

**Town of Cary, North Carolina  
Rezoning Staff Report  
14-REZ-24 Indian Wells Road Properties  
Town Council Meeting  
November 20, 2014**

**REQUEST**

To amend the Town of Cary Official Zoning Map by revising a condition associated with a previously approved rezoning case related to a perimeter landscape buffer. No change is proposed to the other previously approved conditions.

**Background:** The subject property was the subject of a previously approved rezoning case (13-REZ-23) which rezoned approximately 29.45 acres from Residential 40 (R-40) to Residential 8 Conditional Use (R-8-CU). The case included zoning conditions that limited the use to detached residential with a maximum density of three (3) dwelling units per acre, and required a minimum 20-foot-wide perimeter buffer in common open space along the western property lines. Since that case was approved, the applicant contracted to purchase an adjacent parcel of land, the subject of the current rezoning case, to incorporate into a future development plan. The current rezoning request seeks to remove the buffer requirement only between the subject property and the new parcel.

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
Thomas G. Goodwin 6945 Railroad Grade Road Todd, NC 28684	0735523632	0084064	3.0 ±
Diana K. Goodwin 7029 Indian Wells Road Cary, NC 27519	0735521513	0084259	6.72 ±
Mitchell J. and Betty M. Petway 7032 Indian Wells Road Cary, NC 27519	0735423994	0084258	11.1 ±
Tracy Ann Rossi 16192 Windemeir Lane Huntington Beach, CA 92647	0735531531	0084257	2.5 ±
Edilberto and Elizabeth Bermudez 7020 Indian Wells Road Cary, NC 27519	0735531126	0150628	3.04 ±
Edilberto and Elizabeth Bermudez 7020 Indian Wells Road Cary, NC 27519	0735533365	0081386	3.09 ±
<b>Total Area</b>			29.45 ±

**BACKGROUND INFORMATION**

Applicant & Agent	Steven J. Vining with Raleigh Land Fund I, LLD 516 N. West Street Raleigh, NC 27603
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	steve@lstarland.com (919) 256-1981		
Applicant's Contact	Adam Ashbaugh with LStar Management, LLC 516 N. West Street Raleigh, NC 27603 adam@lstarland.com (919) 256-1981		
Acreage	29.45 ±		
Location	7008, 7016, 7017, 7020, 7029 and 7032 Indian Wells Road		
Schedule	<b>Town Council Public Hearing</b> September 23, 2014	<b>Planning &amp; Zoning Board</b> October 20, 2014	<b>Town Council</b> November 20, 2014
Land Use Plan Designation	Medium Density Residential (MDR) and Parks and Open Space (PKS/OS)		
Existing Zoning	Residential 8 Conditional Use (R-8-CU) Watershed Protection Overlay District (Jordan Lake sub-district)		
Existing Zoning Conditions	<ol style="list-style-type: none"> <li>1. The maximum density shall be limited to three (3) dwelling units per acre</li> <li>2. Development shall be limited to detached residential</li> <li>3. A minimum 20-foot-wide perimeter buffer shall be provided along the western property lines. This buffer shall be located in common open space, outside of individual lots.</li> </ol>		
Proposed Zoning	No change to zoning designation; change to condition associated with previously approved rezoning (see below)		
Proposed Zoning Conditions (Change to previously approved condition is shown in <b>bold</b> .)	<ol style="list-style-type: none"> <li>1. The maximum density shall be limited to three (3) dwelling units per acre.</li> <li>2. Development shall be limited to detached residential.</li> <li>3. A minimum 20-foot-wide perimeter buffer shall be provided along the western property lines, <b>with the exception of the property line adjacent to the parcel identified by Wake County PIN 0735426432</b>. This buffer shall be located in common open space, outside of individual lots.</li> </ol>		
Town Limits	The subject properties are 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 Town of Cary Debra.Grannan@townofcary.org (919) 460-4980		

#### SITE CHARACTERISTICS

**Streams:** According to Cary's GIS maps, the property is impacted by two stream buffers. 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, Vacant and Institutional (PDD Major: Cameron Pond and R-40)

South: Detached Residential (R-40)

East: Detached Residential (R-40)

West: Detached Residential (PDD Major: Cameron Pond )

## CONSISTENCY WITH LAND DEVELOPMENT ORDINANCE

### Density and Dimensional Standards

	Existing Zoning District Residential 8 Conditional Use (R-8 CU)
<b>Max. Gross Density</b> (du/ac)	3 (per zoning condition)
<b>Min. Lot Size</b> (sq. ft.)	8,000
<b>Minimum Lot Width</b> (feet)	60 (70 for Corner Lot)
<b>Minimum Roadway Setback</b> (feet)	From thoroughfare: 50 From collector: 30 From other streets: 20
<b>Side Yard Setback</b> (feet)	10
<b>Rear Yard Setback</b> (feet)	20
<b>Maximum Building Height</b> (feet)	35
No change is proposed to density and dimensional standards previously approved as part of rezoning case 13-REZ-23.	

**Landscape Buffer:** 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. The previously approved rezoning (13-REZ-23) includes a condition that exceeds this standard by providing a minimum 20-foot-wide perimeter buffer in Common Open Space.

**Streetscape:** Cary's Comprehensive Transportation Plan identifies a future collector road (Highcroft Drive Extension) bisecting the subject properties. A 30-foot-wide streetscape planted to a Type-A (opaque) standard shall be required along this road. No streetscape is required along local residential roads.

**Traffic:** No increase to the density or number of dwelling units is proposed as part of this request.

**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 May 28, 2014. According to the information submitted by the applicant, three (3) 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 800 feet of the subject property, published on the Town's website and posted on the subject property.

### **Town Council Public Hearing (September 23, 2014)**

Staff presented the request and noted that there were no protest petitions. There were no speakers during the public hearing. The council did not have any comments or questions regarding the request.

### **Planning and Zoning Board Meeting (October 20, 2014)**

Staff presented the case and noted there were no protests. One of the board members expressed concern that no traffic study had been conducted for the subject property and the adjacent, associated rezoning case. The applicant reported that the development plan for the proposed subdivision did not exceed 100 peak hour trips.

The Planning and Zoning Board forwarded the request to Town Council with a recommendation for approval.

### **Changes since the Planning and Zoning Board Meeting**

None

## **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**

As per the Northwest Area Plan, the future land use designation of the subject parcels is Medium Density Residential (MDR), which is defined as single-family-attached or -detached housing at three to eight units per acre. A portion of the west end of the subject property has a future land use designation of Parks and Open Space (PKS/OS) which includes parks, buffers, open space, and community recreation. Northwest Area Plan Note 19 applies to the subject properties: 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.

**Analysis:** No change is proposed to the previously approved zoning designation; therefore, the current request remains consistent with the Town of Cary's Northwest Area 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.
3. L2 Guiding Principle: Ensure that future growth protects sensitive natural resources and protects open space.

**Analysis:** The subject properties are located about one-half mile from NC 55 Highway, where some infrastructure and services are available. The subject properties are also located about one mile from the Alston Regional Activity Center.

**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 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

**Future Collector Avenue through the site:**

**Existing Section:** N/A

**Future Section:** Collector Avenue 58- to 70-foot ROW required depending on cross-section (2 options)

**Sidewalks:** Will be required on both sides

**Bicycle Lanes:** 4-foot-striped bike lane will be required

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

**Parks, Recreation & Cultural Resources**

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 through the subject properties, and the Panther Creek Greenway is proposed along the western edge of the property with a grade-separated crossing proposed at Highcroft Drive.

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.

**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-24 INDIAN WELLS ROAD PROPERTIES**

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF THE TOWN OF CARY TO REVISE A CONDITION OF A PREVIOUSLY APPROVED REZONING RELATED TO A PERIMETER BUFFER.

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>
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<b>Total Area</b>			29.45

**Section 2:**

That this Property maintain its current zoning designation of Residential 8 Conditional Use (R-8-CU) subject to the individualized development conditions set forth herein, with an amendment to the previously approved condition related to the perimeter buffer area, 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.
3. A minimum 20-foot-wide perimeter buffer shall be provided along the western property lines, with the exception of the property line adjacent to the parcel identified by Wake County PIN 0735426432. This buffer shall be located in common open space, outside of individual lots.

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

Adopted and effective: *November 20, 2014*

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Harold Weinbrecht, Jr.  
Mayor

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Date