

STAFF REPORT

Town Council, June 25, 2015

Lester Property at Pittard Sears Road 14-REZ-37 (PL15-042b)

Consideration of proposed Rezoning request

Speaker: Ms. Debra Grannan

From: Jeffery G. Ulma, AICP, Planning Director

Prepared by: Debra Grannan, Senior Planner

Approved by: Ben Shivar, Town Manager

Approved by: Russ Overton, Assistant Town Manager

REQUEST

To amend the Town of Cary Official Zoning Map by establishing initial Town of Cary zoning on approximately 20.09 acres located at 336 Pittard Sears Road in Chatham County. The current zoning on the subject property is Chatham County R-1. The applicant has proposed a Cary zoning designation of Transitional Residential Conditional Use (TR-CU). Conditions proposed by the applicant would limit the use to detached residential, age-restricted housing and set a density limit of 3.1 dwelling units per acre.

Annexation into Cary's corporate limits is required before base zoning may be established on the property. The property owner has submitted an Annexation Petition, 14-A-25 in association with this rezoning request.

If annexed into the Town of Cary, the subject property would also be subject to the Watershed Protection Overlay District (Jordan Lake sub-district).

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 Land Development Ordinance.

SUBJECT PARCELS

Property Owner(s)	Chatham County Parcel Number	Chatham County Real Estate ID	Deeded Acreage
Rosa L. Lester Trust 336 Pittard Sears Road Durham, NC 27713	0726306959	19947	20.09 ±
Total Area			20.09 ±

BACKGROUND INFORMATION

Applicant	Lester, Rosa L. Trustee 336 Pittard Sears Road Durham, NC 27713
Applicant's Representative	Glenda Toppe, Glenda S. Toppe & Associates 4139 Gardenlake Drive Raleigh, NC 27612 glenda@gstplanning.com
Acreage	20.09 ±
Location	336 Pittard Sears Road

Schedule	Town Council Public Hearing March 12, 2015	Planning & Zoning Board Public Hearing May 18, 2015	Town Council Meeting June 25, 2015
Land Use Plan Designation	Medium Density Residential (MDR) Land Use Plan Note: <i>Up to 4 dwelling units per acre</i>		
Existing Zoning District(s)	Chatham County R-1		
Existing Zoning Conditions	None		
Proposed Zoning District(s)	Transitional Residential Conditional Use (TR-CU) Watershed Protection Overlay District (Jordan Lake sub-district)		
Proposed Zoning Conditions	<ol style="list-style-type: none"> 1. Use of the property shall be limited to age-restricted housing and associated amenities. Prior to the Town of Cary approving the first subdivision plat for recordation for the property, the owner shall provide certification from an attorney licensed in the State of North Carolina that a restrictive covenant has been placed on the property and recorded with the Wake County Register of Deeds providing that at least eighty percent (80%) of all occupied units shall have as a resident at least one person age 55 or older and that such restrictive covenants comply with all federal and state laws including the Fair Housing Act. 2. Density shall be limited to 3.1 dwelling units per acre. 3. Beginning at the northwest corner of the subject property adjacent to the parcel identified by PIN 0726218343, and extending south for a distance of a minimum of 520 feet, a 30-foot-wide Type-A (opaque) buffer with disturbances only as allowed by the Land Development Ordinance shall be provided along the western edge of the subject property. (Exhibit A) 		
Town Limits	The subject property is located outside the corporate limits and the Town of Cary ETJ. An annexation petition, 14-A-25, was submitted by the property owners in conjunction with this rezoning request.		
Protest Petition	Per NC General Statutes, protest petitions are not applicable to map amendments that initially zones property being added to the Town's jurisdiction by annexation.		
Staff Contact	Debra Grannan Senior Planner Debra.grannan@townofcary.org (919) 460-4980		

SITE CHARACTERISTICS

Streams: According to Town of Cary GIS maps, a small portion of the subject property is impacted by a stream buffer. Field determination of such features is required at the time of development plan review.

Floodplain and Wetlands: According to Town of Cary GIS maps, there are no floodplain or wetland areas on the subject property. Field verification of such features is required at the time of development plan review.

Current Use

The subject property contains a detached residential dwelling and accessory structures.

Adjacent uses and zoning:

North –Vacant, approved subdivision plan “Courtyards at O’Kelly Chapel Road” (TR-CU)

South – Vacant (TR-CU)

East -- (Opposite side of Pittard Sears Road) Detached residential; Carolina Preserve (PDD Major-Amberly)

West –Detached Residential (Chatham County R1)

CONSISTENCY WITH LAND DEVELOPMENT ORDINANCE

Density and Dimensional Standards

	Existing Zoning District Chatham County R1	Proposed Zoning District Transitional Residential Conditional Use (TR-CU)
Max. Gross Density (Du/ac)	1.089	3.1*
Min. Lot Size (Sq. Ft.)	40,000 (If developed with well and septic, minimum lot size is 1.5 acres) 80,000 for a two-family dwelling	5,000
Minimum Lot Width (Ft.)	100 (110 for two-family dwelling)	40
Roadway Setback (Ft.)	40	From thoroughfare: 50 From collector: 30 From other streets: no less than 18 feet when parking is provided between the dwelling and the roadway, or 10 feet when parking is not provided between the dwelling and the roadway.
Side Yard Setback (Ft.)	25	3 minimum 6 combined
Rear Yard Setback (Ft.)	25	The width of the roadway and rear yard setbacks shall equal at least 35 feet and any individual rear yard setback shall be at least 3 feet.
Maximum Building Height (Ft.)	60	35 **
*Per the LDO, the maximum gross density for a Transitional Residential (TR) district is 6 du/ac; the applicant has proposed a zoning condition that would limit density to 3.1du/ac. ** Height may be increased one foot for every foot provided in addition to the minimum setbacks		

Landscape Buffer: In accordance with Chapter 7 of Cary's LDO, a 30-foot-wide Type B (semi-opaque) buffer would be required between the subject property and adjacent single-family lots. The applicant has proposed a condition to require a 520-foot portion of this buffer to be planted to a Type A (opaque) standard. Lester Tract Buffer Exhibit A

Streetscape: Pittard Sears Road is classified as a local road; therefore, based on Chapter 7 of Cary's LDO, no streetscape is required.

Traffic: The proposed zoning condition that limits density to 3.1 dwelling units per acre on approximately 20.09 acres would result in a maximum of 62 single-family detached age-restricted units. Based on the ITE Trip Generation Manual, 9th edition, Land Use Code 251 – Senior Adult Housing-Detached, the proposed rezoning is anticipated to generate approximately 40 am and 31 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 development 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

As provided for under the Chatham-Cary Interlocal Agreement adopted in June 2012, notification of the proposed rezoning was provided to the Chatham County Planning Director.

Notice of the public hearing on the proposed rezoning was mailed to property owners within 800 feet of the property boundaries of the entire parent parcel, 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 December 9, 2014. According to the information submitted by the applicant, eleven (11) neighboring property owners attended the meeting. According to the meeting minutes submitted by the applicant, questions and concerns from residents focused on traffic, the speed limit on Pittard Sears Road, neighborhood amenities and streetscape buffer requirements.

Town Council Public Hearing (March 12, 2015)

Staff presented the case and noted that the property was not eligible for a protest petition. The applicant described the proposed age-restricted housing. One adjacent property owner expressed concerns regarding stormwater management and potential impacts to the stream on his property. The council directed staff to investigate the conditions of the streams and erosion control for adjacent development in the immediate vicinity of the speaker's property.

Changes Since Town Council Public Hearing

The applicant has proposed an additional condition to require a 30-foot-wide Type-A (opaque) buffer along a 520-foot-long portion of the western property line.

Planning and Zoning Board Public Hearing

The Planning and Zoning Board recommended the request for approval by a vote of 7-0.

Changes since the Planning and Zoning Board Public Hearing

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

Land Use Plan

Future Land Use Recommendations. The governing land use element of the Comprehensive Plan for the subject parcel is the Chatham-Cary Joint Land Use Plan, adopted in June 2012. The Joint Plan recommends that the subject parcel be developed as Medium Density Residential (MDR). The Joint Plan

defines MDR as including residential development at up to four (4) dwellings per acre. Appropriate housing types include detached residential, duplex, patio home, semi-detached/attached dwelling, and townhouses. Multi-family housing is not envisioned. The plan document also notes that “a variety of neighborhood-compatible and complimentary civic, institutional, and utility uses may also be considered within any MDR area, such as churches, parks, schools, libraries, daycare facilities, telecommunication towers, utility pump stations, and electric utilities.”

Planning History. Prior to adoption of the Joint Plan in June 2012, future land use recommendations for the subject parcel were provided by Cary’s Northwest Area Plan, adopted in 2002. At that time, the Northwest Plan recommended the parcel for Very Low Density Residential (VLDR) development, at no more than one dwelling per acre. Prior to the 2002 Northwest Area Plan, land use recommendations for the subject parcel were provided by Cary’s townwide Land Use Plan, adopted in 1996. The 1996 Plan recommended an acceptable range of “Very Low to Low Density Residential” (“VLDR to LDR”) uses, which covered an acceptable density range of up to three dwellings per acre.

Land Use Recommendations for Adjacent Parcels

1. North and South: The property north and south of the subject parcel shares the same MDR land use designation as the subject parcel.
2. East: The properties east of the subject parcel, on the opposite side of Pittard Sears Road also share the same MDR land use designation as the subject parcel.
3. West: Part of the area adjacent to the western property boundary is recommended for Low Density Residential (LDR), and part for Very Low Density Residential (VLDR). This adjacent area includes the Chatham Glen subdivision (Chatham County). LDR is defined in the Joint Plan as single-family at no more than two dwellings per acre.

Growth Management Plan

The Growth Management Plan includes the following Guiding Principles which may be 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.

Affordable Housing Plan

The Affordable Housing Plan includes the following goal 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.

Comprehensive Transportation Plan

Pittard Sears Road is designated as a local road.

Existing Section: 2-lane, undivided; approximately 43-foot ROW

Future Section: 2-lane, undivided (unless turn lane needed); 50-foot ROW

Sidewalks: Required on at least one side

Bicycle Lanes: N/A

Transit: No existing or proposed transit routes at this time

Status of Planned Improvements: None planned by the Town

Parks, Recreation & Cultural Resources

According to the Parks, Recreation & Cultural Resources Master Plan there are no greenways or park facilities proposed on this site.

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

Open Space Plan

According to the Open Space Plan there was mixed upland hardwood forest or mixed hardwood/conifer forest on over 3/4 of the site, covering all but the northeast corner. However, based on more recent aerial photography, it appears that only the western half of the site remains forested as described.

Historic Preservation Master Plan

This site contains no known historic resources.

OTHER REFERENCE INFORMATION

Schools <i>The subject property is located within the Chatham County School District. The projections are based on multipliers provided by the Wake County Board of Education.</i>	Type	Projected Range of Additional Students*
	Elementary School	18-26
	Middle School	3 - 9
	High School	4 -11
Total Projected range of additional students*		25 - 46
<p>*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 62 three-bedroom homes could yield 25 additional students, while 62 homes with greater than three bedroom units could yield 46 students. At rezoning, actual student yield cannot be determined due to unknown variables. Note: The proposed age-restricted condition may significantly reduce the number of potential students.</p>		

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-37 LESTER PROPERTY AT PITTARD SEARS ROAD

AN ORDINANCE TO APPLY AN INITIAL TOWN OF CARY ZONING DESIGNATION OF TRANSITIONAL RESIDENTIAL CONDITIONAL USE (TR-CU) AND WATERSHED PROTECTION OVERLAY DISTRICT (JORDAN LAKE SUB-DISTRICT) TO APPROXIMATELY 20.09 ACRES LOCATED AT 336 PITTARD SEARS ROAD WHICH IS CURRENTLY ZONED CHATHAM COUNTY R-1.

Section 1: The Official Zoning Map is hereby amended by rezoning the area described as follows:

Property Owner(s)	Chatham County Parcel Number	Real Estate ID(s)	Deeded Acreage
Rosa L. Lester Trust 336 Pittard Sears Road Durham, NC 27713	0726306959	19947	20.09 ±
Total Area			20.09 ±

Section 2: That this Property is rezoned from Chatham County R-1 to Transitional Residential Conditional Use (TR-CU) and the Watershed Protection Overlay District (Jordan Lake sub-district) 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.

Section 3: That 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. Use of the property shall be limited to age-restricted housing and associated amenities. Prior to the Town of Cary approving the first subdivision plat for recordation for the property, the owner shall provide certification from an attorney licensed in the State of North Carolina that a restrictive covenant has been placed on the property and recorded with the Wake County Register of Deeds providing that at least eighty percent (80%) of all occupied units shall have as a resident at least one person age 55 or older and that such restrictive covenants comply with all federal and state laws including the Fair Housing Act.
2. Density shall be limited to 3.1 dwelling units per acre.
3. Beginning at the northwest corner of the subject property adjacent to the parcel identified by PIN 0726218343, and extending south for a distance of a minimum of 520 feet, a 30-foot-wide Type-A (opaque) buffer with disturbances only as allowed by the Land Development Ordinance shall be provided along the western edge of the subject property.

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

Adopted and effective: *June 25, 2015*

Harold Weinbrecht, Jr.
Mayor

Date