.2(I).

Based on the written and testimonial evidence described below, the plan application satisfies the approval criteria and establishes that the Applicant should be entitled to development plan approval as requested.
Applicant’s Statement Concerning Approval Criteria of § 3.9.2(I) of the Town of Cary Land Development Ordinance

(1) The plan complies with all applicable requirements of this Ordinance, 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. (Note: Plans within Planned Developments may be subject to different requirements based on the approval).

Applicant’s Statement: The improvements contemplated by this development plan consist of an approximately 2,800 square foot building with a drive-through on a currently wooded and undeveloped lot. As indicated on the proposed plan and other materials submitted, the improvements have been designed in compliance with the requirement of the Town’s LDO, including the development and design standards of Chapters 7 and 8 and the dedication and improvements provisions of Chapter 8. Further, the plan does not include any requests for minor modifications. As a result, the plan is fully compliant with the standard provisions of the LDO. Moreover, the plan complies with the Town’s Future Growth Framework Map, Cary Community Plan, the Town’s Community Appearance Manual, and other relevant Town provisions. Specifically, the area is noted as a Commercial Center Mixed Use in the Town’s Future Growth Framework Map and the plan establishes that the bank will add to the integrated mix of shopping, services, office and residential uses in the area. The proposed use as a bank meets several of the policies and chapters of the Cary Community Plan particularly those related Work, Shop, and Shape. Specifically, the Work Chapter recognizes the needs for a growing a diverse workforce, and the plan supports this policy by providing new employment opportunities at the proposed bank. The Shop and Shape Chapters directs new commercial development to appropriate locations and because the proposed site is located within Commercial Center Mixed Use, its commercial nature adds to the integrated mix of shopping, services, and other uses in the area. As to the Town’s Community Appearance Manual, the plan meets the intent of the manual as the proposed drive-through bank is designed to comport with the Town’s expectations with regard to design, materials, and aesthetics.

(2) The plan adequately protects 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 currently on this property and the site has been designed with streetscape along the Green Level Church Road and Carpenter Fire Station Road frontage. The drive-through use is located to the rear of the property, and not on Green Level Church Road and Carpenter Fire Station Road, providing convenient access and reducing vehicular traffic through the site to reach this use. The vehicular access to the property is internal to the Amberly Place shopping center. The proposed use is consistent with the surrounding area uses in the nearby shopping centers and banks on the opposing corners of Carpenter Fire Station Road and Green Level Church Road. Fifth Third will present expert testimony that the plans will not: (1)
Memorandum to Town Staff
November 19, 2019
Page 3

adversely affect the value of surrounding properties and (2) cause adverse traffic effects. On November 2, 2019, Kirkland Appraisers submitted an analysis of the impact of the proposed drive-through bank. The analysis concluded that: (1) the proposed use is consistent with the existing uses in the area; (2) the matched pair analysis showed no sign of a negative impact on adjoining commercial property; and (3) the plan adequately protects other property, or residential uses located on the same property, from the potential adverse effects of the proposed development. Kimley Horn prepared a Traffic Assessment on October 29, 2019 for the proposed bank and submitted the assessment to the Town. The analysis shows that bank traffic is expected to have an insignificant impact on surrounding area network and no roadway improvements are needed to accommodate bank traffic, as all of the roadway improvements for the Amberly Place Shopping Center have been completed or are under construction. Therefore, there will be no adverse effects on the surrounding property based on the typical operation of a bank at this location.

(3) The plan provides harmony and unity with the development of nearby properties.

Applicant’s Statement: The plan provides harmony and unity of development with nearby properties and other land uses in the area. The plan proposes the construction of a roughly 2,800 square foot bank with a drive-through. There is no significant change from the prior proposed construction on this lot as this proposed construction is similar to the proposed construction of a drive-through bank on the neighboring lot originally proposed in 2015. Nearby property, including the Amberly Place Shopping Center development, are zoned non-residential, as General Commercial and Office Industrial Districts. The proposed use as a drive-through bank is in harmony and unity with the land uses immediately surrounding the site, which include the Publix at Amberly Place and other restaurant, retail, and other businesses. A Walgreens Pharmacy is located across Green Level Church Road and two other banks with drive-through are located across Carpenter Fire Station Road. The proposed drive-through bank complements the surrounding use as it will allow customers, residents, and employees with banking services. The use as drive-through bank will also differ from, for example, other drive-through uses as the bank will not be open late at night and the use will not create significant traffic volume. This traffic will also utilize an existing internal access through the Amberly Place Shopping Center development that is in harmony and unity with the vehicle type and trip generation of the bank’s use. On November 2, 2019, Kirkland Appraisers submitted an analysis of the impact of the proposed drive-through bank. The analysis concluded, in addition to that noted above, that because of bank branches in the Town commonly including drive-throughs and nearby banks to the plan site, the plan provides harmony and unity with the development of nearby properties. Accordingly, the development provides harmony in that the use is similar to others that have been established in this area.

(4) The plan provides safe conditions for pedestrians or motorists and prevents a dangerous arrangement of pedestrian and vehicular ways.

Applicant’s Statement: The plan provides safe conditions for pedestrians or motorists and prevents a dangerous arrangement of pedestrian and vehicular ways. Vehicular access is available through
a driveway that is internal to the Amberly Place Shopping Center development. As such, the plan will use the traffic and circulation systems within the existing Amberly Place Shopping Center. The drive-through bank will not change the existing access to Green Level Church Road and will not disrupt vehicular patterns relied on by other uses of the Amberly Place Shopping Center. The drive-through exists fully within the site for the bank and is located opposite the parking lot for the bank’s customers, thereby reducing a mix of vehicular and pedestrian traffic. The drive-through complies with the LDO’s stacking requirements and it is oriented such that it will reduce conflicts with traffic in the Amberly Place Shopping Center development. The plan provides for pedestrian connections to both the external and internal sidewalk networks. New pedestrian walkways will be constructed parallel to Green Level Church Road and an ADA compliant ramp and walkway will connect with the sidewalk on Carpenter Fire Station Road. A crosswalk will be provided across the sole access point onto the site, with new concrete sidewalk constructed on both sides of the crosswalk. Therefore, the plan complies in all respects with all Town requirements.

(5) The plan provides safe ingress and egress for emergency services to the site.

Applicant’s Statement: The plan provides safe ingress and egress for emergency services to the site. The proposed drive-through bank will use existing access and traffic circulation systems within the Amberly Place Shopping Center. The Amberly Place Shopping Center development is currently served by emergency services and provides ingress and egress for emergency services into the development and into the site. The plan provides for one point of vehicular access into the Amberly Place Shopping Center development that provides adequate width and turning radii to facilitate the movements of emergency vehicles at the entrance to property. Within the site, the building is accessible to fire and other emergency services with sufficient turning radii as required by the LDO and with a fire hydrant located near the entrance to the site. The stacking of vehicles and vehicular access will not hinder the safe ingress and egress for emergency services vehicles as these meet the LDO and relevant emergency service requirements.

(6) The plan provides mitigation for traffic congestion impacts reasonably expected to be generated by the project.

Applicant’s Statement: Fifth Third will present expert testimony that establishes that the proposed plans will have an insignificant impact on the surrounding roadway network. The Traffic Analysis Report (“TAR”) for the Amberly Place development (15-TAR-398) prepared in September 2015 by Ramey Kemp & Associates included a proposed 3-lane drive-through bank on a different parcel and a convenience market on this parcel. The current proposed bank is expected to generate fewer peak hour trips than either of these uses from the TAR. Therefore, the traffic impacts from this development have already been mitigated by the roadway improvements created for the Amberly Place Shopping Center development. Kimley Horn further prepared a Traffic Assessment on October 29, 2019 for the proposed bank and submitted the assessment to the Town. The analysis shows that bank traffic is expected to have an insignificant impact on surrounding area network and no roadway improvements are needed to accommodate bank traffic, as all of the roadway
improvements for the Amberly Place Shopping Center have been completed or are under construction. The plans show that the drive-through meets the Town’s stacking standards and will not disrupt traffic patterns relied upon by other uses of the Amberly Place Shopping Center development.
Project Overview

Project Title: Fifth Third Bank at Amberly Place
Application Type: Development Plan
Workflow: Tier 2 Dev Plan
Jurisdiction: Town of Cary
State: NC
County: Wake

Development Plan Details

Project Name: Fifth Third Bank Publix Outlot Branch
Street Address of Building/Property: 7704 CARPENTER FIRE STATION ROAD
PIN10(s) or Real Estate ID(s): 0725855196
FULL or SKETCH plan option?: Full
Project Description (linked): New construction of a one (1) story 2,756 square foot bank branch.
Associated TOC Development Plan Number: 16-SP-060, 18-DP-0086
New or Revision?: New plan

Plans Prepared By

Plans Prepared By
Philip Kennedy
BDG Architects
2100 First Avenue North, 100
Birmingham, AL 35203
P: 205-252-8222
philip.kennedy@bdgllp.com

Type of Firm: Architecture

Developer

Developer
Bethany Rooney
BDG Architects
400 North Ashley Drive, 600
Tampa, FL 33602
P: 813-323-9233
bethany.rooney@bdgllp.com

Notifications on this project

The user account used to make this submittal is the default Project Contact—all Town communications via the Plan Review Portal will go to this user.

Other users may “follow” the project to get limited updates on status changes, but they will not receive everything. Additional access can be granted to other members of your project team upon request. However, only the Project Contact will receive system-generated emails.
October 22, 2019

RE: Letter of Authorization
Fifth Third Bank at Amberly Place
7704 Carpenter Fire Station Road
Cary, NC 27519

To Whom it May Concern:

Please accept this letter as authorization for Bethany Rooney with BDG Architects, LLP to act as agent in correspondence and representation of all approval and permitting matters on behalf of The Sembler Company for the above reference project.

If you have any questions, please contact me at 727-384-6000.

Sincerely,

[Signature]
G8 Amberly Place, LLC
The Sembler Company
Tom Hareas
V.P. Development

Subscribed and sworn to before me on this 22 day of October, 2019.

[Signature]
Notary Public

My Commission Expires: July 11, 2022
EROSION CONTROL MAINTENANCE PLAN:

1. IRRIGATION SYSTEM TO PROTECT EROSION ON CONSTRUCTION AREAS SHALL BE MAINTAINED ALONG A PERMANENT BASELINE TO PREVENT EROSION ON CONSTRUCTION AREAS
2. ALL EROSION CONTROL MEASURES SHALL BE VEGETATION COVERED PERMANENTLY AND UPTO THE GRADE OF THE NEW CONSTRUCTION.
3. ALL EROSION CONTROL MEASURES SHAL BE PROTECTED AGAINST ALL TYPES OF TRAFFIC.
4. MAINTENANCE OF CURRENT EROSION AND SEDIMENT CONTROL MEASURES.
5. MAINTENANCE OF ALL EROSION AND SEDIMENT CONTROL PRACTICES.
GASKETS SHALL MEET REQUIREMENTS OF ASTM C443/AASHTO M198 STANDARDS.

ALL REINFORCED CONCRETE PIPING SHALL HAVE O-RING GASKETS AT ALL PIPE JOINTS.

STORM STRUCTURE/PIPING DATA

Table IV. JOINTS SHALL BE SEALED WITH A PLASTIC CEMENT PUTTY MEETING

EROSION CONTROL MEASURE NOTE

PAVING AND GRADING GENERAL NOTES

ELEVATION

TOWN OF CARY NOTES:

CONTROL BENCHMARKS

REFERENCE TO FINAL SURVEY FOR BENCHMARK ELEVATIONS
**EXISTING ASPHALT PAVEMENT CONNECTION**

- Cut as per drawing. Remove asphalt to a depth of 3" (min).
- Prepare to receive new concrete.

**6" CURB**

- New curb to match the existing concrete sidewalk.
- New curb to match the existing concrete.

**WHEEL STOP DETAIL**

- All materials are to match the existing curb details.
- All materials are to match the existing sidewalk details.

**INTEGRAL CURB SIDEWALK**

- New concrete sidewalk.
- New concrete sidewalk.

**SAWCUT CONTROL JOINT**

- Sawcut control joint.
- Sawcut control joint.

**EXPANSION JOINT**

- Expansion joint.
- Expansion joint.

**CONCRETE PAVEMENT**

- Concrete pavement.
- Concrete pavement.

**STORMWATER CLEANOUT**

- Stormwater cleanout.
- Stormwater cleanout.

**RIBBON BICYCLE RACK**

- Ribbon bicycle rack.
- Ribbon bicycle rack.

**DETECTABLE WARNING**

- Detectable warning.
- Detectable warning.

**SHEET NUMBER**

- Sheet number.
- Sheet number.

**SHEET TITLE**

- Sheet title.
- Sheet title.

**CHECKED BY**

- Checked by.
- Checked by.

**DRAWN BY**

- Drawn by.
- Drawn by.

**DATE**

- Date.
- Date.

**JOB #**

- Job #.
- Job #.

**PROJECT INFORMATION BLOCK**

- Project information block.
- Project information block.

**COMMENTS**

- Comments.
- Comments.

**REVISED PER TOWN**

- Revised per town.
- Revised per town.

**10/29/2019**

- Date.
- Date.

**04/17/2019**

- Date.
- Date.

**03/15/2019**

- Date.
- Date.

**08/29/2019**

- Date.
- Date.

**02/07/2020**

- Date.
- Date.

**LANDLORD COMMENTS**

- Landlord comments.
- Landlord comments.

**NOTES**

- Notes.
- Notes.

**MATERIALS AS NECESSARY**

- Materials as necessary.
- Materials as necessary.

**FIFTH THIRD BANK, AMBERLY PLACE**

- Fifth Third Bank, Amberly Place.
- Fifth Third Bank, Amberly Place.

**7704 CARPENTER FIRE STATION RD**

- 7704 Carpenter Fire Station Rd.
- 7704 Carpenter Fire Station Rd.

**CARY, NC 27519**

- Cary, NC 27519.
- Cary, NC 27519.

**Birmingham, Al 35203**

- Birmingham, Al 35203.
- Birmingham, Al 35203.

**19-DP-7894 Development Plan (6th Submittal)**


**www.iegroup.net**

- Website.
- Website.

**+1 813-445-4211**

- Phone number.
- Phone number.

**+1 813-434-4770**

- Phone number.
- Phone number.

**FACILITIES MANAGEMENT**

- Facilities management.
- Facilities management.

**EIC REG. NO. 38066**

- EIC registration number.
- EIC registration number.

**IC REG. NO. 1143.00**

- IC registration number.
- IC registration number.

**FILE NO. 15-102.00**

- File number.
- File number.

**INFINITY ENGINEERING GROUP, PLLC**

- Infinity Engineering Group, PLLC.
- Infinity Engineering Group, PLLC.

**FIFTH THIRD BANK**

- Fifth Third Bank.
- Fifth Third Bank.

**704-3 CARPET FIRE STATION RD**

- 704-3 Carpenter Fire Station Rd.
- 704-3 Carpenter Fire Station Rd.

**CARY, NC 27519**

- Cary, NC 27519.
- Cary, NC 27519.

**PER SOIL REPORT**

- Per soil report.
- Per soil report.

**6" COMPACTED SUB-GRADE LBR 40 COMPACTED TO 98% AASHTO T-180**

- 6" compacted sub-grade lbr 40 compacted to 98% aashto t-180.
- 6" compacted sub-grade lbr 40 compacted to 98% aashto t-180.
**MUTCD SIGN(S)**

**NTS 2**

**SCALE**

- 5/3 BANK REGULATORY SIGNS DETAILS
- MUTCD SIGN(S)

**RIGHT TURN ONLY**

- **TYPE 1 GUARDRAIL**
- **INTERNATIONAL BUILDING CODE (IBC-2006) DESIGNER’S SPECIFICATIONS FOR TYPICAL GUARDRAIL APPLICATION**

1. Guardrails and Handrails shall be the product of a company generally regarded in the manufacture of pipe railing. Guardrail shall be ship assembled and finished out as required. Finish to be field selected.

2. The护栏 shall be made of pipe joined together with corner guards. Samples of all components, finish, and the total Shall be submitted to the inspector for approval before fabrication and installation commences. The samples shall be provided in accordance with the standard of the manufacturer's requirements and specifications. The manufacturer's requirements and specifications shall be included in the submission. The samples shall be submitted by the manufacturer or their representative.

3. Guardrail shall be 1-1/2" Schedule 40 structural steel pipe (A53-60). The pipe shall be straight, sound, and free of defects. The pipe shall be galvanized as specified by the manufacturer.

4. Guardrails and Handrails shall comply with the provisions of the Standard Specifications for Highway Bridges. The pipe shall be straight, sound, and free of defects. The pipe shall be galvanized as specified by the manufacturer.

5. Metal and plastic handrails shall be installed in accordance with the manufacturer's instructions. The manufacturer's instructions shall be submitted to the inspector for approval before fabrication and installation commences. The manufacturer's instructions shall be included in the submission. The samples shall be submitted by the manufacturer or their representative.

6. Metal and plastic handrails shall be designed to withstand a load of 25 lbs applied to any part of the handrail. All parts of the handrail shall be designed to withstand a total load of 50 lbs applied simultaneously. The load shall be applied at the point of application and at the point of application.

7. All metal and plastic handrails shall be designed to withstand a load of 25 lbs applied to any part of the handrail. The load shall be applied at the point of application and at the point of application.

8. All metal and plastic handrails shall be designed to withstand a load of 25 lbs applied to any part of the handrail. The load shall be applied at the point of application and at the point of application.

---

**NOTE:**

- All materials, colors, and finishes must comply with the Fifth Third Bank Standards Signage as designed by Link Engineering, LLC.

---

**5/3 BANK STANDARD REGULATORY SIGN**

**OVERALL HEIGHT BASED ON SIGN DIMENSION**

**NOTE:**

- All materials, colors, and finishes must comply with the Fifth Third Bank Standards Signage as designed by Link Engineering, LLC.

---

**FINISHED GRADE**

- **7'-0"**
- **3'-0"**
- **3'-0"**
- **3'-0"**

**NOTE:**

- All materials, colors, and finishes must comply with the Fifth Third Bank Standards Signage as designed by Link Engineering, LLC.

---

**SIGNCOMP POST#: 1005**

**DESIGNED BY OTHERS**

**CONCRETE**

- **5/3 BANK STANDARD REGULATORY SIGN**

**NOTE:**

- All materials, colors, and finishes must comply with the Fifth Third Bank Standards Signage as designed by Link Engineering, LLC.

---

**FINISHED GRADE**

- **7'-0"**
- **3'-0"**
- **3'-0"**
- **3'-0"**

**NOTE:**

- All materials, colors, and finishes must comply with the Fifth Third Bank Standards Signage as designed by Link Engineering, LLC.

---

**STOP 30"X30" DO NOT ENTER (R5-1)**

**SEE SITE PLAN**

**36"X36" STOP SIGN (R1-1)**

**SEE SITE PLAN**

**RIGHT TURN ONLY SIGN**

**SEE SITE PLAN**

---

**HEAVY DUTY GALVANIZED U-COMPUTER SIGN POST**

- **MIN 3 LB/LF CONCRETE**

**NOTE:**

- All materials, colors, and finishes must comply with the Fifth Third Bank Standards Signage as designed by Link Engineering, LLC.

---

**STOP**

- **30"X30" DO NOT ENTER (R5-1)**

**SEE SITE PLAN**

**36"X36" STOP SIGN (R1-1)**

**SEE SITE PLAN**

**RIGHT TURN ONLY SIGN**

**SEE SITE PLAN**

---

**TYPICAL HANDICAP PARKING STRIPING**

**NOTE:**

- Dimensions and symbols from the center of white stripes

---

**EXTerior Handrail STANDARDS**

- **Scale**

---

Erosion and Sediment Control Details

Temporary Storm Drain Inlet Protection:
- Removed sediment should be reached approximately one-third (1/3) the height of the storm event. They must be removed when deposits of the expected usable life and the barrier still be sediment deposits should be removed after each decompose or become ineffective prior to the end.

Permanent Storm Drain Inlet Protection:
- The establishment of permanent vegetation cover for periods longer than 12 months; or conditions where soil requires a permanent filter fabric for stabilization of active filtering devices such as: (a) wind, rain, and snow; (b) erosion; (c) fire; (d) flooding; (e) water quality; (f) soil compaction; (g) erosion and sediment control; (h) soil erosion; and (i) soil compaction.

Temporary Sediment Control
- Undercutting beneath barriers.
- Suspended solids to the receiving outfall.
- Concentrated flows of water are anticipated such as: (a) wind, rain, and snow; (b) erosion; (c) fire; (d) flooding; (e) water quality; (f) soil compaction; (g) erosion and sediment control; (h) soil erosion; and (i) soil compaction.

Permanent Sediment Control
- sheet title
- See detail sheet for typical construction.
- Synthetic bales and/or sandbags shall be placed adjacent to all wetland areas where there is special areas shall be designated as vehicle and inlet, cleaned and replaced.
- Compacted against the filter barrier. Using wire meshes and staked solid sod.
- Compact storm-storm filter engineers or nature resource conservation service (USDA) for advice alternative conserving other alternatives for vegetation of disturbed areas.

Erosion and Sediment Control Notes
- All disturbed areas shall be stabilized through post-construction.
- Portions erosion control systems to water courses that may or may not be stable during construction.
STANDARD METHOD OF REMOVING EXISTING CURB

1. Lay one block on each side of the structure on its side in the construction with seeding and matting, as needed.

2. Check the structure for damage from erosion or piping. Periodically check the depth of the spillway to ensure it is a minimum of 18" minimum.

3. This method is not allowed in new subdivision construction.

4. Approved equivalents accepted.

STANDARD PIPE INLET PROTECTION (PLYWOOD & STONE)

1. Lay one block on each side of the structure on its side in the construction with seeding and matting, as needed.

2. Check the structure for damage from erosion or piping. Periodically check the depth of the spillway to ensure it is a minimum of 18" minimum.

3. This method is not allowed in new subdivision construction.

4. Approved equivalents accepted.

STANDARD BLOCK & GRAVEL PROTECTION

1. Lay one block on each side of the structure on its side in the construction with seeding and matting, as needed.

2. Check the structure for damage from erosion or piping. Periodically check the depth of the spillway to ensure it is a minimum of 18" minimum.

3. This method is not allowed in new subdivision construction.

4. Approved equivalents accepted.

STANDARD INLET SEDIMENT CONTROL DEVICE

1. Lay one block on each side of the structure on its side in the construction with seeding and matting, as needed.

2. Check the structure for damage from erosion or piping. Periodically check the depth of the spillway to ensure it is a minimum of 18" minimum.

3. This method is not allowed in new subdivision construction.

4. Approved equivalents accepted.
**Selection of Sediment Control Measures**

- **Sheet Drainage Area**
- **Temporary Sediment Tarp**
- **Temporary Sediment Fence**
- **Temporary Sediment Trench**
- **Temporary Silt Fence**

*Updated to comply with NPS 303D Permit Conditions*  
*To and from MB 01083012*

---

**Skimmer Basin**

- **Date:** 02/07/2020
- **Permit/Bid Set:** 03/15/2019

**General Notes:**
1. CONTRACTOR SHALL EXERCISE CAUTION NOT TO BURST OR DAMAGE THE SEDIMENT FILTER BAG WHEN PUMPING.
2. THE LENGTH AND WIDTH OF THE TEMPORARY SEDIMENT BAG SHOWN ON THIS DRAWING MAY VARY PER VENDOR SPECIFICATIONS. THE MINIMUM "FOOTPRINT" OF THE BAG SHALL BE 10 x 15 FEET.
3. SEDIMENT FILTER BAGS SHALL BE EQUIPPED WITH A SEWN-IN SLEEVE OF SUFFICIENT SIZE TO ACCEPT A MINIMUM 4 INCH DIAMETER PUMP DISCHARGE HOSE. THE DISCHARGE HOSE SHOULD BE EXTENDED INTO THIS SLEEVE A MINIMUM OF 6 INCHES AND BE TIGHTLY SECURED WITH A HOSE CLAMP OR OTHER SUITABLE MEANS TO PREVENT LEAKAGE. HOSE CONNECTION THROUGH A SLIT IN THE BAG WILL NOT BE ACCEPTABLE.
4. THE PUMP DISCHARGE HOSE CONNECTION SLEEVE SHALL BE SECURELY TIED OFF DURING DISPOSAL OF THE SEDIMENT FILTER BAG IN ORDER TO PREVENT LEAKAGE OF COLLECTED SEDIMENTS.
5. SEDIMENT FILTER BAG SHALL BE MAINTAINED AND REPLACED WHEN ONE HALF FULL OF SEDIMENT OR IN ACCORDANCE WITH THE MANUFACTURER'S RECOMMENDATIONS.
6. **OPTIONAL LIFTING STRAPS**
   - 2'-0" MIN. (TYPICAL)

---

**Plan View**

- **SECTION A-A**
- **PLAN VIEW**
- **SECTION A-A**
- **PLAN VIEW**

**Details:**
- **Plan View**
- **Section A-A**

---

**Effective: 01/05/17**

**Sheet added to the drawing:**
- **Sheet 1 of 1**
- **DETAIL No. 1871**

---

**Sheet 4 of 4**

**Attachment:**
- **19-DP-7894 Development Plan (6th Submittal)**
- **19-DP-7894 Fifth Third Bank at Amberly Place**
## Project Information Block

**JOB #**

**DATE:**

**DRAWN BY:**

**CHECKED BY:**

## Sheet Title

**SHEET NUMBER**

### 7704 CARPENTER FIRE STATION RD

CARY, NC 27519

**FIFTH THIRD BANK**

### 19-DP-7894/183455

**ISSUE BY**

**DATE**

**DESCRIPTION**

1. **AMBERLY PLACE**

   - **DATE:** 03/15/2019
   - **PERMIT/BID SET**

   - **COMMENTS:** 04/17/2019
     - LANDLORD COMMENTS
     - SJ 12/18/2019
     - BP 12/18/2019

   - **REVISED PER TOWN**

2. **3**

3. **5**

4. **4**

5. **3**

### Attachment:

19-DP-7894 Development Plan (6th Submittal)  (19-DP-7894 Fifth Third Bank at Amberly Place)
1. Natural gas pipeline
2. Electric cable
3. Telephone cable
4. Storm drain
5. Fire hydrant
6. Sign
7. Wetland
8. Manhole
9. Billboard
10. Utility pole

Observed wetland markings at the time of survey. No observed wetland markings at the time of survey.

No evidence of any wetland existing or being created.

No underground investigation has been performed.

All field measurements made were described with in the precision requirements.

No evidence of any recent earth moving work, building construction or building additions within the parcel.

No apparent changes in the street right-of-way lines, either completed or proposed. No recorded easements or right-of-ways.

Site Dimensions:
- 320.08' OUT
- 325.4' TOP
- 322.6' OUT PARCEL #2

Information has not been provided.

GB AMBERLEY PLACE LLC

LONG AND LEGAL DESCRIPTION

The most accurate description of the surveyed premises:

1. The north boundary of the described parcel is the centerline of Gardner Avenue.
2. The south boundary of the described parcel is the centerline of Palo Verde Avenue.
3. The west boundary of the described parcel is the centerline of Amberly Place.
4. The east boundary of the described parcel is the centerline of Green Level Church Road.

All elevations were plotted from marks placed in the soil above ground level.

No evidence of any recent earth moving work, building construction or building additions within the parcel.

All field measurements made were described with in the precision requirements.

No underground investigation has been performed.

All observations were made from the street.

No evidence of any recent earth moving work, building construction or building additions within the parcel.

No underground investigation has been performed.

All field measurements made were described with in the precision requirements.

No evidence of any recent earth moving work, building construction or building additions within the parcel.

No underground investigation has been performed.

All field measurements made were described with in the precision requirements.

No evidence of any recent earth moving work, building construction or building additions within the parcel.

No underground investigation has been performed.

All field measurements made were described with in the precision requirements.

No evidence of any recent earth moving work, building construction or building additions within the parcel.

No underground investigation has been performed.

All field measurements made were described with in the precision requirements.

No evidence of any recent earth moving work, building construction or building additions within the parcel.

No underground investigation has been performed.

All field measurements made were described with in the precision requirements.

No evidence of any recent earth moving work, building construction or building additions within the parcel.

No underground investigation has been performed.

All field measurements made were described with in the precision requirements.

No evidence of any recent earth moving work, building construction or building additions within the parcel.

No underground investigation has been performed.

All field measurements made were described with in the precision requirements.

No evidence of any recent earth moving work, building construction or building additions within the parcel.

No underground investigation has been performed.

All field measurements made were described with in the precision requirements.

No evidence of any recent earth moving work, building construction or building additions within the parcel.

No underground investigation has been performed.

All field measurements made were described with in the precision requirements.

No evidence of any recent earth moving work, building construction or building additions within the parcel.

No underground investigation has been performed.

All field measurements made were described with in the precision requirements.

No evidence of any recent earth moving work, building construction or building additions within the parcel.

No underground investigation has been performed.

All field measurements made were described with in the precision requirements.

No evidence of any recent earth moving work, building construction or building additions within the parcel.

No underground investigation has been performed.

All field measurements made were described with in the precision requirements.

No evidence of any recent earth moving work, building construction or building additions within the parcel.

No underground investigation has been performed.

All field measurements made were described with in the precision requirements.

No evidence of any recent earth moving work, building construction or building additions within the parcel.

No underground investigation has been performed.

All field measurements made were described with in the precision requirements.

No evidence of any recent earth moving work, building construction or building additions within the parcel.

No underground investigation has been performed.

All field measurements made were described with in the precision requirements.

No evidence of any recent earth moving work, building construction or building additions within the parcel.

No underground investigation has been performed.

All field measurements made were described with in the precision requirements.

No evidence of any recent earth moving work, building construction or building additions within the parcel.

No underground investigation has been performed.

All field measurements made were described with in the precision requirements.

No evidence of any recent earth moving work, building construction or building additions within the parcel.

No underground investigation has been performed.

All field measurements made were described with in the precision requirements.

No evidence of any recent earth moving work, building construction or building additions within the parcel.

No underground investigation has been performed.

All field measurements made were described with in the precision requirements.

No evidence of any recent earth moving work, building construction or building additions within the parcel.

No underground investigation has been performed.

All field measurements made were described with in the precision requirements.

No evidence of any recent earth moving work, building construction or building additions within the parcel.

No underground investigation has been performed.

All field measurements made were described with in the precision requirements.

No evidence of any recent earth moving work, building construction or building additions within the parcel.

No underground investigation has been performed.
These drawings and plans, any reproduction thereof, and any CAD or electronic file of these drawings and plans (hereinafter "plans") are the sole and exclusive, proprietary property of BDG Architects, and may not be reproduced, published, modified or used in any way without the express written permission of BDG Architects. Use of these plans for construction shall be considered acceptance of the terms contained herein and the suitability and constructability of the plans. The plans shall not be scaled or modified for any purpose without the express written approval of BDG Architects. Any changes to these plans, regardless of how minor, without the express written approval of BDG Architects; any construction executed from these plans without the express written approval of BDG Architects; or any change in the scope, design, or intent of these plans for any reason, by any person other than BDG Architects shall automatically void any design-related obligations BDG Architects may have on the project, and result in the full and complete release of BDG Architects from any liability, claims, or damages including errors and omissions arising out of or related to the plans. Any discrepancies or conflicts in the plans shall be referred immediately to BDG Architects for clarification prior to continuing with the work. Failure to refer discrepancies or conflicts to BDG Architects prior to performing work shall result in the waiver of any claims or damages associated with the discrepancies or conflicts. The contractor is responsible for the coordination, scheduling and conformance of its work and all work performed by subcontractors or other trades with the design documents.
GUIDELINES FOR THOSE WISHING TO TESTIFY
AT EVIDENTIARY HEARING FOR 19-DP-7894, FIFTH THIRD BANK
AT AMBERLY PLACE

To make sure that your testimony is ‘competent’ under the law and to best assist the Zoning Board of Adjustment in making its decision in accordance with the law, please identify the specific approval criteria you are addressing as you testify and try to limit your testimony to specifically addressing that criteria and whether or not the criteria is satisfied.

DEVELOPMENT PLAN CRITERIA

1. The plan complies with all applicable requirements of the LDO, including all applicable Town specifications and official plans and manuals or documents adopted by the Town.
2. The plan adequately protects other property, or residential uses located on the same property, from the potential adverse effects of the proposed development.
3. The plan provides harmony and unity with the development of nearby properties.
4. The plan provides safe conditions for pedestrians or for motorists and prevents a dangerous arrangement of pedestrian and vehicular ways.**
5. The plan provides safe ingress and egress for emergency services to the site.**
6. The plan provides mitigation for traffic congestion impacts reasonably expected to be generated by the project.**

**Please note that only an expert may testify about vehicular traffic increases and their effect on dangers to public safety and about the effect of the use on property values. The Zoning Board of Adjustment may not rely on the opinion testimony of lay witnesses.**
19-DP-7894, Fifth Third Bank at Amberly Place

Request for a new 2756 square foot bank building with a drive through on a 1.52 acre out parcel at the northwest intersection of Carpenter Fire Station Road and Green Level Church Road.

1. SUGGESTED MOTIONS FOR DEVELOPMENT PLAN

MOTION TO APPROVE THE DEVELOPMENT PLAN

For the reasons discussed, I move that we 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. [insert any conditions necessary to bring the project into compliance with the LDO or other standards]

-OR-

MOTION TO DENY THE DEVELOPMENT PLAN

For the reasons discussed, I move that we DENY the proposed development plan, as it does not meet all of the approval criteria set forth in Section 3.9.2(I) of the LDO.
November 2, 2019

Ms. Bethany Rooney
BDG Architects, LLP
400 N. Ashley Drive, Suite 600
Tampa, FL 33602

Ms. Rooney:

I have considered the likely impact of the proposed bank with drive-through to be constructed at 7404 Carpenter Fire Station Road, Cary, North Carolina.

The scope of this assignment is to address the likely impact this may have on adjoining properties. To this end I have reviewed the site plan and considered the potential impacts on adjoining properties. I have not been asked to assign any value to any specific property.

This letter is a limited report of a real property appraisal consulting assignment. My client is BDG Architects, LLC, represented to me by Ms. Bethany Rooney. The intended use is to assist in the Special Use Permit application. The effective date of this consultation is November 2, 2019.

Proposed Use Description

The subject property is currently a portion of a larger 1.52-acre vacant parcel at the northwest corner of the intersection of Carpenter Fire Station Road and Green Level Church Road, Cary, NC. It is proposed to be subdivided with the subject property retaining 0.87 acres at the corner. This is an outparcel for the Amberly Place Shopping Center, which was constructed in 2018.

The proposed Fifth Third Bank branch will include 2,800 square feet in a one-story building with a two-lane drive-through. The site will include 15 parking spaces. The only access points to this site will be through the interior streets of Amberly Place Shopping Center.

As shown on the breakdown of adjoining uses on the next page, all of the adjoining uses are commercial.
Discussion

The subject property is a commercial outparcel and any use of the property would necessarily be a commercial use similar to the proposed bank branch. At this intersection, two of the other three corners are currently improved with similar bank branches with drive-throughs. The third corner is a pharmacy with a drive-through.

Bank branches around the Town of Cary commonly include drive-throughs. Just looking in the immediate and similar areas I identified the following banks with drive-throughs in Cary. I did not in fact identify any nearby bank branches without a drive-through.

- Wachovia – 10050 Green Level Church Road
- Capital Bank – 7705 Carpenter Fire Station Road
- First Citizens Bank – 10010 Green Level Church Road
- Wachovia – 4011 Davis Drive
- BB&T – 4015 Davis Drive
- Union Bank – 1405 Bradford View Drive
- Coast FCU – 2339 Davis Drive
- Nationsbank – 1931 High House Road
- Bank of America – 1001 Saint Charles Place
- BB&T – 977 N Harrison Avenue
- Sun Trust – 910 Kildaire Farm Road
- Capital Bank – 1201 Kildaire Farm Road
- Sun Trust – 991 High House Road
- Wells Fargo – 1122 Kildaire Farm Road
- Pinnacle Bank – 4725 SW Cary Parkway
- Wells Fargo – 1201 Walnut Street
- First Citizens – 2205 Evans Road
- First Citizens – 1000 High House Road
Ms. Bethany Rooney  
November 2, 2019

Conclusion

The proposed use is consistent with the existing uses in this area and the drive-through is a common if not necessary component of a commercial bank branch, as can be seen in the nearby bank branches identified above.

The matched pairs show no sign of a negative impact on adjoining commercial property values. There are no adjoining residential uses.

- I therefore conclude that “the plan adequately protects other property, or residential uses located on the same property, from the potential adverse effects of the proposed development.”

- I further conclude that “the plan provides harmony and unity with the development of nearby properties.”

If you have any further questions please call me any time.

Sincerely,

Richard C. Kirkland, Jr., MAI  
State Certified General Appraiser
Subject Property: 2015 Alston Avenue
2017 Alston Avenue
2025 Alston Avenue
2029 Alston Avenue
2033 Alston Avenue

Real Estate ID:
0177607
0147791
0160196
0078570
0141540

Total lot/tract size: 45.28 acres

Property Owner: Lennar

At its meeting on February 3, 2020, after conducting a duly advertised quasi-judicial hearing and after considering the application materials, testimony, exhibits, and evidence presented at the hearing or otherwise appearing in the record, and the approval criteria of Section 3.9.2(I)(1)-(6) of the Town of Cary Land Development Ordinance (the “LDO”), the Cary Zoning Board of Adjustment voted 4-0 to APPROVE the proposed development plan, based upon the following findings and conditions:

Findings:

1. The Property Owner is seeking approval of a development plan for a 184-unit townhome development in the Town of Cary, NC (the “Plan”).
2. The Subject Property is a 45.28 acre site, bordered by I-540 to the East, the Nancy Branch Greenway to the south, Alston Avenue to the north, and Evans Farm neighborhood to the west. The owner of the Subject Property is Lennar. The Applicant is Lennar.
3. The application, staff report, exhibits to the staff report including the traffic impact analysis, and PowerPoint slides from the quasi-judicial hearing are part of the record.
4. Notice has been provided as required by law.
5. The Subject Property has a base zoning of R-40, is located in the Mixed Use Overlay District, and may be developed in accordance with the Alston Activity Center Concept Plan (“Alston ACCP”).
6. Because the Plan includes over 100 residential units, it must meet the criteria in LDO Section 3.9.2(I)(1)-(6).
7. The Plan complies with applicable requirements of the Cary LDO, Imagine Cary Community Plan (“ICCP”), the Alston ACCP, and other Town specifications.
8. The ICCP designates the site as a Destination Center, which includes townhomes as an incidental use, and the Plan falls within the Destination Center’s density requirements.

9. The Plan’s proposed 184 units is within the 264 allocated units for the site as designated in TAZ 8 of the Alston ACCP, and townhomes are appropriate in both the Evan Farms Neighborhood and Neighborhood Edge Design zone designation.

10. The LDO’s maximum block length of 600’ has been complied with by integrating a traffic calming device in the form of a roundabout on Rosepine Drive.

11. The Plan provides safe conditions for pedestrians and motorists and prevents dangerous arrangement of pedestrian and vehicular ways. The Plan provides sidewalks on both sides of all streets, a greenway provides an alternative off-road pedestrian connection, and the roundabout serves to slow traffic.

12. The Plan provides for safe ingress and egress of emergency services to the site. The Plan provides three access points, which preserves options for emergency access in the event that any one of the entrances is blocked.

13. The Plan adequately mitigates traffic congestion reasonably expected to be generated by the project if the applicant makes the improvements recommended in the traffic impact analysis performed by Kimley-Horn and Associates, and committed on the Cover Sheet of the Plan.

14. The Plan adequately protects other properties or residential uses located on the property from potential adverse effects of the proposed development. This is achieved through the integration of setbacks and buffers that meet or exceed the requirements of the LDO.

15. The Plan provides harmony and unity with the development of nearby properties. The proposed uses and site elements are consistent with those permitted by the Alston ACCP and the proposed townhome use is consistent with the residential uses surrounding the site.

16. Based upon the competent, substantial, and material evidence appearing in the record, the approval criteria for approval of a Plan contained in Section 3.9.2(I)(1)-(6) of the Cary LDO have been met, specifically:
   1. The plan complies with all applicable requirements of the LDO, including all applicable Town specifications and official plans and manuals or documents adopted by the Town;
   2. The plan adequately protects other property or residential uses located on the property from potential adverse effects of the proposed development;
   3. The plan provides harmony and unity with the development of nearby properties;
   4. The plan provides safe conditions for pedestrians and motorists and prevents dangerous arrangement of pedestrian and vehicular ways;
   5. The plan provides safe ingress and egress for emergency services to the site;
   6. The plan provides mitigation for traffic congestions impacts reasonably expected to be generated by the project.
ACCORDINGLY, based on the foregoing, the Zoning Board of Adjustment hereby approves the Plan subject to the following conditions:

1. That the applicant shall satisfactorily address all remaining Development Review Committee comments on the master plan set submitted for signature; and

2. That the property be annexed into the Town of Cary by the Town Council.

Signed, this _____ day of March, 2020.

_____________________________
Charles McDarris, Chair

CERTIFICATION

I, Heather Kinser, Clerk of the Town of Cary Zoning Board of Adjustment, North Carolina, do hereby certify the foregoing to be true copy of a Resolution duly adopted at the meeting of the Zoning Board of Adjustment held on March 2, 2020.

IN WITNESS WHEREOF, I have hereunto set my hand and have caused the seal of the Town of Cary to be affixed this the ____ day of _____________, 2020.

_________________________________
Heather Kinser, ZBOA Clerk
(Seal)