

**Town of Cary, North Carolina
14-REZ-07 Rezoning Staff Report
Young Property at Old Apex Road
Town Council Meeting
June 12, 2014**

REQUEST

To amend the Town of Cary Official Zoning Map by rezoning approximately 35.37 acres located at 1340 and 1346 Old Apex Road from Residential 40 (R-40) and Residential 20 (R-20) to Transitional Residential Conditional Use (TR-CU).

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
Herbert C. Young 907 Calton Hill Ct Cary, NC 27511	0753761333	0182345	0.76 ±
Young Family Timber Holdings, LLC 907 Calton Hill CT Cary, NC 27511-6723	0753663382	0080543	34.61 ±
Total Area			35.37 ±

BACKGROUND INFORMATION

Applicant & Agent	Herbert C. Young, Young Family Timber Holdings, LLC 907 Calton Hill CT Cary, NC 27511-6723		
Acreage	35.37 ±		
General Location	1340 and 1346 Old Apex Road		
Schedule	Town Council Public Hearing April 24, 2014	Planning & Zoning Board Public Hearing May 19, 2014	Town Council June 12, 2014
Land Use Plan Designation	Low Density Residential (LDR)		
Existing Zoning District(s)	Residential 40 (R-40)		
Existing Zoning Conditions	None		
Proposed Zoning District(s)	Transitional Residential Conditional Use (TR-CU)		
Proposed Zoning Conditions	<ol style="list-style-type: none"> 1. The use shall be limited to detached residential 2. The maximum number of lots shall be 50 3. The minimum lot size shall be 7,000 square feet 4. The minimum side setback shall be five (5) feet 5. A minimum of 2.5 contiguous acres, encompassing the lake currently located on the property, as shown on Exhibit A, shall be maintained on the western half of the subject property as Common Open Space, with uses limited to neighborhood amenities and as allowed by the Land Development Ordinance 6. As shown on Exhibit A, there shall be a 30-foot-wide, Type- A (opaque) Buffer adjacent to the following lots identified by REAL ID Numbers: 0192321, 0191635, 0192315, 0191632, 0191637, 0192317, 0191636 0191633 0191639 0192318, 0192316, 0191634, 0192322, 0191638, 0192320, and 0192319 		

Town Limits	The 0.76-acre parcel located at 1340 Old Apex Road is located inside the Cary Town limits. The 34.61-acre parcel is located at 1346 Old Apex Road is 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 (919) 460-4980 Debra.grannan@bellsouth.net

SITE CHARACTERISTICS

Streams: According to Cary’s GIS maps, a large portion of the 34.61-acre parcel is impacted by a stream buffer. There are no stream buffers indicated on the 0.76-acre parcel. Field verification of such features will be required at the time of site plan review.

Floodplains and Wetlands: Cary’s GIS maps do not indicate the presence of any floodplain or wetland areas on the subject property. Field verification of such features will be required at the time of site plan review.

Topography: According to Cary’s GIS Maps, the elevation near the center of the subject property is approximately 30 to 50 feet below the elevation along the southern and eastern property lines. There is an additional decrease in elevation by 10 to 20 feet in the vicinity of the existing pond on the property.

Adjacent Uses and (Zoning)

North – Detached Residential (R-40 and R-12)

South – Detached Residential, Life Care Community, Vehicular Filling Station (PDD Major, Oxxford Hunt)

East – (Opposite Side of Old Apex Road) Attached Residential (PDD Minor, Phillips Swift Creek)

West – Detached Residential (PDD, Oxxford Hunt)

CONSISTENCY WITH LAND DEVELOPMENT ORDINANCE

Density and Dimensional Standards

	Existing Zoning District (34.61 acre parcel) Residential 40 (R-40)	Existing Zoning District (0.76 acre parcel) Residential 20 (R-20)	Proposed Zoning Transitional Residential Conditional Use (TR-CU)
Max. Gross Density (du/ac)	1.08	2.17	1.5 (Maximum allowed per LDO: 6)
Min. Lot Size (square feet)	40,000	20,000	7,000 (Minimum allowed by LDO: 5,000)
Minimum Lot Width (feet)	With Septic Tank/Well 150 (160 - corner Lots); With public sewer 125 (135 - corner lots)	90 (100 for corner lot)	40
Streetscape Width along Thoroughfares/Collector Avenues (feet)	50/30	50/30	50/30
Roadway Setback (feet)	From thoroughfare: 50 From collector: 30 From other streets: 20	From thoroughfare: 50 From collector: 30 From other streets: 20	From thoroughfare: 50 From collector: 30 From other streets: no less than 18 feet when parking is provided between dwelling and roadway, or 10 feet when parking is not provided between dwelling and

			roadway.
Side Setback (feet)	With septic tank/well: 20 With public sewer: 15	10	Minimum 5 (Minimum per LDO: 3)
Rear Setback (feet)	30	25	Width of roadway and rear yard setbacks shall equal at least 40 feet Minimum Rear: 3
Maximum Building Height (feet)	35	35	35

Landscape Buffer: According to the LDO, a 30-foot-wide Type B (semi-opaque) buffer shall be required between the subject property and existing lots to the north which are greater than 8,000 square feet in area. A 20-foot Type-B (semi-opaque) Buffer is required between the subject property and lots to the south which are less than 8,000 square feet. The applicant has offered to supplement this buffer to a Type-A (opaque) standard, and to increase the buffer width to 30 feet. The applicant would be required to provide half of the 40-foot Type-A buffer required between the subject property and the life care community to the south, and half of the 50-foot Type-A buffer between the subject property and the commercial use to the south.

Streetscape: According to Chapter 7 of the LDO, a 50-foot Type-A (opaque) streetscape shall be required adjacent to Old Apex Road.

Traffic

The applicant is proposing a cap of 50 single-family dwelling units. The ITE Trip Generation 210 Single Family Detached Housing indicates that 50 SF dwelling units would generate 45 am and 57 pm peak hour trips. Since this is under 100 peak hour trips, no traffic study 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

Consistent with NC General Statutes, notice of the public hearing on the proposed rezoning was mailed to property owners within 400 feet of the subject property, published on the Town’s website and posted on the subject property.

Neighborhood Meeting

According to the applicant, a neighborhood meeting for the proposed rezoning was held on February 10, 2014. According to the information submitted by the applicant, approximately 50 people attended the meeting. According to the meeting minutes provided by the applicant, the topics that were of concern to the nearby residents included: traffic, access to West Chatham Street, site design, construction noise, tree preservation, erosion control and density.

Town Council Public Hearing (April 24, 2014)

Staff presented an overview of the request and the proposed zoning conditions. Staff noted that one protest petition had been submitted, but that it was more than 100 feet from the subject property and, therefore, invalid.

The applicant spoke in support of the request and emphasized the proposed condition to limit the maximum number of dwelling units to 50. One citizen spoke during the public hearing to express concern about future road design.

Following the public hearing, one council member asked if a maximum lot size was proposed. Staff explained that a minimum lot size of 7,000 square feet was proposed, but that lots could be larger. Another council member asked if language could be introduced to ensure protection of the pond area on the subject

property. Staff explained that the applicant has the option of adding new zoning conditions to address concerns raised.

Changes After the Town Council Public Hearing

The applicant has offered a new condition to preserve a minimum of 2.5 acres of open space on the western portion of the subject property. The applicant's zoning exhibit has been updated to reflect this and to label the 30-foot-wide Type-A Buffer adjacent to the Solstice Circle lots.

Planning and Zoning Board Public Hearing (May 22, 2014)

Two neighboring residents expressed concern regarding the lack of sufficient separation and buffers between a potential subdivision road near the southern property line of the subject property and existing homes on Solstice Circle. The Planning and Zoning Board recommended approval by a vote of 8-0.

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 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

Long-range land use recommendations for these properties are provided by Cary's Townwide Land Use Plan. The Plan designates the property for Low Density Residential (LDR) development. The proposed 50 single-family-detached homes on 35.37 acres represent a gross density of 1.41 dwellings per acre. This fits within the Low Density Residential category density range of one to three dwellings per acre. The proposed rezoning would be consistent with the adjacent Oxxford Hunt neighborhood to the west and the Castlebrook neighborhood to the north.

Planning History: The Land Use Plan recommendations date from adoption of the original Land Use Plan in 1996, and have been unchanged since that time.

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.

Analysis: This site is located in the central Cary area and is surrounded by developed land with infrastructure readily available.

2. L1 Guiding Principle: Concentrate growth near existing and planned employment centers and available and planned infrastructure to minimize costly service-area extensions.

Analysis: This site is between several Mixed Use Activity Centers including Maynard Crossing to the north, Cary Plaza to the northeast and Parkway Pointe to the south.

Affordable Housing Plan

Based on the proposed land use and zoning, the Affordable Housing Plan is not applicable to this case.

Comprehensive Transportation Plan

Old Apex Road is designated as a Major Thoroughfare

Existing Section: a 2- to 3-lane section with right of way that varies from approximately 60 to 75 feet

Future Section: Approximately 5-lane arterial roadway with 91-foot right of way and 69-foot from back of curb to back of curb

Sidewalks: 5-foot sidewalk to be installed along the frontage

Bicycle Lanes: 14-foot-wide outside lanes

Transit: N/A

Status of Planned Improvements: N/A

Parks, Recreation & Cultural Resources

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

A recreation payment-in-lieu will be required for residential development in accordance with the Land Development Ordinance.

These comments were reviewed and approved by the Town's Parks, Recreation & Cultural Resources Advisory Board at its April 7, 2014 meeting.

Open Space Plan

According to the Open Space Plan, there are mixed upland hardwood forests along the western end of the property, and riparian buffer areas associated with the pond and streams on the western end of the site.

Historic Preservation Master Plan

This site contains the family home of Herbert C. Young, Jr. Mr. Young served as a Cary Town Council member for nine years in the late 1960s and early 1970s, and was a long-time, well-respected Town volunteer and advocate for parks and recreation. The attractive c.1940 bungalow-style house appears to have been very nicely altered over the years, but was not included in the original Wake County Architectural and Historic Inventory nor in the recent Cary update.

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	14 -21
	Middle School	3 - 8
	High School	4 - 9
Total Projected range of additional students ²		21- 38

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 50 three-bedroom homes could yield 21 additional students, while 50 homes with greater than three bedroom units could yield 38 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 may 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

14-REZ-07 YOUNG PROPERTY AT OLD APEX ROAD

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF THE TOWN OF CARY TO CHANGE THE ZONING OF APPROXIMATELY 35.37 ACRES OWNED BY HERBERT C. YOUNG AND YOUNG FAMILY

TIMBER HOLDINGS LLC, BY REZONING FROM RESIDENTIAL 40 (R-40) 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)	County Parcel Number(s) (10-digit)	Real Estate ID(s)	Deeded Acreage
Herbert C. Young 907 Calton Hill Ct Cary, NC 27511	0753761333	0182345	0.76
Young Family Timber Holdings, LLC 907 Calton Hill CT Cary, NC 27511-6723	0753663382	0080543	34.61
Total Area			35.37

Section 2:

That this Property is rezoned from Residential 40 (R-40) to Transitional Residential Conditional Use (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. The use shall be limited to detached residential
2. The maximum number of lots shall be 50
3. The minimum lot size shall be 7,000 square feet
4. The minimum side setback shall be five (5) feet
5. A minimum of 2.5 contiguous acres, encompassing the lake currently located on the property, as shown on Exhibit A, as Common Open Space with uses limited to neighborhood amenities and as allowed by the Land Development Ordinance.
6. As shown on Exhibit A, there shall be a 30-foot-wide, Type- A (opaque) Buffer adjacent to the following lots identified by REAL ID Numbers:
0192321, 0191635, 0192315, 0191632, 0191637, 0192317, 0191636, 0191633, 0191639, 0192318, 0192316, 0191634, 0192322, 0191638, 0192320, and 0192319

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

Adopted and effective: *June 12, 2014*

Harold Weinbrecht, Jr.
Mayor

Date