

STAFF REPORT

Town Council, November 19, 2015

Chapel Hill Road and Lake Drive Rezoning 15-REZ-05 (PL15-066c)

Consider action on a proposed rezoning request

Speaker: Mary Beerman

From: Jeff Ulma, Planning Director

Prepared by: Mary Beerman, Senior Planner

Approved by: Mike Bajorek, Interim Town Manager

Approved by: Russ Overton, Assistant Town Manager

Executive Summary: To amend the Town of Cary Official Zoning Map by rezoning 11.85 acres located at 108, 111, 112, 116 and 119 Lake Drive, and 9460 and 9468 Chapel Hill Road from Residential 40 (R-40), Residential 20 (R-20) and Residential 12 Conditional Use (R-12-CU) to Transitional Residential Conditional Use (TR-CU) with zoning conditions that include limiting land use to semi-detached/attached dwellings or townhomes, and neighborhood recreation, with a maximum density of five dwelling units per acre.

This rezoning has an associated Consistency and Reasonableness Statement.

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.

SUBJECT PARCELS

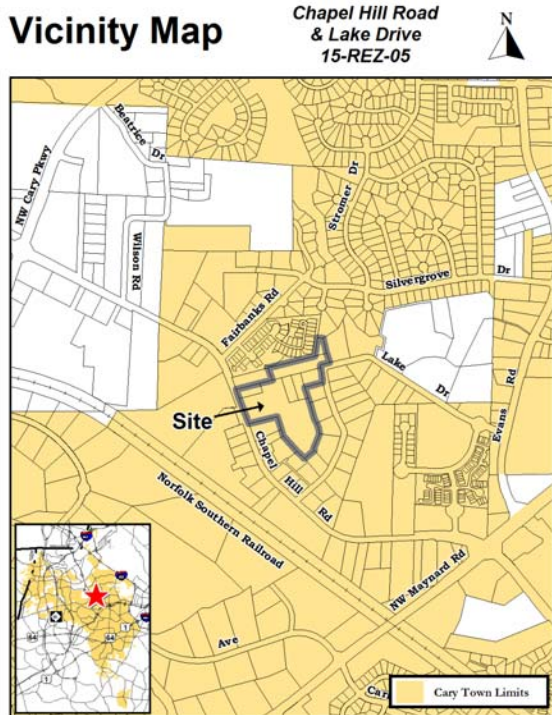
| Property Owner(s) | Address | County Parcel Number(s) (10-digit) | Real Estate ID(s) | Existing Zoning District | Deeded Acreage |
|--|---------------------|------------------------------------|-------------------|--------------------------|----------------|
| Kadavil Group, LLC 102 Bathgate Lane Cary, NC 27513 | 111 Lake Drive | 0754875555 | 9128515 | R-40 | 1.77 |
| | 119 Lake Drive | 0754877789 | 0190890 | R12-CU | 0.34 |
| | 116 Lake Drive | 0754876494 | 0067935 | R-20 | 0.74 |
| | 108 Lake Drive | 0754874372 | 0067933 | R-20 | 0.64 |
| | 112 Lake Drive | 0754875385 | 0067934 | R-20 | 0.63 |
| Balaji Investments, LLC 402 Silvergrove Drive Cary, NC 27513 | 9468 Chapel Hill Rd | 0754870350 | 0047562 | R-20 | 0.68 |
| Balaji Investments, LLC 71 Huntington Drive Dunn, NC 28334 | 9460 Chapel Hill Rd | 0754874015 | 0047564 | R-40 | 7.12 |
| Total Area | | | | | 11.85 |

BACKGROUND INFORMATION

| | | | |
|-------------------|--|---|---|
| Applicant | Property Owners (see table above) | | |
| Applicant Contact | Glenda Toppe Glenda S. Toppe & Associates 4139 Gardenlake Drive Raleigh, NC 27612 | | |
| Acreage | 11.85 ± | | |
| General Location | Chapel Hill Road and Lake Drive | | |
| Schedule | Public Hearing June 25, 2015 | Planning & Zoning Board Public Hearing | Town Council October 22, 2015 |

| | | August 17, 2015 | November 19, 2015 |
|---|---|-----------------|-------------------|
| Land Use Plan Designation | LDR to MDR (Low Density to Medium Density Residential) and LDR (Low Density Residential) | | |
| Existing Zoning District | Residential 40 (R-40); Residential 20 (R-20); and Residential 12 Conditional Use (R12-CU) | | |
| Existing Zoning Conditions | Portion of site subject to maximum height limit of 30 feet for buildings adjacent to 109, 111, 121, 125 and 129 Woodland Drive | | |
| Proposed Zoning District | Transitional Residential Conditional Use (TR-CU) | | |
| Proposed Zoning Conditions <i>(Underlined conditions were added or modified by the applicant after the Town Council public hearing).</i> | <ol style="list-style-type: none"> 1. Land use shall be limited to semi-detached/attached dwellings or townhomes, and neighborhood recreation. 2. Density shall not exceed five (5) dwelling units per acre. 3. <u>As shown on Exhibit A attached hereto, a permanent 6-foot-tall solid fence shall be installed on the Subject Property along Property Line A as allowed by the LDO for a length of approximately 475 feet. The fence shall terminate at the western edge of the 100- foot Town of Cary Stream Buffer. The fence will be continuous unless prohibited by any utility or drainage easements and improvements necessary to serve the Hermitage Park Association Property (herein "Association Property") and its BMP/pond or the Subject Property and its BMP/pond.</u> 4. <u>As shown on Exhibit A attached hereto, no Community Gathering Spaces, community recreational space or community playground space (including without limitation hardened recreational facilities, playground facilities or equipment, basketball facilities or goals, skateboard facilities, volleyball/badminton/tennis/paddleball facilities or equipment) shall be located within 120 feet of Property Line A.</u> 5. <u>There shall be a Type A Buffer on the Subject Property along the common property line between the Subject Property and the Association Property in accordance with and as regulated by the ordinances of the Town of Cary (which ordinances currently regulate the density and opacity of the landscape buffer but provide flexibility as to width and the installation of utilities within the buffer as long as the opacity of the buffer meets the Type A standards). This Buffer shall be (i) a minimum of 20' in width along the westernmost 150' of the common property line (shown as "20' Buffer Area" on Exhibit B) and (ii) varying width (not less than 10' in width), along remainder of the common property line (shown as "Varying Width Buffer Area" on Exhibit B);</u> 6. <u>There shall be a 25 foot building setback where no residential building shall be located within 25' of the common property line between the Subject Property and the Association Property. Notwithstanding the above, retaining walls, walkways to homes, storm water and storm drain facilities (including drainage swales and storm water structures/ponds/BMP's) may be located within this setback area but not within the 20' Buffer Area referred to above and only within the Varying Width Buffer Area referred to above to accommodate and handle the storm water from the pond on the Association Property.</u> 7. <u>A Homeowners Association ('HOA') shall be established and organized for the Subject Property, which shall own the Subject Property's storm water device/facility/BMP and shall maintain the same in accordance with all state and local governmental regulations.</u> 8. <u>The permanent 6-foot-tall solid fence described in condition # 3 above shall be owned and maintained by the HOA.</u> | | |
| Town Limits | Yes | | |

| | |
|------------------------|---|
| Valid Protest Petition | No |
| Staff Contact | Mary Beerman, Senior Planner (919) 469-4342 mary.beerman@townofcary.org |



SITE CHARACTERISTICS

Streams: Based on Cary’s GIS maps, the subject property is impacted by stream buffers. Field determination of such features is required at the time of development plan review.

Adjacent Zoning and Land Use:

North: R-8 and TR; Single-family residential and townhomes
 East and South: R-20, R-12-CU; detached residential
 West (*Opposite side of Chapel Hill Road*): R-20, TR-CU; detached residential, vacant.

CONSISTENCY WITH LAND DEVELOPMENT ORDINANCE

Land Use

Townhomes are a permitted use in the Transitional Residential (TR) zoning district.

Density and Dimensional Standards

| | | | | |
|--|--------------------------------------|--------------------------------------|---|--|
| | Existing R-40 Zoning District | Existing R-20 Zoning District | Existing R-12-CU Zoning District | Proposed TR-CU Zoning District du/ac |
|--|--------------------------------------|--------------------------------------|---|--|

| | | | | |
|--|--|------------------------|---------------------------|--|
| Max. Gross Density | 1.08 du/ac | 2.17 du/ac | 3.63 du/ac | 5.0 du/ac (max. 59 dwellings) (6.0 du/ac allowed in conventional TR district) |
| Min. Lot Size (Sq. ft.) | N/A: Townhome use not allowed | | | No minimum for townhomes |
| Minimum Lot Width | N/A: Townhomes not allowed | | | 20 feet for townhomes |
| Front Yard Setback | From thoroughfare: 50 feet From collector: 30 feet From other streets: 20 feet | | | From thoroughfare: 50 feet From collector: 30 feet From other streets: 18 feet when parking is provided in front, otherwise 10 feet Minimum combined front and rear setbacks: 20 feet Minimum rear setback: 3 feet |
| Side Yard Setback | 20 feet | 10 feet | 10 feet | 3 feet |
| Maximum Bldg. Height | 35 feet ^[1] | 35 feet ^[1] | 35/30 feet ^[2] | 35 feet ^[1] |
| <p><i>[1] Height may be increased one foot for every foot provided in addition to the minimum setbacks.</i></p> <p><i>[2] Existing zoning condition limits the maximum height for buildings adjacent to 109, 111, 121, 125 and 129 Woodland Drive to 30 feet</i></p> | | | | |

Landscape Buffer

A 40-foot Type A buffer is required along the portion of the perimeter that abuts use for detached dwellings. A 30-foot Type A buffer is required along the northwestern portion of the perimeter adjacent to in Hermitage Park, which is developed with detached dwellings.

Streetscape

A 50-foot Type A streetscape is required along the frontage of Chapel Hill Road.

Traffic

The proposed rezoning to a density of 5.0 dwelling units per acre on approximately 11.85 acres would result in a maximum of 59 townhomes. Based on the ITE Trip Generation Manual, 9th edition, Land Use Code 230 – Residential Condominium/Townhouse, the proposed rezoning is anticipated to generate approximately 34 am and 39 pm peak hour trips. The threshold for a traffic study is 100 peak-hour trips; therefore, a traffic study is not 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

Neighborhood Meeting

A neighborhood meeting for the proposed rezoning was held on May 16, 2015 at the Cary Town Hall. The applicant and Town staff members were present. According to the information submitted by the applicant, 10 residents of the adjoining neighborhood attended the meeting. Questions and concerns expressed by the adjacent property owners at the meeting are provided in the meeting minutes submitted by the applicant.

Notification

Notice of the public hearing on the proposed rezoning was mailed to property owners within 800 feet of the subject property, published on the Town's website and posted on the subject property.

Town Council Public Hearing (*June 25, 2015*)

Three area residents spoke at the public hearing, expressing concern with existing traffic on Chapel Hill Road and the lack of a traffic study for this request, and opposition to the extension of Lake Drive to Chapel Hill Road.

Planning and Zoning Board Public Hearing (*August 17, 2015*)

One citizen, a resident of Bud-El Acres Subdivision, spoke at the public hearing and noted that a petition had been submitted requesting that the applicant provide a fence and additional landscaping adjacent to five lots fronting on Woodland Drive. There was general discussion by the board concerning traffic on Chapel Hill Road and buffers. Staff noted that although current regulations require a 100-foot buffer on both sides of the stream located near the northern property boundary, pending State legislation could result in reduced buffer width. The board recommended approval of the request by a vote of 9-0, with several members noting some reservations due to traffic on Chapel Hill Road.

Town Council Meeting (*September 24, 2015*)

Removed from agenda and tabled to the October 22, 2015 council meeting at the request of the applicant.

Town Council Meeting (*October 22, 2015*)

Removed from agenda and tabled to the November 19, 2015 council meeting at the request of the applicant. This delay was requested to allow time to finalize wording of proposed zoning conditions related to the land use buffers and setbacks along the common boundary with Hermitage Park to the west. Zoning conditions 5 through 8 were added, and the wording of zoning conditions 3 and 4 was modified. Following revision of the proposed zoning conditions, the Hermitage Park HOA and two property owners within Hermitage Park withdrew their protest, and the protest petition is no longer valid.

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 and the purposes 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 other property in the vicinity of the subject tract; and
6. The proposed zoning classification is suitable for the subject property.

APPLICABLE COMPREHENSIVE OR AREA PLAN REQUIREMENTS

Land Use Plan

The long-range land use recommendation for the subject parcels is given by the townwide Land Use Plan. Of the 11.85 acres being considered in this rezoning request, the Land Use Plan designates about 10.50 +/- acres for "Low to Medium Density Residential" (LDR to MDR). This designation recognizes that an appropriate housing type and density could be found somewhere within the overall density range for Low to Medium Density (one to eight units per acre, single-family detached or attached). The remaining

1.35 +/- acres of the subject site are designated for Low Density Residential (LDR) on the Future Land Use Plan map, but a stream buffer requirement will likely render this small LDR portion of the request largely undevelopable. Therefore, the subject request for TR-CU zoning with a maximum gross density of five units per acre falls within the overall density range for the LDR to MDR designation, and is in conformance with the Land Use Plan.

Planning History

On May 27, 2010, Town Council approved a comprehensive plan amendment for the subject parcels that changed their original 1996 Land Use Plan designation of “Low Density Residential” to that of “Low to Medium Density Residential.” Also during 2010, associated rezoning request 09-REZ-17 proposed to change the zoning of the subject parcels from R-40 and R-20 to TR-CU, but the applicant withdrew the request in January 2011.

Growth Management Plan

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

1. Guiding Principle R1: Ensure that adequate infrastructure and services are available concurrently with new development.
2. Guiding Principle L1: Concentrate growth near existing and planned employment centers and available and planned infrastructure to minimize costly service-area extensions.
3. Guiding Principle A1: Increase permitted densities in preferred growth areas to encourage desired forms of development.

Comments: The proposed amendment is consistent with Guiding Principles R1 and L1; the location has adequate infrastructure and services, and is located within a third of a mile of the Park Place Shopping Center and the Park West Village mixed-use area. If a regional rail transit station is someday sited near Park Place and Park West Village (as some long-range regional plans have depicted), then areas proximate to that station – including the subject parcels – might be considered a “preferred growth area,” thus satisfying Principle A1.

Affordable Housing Plan

The Affordable Housing Plan includes the following goals that are 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. Assure a quality living environment and access to public amenities for all residents, present and future, of the Town of Cary, regardless of income.

Comments: A medium-density residential development, in proximity to services and employment, has the potential to support the goals of the Affordable Housing Plan.

Comprehensive Transportation Plan

Lake Drive currently extends from Evans Road to Woodland Drive where it terminates. The current configuration of roadway is a 2-lane local street. Redevelopment of the area and possible continuation of Lake Drive to Chapel Hill Road (NC 54) would most likely result in Lake Drive being classified as a collector street, even though it currently is not shown on our collector street long range plan.

The Town’s Policy Statement 62 and Engineering Standards and Specifications Manual, dictate that roads collecting more than 100 dwelling units or other land uses that would generate a daily traffic volume of 1500 vph could qualify the street as a collector. In addition, streets that directly connect two thoroughfares (such as Evans Road and Chapel Hill Road) would likely cause traffic volume to demand the need for a collector street.

Comprehensive Transportation Plan Roadway Characteristics

Chapel Hill Road is designated as a 6-lane Arterial with a Landscaped Median

Existing Section: Two lanes – 30 feet back of curb to back of curb, in a 60-foot right-of-way

Future Section: 6-lane with median – 102 feet back of curb to back of curb, in a 124-foot right-of-way

Sidewalks: Required on both sides
Bicycle Lanes: 14-foot-wide outside lanes
Transit: No current plans
Status of Planned Improvements: N/A

Lake Drive is designated as a 2-lane local street

Existing Section: Two lanes - 22 feet back of curb to back of curb, in a 60-foot right-of-way
Future Section: 22 feet back of curb to back of curb, in a 50-foot right-of-way
Sidewalks: Required on one side of a local street
Bicycle Lanes: Not required
Transit: No current plans
Status of Planned Improvements: N/A

Parks, Recreation and Cultural Resources Master Plan

According to the Parks, Recreation and Cultural Resources Facilities Master Plan a street-side trail is proposed along the Chapel Hill Road frontage.

A recreation fund payment or park land dedication will be required for residential development in accordance with the Land Development Ordinance. Staff has recommended that a recreation fund payment be made for this site in lieu of a land dedication.

Open Space Plan

According to the Open Space Plan, there is an approximate ½ -acre area in the northeast corner of the site covered in mixed upland hardwood and conifer forest. This area is associated with a riparian buffer per GIS information.

Historic Preservation Master Plan

The subject site contains no identified historic resources.

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 | 6-20 |
| | Middle School | 4-13 |
| | High School | 2-11 |
| Total Projected range of additional students ² | | 12-44 |

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

²The *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 12 three-bedroom homes could yield six additional students, while 12 homes with greater than three bedroom units could yield 10 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

15-REZ-05 Chapel Hill Road and Lake Drive

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF THE TOWN OF CARY TO CHANGE THE ZONING OF 11.85 LOCATED AT CHAPEL HILL ROAD AND LAKE DRIVE OWNED BY KADAVIL GROUP AND BALAJI INVESTMENTS, LLC BY REZONING FROM RESIDENTIAL 40 (R-40), RESIDENTIAL 20 (R-20) AND RESIDENTIAL 12 CONDITIONAL USE (R-12-CU) TO TRANSITIONAL RESIDENTIAL CONDITIONAL USE (TR-CU)

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) | Address | County Parcel Number(s) (10-digit) | Real Estate ID(s) | Deeded Acreage |
|--|-----------------------|------------------------------------|-------------------|----------------|
| Kadavil Group, LLC 102 Bathgate Lane Cary, NC 27513 | 111 Lake Drive | 0754875555 | 9128515 | 1.77 |
| | 119 Lake Drive | 0754877789 | 0190890 | 0.34 |
| | 116 Lake Drive | 0754876494 | 0067935 | 0.74 |
| | 108 Lake Drive | 0754874372 | 0067933 | 0.64 |
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| Balaji Investments, LLC 402 Silvergrove Drive Cary, NC 27513 | 9468 Chapel Hill Road | 0754870350 | 0047562 | 0.68 |
| Balaji Investments, LLC 71 Huntington Drive Dunn, NC 28334 | 9460 Chapel Hill Road | 0754874015 | 0047564 | 7.12 |
| Total Area | | | | 11.85 |

Section 2: That this Property is rezoned from R-40, R-20 and R-12-CU to TR-CU 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 semi-detached/attached dwellings or townhomes, and neighborhood recreation.
2. Density shall not exceed five (5) dwelling units per acre.
3. As shown on Exhibit A attached hereto, a permanent 6-foot-tall solid fence shall be installed on the Subject Property along Property Line A as allowed by the LDO for a length of approximately 475 feet. The fence shall terminate at the western edge of the 100-foot Town of Cary Stream Buffer. The fence will be continuous unless prohibited by any utility or drainage easements and improvements necessary to serve the Hermitage Park Association Property (herein "Association Property") and its BMP/pond or the Subject Property and its BMP/pond.
4. As shown on Exhibit A attached hereto, no Community Gathering Spaces, community recreational space or community playground space (including without limitation hardened recreational facilities,

playground facilities or equipment, basketball facilities or goals, skateboard facilities, volleyball/badminton/tennis/paddleball facilities or equipment) shall be located within 120 feet of Property Line A.

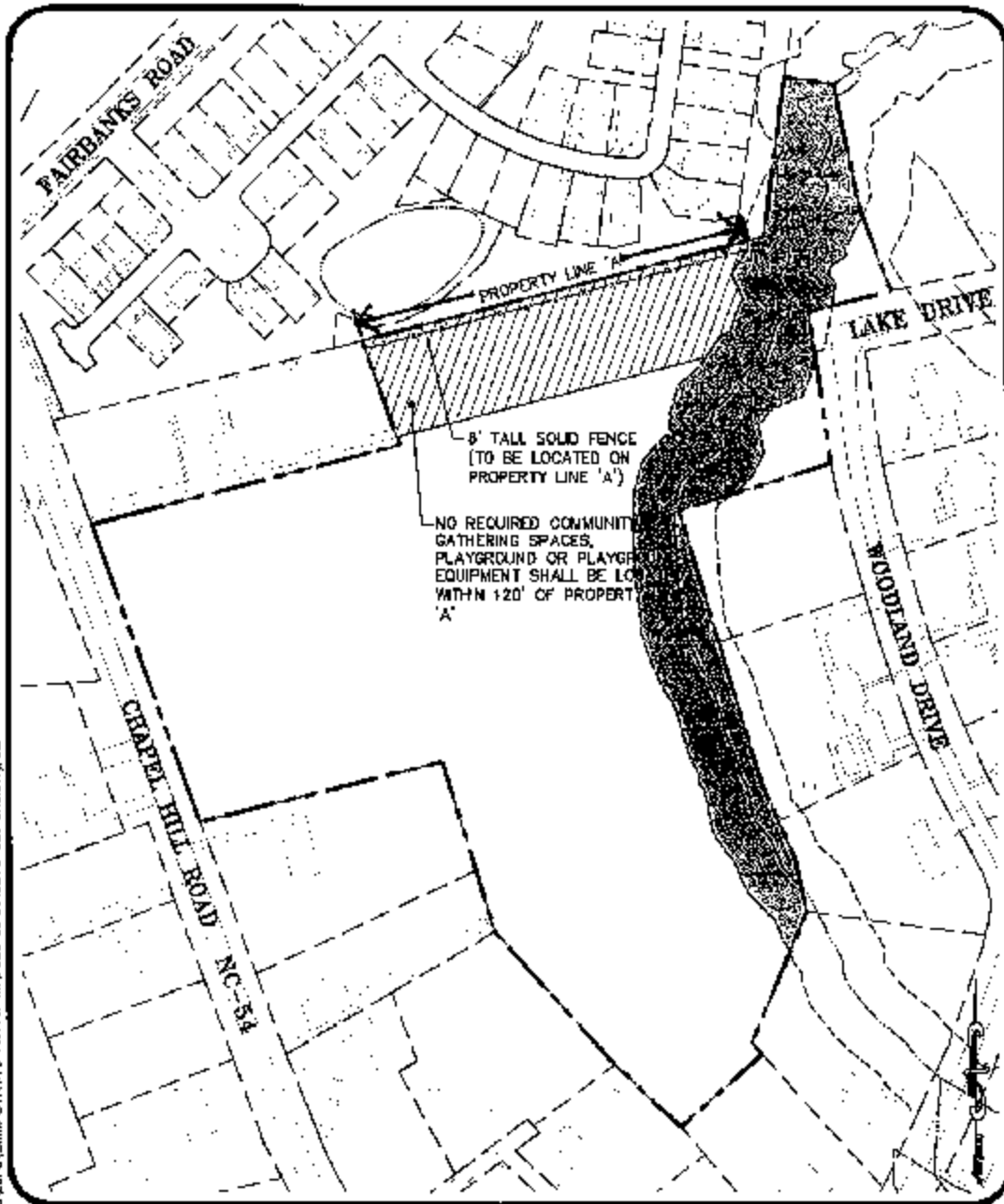
5. There shall be a Type A Buffer on the Subject Property along the common property line between the Subject Property and the Association Property in accordance with and as regulated by the ordinances of the Town of Cary (which ordinances currently regulate the density and opacity of the landscape buffer but provide flexibility as to width and the installation of utilities within the buffer as long as the opacity of the buffer meets the Type A standards). This Buffer shall be (i) a minimum of 20' in width along the westernmost 150' of the common property line (shown as "20' Buffer Area" on Exhibit B) and (ii) varying width (not less than 10' in width), along remainder of the common property line (shown as "Varying Width Buffer Area" on Exhibit B);
6. There shall be a 25 foot building setback where no residential building shall be located within 25' of the common property line between the Subject Property and the Association Property. Notwithstanding the above, retaining walls, walkways to homes, storm water and storm drain facilities (including drainage swales and storm water structures/ponds/BMP's) may be located within this setback area but not within the 20' Buffer Area referred to above and only within the Varying Width Buffer Area referred to above to accommodate and handle the storm water from the pond on the Association Property.
7. A Homeowners Association ('HOA') shall be established and organized for the Subject Property, which shall own the Subject Property's storm water device/facility/BMP and shall maintain the same in accordance with all state and local governmental regulations.
8. The permanent 6-foot-tall solid fence described in condition # 3 above shall be owned and maintained by the HOA.

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

Adopted and effective: *November 19, 2015*

Harold Weinbrecht, Jr.
Mayor

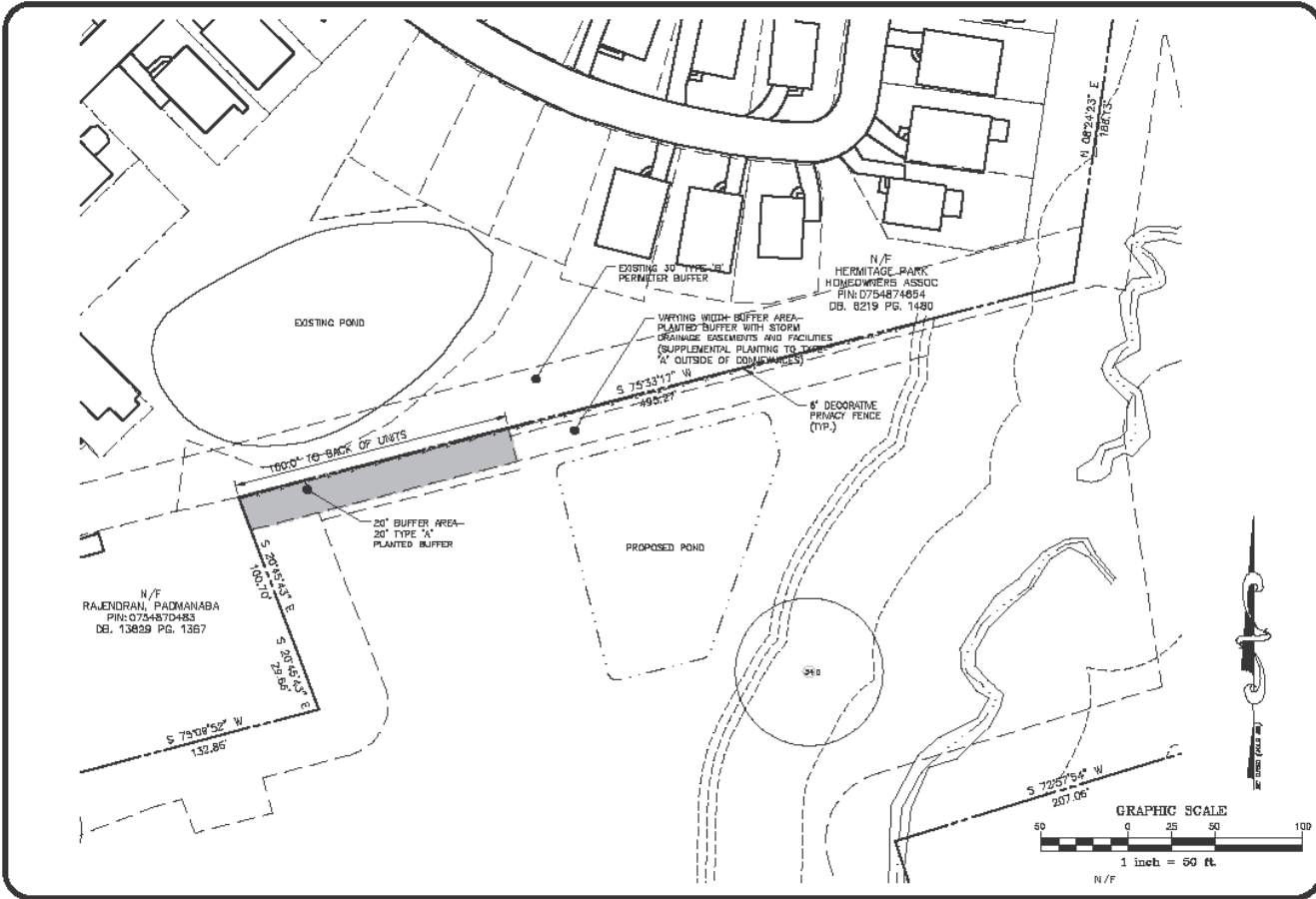
Date



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| | | |
|---|--|--|
|  | <p>CHAPEL HILL ROAD & LAKE DRIVE REZONING EXHIBIT 'A' (15-REZ-08)</p> |  <p>McADAMS</p> <p><small>THE JERRY B. McADAMS CORPORATION, INC.</small></p> <p><small>2240 Matthews Parkway Durham, North Carolina 27714 License No. C-42263 P.O. Box 11227 Research Triangle Park, NC 27709</small></p> |
|---|--|--|

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MCADAMS
 TUSTIN GROVE
 5040 TUSTIN GROVE ROAD
 CARRI, NORTH CAROLINA
 RESUBMIT 1
 PROJECT NO. SDP-14020
 DRAWING NO. SDP14020X
 SCALE 1" = 50'
 DATE 10-28-15


History:
 09/24/15 Town Council TABLED Next: 10/22/15
 This item was tabled to the October 22, 2015, council meeting during adoption of agenda.
 10/22/15 Town Council TABLED
 Weinbrecht stated this item was discussed during item 1.3 as the applicant wished to table to the November 19, 2015, council meeting. During Public Speaks Out, a resident requested this item be tabled and not sent to the Planning and Zoning Board.
 Robinson stated based on Ms. Terry's request to table, moved to table to the November 19, 2015, council meeting.
 11/19/15 Town Council APPROVED
 Robinson moved to remove from the table.
 11/19/15 Town Council APPROVED
 Beerman presented report.
 Evangelista presented Planning and Zoning Board report.
 Smith moved to approve.