

**Town of Cary, North Carolina  
Rezoning Staff Report  
14-REZ-10 Wheeler Woods  
Town Council Meeting  
September 11, 2014**

**REQUEST**

To Amend the Town of Cary Official Zoning Map to establish initial Town of Cary zoning by rezoning approximately 6.81 acres located at 4016, 4020, and 4024 Truelove Drive from Wake County Residential 30 (R-30) to Transitional Residential Conditional Use (TR-CU), including zoning conditions related to minimum lot size and building setbacks.

There is an owner-Initiated annexation petition, case number **14-A-06**, associated with the rezoning.

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
Betty Ann Truelove 107 Old Pros Way Cary, NC 27513	0679591135	0310447	± 0.93
	0679591579	0310448	± 2.0
	0679592481	0019669	± 3.88
<b>Total Area</b>			<b>± 6.81</b>

**BACKGROUND INFORMATION**

Applicant	Jim Anderson, Fuller Land Development		
Agent	Don Curry, Curry Engineering: 205 S Fuquay Ave., Fuquay, NC 2777526		
Acreage	6.81 ±		
General Location	4016, 4020, and 4024 Truelove Drive		
Schedule	<b>Public Hearings</b> June 26, 2014 July 17, 2014	<b>Planning &amp; Zoning Board</b> August 18, 2014	<b>Town Council</b> September 11, 2014
Land Use Plan Designation	Low Density Residential (LDR)		
Existing Zoning District(s)	Wake County Residential 30 (R-30)		
Existing Zoning Conditions	None		
Proposed Zoning District(s)	Transitional Residential Conditional Use (TR-CU)		
Proposed Zoning Conditions	<ol style="list-style-type: none"> <li>1. Land use shall be limited to detached dwellings.</li> <li>2. Dwellings shall be constructed with crawlspaces. Slab construction methods shall be prohibited.</li> <li>3. Minimum lot size shall be 8,000 square feet.</li> <li>4. Maximum density shall be 3.0 dwelling units per acre.</li> <li>5. Minimum lot width shall be 60 feet (70 feet for corner lots).</li> <li>6. Minimum side setbacks shall be 5 feet.</li> </ol>		
Town Limits	The subject property is located outside the corporate limits and the Town of Cary ETJ. An owner-initiated annexation petition, <b>14-A-06</b> , has been submitted by the property owners in conjunction with this rezoning request.		
Valid Protest Petition	Protest petitions are not applicable to a rezoning that initially zones property that is being added to the Town's jurisdiction by annexation.		
Staff Contact	Mary W, Beerman, Senior Planner (919) 469-4342 mary.beerman@townofcary.org		

**SITE CHARACTERISTICS**

**Streams:** According to Town of Cary GIS maps, a small portion of the northwest corner of the site is impacted by a stream buffer. Field determination of this feature will be made at the time of site or subdivision plan review.

**Floodplain:** According to Town of Cary GIS maps, there is no floodplain area on the subject property. Field determination of such features will be made at the time of site or subdivision plan review.

**Adjacent Zoning and Land Use:**

- North – Wake County Residential 30 (R-30); detached residential
- South – Wake County Residential 30 (R-30); detached residential and vacant
- East – Wake County Residential 30 (R-30); detached residential and vacant
- West – Residential 8 Conditional Use (R-8-CU); detached residential

**CONSISTENCY WITH LAND DEVELOPMENT ORDINANCE**

**Land Use**

The applicant is proposing to limit the permitted use of the property to detached dwellings.

COMPARISON OF USES ALLOWED IN (EXISTING) WAKE COUNTY R-30 DISTRICT AND (PROPOSED) TR-CU DISTRICT			
P=PERMITTED USE    S= SPECIAL USE		P=PERMITTED USE    S= SPECIAL USE P/Z= PERMITTED USE REQUIRING ZONING COMPLIANCE PERMIT	
Uses Allowed in Wake County R-30 District*		Uses Allowed in Proposed TR-CU District	
Single-family detached	P	Detached dwelling	P
Single-family attached	P		
School	P		
Library	P		
Museum	P		
Art gallery	P		
Church	P		
Day care center	S		
Government buildings	S		
various outdoor recreation facilities	S		
Convenience stores	S		
Automotive service and repair	S		
Banks	S		
Drugstores	S		
Bookstores	S		
Antique shops	S		
Hardware stores	S		
Other indoor retail and service establishments	S		
Barbershops	S		
Beauty salons	S		
Shoe repair shops	S		
Self-service laundries	S		
Cemeteries	S		
Mining	S		
Landfills	S		
* Information provided in this table is a summary of information available on Wake County's website at the following link: <a href="http://www.wakegov.com/planning/zoning/Pages/districts.aspx#r30">http://www.wakegov.com/planning/zoning/Pages/districts.aspx#r30</a>			

**Density and Dimensional Standards**

	<b>Min. Requirements of TR District</b>	<b>Proposed TR-CU District</b>
Max. Density	6.0 du/acre	3.0 du/acre
Min. Lot Size	5,000 square feet	8,000 square feet
Min. Lot Width	40 feet for detached dwellings	60 feet (70 feet for corner lot)
Min. Roadway Setback	20 feet from Truelove Drive 20 feet from local internal streets	Same as TR District
Min. Side Yard Setback	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.	5 feet
Min. Rear Yard Setback	Minimum 3 feet, with combined front and rear setback of at least 40 feet	Same as TR District
Max. 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>	Same as TR District

**Landscape Buffer**

A 20-foot landscape area is required along the north, east and west boundaries of the subject property. This area can be contained on lots.

**Streetscape**

Truelove Drive is designated as a local street. There is no requirement for a streetscape on a local street.

**Traffic**

The proposed zoning of 3.0 units per acre generates a maximum of 20 dwelling units. Using ITE Single Family Dwelling Units (210) from the ITE Trip Generation Manual, the development would generate 24 am and 25 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**

**Neighborhood Meeting**

According to the applicant, a neighborhood meeting for the proposed rezoning was held on March 20, 2014. According to the information submitted by the applicant, 10 citizens attended the meeting. Questions and concerns expressed by those that attended are provided in the attached meeting minutes provided by the applicant.

**Notification**

Consistent with NC General Statutes, 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.

**Town Council Public Hearing (June 26, 2014)**

There were no speakers at the public hearing other than the applicant. The applicant proposed an additional zoning condition to clarify that land use would be limited to detached dwellings. A Town Council member expressed concern with the proposed minimum side setback of five feet and expressed a preference for larger setbacks. Due to an advertising error, the public hearing was continued to July 17, 2014.

**Town Council Public Hearing (July 17, 2014)**

The applicant offered an additional zoning condition to prohibit slab construction. A property owner on Newcomb Street stated that the request is not a good fit with the neighborhood. He noted impacts related to road width, construction equipment, speeding, noise, trash and debris associated with the existing connection of Truelove Drive to the Park at Langston subdivision (*immediately west of the subject property*) and expressed concern with the potential for additional impact from the proposed development.

**Planning and Zoning Board Meeting (August 18, 2014)**

There were questions from board members regarding zoning conditions applicable to the adjacent subdivision to the west. The board recommended approval by a vote of 8-0, noting that the zoning conditions provided a good transition to surrounding properties.

**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 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 these properties are provided by Cary’s Townwide Land Use Plan. The Plan designates the property for Low Density Residential (LDR) development. There is a proposed zoning condition to limit the density to a maximum of three units per acre on the 6.81 acre tract. This fits within the Low Density Residential category density range of one to three dwellings per acre. The proposed rezoning would be consistent with the adjacent Park at Langston neighborhood to the west.

It may be noted that the subject property is in close proximity to a planned NC 540 interchange at Bell’s Lake Road. The Land Use Plan calls for Neighborhood Activity Center to be located near that interchange although the exact location of the activity center has not been determined.

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.

**Growth Management Plan**

The Growth Management Plan includes the following Guiding Principle which is relevant to this case:

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

Analysis: Adequate infrastructure is available to serve the proposed development and the development serves to further leverage the Town investment in the extension of services to the Middle Creek area.

**Affordable Housing Plan**

Based on the proposed nature of the development, the Affordable Housing Plan is not applicable to this case.

**Comprehensive Transportation Plan  
Truelove is designated as a local street**

**Existing Section:** Approximately 18.5 feet with no curb and gutter in 60 feet of right of way

**Future Section:** 27-foot back-of-curb to back-of-curb in 50 feet of right-of-way

**Sidewalks:** no existing sidewalk, but sidewalk will be required

**Bicycle Lanes:** no existing bike lane and none required

**Transit:** n/a

**Status of Planned Improvements:** n/a

**Parks, Recreation & Cultural Resources Facilities Master Plan**

According to the Parks, Recreation and Cultural Resources Facilities Master Plan the Optimist Farm Greenway is proposed to cross near the northwest corner of the property.

A recreation fund payment will be required for residential development in accordance with the Land Development Ordinance.

These comments are scheduled to be reviewed by the Town's Parks, Recreation & Cultural Resources Advisory Board at its July 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**

<b>Schools</b>	Type <sup>1</sup>	Projected Range of Additional Students <sup>2</sup>
<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	6-8
	Middle School	1-3
	High School	1-4
Total Projected range of additional students <sup>2</sup>		8-15

<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 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-10 Wheeler Woods**

AN ORDINANCE TO ESTABLISH INITIAL TOWN OF CARY ZONING FOR APPROXIMATELY 6.81 ACRES LOCATED AT 4016, 4020, AND 4024 TRUELOVE DRIVE BY APPLYING TRANSITIONAL RESIDENTIAL CONDITIONAL USE (TR-CU) ZONING TO PROPERTY CURRENTLY ZONED WAKE COUNTY RESIDENTIAL 30 (R-30).

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**

<b>Property Owner(s)</b>	<b>County Parcel Number(s) (10-digit)</b>	<b>Real Estate ID(s)</b>	<b>Deeded Acreage</b>
Betty Ann Truelove 107 Old Pros Way Cary, NC 27513	0679591135 0679591579 0679592481	0310447 0310448 0019669	± 0.93 ± 2.0 ± 3.88
<b>Total Area</b>			<b>± 6.81</b>

**Section 2:** That this Property is rezoned from Wake County R-30 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. Dwellings shall be constructed with crawlspaces. Slab construction methods shall be prohibited.
3. Minimum lot size shall be 8,000 square feet.
4. Maximum density shall be 3.0 dwelling units per acre.
5. Minimum lot width shall be 60 feet (70 feet for corner lots).
6. Minimum side setbacks shall be 5 feet.

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

Adopted and effective: *September 11, 2014*

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Harold Weinbrecht, Jr.  
Mayor

\_\_\_\_\_  
Date