

April 8, 2016

Jason –

I'm afraid there's no simple answer to that question, especially since none of the properties are currently zoned by Cary. An owner would first need to apply for annexation and initial zoning, and all of that is a council legislative decision.

All but one of the zoning districts appropriate for the LDR area in the Joint Plan are based on lot size, and not gross density: R40, R20, R12, and R8. (40,000 sq. ft. min., 20,000 sq. ft., 12,000 sq. ft., and 8,000 sq. ft.), so those districts don't have any mechanism for a "density transfer" from the 400-ft buffer zone. However, to determine plan conformance, we'd first calculate the maximum allowed yield under the plan, and make sure that if a property was using a zoning district such as R12 or R8 that they didn't exceed the plan's 2 unit per acre limit for LDR. For the R12 and R8 zoning cases in Chatham to date, applicants have made this assurance by offering zoning conditions limiting yield, lot size, and/or density.

In any event, town council also considers whether or not they feel that the proposed zoning lot size is also appropriate for the property, in addition to considering the plan's maximum density. Thus, in past cases council has approved zonings having a lower yield than 2 du/ac, in order to retain larger lot sizes.

Using Cathy Ruben's property as an example:

1. She has 30.42 acres. LDR allows up to 2 du/ac. So she can't exceed $30.42 \times 2 = 60$ dwellings on her property.
2. If she elects to get to her 60 dwelling maximum using R8 district (which has the smallest available lot size), it's possible we could find her in plan conformance, but I'm not sure she can obtain 60 lots of a min. 8,000 sq. ft. each on the remainder of her land, given that she'll still need to provide roads and road stubs, BMP's, perimeter buffers, etc.
3. That said, the plan also calls for having reasonable lot size transitions next to adjacent properties. For past cases in the joint plan area, our staff and council have also therefore looked for either placing generous buffers next to adjacent properties, and/or having larger lots next to adjacent properties, such as a min. of 15,000 sq. ft. or so. Therefore, it's unlikely – though not impossible – that council would approve lots as small as 10,000 or 8,000 sq. ft. on the adjacent property lines or street frontages, especially if any neighbors object to the rezoning. (If all the neighbors support the case, that might be a different story.) So this factor will also weigh into her yield.
4. Staff, planning board, and council will undoubtedly take into account her encumbrance with the 400-foot open space buffer, to the extent that might cause one to look more favorably on smaller lots sizes for the remainder.
5. There is one other, untried, possibility: The plan restricts the LDR area to single family detached or attached, at a maximum of 2.0 du/ac. The only remaining zoning district we have – untried in Chatham at this point – is our TR District (Transitional Residential). TR District allows small-lot single family homes on lots as small as 5,000 sq. ft., plus patio homes, townhomes, and other attached/semi-attached homes at up to 6.0 du/ac. So, it's possible that she could seek rezoning to TR District, if she offers conditions (making it a TR-CU case) limiting density to 2.0 du/ac., and offering conditions that satisfy council and the neighbors. It's unclear at this point whether

council and her neighboring community would react positively to lots as small as 5,000 sq. ft., or to patio homes or townhomes, so there's no guarantee that she could use TR District to try to get close to her theoretical yield of 60 dwellings. It rather feels like it would be unusual to come across, say, townhomes, in the county at this location.

Next, you might want to look at the Cary rezoning cases, to see the sort of zoning that has been approved to date in Chatham County for LDR areas, since the Joint Plan was adopted in 2012:

1. For Roy Mashburn's case 12-REZ-33, Council approved R8-CU District, but with conditions that included limiting minimum lot size to 12,000 sq. ft., and adjacent lots to 17,500 sq. ft., and a 40-foot buffer next to adjacent property.
2. For case 13-REZ-04, council approved R12-CU District, with numerous conditions that included limiting the maximum density to 1.4 du/ac., providing a 40-foot buffer, and a 50-foot setback to neighbors.
3. For case 15-REZ-24, council approved R12-CU District, but with conditions that included limiting the minimum lot size to 17,500 sq. ft., and limiting the maximum density to 1.4 du/ac.
4. For cases 14-REZ-32 and 15-REZ-20 Purse Property, Council approved R40-CU District, with a Conservation Residential Overlay District (CROD), and with conditions that included a 40- and 60-foot buffer next to neighbors. Now, the CROD does allow a sort of cluster development, up to a maximum yield of 1.5 du/ac. (The CROD ordinance gets complicated, but it puts a minimum lot size in play of 15,000 sq. ft., unless the site has 20-30% of land area in regulatory open space, then lot sizes can go down to 8,000 sq. ft.; or if 30+% is in regulatory open space, then lot sizes can go down to 6,000 sq. ft.) (See LDO Section 4.4.3 for a complete description of CROD.)

To date, the CROD has only been used in Cary's Green Level area on the Wake County side. We allowed this case to use the CROD since the property was split between Wake and Chatham Counties, and because it still maintained a contiguous overlay district.

I'm attaching the approved conditional use ordinances for the cases cited above, so that you can see the full details of the conditions for each. A map of the cases is on the last page.

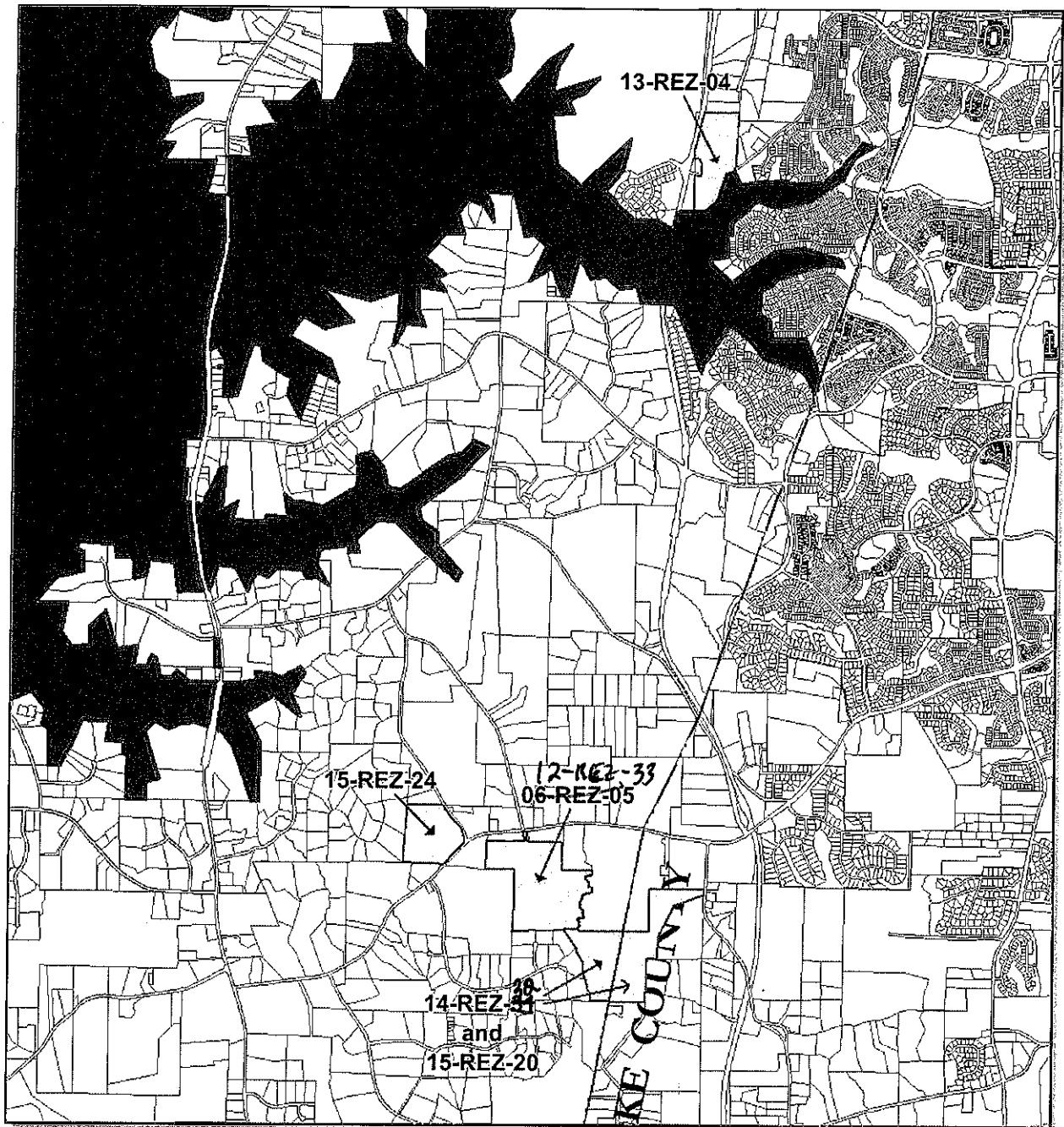
One final path is that under Cary's R40 and R20 Districts, there is an option for using conservation subdivisions (LDO Section 8.4). That option operates similar to the CROD: Lot sizes can be reduced below the normal requirements of minimum lot sizes of 40,000 sq. ft. and 20,000 sq. ft., respectively, in exchange for preserving open space using clustering. The cluster option for R40 allows lots to go as small as 15,000 sq. ft., and the cluster option for R20 allows lots as small as 10,000 sq. ft. However, the total density that can be achieved is equivalent to the density one would have achieved if using straight R40 or R20 minimum lot sizes. The total allowed density under the cluster options is actually based on a formula contained in LDO Section 8.4. Thus, the cluster option is not exactly a "density bonus" option, but rather an option to reduce lot size in order to protect larger amounts of open space.

As you can see from the above discussion, there's no clear path towards "getting credit" for the 400-foot buffer, or for transferring density to the remainder of an affected property.

Yours,

Scott

Map of approved Cary rezoning cases since adoption of Joint Plan, for LDR areas in the plan:



ORDINANCE FOR CONSIDERATION

12-REZ-33 Lewter Shop Road

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF THE TOWN OF CARY BY APPLYING INITIAL ZONING OF RESIDENTIAL 8 CONDITIONAL USE (R8-CU) TO APPROXIMATELY 76 ACRES LOCATED IN THE 1500 BLOCK OF LEWTER SHOP ROAD, OWNED BY GALAXY INVESTMENTS, LLC AND 54 PARTNERS, LLC. 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 (10-digit)	Real Estate ID	Deeded Acreage
Galaxy Investments, LLC 4208 Six Forks Road Suite 1400 Raleigh NC 27609 and 54 Partners, LLC PO Box 130 Cary, NC 27512	0714831153	0019999	76.4 ±
Total Area			76.4 ±

Section 2:

That this Property is rezoned from a Chatham County designation of R1 to Residential 8 Conditional Use (R-8-CU) and to 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:

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. The density shall be limited to two (2) dwelling units per acre
2. Permitted uses shall be limited to single-family-detached, neighborhood recreation, park (public or private), religious institutions, school (public or private)
3. No person shall commence or proceed with the construction of any buildings or structures, other than roads or infrastructure, on the subject property until an eastbound right-turn lane and a westbound left-turn lane, are provided on Lewter Shop Road at the entrance to the subject property. The design and location of the turn lanes shall be subject to NC DOT approval and shall be shown on a development plan as approved by the Town of Cary Development Review Committee. The proposed access driveway will be aligned with West Ferrell Road.
4. All lots adjacent to the southern and western boundaries of the subject property shall be a minimum of 17,500 square feet. All remaining lots shall be a minimum of 12,000 square feet. (Exhibit A attached)

**ORDINANCE FOR CONSIDERATION
13-REZ-04 Slade Property**

AN ORDINANCE TO ESTABLISH INITIAL TOWN OF CARY ZONING FOR APPROXIMATELY 37.77 ACRES LOCATED AT 925 PITTARD SEARS ROAD BY APPLYING RESIDENTIAL 12 CONDITIONAL USE (R-12-CU) AND WATERSHED PROTECTION OVERLAY DISTRICT (JORDAN LAKE SUB-AREA) TO PROPERTY CURRENTLY ZONED CHATHAM COUNTY RESIDENTIAL 1 (R-1)

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

Property Owner(s)	County Parcel Number(s) (10-digit)	Real Estate ID(s)	Deeded Acreage
James B. Slade 719 Pittard Sears Road Durham, NC 27713	0725-29-0405 Portion (Chatham Co.)	N/A	37.77 ±

Section 2:

That this Property is rezoned from (Chatham County) R-1 to R-12-CU and Watershed Protection Overlay 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.

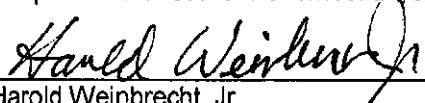
Section 3:

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:

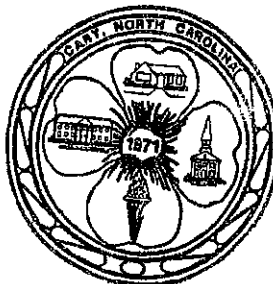
1. The use on the site shall be limited to detached dwellings.
2. The density shall be 1.4 dwelling units per gross acreage.
3. There shall be a 40-foot Type A buffer along the north property line beginning in the NE corner of the property and extending 250 feet west at which point the buffer is reduced to a 20-foot opaque buffer continuing to the NW corner of the property except where riparian buffers exist (Refer to Exhibit A).
4. The lots abutting the northern property boundary shall average a minimum of 19,000 square feet.
5. No dwelling shall be located less than 50 feet from the adjacent Army Corps of Engineers game lands.
6. The final plat shall include a disclosure statement advising potential buyers of the proximity of certain lots to Army Corps of Engineers game lands.

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

Adopted and effective: November 21, 2013


Harold Weinbrecht, Jr.
Mayor

11/21/13
Date



ORDINANCE FOR CONSIDERATION
15-REZ-20 PURSE PROPERTY REZONING

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF THE TOWN OF CARY BY APPLYING THE CONSERVATION RESIDENTIAL OVERLAY DISTRICT (CROD) TO APPROXIMATELY 73.17 ACRES OWNED BY BRYAN G. PURSE. THE EXISTING ZONING DISTRICT OF RESIDENTIAL 40 CONDITIONAL USE (R-40-CU) AND THE WATERSHED PROTECTION OVERLAY DISTRICT, JORDAN LAKE SUB-DISTRICT SHALL REMAIN IN PLACE.

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)	County Parcel Number(s) (10-digit)	Real Estate ID(s)	Deeded Acreage
Bryan G. Purse 2610 66 th Street SW Naples, Florida 34105-7310	Wake County 0724011218	Wake County 0429498	45.17±
	Chatham County 0714914084	Chatham County 19963	28.00±
Total Area			73.17±

Section 2:

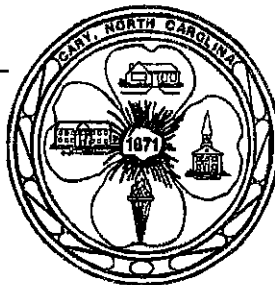
That this Property is rezoned to apply the Conservation Residential Overlay District (CROD) to the existing zoning of Residential 40-Conditional Use (R-40-CU) and Watershed Protection Overlay District, Jordan Lake Subdistrict, and subject to all the requirements of the Cary Land Development Ordinance (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. Previously approved zoning conditions that were approved in conjunction with Rezoning case 14-REZ-32 shall remain unchanged.

Section 3: This ordinance shall be effective on the date of adoption.

Adopted and effective: December 10, 2015


Harold Weinbrecht, Jr.
Mayor

December 10, 2015
Date



ORDINANCE FOR CONSIDERATION

15-REZ-24 Barbee Road Rezoning

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP BY APPLYING INITIAL TOWN OF CARY ZONING TO 35.71 ACRES LOCATED AT THE NORTHWEST CORNER OF THE INTERSECTION OF LEWTER SHOP ROAD AND BARBEE ROAD, BY REZONING FROM CHATHAM COUNTY RESIDENTIAL 1 (R-1) TO RESIDENTIAL 12 CONDITIONAL USE (R-12-CU) AND WATERSHED PROTECTION OVERLAY 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:

Property Owner(s)	County Parcel Number(s) (10-digit)	Real Estate ID(s)	Deeded Acreage
Ricky G. Edwards Ricky G. Edwards LP 1236 Upchurch Meadow Rd Cary, NC 27519	0714535417	0080768	10.24
	0714535858	0080767	12.21
	0714545323	0080452	13.26
Total Area			35.71

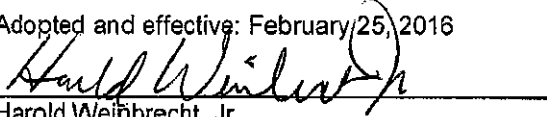
Section 2: That this Property is rezoned from Chatham County R1 to R-12-CU and Watershed Protection Overlay District subject to the individualized development conditions set forth herein, and to all the requirements of the Cary Land Development Ordinance (LDO) and other applicable laws, standards, policies 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. Land use shall be limited to a maximum of 50 detached dwellings (*1.4 dwelling units/ac*).
2. Minimum lot size shall be 17,500 square feet.

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

Adopted and effective: February 25, 2016


Harold Weinbrecht, Jr.
Mayor

February 25, 2016
Date

ORDINANCE FOR CONSIDERATION

14-REZ-32 PURSE PROPERTY REZONING

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF THE TOWN OF CARY BY APPLYING INITIAL CARY ZONING OF RESIDENTIAL 40 CONDITIONAL USE (R-40-CU) TO APPROXIMATELY 73.5 ACRES OWNED BY BRYAN G. PURSE. THE SUBJECT PROPERTY IS ALSO SUBJECT TO THE WATERSHED PROTECTION OVERLAY DISTRICT, JORDAN LAKE SUB-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

Property Owner(s)	County Parcel Number(s) (10-digit)	Real Estate ID(s)	Deeded Acreage
Bryan G. Purse 2610 66 th Street SW Naples, Florida 34105-7310	Wake County 0724112547 Portion	Wake County 0011749 Portion	44.19
	Chatham County 0714914084 Portion	Chatham County AKPAR 19963 Portion	29.31
Total Area			73.50

Section 2:

That this Property is rezoned from Chatham County R-1 and Wake County R-40 W to Residential 40 (R-40) and Watershed Protection Overlay District, Jordan Lake Subdistrict, subject to the individualized development conditions set forth herein, 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.

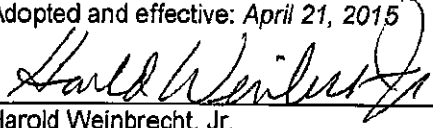
Section 3:

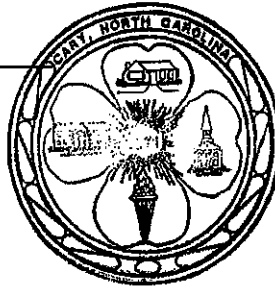
The conditions proposed by the applicant to address conformance of the development and use of the Property to ordinances and officially adopted plans, to address impacts reasonably expected to be generated by the rezoning, and to promote the public health, safety and general welfare, and accepted and approved by the Town are:

1. Use shall be limited to detached residential and neighborhood recreation.
2. Along the western boundary, adjacent to the parcels identified by Chatham County PIN numbers 0714-81-9010 and 0714-90-0406, there shall be an area of common open space with a minimum width of 60 feet. This open space area shall contain a 20-foot-wide greenway easement, which shall be dedicated to the Town of Cary at the time of subdivision plat recording. (Exhibit A) Prior to the submittal of any building permits for lots which abut the easement area, the developer or property owner shall provide a letter from a professional engineer certifying that the easement area has been graded to Town of Cary standard specifications. The remaining area shall be planted to a Type-B (semi-opaque) standard. Allowable activity in the open space shall be limited to grading to tie in slopes, greenways, plantings, and utility lines and easements as allowed by the LDO.
3. Along the western property boundary, adjacent to the parcel identified by Chatham County PIN 0714-81-6592, there shall be an area of common open space with a minimum width of 40 feet. This open space area shall be planted to a Type- B (semi-opaque) buffer standard. (Exhibit A) Allowable activity within the open space shall be limited to grading to tie in slopes, plantings, subdivision identification signage, and utility lines and easements as allowed by the LDO.

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

Adopted and effective: April 21, 2015


Harold Weinbrecht, Jr.
Mayor



April 21, 2015
Date

ORDINANCE FOR CONSIDERATION

15-REZ-20 PURSE PROPERTY REZONING

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF THE TOWN OF CARY BY APPLYING THE CONSERVATION RESIDENTIAL OVERLAY DISTRICT (CROD) TO APPROXIMATELY 73.17 ACRES OWNED BY BRYAN G. PURSE. THE EXISTING ZONING DISTRICT OF RESIDENTIAL 40 CONDITIONAL USE (R-40-CU) AND THE WATERSHED PROTECTION OVERLAY DISTRICT, JORDAN LAKE SUB-DISTRICT SHALL REMAIN IN PLACE.

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

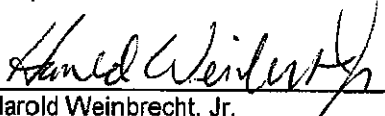
Property Owner(s)	County Parcel Number(s) (10-digit)	Real Estate ID(s)	Deeded Acreage
Bryan G. Purse 2610 66 th Street SW Naples, Florida 34105-7310	Wake County 0724011218	Wake County 0429498	45.17±
	Chatham County 0714914084	Chatham County 19963	28.00±
Total Area			73.17±

Section 2:

That this Property is rezoned to apply the Conservation Residential Overlay District (CROD) to the existing zoning of Residential 40-Conditional Use (R-40-CU) and Watershed Protection Overlay District, Jordan Lake Subdistrict, 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. Previously approved zoning conditions that were approved in conjunction with Rezoning case 14-REZ-32 shall remain unchanged.

Section 3: This ordinance shall be effective on the date of adoption.

Adopted and effective: December 10, 2015


Harold Weinbrecht, Jr.
Mayor

December 10, 2015
Date

