

STAFF REPORT

Town Council, February 12, 2015

Keller Property Rezoning (PL15- (14-REZ-23))

Consider action on proposed Rezoning

Speaker: Debra Grannan, Senior Planner

From: Jeffery G. Ulma, AICP, Planning Director

Prepared by: Scott Ramage, AICP, Principal Planner

Approved by: Benjamin T. Shivar, Town Manager

Approved by: Russ Overton, P.E., Assistant Town Manager

**Town of Cary, North Carolina
Rezoning Staff Report
14-REZ-23 Keller Property
Town Council Meeting
February 12, 2015**

REQUEST

To amend the Town of Cary Official Zoning Map by rezoning approximately 13.39 acres from Residential 40 (R-40) to Transitional Residential Conditional Use (TR-CU). Conditions proposed by the applicant include limiting the proposed use to townhomes and neighborhood recreation, limiting the maximum number of dwelling units to 70 and exceeding Land Development Ordinance (LDO) standards for community gathering space, streetscapes, stormwater management and the amount of masonry material required on building facades.

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
Rodney A. and Katharine Keller 2110 Stephens Road Cary, NC 27518	0772392503	0038688	5.61 ±
Kenneth R. and Maureen G. Keller Charles D. and Janet A. Keller c/o Carruthers and Roth PA PO Box 540 Greensboro, NC 27402-0540	0772298457	0057875	7.78 ±
Total Area			13.39 ±

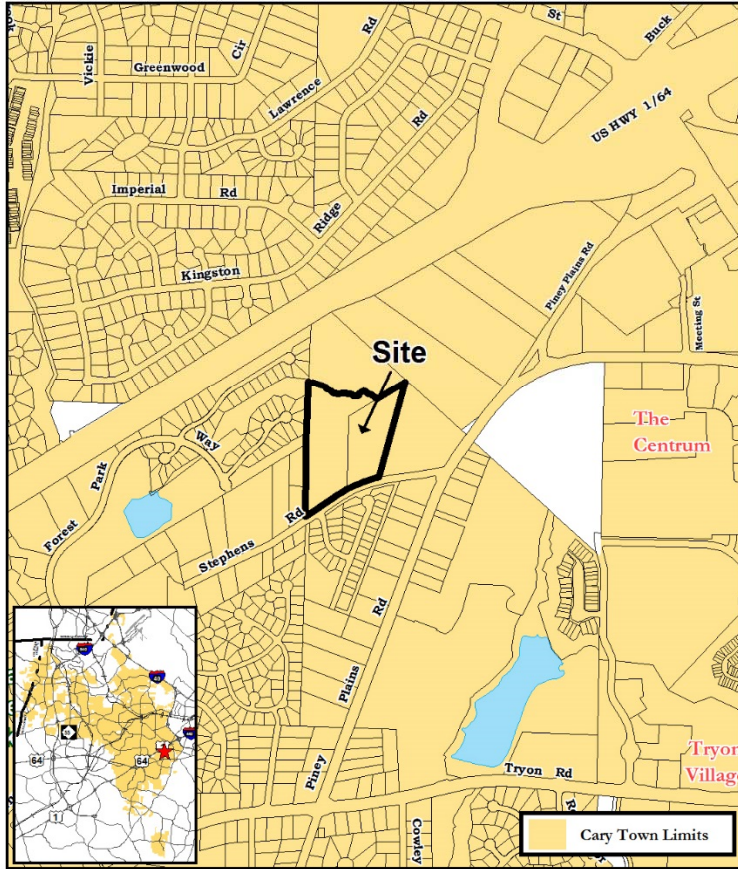
BACKGROUND INFORMATION

Applicants	Rodney A. and Katharine Keller, Kenneth R. and Maureen G. Keller and Charles D. and Janet A. Keller
Applicants' Contact	Michael Dean Chadwick Wynwood Development 7330 Chapel Hill Road Suite 107

	Raleigh, NC 27607		
Acreage	13.39 ±		
Location	2110 and 2200 Stephens Road		
Schedule	Town Council Public Hearing	Planning & Zoning Board Public Hearing	Town Council Meeting
	September 23, 2014	December 15, 2014	January 28, 2015 February 12, 2015
Land Use Plan Designation	Medium Density Residential (MDR)		
Existing Zoning District(s)	Residential 40 (R-40); Watershed Protection Overlay District (Swift Creek Subdistrict)		
Existing Zoning Conditions	None		
Proposed Zoning District(s)	Transitional Residential Conditional Use (TR-CU); Watershed Protection Overlay District (Swift Creek Subdistrict)		
Proposed Zoning Conditions	<ol style="list-style-type: none"> 1. The uses shall be limited to townhomes and neighborhood recreation 2. The maximum number of dwelling units shall not exceed 70. 3. At the time of site plan review, the future plan shall meet all stormwater management and detention requirements. Peak flow from the one, two, five, ten and 25-year storm events shall be determined and attenuated back to pre-development conditions from the discharge point leaving the development. 4. All units shall have a garage, no more than 14 of which shall be a one-car garage. 5. There shall be a 40-foot-wide Type-A (opaque) streetscape provided adjacent to Stephens Road. 6. There shall be a community gathering space provided with a minimum of 6,000 contiguous square feet and the space shall include a playground, play structure or covered gathering structure. 7. The Town of Cary masonry material requirement for attached residential buildings will be increased from 35% to a minimum of 40% surface area. 		
Town Limits	The subject property is located inside Cary's corporate limits.		
Valid Protest Petition	Yes		
Staff Contact	Debra Grannan Debra.grannan@townofcary.org (919) 460-4980		

Vicinity Map

14-REZ-23
Keller Property



SITE CHARACTERISTICS

Streams: According to Cary’s most current GIS maps, the subject properties are impacted by a stream buffer along their northern property lines. There is no indication of floodplain or wetland areas on the site. Field determination of such features shall be required at the time of development plan review.

Adjacent Uses and (Zoning)

- North – Vacant Office & Institutional Conditional Use)
- South – Detached Residential (Transitional Residential CU) opposite side of Stephens Road
- East – Vacant Office & Institutional Conditional Use
- West – Detached Residential (R-40 and PDD Major – Wellington Park)

CONSISTENCY WITH LAND DEVELOPMENT ORDINANCE

Density and Dimensional Standards

	Existing Zoning District Residential 40 (R-40)	Proposed Zoning District Transitional Residential Conditional Use (TR-CU)
Max. Gross Density (du/ac)	1.08	6*

Min. Lot Size (sq. ft.)	40,000	None Specified
Minimum Lot Width (feet)	With Septic Tank/Well: 150 (160 for corner lots) With public sewer: 125 (135 for corner lots)	20
Minimum Roadway Setback (feet)	From thoroughfare: 50 From collector: 30 From other streets: 20	From thoroughfare: 50 From collector: 30 From all other streets: Min. of 18 feet when parking is provided between the roadway and dwelling unit; 10 feet when parking is not provided between roadway and dwelling unit
Side Yard Setback (feet)	With septic tank/well: 20 With public sewer: 15	16 feet between building groupings
Rear Yard Setback (feet)	30	Width of the roadway and rear setbacks combined shall equal at least 20 feet and any individual rear setback shall be at least three (3) feet
Maximum Building Height (feet)	35	35
*Typical Transitional Residential (TR) zoning districts allow a maximum density of six (6) du/ac. The applicant has proposed a zoning condition to limit the maximum number of dwelling units to 70. Based on the acreage of the subject property this equates to a density of 5.2 dwelling units per acre.		

Community Gathering Spaces and Plazas

Section 7.10.4 (D) of the Land Development Ordinance requires sites that are two acres or greater in size to provide at least one public gathering space, such as a pedestrian park or park-like space, for new development and redevelopment sites. Based on the size of the subject property, a community gathering space of at least 2,400 square feet in size would be required. This gathering space may not include land area in required streetscape or landscape buffers.

The applicant has proposed a condition to provide a minimum of 6,000 contiguous square feet of community gathering space.

Landscape Buffer

According to Chapter 7 of the LDO, a 40-foot-wide Type-A (opaque) buffer is required between townhomes and detached dwellings in residential zoned districts on lots that are 8,000 square feet or larger in area. Depending on the size of the office building(s), a 20- to 30-foot-wide Type-B buffer is required between townhomes and office uses.

Streetscape: In accordance with LDO Chapter 7, a 30-foot-wide streetscape planted to a Type-A (opaque) standard shall be required along Stephens Road. The applicant has proposed to provide a 40-foot-wide streetscape planted to a Type-A standard.

Traffic

The proposed zoning with townhomes and a density of 6.0 dwelling units per acre would result in a maximum of 80 dwelling units. Based on the ITE Trip Generation Manual, Land Use Code 230 – Residential Condominium/Townhouse, the initial rezoning request proposed 106 dwelling units which had the potential of generating approximately 55 am and 64 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. The applicant has proposed a condition to attenuate to a 25-year storm event.

SUMMARY OF PROCESS AND ACTIONS TO DATE

Neighborhood Meeting

According to the applicant, a neighborhood meeting for the proposed rezoning was held on July 24, 2014. According to the information submitted by the applicant, 21 residents attended the meeting. Questions and concerns expressed at the meeting focused on flooding and stormwater management, traffic on Stephens Road and construction traffic. More information is provided in the meeting minutes submitted by the applicant.

Notification of the Town Council Public Hearing

Consistent with NC General Statutes, 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 (September 23, 2014)

Staff provided an overview of the request and noted that there is a valid protest.

The applicant asked for support for the request and noted its consistency with the Land Use Plan.

Several adjacent property owners spoke in opposition to the request expressing concerns about traffic, the need for road improvements and sidewalk on Stephens Road, density and stormwater management. There were also three nearby property owners who voiced support for the request, stating that the proposed use of townhomes was appropriate for the area.

Following the public hearing, one council member asked why a Residential Multi-family (RMF) designation was sought rather than TR. Staff explained that while the dimensional standards and setbacks are similar in both districts, there is a density cap of six dwelling units per acre in the TR zoning district. The RMF district has a density limit of 12 du/acre and the applicant has offered a zoning condition to limit the density to eight dwelling units per acre. Three council members noted that the density was higher than the surrounding developments and felt that a lower density would be more appropriate for the area.

Notification of the Planning and Zoning Board Public Hearing

Consistent with NC General Statutes, notice of the second 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.

Changes Since the Town Council Public Hearing

The applicant has proposed new and revised zoning conditions to:

- reduce the density from eight (8) to six (6) dwelling units per acre;
- provide a 40-foot-wide opaque streetscape;
- provide 5,000 square feet of contiguous community gathering space and
- mitigate stormwater management and detention requirements to meet a 25-year storm event.

Planning and Zoning Board Public Hearing (December 15, 2014)

Staff presented an overview of the request and listed the new zoning conditions that had been offered by the applicant. The applicant, Michael Dean Chadwick, described his efforts to meet with neighbors and to address their concerns. There were several speakers, both in support of and opposed to the request. Those in opposition felt the density was too high and expressed concern about traffic impacts on Stephens Road. The board had questions regarding future improvements on Stephens Road. Staff explained that these would be driven by private development and that the Town did not currently have any capital improvement projects for this road.

Most of the board members felt the proposed density and use was appropriate for the location. One board member indicated the density was too high.

The Planning and Zoning Board voted 7-1 to forward the case to Town Council with a recommendation for approval.

Changes Since the Planning and Zoning Board Meeting

None

Town Council Meeting January 28, 2015

Staff presented the case and noted that although several protest petitions had been removed, there was still an overall valid protest and a super majority vote was required for the case to be approved. One council member spoke in opposition to the proposed use, and two members indicated they would like to see the density reduced and open space increased. To allow the applicant time to address these concerns, the Town Council voted unanimously to table the case until the February 12, 2015 Town Council meeting.

Changes Since the January 28, 2015 Town Council Meeting

Since the Town Council meeting, the applicant offered new or modified zoning conditions to:

- change the zoning designation from Residential Multifamily Conditional Use (RMF-CU) to Transitional Residential Conditional Use (TR-CU);
- reduce the proposed maximum number of dwelling units from 80 to 70;
- provide 40% masonry material on the required building facades and
- increase the size of the community gathering area from 5,000 to 6,000 square feet of contiguous space.

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 – the Southeast Area Plan

The governing land use element for this property is given by the Southeast Area Plan, adopted in 2004. That plan recommends the subject area be developed as Medium Density Residential (MDR). MDR is defined as housing at densities of between three and eight dwellings per acre, and can include a mixture of dwellings including single-family-detached and semi-detached units, single-family- attached units, patio homes, duplexes and triplexes, and townhouses. The Southeast Area Plan also states that in MDR areas *“Multifamily housing is possible when using clustered/conservation development design that preserves large portions of the site as permanent open space... although the overall density should not exceed 8 dwellings per acre.”* In addition, a variety of neighborhood-compatible and complimentary institutional uses may also be considered such as churches, schools, and daycare facilities.

Considerations Regarding Conformance with the Area Plan:

The rezoning request can be evaluated in terms of the proposed type of housing, the proposed housing density, and transitions to adjacent development. Analysis of these factors is provided below, to aid Town Council and the Planning and Zoning Board in evaluating whether or not the proposed type and density of housing is consistent with the Southeast Area Plan, and a good fit for the area.

Type of housing. The rezoning request is for townhomes, which is a housing type that is consistent with the plan's MDR designation.

Density of Housing. The rezoning request stipulates a maximum of 70 units which equates to approximately 5.2 dwellings per acre. That density is just below the middle of the 3 to 8 dwellings per acre density range typical of MDR.

Transitions in the local area. Under the proposal, the local area transition from west to east would consist of low density single-family residential west of the site, to townhomes on the subject parcels, and then to office and institutional uses east of the site. Townhomes could provide a reasonable usage transition between single-family detached and office and institutional uses.

The local area transition from south to north would consist of medium density single-family residential south of the site (at the Prestwyck Subdivision), to townhomes on the subject parcels, and then to future office and institutional uses north of the site. Townhomes could provide a reasonable usage transition between medium-density single-family detached and office and institutional uses.

Transitions at property boundaries.

- Western property boundary. To the west of the site, the adjacent lots fronting the north side of Stephens Road are about 1-2 acres in size. There are three adjacent lots in the Wellington PDD, ranging from 0.28 to 0.36 acre in size. Ordinance requirements will call for a 40-foot buffer along the western property line, which will aid in achieving a transition between the proposed townhomes and the adjacent single-family lots.
- Northern and eastern property boundaries. The property north and east of the site is undeveloped, but zoned Office and Institutional, Conditional Use. Depending on the size of the adjacent office use, the Town's development ordinance calls for a 20 to 30-foot Type B buffer between the two sites.
- Southern property boundary. South of the site, on the opposite side of Stephens Road, is the Prestwyck Subdivision, which includes single-family homes with a median lot size of 0.16 acre (6,970 sq. ft.), and a gross density of 3.6 dwellings per acre. Since Stephens Road is a designated Collector Road, residential development of the subject site requires a 30-foot streetscape buffer. The applicant has offered a 40-foot-wide Type-A (opaque) streetscape which would help attenuate the density transition.

Planning History:

- 1996. With adoption of the town-wide Land Use Plan in 1996, the subject property was designated for Low Density Residential (LDR) development; described as single-family residential, at densities of 1-3 dwellings per acre, and lots of about 12,000 sq. ft. to one acre.
- 1998. With adoption of the Southeast Gateway Area Plan in 1998, the subject parcels were re-designated for Medium Density Residential (MDR) development, at 3-6 dwellings per acre.
- 2004. With adoption of the new Southeast Area Plan in 2004, the subject parcels retained their MDR designation, but the density range was increased to 3-8 dwellings per acre.

Growth Management Plan

The Growth Management Plan includes the following Guiding Principles that are relevant to this case:

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

Analysis: The site is immediately adjacent to existing and planned infrastructure and utilities. The site is adjacent to the Crossroads Regional Activity Center and employment areas. The site is about 1.75 miles from the Dillard Drive Elementary and Middle Schools.

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

Analysis: Utilities are available at this site.

- Guiding Principle A1: Increase permitted densities in preferred growth areas to encourage desired forms of development.

Analysis: The site may be considered as a preferred growth area, since it is in an infill area, already within the Town limits, close to services, and located along a major transportation corridor.

Affordable Housing Plan

The Affordable Housing Plan includes the following goals that may be 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.

Observations:

The addition of townhomes in this area may help to increase housing choices. However, there is no way to determine whether any of the future units might be suitable for seniors, people with special challenges, or suitable for a wide range of household sizes.

2. Encourage the location of high density housing within walking and convenient commuting distance of employment, shopping, and other activities, or within a short walk of a bus or transit stop, through "mixed use" developments, residences created on the upper floors of nonresidential downtown buildings, and other creative strategies.

Observations:

Approximately 600 feet to the east, the site is served by an existing Triangle Transit bus route along Piney Plains Road. The site is also just over one-half mile from an existing C-Tran bus stop. Cary's long-range C-Tran expansion plans also consider a potential future route along Piney Plains Road. The site is about 1.3 miles from Tryon Village Shopping Center, about 0.6 mile from the entrance to Centrum Shopping Center, and about 0.9 miles from the entrance to Crossroads Shopping Center.

3. Facilitate the creation of a reasonable proportion of the Town of Cary's housing as affordable units through additional homeownership opportunities for individuals and families earning between 60% and 80% of area median income and affordable apartments for individuals and families earning up to 60% of the area median income.

Observations:

There is insufficient information to know whether the proposed rezoning might help further this goal.

Comprehensive Transportation Plan

Stephens Road is designated as a Collector

Existing Section: 22-foot-wide, 2-lane roadway in 60-foot right of way

Future Section: 37-foot-wide, 2-lane roadway with 4-foot-wide bike lanes, curb and gutter and 5-foot-wide sidewalks in 60-foot right of way.

Sidewalks: 5-foot-wide sidewalks required

Bicycle Lanes: 4-foot-wide bike lanes required

Transit: At present there is no C-Tran or Triangle Transit bus service along this section of Stephens Road. The nearest existing C-Tran service is provided along Dillard Drive with a stop 0.75 mile east from the proposed rezoning. The nearest existing Triangle Transit bus service is provided along Piney Plains Road, approximately 0.3 mile to the east of the site, via TT Route 305.

Status of Planned Improvements: N/A

Stephens Road was an NC DOT State-owned and maintained road until a Town-initiated annexation of the property in 2003. At that time the road was transferred to the Town of Cary for maintenance. The road was accepted for the Powell Bill on January 1, 2004. The Town does not typically widen or improve

roads at the time of annexation but, if the neighborhood petitions, the Town may consider curb and sidewalk following an assessment ordinance for streets.

Parks, Recreation & Cultural Resources

According to the Parks, Recreation and Cultural Resources Master Plan, the Piney Plains Greenway is proposed to wrap around the west/northwest corner of the property.

A recreation fund payment and/or park land dedication will be required for residential development in accordance with the Land Development Ordinance.

These comments were reviewed and approved by the Town’s Greenway Committee at its September 2014 meeting, and by the Parks, Recreation & Cultural Resources Advisory Board at its October 6, 2014 meeting.

Open Space Plan

According to the Open Space Plan, an approximate 2-acre area of mixed upland hardwoods exists in the northeast corner of the property, and an approximate 1.8-acre area of mixed hardwood and conifer forest exists along the southeastern edge of the transmission line easement that crosses the property.

Historic Preservation Master Plan

There are no documented historic resources on this site.

Summary Observations

1. The type of housing product proposed by the rezoning is one of the housing types described for Medium Density Residential in the Southeast Area Plan.
2. The proposed density is within the density range recommended by the Southeast Area Plan.
3. The proposed rezoning is supportive of several Guiding Principles of the Growth Management Plan.
4. At the local area level, the proposed housing type could provide a reasonable transition between uses.
5. At the southwest corner of the subject property, adjacent to a detached residential use which is zoned R-40, a transition may be achieved by use of a required landscape buffer rather than a gradual transition with lot sizes and housing types.

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	7 to 24
	Middle School	4 to 16
	High School	2 to 13
Total Projected range of additional students²		14 to 53

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 70 two-bedroom townhomes may yield up to 14 additional students, while 70 townhomes with three or more 3-bedroom units could yield 53 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

14-REZ-23 KELLER PROPERTY

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF THE TOWN OF CARY TO CHANGE THE ZONING OF APPROXIMATELY 13.3 ACRES OWNED BY RODNEY A. AND KATHARINE KELLER; CHARLES D. AND JANET A. KELLER, AND KENNETH R. AND MARUEEN G. KELLER, 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
Rodney A. and Katharine Keller 2110 Stephens Road Cary, NC 27518	0772392503	0038688	5.61 ±
Kenneth R. and Maureen G. Keller Charles D. and Janet A c/o Carruthers and Roth PA PO Box 540 Greensboro, NC 27402-0540	0772298457	0057875	7.78 ±
Total Area			13.39 ±

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 uses shall be limited to townhomes and neighborhood recreation
2. The maximum number of dwelling units shall not exceed 70.
3. At the time of site plan review, the future plan shall meet all stormwater management and detention requirements. Peak flow from the one, two, five, ten and 25-year storm events shall be determined and attenuated back to pre-development conditions from the discharge point leaving the development.
4. All units shall have a garage, no more than 14 of which shall be a one-car garage.
5. There shall be a 40-foot-wide Type-A (opaque) streetscape provided adjacent to Stephens Road.

6. There shall be a community gathering space provided with a minimum of 6,000 contiguous square feet and the space shall include a playground, play structure or covered gathering structure.
7. The Town of Cary masonry material requirement for attached residential buildings will be increased from 35% to a minimum of 40% surface area.

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

Adopted and effective: *February 12, 2015*

Harold Weinbrecht, Jr.
Mayor

Date