

**Town of Cary, North Carolina  
Rezoning Staff Report  
14-REZ-05 High House Road South  
Town Council Meeting  
January 15, 2014**

**REQUEST**

To amend the Town of Cary Official Zoning Map by rezoning approximately 16.41 acres located on the south side of High House Road, about 300 feet east of 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 Residential 8 Conditional Use (R-8-CU), with zoning conditions that include limiting land use to 30 detached dwellings.

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 Payseur	0734915644	0005075	16.41 ±

**BACKGROUND INFORMATION**

Applicant and Agent	J.W.Shearin, Innovative Development Solutions		
Acreage	16.41 ±		
General Location	2421 High House Road		
Schedule	<b>Public Hearing</b> May 8, 2014	<b>Planning &amp; Zoning Board Public Hearing</b> November 17, 2014	<b>Town Council</b> January 15, 2015
Land Use Plan Designation	Low Density Residential (LDR) <i>An associated Comprehensive Plan Amendment (14-CPA-01 ) removing the property from the Neighborhood Activity Center and changing the land use designation to Low Density Residential (LDR) was approved on 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	Residential 8 Conditional Use (R-8-CU); Watershed Protection Overlay District, Jordan Lake Sub-area		
<b>Revised Zoning Conditions</b>  <i>(To be presented at 01-15-15 Town Council Meeting. Revisions since 11-17-14 Planning and Zoning Board public hearing are shown in <b>bold</b> typeface: underline indicates text added, strike-through indicates text removed)</i>	<ol style="list-style-type: none"> <li>1. Land use shall be limited to <b>a maximum of 30</b> detached dwellings. <i>(1.8 dwelling units per acre)</i></li> <li>2. <del>Density shall not exceed 2.5 dwelling units per acre.</del></li> <li>3. The structure historically known as the Baucom House will be preserved in its current location on an approximately 2/3-acre lot and an historic preservation easement will be donated to a qualified holder of historic preservation agreements as defined by NCGS Chapter 121, Article 4. Prior to issuance of first Certificate of Occupancy for any lot, except a sales center, the owner shall provide an opinion of an attorney, licensed to practice law in North Carolina, that said easement assures that the historic character of the property known as the Baucom House will be preserved in perpetuity.</li> <li>4. A 30-foot undisturbed buffer shall be provided along the portion of the property boundary adjacent to the Park Arbor, Park Canyon and Wellsley Subdivisions.</li> <li>5. Residential lots abutting the 30-foot undisturbed buffer shall contain a minimum of 11,000 square feet.</li> </ol>		

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 protest petitions were submitted.
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 – (opposite side of High House Road) – Transitional Residential Conditional Use (TR-CU); detached residential, vacant [Rezoning from R-40 to TR-CU (Case Number 14-REZ-04 High House Road North) was approved on September 23, 2014].

East – Residential 12 (R-12); detached residential (Wellsley Subdivision)

South and West – Planned Development District, Major (Westpark PDD); detached residential (Park Arbor and Park Canyon Subdivisions), and West Park Place Shopping Center

**CONSISTENCY WITH LAND DEVELOPMENT ORDINANCE**

**Land Use**

Detached dwellings are a permitted use in the Residential-8 Conditional Use Zoning District.

**Density and Dimensional Standards**

	Existing Zoning District (R-40)	Conventional R-8 Zoning District	Proposed Zoning District (R-8-CU)
Max. Gross Density	1.08 du/acre	5.44 du/acre	30 detached dwellings (1.8 du/acre)
Min. Lot Size	40,000 square feet	11,000 square feet adjacent to undisturbed buffer along the portion of the property boundary adjacent to the Park Arbor, Park Canyon and Wellsley Subdivisions; Elsewhere 8,000 square feet	
Minimum Lot Width	150 feet (160 feet for corner lots)	60 feet (70 feet for corner lots)	
Roadway Setback	50 feet from High House Road		
Side Yard Setback	20 feet (with septic tank/well) 15 feet (with public sewer)	5 feet minimum 20 feet combined	
Rear Yard Setback	30 feet	20 feet	
Maximum Building Height	35 feet (May be increased by one foot for every additional foot provided between the building footprint and the minimum required setback).		

**Landscape Buffer**

Segment of Perimeter	Minimum Buffer Required by LDO	Applicant's Proposal
Eastern and Southern Boundary (Adjacent to Park Arbor, Park Canyon and Wellsley Subdivisions)	20' Type B (semi-opaque) Landscape Area	30' Undisturbed Buffer
Western Boundary (adjacent to West Park Shopping Center)	65' Type A (opaque) Buffer	Per LDO

### **Streetscape**

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

### **Traffic**

Using ITE Single Family Dwelling Units (210) from the ITE Trip Generation Manual, 30 detached dwelling units would generate 31 am and 36 pm peak hour trips. The threshold for a traffic study is 100 peak hour trips, therefore a traffic study is not 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**

### **Notification of Town Council Public Hearing**

Consistent with NC General Statutes, notice of the initial 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.

### **Neighborhood Meeting**

According to the applicant, a neighborhood meeting for the proposed rezoning was held on February 4, 2014. According to the information submitted by the applicant, 42 residents attended the meeting. Questions and concerns expressed at the meeting are provided in the meeting minutes submitted by the applicant.

### **Town Council Public Hearing (May 8, 2014)**

Two citizens from nearby neighborhoods expressed support for the request.

Council members expressed concerns related to the potential for mass grading and tree clearing, and asked that the developer consider perimeter buffers adjacent to existing residential developments and inclusion of amenities for children. A council member expressed appreciation for the proposed condition to save the historic house, and asked staff to look at how preservation easements could work.

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

Since the Town Council public hearing, the applicant has requested to change the proposed zoning district from Transitional Residential Conditional Use (TR-CU) to Residential 8 Conditional Use. New proposed zoning conditions include a 30-foot undisturbed buffer along the portion of the property boundary adjacent to the Park Arbor, Park Canyon and Wellsley Subdivisions, and a minimum size of 11,000 square feet for residential lots adjacent to the undisturbed buffer. In addition, the previously-proposed zoning condition related to preservation of the Baucom House was modified to specify how preservation would be accomplished.

### **Notification of Planning and Zoning Board Public Hearing**

Consistent with NC General Statutes, notice of the Planning and Zoning Board 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.

### **Planning and Zoning Board Public Hearing (November 17, 2014)**

There were no speakers at the public hearing other than the applicant. Board members had questions regarding traffic, vehicular access and pedestrian connections. Specific concerns were expressed regarding: the potential for u-turns if full access is not provided on High House Road: a gap in the sidewalk east of the Wellsley Subdivision to the east (*the sidewalk exists in the area in question, but meanders behind the tree line and is not visible from High House Road*); and buffering of the Baucom House (*not included as a zoning condition, but will be required for the preservation easement*). The board recommended approval of the request by a vote of 6-2, with those dissenting citing traffic as the issue of concern.

## 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 Land Use Plan was amended on July 17, 2014 (14-CPA-01) to remove the subject site from the Westpark Neighborhood Activity Center and to change the future land-use designation from Medium Density Residential (MDR) and High Density Residential (HDR) to Low Density Residential (LDR), which is defined as one to three units per acre. With this rezoning request, the applicant is asking to remove the subject property from the mixed-use overlay district, and to change the base zoning district from Residential 40 (R-40) to Transitional Residential Conditional Use (TR-CU) with a maximum density of three dwelling units per acre. As such, this request conforms with the recommendation of the Land Use Plan.

### 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:**

This rezoning request is unlikely to support goals #1 and #2 above, partially supports goal #3, and supports goal #4. Residents at this location will have access to Cary's C-Tran fixed-route bus service as well as be within an easy commute of an array of services located at the Hwy. 55 and High House Road 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.

The Parks, Recreation & Cultural Resources Advisory Board reviewed and approved these comments at its April 7, 2014 meeting, with the additional recommendation that the historic structure on the property be preserved at its immediate site since it is included on the Historic Preservation Inventory List in the Historic Preservation Master Plan (Page 46 of Appendix D – Existing Historical Resources).

**Open Space Plan**

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

**Historic Preservation Master Plan**

A goal of the Town's adopted 2010 Historic Preservation Master Plan is to "Preserve, protect and maintain Cary's historic resources." The southern portion of the subject property (2421 High House Road) contains the historic Baucom House (circa 1878), which is listed in the Cary/Wake County Architectural and Historic Inventory. This frame two-story house with a T-shaped rear addition is said to have been built around 1878 by Green H. Baucom. The dwelling features exterior-end brick chimneys, a wrap-around porch with square supports, 6/6 sash windows, molded corner boards, and gable returns. The interior of the house retains its original mantels and door moldings. The 1880 Census shows that Mr. Baucom owned 119 acres in 1879, half of which was under cultivation. Typical of most Wake farms of that period, the Baucom farm was operated by family labor exclusively, and produced corn, cotton, oats, wheat, sweet potatoes and apples along with swine, cattle, sheep and barnyard poultry. The Baucom house exemplifies the relatively comfortable status of small landowners who didn't have to hire outside labor. The house is in good condition, has high material integrity, and is in its original location. In 1991, the North Carolina National Register Advisory Committee (NRAC) determined that the property appears to be eligible for nomination to the National Register, and subsequently placed the property on the State's Study List for the National Register of Historic Places. Placement on the Study List is not a guarantee of National Register eligibility, but rather a preliminary indication that a property appears to be potentially eligible for listing in the Register. Listing in the National Register makes a property eligible for an investment tax credit for approved historic rehabilitations.

**Comments:** The applicant has offered a zoning condition to preserve the Baucom House in its original location on two-thirds of an acre, and to donate a preservation easement on the house to a qualified holder of preservation easements. Staff believes these actions meet the goals of the Historic Preservation Master Plan.

**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	9-12
	Middle School	2-5
	High School	2-6
Total Projected range of additional students <sup>2</sup>		13-23
<sup>1</sup> Information regarding specific Wake County Public School assignment options may be found by visiting the following: <a href="http://assignment.wcpss.net/preview/myplan.html">http://assignment.wcpss.net/preview/myplan.html</a>		
<sup>2</sup> The <i>Projected Range of Additional Students</i> 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 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.

**ORDINANCE FOR CONSIDERATION**

**14-REZ-05 High House Road South**

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF THE TOWN OF CARY TO CHANGE THE ZONING OF APPROXIMATELY 16.41 ACRES LOCATED ON THE SOUTH SIDE OF HIGH HOUSE ROAD EAST OF NC 55 HIGHWAY OWNED BY PATRA PAYSEUR BY REMOVING THE PROPERTY FROM THE MIXED USE OVERLAY DISTRICT AND REZONING FROM RESIDENTIAL 40 (R-40) TO RESIDENTIAL 8 CONDITIONAL USE (R-8-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 Payseur	0734915644	0005075	16.41 ±

**Section 2:** That this Property is rezoned by removing it from the Mixed Use Overlay District and by rezoning from R-40 to R-8-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 a maximum of 30 detached dwellings.

2. The structure historically known as the Baucom House will be preserved in its current location on an approximately 2/3-acre lot and an historic preservation easement will be donated to a qualified holder of historic preservation agreements as defined by NCGS Chapter 121, Article 4. Prior to issuance of first Certificate of Occupancy for any lot, except a sales center, the owner shall provide an opinion of an attorney, licensed to practice law in North Carolina, that said easement assures that the historic character of the property known as the Baucom House will be preserved in perpetuity.
3. A 30-foot undisturbed buffer shall be provided along the portion of the property boundary adjacent to the Park Arbor, Park Canyon and Wellsley Subdivisions.
4. Residential lots abutting the 30-foot undisturbed buffer shall contain a minimum of 11,000 square feet.

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

Adopted and effective: January 15, 2015

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Harold Weinbrecht, Jr.  
Mayor

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Date