

**Town of Cary, North Carolina
Rezoning Staff Report
13-REZ-24 Marquis Homes Property at Pittard Sears Road
Town Council Meeting
February 27, 2014**

REQUEST

To amend the Town of Cary Official Zoning Map by rezoning approximately 1.54 acres located southwest of the O’Kelly Chapel Road and Pittard Sears Road intersection from Residential 40 (R-40) to Residential 8 Conditional Use (R-8-CU). Conditions proposed by the applicant would limit the use to a maximum of three (3) lots for detached residential dwellings.

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)	Chatham County Parcel Number(s) (10-digit)	Chatham County Real Estate ID(s)	Deeded Acreage
Marquis Homes 8368 Six Forks Road Suite 202 Raleigh, NC 27615	0726424552	88557	1.54±
Total Area			1.54±

BACKGROUND INFORMATION

Applicant & Agent	Marquis Homes 8368 Six Forks Road Suite 202 Raleigh, NC 27615		
Applicant’s Representative	Glenda Toppe Glenda S. Toppe & Associates 4139 Gardenlake Drive Raleigh, NC 27612		
Acreage	1.54±		
General Location	Pittard Sears Road		
Schedule	Town Council Public Hearing November 21, 2013	Planning & Zoning Board January 27, 2014	Town Council Meeting February 27, 2014
Land Use Plan Designation	Medium Density Residential (MDR)		
Existing Zoning District(s)	Residential 40 (R-40) and Watershed Protection Overlay District (Jordan Lake Sub-district)		
Existing Zoning Conditions	None		
Proposed Zoning District(s)	Residential 8 Conditional Use (R-8-CU) and Watershed Protection Overlay District (Jordan Lake Sub-district)		
Proposed Zoning Conditions	<ol style="list-style-type: none"> 1. Use shall be limited to detached residential. 2. There shall be no more than three (3) lots. 3. If developed as an exempt subdivision, a 50-foot-wide streetscape planted to a Type-B (semi-opaque) standard shall be provided along O’Kelly Chapel Road. 		
Town Limits	The subject property is located inside the corporate limits of the town of Cary.		
Valid Protest Petition	None		

Staff Contact	Debra Grannan Senior Planner Debra.grannan@townofcary.org (919) 460-4980
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SITE CHARACTERISTICS

Streams: According to Town of Cary GIS maps, there are no steam buffers on the subject property. Field verification of such features is required at the time of site 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 site plan review.

Topography: There are no significant topography issues on the subject property.

Adjacent Uses and (Zoning):

North – (Opposite side of O’Kelly Chapel Road) Detached Residential; Hills of Rosemont Subdivision (Chatham County R1)

South – Vacant (TR-CU)

East – (Opposite side of Pittard Sears Road) Detached Residential; Carolina Preserve at Amberly PDD Major)

West –Vacant (TR-CU)

CONSISTENCY WITH LAND DEVELOPMENT ORDINANCE

Note: If the subject property is developed with no more than three lots on less than two acres, it would not meet the definition of subdivision in Chapter 12 of the Land Development Ordinance and would not be required to comply with Land Development Ordinance regulations for subdivisions. Lots would, however, be required to comply with density and dimensional standards of the zoning district.

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	1.95*
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 R-8 zoning districts have a density of 5.44 du/ac. A zoning condition proposed by applicant, which limits the number of lots to three, would also limit density to 1.95 dwelling units per acre.

**Height may be increased one foot for every foot provided in addition to the minimum required 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 property to the west.

Streetscape: In accordance with Chapter 7 of Cary's LDO, a 50-foot-wide Type-A (opaque) streetscape would be typically be required along any frontage on O'Kelly Chapel Road. Since the subject property is less than two acres in area, and no more than three lots are proposed, it is not defined as a subdivision by the Land Development Ordinance and is not required to meet the subdivision regulations of the Ordinance. The applicant has offered a condition to provide a 50-foot Type-B (semi-opaque) streetscape if the property is developed as an exempt subdivision.

Pittard Sears Road is classified as a local road; therefore, no streetscape is required.

Traffic

The applicant is proposing three (3) single-family homes. Using ITE Trip Generation Guidelines Code (210) Single Family Homes, three homes would generate three trips during the am and three trips during the pm peak hours. Since the threshold is currently 100 peak hour trips, no Traffic Analysis Report (TAR) is required.

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 November 5, 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 November 6 and 13, 2013. Notice of the public hearing was posted on the property November 7, 2013. The subject property is located in the Joint Chatham-Cary Land Use Plan area; therefore, notification of the request was also sent to the Chatham County Planning Department.

Neighborhood Meeting

According to the applicant, a neighborhood meeting for the proposed rezoning was held on September 24, 2013. According to the information submitted by the applicant, three (3) residents attended the meeting. Based on the meeting minutes provided by the applicant, the neighbors did not raise any objections to the proposed rezoning.

Town Council Public Hearing (November 21, 2013)

Staff presented the case and noted that they did not receive any protests or inquires from adjacent property owners. The applicant restated that no more than three homes would be built on the subject property. There were no other speakers during the public hearing. The council asked for verification regarding future road improvements on O'Kelly Chapel Road. Staff cited the CTP (Comprehensive Transportation Plan) requirements listed in the staff report.

Council forwarded the case to the Planning and Zoning Board.

Changes Since the Town Council Public Hearing

The applicant has added an additional zoning condition that offers a 50-foot-wide, Type-B (semi-opaque) streetscape along O'Kelly Chapel Road if the subject property is developed as an exempt subdivision.

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

Staff presented an overview of the case. During the public hearing the applicant reviewed their proposed zoning conditions and asked the board to support the request. There were no other speakers at the hearing. The Planning and Zoning Board voted 9-0 to forward the request to Town Council with a recommendation for approval.

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 dwellings per acre. Appropriate housing types include single-family-detached, 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.

Planning Context: Land Use Recommendations for Adjacent Parcels

1. North: The subject parcel is bordered to the north by O’Kelly Chapel Road, which is designated as a Major Thoroughfare in Cary’s Comprehensive Transportation Plan. The area north of O’Kelly Chapel Road is designated as Very Low Density Residential (VLDR) in the Chatham-Cary Joint Plan, where residential densities should not exceed one dwelling per acre. This area is currently developed as the Hills of Rosemont subdivision (Chatham County jurisdiction), where lot sizes tend to average somewhat over five acres. This area is also outside of the plan’s Rural Buffer Boundary, and hence public wastewater utilities are not recommended north of the subject parcel.
2. South: The properties south of the subject parcel share the same MDR land use designation as the subject parcel.
3. East: The properties east of the subject parcel share the same MDR land use designation as the subject parcel.
4. West: The property west of the subject parcel shares the same MDR land use designation as the subject parcel. This property, the Coussit/Ellis heirs’ parcel, was recently rezoned via case 13-REZ-01 approved on July 25, 2013. This rezoning limits this adjacent property to a maximum of 2.9 dwellings per acre.

Density Transitions. Chapter 3, Section 3.5, of the Chatham-Cary Joint Plan Document addresses transitions between residential density categories, stating that “Within the plan area, all new development should provide appropriate transitions.” Further, Section 3.6 (Principles of Interpretation) states that:

“Planning boards may exercise discretion and judgment in determining whether they believe that the transition proposed by an applicant is sufficient and appropriate.”

Analysis: The applicant’s zoning conditions limit the gross density to a maximum of about 1.9 dwellings per acre, which is well under the Joint Plan’s recommendation of up to 4 dwellings per acre. The applicant’s maximum density is also less than that approved for the adjacent Coussit/Ellis property to the west, and less than the density average for the Carolina Preserve tract on the opposite side of Pittard Sears Road to the east and south. As such, the case seems to satisfy the Joint Plan’s recommendations for type of land use, maximum density, and appropriate transitions.

Growth Management Plan

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

- Guiding Principle R1: Ensure that adequate infrastructure and services are available concurrently with new development.
- Guiding Principle L1: Concentrate growth near existing and planned employment centers and available and planned infrastructure to minimize costly service-area extensions.
- Guiding Principle L2: Ensure that future growth protects sensitive natural resources and protects open space.

Analysis: The proposed rezoning seems to satisfy the above principles, and is, therefore, generally consistent with the Growth Management Plan.

Affordable Housing Plan

Based on the proposed zoning, the Affordable Housing Plan is not applicable, and the case is unlikely to further the goals of this plan.

Comprehensive Transportation Plan

Pittard Sears Road

Road Classification: 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

Status of Planned Improvements: None planned by the Town

O’Kelly Chapel Road

Road Classification: Designated as a Major Thoroughfare.

Existing Section: 2-lane undivided; approximately 60-foot ROW

Future Section: 4-lane with landscaped median; 100-foot ROW

Sidewalks: Required on both sides

Bicycle Lanes: 14-foot-wide outside lanes required

Status of Planned Improvements: None planned by the Town

Note: If developed as an exempt subdivision, the subject property would not be required to make road or sidewalk improvements.

Transit

The nearest existing transit service is provided by Triangle Transit Route 311 on NC Hwy 55, approximately 1.6 miles east of the site. There is no current C-Tran service in this area. Long-range C-Tran expansion plans envision a potential future route on Green Level Church Road, approximately one mile east of the site; however, such expansion is not yet funded, and no future service date has been set.

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 subject property frontage on O’Kelly Chapel Road. The property owner dedicated an eight-foot-wide greenway easement along O’Kelly Chapel Road as indicated in Wake County Book of Maps 2010 Page 735 and Chatham County Book of Maps 2010 Page 160 (Exhibit 1).

If not developed as an exempt subdivision, a recreation fund payment will be required for residential development in accordance with the Land Development Ordinance.

Access to Parks and Greenways

The site is within 1/2 mile of the American Tobacco Trail. The site is 3/4 mile from the U.S. Army Corps of Engineers open space system for Jordan Lake, including state gamelands. In the future, the nearest Town park will be the park site on Green Level Church Road at Kit Creek, located about 1.6 miles northeast of the site (by road).

Open Space Plan

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

Historic Preservation Master Plan

There are no identified historic resources on the site.

Comprehensive Plan: Summary Observations

- The density requested by the rezoning is well within the density range recommended by the Chatham-Cary Joint Land Use Plan. The proposed maximum density also satisfies the Joint Plan's recommendations for providing an acceptable density transition.
- The requested rezoning seems consistent with Cary's Growth Management Plan.
- The site does not contain any significant natural resources as identified by the Town.
- The site does not contain any identified historic resources.
- The site is not well-served by bus transit, with only marginal nearby service improvement expected in the future.

OTHER REFERENCE INFORMATION

Schools	Type ¹	Projected Range of Additional Students ¹
<i>The subject property is located in The Chatham County School District</i>	Elementary School	1
<i>This information is being provided based on multipliers used by Wake County used to project student yield.</i>	Middle School	0 -1
	High School	0-1
Total Projected range of additional students¹		1 - 3

¹The *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 three three-bedroom homes could yield one additional student, while three homes with more than three bedroom units could yield 3 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 cannot 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-24 MARQUIS HOMES PROPERTY AT PITTARD SEARS ROAD

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF THE TOWN OF CARY BY REZONING APPROXIMATELY 1.54 ACRES OWNED BY MARQUIS HOMES, FROM RESIDENTIAL 40 (R-40) AND WATERSHED PROTECTION OVERLAY DISTRICT (JORDAN LAKE SUBDISTRICT) TO RESIDENTIAL 8 CONDITIONAL USE (R-8-CU) AND WATERSHED PROTECTION OVERLAY DISTRICT (JORDAN LAKE SUBDISTRICT).

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(s)	Chatham County Parcel Number(s) (10-digit)	Chatham County Real Estate ID(s)	Deeded Acreage
Marquis Homes 8368 Six Forks Road Suite 202 Raleigh, NC 27615	0726424552	88557	1.54±
Total Area			1.54±

Section 2:

That this Property is rezoned from Residential 40 (R-40) to Residential 8 Conditional Use (R8-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.

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. Use shall be limited to detached residential.
2. There shall be no more than three (3) lots.
3. If developed as an exempt subdivision, a 50-foot-wide streetscape planted to a Type-B (semi-opaque) standard shall be provided along O’Kelly Chapel Road.

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

Adopted and effective: February, 13, 2014

Harold Weinbrecht, Jr.
Mayor

Date