

**Town of Cary, North Carolina
Rezoning Staff Report
14-REZ-04 High House Road North
Town Council Meeting
September 23, 2014**

REQUEST

To amend the Town of Cary Official Zoning Map by rezoning approximately 27.44 acres located on the north side of High House Road, about 300 feet east of the NC 55 Highway, to remove the subject property from the Mixed Use Overlay District (Westpark Neighborhood Activity Center) and change the base zoning district from Residential 40 (R-40) to Transitional Residential Conditional Use (TR-CU), with zoning conditions limiting land use to detached dwellings with a maximum density of 2.5 dwelling units per acre.

An associated Comprehensive Plan Amendment (14-CPA-01) to remove the subject property from the Westpark Neighborhood Activity Center and change the Land Use Plan Designation from Medium Density Residential (MDR) to Low Density Residential (LDR) was approved by Town Council on July 17, 2014.

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 and can be found at <http://www.amlegal.com/library/nc/cary.shtml>.

SUBJECT PARCELS

Property Owner(s)	County Parcel Number(s) (10-digit)	Real Estate ID(s)	Deeded Acreage
Patra P. Payseur	0734925262	0416943	2.00 ±
Patra Payseur Charlie Estes Baucom Jane Pittman James Ronald Baucom William Thomas Baucom Deborah McNeill Pattie Claudean Baucom Barbara Puttman Bowser	0734922465	0412560	25.44 ±
Total Areas			27.44 ±

BACKGROUND INFORMATION

Applicant & Agent	J.W.Shearin, Innovative Development Solutions		
Acreage	27.44 ±		
General Location	2420 and 2504 High House Road		
Schedule	Town Council Public Hearing May 8, 2014	Planning & Zoning Board August 18, 2014	Town Council September 23, 2014
Land Use Plan Designation	Low Density Residential (LDR) <i>(Comprehensive Plan Amendment 14-CPA-01 approved July 17, 2014)</i>		
Existing Zoning Districts	Residential 40 (R-40); Mixed Use Overlay District, Westpark Sub-area; Watershed Protection Overlay District, Jordan Lake Sub-area		
Existing Zoning Conditions	None		
Proposed Zoning Districts	Transitional Residential Conditional Use (TR-CU); Watershed Protection Overlay District, Jordan Lake Sub-area		
Proposed Zoning Conditions	1. Land use shall be limited to detached dwellings. 2. Density shall not exceed 2.5 dwelling units per acre.		

Town Limits	The subject property is located outside the corporate limits but inside the Town of Cary ETJ. Annexation will be required prior to site plan approval.
Valid Protest Petition	No
Staff Contact	Mary Beerman, Senior Planner (919) 469-4342 mary.beerman@townofcary.org

SITE CHARACTERISTICS

Streams: According to Town of Cary GIS Maps, the site is impacted by stream buffers. Field determination of such features will be required at the time of site plan review.

Adjacent Zoning and Land Use:

North – Residential 12 (R-12); detached residential (Somerset Subdivision)
 South (*opposite side of High House Road*) – Residential 40 (R-40); detached residential [*Proposed rezoning from R-40 to TR-CU (Case Number 14-REZ-05 High House Road South) is in process*].
 East –Residential 40 (R-40); vacant
 West – General Commercial Conditional Use; retail and restaurants

CONSISTENCY WITH LAND DEVELOPMENT ORDINANCE

Land Use

Detached dwellings are a permitted use in the Transitional Residential Zoning District

Density and Dimensional Standards

	Existing Zoning District (R-40)	Conventional TR Zoning District	Proposed Zoning District (TR-CU)
Max. Gross Density	1.08 du/acre	6.0 du/acre	2.5 du/acre
Min. Lot Size	40,000 square feet	5,000 square feet	
Minimum Lot Width	150 feet (160 feet for corner lots)	40 feet for detached dwellings	
Roadway Setback	30 feet from High House Road		
Side Yard Setback	20 feet (<i>with septic tank/well</i>) 15 feet (<i>with public sewer</i>)	The combined setback for both side yards is 6 feet. A firewall is required where the setback on either side is less than 3 feet.	
Rear Yard Setback	50 feet	Minimum 3 feet, with combined front and rear setback of at least 40 feet	
Maximum Building Height	35 feet (<i>May be increased by one foot for every additional foot provided between the building footprint and the minimum required setback</i>).		

Landscape Buffer

A 30-foot Type B (semi-opaque) buffer is required on the subject property adjacent to the adjoining subdivision to the north and vacant property to the east. A 50-foot Type A (opaque) buffer is required along the western boundary adjacent to the existing commercial development.

Streetscape

A 50-foot opaque streetscape is required adjacent to High House Road.

Traffic

The proposed conditions limit this development to 2.5 dwelling units per acre, so a maximum of 68 single-family dwelling units could be proposed. The ITE Single Family Dwelling Units (210) from the ITE Trip Generation Manual would generate 58 am and 73 pm peak hour trips. The threshold for a traffic study is 100 peak hour trips, therefore no study is required.

Stormwater

At the time of site plan review, the future plan must meet all stormwater management and detention requirements. Peak flow from the one-, two-, five- and 10-year storm events must be determined and must be attenuated back to pre-development conditions from the discharge point leaving the development.

SUMMARY OF PROCESS AND ACTIONS TO DATE

Neighborhood Meeting

According to the applicant, a neighborhood meeting for the proposed rezoning was held on February 3, 2014. According to the information submitted by the applicant, 29 residents attended the meeting. Questions and concerns expressed at the meeting are provided in the meeting minutes submitted by the applicant.

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 (May 8, 2014)

Town Council conducted a joint public hearing for the following three items:

- 14-REZ-04 High House North - a rezoning request for the subject property;
- 14-REZ-05 High House South - a rezoning request for 16.41 acres on the south side of High House Road across from the subject property; and
- 14-CPA-01 High House Road - a Land Use Plan Amendment associated with both rezoning requests (*approved by Town Council on July 17, 2014*).

A resident of the Summerset subdivision (*adjacent to the northern boundary of the subject property*) provided a petition in support of the rezoning, noting that the residents requested that the intersection at Sir Walker Lane and High House Road (*located approximately 650 feet east of the subject property*) be taken into account in the design of improvements to High House Road. (*A resident of the Wellsley subdivision expressed support for the Land Use Plan amendment and the proposed rezoning on the south side of High House Road (14-REZ-05).*)

There were questions and discussion by council members regarding the Town's regulations regarding mass grading. It was also noted that a traffic study would have been required if the two rezoning requests (north and south side of High House Road) were combined. It was noted by staff that the parcels on the north and south side were under different ownership and were not under contract by a single developer. It was further noted that the LDO does not require the two rezoning cases to be combined in a single request, and does not provide for cumulative traffic generated by multiple rezoning requests to be considered in determining when a traffic study is required.

Planning and Zoning Board Meeting (August 18, 2014)

The Planning and Zoning Board recommended approval of the rezoning request by a vote of 7-1. There were general questions and discussion by board members regarding the lack of a traffic study. A member expressed concern that if there was no median break on High House Road in front of the subject property, there would be u-turns at the intersection with NC 55 and at the next median break to the east, areas that are already congested. It was also noted by a board member that neighboring property owners had expressed support for the request at the public hearing.

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

The townwide Land Use Plan provides future land use guidance for the subject property. The subject property is recommended for Low Density Residential (LDR), defined as detached single-family residential dwellings at one to three units per acre. Therefore the subject request is in compliance with the Land Use Plan.

Plan History

At its inception in 1996, the Land Use Plan recommended that the property surrounding the intersection of High House Road and Hwy. 55, including the subject property, be developed under the concept of a mixed-use activity center. The mixed-use concept was depicted on the Plan map with an activity center symbol placed at the High House Road and Hwy. 55 intersection (and also at other major intersections). The subject property was accordingly designated as appropriate for medium density residential. In 2003, the mixed-use activity center concept was implemented with hard boundaries drawn as zoning overlays on the Official Zoning Map. The boundaries were each drawn to reflect the recommended level of activity center: neighborhood, community, or regional. In 2014, the applicants applied for a comprehensive plan amendment (14-CPA-01) to remove the subject property from the designated mixed-use activity center, and to change its plan designation from medium-density residential to low-density residential. The request was approved by Town Council.

Growth Management Plan

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

1. R1 Guiding Principle: Ensure that adequate infrastructure and services are available concurrently with new development.
2. L1 Guiding Principle: Concentrate growth near existing and planned employment centers and available and planned infrastructure to minimize costly service-area extensions..

Comments: The proposed rezoning does conform to Guiding Principles R1 and L1, since at this infill location, infrastructure and services are available near the subject property.

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.
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.

4. Assure a quality living environment and access to public amenities for all residents, present and future, of the Town of Cary, regardless of income.

Comments: The requested rezoning is unlikely to support goals #1 and #2 above; would partially support goal #3; and would support goal #4. Residents at this location will have access to Cary's C-Tran fixed-route bus service as well as be within walking distance of an array of services located at the High House and Hwy. 55 intersection.

Comprehensive Transportation Plan

High House Road is designated as a Major Thoroughfare

Existing Section: 4-lane section with 18-foot median in 78-foot back-of-curb to back-of-curb in approximately 100 feet of right of way

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

Sidewalks: Existing 5-foot sidewalks

Bicycle Lanes: 14-foot-wide outside lane required

Status of Planned Improvements: N/A

Transit: C-Tran's fixed-route #4 provides bus service along High House Road; the closest TTA bus route is route #11 which runs along Hwy. 55 to Research Triangle Park.

Parks, Recreation & Cultural Resources

According to the Parks, Recreation and Cultural Resources Facilities Master Plan there are no issues related to this site. A recreation fund payment will be required for residential development in accordance with the Land Development Ordinance. These comments were reviewed and approved by the Parks, Recreation & Cultural Resources Advisory Board at its April 7, 2014 meeting.

Open Space Plan

According to the Open Space Plan there are no significant natural resources associated with this site.

Historic Preservation Master Plan

There are no identified historic resources on the subject property.

OTHER REFERENCE INFORMATION

Schools	Type ¹	Projected Range of Additional Students ²
<i>This information is being provided for your review; however, the Wake County Board of Education controls capital projects for school capacities.</i>	Elementary School	19-28
	Middle School	4-10
	High School	5-12
Total Projected range of additional students ²		28-50

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

² 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 12 three-bedroom homes could yield six additional students, while 12 homes with greater than three bedroom units could yield 10 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 can not 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.

ORDINANCE FOR CONSIDERATION

14-REZ-04 High House Road North

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF THE TOWN OF CARY TO CHANGE THE ZONING OF APPROXIMATELY 27.44 ACRES LOCATED ON THE NORTH SIDE OF HIGH HOUSE ROAD APPROXIMATELY 300 FEET EAST OF NC 55 HIGHWAY BY REMOVING THE PROPERTY FROM THE MIXED USE OVERLAY DISTRICT AND REZONING FROM RESIDENTIAL 40 (R-40) TO TRANSITIONAL RESIDENTIAL CONDITIONAL USE (TR-CU).

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
Patra P. Payseur	0734925262	0416943	2.00 ±
Patra Payseur Charlie Estes Baucom Jane Pittman James Ronald Baucom William Thomas Baucom Deborah McNeill Pattie Claudean Baucom Barbara Puttman Bowser	0734922465	0412560	25.44 ±
Total Area			27.44 ±

Section 2: That this Property is removed from the Mixed Use Overlay District and rezoned from R-40 to TR-CU subject to the individualized development conditions set forth herein, and 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: The conditions proposed by the applicant to address conformance of the development and use of the Property to ordinances and officially adopted plans, to address impacts reasonably expected to be generated by the rezoning, and to promote the public health, safety and general welfare, and accepted and approved by the Town are:

1. Land use shall be limited to detached dwellings.
2. Density shall not exceed 2.5 dwelling units per acre.

Section 4: This ordinance shall be effective on the date of adoption.

Adopted and effective: *September 23, 2014*

Harold Weinbrecht, Jr.
Mayor

Date