

**Town of Cary, North Carolina  
Rezoning Staff Report  
14-REZ-16 Flynt Property at Indian Wells Road  
Town Council Meeting  
September 11, 2014**

**REQUEST**

To amend the Town of Cary Official Zoning Map by rezoning approximately 4.74 acres from Residential 40 (R-40) to Residential 8 Conditional Use (R-8-CU). The applicant has proposed conditions to limit the use to detached residential dwellings with a maximum density of three (3) dwelling units per acre.

Note: The subject property is immediately adjacent to a 29.45-acre assemblage of land that was recently approved for a rezoning from R-40 to R-8-CU under rezoning case 13-REZ-23. The applicant has indicated that the subject property is intended to be developed in conjunction with that assemblage.

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
Janet Rose Scarigelli Flynt 7041 Indian Wells Road Cary, NC 27519	0735426432	0084260	4.74 ±
<b>Total Area</b>			<b>4.74 ±</b>

**BACKGROUND INFORMATION**

Applicant & Agent	Steven J. Vining Raleigh Land Fund I, LLD 516 N. West Street Raleigh, NC 27603 steve@lstarland.com (919) 256-1981		
Applicant's Contact	Adam Ashbaugh LStar Management, LLC 516 N. West Street Raleigh, NC 27603 adam@lstarland.com (919) 256-1981		
Acreage	4.74 ±		
Location	7041 Indian Wells Road		
Schedule	<b>Town Council Public Hearing</b>  June 26, 2014	<b>Planning &amp; Zoning Board Meeting</b>  August 18, 2014	<b>Town Council Meeting</b>  September 11, 2014
Land Use Plan Designation	Medium Density Residential (MDR) and Parks and Open Space (PKS/OS)		
Existing Zoning	Residential 40 (R-40) Watershed Protection Overlay District (Jordan Lake sub-district)		

Existing Zoning Conditions	None
Proposed Zoning	Residential 8 Conditional Use (R-8-CU) Watershed Protection Overlay District (Jordan Lake sub-district)
Proposed Zoning Conditions	1. The maximum density shall be limited to three (3) dwelling units per acre. 2. Development shall be limited to detached residential.
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	Debra Grannan Senior Planner Debra.Grannan@townofcary.org (919) 460-4980

## SITE CHARACTERISTICS

**Streams:** According to Cary's GIS maps, the property is impacted by a stream buffer along its southern property line. Field determination of these features shall be required at the time of site plan review.

**Floodplain and Wetlands:** Cary's GIS maps do not indicate the presence of any floodplain or wetland areas on the subject property. Field determination of these features shall be required at the time of site plan review.

### Adjacent Uses and (Zoning)

North: Detached Residential (R-8-CU)  
 South: Detached Residential (R-40)  
 East: Detached Residential (R-8-CU)  
 West: Detached Residential (R-40)

## CONSISTENCY WITH LAND DEVELOPMENT ORDINANCE

### Density and Dimensional Standards

	Existing Zoning District Residential 40 (R-40)	Proposed Zoning District Residential 8 Conditional Use (R-8 CU)
<b>Max. Gross Density</b> (du/ac)	1.08	3*
<b>Min. Lot Size</b> (sq. ft.)	40,000	8,000
<b>Minimum Lot Width</b> (feet)	With Septic Tank/Well: 150 (160 for corner Lots) With public sewer: 125 (135 for corner lots)	60 (70 for Corner Lot)
<b>Minimum Roadway Setback</b> (feet)	From thoroughfare: 50 From collector: 30 From other streets: 20	From thoroughfare: 50 From collector: 30 From other streets: 20
<b>Side Yard Setback</b> (feet)	With septic tank/well: 20 With public sewer: 15	5 minimum, 20 combined
<b>Rear Yard Setback</b> (feet)	30	20
<b>Maximum Building Height</b> (feet)	35	35

\*Typical Residential 8 (R-8) zoning districts allow a maximum density of 5.44 du/ac. The applicant has proposed a zoning condition to limit the density to three (3) dwelling units per acre.

**Landscape Buffers:** In accordance with Chapter 7 of Cary's LDO, a 20-foot-wide landscape area planted to a Type B (semi-opaque) standard is required between two residential developments with lots 8,000 square feet or greater in size. The landscape area may be located on individual lots.

**Streetscape:** Indian Wells Road is classified as a local road. In accordance with Chapter 7 of the LDO, no streetscape is required along local streets for residential development.

**Traffic:** The applicant has offered a zoning condition proposing a limit of three (3) dwelling units per acre; for 4.74 acres the potential yield is 14 dwelling units. The ITE Trip generation manual code 210 Single Family Dwelling Units would indicate that 20 am and 18 pm peak hour trips may occur for 14 single family dwelling units. A Traffic Analysis Report is not required since the threshold for a study is 100 peak hour trips.

**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**

The applicant conducted a community meeting on April 16, 2014. According to the information submitted by the applicant, 25 nearby residents attended the meetings. According to the meeting minutes, resident questions and concerns included the proposed type of development, impacts on adjacent property, street improvements and connectivity and buffers.

### **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)**

Staff presented an overview of the request. Staff noted that there were no protest petitions were submitted, but that there had been a concern raised by adjacent developers that the property had not been required to conduct a traffic study even though it was part of an assemblage with a recently approved rezoning. During the public hearing, the applicant explained that the number of dwelling units proposed for the development fell below the threshold that would require a traffic study.

There were no other speakers at the public hearing. There were no issues raised by the Town Council.

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

None

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

Staff presented an overview of the request and summarized the items discussed at the Town Council Public Hearing. The applicant spoke in support of the request and described the plans for the subject parcel to be incorporated into an adjacent development plan. The majority of the board members supported the request because of its similarity to adjacent development. One board member did not support the request because of the cumulative traffic impacts this property and nearby development would have on NC 55 Hwy.

The Planning and Zoning Board voted to recommend approval by a vote of 7 to 1.

## **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

### Northwest Area Plan

Land Use: For this site, the governing land use element of the Comprehensive Plan is the Northwest Area Plan. That plan recommends this area be used for Medium Density Residential (MDR) development. MDR is defined as single-family attached or detached housing at three to eight units per acre. The Northwest Area Plan Document's definition for MDR also includes the following text:

"For several of the regions designated as MDR on *Map 1*, high density residential housing types (multifamily condominiums or apartments) and low density residential housing types (single family homes on lots of about 10,000 square feet or more) may be mixed in with the typical medium density residential housing types, as long as an overall MDR density is maintained for the contiguous region denoted as MDR (see the particular notes on *Map 1*)."

In the case of the subject parcel, the Northwest Plan's *Map 1* (Future Land Use Map) does include a special note – Note #19. Note #19 applies to the subject site, as well as to a much larger surrounding area (see attachment). Note 19 provides special recommendations for most of the area between Morris Branch in the north, Panther Creek in the south, west of the Western Wake Expressway, and east of NC Highway 55. The note stipulates:

*"Note 19. Housing within this area, taken as a whole, should have a substantial mix of at least two or more of the following residential use types: detached, duplex, or patio dwelling, semi-detached/attached dwelling, and/or townhouse. There should also be a variety of lot sizes, and an overall density of about three to eight dwellings/acre. In the event of single-family-detached housing, no mix shall be required."*

### Planning History for the Site

- 1996. At the time Cary's townwide Land Use Plan was adopted in 1996, the Plan Map recommended that the Wackena and Indian Wells Road area be developed as Low Density Residential (LDR). LDR was defined as single-family, 1-3 dwellings per acre. Traditional Neighborhood Development (TND) was also identified as an option.
- 2002. The future land use recommendations were updated in September 2002, with adoption of the Northwest Area Plan. The Northwest Area Plan changed the future land use recommendations for the area from LDR to Very Low Density Residential (VLDR). VLDR was defined as single-family, with lots of 2-3 acres or more. This change reflected the desires of the Wackena and Indian Wells Roads neighborhood in 2002. The neighborhood wished to maintain their existing large-lot rural neighborhood that had been in place since the 1970's.
- 2007. By 2007, the wishes of the neighborhood had changed, and the neighborhood collectively submitted a Comprehensive Plan Amendment request (case 07-CPA-04) to change that land use designation from VLDR to MDR (Medium Density Residential). That amendment was approved by Town Council on October 25, 2007.

Analysis: The following analysis evaluates the conformance of the proposed rezoning with the Northwest Area Plan:

1. Housing Type. The proposed zoning district, R-8-CU, allows for single family detached housing. This housing type fully conforms to the MDR land use category, and to Note 19 of the Northwest Area Plan.
2. Residential Lot Size. The 8,000-square-foot minimum lot size of the requested R-8 Zoning District is generally consistent with the range of lot sizes found in areas designated as MDR. (The appropriateness of the lot size can also be inferred by noting that the Northwest Plan's definition for Low Density Residential (LDR) recommends significantly larger lots of "10,000 square feet to 1 acre").
3. Housing Density. Given that a USGS perennial stream, and its associated stream buffer, runs along the southern edge of the parcel, it is likely that the net density on the buildable portion of the site will come close to the density range recommended for MDR. Both the plan definition for MDR and Map Note #19 make clear that the recommended MDR density is to be evaluated overall for the entire geography covered by Note #19 (see attachment). It is not necessary that MDR densities be attained on this particular single parcel.
4. Transitions. As described under Planning History, above, the entire Wackena and Indian Wells neighborhood expressed a desire to redevelop at MDR densities in 2007. This rezoning case is the fourth recent case submitted by neighborhood owners to redevelop at densities higher than that of the original neighborhood (the first three cases being 12-REZ-06, 13-REZ-23, and 14-REZ-08). In the case of the subject parcel, it is bounded to the north, east, and south by rezoning cases 13-REZ-23 and 14-REZ-08. The only adjacent parcel not already rezoned or under rezoning consideration is the 10.5-acre Faith Durham property on the site's western property boundary. There is no dwelling currently located on that property.

### **Growth Management Plan**

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

- Guiding Principle R1: Ensure that adequate infrastructure and services are available concurrently with new development.  
Analysis: The site is in an infill location, and public services (water, sewer) are or will be available in close proximity.
- Guiding Principle L1: Concentrate growth near existing and planned employment centers and available and planned infrastructure to minimize costly service-area extensions.  
Analysis: The site is located about 3 miles from the southern entrance to Research Triangle Park. The provision of housing in this location will support short commute trip lengths.
- Guiding Principle A1: Increase permitted densities in preferred growth areas to encourage desired forms of development.  
Analysis: The site is located in the northwest area, the entirety of which has been identified as a preferred growth area. In addition, the site is close to a major employment center (RTP).
- Guiding Principle L2: Ensure that future growth protects sensitive natural resources and protects open space.  
Analysis: A USGS perennial stream and associated stream buffer appears to traverse the southern boundary of the property, which will help to protect sensitive riparian vegetation and habitat.

### **Affordable Housing Plan**

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

- Provide for a full range of housing choices for all income groups, families of various sizes, seniors, and persons with special challenges.
- 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.

**Comments:** A single-family detached residential neighborhood may or may not support the goals of the Affordable Housing Plan.

**Comprehensive Transportation Plan**  
**Indian Wells Road is designated as a local street.**

**Existing Section:** Two lanes in 60-foot ROW

**Future Section:** Existing

**Sidewalks:** Required on one side

**Bicycle Lanes:** N/A

**Transit:** No existing or proposed routes at this time

**Transit Service:** The nearest existing fixed-route transit service is provided by Triangle Transit Route No. 311 along NC 55 Highway, about a half-mile east of the site at the closest point.

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

According to the Parks, Recreation and Cultural Resources Facilities Master Plan a street-side trail is proposed along the east side of the future Highcroft Drive extension which may impact this site. A recreation fund payment will be required for residential development in accordance with the Land Development Ordinance.

**Open Space Plan**

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

**Historic Preservation Master Plan**

According to the Historic Preservation Master Plan, there are no historic structures on the subject property.

**Summary Observations**

This rezoning request is generally consistent with the Town of Cary's Comprehensive 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	3 - 5
	Middle School	1 - 2
	High School	1 - 2
Total Projected range of additional students <sup>2</sup>		5 - 9

<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 5 additional students, while 12 homes with greater than three bedroom units could yield 9 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-16 FLYNT PROPERTY AT INDIAN WELLS ROAD**

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF THE TOWN OF CARY TO REZONE APPROXIMATELY FOUR ACRES LOCATED ON INDIAN WELLS ROAD FROM RESIDENTIAL 40 (R-40) TO RESIDENTIAL 8 CONDITIONAL USE (R-8-CU). THE CONDITIONS PROPOSED BY THE APPLICANT WOULD LIMIT USE TO DETACHED RESIDENTIAL DWELLINGS AND LIMIT DENSITY TO A MAXIMUM OF THREE DWELLING UNITS PER ACRE.

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:

<b>Property Owner(s)</b>	<b>County Parcel Number(s) (10-digit)</b>	<b>Real Estate ID(s)</b>	<b>Deeded Acreage</b>
Janet Rose Scarigelli Flynt 7041 Indian Wells Road Cary, NC 27519	0735426432	0084260	4.74 ±
<b>Total Area</b>			4.74 ±

**Section 2:**

That this Property is rezoned from Residential 40 (R-40) to Residential 8 Conditional Use (R-8-CU) subject to the individualized development conditions set forth herein, if any, 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. The subject property shall remain in the Watershed Protection Overlay District (Jordan Lake sub-district).

**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. The maximum density shall be limited to three (3) dwelling units per acre.
2. Development shall be limited to detached residential dwellings.

**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