

**Town of Cary, North Carolina
Rezoning Staff Report
14-REZ-02 Cary Oaks Subdivision
Town Council Meeting
June 12, 2014**

REQUEST

To Amend the Town of Cary Official Zoning Map to apply initial Cary zoning to property located on Cary Oaks Drive and Holly Stream Court, outside of Cary's Extra-Territorial Jurisdiction (ETJ). There is an owner-initiated annexation petition, case number 14-A-02, associated with the rezoning. Annexation must be approved prior to application of a Cary zoning district.

SUBJECT PARCELS

Property Owner(s)	County Parcel Number(s) (10-digit)	Real Estate ID(s)	Deeded Acreage
BOOTH, JODY M & ALAHNA 9928 RUSSET OAK LN CHARLOTTE, NC 28277-2308	0760552957	0185762	0.27
ALMOND, PAMELA S 4128 CARY OAKS DR APEX, NC 27539-7602	0760560409	0185780	0.21
SAULS, THOMAS BRENT & STEPHANIE M 4220 HOLLY STREAM CT APEX, NC 27539-7682	0760468145	0185769	0.23
HERMANS, GEORGE B & JANE M 4216 HOLLY STREAM CT APEX, NC 27539-7682	0760468280	0185770	0.23
PARDO, ISABEL C GRISSINGER, TIMOTHY S 4213 HOLLY STREAM CT APEX, NC 27539-7682	0760469090	0185766	0.24
MCCANN, JAMES M MCCANN, AMY B 4141 CARY OAKS DR APEX, NC 27539-7604	0760467447	0185777	0.36
FURNARI, JOHN STEVEN & MEGHAN E 4100 CARY OAKS DR APEX, NC 27539-7602	0760563089	0185787	0.24
ADCOCK, DOUGLAS RYAN 4217 HOLLY STREAM CT APEX, NC 27539-7682	0760469010	0185767	0.30
MCCARTHY, MARIA I 4120 CARY OAKS DR APEX, NC 27539-7602	0760561435	0185782	0.24
CORNEJO, JOSE A CORNEJO, RAMELA R 4129 CARY OAKS DR APEX, NC 27539-7604	0760469303	0185776	0.20
FLETCHER, PAUL L III & ANNA J 4204 HOLLY STREAM CT APEX, NC 27539-7682	0760561220	0185773	0.27
JOHNSON, RYAN DAVID JOHNSON, KRISTEN HERMINE 4116 CARY OAKS DR APEX, NC 27539-7602	0760562319	0185783	0.36

POUX-CASERTA, CHRISTINE MARIE CASERTA, DAVID ANTHONY II 4132 CARY OAKS DR APEX, NC 27539-7602	0760469526	0185779	0.32
ROGERS, JAMES T & DONNA P 4125 CARY OAKS DR APEX, NC 27539-7604	0760469361	0185775	0.18
MORRIS, KELLY M & ALYSSA D 4221 HOLLY STREAM CT APEX, NC 27539-7682	0760468065	0185768	0.32
RENCIBIA, CONNIE M 4117 CARY OAKS DR APEX, NC 27539-7604	0760560259	0185774	0.19
SIOUVILLE, ANDREW J & JENNIFER E 4104 CARY OAKS DR APEX, NC 27539-7602	0760563124	0185786	0.26
ALLEN, MICHAEL D & MELINDA H 4140 CARY OAKS DR APEX, NC 27539-7602	0760467594	0185778	0.28
CONLEY, PATRICK JAMES HAGAMAN, MARGARET ANN 4205 HOLLY STREAM CT APEX, NC 27539-7682	0760561033	0185764	0.27
MARSH, BENJAMIN & OLIVIA 4208 HOLLY STREAM CT APEX, NC 27539-7682	0760560149	0185772	0.19
RIZZOLO, ANTHONY J & DIANNA 4105 CARY OAKS DR APEX, NC 27539-7603	0760562004	0185763	0.20
JAHNKE, NICHOLAS & PAMELA 4212 HOLLY STREAM CT APEX, NC 27539-7682	0760469270	0185771	0.19
OBRIEN, CHARLES W JR & NATALIE P 4108 CARY OAKS DR APEX, NC 27539-7602	0760562293	0185785	0.30
CARY OAKS HOMEOWNERS ASSOC INC 6100 OXFORDSHIRE CT RALEIGH, NC 27606-9351	0760467724 0760465678 0760459869 0760468693 0760560838	0185792 0185791 0185795 0185794 0185793	1.35 0.20 0.38 0.02 4.29
Total Area			12.09

PROJECT SUMMARY

The Cary Oaks Subdivision consists of twenty-six (26) lots for residential dwellings plus additional parcels designated as open space. The subdivision was approved under Wake County regulations as a cluster subdivision, and is shown on a plat recorded with the Wake County Register of Deeds in Map Book 1990, Page 806. A note on the recorded plat indicates that sewer service for the lots within the subdivision will be connected to the Town of Cary system and water service will be provided by a private system. Currently, all of the lots in the subdivision receive Town of Cary sewer service but are not connected to the Town's water system.

The owners of the subject parcels have submitted an annexation petition for approximately 12.09 acres located within the subdivision. The subject property consists of twenty-three (23) lots with detached dwellings (of the 26 total lots within the subdivision) and five (5) parcels designated as open space. The owners of three of the lots within the subdivision were not interested in annexation at this time. Since the subdivision is contiguous to

the Town's primary corporate limits, all of the properties are not required to be annexed. Rezoning to establish an appropriate Town of Cary zoning designation is required as part of the annexation process since the subject properties currently have Wake County zoning designations. The zoning districts proposed by staff are Residential 8 (R-8) for the lots that contain dwellings, and Resource/Recreation (R/R) for the open space parcels. These are the districts that most closely correspond to the existing uses for the subject properties.

BACKGROUND INFORMATION

Applicant	Town of Cary 316 N. Academy Street Cary, NC 27513		
Applicant's Agent	Wayne Nicholas, Planning Manager		
Acreage	12.09 ±		
General Location	Approximately 2,200 feet southwest of the Holly Springs Road and Ten Ten Road intersection		
Street Addresses	4100, 4101, 4104, 4105, 4108, 4116, 4117, 4120, 4125, 4128, 4129, 4132, 4140 4141 Cary Oaks Drive, and other unaddressed properties off Cary Oaks Drive; 4204, 4205, 4208, 4212, 4213, 4216, 4217, 4220, 4221 Holly Stream Court		
Schedule	Public Hearing April 24, 2014	Planning & Zoning Board May 19, 2014	Town Council June 12, 2014
Land Use Plan Designation	Medium Density Residential (MDR); Parks, open space, greenways, etc. (PKS/OS);		
Existing Zoning District(s)	Wake County Residential 30 (Wake R-30)		
Proposed Zoning District(s)	Residential 8 (R-8); Resource/Recreation (R/R)		
Town Limits	The subject property is located outside the corporate limits and the Town of Cary ETJ. An owner-initiated annexation petition, 14-A-02, has been submitted by the property owners in conjunction with this rezoning request.		
Valid Protest Petition	Protest petitions are not applicable to a map amendment (rezoning) that initially zones property that is being added to the Town's jurisdiction by annexation.		
Staff Contact	Wayne Nicholas, Planning Manager (919) 465-4610 wayne.nicholas@townofcary.org		

SUMMARY OF PROCESS AND ACTIONS TO DATE

Neighborhood Meeting

Since this is a town-initiated rezoning associated with an owner-initiated annexation, a neighborhood meeting regarding the rezoning is not required.

Notification

Consistent with NC General Statutes, notice of the public hearing on the proposed rezoning was mailed to property owners within 400 feet of the subject property, published on the Town's website and posted on the subject property.

Town Council Public Hearing (April 24, 2014)

Staff presented an overview of the request. A representative from the neighborhood HOA spoke in support of the petition. One council member asked about the shape and configuration of the open space parcels. Staff explained that there is a private well located within the open space. There was a question about future maintenance of the streets in the development. Another council member asked about water service for the existing lots. Staff explained that the subdivision would continue to receive private water service, and that once annexed the residents would have the opportunity to petition the Town for connection to Town water. There was also a question regarding the reason for the annexation request. Staff explained that the petitioners were interested in receiving other Town services in addition to resident rates for the sewer service they currently receive.

Changes Since the Town Council Public Hearing

None.

Planning and Zoning Board Meeting (May 19, 2014)

Staff summarized the proposal and explained that this rezoning is associated with an owner-initiated request for annexation of existing, developed lots and open space within the Cary Oaks subdivision. Staff explained that initial Town of Cary zoning must be applied to the property in association with annexation. Staff noted that based on existing lot sizes and use of the lots, the proposal is for R-8 zoning for the residential lots and Resource/Recreation for the open space parcels.

One board member asked why three of the lots in the subdivision were excluded from the request. Staff explained that these owners are not interested in annexation at this time. Another board member asked about the reason for the annexation request. Staff explained that the owners were interested in receiving other town services in addition to paying typical residential rates for sewer service that is already provided to the properties. There were several additional questions from board members related to annexation of the property. Questions pertained to: providing services to the properties; development of the property under Wake County regulations; the existing private water system; trash collection; the configuration/shape of some of the open space parcels; the location of the properties in relation to the existing Town limits; existing sewer service for the subject properties; maintenance of the streets within the subdivision; and, tax and sewer rates.

One board member asked about the regulations that would apply if the properties are annexed into Cary. Staff explained that once annexed and rezoned, the properties would be subject to Cary's zoning regulations. Another board member asked if this would create non-conformities with regard to existing structures. Staff explained that there are provisions in the Ordinance to account for these types of situations, and it is possible that an existing structure may not meet the current standards if there is a future proposal to enlarge and/or alter the structure.

Following the discussion, the Planning and Zoning Board recommended approval of the proposed rezoning by a vote of 8-0.

Changes Since the Planning and Zoning Board Meeting

None.

CONSISTENCY WITH LAND DEVELOPMENT ORDINANCE

Design Standards

Compliance with subdivision-related design regulations such as those pertaining to drainage, stream buffers and other environmental features, landscape buffers, roads and streetscapes was through Wake County at the time of subdivision plan approval.

Traffic

The rezoning consists of 23 lots (currently containing detached dwellings) that are proposed to be annexed into Cary. The ITE Trip Generation Manual Single Family Detached Housing (210) would generate 26 am and 28 pm peak hour trips for 23 single-family homes. Since the current threshold that requires a Town initiated study is 100 peak hour trips, a traffic study would not be required.

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 property in the vicinity of the subject tract;
6. The proposed zoning classification is suitable for the subject property.

APPLICABLE COMPREHENSIVE OR AREA PLAN REQUIREMENTS

Land Use Plan

Long-range land use recommendations for the Cary Oaks subdivision and its environs are provided by Cary's townwide Land Use Plan. The Plan designates the subdivision lots for Medium Density Residential (MDR) development, and the community open space associated with the subdivision as Parks and Open Space (PKS). The MDR includes single-family detached and attached housing, at densities typically ranging from about one to three dwellings per acre.

Planning History: The Land Use Plan recommendations date from adoption of the original Land Use Plan in 1996, and have been unchanged since that time. The subdivision pre-dates the 1996 Plan, having been developed in the period of 1989-1991. In preparing the 1996 Plan, all existing development within the planning area was assigned a land use category matching the use and densities used by the Plan. Thus, the community open space was assigned the "PKS" land use category, and the subdivision lots were assigned the "MDR" use category. The reason that the lots were assigned to the MDR category is twofold: First, the net density of just the home lot portion of the subdivision is about 3.9 dwellings per acre, fitting within the MDR range. Second, the original 1996 Plan also recommended a minimum lot size of about a quarter acre for the next lowest density category, Low Density Residential (LDR). Since lot sizes in Cary Oaks ranged from 0.18 to 0.36 acres, the lot sizes did not seem to conform with LDR.

Analysis: The subdivision has been unchanged since adoption of the 1996 Land Use Plan, and it clearly conforms to the land use designations that were assigned in the Land Use Plan at that time.

Contemporary Practice: As a side note, it may be worth noting that the gross density of the entire subdivision – which would include the homeowners association property designated as PKS, as well as the road right-of-way – is actually about 1.77 dwellings per acre, which is in conformance with the density range recommended for the LDR land use category (LDR densities range from one to three dwellings per acre). Thus, when considering gross density, the Cary Oaks subdivision is actually fairly consistent with its LDR neighboring subdivisions, such as the Oak Chase subdivision to its north.

Growth Management Plan

The Growth Management Plan is primarily concerned with guiding requests for new development within the planning area. Since the Cary Oaks subdivision is already developed, little of this plan applies, except for:

- R1 Guiding Principle R1: Ensure that adequate infrastructure and services are available concurrently with new development.

Analysis: The site is adequately served by utilities and services.

Affordable Housing Plan

The Affordable Housing Plan is primarily concerned with guiding requests for new development within the planning area. Since the Cary Oaks subdivision is already developed, this plan does not apply.

Comprehensive Transportation Plan

The subject properties are part of the Cary Oaks Subdivision, which is adjacent to Holly Springs Road. The properties are served by Cary Oaks Drive and Holly Stream Court, both of which are local streets and were developed as part of the subdivision approved by Wake County.

Holly Springs Road is designated as a Major Thoroughfare

Existing Section: 2-lane, 24-foot back to back section with right-of-way ranging from 55 feet to 65 feet with no sidewalks or bike lanes

Future Section: 4-lane section with 18-foot median in 78-foot back to back with 100-foot right-of-way

Sidewalks: 5 feet of proposed sidewalk on both sides of the road shown in ultimate CTP

Bicycle Lanes: 14-foot-wide outside lane shown in ultimate CTP

Transit Facilities: N/A

Status of Planned Improvements: No improvements being proposed

Cary Oaks Drive is designated as a local street

Existing Section: 2-lane approximately 27 feet back to back in approximately 50-foot right-of-way

Future Section: 2-lane 27 feet back to back in 50-foot right-of-way with 5-foot sidewalk

Sidewalks: None existing

Bicycle Lanes: None existing

Transit Facilities: N/A

Status of Planned Improvements: No planned improvements

Holly Stream Court is designated as a local street

Existing Section: 2-lane approximately 27 feet back to back in approximately 50-foot right-of-way

Future Section: 2-lane 27 feet back to back in 50-foot right-of-way with 5-foot sidewalk

Sidewalks: None existing

Bicycle Lanes: None existing

Transit Facilities: N/A

Status of Planned Improvements: No planned improvements

Access to Transit: There are no existing or planned bus transit routes within 4-5 miles of the subdivision.

Parks, Recreation & Cultural Resources

According to the Parks, Recreation and Cultural Resources Facilities Master Plan, the Camp Branch Greenway is proposed along the stream that runs along the eastern edge of this subdivision. Easement dedication is not a requirement of rezoning, only of site/subdivision plan submittals per the LDO.

Open Space Plan

The Open Space Plan is primarily concerned with guiding requests for new development within the planning area. Since the Cary Oaks subdivision is already developed, this plan does not apply. However, it is worth noting that the subdivision does include a significant amount of community open space – roughly the same amount of land is dedicated to open space as to home lots.

Historic Preservation Master Plan

There are no identified historic structures on the subject site.

Summary Observations

The rezoning request seems to be consistent with all applicable volumes of the Comprehensive Plan.

ORDINANCE FOR CONSIDERATION

14-REZ-02 CARY OAKS SUBDIVISION

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF THE TOWN OF CARY TO ESTABLISH INITIAL TOWN OF CARY ZONING FOR APPROXIMATELY 12.09 ACRES LOCATED ON CARY OAKS DRIVE AND HOLLY STREAM COURT BY REZONING FROM WAKE COUNTY RESIDENTIAL 30 (WAKE R-30) TO RESIDENTIAL 8 (R-8) AND RESOURCE/RECREATION (R/R).

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CARY:

Section 1: The Official Zoning Map is hereby amended by rezoning the area described as follows:

PARCEL & OWNER INFORMATION

Property Owner(s)	County Parcel Number(s) (10-digit)	Real Estate ID(s)	Deeded Acreage	Zoning District
BOOTH, JODY M & ALAHNA 9928 RUSSET OAK LN CHARLOTTE, NC 28277-2308	0760552957	0185762	0.27	R-8
ALMOND, PAMELA S 4128 CARY OAKS DR APEX, NC 27539-7602	0760560409	0185780	0.21	R-8
SAULS, THOMAS BRENT & STEPHANIE M 4220 HOLLY STREAM CT APEX, NC 27539-7682	0760468145	0185769	0.23	R-8

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CARY OAKS HOMEOWNERS ASSOC INC 6100 OXFORDSHIRE CT RALEIGH, NC 27606-9351	0760467724 0760465678 0760459869 0760468693 0760560838	0185792 0185791 0185795 0185794 0185793	1.35 0.20 0.38 0.02 4.29	R/R
Total Area			12.09	

Section 2: That this Property is rezoned from Wake County Residential 30 (Wake R-30) to Residential 8 (R-8) and Resource/Recreation (R/R) as specified above, subject to all the requirements of the Cary Land Development Ordinance (LDO) and other applicable laws, standards, policies and guidelines, all of which shall constitute the zoning regulations for the approved district and are binding on the Property.

Section 3: This ordinance shall be effective on the date of adoption.

Adopted and effective: June 12, 2014

Harold Weinbrecht, Jr.
Mayor

Date