

**STAFF REPORT**

Town Council, June 16, 2016

**Cottages at Wellington Rezoning 15-REZ-14 (PL16-055b)**

Consider action on proposed rezoning request

From: Jeff Ulma, Planning Director  
 Prepared by: Debra Grannan, Senior Planner  
 Approved by: Mike Bajorek, Interim Town Manager  
 Approved by: Russ Overton, Assistant Town Manager

**Speaker:** Debra Grannan

**Executive Summary:** To amend the Town of Cary Official Zoning Map by rezoning approximately 5.49 acres located northeast of the intersection of Wellington Drive and Tryon Road by extending the Mixed Use Overlay District to include two of the subject parcels and to rezone from Residential 20 (R-20) and Residential 40 (R-40) to Mixed Use District (MXD) subject to conditions specified in an associated Preliminary Development Plan (PDP), which include limiting the use to a maximum of 13 detached residential dwellings. There is a Comprehensive Plan Amendment (15-CPA-06) associated with this request. This rezoning has an associated Consistency and Reasonableness Statement.

**Planning and Zoning Board Recommendation:** The Planning and Zoning Board recommended approval by a vote of 5-4.

**Proposed Council Action:** Council may take action.

NOTE: The purpose of the rezoning is to determine whether or not the land uses and densities allowed in the proposed zoning district are appropriate for the site. Technical design standards of the Land Development Ordinance are addressed during review of the site or subdivision plan.

**SUBJECT PARCELS**

Property Owner(s)	County Parcel Number(s) (10-digit)	Real Estate ID(s)	Deeded Acreage
Baldur Trinkl Talangerstrasse 3 85152 Kraaling Germany	0772164343	0148834	3.65 ±
	0772167307	0113981	0.89 ±
David Baratta 7007 Spring Ridge Road Cary, NC 27518-9021	0772168367	0018092	0.95 ±
<b>Total Area</b>			<b>5.49 ±</b>

**BACKGROUND INFORMATION**

Applicant & Agent	Richard H. Ladd Kensington Partners, LLC 203 Rutherglen Drive Cary, NC 27511 (919) 524-0405 Rlad65@gmail.com
Acreage	5.49 ±

General Location	6348 Tryon Road and two unaddressed adjacent parcels on Tyron Road		
Schedule	<b>Town Council Public Hearing</b> February 25, 2016	<b>Planning &amp; Zoning Board Public Hearing</b> April 18, 2016	<b>Town Council</b> June 16, 2016
Land Use Plan Designation	An associated Comprehensive Plan Amendment (15-CPA-06) request to change the Land Use designation from Office and Institutional (OFC/INS) to Medium Density Residential (MDR) and add two of the parcels to the Wellington Park Community Activity Center was approved on May 12, 2016.		
Existing Zoning District(s)	Residential 20 (R-20) and Residential 40 (R-40) Watershed Protection Overlay District (Swift Creek sub-district)		
Existing Zoning Conditions	None		
Proposed Zoning District(s)	Mixed Use District (MXD); Extend Mixed Use Overlay District to two of the subject parcels; Watershed Protection Overlay District (Swift Creek sub-district) will remain		
Proposed Zoning Conditions	Use shall be limited to 13 detached residential dwelling units with a minimum lot size of 5,118 square feet, and other design aspects and dimensional standards as shown on the associated Preliminary Development Plan (PDP).		
Town Limits	Yes		
Staff Contact	Debra Grannan, Senior Planner (919) 460-4980 Debra.grannan@Townofcary.org		



**PRELIMINARY DEVELOPMENT PLAN SUMMARY**

The Cottages at Wellington PDP proposes a development of 13 detached residential lots situated on a future local road which terminates in a cul-de-sac. The minimum proposed lot size is 5,227 square feet and the average lot size is 6,059 square feet. A 50-foot Type-A (opaque) streetscape is proposed adjacent to Tryon Road and a 30-foot-wide, Type-A streetscape is proposed adjacent to Wellingsborough

Drive. A 20-foot-wide Type-B (semi-opaque) Buffer with a six-foot tall opaque fence is proposed adjacent to the northern and eastern property lines. The eastern buffer represents a ten-foot reduction to typical LDO Standards. An area of 7,000 square feet of open space is proposed for a community gathering area.

**SITE CHARACTERISTICS**

**Streams:** Cary’s most recent GIS maps indicate the presence of a stream buffer on a portion of the subject property. Field determination of such features shall be required at the time of development plan review.

**Floodplain or Wetlands:** Cary’s most recent GIS maps do not indicate the presence of any floodplain or wetland areas on the subject property. Field determination of such features shall be required at the time of development plan review.

**Adjacent Uses and (Zoning):**

- North – Detached Residential (PDD Major – Wellington Park)
- South –Opposite side of Tryon Road; vacant (approved site plan for proposed stealth telecommunications tower) and detached residential (R-40)
- East – Vacant (R-20)
- West –Opposite side of Wellingborough Drive; Shopping Center (PDD Major – Wellington Park)

**CONSISTENCY WITH LAND DEVELOPMENT ORDINANCE**

**Land Use**

Detached dwellings are a permitted use in a Community Activity Center and the corresponding Mixed Use Overlay District.

**Dimensional Standards and Measurements**

	Existing Zoning Districts (R-40)	Existing Zoning District (R-20)	Proposed Zoning District (MXD) As shown on Preliminary Development Plan
<b>Max. Gross Density</b> (Du/acre)	1.08	2.17	2.37
<b>Min. Lot Size</b> (Sq. Ft.)	40,000	20,000	5,118
<b>Minimum Lot Width</b> (Ft.)	150 (160 for corner lot)	90 (100 for corner lot)	51
<b>Roadway Setback</b> From Local Road (Ft.)	20	20	18
<b>Side Yard Setback</b> (Ft.)	20 (septic tank/well), or 15 (public sewer)	10	3 Min., 6 Aggregate
<b>Rear Yard Setback</b> (Ft.)	30	25	17
Maximum Building Height	35 ft. (May be increased by one foot for every additional foot provided between the building footprint and the minimum required setback).		

Note: Unless a zoning condition voluntarily offered by the applicant states otherwise, where a regulatory stream buffer forms a rear or side property line of a lot, and pursuant to NCGS 143-214.23A(f), the Town

must attribute to each lot abutting the stream buffer a proportionate share of the stream buffer area (a) for purposes of lot area requirements (i.e., the portion of the stream buffer between the applicable lot line and the near edge of the associated stream will be included for the purpose of determining if the minimum lot size requirement of the LDO is satisfied); and (b) for purposes of calculating the minimum rear or side setback and perimeter buffer, if applicable, (i.e., the setback or buffer will be measured from the near edge of the associated stream instead of from the actual property boundary).

### **Landscape Buffer**

The Preliminary Development Plan proposes a 20-foot-wide Type-B (semi-opaque) buffer along the north and east property lines adjacent to the existing subdivision. The buffer adjacent to the eastern property line represents a ten-foot reduction to typical LDO standards.

### **Streetscape**

The Preliminary Development Plan proposes a 50-foot-wide Type-A (opaque) streetscape adjacent to Tryon Road and a 30-foot-wide Type-A streetscape adjacent to Wellingborough Drive.

### **Traffic**

The proposed rezoning conditions indicate that development on 5.49 acres would be limited to a maximum 13 dwelling units. Based on the ITE Trip Generation Manual, 9th edition, Land Use Code 210 – Single Family Detached Housing Units, the proposed rezoning is anticipated to generate approximately 19 trips during the am peak hours and 17 trips during the pm peak hours. The threshold for a traffic study is 100 peak-hour trips; therefore, a traffic study was not required.

### **Stormwater**

At the time of site plan review, the future plan must meet all stormwater management and detention requirements as required by the Land Development Ordinance.

## **SUMMARY OF PROCESS AND ACTIONS TO DATE**

### **Notification**

Notice of the public hearing on the proposed rezoning was mailed to property owners within 800 feet of the subject property, published on the Town's website and posted on the subject property.

### **Neighborhood Meeting**

A neighborhood meeting for the proposed rezoning was facilitated by Planning Department staff at Cary Town Hall on September 9, 2015. According to the information submitted by the applicant, 12 nearby property owners attended the meeting. Questions and concerns expressed at the meeting are provided in the meeting minutes submitted by the applicant. Following the neighborhood meeting, the applicant added one adjacent parcel to the rezoning request. To ensure that all adjacent property owners had an opportunity for input, a second neighborhood meeting, also facilitated by planning staff, was held on December 9, 2015. The applicant's minutes from that meeting are also attached.

### **Town Council Public Hearing (February 25, 2016)**

Staff presented an overview of both the proposed comprehensive plan amendment and the rezoning request, and summarized the design aspects of the associated Preliminary Development Plan.

The applicant stated the property was more appropriate for residential use rather than for a "small office site." The applicant added that the proposed detached residential use would provide a good transition between Tryon Road, the Wellington Park Shopping Center and the detached residential uses to the north.

During the public hearing, several neighbors expressed concern about traffic impacts and the difficulty neighbors have with ingress and egress at the intersection of Tryon Road and Wellingborough Drive. Concerns about density, buffer width and environmental impacts were also expressed.

Following the public hearing, the Town Council explained that there are more stringent standards in place today for stormwater management than those that existed when the Wellington Park neighborhood was developed. They expressed awareness of the traffic concerns in the vicinity and noted that approval of a traffic signal at the intersection of Tryon Road and Wellingborough Drive would need to be authorized by NCDOT. Several council members stated that they supported office use even in small land areas, but evaluated rezoning requests on a case-by-case basis. One council member noted a concern about the proposed development being compatible with adjacent residential development and indicated that building setbacks that were closer to those of the adjacent neighborhood may be more appropriate for the site. One council member noted that residential use results in less traffic impacts than an office use, but felt that the buffer concerns expressed by the neighbors should be addressed.

#### **Changes Since the Town Council Public Hearing**

The applicant has added enhanced landscaping and a six-foot tall opaque fence along the buffer adjacent to the northern and eastern property lines.

#### **Planning and Zoning Board Public Hearing (April 18, 2016)**

Staff presented an overview of the request. The applicant stated that the proposed residential use would have less impact on traffic than an office use and noted that the number of dwelling units would be reduced to 13 dwelling units.

During the public hearing, two citizens expressed concerns about traffic impacts and the compatibility of the proposed development with the existing neighborhood. Staff provided answers to the board's questions regarding buffer requirements, sidewalk and connectivity.

The board forwarded the case to Town Council with a recommendation for approval by a vote of 5 to 4.

#### **Changes since the Planning and Zoning Board Public Hearing**

The applicant officially reduced the proposed maximum number of dwelling units from 14 to 13. On May 12, 2016, the Town Council approved the associated request for a Comprehensive Plan Amendment to change the Land Use designation to Medium Density Residential (MDR) and add two of the parcels to the Wellington Park Community Activity Center.

### **CRITERIA FOR CONSIDERATION IN REVIEWING REZONINGS**

Section 3.4.1(E) of the Land Development Ordinance sets forth the following criteria that should be considered in reviewing rezonings:

1. The proposed rezoning corrects an error or meets the challenge of some changing condition, trend or fact;
2. The proposed rezoning is consistent with the Comprehensive Plan and the purposes set forth in Section 1.3 (LDO);
3. The Town and other service providers will be able to provide sufficient public safety, educational, recreational, transportation and utility facilities and services to the subject property while maintaining sufficient levels of service to existing development;
4. The proposed rezoning is unlikely to have significant adverse impacts on the natural environment, including air, water, noise, stormwater management, wildlife and vegetation;
5. The proposed rezoning will not have significant adverse impacts on other property in the vicinity of the subject tract; and
6. The proposed zoning classification is suitable for the subject property.

### **APPROVAL CRITERIA FOR MIXED USE DISTRICT REZONINGS**

In addition to the criteria for a general rezoning, Section 4.5.2 (E) of the LDO also sets forth that requests to a MXD district shall also be reviewed for compliance with the following criteria:

- 1. Intensity, Type and Mix of Uses**

The preliminary development plan includes an appropriate intensity, type and mix of land uses as outlined by the guidelines contained in the Land Use Plan. This shall be addressed in relation to the scale of the activity center and the mix and relationship of existing and planned uses in the activity center, including residential, commercial office and institutional uses;

*Staff Comment: The proposed development improves the balance of the mix of residential and nonresidential uses within the activity center.*

**2. Site Design**

The preliminary development plan shows how the proposed mixed use development will meet or exceed Town site design guidelines and other established Town standards, including connections and linkages to immediately adjacent properties.

*Staff Comment: Minor modifications are needed to address pedestrian connectivity on the Preliminary Development Plan.*

**3. Expected Land Uses**

The extent to which the proposed development provides the expected land uses, including medium- and higher-density housing, outlined by the numerical and other guidelines contained in the Land Use Plan;

*Staff Comment: The proposed small-lot subdivision provides an alternate housing option within the activity center.*

**4. Public Spaces**

The preliminary development plan includes some formal outdoor spaces for public use, such as a park, village green or plaza with larger mixed use centers including more such space than smaller centers; and

*Staff Comment: The PDP proposes a 7,000-square-foot community gathering space which is centrally located on the plan.*

**5. Scale and Content**

The preliminary development plan demonstrates that the proposed development is appropriate for the context and location, responds to the unique conditions of the area and provides reasonable transitions within and adjacent to the district.

*Staff Comment: The PDP demonstrates that the proposed development provides transitions to adjacent uses.*

The applicant's response to these criteria is attached.

**APPLICABLE COMPREHENSIVE OR AREA PLAN REQUIREMENTS**

**Southeast Area Plan**

Existing Plan Recommendation

The Southeast Area Plan, an element of the Townwide Comprehensive Land Use Plan, is the guiding plan document for the subject site which is comprised of three tax parcels. The Southeast Area Plan designates all three parcels as appropriate for Office and Institutional (OFC/INS), and all three are subject to the following special map notes depicted on the Southeast Area Plan's Future Land Use Map 1:

Note #8: *Individual lots should develop in a unified manner*

Special Note Regarding Access Points: *Access points/driveways onto thoroughfares and collectors should be minimized (and reduced whenever possible) through the use of shared and consolidated driveways between lots, and the use of cross-access driveways between lots. Parcels being redeveloped should provide cross-access stubs or easements to adjacent properties, as part of an overall plan for connectivity within each area.*

Also, the largest of the three parcels that make up the subject site is a part of the Wellington Park Community Activity Center. Chapter 6 of the Land Use Plan defines activity centers as physically and aesthetically unified, concentrated mixed-use areas containing commercial, office, institutional, and high- and medium-density residential uses, arranged in a walkable, compact, pedestrian- and transit-friendly

manner. A community activity center is typically anchored by one or two large shopping centers, and is intended to supply significant amounts of office space, plus ample amounts of high-density and medium-density residential.

Requested Plan Amendment (Approved May 12, 2016)

The applicant’s request is 1) to change the Office and Institutional (OFC/INS) designation of the site to Medium Density Residential (MDR), and 2) to extend the boundary of the Wellington Park Community Activity Center to include the two smaller parcels not currently in the Activity Center boundary. The land use categories are defined in the Southeast Area Plan document as follows:

- Office & Institutional (OFC/INS) includes all types of office and institutional uses. Examples include corporate and professional offices (large and small), nursing homes, churches, schools, daycare, etc.
- Medium Density Residential (MDR) consists of residential development at three to eight dwellings per acre, with potential housing types including single-family detached, patio homes, duplexes, triplexes, and townhouses. In addition, a variety of neighborhood-compatible and complimentary institutional uses may also be considered, such as churches, schools, and daycare facilities.

Planning History for the Subject Site

- 1996. At the time Cary’s townwide Land Use Plan was adopted in 1996, the Plan Map recommended that the subject site be developed as Medium Density Residential
- 2004. The future land use recommendations for the subject site were updated in 2004 with the adoption of the Southeast Area Plan. The Southeast Area Plan changed the future land use recommendation to OFC/INS with Map Note #8 and a special note regarding access points applying to the site (see discussion under “Existing Plan Recommendation” above).

Activity Center Metrics and Projections

At present, Wellington Park Community Activity Center is approximately 73% built-out. The ratio of existing residential development versus non-residential development (retail/commercial/office) for the overall activity center is shown in the table below along with the recommended ranges and ratio for community activity centers.

	<b>Land Use Plan Recommended Ranges For Community Activity Centers</b>	<b>EXISTING</b>
Commercial/Retail floor space	250,000 – 600,000 sq. ft.	+/- 128,343 square feet
Office floor space	250,000 – 600,000 sq. ft.	+/- 335,921 square feet
<b>Total Non-Residential</b>		<b>+/- 465,264 square feet*</b>
Residential	.5 – 3 units per 1000 sq. ft. of non-residential*	.44 units/1000 square feet (approximately)
*Doesn't include schools, places of worship, daycare, nursing home/assisted living		

The numbers in the table indicate that the existing office floor space in the overall Wellington Park Community Activity Center is within the recommended range; the commercial/retail floor space is below the recommended range; and the number of residential units is below the recommended number needed to support the existing retail/commercial and office uses. The majority of the remaining undeveloped land within the activity center is primarily located at the southeast quadrant of the US Hwy 1/64 interchange at

SE Cary Parkway, and includes approximately 42 vacant acres recommended for Office/Institutional and Commercial uses.

#### Preliminary Development Plan

The applicant has submitted a preliminary development plan that proposes 13 units of single-family-detached residences on approximately 5.5 acres, of which 3.7 acres are currently in the designated Wellington Park Activity Center. The overall effect of this proposal on the current activity center metrics would be to lose a small amount of potential office square footage from the activity center in order to slightly enhance the residential component of the activity center. Thirteen additional units of residential added to the activity center would change the current ratio of .44 units of residential per 1000 square feet of non-residential to .47 units of residential per 1000 square feet of non-residential.

Regarding the Southeast Area Plan's vision for a unified development with cross-access stubs to adjacent properties (Map Note #8 and Special Note Regarding Access Points), the applicant's preliminary development plan proposes unified development of three of the four parcels covered by Note #8 on the Land Use Plan map. The applicant provided justification to show that due to the shallow lot depth and topography challenges with the site, cross-access to the adjacent, fourth parcel was not practical. Connectivity may be waived by the Planning Director during the site plan process when physical constraints such as these exist.

#### **Growth Management Plan**

The Growth Management Plan includes the following Guiding Principles which are relevant to this case:

1. Guiding Principle R1: Ensure that adequate infrastructure and services are available concurrently with new development.
2. Guiding Principle R2: Concentrate growth near existing and planned employment centers and available and planned infrastructure to minimize costly service-area extensions.

Comments: Public infrastructure is located adjacent to this site. The site is located in/adjacent to the Wellington Park Community Activity Center which contains the Wellington Park Shopping Center and numerous professional offices.

#### **Affordable Housing Plan**

The Affordable Housing Plan includes the following goals that may be relevant to this case:

1. Provide for a full range of housing choices for all income groups, families of various sizes, seniors, and persons with special challenges.
2. Facilitate the creation of a reasonable proportion of the Town of Cary's housing as affordable units through additional homeownership opportunities for individuals and families earning between 60% and 80% of area median income and affordable apartments for individuals and families earning up to 60% of the area median income.
3. Encourage the location of high density housing within walking and convenient commuting distance of employment, shopping, and other activities, or within a short walk of a bus or transit stop, through "mixed use" developments, residences created on the upper floors of nonresidential downtown buildings, and other creative strategies.

Comments: This request for a single-family-detached residential neighborhood on small lots in a designated activity center supports goals #1 and #3 above, but it is unclear whether it will support goal #2 above. If this request is approved, residents would be within walking distance or an easy car commute to the array of retail, services and professional offices located at and around the S.W. Cary Parkway and Tryon Road intersection. This location is also within convenient commuting distance to the shops, services and employment opportunities at the Crossroads Regional Activity Center and the Swift Creek Neighborhood Activity Center, distances of 1.5 miles and three-quarters of a mile respectively. Go Triangle Route 305 also serves Tryon Road and Piney Plains Road in this location.

#### **Comprehensive Transportation Plan**

**Tryon Road** is designated as a **Major Thoroughfare**

**Existing Section:** Approximately 68 feet back-of-curb to back-of-curb in a 108-foot right of way

**Future Section:** Four-lane median-divided section with a 78 feet back-of-curb to back-of-curb in a 100-foot right of way

**Sidewalks:** Required on both sides

**Bicycle Lanes:** 14-foot-wide outside lanes requires on both sides

**Transit:** Go Triangle services Tryon Road and Piney Plains Road in this area

**Status of Planned Improvements:** N/A

**Wellingborough Drive** is designated as a **Collector Avenue**

**Existing Section:** Approximately 45 feet back-of-curb to back-of-curb in a 65-foot right of way

**Future Section:** Two-lane collector with 37 feet back-of-curb to back-of-curb in a 58-foot right of way

**Sidewalks:** Required on both sides

**Bicycle Lanes:** Required on both sides

**Transit:** Go Triangle services Tryon Road and Piney Plains Road in this area

**Status of Planned Improvements:** N/A

**Transit Service:** The long-range service expansion plans for C-Tran envision a future route stretching down Southeast Cary Parkway to the Wellington Park Shopping Center, and also connecting homes along and near the Piney Plains Road/Tryon Road intersection to the Crossroads area and points north along Walnut Street. However, the timing and funding of such a service expansion have not yet been determined. Go Triangle Route No. 305 serves Tryon Road and Piney Plains Road in this area.

#### **Parks, Recreation and Cultural Resources Master Plan**

According to the Parks, Recreation and Cultural Resources Facilities Master Plan there are no parks or greenways proposed for this site. Marla Dorrel Park and several existing and proposed greenways are located within ½ mile of the subject property.

A recreation fund payment or park land dedication will be required in accordance with the Land Development Ordinance. Staff has recommended that a recreation fund payment be made for this site in lieu of a land dedication.

#### **Historic Preservation Master Plan**

This site has no identified historic resources.

### **STAFF EVALUATION - CONSISTENCY WITH THE DESIGN GUIDELINES FOR MIXED USE CENTERS**

**Create A Sense Of Place:** The proposed PDP provides a small, centrally located gathering area and garden which contribute toward the sense of place for the development.

**Create Human Scale:** The relationship between a small lot size and residential street contribute to a human scaled development.

**Connect Uses:** The PDP will be required to show pedestrian connectivity to existing sidewalks.

**Provide Transitions:** The PDP proposes smaller lots and higher density than the existing Wellington Park PDD development to the north. This provides a transition between the existing homes and Tryon Road.

**Reduce Parking Impacts:** No reductions to typical LDO Parking Standards are proposed. Residential neighborhoods should comply with typical LDO parking standards.

**Plan for Pedestrians, Bicyclists, and Transit Users:** Future service expansion plans for C-Tran envision a route from Southeast Cary Parkway to the Wellington Park Shopping Center, and also connecting homes along and near the Piney Plains Road/Tryon Road intersection to the Crossroads area and points north along Walnut Street.

**Provide Open Space:** The PDP provides streetscapes, buffers and community gathering areas consistent with LDO standards.

**OTHER REFERENCE INFORMATION**

<b>Schools</b> <i>This information is being provided for your review; however, the Wake County Board of Education controls capital projects for school capacities.</i>	Type <sup>1</sup>	Projected Range of Additional Students <sup>2</sup>
	Elementary School	4-6
	Middle School	1-2
	High School	1-3
Total Projected range of additional students <sup>2</sup>		6-11

<sup>1</sup>Information regarding specific Wake County Public School assignment options may be found by visiting the following: <http://assignment.wcpss.net/preview/myplan.html>

<sup>2</sup> The *Projected Range of Additional Students* is a rough approximation. The actual number of students will vary depending on variables, such as the number of bedrooms, dwelling size, and other factors. For example: a site with 14 three-bedroom homes could yield six additional students, while 14 homes with greater than three bedroom units could yield 11 students. The basis for making this calculation is based on multipliers provided by the Wake County Schools Office of Student Assignment. At rezoning, student yield cannot be accurately determined due to unknown variables.

**APPLICANT'S JUSTIFICATION STATEMENT**

Attached are the applicant's responses to the justification questions contained in the application form. Please note that these statements are that of the applicant and do not necessarily represent the views or opinions of the Town of Cary.