

**Town of Cary, North Carolina
Rezoning Staff Report
13-REZ-31 Weston PDD Amendment at Centregreen Park
Town Council Meeting
March 13, 2014**

REQUEST

This proposed amendment to the Town of Cary Official Zoning Map modifies the previously approved Weston Planned Development District (PDD) by: realigning the boundaries of PDD Tracts O&I 6 and O&I 6a; changing the boundary of the PDD Commercial Overlay District; and establishing conditions regarding a restaurant use within Tract O&I 6a. As indicated on the proposed PDD master plan, the amendment would change the boundary of the previously approved PDD Commercial Overlay district, but would not increase the overall size of the district or expand the types of permitted uses.

PROJECT SUMMARY

The Weston Planned Development District (PDD), as amended in 1997, designates Tract O&I 6 primarily for office and institutional uses. Under the PDD, a restaurant use is permitted in this Tract only if the use is located within a building devoted to another principal use (i.e. a freestanding restaurant use/building is not allowed). The PDD also includes a Commercial Overlay District which allows a freestanding restaurant use; however, Tract O&I 6 is not located within the Overlay.

The property owners wish to amend the PDD to allow a freestanding restaurant use in an area that is currently located within Tract O&I 6. The proposed amendment would realign the boundaries of Tract O&I 6a and the Commercial Overlay to encompass the area proposed to include a restaurant. The amendment would also establish conditions regarding a restaurant located within Tract O&I 6a that include limiting the building area to 5,000 square-feet and prohibiting drive-through service for such uses.

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
Highwoods Realty Limited Partnership 3100 Smoketree Court Ste 600 Raleigh, NC 27604	0765058738	0247286	9.17±
	0755859583	0247287	14.2
HRLP NC-VA LP 3100 Smoketree Court Ste 600 Raleigh, NC 27604	0755958530	0269869	11.18±
	0765056371	0282600	10.10±
	0765067381	0286167	10.96±
Total Area			55.61

BACKGROUND INFORMATION

Applicant	Thomas Hill Highwoods Realty Limited Partnership 3100 Smoketree Court Raleigh, NC 27604 (919) 875-6670 Thomas.hill@highwoods.com		
Applicant's Contact	Dale Werenko Withers & Ravenel, Inc. 115 MacKenan Drive Cary, NC 27511 (919) 469-3340 dwerenko@withersravenel.com		
Acreage	55.61 ±		
General Location	Centregreen Court		
Schedule	Town Council Public Hearing January 30, 2014	Planning & Zoning Board Meeting February 17, 2014	Town Council Meeting March 13, 2014
Land Use Plan Designation	Office/Institutional (OFC/INS) and Commercial (COM)		
Existing Zoning District(s)	Planned Development District (PDD) Major		
Existing Zoning Conditions	As specified in the PDD document		
Proposed Zoning District(s)	Planned Development District (PDD) Major		
Proposed Zoning Conditions	As specified in the PDD document and including the following standards for tract O&I 6a: <ol style="list-style-type: none"> 1. The maximum gross square footage for the freestanding café shall not exceed 5,000 square feet 2. There shall be no drive-through service permitted. 		
Town Limits	Yes		
Valid Protest Petition	None		
Staff Contact	Debra Grannan Senior Planner Debra.grannan@townofcary.org (919) 460-4980		

SITE CHARACTERISTICS

Streams: According to Cary GIS maps, a portion of the site is impacted by a stream buffer. Final determination regarding the presence of a stream and applicability of a stream buffer will be made at the time of site plan review.

Floodplain and Wetlands: According to Cary GIS maps, there are no floodplain or wetland areas on the subject property. Final determination regarding the presence of floodplain area will be made at the time of site plan review.

Topography: There are no significant issues with the topography of the site.

Adjacent Land Uses and Zoning

North – *(opposite side of Weston Parkway)* Vacant; Planned Development District (Weston PDD)
 South – Detached residential, open space; Planned Development District (Weston PDD)
 East -- Open Space; Planned Development District (Weston PDD)
 West – Vacant; Planned Development District (Weston PDD)

WESTON PLANNED DEVELOPMENT DISTRICT Commercial Overlay Permitted Uses (O&I - PUD Tracts)	
Existing Commercial Overlay	Proposed PDD Amendment for Tract O&I 6a
Retail Stores*	Limit free-standing restaurant use to a maximum of 5,000 square feet and prohibit drive-through service.
Convenience stores	
Personal service establishments	
Hotels and motels	
Guest houses	
Clinics	
Restaurants	
Offices	
Amusement Establishments	
Automobile Service stations	
Car Washes	
Vehicle Sales and Rental	
Funeral home	
Radio and television broadcasting studios	
Libraries	
Museums	
Churches	
Animal hospitals	
Colleges	
Clubs and Lodges	
Commercial Outdoor recreation	
Outdoor amphitheatre, government	
Nightclubs and bars	
Farm markets	
Post Offices	
Public Utility Facilities	
Public safety stations	
Utility substations	
Wellness Center	
Accessory Uses	
*Note: No single retail tenant in the O&I Commercial Overlay District shall exceed 30,000 square feet. Free-standing restaurant use in the O&I 6a Tract would be limited to no greater than 5,000 square feet.	

CONSISTENCY WITH LAND DEVELOPMENT ORDINANCE

Open Space: No reductions to existing open space designated in the previously approved Weston PDD are proposed.

Landscape Buffer: No changes are proposed to the existing 50-foot-wide Landscape Buffer along the southern property line of Tract O&I-6.

Streetscape: No changes are proposed to the existing 50-foot-wide, Type-A landscape buffer along Weston Parkway as described in the current Weston PDD.

Traffic: As indicated in the exhibit provided by the applicant, the proposed PDD amendment has been reconfigured in a manner that will not increase the area of the commercial overlay district; therefore, there are no changes to the traffic generation or impacts is anticipated.

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 January 14, 2014, 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 January 15 and 22, 2014. Notice of the public hearing was posted on the property on January 16, 2014.

Neighborhood Meeting

According to the applicant, a neighborhood meeting for the proposed rezoning was held on November 18, 2013. According to the information submitted by the applicant, seven (7) nearby property owners attended the meeting. According to the meeting minutes provided by the applicant, adjacent property owners asked questions regarding the size of the proposed restaurant and wanted to know the proposed development schedule.

Town Council Public Hearing (January 30, 2013)

Staff presented an overview of the case and noted that there were no protest petitions. The applicant spoke in support of the request and provided more information regarding future development plans. One adjacent home owner spoke during the public hearing with concerns about noise and maintenance activity that he reported are occurring at the Centergreen Office Park. The council directed the Town Manager's office to follow up with the citizen regarding the complaints. The council asked the applicant to clarify the size and location of the future restaurant on the subject property and to verify that some green space in the Centregreen median would be preserved.

Changes Since the Town Council Meeting

None

Planning and Zoning Board Meeting (February 17, 2014)

Staff presented an overview of the request. The applicant noted that additional restrictions, such as limiting the square footage of restaurant use and prohibiting drive through service are proposed.

Board members asked for clarification on permitted uses in the Commercial Overlay District. Staff verified that there was no increase to the types of permitted uses or the overall land area for the Commercial Overlay District, but noted that the boundary lines between Tracts O&I 6 and O&I 6a were proposed to change. One board member asked if additional parking was planned for the proposed restaurant. The applicant explained that there was already sufficient parking within the office park to support the use.

The board voted 7-0 to forward 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

Land Use Plan

Per the Town of Cary Land Use Plan, the land use designation for approximately three-fourths of the subject property is Office/Institutional (OFC/INS). The remaining land is designated as Commercial (COM). As per the Town’s Land Use Plan, a limited amount of commercial, institutional, and service space may be provided in an office park in order to supply goods and services required on a regular basis, such as office supplies, eating establishments, and others.

Analysis: This request is consistent with the Town of Cary Land Use Plan.

Growth Management Plan

The Growth Management Plan includes the following Guiding Principle which is relevant to this case:

- 1. R1 Guiding Principle: Ensure that adequate infrastructure and services are available concurrently with new development.

Analysis: Infrastructure and services are available within the Centregreen development.

Affordable Housing Plan

The Affordable Housing Plan is not applicable to this case.

Comprehensive Transportation Plan

Weston Parkway is designated as a Major Thoroughfare

Existing Section: 4 lanes median-divided with turn lanes in approximately 115-foot ROW

Future Section: 4 lanes median-divided; 100-foot ROW

Sidewalks: Required on both sides; not currently existing

Bicycle Lanes: 14-foot-wide outside lanes required

Transit: A future C-Tran route is proposed along Weston Parkway adjacent to the subject property.

Status of Planned Improvements: There is a potential bicycle bond project to include shared use arrow “sharrow” pavement markings on Weston Parkway, pending council approval.

Parks, Recreation & Cultural Resources

According to the Parks, Recreation and Cultural Resources Facilities Master Plan, there are no issues related to this site.

Open Space Plan

There are no issues with the Open Space Plan. A majority of the site has been developed.

Historic Preservation Master Plan

According to the Historic Preservation Master Plan there are no issues related to this site.

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-31 WESTON PLANNED DEVELOPMENT DISTRICT AMENDMENT
AT CENTREGREEN PARK**

ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF THE TOWN OF CARY BY AMENDING THE PREVIOUSLY APPROVED WESTON PLANNED DEVELOPMENT DISTRICT (PDD) BY: REALIGNING TRACT BOUNDARIES IN TRACTS O&I 6 AND O&I 6A AMENDING THE BOUNDARY OF THE PDD COMMERCIAL OVERLAY DISTRICT AND ESTABLISHING CONDITIONS REGARDING A RESTAURANT USE ON TRACT O&I 6A. THE AMENDMENT WOULD CHANGE THE BOUNDARY OF THE PREVIOUSLY APPROVED COMMERCIAL OVERLAY DISTRICT, BUT WOULD NOT INCREASE THE OVERALL SIZE OF THE DISTRICT.

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

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	0765067381	0286167	10.96±
Total Area			55.61

Section 2:

That this Property is rezoned, subject to the individualized development conditions set forth in the Weston Planned Development District document dated December 11, 1997 and on file in the Planning Department, as amended by the "Weston Planned Development District Amendment at Centregreen Park" document approved by the Town Council as of this date and on file in the Planning Department, specifically to realign the boundaries of the Commercial Overlay on tracts O&I 6 and O&I 6a to prohibit drive-through restaurants and limit the building area of restaurants to a maximum of 5,000 square feet on Tract O&I 6a and subject 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 set forth in the Weston Planned Development District document dated December 11, 1997 and as amended by the "Weston PDD Amendment at Centregreen Park" document approved by the Town Council as of this date and on file in the Planning Department, amended as follows:

The gross building area for restaurant use on Tract O&I 6a shall be limited to 5,000 square feet and drive-through service shall be prohibited.

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

Adopted and effective: *March 13, 2014*

Harold Weinbrecht, Jr.
Mayor

Date