

**Town of Cary, North Carolina  
Rezoning - Staff Report  
Case 13-REZ-03 The Park at West Lake - Open Space  
Town Council Meeting  
August 22, 2013**

**REQUEST**

To Amend the Town of Cary Official Zoning Map to Apply Initial Zoning; Associated Annexation Petitions – 13-A-09 and 13-A-10.

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	Associated Annexation Case	County Parcel Number (10-digit)	Real Estate ID	Existing Use	Proposed Zoning District	Deeded Acreage
Winslow Properties Development Co.	13-A-09	0679022995	0373884	Private recreation/open space	R/R	.60
	13-A-10	0669837849	0075853	Open space/greenway	R/R	17.24
		0669855046	0374826		R/R	3.66
<b>TOTAL DEEDED ACREAGE</b>						<b>21.50</b>

**PROJECT SUMMARY**

**Historic Background:**

In 2002, a developer, John Brown, requested that the Cary Town Council allow a 363-acre parcel to be served with Town of Cary utilities, but developed under Wake County's zoning and development regulations. At the time, the Town of Holly Springs was receiving and approving annexation petitions for properties within the Town of Cary's land use planning area (outside of the Town's zoning jurisdiction and ETJ). This 363-acre parcel was closer to Holly Springs' town limits than Cary's, therefore, by state law Cary was unable to annex this property in 2002. In addition, the Town had not been successful at negotiating with Holly Springs representatives to establish a Holly Springs/Cary Utility Service and Annexation Boundary Agreement. This agreement would have established which properties each town could annex. In 2003, both municipalities executed this agreement which allowed Cary to annex development within the Park at West Lake development.

At the time, the options before council were to allow the property:

- 1) To be developed as a Wake County subdivision using well and septic systems. This option would have resulted in property owners benefiting from being near Cary without contributing financially for the benefits received. In addition, the well and septic systems within the cluster subdivision may have proved environmentally harmful in the long run.

- 2) To be developed and annexed into the Town of Holly Springs. This option would have allowed Holly Springs to further encroach into Cary's planning area and reduce the future tax base of Cary while increasing theirs.
- 3) To be developed through Wake County using Cary utilities and have sections of the subdivision annexed into the Town prior to any lot being transferred from the builder to a resident (developer's request).

In 2002, the council chose option 3. This option would eventually allow for the citizen-initiated annexation of all the property into the Town. The annexation has occurred in a piece-meal fashion through approximately 20 separate annexation actions as development has occurred.

Action to approve this request would represent completion of the annexation and application of initial Town of Cary Zoning to the land area included in the Park at West Lake.

### BACKGROUND INFORMATION

Applicant & Agent	Winslow Properties Development Co.		
General Location	South of Optimist Farm Road, west and south of Moneta Lane		
Tentative Schedule	<b>Public Hearing</b> June 27, 2013	<b>Planning &amp; Zoning Board</b> July 15, 2013	<b>Town Council Decision</b> August 22, 2013
Land Use Plan Designation	Very Low Density Residential (VLDR) or Low Density Residential Cluster (LDR Cluster)		
Existing Zoning District	Wake County Residential 20 (R-20) (PINs 0679022995 and 0669837849) Wake County Residential 30 (R-30) (PIN 0669855046)		
Proposed Zoning District	Resource/Recreation (R/R)		
Town Limits	The subject properties are located outside the corporate limits and the Town of Cary ETJ. Voluntary annexation petitions 13-A-09 and 13-A-10 have been submitted by the property owners in conjunction with this rezoning request.		
Valid Protest Petition	Protest petitions are not applicable to a map amendment (rezoning) that initially zones property that is being added to the Town's jurisdiction by annexation.		
Staff Contact	Mary W. Beerman, AICP (919) 469-4342 mary.beerman@townofcary.org		

### CONSISTENCY WITH LAND DEVELOPMENT ORDINANCE

Land uses allowed in the R/R zoning district include those listed in the Parks and Open Space use category of the land development Ordinance, and various other public uses. The subject parcels are a portion of the common open space for the Park at West Lake development.

### SUMMARY OF PROCESS AND ACTIONS TO DATE

#### Notification

On June 12, 2013 the Planning Department mailed notification of a public hearing on the request to property owners within 400 feet of the subject property. Notification consistent with General Statutes was published in the Cary News on June 12 and 19, 2013. Notice of the public hearing was posted on the property June 12, 2013.

#### Town Council Public Hearing (June 27, 2013)

There were no speakers and no comments from council members at the public hearing.

**Planning and Zoning Board Meeting (July 15, 2013)**

The Planning and Zoning Board recommended approval by a vote of 9-0.

**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**

The land use designation for the subject parcels is Very Low Density Residential (VLDR) with an alternate land use of Low Density Residential Cluster (LDR Cluster).

**Growth Management Plan**

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

1. L2 Guiding Principle: Ensure that future growth protects sensitive natural resources and protects open space.
2. A2 Guiding Principle: Ensure that the overall amount of development in Cary is consistent with the Town's growth management goals.

**Affordable Housing Plan** The Affordable Housing Plan is not applicable to this case.

**Comprehensive Transportation Plan**

**Moneta Lane is designated as a residential street.**

**Existing Section:** 2-lanes in 50-foot ROW

**Future Section:** Existing

**Sidewalks:** Required on at least one side

**Bicycle Lanes:** N/A

**Transit:** No requirements

**Status of Planned Improvements:** N/A

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

According to the Parks, Recreation and Cultural Resources Facilities Master Plan, a greenway is proposed to loop around the south end of the entire Park at West Lake development, crossing two of the subject parcels

**Open Space Plan**

According to the Open Space Plan there are riparian buffers, vegetated wetlands and floodplain associated with Camp Branch on the two larger subject parcels. The parcels include mesic bottomland hardwood forest and upland hardwood forest.

**Historic Preservation Master Plan**

There are no structures on the subject property.

SUMMARY OF STAFF OBSERVATIONS REGARD PLAN CONSISTENCY	
Comprehensive Plan Element	Staff Observation
Land Use Plan	No issues or concerns
Growth Management Plan	No issues or concerns
Affordable Housing Plan	No issues or concerns
Comprehensive Transportation Plan	No issues or concerns
PRCR Master Plan	No issues or concerns
Open Space Plan	No issues or concerns
Historic Preservation Master Plan	No issues or concerns

**ORDINANCE FOR CONSIDERATION**

**13-REZ-03 The Park at West Lake Open Space (parcels included in 13-A-09 and 13-A-10)**

AN ORDINANCE TO ESTABLISH ZONING FOR APPROXIMATELY 21.50 ACRES LOCATED IN VARIOUS PHASES OF THE PARK AT WEST LAKE BY APPLYING RESOURCE/RECREATION (R/R) ZONING TO PROPERTY CURRENTLY ZONED WAKE COUNTY RESIDENTIAL 30 AND WAKE COUNTY RESIDENTIAL 20 AS SPECIFIED IN THE ACCOMPANYING TABLE OF PARCEL AND OWNER INFORMATION

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	Associated Annexation Case	County Parcel Number (10-digit)	Real Estate ID	Existing Use	Proposed Zoning District	Deeded Acreage
Winslow Properties Development Co.	<b>13-A-09</b>	0679022995	0373884	Private recreation	R/R	.60
	<b>10-A-10</b>	0669837849	0075853	Open space/ greenway	R/R	17.24
		0669855046	0374826		R/R	3.66
<b>TOTAL DEEDED ACREAGE</b>						<b>21.50</b>

**Section 2:** That initial Town of Cary zoning of Resource/Recreation is applied to this property 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:** This ordinance shall be effective on the date of adoption.

Adopted and effective: August 22, 2013

\_\_\_\_\_  
Harold Weinbrecht, Jr.  
Mayor