1. COMMITMENT

1.1. Call to Order and Ceremonial Opening (Mayor Weinbrecht)

1.2. Adoption of agenda (Town Council)

ACTION:
Motion: Bush moved to adopt the agenda.
Second: Adcock
Vote: Unanimous

2. QUASI-JUDICIAL PUBLIC HEARINGS

2.1. Site Plan 13-SP-065, Green Level High School
(Refer to the attached special rules that specifically apply to this hearing)
Request by property owner to develop a 321,000-square-foot high school with requested modifications including location of parking, connectivity to adjacent parcels, removal/replacement of champion trees, and architectural standards.
Proposed Council Action: Council may take action
Speaker: Mr. Kevin Hales

The following documents incorporated into this staff report are to be entered into the record for this hearing. They are filed in the planning department according to the Records Retention and Disposition Schedule.

Exhibit A: Plan Review Application (5 pages)
Exhibit B: Site Plan (149 pages) (FTP site – Planning/Quasi-Judicial Cases/)
Exhibit C: TIA Executive Summary (15 pages)

PROJECT DESCRIPTION/SUMMARY OF REQUEST: The Wake County Board of Education, through their agent, CLH Design, P.A., is requesting approval of a 320,987-square-foot high school located on approximately 88 acres at the intersection of Roberts Road and Green Level Church Road. The plan also includes supporting uses such as a stadium, tennis courts, and other athletic fields. The site is bounded on the north and northwest by Town of Cary property that is part of the White Oak Greenway corridor and slated for development as a future park. The southeastern corner of the site abuts a large (11 acre) residential property, and the adjacent
right-of-way form the southern and western boundaries of the site. Two clusters of farm buildings are situated on knolls along Roberts Road, with the site elevation falling approximately 85 feet across the site towards a stream buffer to the north. Bus access to the site will be from Green Level Church Road, while staff, parent, and student access will be provided from Roberts Road. The majority of parking is located internal to the site, with a limited amount of staff parking located near the intersection. Stormwater management is being accomplished through the installation of four stormwater best management practices (BMPs) on the northern half of the site. A new private street is proposed along the western property line to serve as access to the school as well as access to the future Town of Cary Park to the northwest as well as provide connectivity to the under-developed residential parcel adjacent to the site. The proposed site plan includes the buffers and streetscapes required by the Town’s Land Development Ordinance (LDO). The streetscape along both Roberts Road and Green Level Church Road will be 30-feet in width. A 40-foot Type A (Opaque) buffer will be provided along the property line shared with the adjacent residential parcel. No perimeter buffers are required along the northern and northeastern property lines due to the extensive conservation easements precluding development of the property and due to the Town’s plan to use that property as future open space. The project includes limited encroachments into the Conservation Easements that cover the stream corridor and surrounding property on the northern end of the site. The development proposed 16,857 square feet of disturbance in the State of North Carolina’s conservation easement. Encroachments into the Town’s conservation easement total 22,043 square feet. These encroachments are for required road widening and sewer connections for the site. Separate approval shall be secured from the relevant agencies prior to beginning work on the project.

**MODIFICATIONS TO LAND DEVELOPMENT ORDINANCE (LDO) REQUIREMENTS:**

**Parking Located Between Building and Adjacent Rights-of-Way:** In August of 2012, the Town adopted a new set of site design standards to improve the quality of the built environment within its jurisdiction. One component of these standards was to increase the “presence” of buildings at the intersections of thoroughfares and/or collector streets so these important intersections are visually anchored by structures. This is design standard partially articulated through Section 7.8.2(G)(6) of the LDO, which reads as follows: The visibility of parking areas shall be reduced by placing at least thirty (30) percent of the parking to the rear or side of buildings for all non-residential developments greater than five (5) acres. An alternative to this requirement is to screen the parking from the public roadway with a Type A streetscape and/or berm. No parking is allowed between non-residential buildings and the right-of-way for individual buildings located on sites at the intersection of thoroughfares and/or collectors designated on the Cary Comprehensive Transportation Plan unless the building floor elevation is ten (10) feet or more below the grade of the adjacent roadway. As mentioned previously, a limited amount of staff parking has been proposed between the rear of the building and the intersection of Roberts Road and Green Level Church Road. This parking lot contains 86 spaces, representing approximately 10% of the 849 spaces proposed on the site. An additional 27 parking spaces are located along the Roberts Road right-of-way; however, the finished floor elevation (FFE) of the building (328) is located approximately 12 feet below the elevation of Roberts Road (340) at a point approximately in-line with the southwestern corner of the building. The LDO contains a provision that permits parking spaces to be situated in this location on the site as proposed due to the FFE of the building being at least ten feet below the adjoining roadway. The elevation of Green Level Church Road, on the other hand, is located below the proposed FFE of the building (varies between 9 and 20 feet lower). Therefore, the applicant is requesting a modification to Section 7.8.2(G)(6) of the LDO to allow the 86 parking spaces to remain between the building and the Green Level Church Road right-of-way, as proposed. One of the goals of the Town’s Southwest Area Plan (SWAP) is the preservation of the rural character present in southwestern Cary. The dispersal of smaller parking lots around the site, instead of concentrating the large amount of required parking into a larger centralized lot, would lessen the aesthetic impacts of the parking on the site. Additionally, the travel aisles provided to and through the dispersed parking lots would serve as access and staging areas for emergencies or Fire response, should the need arise. The restriction on locating parking between a proposed building and the adjacent rights-of-way does

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accomplish a few goals of the site design standards project. This restriction reinforces the “presence” of buildings at intersections by pushing parking into the interior of a site, thereby requiring the buildings to shift closer to the road. The result naturally screens more of the parking from the right-of-way, reducing the aesthetic impacts of parking for the travelling public. In addition, shifting buildings closer to the roadway often provides increased opportunity for pedestrian interaction and activates the pedestrian realms along the roadway. In summary, Council may find that, given the SWAP goal of preserving the rural character of the area and the large scale of the proposed building, the allowance of parking between the building and the adjacent right-of-way serves to diminish the visual scale of the building by allowing it to be shifted farther from the roadway. In addition, the nature of the use demands that access into the site (whether it is pedestrian or vehicular) be restricted to the extent practical, preventing unauthorized ingress or egress.

Connectivity to Adjacent Parcels: The Town of Cary strives to provide its citizens with a highly connected transportation system, providing choices for drivers, cyclists, public transit passengers, and pedestrians. The provision of such a network connects neighbors to one another and to common destinations, reducing the time and distance of such trips, improving air quality, increasing efficiency in service delivery, and freeing up arterial capacity to better serve regional, long-distance travel needs. Section 7.10.3(B) of the LDO facilitates this goal by requiring connectivity with adjacent parcels: The proposed public or private street system shall be designed to provide vehicular and pedestrian interconnections to facilitate internal and external traffic movements in the area. In addition to the specific connectivity requirements described above, roadway interconnections shall be provided during the initial phase of any development plan between the development site and its adjacent properties with one (1) roadway interconnection every one thousand two hundred fifty (1,250) to one thousand five hundred (1,500) linear feet for each direction (north, south, east, west) in which the subject property abuts. If the common property boundary in any direction is less than one thousand two hundred fifty (1,250) linear feet, the subject property will be required to provide an interconnection if it is determined by the Planning Director that the interconnection in that direction can best be accomplished through the subject property due to physical site constraints, such as topography, presence of stream buffers or other natural features, or lot dimensions; or due to presence of existing development or infrastructure, on the subject property or other properties in the area. When the Planning Director deems a vehicular connection not practicable due to topographical and/or environmental constraints, he/she may increase the length requirement and/or require pedestrian connections. The Planning Director may delay the interconnection if such interconnection requires state approval. The intent of this standard is to improve access/egress for Town neighborhoods, provide faster response time for emergency vehicles, and improve the vehicular and pedestrian connections between neighborhoods. The applicant has proposed to provide a private street along the eastern property line to serve the proposed high school, the adjacent park site, and any future redevelopment of the residential property to the east. However, there is an existing pond on the Town’s future park site that is currently subject to the riparian buffer regulations of the state and Town. The Town has not developed an official master plan for the park site; however, feasibility studies indicate that an access to the park from Roberts Road should be through the proposed school site. Given the environmental constraint of the pond, the location proposed by the school is a logical choice. There is unpredictability in the final alignment of the connection since the road may shift slightly north or south depending on final programming of the park site. Due to this uncertainty, the applicant is requesting that Town Council accept a 10-foot-wide, gravel driveway in-lieu of a standard, paved street section.

Removal and Replacement of Champion Trees: The LDO, in Section 7.2.5, promotes the protection of existing vegetation during development to enhance the visual character of the community, preserve wildlife habitat, control surface water run-off, and moderate temperatures. Section 7.2.5(C) specifically protects large, healthy trees on developing sites, known as “champion trees.” The tree survey identified 18 potential champion trees (larger than 32 inches in diameter) on the property. The applicant had an arborist evaluate these trees and the attached arborist report indicates that four of them exhibit signs of decay and/or disease with signs of
advanced decline in vigor, resulting in their disqualification as champion trees. The applicant requests to remove seven of the remaining fourteen champion trees from the site. These trees, discussed individually in detail below, are numbered 10, 12, 13, 14, 15, 17, and 32 in the arborist’s report and in the site plan (see sheet C6.10 – Champion Tree Plan). Tree number 10 is a 34-inch sweetgum adjacent to one of the existing buildings on the site. The tree is located within the proposed building footprint and would not be an eligible candidate for retention on the site. The LDO requires the building to address the adjacent roadways, resulting in limited options for the applicant to redesign the site to accommodate the retention of this tree. In addition, the large footprint of the building combined with the topography of the site results in a significant amount of required earthwork to make the site work. The proposed finished grade at this tree’s location is approximately 15 feet lower than the tree’s existing elevation. The trees numbered 12 through 15 are willow oaks ranging in size from 35 inches to 39 inches in diameter. These trees are loosely grouped around a home adjacent to Roberts Road. Trees 12 and 13 lie directly in the path of the sidewalk along the entrance into the site, while trees 14 and 15 lie between the sidewalk and the back of curb along the right-turn lane being required into the site on Roberts Road. These are required improvements which have limited opportunity for relocation in the case of the driveway, and there is no practical opportunity for the relocation Roberts Road. Tree number 17 is a 41-inch sweetgum, which the arborist listed in Fair to Good condition. The tree is adjacent to the existing gravel access road for the future Town of Cary park site. Underground utilities have been trench through its critical root zone in the past. The tree’s location would place it in the middle of the proposed running track surface within the stadium for the high school. Again, the large footprint of the stadium and the need for it to be level requires significant grading. The proposed finished grade is proposed to be approximately eight feet lower than the existing tree. Tree number 32 is a 39-inch willow oak located at the southeastern corner of the site. There is a cluster of six champion trees in this corner of the site, of which only this one is proposed for removal. The arborist indicates the condition of the tree to be Fair to Good, with a number of large, dead limbs in the canopy. This tree is also the closest of the cluster to the proposed private street providing access to the school and adjacent future park site. The road elevation is proposed to be approximately eight feet below the knoll on which this tree is situated and the grading associated with the road will disturb more than 50% of the tree’s critical root zone. In summary, Council may find that trees 10, 12-15, 17, and 32 are not viable candidates for retention on the site given the amount of proposed earthwork and the proximity of the proposed improvements to these trees.

Modification to Percentage of Masonry on Building Façades: The Architectural component of the Community Appearance Manual includes a requirement for building façades of non-residential buildings to consist of at least 75% high-quality, masonry materials. The use of masonry material not only provides an impression of longevity and quality, the scale of modular masonry units is one to which humans can easily relate, which improves the experience of the façade at a pedestrian scale. It is important to note that the Architectural Standards do allow some flexibility in the design of civic and institutional buildings as follows: Civic and Institutional buildings (e.g. Schools, Churches, Libraries) are signature elements within the community. As such, they may intentionally be made exceptions to the more regulated patterns of private development. Appropriate designs for these buildings become even more important in representing and anchoring the community’s image. While Civic and Institutional buildings shall meet the facade principles that follow, exceptions may be provided when the specific design circumstance justifies the exception. The applicant has proposed a building façade design consisting of two primary materials. The first is a dark rose colored brick and the second is horizontal metal panels in two colors of grey. However, only the southern façade, facing Roberts Road, meets or exceeds the 75% masonry material requirement. The western façade, which faces Green Level Church Road, is 70% masonry material. The two “internally oriented” façades, the northern and eastern, are proposed at 56% and 57% respectively. The addition of masonry material higher on the structure does increase the loading on the structure, increasing the structural strength required to carry the increased load. The use of lighter-weight materials, such as the proposed metal panels, allows the school to design larger openings in the façade, increasing the amount of natural light in the classrooms, particularly on the northern façade of the
classroom wing. Council may further find that, given the minimal nature of the reductions on the façades facing the roadways and the design benefits gained by the reduction in masonry on the upper levels of the school, the flexibility in the Architectural standards for civic and institutional buildings is justifiable in this instance.

SUMMARY OF PROCESS AND ACTIONS TO DATE:
Pre-application Meeting: The applicant attended a pre-application meeting for the site plan on June 26, 2013.

Plan Submittal and Review: The site plan was submitted for its initial review on December 12, 2013, and has been reviewed by the Development Review Committee (DRC) through four review cycles.

Notification and Property Posting: The Planning Department provided notification of the public hearing and posted the property in accordance with local and state regulations.

SITE PLAN WORKSHEET AND SUGGESTED MOTIONS: A subdivision and/or site plan may be approved by the Town Council only if it satisfies the six approval criteria listed in Section 3.9.2(I) of the LDO. As part of determining whether the first criterion is satisfied, Council must determine whether to grant the requested modification(s) to the Town’s development standards. A roadmap of the decisions Council must make is provided below:

WORKSHEET 1
1. Does the plan comply with all applicable requirements of the LDO, including the development and design standards of Chapters 7 and 8 as well as the dedication and improvements provisions of Chapter 8 as well as all applicable Town specifications?
   As indicated in the staff report, the applicant has requested that council grant several modifications to the Town’s development standards. These are detailed further in the attached Worksheet 1.
   Once the council has made a decision on the modification requests, it may then turn to the remaining site plan approval criteria.

WORKSHEET 2
2. Does the plan adequately protect other property, or residential uses located on the same property, from the potential adverse effects of the proposed development?
3. Does the plan provide harmony and unity with the development of nearby properties?
4. Does the plan provide safe conditions for pedestrians or motorists and prevent a dangerous arrangement of pedestrian and vehicular ways?
5. Does the plan provide safe ingress and egress for emergency services to the site?
6. Does the plan provide mitigation for traffic congestion impacts reasonably expected to be generated by the project?

APPLICATION’S STATEMENT:
The plan complies with the applicable requirements of this ordinance with the exception of the eight minor modifications noted on the cover sheet of the plan set.

Staff Observations:
• The Development Review Committee has reviewed the proposed sketch plan for compliance with the LDO and all other applicable regulations through four review cycles.

• There are 34 remaining review comments out of 202 total comments made throughout the review process, meaning that 83% of the comments have been adequately addressed by the applicant.

• All DRC staff members have indicated that they do not object to the plan proceeding to Council for review.

TEST SATISFIED? __ YES __ NO

1. The applicant requests that 86 parking spaces be allowed to remain located between the building and the right-of-way for Green Level Church Road.

Town Council should consider this modification request pursuant to Section 3.19 of the LDO. Section 3.19.1(C)(2) of the LDO reads as follows: “The Town Council may initiate or approve a minor modification allowed under this section at any time before it takes action on a development application. The Town Council may approve the minor modification only if it finds, after conducting a quasi-judicial hearing, that the modification advances the goals and purposes of this Ordinance and either results in less visual impact or more effective environmental or open space preservation, or relieves practical difficulties in developing a site. In determining if “practical difficulty” exists, the factors set forth in Section 3.20.5, “Approval Criteria” (for Variances) shall be considered. In granting a minor modification allowed under this section, the Town Council may require conditions that will secure substantially the objectives of the standard that is modified and that will substantially mitigate any potential adverse impact on the environment or on adjacent properties, including but not limited to additional landscaping or buffering.”

Applicant’s Statement: High Schools require a large amount of parking spaces to adequately support the teachers, staff, visitors, and students. Of the 849 proposed parking spaces for the project, only 108 spaces (12.7%) are proposed between the school building and the public right-of-way. The drive aisles for these parking spaces also serve as access routes for the Fire Department. The parking lot and drive aisle are buffered by existing mature vegetation and new evergreen shrubs in accordance of Section 7.2 of the LDO.

Staff Observations:
• The applicant’s statement identifies 108 spaces between the building and the adjacent right-s-of-way. The FFE of the proposed building is more than ten feet below the grade of Roberts Road; therefore, 22 of the spaces are permitted as proposed and do not represent a modification to the Town’s standards.

• Allowing parking adjacent to the right-of-way increases its visibility to users of the roadway. The applicant has proposed standard vehicular use screening for the travel aisle with larger evergreens along the parking bays themselves. Further, the dispersal of parking in smaller lots reduces the concentration of parking between the building and the right-of-way.

• The remaining 86 parking spaces, located between the building and Green Level Church Road, represent approximately 10% of the total 849 parking spaces proposed on the site.

• The project is located in the Southwest Area Plan, one of the goals of which is to preserve the rural character of the community. In general, a four to five story institutional building is not consistent with the rural and residential character of the community. Allowing the parking between the building and the road would shift the building farther from the road, reducing the visual mass of the structure as seen from the roadway.
• Provision of a limited amount of parking between the building and the right-of-way provides additional options for emergency services staging in the event of an emergency.

2. **The applicant requests that the Town accept a 10-foot gravel access road in-lieu of their continuing the private street to the property line for the future park.**

   Town Council should consider this modification request pursuant to Sections 3.19 and 7.10.3(B) of the LDO. Section 3.19.1(C)(2) of the LDO reads as follows: “The Town Council may initiate or approve a minor modification allowed under this section at any time before it takes action on a development application. The Town Council may approve the minor modification only if it finds, after conducting a quasi-judicial hearing, that the modification advances the goals and purposes of this Ordinance and either results in less visual impact or more effective environmental or open space preservation, or relieves practical difficulties in developing a site. In determining if "practical difficulty" exists, the factors set forth in Section 3.20.5, "Approval Criteria" (for Variances) shall be considered. In granting a minor modification allowed under this section, the Town Council may require conditions that will secure substantially the objectives of the standard that is modified and that will substantially mitigate any potential adverse impact on the environment or on adjacent properties, including but not limited to additional landscaping or buffering. Section 7.10.3(B) of the LDO reads as follows: "The proposed public or private street system shall be designed to provide vehicular and pedestrian interconnections to facilitate internal and external traffic movements in the area. In addition to the specific connectivity requirements described above, roadway interconnections shall be provided during the initial phase of any development plan between the development site and its adjacent properties with one (1) roadway interconnection every one thousand two hundred fifty (1,250) to one thousand five hundred (1,500) linear feet for each direction (north, south, east, west) in which the subject property abuts. If the common property boundary in any direction is less than one thousand two hundred fifty (1,250) linear feet, the subject property will be required to provide an interconnection if it is determined by the Planning Director that the interconnection in that direction can best be accomplished through the subject property due to physical site constraints, such as topography, presence of stream buffers or other natural features, or lot dimensions; or due to presence of existing development or infrastructure, on the subject property or other properties in the area. When the Planning Director deems a vehicular connection not practicable due to topographical and/or environmental constraints, he/she may increase the length requirement and/or require pedestrian connections. The Planning Director may delay the interconnection if such interconnection requires state approval. The intent of this standard is to improve access/egress for Town neighborhoods, provide faster response time for emergency vehicles, and improve the vehicular and pedestrian connections between neighborhoods."

**Applicant’s Statement:** Applicant is unable to construct the full width road to the Town of Cary park property line at this time due to the presence of existing wetlands, stream buffers, impacts to a neighboring private property and the uncertainty of the design and scope of the park. The road has been stubbed far enough back from the property line to allow flexibility in the design of the future road extension once the park design has been refined and a proposed alignment has been selected. A 10-ft wide gravel drive is proposed to connect the road stub and the existing gravel drive to maintain the existing access easement to the park property (MB 1980 PG 464 & DB 12689 PG 2419).

**Staff Observations:** There is no approved master plan for the park property. Preliminary feasibility studies indicate that the primary access is most likely to be provided in the location of the current gravel access drive.
• There is an existing pond on the park site that is subject to state and local riparian buffer regulations. These buffers will impact the decision-making process regarding the final alignment of the access road into the park site.

• Shifting the access road to remain completely outside of the riparian buffers may require impacts to the adjacent residential property in the form of easement acquisition or purchase of a portion of the property.

• The ten-foot gravel access road proposed by the applicant maintains the same level of access to the site as currently available.

• A 200-foot, dead-end stub would provide easier access to a large, wooded tract that is not easily monitored. This raises security concerns from the school system and the Town’s emergency services.

3. The applicant requests to remove seven champion trees from the site:
   a. Tree 10: 34-inch sweetgum within building footprint
   b. Tree 12: 37-inch oak impacted by school RI/RO entrance
   c. Tree 13: 39-inch oak impacted by school RI/RO entrance
   d. Tree 14: 37-inch oak impacted by widening of Roberts Road
   e. Tree 15: 35-inch oak impacted by widening of Roberts Road
   f. Tree 17: 41.5-inch sweetgum impacted by development of stadium
   g. Tree 32: 39-inch oak impacted by private street access

Town Council should consider these modification requests pursuant to Section 3.19.1(C) of the LDO. Section 3.19.1(C)(2) of the LDO reads as follows: “The Town Council may initiate or approve a minor modification allowed under this section at any time before it takes action on a development application. The Town Council may approve the minor modification only if it finds, after conducting a quasi-judicial hearing, that the modification advances the goals and purposes of this Ordinance and either results in less visual impact or more effective environmental or open space preservation, or relieves practical difficulties in developing a site. In determining if "practical difficulty" exists, the factors set forth in Section 3.20.5, “Approval Criteria” (for Variances) shall be considered. In granting a minor modification allowed under this section, the Town Council may require conditions that will secure substantially the objectives of the standard that is modified and that will substantially mitigate any potential adverse impact on the environment or on adjacent properties, including but not limited to additional landscaping or buffering.”

Applicant’s Statement: Tree 10 - The proposed high school building requires the removal of this 34” sweet gum. The building is optimally located on the site to allow for the safe vehicular and pedestrian circulation while also providing the areas needed for the site athletic fields. Per table 7.2-3 ‘Replacement of Champion Trees’, twelve (12) 2-1/2” – 4” caliper replacement deciduous trees will be planted to offset the removal of this champion tree.

• Tree 12 – The proposed parent, staff and visitor entrance and exit drive requires the removal of this 37” willow oak. The location of the drive is set based on meeting the vertical and horizontal sight distance standards set forth by the Town of Cary and NCDOT. Per table 7.2-3 ‘Replacement of Champion Trees’, twelve (12) 2-1/2” – 4” caliper replacement deciduous trees will be planted to offset the removal of this champion tree.

• Tree 13 - The proposed parent, staff and visitor entrance and exit drive requires the removal of this 39” willow oak. The location of the drive is set based on meeting the vertical and horizontal sight distance standards set forth by the Town of Cary and NCDOT. Per table 7.2-3 ‘Replacement of Champion Trees’, twelve (12) 2-1/2” – 4” caliper replacement deciduous trees will be planted to offset the removal of this champion tree.

• Tree 14 – The proposed right turn lane on Roberts Road for the parent, staff and visitor entrance and exit drive requires the removal of this 37” willow oak. This turn
lane is required based on the findings and recommendations outlined in the traffic impact analysis which was approved by the Town of Cary and NCDOT. Per table 7.2-3 ‘Replacement of Champion Trees’, twelve (12) 2-1/2” – 4” caliper replacement deciduous trees will be planted to offset the removal of this champion tree.

- Tree 15 - The proposed right turn lane on Roberts Road for the parent, staff and visitor entrance and exit drive requires the removal of this 35” willow oak. This turn lane is required based on the findings and recommendations outlined in the traffic impact analysis which was approved by the Town of Cary and NCDOT. Per table 7.2-3 ‘Replacement of Champion Trees’, twelve (12) 2-1/2” – 4” caliper replacement deciduous trees will be planted to offset the removal of this champion tree.

- Tree 17 – The proposed track and field stadium requires the removal of this 41.5” sweet gum. The track and field stadium is optimally located on the site to allow for the safe vehicular and pedestrian circulation while also providing a visual buffer between the public road and the large student parking lot. Per table 7.2-3 ‘Replacement of Champion Trees’, twelve (12) 2-1/2” – 4” caliper replacement deciduous trees will be planted to offset the removal of this champion tree.

- Tree 32 – The grading for the student parking lot and Town park access drive impacted over 50 percent of the critical root zone of this 39” willow oak and thus required its removal. This drive is optimally located to provide a connection from Roberts Road and serve as a perimeter circulation route. The drive’s Roberts Road connection and alignment allows for six other champion trees to be protected. The width of this drive has been reduced to the greatest extent allowed by the Town of Cary LDO and NCDOT standards. Per table 7.2-3 ‘Replacement of Champion Trees’, twelve (12) 2-1/2” – 4” caliper replacement deciduous trees will be planted to offset the removal of this champion tree.

**Staff Observations:**

- Tree 10 is a 34-inch sweetgum in good condition. It is categorized as a Tier 2(iii) priority for retention on the site. It is located within the proposed building footprint. The Town’s regulations push the building towards the adjacent roadways, limiting opportunities to relocate the building, within the current regulatory framework, to save this tree. The grading for the building will lower the finished grade by approximately 15 feet in the tree’s location.

- Trees 12 and 13 are a 37-inch and a 39-inch willow oak, both in good condition. They are categorized as Tier 1(i) priority for retention on the site as a grouping of champion trees adjacent to a roadway.

- Trees 14 and 15 are a 37-inch and a 35-inch willow oak, both in good condition. They are categorized as Tier 1(i) priority for retention on the site as a grouping of champion trees adjacent to a roadway.

- Trees 12-15 are located in such close proximity to required infrastructure that almost the entire critical root zone of all four trees would be disturbed. Robert’s Road is an existing thoroughfare and it is not practical for the applicant to relocate the road corridor. The location of the staff/visitor entrance is influenced by design criteria established by the Town and the State. The applicant has proposed a right-turn lane into the staff/visitor entrance as a partial mitigation to traffic impacts generated by the site. Relocation or elimination of either the entrance or the right-turn lane is impractical given the amount of vehicular traffic expected and the design criteria impacting the layout of the circulation system.

- Tree 17 is a 41.5-inch sweetgum in fair to good condition. It is categorized as a Tier 2(iii) priority for retention on the site. It is located within the track footprint proposed within the stadium. The proposed finished grade for the track is approximately eight feet lower than the existing grade at this tree’s location.

- Tree 32 is a 39-inch willow oak in fair to good condition. It is categorized as a Tier 1(i) priority for retention on the site. It is located in close proximity to the proposed private street access to the site. Installation of the private street access will require disturbance to more than 50% of the tree’s critical root zone.
4. The applicant requests that Council permit reductions in the amount of masonry required on the building façades.

Town Council should consider this modification request pursuant to the applicability section of the Architectural component of the Community Appearance Manual, specifically the following language: “Civic and Institutional buildings (e.g. Schools, Churches, Libraries) are signature elements within the community. As such, they may intentionally be made exceptions to the more regulated patterns of private development. Appropriate designs for these buildings become even more important in representing and anchoring the community’s image. While Civic and Institutional buildings shall meet the facade principles that follow, exceptions may be provided when the specific design circumstance justifies the exception”

Applicant’s Statement: The upper stories of the four story classroom wing façade at the north of the building is primarily comprised of metal panels and glass in an effort to reduce the cost of the building to fit within the tight project budget constraints and to not take funds away from teaching spaces within the school. Adding masonry materials to the upper stories would require significant increases to the structural design of the classroom wing. The façade of the classroom wing that is comprised mostly of metal panels and glass faces the White Oak Creek where future development is prohibited. The building façades that face the public right-of-way and other internal public spaces are primarily comprised of masonry materials.

Staff Observations:
- The Architectural standards recognize the need for flexibility in the design of civic and institutional buildings, such as the proposed high school.
- The façade facing Roberts Road meets the required 75% masonry material. The applicant has requested a reduction of 5% (approximately 1,024 square feet) in the amount of masonry material on the façade facing Green Level Church Road.
- The use of lighter-weight materials on the upper stories of the structure allows the designers to program larger openings into the façade, allows larger windows in the proposed classroom wing.
- The two façades on which the largest increases are requested face the parking lot and the adjacent stream corridor, not adjacent roadways.

SUGGESTED MOTIONS FOR MODIFICATION REQUESTS

MOTION TO APPROVE ALL MODIFICATION REQUESTS: For the reasons discussed, I move that we APPROVE the modification requests made by the applicant, as the requests meet all of the approval criteria of the applicable sections of the LDO.

This approval is conditioned upon the following:
1. [insert any additional conditions necessary to bring the project into compliance with the LDO or other standards]

OR

MOTION TO APPROVE INDIVIDUAL MODIFICATION REQUESTS: For the reasons discussed, I move that we APPROVE modification request(s) number(s) __________ made by the applicant as the request(s) meet all the approval criteria of the applicable sections of the LDO.

This approval is conditioned upon the following:
1. [insert any conditions necessary to bring the project into compliance with the LDO or other standards]

OR
MOTION TO DENY ALL MODIFICATION REQUESTS: For the reasons discussed, I move that we DENY the modification requests made by the applicant, as they do not meet all of the approval criteria of the applicable sections of the LDO.

WORKSHEET 2

2. Does the plan adequately protect other property, or residential uses located on the same property, from the potential adverse effects of the proposed development?
   
   Applicant’s Statement: The plan proposes a high school which is an allowable use in the Town of Cary R40 zoning district. The adjacent properties are also zoned residential. The proposed school will benefit the neighbors and community because it will serve the rapid growth this part of Town and alleviate overcrowding in other area high schools.

   Staff Observations:
   • There will be no residential uses located on the property being developed.
   • The proposed plan complies with all of the buffers and streetscape requirements of the Town.
   • The building is located close to the intersection, resulting in more separation from the adjacent residential use to the east.

   TEST SATISFIED? __ YES __ NO

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

   Applicant’s Statement: Stream buffers and a conservation easement protect approximately 22.40 of the site’s 87.85 acres. Protecting this significant amount of land illustrates the compatibility with the site’s ‘Low-Density Residential (LDR)’ designation per the Town of Cary Southwest Area Plan. Additional streetscape and buffer plantings have been proposed to enhance the existing protected vegetation and reduce the visual impact from the road and adjacent properties.

   Staff Observations:
   • The proposed use is considered a supporting use to the surrounding residential community.
   • The proposed building is four stories in height and over 300,000 square feet in floor area, far exceeding the scale and bulk of the surrounding residential community.
   • The taller portions of the building are located farther from the roadways, reducing the visual massing of the structure as viewed off-site.
   • The majority of the parking on the site is centrally located on the property, shifting it away from adjacent residential uses and/or road rights-of-way.

   TEST SATISFIED? __ YES __ NO

4. Does the plan provide safe conditions for pedestrians or motorists and prevent a dangerous arrangement of pedestrian and vehicular ways?

   Applicant’s Statement: NCDOT – Municipal School Transportation Assistance (MSTA) has reviewed and approved the proposed on-site circulation as shown. This division of NCDOT is responsible for reviewing and approving the pedestrian and vehicular circulations on school sites across the state. A significant amount of sidewalks along with several raised crosswalks and pedestrian plazas have been proposed for the safety of pedestrians.

   Staff Observations:
• The proposed plan separates bus, parent/staff, and student traffic streams through the use of multiple driveways identified for specific uses.
• The plan complies with the LDO requirements for pedestrian access into and through the site.
• The plan complies with the Town’s standards and specifications for design of parking lots, drive aisles, and other vehicular travelways.
• The plan provides future access to adjacent un-developed and/or under-developed properties in the vicinity.

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

**Applicant’s Statement:** The plan provides safe and direct ingress and egress routes for emergency services. The proposed athletic fields all have paved routes for emergency vehicle access. The design team met with the Town Fire Marshal to confirm the proposed parking lot and road layout will accommodate the turning radius of their largest emergency vehicle. A significant amount of fire lane striping is proposed to restrict parking and allow a clear travel lane for emergency vehicles.

**Staff Observations:**
- The proposed plan is consistent with physical design standards for streets.
- The plan provides circulation around the majority of the building and to the various sports fields on the site.
- Parking is provided in close proximity to the building, providing options for Fire and Police staging in the case of an emergency.
- Access to the future park site would still be via a 10-foot gravel drive until the Town develops the site further. The Town would bear the cost of the additional extension of the road across the school property as proposed.

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

**Applicant’s Statement:** A Traffic Impact Analysis (TIA) was developed and approved by the Town of Cary and NCDOT. The TIA evaluated adjacent and remote intersections to determine if the proposed traffic associated with the school will be adversely affected. Eight off-site intersections will receive improvements consisting of the following:

1. **NC HWY 55 / High House Road**
   a. 300-ft westbound right turn lane on high house road
   b. Re-stripe westbound existing lane to be two through lanes
2. **NC HWY 55 / Old Jenks Road**
   a. 100-ft westbound right turn lane on Old Jenks Road
   b. 250-ft each eastbound dual left turn lanes on Jenks Road
   c. 200-ft eastbound right turn on Jenks Road
3. **Jenks Road/ Roberts Road**
   a. 50-ft westbound right turn lane on Jenks Road
   b. 400-ft eastbound left turn lane on Roberts Road
4. **Roberts Road/site driveway #1 (student/park entrance & exit)**
   a. 100-ft westbound right turn lane on Roberts Road
   b. 150-ft eastbound left turn lane on Roberts Road
5. **Roberts Road/site driveway #2 (parent/visitor/staff entrance & exit)**
   a. 100-ft westbound right turn lane on Roberts Road
b. 150-ft eastbound left turn lane on Roberts Road
6. Roberts Road / Green Level Church Road
   a. Traffic signal
   b. 175-ft westbound right turn lane on Roberts Road
   c. 150-ft northbound right turn lane on Green Level Church Road
   d. 325-ft southbound left turn lane on Green Level Church Road
7. Green Level Church Rd./site driveway #3 (bus/staff entrance & exit)
   a. 100-ft southbound left turn lane on Green Level Church Road
8. * Green Level Church Road / Green Level West Road: (*Improvement to be installed
   with development of the proposed WCPSS E-37 elementary school. If this
   improvement is not completed as scheduled, the high school contractor will be
   required to construct the improvements listed below.)
   a. 100-ft westbound left turn on Green Level West Road
   b. 100-ft eastbound right turn on Green Level West Road
   c. Install traffic signal

In addition to the off-site improvements, approximately 2,300 linear feet of vehicle staking
is provided on-site to avoid parents queuing on Roberts Road. The on-site traffic
management plan has been reviewed and approved by NCDOT MSTA and Town of Cary
Transportation Department.

Staff Observations:
- NCDOT has reviewed this list of mitigations and indicated that they are acceptable.
The final design of the improvements is still underway.

TEST SATISFIED? __ YES __ NO

SUGGESTED MOTIONS FOR SITE PLAN

MOTION TO APPROVE THE SITE PLAN: For the reasons discussed, I move that we APPROVE
the proposed site plan without condition (ALT: with conditions as stated below), as it meets all of
the approval criteria set forth in Section 3.9.2(l) of the LDO. (ALT: This approval is conditioned
upon the following):
1. The applicant must satisfactorily address any remaining Development Review
   Committee comments on the master plan set submitted for signature.
2. [insert any conditions necessary to bring the project into compliance with the LDO or
   other standards]

OR

MOTION TO DENY THE SITE PLAN: For the reasons discussed, I move that we DENY the
proposed site plan, as it does not meet all of the approval criteria set forth in Section 3.9.2(l) of
the LDO.

Weinbrecht: Our first quasi-judicial public hearing is a request to develop Green
Level High School. An overview of the hearing procedures and detailed rules are
attached to the printed agenda. All speakers who want to speak during this public
hearing must be administered an oath by Mrs. Johnson, who is on my right. We’ll
pause just a moment to allow those individuals who would like to speak at the
public hearing to approach Mrs. Johnson and receive their oaths. And I am going
to pause from saying anything until the oaths have been completed.
Weinbrecht: At this time I'll ask council member if they've had any site visits, ex-partite communication, financial relationship, specialized knowledge or close relationship to an affected person to disclose. Starting on my left, Mr. Yerha.

Yerha: I have not.

Weinbrecht: Ms. Bush.

Bush: No sir.

Weinbrecht: I have not. Mr. Smith.

Smith: I have not.

Weinbrecht: Ms. Robinson.

Robinson: I have not.

Adcock: No sir.

Weinbrecht: Okay very well. Based on the disclosures we’ve heard from council members, I’d invite anyone to the podium at this time who’s has been sworn in to speak if you have an objection to a council member’s participation in this hearing. Seeing no one I’ll continue. I'll open the quasi-judicial public hearing and Mr. Hales of our staff will introduce this hearing.

Hales: Thank you and good evening council. The first hearing on tonight’s agenda as you mentioned is the Green Level High School. It is a request by Wake County Public School System for development of a new high school on approximately 80 acres located at the intersection of Roberts Road and Green Level Church Road. The site is located in the Cary South West Area Plan. To the north of the site is Town of Cary owned property for the White Oak Greenway. To the northeast is Town of Cary owned property for a future park which the full development plan hasn’t been done for. There’s also a Residential 40 rural residential piece located mainly to the east between this site and the Manors at Green Level Crossing and then to the west and the south are typical rural residential and agricultural uses. The site is not located adjacent to any current or planned transit facilities; however, there is a future route plan slightly north of the site at the intersection of Green Level West Road and Green Level Church Road. The Parks, Recreational and Cultural Resources Facilities Master Plan does not identify any improvements on this site in particular; however, as I mentioned before the White Oak Creek Greenway corridor does run immediately to the north of the site and there’s a future park site to the northeast. There is a future Town of Cary trailhead area reserved for future Town of Cary trailhead on the school site itself adjacent to Green Level Church Road and as part of this development plan they will be extending a 10 foot street side trail from the
northern entrance, we’ll talk about later when we get to the site plan up to tie into the existing 10 foot street side trail where the bridge crosses White Oak Creek. The site is impacted slightly by stream buffers and floodways through our three tributaries of White Oak Creek. They run north south across the site and there are some flood areas, flood plains along the northern portion of the site and a conservation easement. Most of the stream buffers themselves are also contained in existing conservation easements on the site. The property is zoned Residential 40. Schools are a permitted use by right on residential parcels larger than 20 acres which this would qualify for. The site is wooded; the majority of it is mixed pine hardwood. There are some existing clearings where some agricultural activity has taken place in the past. There are several scattered residential and agricultural buildings on a couple knolls located closer to Roberts Road less so toward the northern end of the property. This is just the site looking in you could barely see an old tobacco barn located here in the corner. And then the site is fairly heavily wooded with pretty clear under storing. So the proposed site plan includes a new high school building shown here in the bright teal. That building is just shy of 321,000 square feet. Entrances are proposed off of Green Level Church Road. The northern most off Green Level Church Road is for serving the bus parking. There are two entrances proposed for this site off of Roberts Road. The western most of those is to serve staff and visitor parking, a small portion of it which is between the building and an intersection, and the larger bulk of it which is immediately to the east of the building, and then a second where easterly access off of Roberts Road accesses the future access for the park and accesses the student parking. There are four stormwater best management practices and they’re all constructive wetlands located on the northern half of the site, they are shown on this drawing in the darker blue. The perimeter buffers are being provided as required by the LDO. The only perimeter buffer that’s required outside of the streetscapes is a 40 foot type A buffer adjacent to those residential 40 tract and they are provided that as required. Streetscapes along both Roberts Road and Green Level Church Road are 30 foot and they have been provided as well. Architecturally speaking predominantly the building is a red brick and secondary materials are a metal horizontal siding, a small amount of decorative CNU at the base on one of the towers and then metal accents. As part of this site plan the applicant has requested several minor modifications the first being the location of parking between the building and the adjacent rights-of-way for the major intersection. Minor modification two deals with connectivity to adjacent parcels in particular the connectivity to the future park site the Town of Cary owns. Several 3a through 3g are removal and replacement of champion trees on the site that are impacted by site development. Minor modification number four is a modification to the architectural requirements in particular the materials requirement on the northern and the eastern façade of the building, we’re going into more detail on each of these. The LDO restricts parking being located between a building and adjacent rights-of-way for individual sites located at the intersections of thoroughfares or thoroughfares and collectors. The intent of that is to bring the buildings closer to the intersections, to frame it and eliminate the esthetic impact of parking located adjacent to the right-of-way. What the
applicant has proposed is to provide 108 parking spaces, roughly 13% of the total on the site between this building and the right-of-way. Second one deals with connectivity to the park property. The idea of providing connectivity is obviously providing access, in this case, to a land locked parcel, as well as, providing drivers’ options and pedestrians’ options to get to where they’re going. In this case the future park property has not got a master plan done yet, so there is some ambiguity or uncertainty into the ultimate alignment of that connection, so the applicant has proposed for that last 194 feet from their stub to the property line to provide access easements and construction easements, and to maintain a gravel driveway as is currently existing to provide access to that property until such time as the Town plans it and extends that in the future. Request for champion trees - they did a tree survey as part of the site plan as required by the LDO. That tree survey identified 14 trees in excess of 32 inches. Of those 14 trees they have preserved seven and propose to remove and replace seven. And finally, the materials requirement modification the LDO requires, the architectural standards require 75% of each façade of the building be made up of at least 75% high quality masonry material. The standards do allow exemptions for civic and institutional uses or allow council to approve a reduction of up to 25%. On the east and north, actually on the north they have provided 56%, on the east façade they’re proposing to provide 57%. That concludes staff presentation at this time and we will be following up after the staff and other speakers speak or after the applicant, other speakers speak and providing staffs’ opinion or professional direction at that time. Thank you.

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

Haywood: Good evening Mr. Mayor, my name is Kenneth Haywood. I am pleased to be before you and the members of the town council tonight on behalf of the Wake County Board of Education. We are here tonight to, as the applicant, to ask for our consideration and approval of the site plan which has been before you and Mr. Hales has started to present in terms of the staff report that follows the application that our agents CHL Design presented some time ago. Very briefly and then I’m going to introduce the various speakers that I do have with me tonight. As you’ve heard from Mr. Hales, who did a very good overview of the site, it’s an 87 acre site. This site was acquired by the Board of Education back in 2008, so they’ve had this site for some time. They needed the funding from the recent bond in order to be able to do the construction, now the bond successfully passed; we’ve got the monies to be able to start the construction for this high school in your town. We are excited about this, now having funding because I believe the last high school in Cary was Panther Creek in 2008, so it’s been a few years, so we’re excited to be back before you to be able to put a high school in your community to serve the students and the citizens in various different capacities. We do have a couple things that I’ll mention to you tonight, the school name is – been named as Green Level High School, so that’s what we’ll be
referring to today. The site because of various conservation and other easements there is about 25% of the site that's going to remain undisturbed and so while we have an 87 acres site a good portion of the site will be undisturbed and remain in its natural state. You've seen from the various slides that have been presented this particular site is unique in terms of when it was originally acquired because we do have a situation to where to our immediate east is the Town park site, to the north and to the northeast you see that Cary has remaining land that it owns and so, we're really surrounding this particular corridor with our neighbor the Town in terms of trying not to disturb any existing single family residences. We have a site where predominantly we're in conjunction with the Town in terms of your ownership of what the properties you already have. There is a single family residential subdivision to the east of the site which we'll be talking about. Between our site and that is about a six acre parcel that you'll see that's undeveloped at this point and time, but we do have a 40 foot buffer and in talking with our engineers my understanding is that a large majority of the mature trees, they're already on the site between us and the adjoining property will remain. We will supplement that to the extent that we need to in order to comply with the opaque buffer, but we are pleased when you look at the aerial of this and you see the amount of vegetation, the site will be able to maintain a good portion of that. With me tonight are many different people that I'd like to introduce and they're all here tonight basically to be able to assist you to the extent that there are any questions that you have or questions that come up during the public hearing that are raised by others in the audience that you want further information from, we brought them here so they can be a resource to you. Let me very briefly tell you who we have here and their capacity and then through tonight's presentation to the extent that you need to hear from them I will certainly call them up and make them available. We have Betty Parker who's here tonight Senior Director of Real Estate Services who is involved in the acquisition of this site back in 2008 and can certainly speak to the any questions regarding the site acquisition. Larry Sherrill, Facility Planner of the Wake County School Systems here tonight and can talk to you in that capacity. We have Zack Pierce who will be the first presenter after me who is the Principal with CLH Design, he is a Landscape Architect and his firm is the one that made the original application to the Town staff. We have Steve Hawley who is an Architect with Fanning Howey; Ken Loring who is a Civil Engineer with CLH Design; and finally we have Jeff Hockanodel who is a Transportation Engineer with CEPI Engineering who completed the transportation improvement analysis, shared that with staff and with DOT in terms of making sure that we are in compliance with what those agencies required of us. At this point and time, because I know you have a long agenda, I'm going to stop talking. I'm going to introduce Mr. Zack Pierce and ask if he could come down and give you an overview from the applicant's standpoint in terms of what we have presented, what we have asked for and then I will be available to shuffle people in and out as the Mayor or the Town Members may see fit to have additional testimony. I will recommend and say publically that the report that Kevin Hales and his staff did I believe it was an excellent staff report, is very thorough in terms of the information they put
together for you that is part of the record along with the various exhibits that they mentioned in terms of the application from the applicant and the other material in terms included the executive summary for the traffic engineer. As well all those items are part of the record, part of the staff report I request they’d be part of the record in terms of moving them, but I did want to mention the staff report is an excellent report. I don’t want to unnecessarily duplicate what’s already in there in terms of the record and what you’ve heard so that we could move things along.

Would Mr. Pierce please come down? That would be great. Thank you very much.

Pierce: Good evening. My name is Zack Pierce, landscape architect with CLH Design. Very excited to be here it's been a long time coming and we're seeking a site plan approval for the Green Level High School. This is a much needed high school in this part of the county. We’re seeing extensive and rapid growth in this part, a lot of roof tops going up, so we’re excited to have an opportunity to propose a high school. During the design process we have heard some concerns from the neighbors and we are very sympathetic of a high school going in to some of the folks who are adjacent to the site. Some of their concerns were traffic on the roads and some of the stadium proximity, having a high school stadium close to their house. Some of the traffic improvements we provided more on site stacking that is required by NCDOT. We have also implemented all of the recommended off site roadway improvements that were made by NCDOT and the Town of Cary. The stadium proximity to the homes – the stadium is sized to hold soccer and football and really in this county and state, even across the United States really a lot of communities around high schools do take ownership and they have a lot of pride and behind these high schools, so there really is community based program element on a site. And out of the 20 high schools in Wake County Schools, 14 of them have adjacent residential development that was built during or after the high schools, so high school’s coming in is not a deterrent for residential development. Football there’s usually seven to eight home games in a year which usually end around 10:30 at night. Out of those 14 to 20 high schools the fields were averaged at 600 feet from the middle of the stadium to the residential areas. To put in perspective, the stadium here to the Manors at Green Level Crossing is 900 feet; Cary High School is about 370 feet, so trying to put that into perspective to why we have situate the field. Also, having the athletics combined up on the street helps protect the view from the public road by buffering a large visual impact of the parking spaces. We feel that does accomplish a couple of the tasks. Also with the two, address the residential growth, I mean the Town of Apex jurisdiction is west of Green Level Church Road and south of Roberts Road. There are four approved residential subdivisions in that adjacent area with 882 dwelling units. It’s common, residential is common. Also with that we worked very closely with NCDOT MSTA which is the Municipal School Transportation Assistant Group, they’re responsible for insuring safe vehicular and pedestrian movement on site and here we have provided three drive entrances. Like Kevin said, the bus drive off of Green Level Church, the parent drive off of Roberts and the student entrance.
Very important to split these three types of drivers for safety reasons. The NCDOT recommends approximately 1,300 linear feet of stacking for parents, we have provided 2,300. We really don’t want any parents backing up into the road. There’s a long drive coming in for the student lot to here again getting people off of the road and the school buses as well. We are excited to connect to the beautiful White Oak Greenway to the north like with what Kevin said with the multi use path. It’s very exciting to have another option to get to the school. And also was mentioned approximately 25 acres of the site is protected within conservation easement and the stream buffers to the north. We also did explore as a part of the layout a three story classroom building layout; see how it fits in the site. In order to move towards more of an efficient layout and protect some of those areas we went with a four story classroom wing. It really helped us be a little more compact with our design. This concludes my presentation. Again I do like to say again that the staff report was very comprehensive and I appreciate the efforts on that. Be happy to answer any questions.

Haywood: Mr. Pierce, if you could just back up one minute if you could give your name and business address for the record please.


Haywood: Mr. Pierce in connection with your working with the Town of Cary staff on this project is it your understanding that other than the minor modifications, which I am going to speak to in a moment, that the site plan which has been submitted to the Town of Cary meets the existing Town of Cary ordinances and is in compliance with the Town of Cary ordinances other than the minor modifications that we have asked for tonight?

Pierce: Yes sir.

Haywood: And with regards to the minor modification staff has overviewed them but in terms of this very quickly, with regarding those, one has to deal with the road that he was talking with between that is not a full connector road to the Town Park. Could you just very quickly emphasize the thought process behind not actually making that a full asphalt road to the adjoining property?

Pierce: Absolutely. There is an existing pond here that was breach, there’s also an existing beautiful pond here on the park property that has environmental buffers that we do need to be sensitive to and also a private land owner to the east. The development of the park is also - the park property does expand all the way here and at the time not knowing the program and layout of that park we wanted to allow flexibility in the future for however that alignment of that drive needs to occur. The stream and wetlands extend all the way to the property line all along here, so there will be a crossing; however, we wanted to allow flexibility in the future and to protect the adjacent land owner.
Haywood: So that is one of the minor modifications that you have request on behalf of the Wake County School System and Board of Education tonight?

Pierce: Yes sir.

Haywood: And the second modification has to deal with parking between building adjacent right-of-ways. If you could just explain to the Town Council in terms of what you have done in terms of location and parking to comply with the LDO and then in terms of this minor modification where that is and the reasoning behind that, please.

Pierce: Sure. The main entrance, like I said, is interior to the site. It allows for that long linear stacking of parents and to avoid large masses of parking lots. We do split up the parking over here to abide by the LDO. We were exploring options to break up the parking and to have it less impacts on the site. We did provide staff parking over here. There are entrances into the door which will be close to other staff facilities inside the building. This also provides emergency access and fire lane to that part of the building which is very important. It’s a very large building, so we wanted to provide enough emergency access around the building.

Haywood: The third is regarding what we refer to as champion trees under the LDO in terms of requirement to preserve those. I believe that there were 14 that were originally identified. Is that correct?

Pierce: Yes.

Haywood: And out of the 14 I believe there was a certain number of those that were – did the school system employ arborist?

Pierce: Yes.

Haywood: And so the arborist went out to the site and did the arborist then identify trees that were healthy versus those that were decaying?

Pierce: Correct. The arborist provided the size of the trees, the type of the trees, whether it’s oaks, maples, hardwoods or pines and gave the size. And also gave a status of the health of the trees.

Haywood: So out of the 14 how many of those were determined to be unhealthy or decaying?

Pierce: Seven of 14, so we have protected seven of the other remaining champion trees.

Haywood: Alright and is – there was a slide . . . .
Pierce: Excuse me. I misspoke. We have removed seven of the other champion trees. The other seven of the 14 were deemed that they can be removed from the report, from their requirement.

Haywood: And in terms of – have you – when you looked at those champion trees and you looked at the facilities including a football field on here were you sensitive to try to make your site plan – it said that you would disturb the fewer amount of champion trees as possible.

Pierce: Absolutely. We have been very compact on this site. We have tried to minimize our impact knowing that with all the stream buffers and conservation easements, we have been very compact and efficient with our site. We also have protected some existing large trees east of the student entry drive and we also have protected existing trees.

Haywood: Finally, regarding the percentage of masonry the building façades, there is a requirement in the LDO that the Town Council has with regarding the amount of masonry and its connection between the building and the right-of-ways in terms of your particular request, in terms of it being less than the 75% we heard before. If you could just sort of make sure the Town Council is aware of what portion of the building is that you have asked for the modification on so they could understand that in connection with street right-of-ways.

Pierce: And for that I would like to bring up the Architect Steve Hawley, thank you, who is the architect director for the building.

Haywood: Mr. Hawley if you could just identify your name and who you’re employed with and any particular professional designations you may have.

Hawley: I’m Steve Hawley, Fanning Howey Architects. I’m a licensed architect and a lead accredited professional and I have an office in Morrisville, 2500 Gateway Center Blvd.

Haywood: Mr. Pierce and I have discussed with regarding the façades of the building in terms of masonry and then modification we have asked for in terms of it being less than 75%. If you could, orient the Town Council in terms of where the modification is on the building that you have requested in connection with any street right-of-ways.

Hawley: That I can do. Predominantly we have a single story building which is over on this side. This is the side closest to Roberts Road and Green Level Church Road. As the site drops down towards White Oak Creek the building drops one floor and that’s for the four story element comes in. That’s this piece right here. The reasoning for the lack of masonry on the back, this is the side that faces the creek here. This is light weight metal panels when we went from three
stories to four stories we were faced with an increased structural cost to carry the weight of the brick, so we went to the lighter weight panel which also allowed us to increase the size of the windows into the classrooms for day lighting. It also allowed us to decrease the overall site footprints where we were able to conserve more of the open space. That was primarily the elevation that faces to the north. The other two elevations that face the public roads are within the requirements of the LDO.

Pierce: Thank you very much.

Haywood: Mr. Pierce anything else you want to add?

Pierce: No. Thank you very much. Appreciate it.

Haywood: Like I said that concludes the formal presentation of what we have in terms of that. We do believe that there is a volume that carry within the reports in terms of justifications for the various modifications that we're asking for be given the fact that the site plan does comply acceptance with the LDO. We have requested approval for that. I believe that Mr. Hales is going to sort of walk through the formal portion of how you have to approve the various portions of this. Regarding the minor modifications we do believe there are sufficient justifications for each of the modifications that we have asked for on the various issues that we just covered with Mr. Pierce and we therefore request your consideration, your approval for each of those modifications for the reasons that were given. And that ultimately that you approve the site plan that is before you so that we could move forward towards the construction and housing some students. Thank you very much.

Weinbrecht: Thank you. And at this time I would invite other speakers who have been sworn in and wish to speak in support of this application to approach the podium one at a time. Anyone else to speak in support, seeing no one I’ll continue and invite cross examinations of any witnesses who have testified in support. Seeing no one I’ll continue and open it up to those who are opposed to this request and ask you to approach the podium one at a time. Seeing no one I’ll call on the staff for any additional... I’m sorry.

Smith: He is walking out, never mind.

Weinbrecht: I’ll call on staff for any additional testimony they wish to add. Mr. Hales.

Hales: Thank you again. I’ll now go into a little more details and some of staff’s observations on the requested minor modifications. And the first being the parking located between the building and the intersection. As I mentioned before the applicants indicated that they have requested 108 parking spaces be located between the building and the adjacent rights-of-way for Roberts Road and Green
Level Church. That count includes all of the parking from this entrance all the way up until you get to the entrance drive and all the parking ends. Just want to point out that 22 of those parking spaces are located in between the building and Roberts Road and the LDO actually has an allowance for parking to be located between the building and the road when the finished floor elevation of the building is located 10 feet or more below the road elevation. That was to take into account situations like Stone Creek Village where the parking lot is significantly below the existing road grade and so the esthetic impacts are already mitigated. In this case there are 22 parking spaces located adjacent to the Roberts Road right-of-way. The finished floor elevation of the building is located 10 plus feet below the adjacent road elevations and therefore those 22 spaces aren’t really a requested modification. So the actual modification is only to keep the 86 parking spaces located to the east of the building between there and Green Level Church Road which represents approximately 10% of the total parking on the site. The reason that’s still a requested minor modification is the fact that that building sits above the road in that location, and so the way the ordinance is written it’s 10 feet below, not ten feet above, so there’s nine feet of rise between the adjacent right-of-way and the building where that arrow is drawn. A little bit more about the parking and some thoughts about why that parking may be appropriate where it’s located. The applicant’s team did talk a little bit about the dispersal of the parking and breaking up the different users of the parking as well as breaking up just the mass of the parking so you were not surrounded by a very large field of parking in front of the building or behind the building. If you think about Green Hope High School, there’s very large parking lots all to one side and it’s just a very massive amount of asphalt in one place. Something else to consider is this is located in the South West Area Plan. One of the intents of that plan was to maintain some of the rural character and nature of the south western portion of Cary. By allowing that parking to stay between the building and adjacent rights-of-way it forces the building slightly farther away from the intersection. Given the surrounding development which is typically one or two story residential development a three to four story institutional use could look very out of place especially if it’s brought very close to the right-of-way. So therefore, that parking being there allows them to meet their parking demand and pushes that building a little bit farther away from the roads to reduce that visual scale from the adjacent vehicular users. Applicant’s team also mentioned briefly it allows an additional area for emergency service staging. In the event of an emergency it gives them options as to where they want to stage and respond to whatever that emergency may be whether it’d be on the east side, west side or north side of the building. It just gives them more options. Moving now into the connectivity to the adjacent park property as mentioned before there is no master plan that’s been approved for that park so there’s a little bit of uncertainty about the programming, how that’s all going to work in the ultimate condition. As the applicant’s team mentioned there are some environmental considerations. The inner blue line on this drawing is about the water’s edge, so there’s roughly 100 foot buffer and it includes some of this wetlands. A little bit of a stream corridor over there at the head of that pond. That stream buffer does impact where that connection is.
ultimately going to be made. Depending on what happens with the pond, if it gets drained that buffer may shrink. If it doesn’t they may need to shift that road slightly to the southeast which could impact this adjacent property. Given the fact, there’s a lot of uncertainty like I said, it made sense maybe to consider an easement for future construction once the Town gets a little farther down the road with that planning for the park. In addition, there were some security concerns both from the Town and the school system in regards to having 200 plus feet of dead end asphalt providing access to a pretty much inaccessible otherwise portion of the property right next to a high school - we were all high school students at one time. You know what kind of trouble they can get in. Moving into the trees. As the applicant mentioned there were 14 trees, they were identified all 14 as were healthy. I already took the ones the arborist deemed in poor or dead out of that number. There are 14 healthy champion trees on the site of which they have proposed to remove seven. The first five of those are fairly clear cut cases. Tree number 10 which is the first is located in the building footprint itself. We already talked about the grade difference between Roberts Road and the building, so that grade is approximately 15 feet below existing grade now. Obviously that would make it very difficult to preserve that tree and still be able to get the building footprint to work the way the school system needs to. And then trees 12 through 15 are located adjacent to either the Roberts Road widening. There’s a right turn lane required per the traffic study to get into that drive; 14-15 are impacted by that right turn lane and then 12 and 13 are impacted by the actual installation of the drive itself and again having the break grade going down from Roberts Road down 15 feet to get into the site. There’s a lot of grading on their shoulders and that’s why those are being removed. The other two champion trees proposed for removal, tree 17 is located in the middle of the proposed stadium track. Obviously large multi-purpose stadiums like this require a large amount of flat surface, and so again the grade here is being lowered approximately eight feet below the existing grade making that tree really infeasible to be saved. And again, trying to get the road into the site and provide access to the future park site as well as student parking. Tree 32 is located a little bit further off the shoulder, but again there’s a lot of grade they have had to make up in putting that entrance in. And the applicant did mention, and I’ll point out there is a large grove of fairly large champion trees here and I can go back to the earlier picture. You can see the yellow trees, which are the champion trees, being saved in this area. It’s just that one tree that was so close to the road it was impacting approximately 50% of the critical root zone. In the long run that’s probably less likely candidate for survival on the site. I won’t reiterate too much, but again the architect spoke about how using non-masonry materials on the upper stories allow them to employ larger openings and getting more day lighting into the classrooms, so that’s their proposal in regards to reduction of masonry on the northern façade which is the one that faces the White Oak Creek corridor. It’s predominately classrooms as you can see here the areas with the metal panels are using much larger windows in those classrooms than the areas in the center of which are the brick structure. Similarly the eastern façade, this one faces the parking lot, the visitor and staff parking and then student parking.
beyond it. A little less classroom day lighting involved here. There are larger curtain wall systems in regards to the front entrances in some of the connections between the classroom wing and the other portion of the building. This is just a summary of all the minor modifications that are being requested and I think we just went over them so I’m not going to reiterate them again. I will refer you to the worksheets in the staff report which include the various individual approval criteria for each minor modification because each one does have a little different approval criteria and those are outlined fairly well in the staff report. That concludes staffs presentation. At this point, I’ll turn it over to council for deliberation. Thank you.

Weinbrecht: Thank you. At this time I’d invite cross examination of Mr. Hales if you’d so like. Seeing no – I’ll ask if anyone sworn in has any objections to the competency of the evidence through testimony. No. Does either party believe new evidence has been presented that warrants a continuance of this hearing? No. Alright, now is the time for the deliberative phase of the hearing and I’ll open it up to council members for comments or questions.

Robinson: You go first, I’ll go second.

Bush: Okay. I have a question with regards to the conservation district and how it might impact this sight. You mentioned there’s many trees that are being saved, a lot of land is being undisturbed. Also conservation sites say to me swales and not gutter and those type of things. I don’t know if that’s relevant for this discussion, but just the idea of conservation site. I am wondering what’s different about this particular site.

Hales: Just a clarification, are you talking about the conservation easements which were mentioned several times?

Bush: A little bit of both.

Hales: The conservation easements are located predominantly at the north end of the site adjacent to the White Oak Creek corridor. There’s a lot of flood plain there, there’s a lot of stream buffer corridors and all that was – there are two conservation easements, one on which is the Town’s, one on which is the State of North Carolina’s that encompass that 25 acres or whatever they were saying. There are some encroachments as you saw in the staff report in regards to making of a required sewer connection, this long arm, the sewer, the sewer outfall that is required to cross that conservation easement to get the sewer on the other side of the creek as well as the road widening along Green Level Church Road and where the stormwater impact here there’s a little bit of encroachment in both the Town and the State’s conservation easement there. In regards to it being in the South West Area Plan, it would normally be in the conservation residential overlay district. Because it’s institutional there’s no additional bonus open space or anything else they have to give up for density.
They are proposing curbing gutter on all the streets, all sidewalks, so it’ll be a traditional street section with pedestrian accommodations and everything else.

Robinson: Okay. That was actually one of my questions. So I’m glad to hear that. We’ve had a lot of feedback from residents that they like the curbing gutter and the sidewalk. That’s really good. You know, after Green Hope High School was built and after Panther Creek was built, we’ve been receiving a lot of feedback about the safety of the roads near there and it sounds like there’s been a lot of attention for stacking. Trying to make sure that this roadway will address the increased driving that parents are doing of their students. I’m wondering if anything has been done regarding safety at these intersections, in particular Roberts Road with Green Level Church and then also the entrances into the school itself.

Hales: Alright. I’ll start by letting the applicant’s team – they have a traffic engineer and they can speak to that and then we’ll follow up if there’s any additional information.

Robinson: Okay.

Haywood: At this time I would like to introduce Hockanodel who will identify himself as I mentioned earlier the traffic engineer with CEPI Engineering who performed the traffic impact analysis. And shared with staff and with NCDOT, and so he can address any specific questions in terms of intersections and let you know exactly what the improvements are that they’ve agreed with DOT today. Hockanodel, if you could just briefly share with us.

Hockanodel: My name is Jeff Hockanodel, I work for CEPI Engineering. I’m CEPI Engineering’s Traffic Engineering Department Manager. Address is 1025 Wade Avenue, Raleigh, North Carolina, 27605. I am a Professional Engineer in North Carolina, South Carolina, Virginia, and Georgia. We did the traffic impact study for this project. It was reviewed and approved by both the Town of Cary as well as NCDOT. It was also looked at by Town of Apex as well as congestion management section within the NCDOT and MSTA section within the NCDOT. In regards to your question about safety concerns along Roberts Road and I’m assuming also on Green Level Church Road and site driveways, yes we did – we are providing left turn storage on Roberts Road as well as a right turn deceleration lane going into both site driveways and on Green Level Church Road it’s a bus driveway - we are not showing any driveways on that, it’s a lower number of buses, the volume of vehicles that are going into the first two site driveways. At the intersection of Green Level Church and Roberts Road we are proposing to signalize that intersection. We are also proposing to add a north bound right turn lane, a south bound left turn lane, and a west bound right turn lane at that intersection. We actually looked at a round-a-bout; we did an analysis of a round-a-bout that intersection. The traffic volumes were too great in a round-a-bout during am peak hour and that would cause that round-a-bout to operate.
over capacity and a round-a-bout over capacity tends to cue in all different directions pretty extreme. When it fails, it fails and kind of bad. We recommend an intersection signalization there as well as several other intersection improvements if you’d like me to go into... I’d be happy to.

Robinson: Okay. What about going into the student driveway off of Roberts Road? That left hand movement is so hard for kids and it looks like based on that angle there – is it – now I have to go back to the previous map. Is it a right angle in that road or is it actually kind of like a little hair pin?

Hockanodel: Yes. I think that was a schematic drawing.

Robinson: Yes. I get it.

Hockanodel: It’s a little bit, yes. It’s a little bit.

Hales: Your T’s in a 90 degree angle.

Robinson: I see that.

Hockanodel: Yes.

Robinson: Is there – do you foresee that there’ll be complications in the future, safety complications in the future with the high volume of students making that left hand turn in there.

Hockanodel: Actually because the onsite storage and stacking I do not. I believe that they provided a large enough or a long enough distance before turning into the parking lot that would allow students to drive in and park their vehicles while queuing on campus and not spilling back out onto Roberts Road.

Robinson: Okay. Okay.

Hockanodel: And again this site was reviewed by MSTA and we’ve had several meetings with them and we reviewed comments such as that or discussion. We had discussions such as that.

Robinson: Okay. Okay. That’s good to hear. Thank you. I appreciate it. My other questions have to do with the metal panels on the back of the building. I’m not sure what this is going to look like. It’s really hard to conceive what this is going to look like and I’m a little confused because I’ve been to so many places, institutional buildings that have large windows with a brick façade. I’m wondering why a brick façade isn’t working here. I mean I understand you know if it could save you a little, but inches across a large building when you say metal panels versus the brick as far as it being environmentally friendly, but I don’t understand why we can’t have brick there.
Hawley: Well this was really driven by an economic decision at the beginning. When we had our three-story building the height of the wall was such that a brick actually is carried on the foundations of the building. The minute we went to four-story buildings we had to carry the weight of the brick on the steel frame, so we had to increase structural beam sizes and depths, wind bracing, the steel studs behind it. Everything went up. It was quite a bit of money, so the decision was made to go to – now these are architectural metal panels. They're good looking panels. They're light weight so we were able to take $200,000 of structural steel out of the job. And then the added benefit was when we got to make the windows a little bit bigger in each of the classrooms. So there was a little bit of a win on that side too.

Robinson: But why is that with the relationship between the brick and the window size?

Hawley: Well, the ability to carry the brick is a function of the width of the openings. The wider the opening in brick, the more steel is required to carry that. Metal panels are light weight.

Robinson: Okay. So it’s really a nature of saving the steel. It’s kind of tough because you want the schools to look attractive and there are a lot of schools across the country that look sterile, you know. And you want the students to feel proud when they come back to that school and find it to be attractive and I just – I can’t foresee how these metal panels are going to look. Like I don’t know if you brought photographs of them or anything like that, but I am very concerned about allowing a building to go up that maybe looks too institutional and not so attractive that people are really proud to have it be their high school. And I know that seems kind of like a squishy concept, but that’s what I’m struggling with. I kind of don’t want that responsibility of going for something that’s unattractive.

Haywood: If I may add. I want to make sure that we’re also clear in terms of the orientation that this is the portion of the building facing the creek.

Robinson: Yes.

Haywood: And that part of the building. Also in terms of looking at this if you deleted it there’s also, and I’ll let you address this, is whether it looks too institutional. It looks not like a school more like an institutional use that you would consider and part of a governmental complex because all you have is the deletion of windows and then you just have large open spaces worth of uninterrupted material. Is that true, Mr. . . .

Hawley: I think so and I think as an architect we generally consider metal panels to be a nicer esthetic material than common brick. So for us it was easy to make this suggestion and recommendation. They should be very handsome panels.
They're not shiny, they're a matte finish. They have a finish life that's very close to that brick. The fasteners are all concealed; it's got a ring screen fastening system, so it is very economical and very efficient in terms of the exterior envelope. And there is – it's a nice system and you know it's about the same cost – maybe a little bit less than the face brick, and then we talked about the cost of the extra steel. For us it was kind of a win-win. I think you want to get in esthetics of it this is an interesting area of town. It's rural. The façades that face the streets are masonry. I think that the principal view of the building should be satisfactory from that regard. This is a side of the building that no one is really going to see facing the creek. Just from that view point that you have expressed.

Robinson: Yes. I'm not sure. I'm not sure if I 100% agree because students are going to be all over this campus. So I think the boom will be seen from every angle and of course it's rural right now, but that'll be for the next 17 minutes and then they'll be 500 homes by the time we leave here. That's temporary. Do you have any examples you can share with us from this area – buildings that we might be familiar with that have these metal panels?

Hawley: Well I can point to Mills Park Middle School.

Robinson: Okay.

Hawley: Which has metal panels on the upper floor.

Robinson: Okay.

Hawley: Now those are a little bit different orientation than that the texture of the panels is vertical. These are horizontal.

Robinson: Okay.

Hawley: But that would be . . .

Weinbrecht: We can give you the url if you want.

Adcock: Well you just spent a whole lot of time at Mills Park.

Bush: I got it. I was just thinking that. That Mills Park has that.

Weinbrecht: We've got it up at millsparkms@. . .

Robinson: Yes, I'm looking at it.

Weinbrecht: Okay.

Bush: wcpss.net.
Robinson: So is that the metal panels that are below the windows? Are those metal panels?

Hawley: Are you looking at our façade?

Weinbrecht and Adcock: She’s asking about Mills Park.

Bush: She was comparing Mills Park to . . .

Robinson: I’m trying to look at Mills Park Middle to kind of get an idea.

Hawley: Okay, so yes. I think there are metal panels below the windows. I think the metal panels . . .

Robinson: And you’re saying they’re vertical in ours. The ones on this high school would be horizontal?

Hawley: The joints on our building are going to be horizontal. You could see the joints in those metal panels are vertical.

Robinson: We can’t really see that on here and I don’t even know if I’m looking at the right thing.

Hawley: It’s very subtle.

Robinson: Yes. It’s hard to see.

Bush: May I piggyback on that for a second?

Robinson: Yes.

Bush: Do you happen to know if the percentage of metal used with Mills Park is still within, may have to refer to staff, if it was within that 75% because it looks like quite a bit of metal, so I’m wondering. I’m trying to get a feel to what is 57% look like.

Hales: I don’t know if Steve can speak to that. I’m not aware of what the percentage is.

Bush: Understood.

Hawley: And I guess the other way to maybe think about this is that overall our all façades combined were at 65%. Two of which were 75% or more.
Bush: So it's just 57% on that one section that is four-story that is facing the east?

Hawley: This façade that you're looking at. Yes.

Hales: Clarification, it's 56 on this side and 57 on the east side, but overall he saying that . . .

Hawley: Can we look at the east side?

Hales: Yes.

Hawley: Okay. The other thing that we did on this elevation is that this is the entry here, so it's more glass, it's a little more open, it's a little more inviting. We did that intentionally to make sure you understood where the entrance to the building was. And this piece right up here is the media center, so that's up on the second floor. It has a lot of glass too. It'll be kind of a lantern I guess if you will. And that has some metal panels around it too.

Robinson: What is the red? Why is it red in the illustration?

Hawley: That is not the color of the glass. It's I think a shading to indicate our . . .

Hale: This is actually the transparency overlay. This was just a good example of showing the materials calculations. The red is the second story transparency requirement which is a lesser requirement than the blue which is the first story transparency requirement.

Hawley: And that blue glass is not going to blue either.

Robinson: Okay.

Adcock: I'll just say I don't have concerns about the use of the metal because at the end of the day it is an institution, you know. I think it could – particularly where you're putting it to the back and the fact that you'll have more natural light. You know as a nurse I know these kids and all of us need more natural light and that's better for every aspect of their lives. I like that idea.

Haywood: Let me all say – to assist with this, Larry Sherrill who is with Wake County School Systems Facility Planner, he is aware, the Department of Public Construction has certain minimum requirements regarding daylight in classrooms. I just want to make sure that he presents that information to all of you.

Sherrill: Yes. I'm Larry Sherrill. I'm an architect and facility planner with Wake County Schools. The idea of daylight in a classroom is very important and we try
to take advantage of that every time we can. It saves energy in a way you have the natural light instead of artificial light. But there are also a lot of documented cases of student improvement, student achievement being higher in rooms that are more day lit. So we work real hard to try to get that and in this case we were able to do it because as Mr. Hawley talked about reducing the steel we were able to get the bigger windows there than we might have been able to have if we had used brick. It’s really important from an academic point of view.

Robinson: Yes. I get the value of the bigger windows and my thought is really it’s not about having smaller windows or bigger windows it’s about the cost of steel. That’s what it comes down to. And if it was really a high priority for the school system to have well lit buildings it would pay for the steel if they were going to have the masonry. I don’t think that you’d actually narrow down the windows and then have the increase fuel cost for - I mean this building is going to be for many years. How long do you build a building for, I mean, do you anticipate 80 years?

Sherrill: I think we usually think of 40 or 50 years as being the minimum life time, but in reality we’re going to have these schools until you know. Forever as far as we know.

Robinson: Okay.

Sherrill: When they get – in 40 or 50 years when they need maintenance we’ll fix them up and keep them. It’s not like we are going to sell them.

Robinson: Right. And that’s – I mean – for me personally, I don’t know how I feel about the metal panels. It may look good today, it might be some of these things like – I don’t know – dome architecture from the 60’s where you know later on it looked like that was a 60’s building kind of thing. I don’t know I just, to me the brick is kind of a classic look. I want our high schools to look extremely attractive even though it is an institution, it’s a place that you want kids to feel good about and proud about. I don’t need to try to persuade anybody in the council, I just personally would rather see that it go masonry. I’d rather have that cost put into it knowing that it’s going to be a building that would be for at least 50 years or more. I would anticipate more. That’s just my personal thought on the matter.

Sherrill: Well I share your feeling about it’s important to have a school that the kids can be proud of and the staff and the faculty and the community is proud of and personally I don’t find metal panels, the kind of metal panels we have talked about as being detractive to the appearance of the building.

Robinson: Yes. Well that’s good because it looks like it’ll probably go that way.

Weinbrecht: Other questions, comments? Mr. Yerha.
Yerha: Just a couple. Going back to the encroachment into the conservation easement. Is it correct that when one encroaches into the easement one needs approval from the agencies that are in charge of that easement?

Hales: Lisa, do you want to speak to that? There was some discussion and it changed at the last minute that’s why I want to – speak out of term.

Yerha: Because I’m hoping if that’s the case we’re going to be protected.

Glover: Yes and we have looked at the – we’ve got to look at the exact documents in terms of the easements to see what’s required. In terms of what kind of permission we may need or if there is an abandonment of a portion of an easement that may need to happen. We had a discussion about which comes first. Do we deal with the easements before they get their site plan approval or do we see if the site plan is going to be approved and then deal with the easement issues and we decided to bring the site plan before you first and then at a later time we’ll figure out exactly what the school system has to do to get approval for what they need in terms of the easements.

Haywood: We do have - Betty Parker is here that I think has some information that can assist in regards to your particular question.

Parker: Hi. Betty Parker, Real Estate Services, Senior Director Wake County Public School System. We’ve been working closely with not only the Town staff, but the Clean Water Management Trust Fund. From my understanding is that we have already shared with them the route of our sewer lines and that’s been approved by Clean Water Management Trust Fund for this particular encroachment. No additional mapping is needed at this time, but when we do map our sewer lines that will go through the ordinary approval processes with the Town of Cary. We’ve already achieved the understanding with all involved that are necessary, so we do have those approvals.

Yerha: That’s excellent information. Thank you Ms. Parker.

Parker: Yes sir. Thank you.

Yerha: And the other minor question would be a minor modification – I’m asking a minor question. You also mentioned you’d be disappointed if I didn’t mention this I guess. The scattered farm buildings that are on the site, has anyone checked into the condition of those. I mean, is any of them a residence, any historic value or any disposition of them.

Parker: Yes sir, we’ve looked into that. There’s one residence that has some historic significance, but early in the process we worked together with the historic commission prior to bringing an earlier phase of this and they decided that there’s not sufficient value to warrant keeping it. It’s the only building that’s
occupied. Mr. Anderson lives in the building that’s roughly where the bottom left corner of the school building is going to be located. There are some old dilapidated tobacco barns and an old house that was the previous Anderson family residence that are in poor repair. I don’t anticipate usability of any of those and the Anderson residence is the only one that’s currently occupied. There was one on the southeastern most tract, it was a newer house, had some asbestos issues that we’ve long remediated and removed as well as some environmental issues with underground storage tank leakage. That’s all been removed and addressed, so we’re down to just the Anderson residence.

Yerha: And there are no particular plans for that right now other than eventually.

Parker: That’s true. It will eventually be raised. It’s part of our contract with the Andersons. We gave the family the opportunity to move the house offsite if they chose. They own some other tracts in the area and that was something they were interested early on, but later through the process they’ve chosen not to do that, so it will eventually be razed.

Yerha: Thank you very much.

Parker: Yes sir.

Weinbrecht: Other concerns or questions?

Robinson: Just going to take one moment to just mention one thing that’s actually not site plan related, but since you have school folks here I just thought I’d mention it. I’ve heard several citizens comment about the name that was selected Green Level with Green Hope High School being so close people are kind of the impression that maybe it’s too redundant in its naming. And a lot of people have asked why we didn’t name it White Oak High School since the White Oak – you know – creek is right there and if anybody wants to like pass that along that there’s some consternation about that.

Parker: I appreciate that. It’s interesting to know that that was one of the choices provided to the school board. The school board considered a range of choices and decided on Green Level because the connection to the Green Level community I think. My recollection is there was some concern on the part of the Board of Education that White Oak is a shopping center in Garner and they were concerned that by naming it White Oak there would be some county wide confusion as to its location. But that decision was the boards and I’ll certainly relay your concern.

Robinson: That’d be cool. Thanks.

Parker: Yes ma’am.
Weinbrecht: Other concerns or questions? Okay, we’ll move to the – we’ll close the public comment portion and move to the motions necessary. Mr. Hales can walk us through these motions.

Hales: I just refer you to the staff report and the prepared motions in there, nothing’s changed.


Bush: You want to put me on the spot. I have to go to the . . . .

Adcock: My sense is that – and I could be wrong. Jennifer, to my senses you’d be more comfortable if we did these individually because the masonry one.

Robinson: I’d be my preference.

Adcock: Because otherwise you’d have to vote against this one.

Robinson: That’s right and I support everything else.

Adcock: Right and so there’s a motion in there, Lori, about individual - motion to approve individual modification requests.

Bush: So we can do the motion for each modification request separately?

Adcock: Yes, just four. Yes.

Bush: Okay.

Hales: You could group them all together that you all are in support of and only pull the one out if you wanted to.

Adcock: That’s true. You could do three and one.

Bush: Yes, we could do it that way. Okay. I make a motion then to approve all of the modifications except for the modification – what number is it

Adcock: Four.

Bush: Thank you. Four with respect to the building, for a metal building tiles.

Weinbrecht: There’s a motion.

Adcock: Second.
Weinbrecht: And a second. Discussion? All in favor please say aye.

All council members said aye.

Weinbrecht: Those opposed? Motion carries unanimously.

Bush: And I'll make a secondary motion to approve the site plan associated – for the minor modification with the metal side panels.

Weinbrecht: There's a motion.

Adcock: Second. Let me ask you a question. So you're moving approval of the site plan that includes those first three minor modifications and not the fourth one.

Hales: Yes, she was making . . .

Robinson: That was the first motion now she's . . .

Bush: That was the first motion; this is the one now for the panels.

Yerha: This is just the panels.

Adcock: Okay.

Weinbrecht: You still second this motion?

Adcock: Yes. Thank you.

Silverstein: I'd like to just - that you phrase it in terms of a reductions in masonry allowed rather than the . . .

Robinson: The material used.

Bush: Okay, let me go back to that one cause I moved passed that worksheet. Is it worksheet one?

Hales: Worksheet one, yes.

Bush: Nothing like the Mayor putting you on the spot.

Hales: The modification is on page 11 and 15 of the staff report if you're looking for it.

Bush: Okay. Yes I did the motion to approve so the – for the reasons discussed I move that we approve the modification request number four for approval.
Weinbrecht: And it’s a modification to your motion. Are you okay with this modification?

Adcock: Yes I am.

Weinbrecht: Okay. We have a motion and a second, discussion? All in favor please say aye.

All council members, except Robinson and Smith, said aye.

Weinbrecht: Those opposed.

Robinson: No.

*Smith indicated a no vote by raising his hand.*

Weinbrecht: Motion carries four to two. I had to remember how many of us were here. Four to two. And any other motions?

Adcock: Just site plan. Do you want to do that Lori or you want me to.

Bush: No, I’m on a roll. And that’s the last one. I make a motion for the reasons that we previously discussed we approve the proposed site plan without condition.

Weinbrecht: There’s a motion.

Hales: I’d like to point out quickly there’s a proposed condition that they address the remaining development review committee comments.

Bush: Oh I see, the applicant - sorry. Thank you. It’s number 1.

Weinbrecht: You want to restate?

Bush: I’ll restate the motion that for the reasons discussed I motion that we approve the proposed site plan with condition that the applicant must satisfactorily address any remaining development review committee comments in the Master Plan.

Adcock: Second.

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

All council members said aye.
Weinbrecht: Any opposed? Motion carries unanimously. And that’s all the motions that I’m aware of, so I’ll close the public hearing and thank everyone.

Hales: Thank you.

Weinbrecht: For that item.

2.2. Subdivision Plan 14-SB-020, The Brickyard
(Remark to the attached special rules that specifically apply to this hearing)
Request by property owner for approval of a sketch site and subdivision plan to develop approximately 304 townhomes, 126 detached dwellings, and a private neighborhood amenity center on an approximately 100-acre assemblage of land.

Proposed Council Action: Council may take action

Speaker: Mr. Michael Gradis

The following documents incorporated into this staff report are to be entered into the record for this hearing. They are filed in the planning department according to the Records Retention and Disposition Schedule.

Exhibit A: Plan Review Application (4 pages)
Exhibit B: Subdivision Plan (17 pages)
Exhibit C: Applicant’s Statement of Compliance (3 pages)
Exhibit D: Champion Tree Report (9 pages)
Exhibit E: 14-REZ-18 (4 pages)
Exhibit F: Traffic Impact Analysis – The Brickyard Site (7 pages)
Exhibit G: Traffic Impact Analysis – TAZ 15 (6 pages)
Exhibit H: Emergency Access (Handout from applicant provided to council during meeting)

PROJECT DESCRIPTION/SUMMARY OF REQUEST: The John R. McAdams Company and Lennar of the Carolinas, on behalf of the property owners, are requesting approval of a sketch site and subdivision plan featuring 304 townhomes, 126 detached dwellings and a private neighborhood amenity center on an approximately 100-acre assemblage of land. The applicant has also conceptually shown an area for future non-residential uses. The proposed development is bounded by an NC-540 entrance ramp to the north, a CSX railroad right-of-way to the west, underdeveloped land to the south and NC-55 to the east. Stormwater from the development will be attenuated and treated in a total of seven (7) bio-retention areas located within different areas of the development. The plan lies within the Alston Regional Activity Center Petty Farm Neighborhood, with the Alston Activity Center Concept Plan (AACC) Neighborhood General and Neighborhood Center Design Zones controlling facets of layout and design. The development plan includes the required 50-foot, Type A (Opaque) streetscape along NC-55, the required 50-foot, Type A (Opaque) thoroughfare corridor buffer along the entrance ramp and a 40-foot, Type A (Opaque) perimeter buffer adjacent to the CSX railroad right-of-way. A stream buffer bisects the northern portion of the property, separating the site into three distinct portions, northeastern, northwestern and southern. The northeastern portion of the site contains the detached dwelling lots and the neighborhood amenity center, the northwestern portion contains townhome lots and the southern portion contains townhomes and an area for future non-residential uses. The
proposed plan includes vehicular and pedestrian crossings over the stream buffer, an internal road and pedestrian network, gathering spaces, and pedestrian-oriented art features as required by the Alston Activity Center Concept Plan (AACCNP). While the plan technically provides access to two public streets as required by Section 7.10.3(B)(2) of the LDO, one of those public streets, Petty Farm Road, is a dead-end. Effectively, the plan proposes all traffic enter and exit the site through two access points on NC-55 located approximately 665 feet apart. With the only proposed connections being so close, Staff has concerns regarding the ingress and egress to the development site in the event of an emergency on NC-55. The Comprehensive Transportation Plan (CTP) identifies Mahal Avenue as Collector Avenue. The proposed variable width public right-of-way will have a minimum 51-foot street cross-section within an 85-foot right-of-way to a maximum 75-foot street cross-section within a 117-foot right-of-way. The applicant proposes to construct Mahal Avenue to function as the main collector road through the site. Mahal Avenue will stub to the CSX railroad right-of-way to the west; however, no crossing is proposed. Because the AACCNP contains unique road cross sections, staff has taken a hybrid approach to applying the Town’s standard road cross section in order to balance the safety and efficiency of the transportation network with the desire to create a strong “sense of place” within the AACCNP. The Parks, Recreation, and Cultural Resources (PRCR) Facilities Master Plan does not identify any greenway trails or public parks within or adjacent to the proposed sketch plan. Nevertheless, as required by the Alston Activity Center Concept Plan, the applicant has provided internal pedestrian accommodations as well as along NC-55, thereby ensuring the proposed development is able to connect to future development proposed along NC-55 and within Alston Regional Activity Center. The applicant is proposing to save all seven (7) champion trees located on site. Because the applicant submitted the sketch subdivision plan prior to Town Council’s adoption of the revised Champion Tree Ordinance on August 28, 2014, the site’s Champion Trees are those of any species greater than 30 inches in diameter at breast height. The sketch plan is not required to contain architectural details of the proposed residential units at this time; however, the applicant has provided conceptual examples of building types. The architectural design of the dwelling units will be required to comply with the Town of Cary’s Community Appearance Manual at time of construction plan review.

MODIFICATIONS TO LAND DEVELOPMENT ORDINANCE (LDO) REQUIREMENTS: The applicant requests a Minor Modification to Land Development Ordinance (LDO) Section 7.10.3(B)(1), which requires roadway interconnections to abutting properties to the north, south, east and west. The applicant proposes to eliminate a roadway connection to the north, across NC-540 right of way. Staff supports this modification.

SUMMARY OF PROCESS AND ACTIONS TO DATE
Pre-application Meeting: The applicant attended a pre-application meeting for the development plan on June 25, 2014.

Rezoning: The Petty Farm Neighborhood (TAZ 14 and TAZ 15) of the Alston Area Center Concept Plan (AACCNP) was rezoned on August 14, 2014 (14-REZ-18). The rezoning provided for the introduction of detached dwelling units as a residential option, removal of the Town Center design zone, realignment of the Neighborhood Center design zone, introduction of the Neighborhood General design zone and a minimum non-residential square footage requirement in TAZ 15.

Plan Submittal and Review: The development plan was submitted for its initial review on July 10, 2014, and has been reviewed by the Development Review Committee (DRC) through four (4) review cycles.

Notification and Property Posting: The Planning Department provided notification of the public hearing and posted the property in accordance with local and state regulations.

SITE PLAN WORKSHEET AND SUGGESTED MOTIONS: A subdivision and/or site plan may be approved by the Town Council only if it satisfies the six (6) approval criteria listed in Section...
3.9.2(I) of the LDO. As part of determining whether the first criterion is satisfied, council must determine whether to grant the requested modification(s) to the Town’s development standards. A roadmap of the decisions that council must make is provided below:

**WORKSHEET 1**

2. Does the plan comply with all applicable requirements of the LDO, including the development and design standards of Chapters 7 and 8 as well as the dedication and improvements provisions of Chapter 8 as well as all applicable Town specifications?

   As indicated in the staff report, the applicant requests one Minor Modification to the Town’s development standards. This modification is detailed further in the attached Worksheet 1.

Once the council has made a decision on the modification requests, it may then turn to the remaining site plan approval criteria.

**WORKSHEET 2**

2. Does the plan adequately protect other property, or residential uses located on the same property, from the potential adverse effects of the proposed development?

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

4. Does the plan provide safe conditions for pedestrians or motorists and prevent a dangerous arrangement of pedestrian and vehicular ways?

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

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

**WORKSHEET 1**

2. Does the plan comply with all applicable requirements of the LDO, including the development and design standards of Chapters 7 and 8 as well as the dedication and improvements provisions of Chapter 8 as well as all applicable Town specifications?

Applicant’s Statement: The site is bounded to the west by Hwy. 55, to the north by I-540, to the east by CSX Railroad, and to the south by the remainder of the Petty Farm Neighborhood property (TAZ-15). The AACCPermits residential densities at the amount proposed. With respect to parking, the development will include the code requirements. As indicated on the proposed plan and other materials submitted, the improvements have been designed in compliance with the requirements of the Town’s Land Development Ordinance, including the development and design standards of Chapters 7 and 8 as well as the dedication and improvements provisions of Chapter 8.

Staff Observations: The Development Review Committee has reviewed the proposed sketch plan for compliance with the LDO and all other applicable regulations through four (4) review cycles. As of October 27, 2014, there are 18 remaining review comments which the applicant and staff have been working together to resolve. Requests from staff for changes to the plan and requests from the applicant for clarification of Town requirements have been addressed swiftly by both parties.

**TEST SATISFIED? __ YES __ NO**

1. The applicant requests a Minor Modification to Land Development Ordinance (LDO) Section 7.10.3(B)(1) which requires roadway interconnections to abutting properties to the north, south, east and west.
Town Council should consider this modification request pursuant to Section 3.19.1(C)(2) and 7.10.3(B)(1) of the LDO. Section 7.10.3(B)(1) of the LDO reads as follows: “The proposed public or private street system shall be designed to provide vehicular and pedestrian interconnections to facilitate internal and external traffic movements in the area. In addition to the specific connectivity requirements described above, roadway interconnections shall be provided during the initial phase of any development plan between the development site and its adjacent properties with one (1) roadway interconnection every one thousand two hundred fifty (1,250) to one thousand five hundred (1,500) linear feet for each direction (north, south, east, west) in which the subject property abuts. If the common property boundary in any direction is less than one thousand two hundred fifty (1,250) linear feet, the subject property will be required to provide an interconnection if it is determined by the Planning Director that the interconnection in that direction can best be accomplished through the subject property due to physical site constraints, such as topography, presence of stream buffers or other natural features, or lot dimensions; or due to presence of existing development or infrastructure, on the subject property or other properties in the area. When the Planning Director deems a vehicular connection not practicable due to topographical and/or environmental constraints, he/she may increase the length requirement and/or require pedestrian connections. The Planning Director may delay the interconnection if such interconnection requires state approval. The intent of this standard is to improve access/egress for Town neighborhoods, provide faster response time for emergency vehicles, and improve the vehicular and pedestrian connections between neighborhoods.” Section 3.19.1(C)(2) of the LDO reads as follows: “The Town Council may initiate or approve a minor modification allowed under this section at any time before it takes action on a development application. The Town Council may approve the minor modification only if it finds, after conducting a quasi-judicial hearing, that the modification advances the goals and purposes of this Ordinance and either results in less visual impact or more effective environmental or open space preservation, or relieves practical difficulties in developing a site. In determining if “practical difficulty” exists, the factors set forth in Section 3.20.5, "Approval Criteria" (for Variances) shall be considered. In granting a minor modification allowed under this section, the Town Council may require conditions that will secure substantially the objectives of the standard that is modified and that will substantially mitigate any potential adverse impact on the environment or on adjacent properties, including but not limited to additional landscaping or buffering.”

**Applicant’s Statement:** None provided as of October 27, 2014.

**Staff Observations:**
- The applicant does not propose a connection to the north; the property is bounded on the north by NC-540.
- NC-540 is a controlled-access corridor regulated by NCDOT. NCDOT will not permit a street stubbed to their entrance ramp or toll road.
- A grade separated crossing of the toll road corridor is neither fiscally nor physically feasible.
- The development to the north (Parkside Town Commons) did not contemplate a crossing of the toll road corridor, and thus does not offer a receiving connection for a toll road crossing.
- A Duke Progress overhead high voltage line runs parallel to the NC-540 entrance ramp. An above grade road crossing would adversely conflict with the high voltage line.

**SUGGESTED MOTIONS FOR MODIFICATION REQUESTS**

**MOTION TO APPROVE THE MODIFICATION REQUEST:** For the reasons discussed, I move that we APPROVE modification request number one (1) made by the applicant as the request meets all the approval criteria of the applicable sections of the LDO.

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This approval is conditioned upon the following:

2. [insert any conditions necessary to bring the project into compliance with the LDO or other standards]

-OR-

MOTION TO DENY THE MODIFICATION REQUEST

For the reasons discussed, I move that we DENY the modification requests made by the applicant, as they do not meet all of the approval criteria of the applicable sections of the LDO.

WORKSHEET 2

2. Does the plan adequately protect other property, or residential uses located on the same property, from the potential adverse effects of the proposed development?

**Applicant's Statement:** The proposed development is for an integrated single family detached and townhome community. The property is appropriately buffered. The development will include landscaping as required by the Land Development Ordinance. As a mixture of single family detached and townhome dwellings, the proposed use has no inherent qualities that would adversely impact adjacent properties. The developer submits that the proposed plan adequately protects other property and residential uses on the subject property from the potential adverse effects of the proposed development.

**Staff Observations:**
- Detached dwelling units and townhome units are separated by a 100-foot stream buffer. The stream buffer also acts as the approximate border between the AACC P Neighborhood Center and Neighborhood General Design Zones. Streets and pedestrian pathways will cross the stream buffer.
- Areas for perimeter and streetscape buffers are provided, meeting LDO requirements and providing a visual and physical barrier between the site, NC-540 (to the north), CSX railroad right of way (to the east) and NC-55 (to the west). Development to the south will be required to provide urban style development pattern in order to transition appropriately and meet AACC P requirements.
- On-street parking is provided on all local streets, which will reduce vehicular speeds on local streets.

**TEST SATISFIED? __ YES __ NO**

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

**Applicant’s Statement:** The urban style residential setting proposed by this development will significantly compliment and provide harmony and unity with the development of nearby properties. This is especially true for the remaining undeveloped portions of TAZ 15 which, as a result of the Town’s recent amendment to the AACC P, have been reserved primarily for non-residential uses. By incorporating a TND style community, the future nonresidential uses will provide true live/work/play opportunities within Petty Farm, something that has not occurred within any of the other areas of Alston to-date. With the mixture of uses contemplated by the AACC P, this mixture of uses is the exact type of development contemplated by the Town when the plan was envisioned. As a result, the proposed community will be in harmony with the development of nearby properties.

**Staff Observations:**
- A portion of the site, which is in TAZ 15 and is designated for Neighborhood Center uses (i.e. non-residential uses), is not presently proposed for development and thus is not included with this development plan for approval. Staff expressed concerns to
the applicant regarding the interface between these non-residential uses and the adjacent residential uses located to the north (along Mahal Avenue) and to the east (on the other side of what is identified as Main Street ‘B’ on the proposed plan). In response, the applicant subsequently shared an illustrative plan with staff to illustrate how these uses could successfully interface with each other (for example, the non-residential uses could be placed along and interact with the street rather than turning the rear of the respective buildings towards the street and adjacent residential uses). Based on the illustrative plan that the applicant shared with staff, we believe that non-residential buildings can be situated in this area to provide an appropriate interface with the adjacent streets and adjoining residential uses, and thus meet the intent of the Alston Plan. Since we believe that this interface can work, we are expecting future development in this area to achieve these expectations in accordance with the Alston Activity Center Concept Plan.

- The development plan is comprised of detached dwellings and townhome units. The applicant has provided a sketch showing how the development plan will transition to the south, which is zoned and planned for future non-residential. Non-residential development to the south will be required to front streets and add to the urban style development pattern in order to meet AACCIP requirements.
- Areas for perimeter and streetscape buffers are provided, meeting LDO requirements and providing a visual and physical barrier between the site, CSX railroad right-of-way and NC-55.
- The development plan will be complemented by existing shopping, dining, and educational services along the NC-55 corridor.

**TEST SATISFIED?** __ YES __ NO

4. **Does the plan provide safe conditions for pedestrians or motorists and prevent a dangerous arrangement of pedestrian and vehicular ways?**

   **Applicant’s Statement:** The plan includes sufficient sidewalks to ensure no conflicts between vehicles and pedestrians, and the street network has been designed in a manner that will result in lower vehicle speeds that are conducive to a single-family community. The site plan provides a network of sidewalks along both sides of all internal public and private streets and the eastern NC-55 frontage to prevent a dangerous arrangement of pedestrian and vehicular ways. All sidewalks, crosswalks and ramps will be ADA compliant, providing for safe and effective pedestrian flow. The sidewalk network is supplemented by a 4,000 foot long interconnected six-foot-wide trail system. Projected future vehicular traffic volumes and speed along Mahal Avenue are not anticipated to discourage pedestrian movements to and from the future commercial area south of Mahal Avenue. Furthermore, the proposed roundabout incorporates pedestrian crossings on all four intersection approaches in accordance with Federal Highway Administration design standards, enhancing pedestrian connectivity and integrating the residential and commercial areas. The roundabout will also act as a “traffic calming element”, reducing traffic speeds and providing increased safety for pedestrian crossing movements. Similarly, the street network has been designed in a manner that will result in vehicle speeds that are conducive to a single-family residential community. Additionally, with the construction of Mahal Avenue into the site, the existing Petty Farm Road, which intersects NC-55 at a 45-degree angle, will be abandoned and replaced with a 90-degree intersection into Mahal Avenue. This improves the current condition and replaces it with a safer, T-intersection, allowing motorists on Petty Farm Road to access the Mahal Avenue signalized intersection in a safer fashion. The plan provides safe conditions for pedestrians and motorists and prevents a dangerous arrangement of pedestrian and vehicular ways.

   **Staff Observations:** 
- The development plan is consistent with LDO and AACCP requirements for pedestrian accommodations along the proposed streets.
- The development plan provides trails through the stream buffer. Trails provide increased pedestrian connections between the eastern and western sections of the Petty Farm Neighborhood.
- The development plan provides a roundabout at the intersection of Mahal Avenue and Street ‘B’, reducing traffic speeds and providing a focal point for the Petty Farm Neighborhood.
- The development plan meets the requirement found in LDO Section 7.10.3(B)(2) which requires the proposed road network to connect to at least two (2) public streets by connecting west to NC-55 and south to the northern terminus of Petty Farm Road. The southern terminus of Petty Farm Road is a dead end. All vehicular traffic from the subdivision will enter and exit from NC-55 until either Mahal Avenue crosses the CSX railroad right-of-way (the timing of which is unknown at this time) or until a fully accessible connection is made to the south. The Town has concerns regarding site access in the event of an emergency on NC-55 (see next section).

TEST SATISFIED? __ YES __ NO

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

**Applicant’s Statement:** The streets internal to the site, including the alley ways, have been arranged so as to ensure that there is adequate access for emergency services to the dwellings. The traffic analysis confirms the proposed access points and transportation improvements (as discussed below) will result in efficient traffic flow with no significant congestion that would impede emergency vehicle access or circulation. The proposed plan provides street stub-outs to the south and east for future interconnectivity. Current residents to the south will be served, at a minimum, via an internal connection to Petty Farm Road. As a result, the plan provides safe ingress and egress for emergency services to and within the site.

**Staff Observations:**
- The internal street network provides multiple connections within the development.
- The development plan meets the requirement found in LDO Section 7.10.3(B)(2) which requires the proposed road network to connect to at least two (2) public streets by connecting west to NC-55 and south to the northern terminus of Petty Farm Road. However, the southern terminus of Petty Farm Road is a dead end. All vehicular traffic from the subdivision will enter and exit the development from NC-55 until either Mahal Avenue crosses the CSX railroad right-of-way or a fully accessible connection is made to the south. The Town has comments about access in the event of an emergency on NC-55.

**Police Department Comments:** One or two means of ingress and egress located very close together can be advantageous because it serves as a chokepoint to limit those trying to get away after committing a crime. On the other hand, with two access points being so close together along NC-55, a significant event on NC-55 (such as a tanker of anhydrous ammonia overturning) would make it extremely difficult to efficiently evacuate people. The police department does not see any law enforcement concerns.

**Fire Department Comments:** The 430-dwelling-unit Brickyard development plan located at NC-55 and NC-540 outlines limited access points that conflict with the intent of the LDO requirement for multiple points of access. Part of the rationale for requiring two (2) access points for developments was to protect public safety.
by facilitating civilian evacuations and enabling emergency responses by public safety agencies.

When assessing public risk for the Brickyard, the Fire Department considers the site’s proximity to NC-55 and NC-540, which brings the potential for vehicle crashes involving hazardous materials that may require public evacuations. To a lesser degree, the risk assessment also considers a similar potential for hazardous materials releases resulting from railroad derailments along the CSX rail corridor that borders the eastern side of the development. An initial assessment indicates that in the event of a hazardous materials accident occurring on NC-55, NC-540 or the CSX Rail line, a majority of the dwelling units within the development lie within the minimum 500-foot evacuation area.

Specifically, the Fire Department is concerned with the possibility of a major vehicle crash at the intersection of NC-55 and Street ‘A’ (designated by the plan), which serves as a collector within the development. The closest fire companies would respond from Fire Station 7 (from the south) and subsequent fire companies would respond from Fire Station 1 on North Harrison Avenue from the north. Therefore, given that:

1. NC-55 is a highly travelled, high-speed limited access, median-divided road which in the event of a crash will require additional emergency response strategies to mitigate and,
2. a connection to Petty Farm Road provides no effect for evacuation or public safety, and,
3. the connection of Street ‘J’ and NC-55 lies within an immediate evacuation zone perimeter and this area will likely be required for additional fire department/public safety operations,

Fire Department staff believes the risk to residents of the Brickyard is greater with the limited access proposed than if the development provided separate access connections to different roads.

TEST SATISFIED? __ YES __ NO

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

Applicant’s Statement: A traffic impact analysis has been performed by Kimley Horn and Associates and is submitted herewith. In addition to site-generated traffic, the traffic analysis included traffic generated by numerous other proposed developments in the area as well as an ambient annual traffic growth. The applicant has agreed to perform the improvements suggested by the TIA under these future traffic demands, and has included those on the plan. As a result, the plan provides mitigation for traffic impacts reasonably expected to be generated by the project. The proposed access points are consistent with those noted in the Alston Activity Center Plan. The traffic analysis confirms the proposed access points and transportation improvements will allow all intersections in the study area will operate at LOS D (the Town’s accepted standard) or better. No additional points of access are necessary to serve this project. A supplemental traffic analysis was conducted to assess the potential traffic impacts of TAZ 15 build out on Mahal Avenue. The plan includes additional right-of-way necessary to accommodate those identified potential traffic improvements.

Staff Observations:
- The traffic analysis assumes 140 detached dwelling units and 320 townhome units. Based on those assumptions, the proposed plan will generate approximately 1,601 daily trips. The peak-hour volumes are as follows:
  - 140 detached dwelling units: AM Peak 108 PM Peak: 142
20 townhome units: AM Peak: 131 PM Peak: 156

- The traffic analysis recommends the following traffic improvements which the applicant is proposing to construct as part of this development plan:
  - NC-55 Northbound: Construct an additional northbound through lane from the current terminus (approximately 470 feet south of the NC 540 Eastbound On-Ramp) extending approximately 300 feet south of Petty Farm Road.
  - NC-55 & Petty Farm Road/Mahal Avenue: Reconstruct westbound Petty Farm Road to provide an exclusive left-turn lane and a shared through/right-turn lane. In addition to the northbound through lane mentioned above, construct an exclusive northbound right-turn lane on NC-55, providing approximately 100 feet of storage. Provide necessary signal modifications to accommodate the above laneage improvements.
  - NC-55 & North Site Drive (RI/RO): Construct an exclusive right-turn lane with approximately 100 feet of storage on northbound NC-55.

- The traffic analysis mentions additional traffic improvements proposed by other site plans (Alston Town Center) which would also assist in traffic mitigations for this subdivision plan.
  - NC-55 Southbound: Extend the third southbound through lane on NC-55 from the current terminus (approximately 500 feet south of the NC 540 Westbound Exit Ramp) southward, terminating as an exclusive right turn lane at McCrimmon Parkway.
  - NC-55 & Petty Farm Road/Mahal Avenue: Construct an exclusive southbound right-turn lane with 200 feet of storage on NC-55. Construct an additional northbound left-turn lane with 250 feet of storage on NC-55. Construct dual left-turn lanes with 275 feet of storage, a through lane and an exclusive right-turn lane with 150 feet of storage on the eastbound approach of Mahal Avenue (a proposed street opposite Petty Farm Road)

- The traffic analysis did not study traffic impacts once Mahal Avenue extends across the CSX Rail line. Therefore, once Mahal Avenue crosses the CSX Rail line, the impacts on the Mahal Avenue / NC-55 intersection are unknown.

TEST SATISFIED? __ YES __ NO

SUGGESTED MOTIONS FOR SKETCH SITE AND SUBDIVISION PLAN

MOTION TO APPROVE THE SKETCH SITE AND SUBDIVISION PLAN: For the reasons discussed, I move that we APPROVE the proposed sketch site and subdivision plan without condition (ALT: with conditions as stated below), as it meets all of the approval criteria set forth in Section 3.9.2(l) of the LDO. (ALT: This approval is conditioned upon the following:)
  1. The applicant must satisfactorily address any remaining Development Review Committee comments on the master plan set submitted for signature.
  2. All parcels under this site plan shall be annexed before resolution of approval is signed.
  3. [insert any conditions necessary to bring the project into compliance with the LDO or other standards]

-OR-

MOTION TO DENY THE SKETCH SITE AND SUBDIVISION PLAN
For the reasons discussed, I move that we DENY the proposed sketch site and subdivision plan, as it does not meet all of the approval criteria set forth in Section 3.9.2(l) of the LDO.

Weinbrecht: Our second quasi-judicial public hearing is the Brickyard sketch site and subdivision plan. An overview of the hearing procedures and detailed rules
are attached to the printed agenda. All speakers who would like to speak at this public hearing must be administered an oath by Mrs. Johnson, who is to my right. We'll pause just a moment to allow these individuals who would like to speak at the public hearing to approach Mrs. Johnson and receive their oaths. And we'll take a moment pause and not say anything until this process has been completed.

Weinbrecht: Okay and now I'll ask council member if they've had any site visits, ex-parte communication, financial relationship, specialized knowledge or close relationship to an affected person to disclose. Starting on my right with Mrs. Adcock.

Adcock: No sir.

Robinson: No.

Weinbrecht: Mr. Smith.

Smith: I have not.

Weinbrecht: I have not. Ms. Bush.

Bush: I have not.

Weinbrecht: Mr. Yerha.

Yerha: Me either.

Weinbrecht: Based on the disclosures from the council members, I’d invite anyone to the podium who has been sworn in to speak if you have an objection to a council member’s participation in this hearing. Seeing none we’ll continue and I'll open the quasi-judicial public hearing, and our staff will introduce this item. Thank you.

Gradis: Thank you and good evening council. The case before you is the Brickyard referred to as 14-SE-020. It is located approximately at the intersection of NC540, also sometimes referred to as I-540, and NC 55 and there’s currently approximately 100 acres. Before you’ll see the vicinity map showing a relative location to that said intersection in addition to adjacent development. Currently in addition to NC540 and NC55 it is also adjacent to McRimmon Parkway and then also there’s a future proposed collector that will go through this site and the current name of that collector is proposed to be Mahal Avenue. Currently there’s an existing Triangle Transit route that runs along NC 55 to the north and to the south. This site is impacted by a series of stream buffers as you’ll see in the site, in addition a lot of the sites adjacent to this particular site are also impacted by stream buffers. The current base zoning for this particular site is ORD and there’s
also ORD conditional use with this particular site and then also there’s an overlay, the Alston mixed use overlay district. Site as I mentioned is also governed by the Alston Plan and some of those requirements are that it is located within the Petty Farm neighborhood. The site that’s proposed this evening crosses to transportation analysis zones 14 and 15 and also within the plan there are two design zones, the neighborhood center and neighborhood general. There is a relative location of the Petty Farm neighborhood in comparison to the other four neighborhoods that make up the Alston Plan. As mentioned before this is a good description of TAZ 14 and 15 and how the neighborhood center and neighborhood general design zones impact the site. On to the portion of the presentation that deals specifically with the site plan before this evening. I want council to be aware that this particular graphic as presented was developed by the applicants and the orientation of it is a little bit different than some of the other orientations that you’ve seen this evening. North is going to be to the left and south is going to be to the right. You’ll see this graphic a couple of times this evening so I’m going to move ahead. Just to be clear within the Alston Plan there were development limitations for each transportation analysis zone. As you’ll see in this particular plan the applicant has proposed for TAZ 14 zero commercial square footage, zero retail square footage and approximately 363 units out of a maximum of 420 units. They’ve also indicated based on the proposed development within TAZ 14 there is no additional planned remaining square footage given the encompassing of their development. In TAZ 15, they are only occupying a portion of TAZ 15 and within their portion of control they have proposed zero square footage of commercial, zero square footage of retail and of a maximum of 355 residential units, they’ll be proposing 67 units which leave 288 units for development. It’s also worth noting that a rezoning that occurred this past August 14-REZ-18, 75% of the neighborhood general area within TAZ 15 – I’ll be more than happy to go back to the map later this evening for clarification, but 75% of that neighbor general area is going to be required for nonresidential or mixed uses. The applicant’s also developed a map within their sketch plan showing how they have them divided the neighborhood general and neighborhood center design zones. What you won’t notice is that the line that they have used to divide both neighborhoods is approximately the location of the stream buffer. They’ve also included locations for public art. Public art is a requirement of the Alston Plan and here shown with blue circles are the proposed locations for that public art. They are also required to as a part of the Alston Plan provide gathering space locations. They’ve provided 10 outdoor gathering locations and various locations throughout the development and also they have provided an amenity center as well. There were seven champion trees identified on this site and they are proposing to save all seven champion trees. All seven champion trees are located in locations where they could be either utilized by a public gathering space, proposed amenity center, or a future nonresidential location. Also as part of the Alston Plan they were required to have homes. I have a built to line. This particular graphic provided by the applicant shows that they were able to meet a 15 foot built to line. Another item staff wanted to have addressed was understanding how any future nonresidential
uses would impact the development, so what we’ve had them do is go ahead and show us how a future portion of this site could interact with their proposed residential development. I’d also like to note that they are not proposing to build any nonresidential square footage however have we asked them to provide a graphic. And also I’d like you to be aware that they are providing a graphic on portions adjacent to their site that they do not necessarily control at this time, so this graphic is purely being shown for illustrative purposes, to demonstrate how any future development could interact in comparison what they have proposed. Again, similar graphic, but another requirement of this particular plan was having a certain percentage of a area between uses fronting streets to have a minimum amount, or excuse me, a maximum amount of between buildings and so this graphic is to demonstrate that. Those requirements describing the gaps between buildings are required by the Alston Plan. I’ve also gone ahead and provided potential housing elevations. Just to remind everyone in the audience and also council, they are proposing 304 townhome units and 126 detached dwellings. This graphic shows some of the potential models of homes and then also the graphic that they provided this evening that you saw earlier and will see again gives a good idea of where they imagine different types of townhomes be located and different types detached dwellings to be located. There is one minor modification request associated with this plan. At this time the applicant does not propose a connection to the north. The property to the north is bounded by NC540. Just so that we can clarify for council and members of the audience that NC540 is a controlled access corridor. They would not be able to stub their development to 540. There’s also a grade separating crossing because it is a toll road, so does neither physically feasible at this time. In addition Parkside Town Commons which is to the north of 540 did not contemplate a crossing of the toll road corridor. In addition there are power lines running along the northern end of their proposed element and it would conflict with an above grade crossing if they were to cross NC540. This is just a description of the minor modification request. As you can see there are going to be at this time with the proposal three connections to other adjacent streets and then you’ll see that there are two arrows that are on the right side of the drawing, those are locations where the applicant is proposing to stub a road to the property line, but will not be connecting to another road on the opposite side. In addition to the site plan there were some initial access concerns. As you’ll see on the graphic provided. There is a distance of 660 feet between the two main access points to the neighborhood. Even though they are accessing or stubbing. In this case they would be stubbing to the CSX rail line which is to the east, but they would not be crossing it. It would also be creating a stub to the southern sites, but because there is no road to the south of that location there’s nothing to connect to. And then also, there is Petty Farm Road which is directly south of the development. And the applicant is proposing a realignment of a portion of that road to connect; however, Petty Farm Road is southern terminus of that road does not connect back to NC55. At this time I would like to transition into the applicant’s presentation. After the applicant has completed their presentation, staff will be
more than happy to answer any questions the council has and we’ll also be more than happy to elaborate on some of our access concerns for this site.

Weinbrecht: Thank you. At this time I’ll call on the applicant's attorney to present arguments and evidence in support of the application by addressing the applicable approval criteria.

Barron: Good evening Mr. Mayor, members of the council Jason Barron with Morning Star Law Group here on behalf of the applicant Lennar Homes. Here with me tonight is Mr. Steve Leach of Lennar Homes, also Mr. Ryan Akers of the McAdams Company. Ryan is a professional Engineer who will testify as to the components of the plan itself and then finally Mr. Earl Lewellyn with Kimley Horn and Associate. He’s a Transportation Engineer who has conducted the traffic impact analysis associated with this application. Michael, thank you very much. Michael has done a good job of kind of outlining the plan so I won’t reiterate much of that. I do want to say, it’s my great pleasure to be here tonight. This plan represents the culmination of months of hard work that’s been put in by a lot of people. Put in by the applicant, the applicants team, the Town staff, Planning and Zoning Board and you all if you consider the zoning process that we went through back in the summer in order to facilitate the plan that’s before you tonight. Consistent with the conversations that occurred during that zoning process we believe the plan, that’s before you tonight, represents the type of development that folks were thinking about. It's a kind of T and D style neighborhood, contains a mixture of residential product types and ultimately is the type of development that we believe will be incredibly complimentary to the future nonresidential uses in the remainder of the Petty Farm neighborhood. And just to refresh your recollection as Mr. Gradis indicated the remainder of the Petty Farm neighborhood is generally reserved for nonresidential uses as part of that rezoning process. Before I turn it over to Mr. Akers, I do want to make a special note of appreciation for the efforts that the Town staff has gone through in this case. This is a complicated plan and they’ve put in enormous work and I’ve said it before on other cases and I’ll say it again the Town of Cary should be very proud of its staff from Planning to Parks and Rec. to Engineering to Transportation to the Fire Chief to the Police Chief. I mean folks really give a lot of thought, they have been very thoughtful, they were very professional, they were very accessible in fact up until the last couple of days we had been working very hard with those folks to make sure that the plan that comes before you all tonight is one that not only we feel comfortable with but also folks at the Town feel comfortable with. At as we will talk about further into the hearing, the culmination of that is a new condition that’s been added to the case with respect to emergency access to the site. There were some comments that were made by the Fire Chief and the Police department related to emergency access services to the site. We’ve been able to coordinate with them and ultimately have offered a condition that they’ve consented to and you'll hear from the Fire Chief a little bit more on that as well as our engineer, but ultimately addresses those concerns. I do want to thank everybody that’s been involved and Lisa too, the Assistant
Town Attorney did a great job pulling together that meeting. With that said, like I said we’re very happy to be here tonight. Lennar’s incredibly excited to move forward with this site and with this project and they’ve put in a lot of time and spent a lot of time, a lot of energy and a lot of money in order to get here today. With that I will turn it over to Mr. Ryan Akers who will present the plan on behalf of the applicant. Thank you.

Akers: Mayor, council members, thank you for hearing us this evening. My name is Ryan Akers Civil Engineer, project manager with the John R. McAdams Company located in RTP, Durham. Licensed engineer of North Carolina, been with McAdams Company for 10 years. I joined McAdams right out of college. I attended Cornell University in upstate New York. I got my undergraduate degree in civil engineering and my master’s degree in engineering management. I spent the last few years working on some of the larger residential developments in the Town of Cary, none of them have been quasi-judicial - this is my first. I’ve worked on very similar projects to the Brickyard in adjacent municipalities, but I’m not here to tell you about those. I’m here to talk about the Brickyard. I’m going to go ahead and highlight some of the key features first. Brickyard and a lot of this is parroting what Mr. Gradis has said, but I’m going to go through it just because I’m pretty proud of what we’ve done. The Brickyard has a total of 430 units, consistent of 128 single family detached, and 304 townhouse units. In keeping with the newly adopted requirements for the traffic analysis zone 15, a portion of the subject property has been designated for future nonresidential use. Mr. Gradis pointed that out, but the portion I guess would be the south portion TAZ 15 is proposed to be nonresidential. The plan proposes to extend Mahal Avenue from Alston Town Center in east west direction through the site as a central collector street including a round-a-bout. Mahal Ave. intersection with Highway 55 will be a full movement signalized intersection; will serve as the front door to the Petty Farm neighborhood. Mahal Ave. is proposed as a tree lined median divided collector street with a mix of uses. We’ll have three access points to the community proposed off Mahal Ave. Just highlight those real quick. Closest to the CSX Rail corridor we have a round-a-bout, closer to Highway 55. The second access point off Mahal Ave. is a round-a-bout which will serve as the primary entrance to the community. This street is flanked on both sides by a single family and townhouse units and acts as the gateway to our centrally located amenity center that’s associated with the development. The site also has right-in right-out access onto Highway 55 shown here. As to environmental aspects, the site contains significant buffered streams that essentially by sect the property. There are also seven champion trees identified and located on the property all of which are being preserved as part of this plan. Furthermore, in addition to the sidewalks that will be located on both sides of the street, plan includes numerous pedestrian trails to enhance the overall walk ability and pedestrian experience on the site. Finally, in addition to the recreational facility a number of the community green spaces are incorporated into the design utilizing champion trees to a large degree. So the development, a low dense does an amazing job of protecting the natural features and character of the old Brickyard site. That includes a brief
summary of the Brickyard. And as mentioned by staff; however, we have a request for a minor modification with this plan. The Land Development Ordinance or the LDO Section 7.10.3b1 requires a roadway connection to all cardinal directions. To address this we have provided code compliant connections for the eastern, southern, and western boundaries; however, we cannot provide one to the north to interstate 540, and as noted by staff and we agree 540 has controlled access corridor regulated by the Department of Transportation and we do not believe DOT would ever grant such a connection. Now I’m going to discuss the statement of compliance pertaining to the approval criteria established in the LDO section 3.9.2i. Finding number one, with approval of the request for minor modification that we just talked about the sketch plan complies of all applicable requirements of the ordinance including the development and design standards of chapter seven and eight as well as the dedication and improvement provisions of chapter eight and all applicable Town standards. As a reminder the site is bounded to the west by Highway 55, 540 to the north, CSX Railway to the east, and to the south it is bordered by the remainder of the Petty Farm neighborhood in TAZ 15. The Alston Activity Center Concept Plan the AACC, I’m just going to refer to it as the Alston Plan, permits residential densities at the amount proposed. In fact, our development is proposing far less residential density in the Petty Farm neighborhood than what the Alston Plan allows. With respect to parking the development will include the code requirements. Our plan has been reviewed by staff four times and we have addressed all outstanding comments. We have responses to the nine remaining comments with the last review and we have addressed them and those will be – we’ll adjust them with the final site plan review and approval process, but they are minor in nature. As shown on the proposed plan and illustrated on all of the materials submitted the improvements have been designed and in compliance with the requirements of the Town’s LDO including the developments and design standards of chapter seven and eight and the dedication improvement provisions of chapter eight. Moving on to finding number two, that the plan adequately protects other property or residential uses located in the same property from the potential adverse effects of the proposed development. The proposed development is for an integrated single family detached and townhouse community. The property is appropriately buffered and the development includes landscape as required by the LDO. It is my opinion that the proposed plan adequately protects other properties and residential uses on the subject property from the potential adverse effects of the proposed development for the reasons that follow: this development is a mixture of single family detached and townhouse dwellings, and the proposed use has no inherent qualities that would adversely impact adjacent properties. As to finding number three, that the plan provides harmony and unity with the development of nearby properties, its urban style residential setting proposed by this development will significantly compliment, provide harmony and unity with the development of nearby properties. This is especially true for the remaining undeveloped portions of TAZ 15 which as a result of the Town’s recent amendment to the Alston Plan has been a reserve primarily for nonresidential uses. By incorporating a TND style
community, the future nonresidential uses will provide true live/work/play opportunities within the Petty Farm something that has not occurred within any of the other areas in Alston to date. With the mixture of uses contemplated within the Alston Plan this mixture of uses is the exact type of development contemplated by the Town when the plan was envision. As a result the proposed community will be in harmony with the future development of nearby properties. Finding number four: that the plan provides safe conditions for pedestrians or motorists and prevents a dangerous arrangement of pedestrian or vehicular ways. Working closely with staff we have developed a plan that prevents a dangerous arrangement of pedestrian and vehicular ways. We've developed a plan to include sufficient sidewalks insuring no complex between vehicles and pedestrians. The street network has been designed in a manner that will result in lower speeds conducive to a single family community. The site plan provides a network of sidewalks along both sides of all internal public and private streets and the eastern frontage of Highway 55. All sidewalks, crosswalks, and ramps will be ADA compliant and will provide safe and effective pedestrian flow. The sidewalk network is supplemented by a 4,000 linear feet of interconnected six foot wide trails. As a result, the plan provides safe conditions for pedestrians and motorists and prevents a dangerous arrangement of pedestrian and vehicle routes. And my final finding that I'll present number five: the plan provides safe ingress and egress for emergency services to the site. This plan does provide safe ingress and egress. We have designed for the street layout so as to ensure that there’s adequate access to the emergency services to the dwellings. Again, the development proposes a wide end collector with three access points. I went over those earlier, but again three access points south of the collector. You have a right-in right-out off of Highway 55 and a signalized intersection off Highway 55. The lineage to connect into Highway 55 is widened and we have an intense internal network of streets as part of this TND style development. As we do with every plan we have engineered the roads with sufficient turn radii to accommodate large emergency vehicles. We met with the Fire Marshall and Police Chief yesterday, that’s right we met with them yesterday afternoon going back to the point that Jason or Mr. Barron had made, staff has been very willing and proactive in helping us and we’ve addressed their concern brought up in the staff report. We agreed upon a solution to provide an ancillary emergency only access point agreeable with NCDOT on Petty Farm Road’s stub, adjacent to the signalized intersection of McRimmon Parkway and Highway 55. Mr. Barron has a handout that we’d like each of you guys to review. Thank you. Hot off the press. Probably easier to start with page number two, the 11x17 exhibit. Our main entrance off Mahal Avenue is our signalized intersection. Petty Farm Road currently as Mr. Gradis pointed out is a terminus that is stubbed back when McRimmon Parkway was turned to a signalized intersection. The Fire Department had a concern that there would be limited access in certain situations, so we determined that it might be prudent to have an ancillary point of access for emergency vehicles only at the southern reach so that people could exit the facility in these certain events. We agree that this emergency access only, which would be capable of withstanding the loading and the operation of
emergency apparatus, could facilitate the coordination of the emergency response team on the site. Providing this third connection it’s my opinion that this plan goes above and beyond the code requirements and the standards and provides safe ingress and egress for the emergency services to the site. Just going onto a little more detail, the alignment for Petty Farm Road and that tertiary connection to Highway 55 was just brought up to NCDOT yesterday afternoon and they received it well and we acknowledged that it would only be for emergency vehicles only and still maintain protection from the common persons use and that was agreeable so we do have some more details to work out, but in general it was agreeable. That concludes my portion of the hearing. I’m now going to turn the presentation back over to Mr. Barron and I appreciate you guys hearing me.

Barron: Thank you Ron. And just so we’re clear, I’m going to read the specific language of that condition for purpose of the record. And what that condition reads and it is in your suggested motions sheet that I believe you all received prior to the commencement of the hearing, but it’s condition number three on that sheet and it reads prior to submission of any plats or subdivision plat approval, the developer shall construct and install an emergency access on NC Highway 55 at the current terminus of Petty Farm Road as shown generally on the attached emergency access sketch exhibit. And that is the aerial that you all received from Mr. Agers. The location design and construction of such emergency access must be sufficient to support and allow passage of emergency vehicles to provide emergency services and other vehicles for evacuation purposes. The location and design of such emergency access must be submitted to NCDOT and the Town of Cary for review and approval prior to initiation of construction. This condition will also be deemed satisfied if McCrimmon Parkway is extended across NC Highway 55 and a connection meeting all Town of Cary standard specifications is provided from the development to McCrimmon Parkway. That’s the condition that we have crafted with assistance of the Town. With that I will call our next witness, Mr. Earl Lewellyn of Kimley Horn and Associate.

Lewellyn: Good evening everyone. Earl Lewellyn with Kimley Horn and Associate located at 200 North Mangum Street in Durham here to be with you tonight. I have been in the traffic engineering field for 26 years now having previously worked as a Traffic Engineer for the City of Durham. I’ve been working in the private sector with McAdams Company and now with Kimley Horn and Associates for the past five years. I received a bachelor’s in civil engineering in 1988 from NC State University and I’m registered as a professional engineer in North Carolina, South Carolina and Virginia. I reviewed this plan as well as preparing the traffic impact analysis and it’s my opinion that the plan provides safe conditions for pedestrians and motorists and prevents any dangerous arrangement of pedestrian and vehicle ways. The projected future volumes along Mahal Drive are of the nature both in speed and volume that would not discourage pedestrian mobility between the two uses, the residential and the
future commercial to the south. In fact, the proposed round-a-bout that Mr. Akers just spoke about right here, with the inclusion of pedestrian crosswalks in accordance with Federal Highway Administration typical design and ADA compliance will actually enhance pedestrian mobility and provide a safer opportunity for crossing between those two uses. As you might imagine round-a-bout also acts as a traffic calming device slowing traffic along both Mahal and the internal streets there further making the pedestrian crossing safer. Certainly the street network is designed in a manner that will result in speeds that are conducive to a residential community. Also Petty Farm Road currently intersects NC55 at an angle as you can see here. Roughly about a 45 degree skew. What is proposed in the plan is with the construction of Mahal Drive in this area realignment of Petty Farm you create a better 90 degree intersection and access out to a safer signal controlled intersection for access onto NC55. As I said before the plan provides safe ingress and egress for emergency vehicles as Ryan alluded to. We have performed the traffic study for this project in some reports you’ll see in your package I believe. The analysis confirms that with these access points that along with the roadway improvements and transportation improvements that are part of the package and included on your plan that no significant congestion is anticipated as a result of the project that would impede emergency vehicles or circulation at all. The plan, as Ryan said, does include proposed stub outs to the south and to the east for interconnectivity in the future. Currently residents to the south are accessed via Petty Farm Road in this area and will continue to be at least as a minimum through this connection here. As a result we believe the plan does provide for safe ingress and egress to emergency services both to and from and within the project. The internal connections mentioned earlier and the two proposed access points onto NC55 in this location and here at Mahal Drive are sufficient to adequately accommodate emergency vehicles; however, with the newly proposed alternate access to the south which is about 1,800 feet away from Mahal Drive enhances that and promotes not only the safe circulation of vehicles, but even in the case of an extreme event for evacuation. The plan truly has a way of accommodating all of those type of emergency services and situations. The plan provides mitigation of traffic congestion impacts reasonably expected to be generated by the project. As I mentioned the traffic study was performed for this project in accordance with DOT standards, Town staff has reviewed that of course. In addition to the site generated traffic we include numerous other approved developments up and down 55 and adjacent corridors. In addition to that, we also included an ambient growth rate throughout the build out of the project, so being very conservative in that regard. The applicant has agreed to implement all these improvements and as noted they are included on the plan. With those improvements we’re able to determine that acceptable levels of service will result and that any potential traffic problems are mitigated resulting in level service D, which is of course the Town’s adopted standard - DOT’s adopted standard. Our access points, as Ryan mentioned, are consistent with the Alston Activity Center Plan both in this location and here as well and beginning to set up a grid network within TAZ 14 and 15. Speaking of TAZ 15, we did a supplemental analysis to look at what the
remaining intensity of this plot could be and what the impacts of that would be on Mahal Drive from a traffic perspective. And as a result of that we plan to dedicate additional right-of-way on this side to accommodate another entrance lane on Mahal Drive. Not necessary to build at this point, but if need in the future there’s a right-of-way to accommodate that. Based on the analysis it’s my professional opinion that the plan provides mitigation of traffic congestion impacts reasonably expected to be generated by this development and surrounding buildings. Thank you.

Barron: Mr. Mayor that’s the conclusion of our case and chief from an evidentiary stand point we would ask that the council would take judicial notice of the content of the Town’s Land Development Ordinance as well as the Town’s other adopted plans. We believe based upon the evidence that’s submitted on behalf of the application that we’ve satisfied the requirements for approval of the sketch plan and we respectfully request your approval of the same. Thank you.

Weinbrecht: Thank you. At this time I’ll invite speakers who’ve been sworn in who would like to speak in support of the application to approach the podium. Any other speakers? Seeing no one, cross examination of the witness who have testified please approach the podium.

Evenson: Thank you Mr. Mayor. My name is Eric Evenson. I live in Cary and I own 2.61 acres.

Johnson: Mr. Mayor.

Weinbrecht: Give us your address please. Have you been sworn in?

Evenson: I haven’t been sworn in.

Weinbrecht: You cannot speak unless you have been sworn in, so we’ll need you to take an oath.

Evenson: Thank you Council. My name is Eric Evenson. I live in Cary at 101 Donna Place. I own 2.61 acres on Petty Farm Road and Highway 55, it’s the pie shaped piece of property. You can’t see it. It would be to the lower right corner, but it’s in the area that Ms. Robinson and some others have talked about the desire to make that office and commercial which is fine with me. We’ve owned that property for some time. It’s an old farm house and we have a tenant there. I had not planned on speaking until about 10 minutes ago when I heard the plan and I have no problem with this plan at all. I think it’s a fine plan and I know they’ve done a lot of good work, but this is the first I’ve heard about this access at the southern end of Petty Farm Road. If you’ve never been out there, the end of Petty Farm Road is one of the oddest roads in Cary. It’s a little stub, it’s just awkward. It just sits there right in the middle of a field and it’s right off Highway 55. And it used to be the access up into that neighborhood off 55. It was the only
road before 55 and basically union troops chased confederate troops up that road and went around and went to Durham. And that was the old Durham Road and Highway 55 went straight through the farm, the nut farm and cut off that road and it remains to this day dirt road. And so, my question would be for Mr. Akers, who I know is a very competent engineer is I don’t really understand how he’s going to take that dirt road and make it an access for the Fire Department or the Police Department. Is he going to cut that field open and make it a dirt road, and how is he going to limit that to the Fire and Police Department and not the public because it’s right there at McCrimmon Parkway where the high school kids come out and everything. I just don’t understand that, so that would be my question.

Weinbrecht: Okay. Thank you. Mr. Barron, could we get an answer to that?

Barron: And I’ll speak on behalf of Mr. Akers, but if Mr. Akers needs to testify, I mean we have worked out those details with respect to what the actual paving will be as you come off of 55. We’ve been in conversations with NCDOT as well as the Town about using alternative pavers as opposed to kind of your typical standard paving material. That’s the detail that we’re going to be working out during the construction drawing process. We’re happy to coordinate and keep Mr. Evenson informed about what those are and share those plans with him if he has concerns, but right now we don’t know what the paving materials are going to be, we’re just waiting to find out. At a minimum as the condition indicates, it’s going to have to be sufficient to support emergency vehicles.

Weinbrecht: Thank you. Any other additional cross examination before we move into opposition? Okay. Now’s the time I would invite those who are sworn in who are opposed to the request, anyone at all? Okay. I’ll call on Town staff to add any additional testimony.

Gradis: Thank you Mayor and Council. I’d like to clarify too that at this present time Petty Farm Road is paved. It was recently done. I was out there a little bit less than a month ago and I can confirm that that particular stretch of Petty Farm is paved. At this time I would like to ask Chief Cain to approach and discuss some of the recent changes or, excuse me that’s not the correct terminology, but the recent development with regards to this alternative access. Chief Cain.

Cain: Mayor and Council. Good evening. As you’ve heard we have originally expressed some concerns with the access to the site and subdivision plan for the Brickyard development. Upon hearing those concerns, the applicant asked to meet with us and we met with them. They asked to meet with us to better understand our concerns and we’ve discussed those. The product of that meeting is the condition that was presented to you earlier about providing an emergency access point utilizing Petty Farm Road, and so we believe that emergency access, this condition adequately and appropriately addresses our concerns for emergency access. We are satisfied with that and no longer have a concern.
Weinbrecht: Thank you.

Gradis: Thank you Chief Cain. Also like to summarize again, the only minor modification being requested for this particular site plan is to the connectivity section of the ordinance 7.10.3b1 which requires sites to connect to the north, south, east and west. The applicant is requesting not to connect to the north and based off additional conditions or excuse me additional observations from staff the request appears to be reasonable based on its surrounding conditions. At this time I’d invite Mayor and Council to consider this site plan and also please reference the staff report and the additional worksheets and staff will be more than happy to answer any questions required.

Weinbrecht: Now the portion to ask any one if they have objections to the competency of any testimony provided, seeing no one. Does either party believe new evidence has been presented that warrants a continuance? Seeing no one we’ll open the deliberative phase of the hearing and I’d invite council members for their comments and questions.

Adcock: I don’t have a question. I’ll just make a motion unless someone has a question.

Weinbrecht: Any questions or concerns? Mr. Yerha?

Yerha: Just one question. I’m very glad to see this new condition and Chief Cain’s testimony, but what if NCDOT doesn’t approve this? It doesn’t happen?

Weinbrecht: That was actually where I was going to go. Thank you.

Barron: We don’t get to move forward. We can’t get a subdivision plot approved unless we get approval from each of the Town and NCDOT. Based on the conversation we’ve had with NCDOT which happened quickly, but amazingly effectively. But my client, the applicant has a comfort level with that discussion that they feel comfortable offering this condition, but we recognize that it’s a risk and if for some reason it doesn’t happen then that’s a risk we’ve assumed.

Yerha: Good answer. While you’re there, I understand the paving materials, you don’t yet know, that is to be decided, but do you have some idea of what you’re intending to do to limit this to just emergency vehicles? I mean is there some thought?

Weinbrecht: Or examples of what’s been done in the past?

Barron: Chief Cain, I don’t know if you want to provide testimony in that regard or provide an answer. I’m probably the least competent person to answer that question which is not unusual. Or we could have somebody from our team. Yes.
Cain: So we’ve just discussed conceptually there are a number of different ways to restrict public access. You could gate access to Petty Farm Road and we could control the gate through either a Knox Box Lock or siren activation so that’s one option. Another option and probably the best option that I could think of is that – and if someone in the audience might be able to help me, but there’s a – the subdivision that – pardon – Windsor Oaks at Penny and Kildaire Farm Road – we cul-de-sac’d the road, an access point onto Kildaire Farm Road and we equipped it with a I call it a drivable curb or I don’t know the technical term, so that’s drivable curb, so it looks like the street ends to the typical driver, but based upon our notes in CAF, we know that we can access that particular point. It serves as a great deterrent for use. I think that there are a number of options out there that satisfies our need and would probably address the gentleman that had the question earlier.

Weinbrecht: Okay.

Yerha: Thank you.

Cain: Does that help?

Yerha: That's good I wanted to bring that up because the gentleman did mention that.

Cain: Sure.

Weinbrecht: Other questions, comments? Ms. Adcock would you like to walk us through the motions then.

Adcock: Sure. I move to approve the sketch plan and subdivision plan for the reasons discussed. I move that we approve the proposed sketch plan and subdivision plan with conditions as stated below as it meets all the approval criteria set forth in section 3.9.2 – is that and i or an I?

Glover: Ms. Adcock, if I can interrupt you.

Adcock: Oh please do.

Glover: We actually need to approve the minor or vote on the minor modification first before we jump. We did put a revised motion in front of you that would be your second vote. Your first vote is still whether or not to approve the minor modification.

Adcock: Oh I'm so sorry. Thank you, Lisa. Sorry I got so far. For the reasons discussed I move that we approve minor modification request, the only one
made, by the applicant as the request meets all the approval criteria of the applicable sections of the LDO.

Yerha: Second.

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

All Council Members said aye.


Adcock: Okay. For the reasons discussed I move that we approve the proposed sketch site and subdivision plan with conditions as stated below as it meets all the approval criteria set forth in section 3.9.2 i or l - i of the LDO. This approval is conditioned upon the following one, the applicant must satisfactorily address any remaining Development Review Committee comments on the Master Plan sets submitted for signature; two, all parcels under this development plan shall be annexed before resolution of approval is signed; and three, prior to submission of any plats for subdivision plat approval the developer shall instruct and install an emergency access onto NC Highway 55 at the current terminus of Petty Farm Road as shown generally on the attached emergency access sketch exhibit. The location, design and construction of such emergency access shall be sufficient to support and allow passage of emergency vehicles to provide emergency services and other vehicles for evacuation purposes. The location and design of such emergency access must be submitted to NCDOT and the Town of Cary for review and approval prior to initiation of construction. This condition will also be deemed satisfied if McCrimmon Parkway is extended across NC Highway 55 and a connection meeting all Town of Cary standard specifications is provided from the development to McCrimmon Parkway.

Yerha: Second.

Weinbrecht: There's a motion and a second. Ms. Robinson.

Robinson: Yes. I plan on voting against the motion. Number three in the worksheet says does the plan provide harmony and unity with the development of nearby properties and I don't believe it does. I will be voting against it.

Weinbrecht: Okay. Other comments, questions? All in favor please say aye.

All council members, except for Robinson, said aye.

Weinbrecht: Any opposed?

Robinson: No.
Weinbrecht: Mr. Smith, I'm sorry.

Smith: No, aye.

Weinbrecht: Denied?

Robinson: No, he approved.

Weinbrecht: Motion carries five to one. Thank you.

Gradis: Thank you council.

2.3. Minor Modification To Site Plan 13-SP-033, Parkside Town Commons
(Refer to the attached special rules that specifically apply to this hearing)

Request by property owner for approval of a modification to the traffic mitigation timing for Phase 2, specifically, the CSX Railroad crossing at O'Kelly Chapel Road.

Proposed Council Action: Council may take action

Speaker: Mr. Kevin Hales

The following documents incorporated into this staff report are to be entered into the record for this hearing. They are filed in the planning department according to the Records Retention and Disposition Schedule.

Exhibit A: Applicant's Statement
Exhibit B: Plan Sheet C-3A from 13-SP-033
Exhibit C: Notes to Transportation Mitigation Summary (current version)
Exhibit D: Notes to Transportation Mitigation Summary (proposed version)
Exhibit E: Notes to Transportation Mitigation Summary (redline version)
Exhibit F: Revised plan sheets for 13-SP-033

PROJECT DESCRIPTION/SUMMARY OF REQUEST: The development known as Parkside Town Commons (hereafter, "the Project") has been in development with the Town since 2007, as summarized in the staff report for site plan 13-SP-033. Exhibit B provides a general overview of the Project. Parkside Town Commons is bisected by O'Kelly Chapel Road. The Town's Comprehensive Transportation Plan ("CTP") identifies O'Kelly Chapel Road as a thoroughfare that connects NC 55 to Louis Stephens Drive with a crossing of the CSX railroad corridor ("O'Kelly Crossing"). This crossing is also required by the Alston Activity Center Concept Plan ("ACCP"), which serves as the zoning regulations under which the applicant has chosen to develop the site. As part of approvals for Phase 2C of the Project (13-SP-033), KRG agreed to tie the installation of the railroad crossing at O'Kelly Chapel Road to the submittal of plans and the issuance of COs for a number of buildings in a given subset of development parcels. To date, KRG has received full subdivision and/or site plan approval to grade and to install infrastructure for the entire Project, to construct all of Phase 1 with the exception of lots 3 and 4 (outparcels located along O'Kelly Chapel Road), to construct Phase 2C (including lot 12), and to construct 294 multi-family units. Certificates of Occupancy have been issued for the Phase 1 approvals.
(again, excluding lots 3 and 4), including the Target and Harris Teeter south of O'Kelly Chapel Road. The majority of square footage approved in Phase 2C has also received a Certificate of Occupancy, consisting of the Field & Stream and Golf Galaxy buildings. The Town has issued development plan approval for two more outparcels along O'Kelly Chapel Road (lots 11 and 13), constituting an additional 12,227 square feet of restaurant space. Staff is reviewing plans for a 3,624-square-foot bank on lot 3 and has had conversations regarding a fast-food restaurant on lot 4. Under the current wording of the Notes to the Transportation Mitigation Summary table approved by Council on December 12, 2013 for 13-SP-033 (Exhibit C) (“Notes”), KRG received site plan approval for Lots 11, 12, and 13. KRG may not seek further approval for development plans for lots 3, 4, 9, 10, or 14 until the following events occur: (1) all necessary approvals and encroachments for the O'Kelly Crossing are obtained from CSX; (2) all necessary contracts are executed; (3) all conditions precedent to CSX constructing the O'Kelly Crossing are satisfied; and (4) KRG provides funds to the Town to pay all costs associated with the installation and the signalization of the O'Kelly Crossing. For purposes of this discussion, we will assume that execution of the Crossing Agreement referenced in the MOU described below would generally satisfy conditions 1 – 3. Under the existing Notes, Certificates of Occupancy (“CO”) may be issued for Lots 11, 12, and 13 only upon satisfaction of the four conditions. Development plans for the remaining five lots (3, 4, 9, 10, and 14) may only be submitted upon the satisfaction of the four conditions, with no ability to request a CO for those buildings until the O'Kelly Crossing is open to traffic with all associated conditions satisfied. Since Town Council approval of 13-SP-033 and the Notes on December 12, 2013, several relevant events have occurred. On February 27, 2014, Council accepted a donation from KRG in the amount of $1,220,000 to provide a portion of the funding for the Town’s transportation improvement project to construct a grade-separated crossing at Carpenter Fire Station Road (the “CFSR Crossing Project”). The CFSR Crossing Project eliminates one at-grade crossing at the Carpenter Fire Station Road crossing (the “Crossing Closure”). By separate action on February 27, 2014, Council authorized staff to enter into an “Agreement to Coordinate and Integrate Development of Public Transportation Infrastructure Improvements” (“Infrastructure Agreement”) with KRG for the purpose of coordinating the O’Kelly Crossing and CFSR Crossing Projects. Under the terms of the Infrastructure Agreement, KRG commits to exercise diligent good faith efforts to cause the O’Kelly Crossing to open. This commitment is subject to cooperation of CSX, which controls approval of the O’Kelly Crossing. On October 30, 2014, the Council authorized the Town Manager to enter into a Memorandum of Understanding (MOU) between CSX Transportation, NCDOT and the Town which sets forth the general structure and terms for a future agreement to allow an at-grade crossing of O’Kelly Chapel Road. While the MOU is not a binding legal document, it evidences the parties’ intent and provides guidance regarding the potential sequencing of events and steps necessary to open the at-grade crossing of O’Kelly Chapel Road. The general outline or sequence of events or steps as discussed in the MOU includes the following:

1. Closure of the existing railroad crossing at Carpenter Fire Station Road and roadway upgrades to the railroad crossing at Morrisville Carpenter Road to facilitate the detour of traffic to Morrisville Carpenter Road.

2. Construction of, but not open to traffic, the new at-grade railroad crossing at O’Kelly Chapel Road.

3. Construction of a new grade-separated railroad crossing on or near Carpenter Fire Station Road.

4. Opening of the O’Kelly Chapel Road railroad crossing to traffic.

5. Completion of construction of the new grade-separated railroad crossing at Carpenter Fire Station Road.

6. Closure of the Morrisville Carpenter Road railroad crossing.

NCDOT, CSX, and the Town must also enter into a “Crossing Agreement” that more specifically sets out the obligations of the parties and finalizes the timing of improvements. Now that the MOU has been executed, KRG proposes to revise the Notes regarding the O’Kelly Crossing (Exhibit D

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[proposed language] and Exhibit E [redline version]). As described in the table below, KRG now proposes that site plan review and approval be allowed to occur earlier for Lots 3, 4, 9, 10, and 14; that applicants be able to request building permits earlier for Lot 14; and that applicants be able to request COs earlier for Lots 3, 4, 11, 12, and 13. Under this proposal, the buildings constructed on Lots 3, 4, 11, 12, and 13 would be allowed to obtain COs and open to the public prior to the opening of the O’Kelly Crossing to traffic. While construction would be permitted under the conditions outlined below, the buildings constructed on Lots 9, 10, and 14 would not be allowed to obtain COs, or open to the public, until the O’Kelly Crossing is open to traffic. Thus, the net change from the current condition would allow two additional buildings to obtain COs prior to the opening of the O’Kelly Crossing to traffic and allow the developer to advance construction on the lots.

<table>
<thead>
<tr>
<th>Lots</th>
<th>Site Plan Review and Approval</th>
<th>Building Permit Request</th>
<th>CO Request</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>3 and 4</strong> (Bank of America; Chik-fil-A)</td>
<td>Current: Eligible after Crossing Agreement in place and funds for at-grade crossing provided by KRG</td>
<td>Current: Eligible after site plan approval</td>
<td>Current: Eligible after O’Kelly crossing open to traffic</td>
</tr>
<tr>
<td></td>
<td>Proposed: Eligible now</td>
<td>Proposed: Eligible after site plan approval</td>
<td></td>
</tr>
<tr>
<td><strong>9 and 10</strong> (No current plans)</td>
<td>Current: Eligible after Crossing Agreement in place and funds for at-grade crossing provided by KRG</td>
<td>Current: Eligible after site plan approval</td>
<td>Current: Eligible after O’Kelly crossing open to traffic</td>
</tr>
<tr>
<td></td>
<td>Proposed: Eligible after Crossing Agreement in place</td>
<td>Proposed: Eligible after site plan approval</td>
<td>Proposed: Eligible after O’Kelly crossing open to traffic</td>
</tr>
<tr>
<td><strong>11 and 12</strong> (Chuy’s and Starbucks/Verizon)</td>
<td>Approved</td>
<td>Current: Eligible now</td>
<td>Current: Eligible after Crossing Agreement in place</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Proposed: Eligible now</td>
<td>Proposed: Eligible after funds for at-grade crossing provided by KRG</td>
</tr>
<tr>
<td><strong>13</strong> (Panera Bread)</td>
<td>Approved</td>
<td>Current: Eligible now</td>
<td>Current: Eligible after Crossing Agreement in place</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Proposed: Eligible now</td>
<td>Proposed: Eligible after funds for at-grade crossing and for retaining walls associated with Lot 13 provided by KRG</td>
</tr>
<tr>
<td>Lots</td>
<td>Site Plan Review and Approval</td>
<td>Building Permit Request</td>
<td>CO Request</td>
</tr>
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<td>--------------</td>
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</tr>
<tr>
<td>14 (Courtyard by Marriott)</td>
<td>Current: Eligible after Crossing Agreement in place and funds for at-grade crossing provided by KRG</td>
<td>Proposed: Eligible after site plan approval and funds for remaining costs of retaining walls associated with grade-separated crossing provided by KRG</td>
<td>Proposed: Eligible after O'Kelly crossing open to traffic</td>
</tr>
</tbody>
</table>

While CSX has indicated through its execution of the MOU that an at-grade crossing of O’Kelly Chapel Road is acceptable, the MOU is not a binding document, and there is still a risk that CSX will require the O’Kelly crossing to be a grade-separated crossing. A grade-separated crossing would require installation of numerous large retaining walls, potentially exceeding 20 feet in height, and would require the lowering of existing pavement on O’Kelly Chapel Road. In addition, the access driveways connecting the existing Target and the shopping center will become much steeper with a grade-separated crossing. Lots 13 and 14 would be most heavily impacted by a grade-separated crossing. The Town currently has not programmed any funds towards construction of a grade-separated crossing, which would be expected to be a multi-million dollar project similar in cost to the Carpenter Fire Station Road crossing project. To ameliorate the financial effects of a grade-separated crossing were one to be required, KRG has committed to provide cash or a letter of credit to the Town in the amount of $600,000 prior to issuance of a CO for Lot 13 to pay all costs and expenses associated with design and installation of all retaining walls, including lowering of existing pavement and other related items, for Lot 13, that would be required to build a grade-separated crossing. Additionally, KRG has committed to provide an additional $1,100,000 in cash or a letter of credit prior to the issuance of any building permits for Lot 14 to pay the remainder of the costs and expenses associated with design and installation of all retaining walls, including lowering of existing pavement and other related items, needed along the full length of O’Kelly Chapel Road, that would be required to build a grade-separated crossing. The funds provided would be returned to KRG upon the opening of the at-grade crossing of O’Kelly Chapel Road at the CSX railroad to traffic or upon the Town’s affirmative decision to not construct a crossing of O’Kelly Chapel Road at the CSX railroad. Given what we know at this time, this proposed approach, which allows the developer to advance construction to an earlier date for some lots, is due consideration because obtaining a final CSX decision has taken significant time. Parkside’s development pace has been rapid since construction began, and this approach will allow the developer to proceed with design, site plan approval and construction of some of the remaining lots while awaiting future CSX approvals and the Town’s completion of design, right-of-way acquisition, and bidding for the CFSR Project. While staff is hopeful we will obtain a final CSX approval confirming the terms of the MOU, there is still some degree of uncertainty regarding all aspects of the O’Kelly Crossing; however, the applicant has offered to provide financial guarantees to help minimize Town exposure on the private property to be developed in the event that agreements with CSX end up differently than anticipated. Staff points out that any construction on Lots 9, 10, and 14 will be at the developer’s sole risk, given that COs may not be requested or issued for those lots until the O’Kelly Crossing is open to traffic.

**SUMMARY OF PROCESS AND ACTIONS TO DATE**
Notification
The Planning Department provided notification of the public hearing and posted the property in accordance with local and state regulations.

DEVELOPMENT PLAN WORKSHEET AND SUGGESTED MOTIONS: Section 3.9.2(l) of the LDO states that a development plan may be approved by the Town Council only if it meets the following six criteria.

1. Does the plan comply 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: As presented at and approved by Council at the December 2013 hearing, the Project and plans are consistent and in compliance with the Alston ACCP and LDO. A portion of the Project has been developed already in accordance with the Alston ACCP and LDO and this request merely seeks to allow construction associated with a few lots to take place prior to completion of the O’Kelly Crossing, subject to sufficient protections to the Town provided by the Applicant as described in the revised Notes.

   Staff Observations: The proposed plan is generally consistent with the Alston ACCP, the LDO, and with all other applicable standards and specifications. The applicant has requested that Town Council allow additional CO’s to be issued for a portion of the development prior to the O’Kelly Chapel Road railroad crossing being opened to traffic.  

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: As presented at and approved by Council at the December 2013 hearing, the Project and plans comply with setbacks, access requirements, buffers, streetscape guidelines and other similar design requirements of the Alston ACCP and the LDO. The Project is bounded by a railroad line to the east, NC Highway 55 on the west and the I-540 ramps to the south. In addition, properties nearby are largely non-residential or undeveloped in character. The residential uses within the Project are part of the overall multi-use nature of the development with appropriate design treatments. Once again, this request merely seeks to allow construction associated with a few lots to take place prior to completion of the O’Kelly Crossing, subject to sufficient protections to the Town provided by the Applicant as described in the revised Notes.

   Staff Observations: The proposed plan is generally consistent with the requirements of the Alston ACCP and the LDO regarding perimeter buffers and streetscapes. Stormwater management has been both reviewed and approved by the Town through prior approvals. The property surrounding the Parkside Town Commons development is non-residential in character; therefore, no adverse impacts are anticipated as a result of the proposed commercial development.

TEST SATISFIED? __ YES __ NO

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

   Applicant’s Statement: As presented at and approved by Council at the December 2013 hearing, the Project and plans provide harmony and unity with the development of nearby properties because, among other matters: (i) the Phase 2C Development Plan is generally consistent with the Alston ACCP and the LDO; (ii) the area surrounding the proposed development is predominantly vacant and intended for non-residential uses; (iii) the developed properties in the nearby area are largely located to the east on the other
side of the CSX railroad line from the Subject Property in the RTP and these are developed as office campus-type developments; (iv) the Subject Property is separated from other properties by the CSX railroad line, NC Highway 55 and I-540 ramps; and (v) the development contemplated by the plan is not out of character with surrounding properties.

**Staff Observations:** The area surrounding the proposed development is predominantly vacant property intended for non-residential uses. The developed properties are predominantly located to the east in RTP and are developed as office campus-type developments. The proposed commercial development would not be out of character with non-residential development in the surrounding community.

**TEST SATISFIED? __ YES __ NO**

4. Does the plan provide safe conditions for pedestrians or motorists and prevent a dangerous arrangement of pedestrian and vehicular ways?

**Applicant’s Statement:** As presented at and approved by Council at the December 2013 hearing, the Project and plans provide safe conditions for pedestrians and motorists and prevent a dangerous arrangement of pedestrian and vehicular ways because, among other reasons, (i) the streets, roadways, sidewalks and intersections comply with the applicable requirements of the LDO and other applicable Town standards; (ii) the design of the development includes pedestrian friendly features such as identified cross-walks and plazas; (iii) the intersections are designed with adequate site distance in accordance with AASHTO standards; and (iv) the sidewalks, intersections, streetscape and other similar design elements comply with the Alston ACCP requirements, which generally exceed those requirements used in connection with many other developments in the Town of Cary. Once again, this request merely seeks to allow construction associated with a few lots to take place prior to completion of the O’Kelly Crossing, subject to sufficient protections to the Town provided by the Applicant as described in the revised Notes.

**Staff Observations:** The proposed development complies with all design requirements for roadways and for sidewalks found in the LDO and in the Town’s Standards and Specification Manual. Adequate sight distance would be provided at all intersections consistent with AASHTO standards. Sidewalk requirements in the Alston ACCP exceed those implemented in other developments in the Town and would be expected to result in a development that is more pedestrian-friendly than other developments in the Town.

**TEST SATISFIED? __ YES __ NO**

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

**Applicant’s Statement:** As presented at and approved by Council at the December 2013 hearing, the Project and plans provide safe ingress and egress for emergency services to the development because, among other items: (i) the plans pay close attention to safety issues such as appropriate turning radius and proximity of streets and driveways to buildings; (ii) there are multiple vehicular access points to the development which have been properly designed; (iii) the accesses to the development were evaluated as part of the TIA report which indicates that they would be safe as proposed including appropriate lanes and related design standards; and (iv) applicable transportation mitigations have been taken into account in connection with various site access points. Once again, this request merely seeks to allow construction associated with a few lots to take place prior to completion of the O’Kelly Crossing, subject to sufficient protections to the Town provided by the Applicant as described in the revised Notes.
**Staff Observations:** The proposed accesses to the site were evaluated in the TIA for the project, and the report indicates that all would be safe as proposed with the recommended design mitigations. The applicant has incorporated all of the recommended mitigations related to the site entrances.

**TEST SATISFIED?** __ YES __ NO

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

**Applicant’s Statement:** As presented at and approved by Council at the December 2013 hearing, the Project and plans provide mitigation for traffic congestion impacts reasonably expected to be generated by the development as reflected on the master plan and proposed offsite improvements phasing and mitigation because, among other matters: (i) the previously reviewed TIA reviewed site access intersections and other intersections in the area to evaluate the applicable traffic conditions, including background traffic as well as development contemplated by the master plan portion of the subdivision and site plan; (ii) the previously reviewed TIA references certain roadway improvements that would be appropriate in connection with various portions of the development contemplated by the master plan; (iii) the proposed schedule of mitigation improvements, as amended for the requested Notes, appropriately addresses traffic mitigation so as to avoid traffic congestion that reasonably would be expected to be generated as the project is constructed by, among other items, ensuring that O’Kelly Chapel railroad crossing is installed prior to full build-out of certain lots within the project; and (iv) the design of the applicable intersections is in keeping with appropriate traffic engineering standards.

**Staff Observations:** The applicant has worked with the staff to develop a schedule for the proposed mitigations to address the traffic congestion impacts of the project as it is constructed and that should ensure that the O’Kelly Chapel Road railroad crossing is installed prior to full build-out of the site.

**TEST SATISFIED?** __ YES __ NO

**SUGGESTED MOTIONS FOR SITE PLAN**

**MOTION TO APPROVE THE SUBDIVISION AND SITE PLAN:** For the reasons discussed, I move that we APPROVE the proposed subdivision and site plan with conditions as stated below, as it meets all of the approval criteria set of Section 3.9.2(l).

*This approval is conditioned upon the following:*

2. [insert any conditions necessary to bring the project into compliance with the LDO or other standards]

**OR**

**MOTION TO DENY THE SUBDIVISION AND SITE PLAN:** For the reasons discussed, I move that we DENY the proposed subdivision and site plan, as it does not meet all of the approval criteria set forth in Section 3.9.2(l).

Weinbrecht: We’ll now move to quasi judicial 2.3, so our final quasi judicial public hearing approval for modifications to Parkside Town Commons. And an overview of the hearing procedures. . . .Before we move there, I don’t think I closed, official closed the public hearing. I need to go back and close the public hearing for item 2.2. Mr. Silverstein, are you okay with . . .

Silverstein: I thought you did at the conclusion of it.
Weinbrecht: I don’t think I said anything. Just to make sure. Close the public hearing once again. And again move to the Parkside Town Commons. An overview of the hearing, public hearing procedures and detailed rules are attached to the printed agenda. All speakers that wish to speak must be administrated an oath by Ms. Johnson who is on my right. I’ll pause just a moment while those individuals would like to speak at the public hearing to approach Ms. Johnson and receive their oaths. We will pause from doing anything until that has been completed.

Weinbrecht: At this time, I have two council members missing so I will wait. Since we have important questions to ask our council members, I’ll wait. Do we have all our council members?

Smith: The speakers are on back there.

Weinbrecht: Okay. Now I’ll ask council member is they’ve had any site visits, ex-parte communication, financial relationship, specialized knowledge or close relationship to an affected person to disclose. Mr. Yerha

Yerha: I have not.

Weinbrecht: Ms. Bush

Bush: I have not.

Weinbrecht: I have not. Mr. Smith

Smith: I have not.

Weinbrecht: Ms. Robinson

Robinson: I have not.

Weinbrecht: Ms. Adcock

Adcock: No, sir.

Weinbrecht: Based on the disclosures we heard from our council members, I’ll invite anyone to the podium that has been sworn in to speak if you have an objection to a council member’s participation. Seeing no one, we’ll continue. And I’ll open the quasi-judicial public hearing and Mr. Hales of our staff will introduce this public hearing.

Hales: Thank you. As you mention the final hearing on tonight’s agenda is a request by Kite Realty Group to modify some of the traffic mitigation conditions
that council saw associated with Parkside Towne Commons Phase Two C. Just about a year ago in December of 2013 that plan came before council for approval. I believe everyone is familiar with the location. Just briefly, it is at the intersection of O’Kelly Chapel Road and N.C. Highway 55. It is border on the south by N.C. 540, and on the east by CSX railroad corridor. This kind of lays out the various phases of the project as it moves forward. Phase One of the project include the extension of O’Kelly Chapel Road and the large anchors – Target and Harris Teeter – associated with inline shops shown here in dark green. Phase 2A was infrastructure, shown here in a pale purple. 2B was the apartment complex which is currently under construction. 2C is the plan that is being modified tonight, even though it affects more than that phase. It was the plan that council approved in December 2013 that is shown in blue. Phase 2D, subsequently, came in and was approved administratively by staff, includes most of the inline tenants in the center portion of site shown in the darker purple. There is still some outstanding outparcels and some of the inline tenants buildings, shown in yellow that have yet to be approved or may have been recently been approved.

So tonight, the request by the applicant is really dealing with the timing for the crossing for - the outparcels and the timing for the crossing for O’Kelly Chapel road railroad crossing. And again, you’ll hear a lot of talking tonight about various outparcels. To quickly give you an overview: outparcels three and four were outparcels of Phase One outparcels. Outparcels three is proposed for a Bank of America. That plan is currently in review by staff and is very close to approval. Outparcel four, next to it is proposed for a Chick-fil-A and that plan should be submitted by now they were working hard to get it in by deadline, end of business today. Outparcel nine and ten are some inline center tenants there that we have not seen plans for nor heard any conversations about. Outparcel eleven – is Chevys Mexican restaurant. That has been approved by staff administratively. Outparcel twelve was actually part of phase 2D, it came in with that plan and was approved already. It was a plan to be a Starbucks and Verizon. It is fairly close to completion. Outparcel thirteen is a proposed Panera Bread which is approved administratively. Outparcel fourteen is a Courtyard by Marriott and that is in review currently. So to quickly summarize the proposed changes – I have broken these out plans that have already been approved vs. plans that in process or have not been submitted yet. Parcels eleven, twelve, and thirteen, they were eligible – all have been approved. They are eligible for building permits now. They are not proposing any changes to that. What is changing is their eligibility for certificate of occupancy following construction. All three were proposed to be eligible after the crossing agreements were in place with the CSX and the various parties. What they are proposing now is to provide some payment in lieu or funds in reserve - I think its payment in lieu - in reserved for at-grade crossing should it not move forward in a timely matter. But no necessary waiting on the crossing agreement in place. Moving those agreements occupancy further forward in time to give them a little bit more minimum while we work out the crossing details. And then finally, the plans are currently in process. Several changes here, plan approval is really moving up, they weren’t eligible for even consideration for approval by staff prior to that crossing agreement being in place
and funds for that at-grade crossing in place. What they are proposing now is moving that forward for those - three, four, nine and ten are eligible for now. Courtyard by Marriott is the one that is closest to the crossing itself and will be most impacted if for whatever reason that needs to go to a grade separated crossing and therefore they are proposing to keep that plan approval marker at the crossing agreement being in place. Not moving that forward with the rest. However they are adding a conditional on lot 14, that they won’t be eligible for building permits until they got their plan approved, obviously, and then they are providing funds in case that at-grade separation, again after the cross agreement goes south, providing some funds in case they need to provide the walls necessary to make that at-grade separation. Then on three and four, ultimately, they were looking a certificate of occupancy only after the crossing itself was open. They are proposing to move those two certificates of occupancy forward time, so after the plan is in place and the funds for that at-grade crossing, they can go ahead and get that certificate of occupancy because those are the ones farthest in the planning process, right now. That concludes staff initial presentation, we’ll be available to offer some insight following the applicants presentation and anyone else who wishes to speaks. Thank you

Weinbreht: Thank you. We'll call on the applicant’s attorney to present arguments and evidence in support of the application by addressing the applicable approval criteria.

Lathrop: Thank you Mr. Mayor, members of council. My name is Tony Lathrop. And I’m pleased to have the opportunity to address Kite Reality, the applicant and assist Kite Reality, the applicant tonight. With me, let me introduce the folks with me, Mark Jenkins, senior VP of development for Kite Reality, Jay Matey with McAdams and Christa Greene of Stantech. They all have been active in project related transporation and engineering and planning and such matters. I want to thank staff for their efforts in connection with this project, espically Kevin Hales, Jerry Jensen and Lisa Glover for their assistance. And we'll do our best to move along and be mindful of your time. Mr. Hales’ report gave an excellent overview. And I will make every effort not to replow that ground. But he gave a great review of the subdivison site plan approval request. And helpful summary of the approvals that have already taken place. As indicated, Phase 2C was approved last December and this approval request is just intended to allow some additional progress in the development of Parkside, but while providing safe guards regarding traffic and development aspect. So of course, we commend to you all the staff report as updated by Mr. Hales presentation tonight. And I will tender that to you, commend to you for support to respect of appropriatness of this amendment in light of the six critieria under section 3.9.2 of the LDO. In a nutshell, this amendment ask that the notes associated with the transporation commitments be amended and in light of some additonal commitments that have been described. We seek to just to accelerate a few of the approval and occupancy provisions associate with a small number of lots. Of course, section 3.9.2 sets out six criteria that apply to this request. With this is mind, in just a
second, call on Mr. Matey and Ms. Greene. Mr. Matey is with the project planning engineering firm, McAdams, worked endless on this. Ms. Greene, traffic consultant, who has worked on this, extensively as well to give supporting testimony. And again, once again, we note the council has approved 2C, phase 2C, this is only a modest amendment being requested here. So with that, I'll ask Mr. Matey to come forward please.

Mr. Matey: Good evening council, my name is Jay Matey. I'm project manager with the McAdams company in Durham, NC. I'm a licensed engineer in NC and also the state of Florida. I have worked for McAdams for approximately two years and then in the engineering profession for over fourteen years.

Lathrop: Briefly, can you just describe your involvement with this project.

Matey: Sure. When I joined McAdams in early 2013, I was immediately transitioned to Parkside Town Commons. Became involved with in the latter stages of the permitting with phase 1 and then was fully engaged with phase 2 as project manager.

Lathrop: So in the process of doing that you've become familiar with Cary's community plan and the LDO.

Matey: Yes, very familiar.

Lathrop: And as you know, this Phase 2C was approved last December. And you are familiar with that process?

Matey: Yes, very much so. And familiar with the testimony that occurred as well.

Lathrop: Testimony from that process is still pertinent, relevant today, correct?

Matey: Yes, the project as a whole is not a fundamental change at all.

Lathrop: And you have reviewed the staff report as updated by Mr. Hales. Does the updated staff report accurately summarize the background on the development and subdivision site plan amendment approval request that is before the council tonight?

Matey: It does. And that slide does a very good job illustrating the various phases.

Lathrop: Let me turn to the approval criteria. With respect to the first one regarding compliance of the plans with applicable requirements of the ordinance including design development standards dedication and improvements provisions and other Town specifications. Can you briefly explain why this proposal complies and why the submittal plans comply?
Matey: Yes. This project is governed both by the Town of Cary Land Development Ordinance and the Alston Activity Center concept plan. The project meets the Alston plan in such ways as provision for a main street as defined in the plan. Also the provision for plaza space throughout the development and then in general it meets the Town of Cary Development Ordinance with regards to such criteria such as landscaping and pedestrian connectivity.

Lathrop: Thank you. With respect to item two of the criteria which address whether the plans adequately protect other property or residential uses located on this property from adverse impacts. Can you please address that?

Matey: Sure, again it is consistent with the 2013 testimony. The property is bounded on three sides by either a road or railroad right of way. And on the north side by a creek, which is essentially a preserved area. There are boundaries between the project and adjacent properties plus there are measures in place of setbacks, buffers, provisions as far as stormwater pollution protection in such as that other properties are not adversely affected.

Lathrop: In addition to the setbacks, it complies with access requirements – buffer streetscape guidelines, similar design requirements, correct?

Matey: Yes, correct.

Lathrop: In your opinion, are there any adverse impacts whatsoever on other properties resulting from this proposal tonight?

Matey: There are none.

Lathrop: Let me turn to item three of the approval criteria. Which pertains to whether the subdivision and site plans in this amendment provide harmony and unity with the development of nearby properties, and again if you could please just outline briefly why you think this proposal is in harmony?

Matey: Okay. Similar to item number two, with there are roadways and a railroad right of way bounding the property and then the properties, that are adjacent on other sides of those right of ways, tend to be either undeveloped at this time or there are some office parks in the RTP area to the east. The project fits in well with what has been developed around it. It also complies with the Alston Activity Center Concept Plan, which in of itself is a master plan that controls harmony throughout this area, as it is developed.

Lathrop: Thank you, moving on to criteria item four. Can you please briefly describe why you think that the plan and its design elements amended by this request provide safe conditions for pedestrians and motorists?
Matey: Yes. In the 2013 testimony, again with the plan being consistent with that. A key aspect of the project from day one was to provide safe pedestrian and motorist egress and ingress within the project and also to adjacent roadways. We are also in compliance with the Alston Plan there was a strong initiative to make the project have a sense or place and give a main street type feel. And also the Town, the plan in of its self complies with ordinance standards as far as sidewalk design and street design connectivity safety as far as intersection sight distances and those sorts of topics in the ordinance.

Lathrop: Thank you. And next in connection with item five of the approval criteria. Can you briefly address ingress and egress for emergency services to the site?

Matey: Yes, again with just general access. There is a public safety aspect of the design so that emergency service vehicles could get to the project and also circulate within the project. And have access to each and every building. So the design of this particular project takes that into account.

Lathrop: And the plan provides for appropriate turning radius in the approximate of streets and driveway into buildings?

Matey: Yes, yes it does.

Lathrop: And the multiple access points have been designed appropriately for ingress and egress?

Matey: Yes. There are several access points onto NC55 as well as to O'Kelly Chapel Road.

Lathrop: Thank you, Mr. Matey for your comments. If there are no questions, I would like to ask Ms. Greene from Stantech to come forward.

Matey: Thank you.

Lathrop: Thank you. Ms. Greene will address traffic and transportation aspects. Could you briefly describe your professional background and your involvement with traffic/transportation aspects of the Parkside Development.

Greene: Sure, good to see you all again. I'm Christa Greene with Stantech Consulting at 801 Jones Franklin Road in Raleigh, 27606. I have 24 years of traffic engineering experience. And eight of those have been with Stantech. I have my undergraduate and master degree from NC State and I'm also a registered professional engineer here in North Carolina. Although, Stantech did not prepare the TIA for this development because you have Town consultants that do - MAB now BHB, are the ones that did this one. I'm going to refer to them as MAB since that is what is in all the reports now. Knowing very well who they
are today. But we worked very closely with them and staff, we reviewed the numerous different submittials that came through til we got the final, and worked hand and hand just representing the Kite, our developer and trying to make sure we agreed. They did it in accordance to the way the Town and DOT wanted them and we were in agreement with everything that was done in that report.

Lathrop: You also are in the context of being familiar with the traffic analysis, familiar with the overall master plan for Parkside that is part of this approval and this request tonight.

Greene: Yes. We worked very closely with MAB and McAdams and everybody, Kite, through the whole process.

Lathrop: You actually, testified last December regarding the transportation aspect in the earlier approval plans including, for example, the overall project planning and offsite improvements as well as transportation mitigation summary exhibits at that time, correct?

Greene: Yes, we did. As I said we were in agreement. And also it is not unusual for a project of this size for a developer to come in and hire another consultant to just review the documents on their behalf too. Stated before, we were in agreement what was developed.

Lathrop: Can you comment as you did last year now on the revised notes to the transportation aspect and the overall traffic mitigation aspects.

Greene: Yes, as I testified in 2013 and have said tonight – The transportation improvement report was professional done and reflects the transportation mitigations improvement described in the approved plans and appropriate for mitigating the applicable traffic impacts.

Lathrop: Did you have an opinion tonight about whether the plans are as slightly modified by these revised notes provide for traffic mitigation?

Greene: Yes, I do. The developer at O’Kelly Chapel Road has already built all the improvements for full build out and even with these additional lots, they are still not going to be fully built out.

Lathrop: I would also like to ask you about items four and five of the approval criteria since they deal with conditions for pedestrians and motorists, as well as, safe egress and ingress for emergency vehicles. Just would like you to comment briefly on those as you did last year.

Greene: Sure, the designs of the streets and intersections they still continue to be in keeping with the design applicable standards such as AASHTO to ensure the public safety. I also want to reiterate my testimony in 2013 that the access
points to the site are appropriately designed and properly evaluated in the traffic analysis. The traffic mitigation commitments include the revised notes support the safety ingress and egress for emergency services to the site.

Lathrop: That essentially concludes our addressing of the criteria. I would request that the council take judicial notice of the Town’s requirements and prior testimony. Thank you again for your time tonight and your review of these items. If there are any questions, we will be glad to address them. Thank you so much.

Weinbrecht: This time I will invite speakers who have been sworn in that would like to speak in support of the application approach the podium if you have not already spoken. Seeing no one. I’ll invite cross examination of witness who have testified in support of the request. Seeing no one, we will continue and open the hearing to those who are opposed to this request. Seeing no one. I’ll call on town staff for any additional testimony.

Hales: Thank you Mayor. I’ll just call on Mr. Jensen from Transportation and Facilities Department briefly to explain staff’s insights.

Jensen: Good evening council. I just wanted to make you aware of some developments that have occurred recently. We just obtained a executed mandamus of understanding from CSX that allows us to advance of the possibility of getting an at-grade crossing at O’Kelly Chapel Road with that execution of that agreement that allows us to go forward with a formalized agreement with that agency as well as NCDOT upon full execution of that agreement – we’ll then be able to have Parkside finish that continue road work cross the railroad crossing. There are still some things to go that we certainly in a more positive light than we were maybe this time when we had the plan approve earlier. I do want to also state that staff has collaborated with the applicant over the last several weeks to craft the proposed offering of conditions that you see in your packet tonight. This by all means provides, certainly preserves, our ability to make sure Parkside conducts these improvements as outlined in the original traffic improvement plan. And with that hopefully we will have an executed agreement here soon.

Weinbrecht: Very good.

Hales: That concludes staff’s presentation. We will turn it over to council for deliberation. Thank you.

Weinbrecht: This time I will invite anyone sworn in who has an objection to the competency of any testimony presented. Seeing no one. Does either party believe there is any reason or warrants, anything to warrant a continuance of the hearing? Seeing no one. We’ll now open it up to council members for deliberative phase of this hearing. Council members, questions or comments.
Bush: I just have one. One of the things I noticed so put it more in layman’s terms than staff terms – bear with me – looks like what we are saying is that five more buildings can get their CO earlier rather waiting for the CSX railroad to be completed. That’s how I read it. And some can start building in the permit process can more forward quicker than is normal. So my question is, if I said that correctly, is there any impact to traffic if CSX continues to take this long period of time and we might not even have an opening. I feel for the applicant.

Jensen: I think we are observing since the center initially opened with the Target and some of the other stores, the traffic demand did not really materialize as much as we thought, that was predicted in the traffic model. We believe that we have, with less demand than anticipated, we probably have some more time before we realize full traffic potential. We feel like this probably is a workable situation for us.


Weinbrecht: Other.

Adcock: Can I ask a follow up question? I thought I heard someone saying, cannot recall who it was now, that there was a net increase of two buildings that will go online with the CO by the time you add some or some are delayed. Did I hear that wrong, Kevin?

Hales: There probably actually slightly more acceleration than that I will kind of go over that really quickly. Right now under the existing conditions, three plans are eligible for approval and then nothing else until after the agreements and everything were in place. And so what they are asking for is essentialy that after the crossing agreements are in place, that all those be eligible for plan approval. Actually eligible now. Three, four, nine, and ten which were delay till after the crossing agreements were in place originally. Those four are now eligible, those are four additional plan approvals that are eligible immeditaly. And then . . . .

Glover: I was just going to point out there is one sentence in the staff report. If you were looking for it, it is kind of buried. We tried to summarize, just in raw numbers, that site plan review and approval be allowed to occur earlier for five lots: three, four, nine, ten and fourteen. That the applicants be able to request building permits earlier than currently allowed for lot fourteen and that they able to request COs earlier than currently allowed for five lots: three, four, eleven, twelve and thirteen. So it is earlier CO approval for five; earlier site plan review and approval for five lots; and potential earlier building permit for approval for lot fourteen.

Adcock: So your math is much better than mine. I thought I heard a netting increase of two, but I understand what Jerry was explaining about the traffic not
being as heavy as we anticipated it would be at the opening of the first anchor store.

Weinbrecht: Other questions or comments.

Bush: Or than just this is my favorite Target, ever. Just thought I say that.

Weinbrecht: Okay.

Adcock: Not that, that will influence your vote or anything.

Bush: No, I am sure it doesn't but it is my favorite Target.

Weinbrecht: I'll now close the public comment portion of the hearing and ask Mr. Hales to help us with motions if necessary.

Bush: I'll make the motion if you like.

Weinbrecht: Please

Bush: I had it a second ago. I'll make a motion to approve the minor modifications for the Parkside Town Commons site plan that speaks to the traffic mitigation timing for Phase 2 dealing with the CSX railroad.

Weinbrecht: There is a motion.

Adcock and Robinson simultansouly: Second

Robinson: Either one of us.

Weinbrecht: Ms. Robinson

Adcock: Ms. Robinson, go.

Weinbrecht: Discussion. All in favor, please say aye.

Council: Aye

Weinbrecht: Any opposed? Motion carries unanimously.

Bush: That's it.

Weinbrecht: That's right. I'll close the public hearing. We have nothing else on our agenda.
3. CLOSED SESSION

4. ADJOURNMENT

ACTION:
Motion: At 9 p.m., Bush moved to adjourn.
Second: Adcock
Vote: Unanimous