

**Town of Cary, North Carolina
Rezoning Staff Report
13-REZ-23 Indian Wells Road Properties
Town Council Meeting
February 27, 2014**

REQUEST

To amend the Town of Cary Official Zoning Map by rezoning approximately 29.45 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 with a maximum density of three (3) dwelling units per acre and minimum density of 2.75 dwelling units per acre. In addition, a minimum of 1.5 acres of open space adjacent to the Cameron Pond subdivision shall be designated as permanent open space, and development on areas not designated as permanent open space shall be developed with a minimum density of three dwelling units per acre. (Exhibit A)

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 ± |
| Total Area | | | 29.45 ± |

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 | 29.45 ± | | |
| Location | 7008, 7016, 7017, 7020, 7029 and 7032 Indian Wells Road | | |
| Schedule | Town Council Public Hearing December 19, 2013 | Planning & Zoning Board Public Hearing January 27, 2014 | Town Council Meeting February 27, 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 | <ol style="list-style-type: none"> 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 with disturbances only as permitted by the Land Development Ordinance shall be provided along the western property line. This buffer shall be located in common open space, outside of individual lots. 4. An area of a minimum of 1.5 acres of land located adjacent to the Cameron Pond subdivision and west of the stream buffer on the subject property shall be designated as permanent open space, with disturbances only as permitted by the Land Development Ordinance. 5. Areas which are not designated as permanent open space shall be developed with a minimum density of 2.75 dwelling units per acre. | | |
| 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 | None | | |
| 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 40 (R-40) | Proposed Zoning District Residential 8 Conditional Use (R-8-CU) |
|--|--|--|
| Max. Gross Density (du/ac) | 1.08 | 3* |
| Min. Lot Size (sq. ft.) | 40,000 | 8,000 |
| Minimum Lot Width (feet) | With Septic Tank/Well: 150 (160 for corner Lots) With public sewer: 125 (135 for corner lots) | 60 (70 for Corner Lot) |
| Minimum Roadway Setback (feet) | From thoroughfare: 50 From collector: 30 From other streets: 20 | From thoroughfare: 50 From collector: 30 From other streets: 20 |
| Side Yard Setback (feet) | With septic tank/well: 20 With public sewer: 15 | 10 |
| Rear Yard Setback (feet) | 30 | 20 |
| Maximum Building Height (feet) | 35 | 35 |

*Typical Residential 8 (R-8) zoning districts allow a 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 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 applicant has proposed a zoning condition that exceeds this standard by offering 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: The applicant has offered a zoning condition proposing a limit of three (3) dwelling units per acre. The subject property is 29.75 acres, which has the potential of yielding 89.25 units. Using ITE Trip Generation Guidelines Code (210) Single Family Homes, 89 homes would generate 72 am and 95 pm peak hour trips. A Traffic Analysis Report would not be required since the threshold is currently 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

Notification

On December 3, 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 December 4 and 11, 2013. Notice of the public hearing was posted on the property December 4, 2013.

Neighborhood Meeting

According to the applicant, two neighborhood meetings for the proposed rezoning were held. The first was on August 12, 2013, the second on August 26, 2013. According to the information submitted by the applicant three residents attended the first meeting and 27 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.

Town Council Public Hearing (December 19, 2013)

Staff presented an overview of the case and reported that no protest petitions had been submitted. The applicant spoke in support of the request. Several property owners from the nearby Cameron Pond neighborhood expressed concern about protection of buffers and ensuring that buffers will be preserved when utilities are installed. Two citizens expressed concern about school impacts. Two citizens reported removal of trees behind their homes.

Following the public hearing, council asked staff to provide information regarding the report of recent tree removal in the vicinity of the property and directed staff to look at minimizing buffer impacts with future utility line installations.

Notification

On January 14, 2014 the Planning Department mailed notification of a second 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 January 15 and 22, 2014 Notice of the public hearing was posted on the property January 16, 2014.

Changes Since the Town Council Public Hearing

The applicant offered a condition to provide a minimum of 1.5 acres of open space adjacent to Cameron Pond and to provide a minimum density of three dwelling units per acre for land area not reserved in open space. Information regarding a recent sewer line extension for Phase 5 of the Cameron Pond neighborhood and associated tree removal was provided to the Town Council.

Planning and Zoning Board Public Hearing (January 27, 2014)

Staff presented the case and noted that the applicant had added a condition since the Town Council public hearing to provide additional open space adjacent to the Cameron Pond neighborhood. The applicant spoke during the public hearing and reported that they met with the adjacent property owners since the Town Council Public Hearing. Two adjacent property owners spoke in support of the request. Following the public hearing, several board members stated that they supported the proposed land use and density. One board member expressed concern that there was currently only one access point to the subject property from Indian Wells Drive.

The Planning and Zoning Board voted 7-1 to forward the request to Town Council with a recommendation for approval.

Changes Since the Planning and Zoning Board Public Hearing

The applicant provided an updated exhibit to show open space and buffer areas. To allow some minor flexibility at the time of site plan review, the minimum density was adjusted 3 to 2.75 dwelling units per acre.

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: A detached residential housing product, at three units per acre, is 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 1 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.

OTHER REFERENCE INFORMATION

| Schools | Type ¹ | Projected Range of Additional Students ² |
|---|-------------------|---|
| <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 | 25 - 37 |
| | Middle School | 5 - 14 |
| | High School | 6 - 16 |
| Total Projected range of additional students ² | | 36- 67 |

¹Information regarding specific Wake County Public School assignment options may be found by visiting the following: <http://assignment.wcpss.net/preview/myplan.html>

² 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 88 three-bedroom homes could yield 37 additional students, while 88 homes with greater than three bedroom units could yield 67 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

13-REZ-23 INDIAN WELLS ROAD PROPERTIES

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF THE TOWN OF CARY TO REZONE APPROXIMATELY 29.45 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, LIMIT DENSITY TO A MAXIMUM OF THREE DWELLING UNITS PER ACRE, REQUIRE A 20-FOOT-WIDE PERIMETER BUFFER ALONG THE WESTERN PROPERTY LINE, PROVIDE A MINIMUM OF 1.5 ACRES OF OPEN SPACE ADJACENT TO THE CAMERON POND SUBDIVISION, AND REQUIRE A MINIMUM DENSITY OF 2.75 DWELLING UNITS PER ACRE FOR UPLAND AREAS WHICH ARE NOT DESIGNATED AS PERMANENT OPEN SPACE.

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:

| 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 Bermudes 7020 Indian Wells Road Cary, NC 27519 | 0735531126 | 0150628 | 3.04 |
| Edilberto and Elizabeth Bermudes 7020 Indian Wells Road Cary, NC 27519 | 0735533365 | 0081386 | 3.09 |
| Total Area | | | 29.45 |

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 as shown in the applicant's exhibit (Exhibit A) 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 with disturbances only as allowed by the Land Development Ordinance shall be provided along the western property line. This buffer shall be located in common open space, outside of individual lots.

4. An area of a minimum of 1.5 acres of land located adjacent to the Cameron Pond subdivision and west of the stream buffer on the subject property shall be designated as permanent open space, with disturbances only as permitted by the Land Development Ordinance
5. Areas which are not designated as permanent open space shall be developed with a minimum density of 2.75 dwelling units per acre.

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

Adopted and effective: *February 27, 2014*

Harold Weinbrecht, Jr.
Mayor

Date