

**TOWN OF CARY
RESOLUTION APPROVING MINOR MODIFICATION
BITTING ELECTRIC OFFICE DEVELOPMENT (19-DP-0123)**

Subject Property: 1000 Northgate Court
PIN#: 0756-75-9279
Total lot/tract size: 5.31 acres
Property Owner: Wake Gateway, LLC
Applicant: Bitting Electric

At its meeting on February 7, 2019, after conducting a duly advertised quasi-judicial hearing, and after considering the application materials, testimony, exhibits, and evidence presented at the hearing or otherwise appearing in the record, and the approval criteria of Section 7.2.15(C) of the Town of Cary Land Development Ordinance (the "LDO"), the Cary Town Council voted 6-1 to **APPROVE** the proposed minor modification, based upon the following findings and conditions:

Findings:

1. In connection with a development plan for an office and warehouse building, the Applicant is seeking approval of a modification to reduce a required Highway Corridor Buffer from one hundred feet (100') wide to fifty feet (50') wide.
2. The Subject Property is 5.31 acres having Wake County parcel identification number 0756-75-9279. The owner of the Subject Property is Wake Gateway, LLC. The Applicant is Bitting Electric.
3. The application and other records pertaining to the development plan are part of the record.
4. Notice has been provided as required by law.

Request for Modification to Reduce Highway Corridor Buffer:

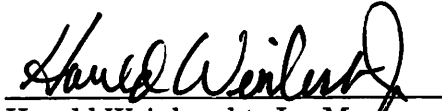
5. LDO Section 7.2.15(C) requires a 100' wide Highway Corridor Buffer (HCB) along the rear of the Subject Property.
6. The development plan provides a reduced HCB 50' in width.
7. The Applicant submitted a development plan for a 31,950 square foot building and a 73,000 square foot outdoor storage yard with an open storage structure located behind the building. This storage yard backs up to the right-of-way (ROW) for I-40 and is the area being requested for a reduced HCB width.
8. The right-of-way for I-40 adjacent to the Subject Property is wider than in other areas along I-40 to accommodate the nearby exit ramp for Aviation Parkway.
9. Although the I-40 right-of-way is wider, the actual pavement is not, so there is a wider strip of vegetation between the edge of pavement for I-40 and the Subject Property than for other properties farther from the interchange.

10. The existing topography of the Subject Property falls from a knoll centered on the northeastern corner of the property toward a draw crossing the northwestern corner. The elevation drops from 345 at the knoll to 316 just inside the northwestern corner of the Subject Property. The elevation drop is generally uniform along the property line adjacent to I-40.
11. The topography along the exit ramp ROW changes significantly from east to west, resulting in a practical need to grade into the otherwise required 100-foot HCB to make efficient use of the site.
12. After the proposed grading, the majority of the project area will be below the existing grade and the resultant slopes will assist in screening equipment in the project area despite the reduced buffer.
13. The reduced buffer will maintain a 50-foot strip of forest cover adjacent to the I-40 ROW.
14. Visibility into the site will be consistent with that of the nearby Carolina Restoration Services and Restaurant Depot sites, both of which provided less than 100 feet of HCB along the I-40 exit ramp.
15. Based upon the uncontroverted competent, substantial, and material evidence submitted into the record, and taking into consideration the topography of the area; surrounding land uses; the actual location of the controlled/limited access highway; the size and shape of land parcels affected by the buffer; and whether the buffer requirement would render the entire property unusable; the approval criteria for the approval of the Highway Corridor Buffer reduction contained in Sections 7.2.15(C) and 3.19.1 of the Land Development Ordinance have been met; specifically:
 - a. The development plan will provide appropriate landscaping meeting the requirements of Section 7.2.15(C)(4);
 - b. The Highway Corridor Buffer reduction advances the goals and purposes of the LDO;
 - c. The Highway Corridor Buffer reduction would relieve a practical difficulty in developing the site;
 - d. Strict application of the ordinance would result in an unnecessary hardship because the full extent of the 100' Highway Corridor Buffer would impose a practical difficulty in developing the site due to other constraints such as topography;
 - e. The hardship results primarily from the size, shape, and topography of the property, as well as the width of the I-40 right-of-way near the property line;
 - f. The hardship is not the result of any action taken by the property owner and is a circumstance of the property;
 - g. The requested modification is consistent with the spirit and intent of the ordinance; and
 - h. The requested modification will not compromise public health and safety, so substantial justice is achieved.

ACCORDINGLY, based on the foregoing, the Town Council hereby **approves** the Highway Corridor Buffer reduction from one hundred feet (100') wide to fifty feet (50') wide, subject to the following conditions:

1. The Applicant must satisfactorily address any remaining Development Review Committee comments on the master plan set submitted for signature.

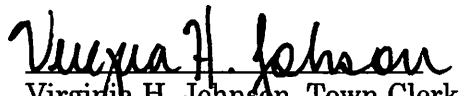
Signed, this 14 day of March, 2019


Harold Weinbrecht, Jr., Mayor

CERTIFICATION

I, Virginia H. Johnson, Town Clerk of the Town of Cary, North Carolina, do hereby certify the foregoing to be true copy of a Resolution duly adopted at the meeting of the Town Council held on March 14, 2019.

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


Virginia H. Johnson, Town Clerk

(Seal)

