

**Town of Cary, North Carolina  
Rezoning Staff Report  
13-REZ-10 H-7 High School (Roberts Road)  
Town Council Meeting  
October 10, 2013**

**REQUEST**

To amend the Town of Cary Official Zoning Map to apply initial zoning of Residential 40 (R-40) to 87.85 acres located on the north side of Roberts Road, east of Green Level Church Road. There is an owner-initiated annexation petition, number 13-A-17, associated with the rezoning. Annexation must be approved prior to application of a Cary zoning district.

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
Wake County Board of Education	0723964723	0374148	22.01
	0733060430	0374147	30.51
	0733066539	0369694	24.22
	0733150700	0114161	11.11
<b>Total Acreage:</b>			<b>87.85 ±</b>

**BACKGROUND INFORMATION**

Applicant	Wake County Board of Education		
Agent for Applicant	CLH Design (Zachary Pierce)		
Acreage	87.85 ±		
General Location	Northeast corner of Green Level Church Road and Roberts Road intersection		
Schedule	<b>Public Hearing</b> August 22, 2013	<b>Planning &amp; Zoning Board</b> September 16, 2013	<b>Town Council</b> October 10, 2013
Land Use Plan Designation	Conservation Residential Low Density (LCR)		
Existing Zoning District(s)	(Wake County) Residential 40 (watershed) (R-40W)		
Existing Zoning Conditions	None		
Proposed Zoning District(s)	Residential 40 (R-40); Watershed Protection Overlay (Jordan Lake Watershed); Conservation Residential Overlay District, LCR sub-district.		
Proposed Zoning Conditions	None		
Town Limits	The subject property is located outside the corporate limits and the Town of Cary ETJ. An owner-initiated annexation petition, 13-A-17, has been submitted by the property owner in conjunction with this rezoning request.		
Valid Protest Petition	In accordance with NC General Statutes, protest petitions are not applicable to a map amendment (rezoning) that initially zones property that is being added to the Town's jurisdiction by annexation.		
Staff Contact	Mary W. Beerman (919) 469-4342 mary.beerman@townofcary.com		

**SITE CHARACTERISTICS**

**Floodplain, Streams and Wetlands:** According to Cary GIS maps, the property is impacted by several stream buffers associated with flood plain and designated wetlands indicated along the northern boundary of the site. Field determination of these features will be made at the time of site plan review.

**Surrounding Land Uses:**

- North - Floodplain and open space owned by Town of Cary
- South - Single-family residential and agricultural (Apex Jurisdiction)
- West - Vacant (Apex Jurisdiction)
- East - Single-family residential and (future) Roberts Road Park

**CONSISTENCY WITH LAND DEVELOPMENT ORDINANCE**

**Land Use**

Uses allowed in the R-40 zoning district are listed in the table below:

<b>USES ALLOWED IN R-40 DISTRICT</b>	
<b>PERMITTED USES</b>	<b>SPECIAL USES</b>
Detached dwelling	Bed and Breakfast
Manufactured home	Cemetery
Day care home, small	Library
Public safety station	Museum
Public utility facility	Day care center
Town owned/operated facilities and services	Day care home, large
Athletic field, public	Governmental office
Community garden	Outdoor amphitheater, public
Park, public	Pre-school
Neighborhood recreation center, public	Utility facility, major
Resource conservation facility	Other freestanding towers
Utility substation, minor	Kennel, indoor only
Agri-Tourism	Kennel, indoor/outdoor
Farming, general	
Forestry	
Produce stand	
Neighborhood recreation center, indoor/outdoor, private	
Athletic field, private	
Antenna co-location on existing tower	
<b>PERMITTED USE OR SPECIAL USE, DEPENDING ON APPLICABLE USE-SPECIFIC STANDARDS</b>	<b>PERMITTED USES REQUIRING ZONING COMPLIANCE PERMIT</b>
Boarding house	Family Care Home*
Religious Assembly	Group Home*
School	

\*Allowed in all residential dwellings as otherwise permitted by law, and may not be prohibited through zoning conditions

## Density and Dimensional Standards

Standard	Proposed R-40 Zoning District
Max. Residential Density	1.08 units/acre
Min. Lot Size	40,000 square feet
Min. Lot Width	135 feet
Min. Roadway Setback	50 feet
Min. Side Yard Setback	15 feet
Min. Rear Yard Setback	30 feet
Max. Building Height	35 feet, plus one foot for every foot provided in addition to the minimum building setback

**Landscape Buffer** Assuming the site is developed for a school, a 40-foot Type A (opaque) buffer will be required adjacent to the residential property to the east, and a 20-foot Type B (semi-opaque) buffer will be required adjacent to the future Roberts Road Park.

### Streetscape

A 50-foot opaque streetscape is required along both Roberts Road and Green Level Church Road.

### Traffic

The existing zoning is R-40 in Wake County and the proposed zoning is Town of Cary R-40. The two zoning designations are similar to each other, so there is no substantive change in traffic generation with respect to the uses allowed.

It is the practice of the Planning Department not to use the potential for construction of a school as a basis for requiring a traffic study at the time of a general use rezoning to R-40. The vast majority of uses allowed in the R-40 district are generally much lower in intensity and trip generation by comparison. The time of site plan review is a more appropriate and equitable time to take into account traffic impacts beyond those anticipated for low-density residential development typically constructed in the district.

During preliminary review of this rezoning request, it was determined that the Planning Director would defer the decision on the site plan for the school (which the applicant has indicated will be submitted in November 2013) to the Town Council, an option allowed by Section 3.9.2 of the LDO. By deferring action on the site plan to the Town Council, the approval process occurs through a quasi-judicial hearing process. Through this process, the public will be provided an opportunity to speak on the details of the site plan, information related to specific traffic impacts and mitigations can be provided, and conditions can be imposed as needed to ensure that potential impacts are addressed.

At the Town Council public hearing on August 22, 2013, Chris Hilt, representing the Wake County Board of Education, stated that six intersections were reviewed as part of a traffic study required by NCDOT that was currently in review by that agency, and stated that improvements would be made to Green Level Church Road and Roberts Road as required. She further noted that the site plan would be submitted in November, and that she understands it would require a quasi-judicial hearing with traffic impacts evaluated as part of the plan review.

### 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**

According to the applicant, a neighborhood meeting for the proposed rezoning was held on May 22, 2013. According to the information submitted by the applicant, 12 residents attended the meeting. According to the meeting minutes submitted by the applicant, resident questions and concerns included lighting, traffic, potential road improvements, pedestrian access, and use of the existing pond.

### **Notification**

On August 7, 2013, the Planning Department mailed notification of a public hearing on the request to property owners within 400 feet of the subject property. Notification consistent with General Statutes was published in the Cary News on August 7 and 14, 2013. Notice of the public hearing was posted on the property on August 7, 2013.

### **Town Council Public Hearing (August 22, 2013)**

Ms. Christine Hilt, a landscape architect representing the applicant (Wake County Board of Education), stated that the school board had identified a target ring in 2006 showing the need for a high school in this area. She noted that a traffic impact study had been submitted to NCDOT, and the site plan would be submitted in November for consideration through the quasi-judicial public hearing process. Ms. Betty Parker of the school system also spoke in support of the request, and noted that pedestrian trails would be provided to connect to the adjacent Roberts Road Park site.

Two area residents expressed concerns related to traffic and buffers adjacent to parking lots and athletic fields.

Mayor Weinbrecht noted that specific information on the development features would be available during the site plan review and approval process.

Council member Yerha stated that he had contacted Gary Roth of Capital Area Preservation regarding potential historic structures on the property, and that Mr. Roth indicated that the Lassiter Sloan house was worth saving. Mr. Yerha acknowledged that this is a site plan issue, but suggested that Mr. Roth be contacted if demolition of the house was anticipated.

Mary Beerman summarized the background and history associated with the proposed request by the Wake County Board of Education to rezone approximately 88 acres located at the northeast corner of the intersection of Roberts Road and Green Level from R-40 (Wake County) to R-40 (Town of Cary) for future development of a high school. She noted that this was a request for a general use rezoning to the R-40 district, and that there were no zoning conditions. It was also noted that a residence on the property, the Lassiter Sloan house, was on the historic inventory.

Betty Parker, Director of Real Estate Services with Wake County Public School System, stated that the previous property owners lived on the property with a lease agreement, and had the option to move the house. She noted that the WCPSS did not intend to keep the residence, but that there had been dialog with the Town's PRCR Department as well as Capital Area Preservation to explore options to move and preserve the house.

Mr. Shaw asked for clarification regarding the change in allowable uses as a result of the rezoning. Ms. Beerman explained that the property was currently in a comparable Wake County R-40 district, and that the allowable uses were essentially the same as for the Town of Cary R-40 district. She further explained that annexation is needed so that public utilities can be provided, and application of a Town of Cary zoning district, rather than a Wake County zoning district, was required for the annexation.

Mr. Miller asked if Capital Area Preservation had inspected the house. Ms. Parker stated that there had been discussion regarding the house and that an inspection would be scheduled in the coming weeks.

Ms. Beerman noted that staff had also been in contact with Mr. Roth with Capital Area Preservation, and that the appropriateness of, and options for, relocating the house would be explored prior to action on the site plan.

Mr. Miller asked if the timeline for approval was critical. Ms. Parker responded that the need to proceed with site plan preparation and approval was critical due to current overcrowding, and the school bond coming up on October 8.

#### **CRITERIA FOR CONSIDERATION IN REVIEWING REZONINGS**

Section 3.4.1(E) of the Land Development Ordinance sets forth the following criteria that should be considered in reviewing rezonings:

1. The proposed rezoning corrects an error or meets the challenge of some changing condition, trend or fact;
2. The proposed rezoning is consistent with the Comprehensive Plan set forth in Section 1.3 (LDO);
3. The Town and other service providers will be able to provide sufficient public safety, educational, recreational, transportation and utility facilities and services to the subject property while maintaining sufficient levels of service to existing development;
4. The proposed rezoning is unlikely to have significant adverse impacts on the natural environment, including air, water, noise, stormwater management, wildlife and vegetation;
5. The proposed rezoning will not have significant adverse impacts on property in the vicinity of the subject tract;
6. The proposed zoning classification is suitable for the subject property.

#### **APPLICABLE COMPREHENSIVE OR AREA PLAN REQUIREMENTS**

##### **Land Use Plan**

The subject property is located within the **Southwest Area Plan** where it is designated as appropriate for Low Density Conservation Residential (LCR) development. The LCR designation means the property can be developed either using conventional R-40 subdivision design, with a minimum lot size of 40,000 square feet, or using conservation subdivision design, which allows lot sizes to be reduced in proportion to the amount of additional permanent open space provided, with gross density capped at 2.5 dwelling units per acre.

Throughout the LCR (and VLCR – Very Low Density Conservation Residential) areas of the Southwest Area Plan, it is assumed that the underlying property has R-40 District base zoning, and that the options for Conservation Residential will operate as an incentive-based option in lieu of the R-40 base zoning. With this assumption underlying all of the plan's recommendations for LCR and VLCR, the applicant's rezoning request for R-40 District is clearly supported by the area plan. (The R-40 base district zoning requested by the applicants also constitutes a typical "default zoning" applied to initial annexations into Cary from outside of the ETJ.)

**About schools in LCR.** When the Southwest Area Plan was adopted in 2004, the definitions provided for the LCR and VLCR land use categories did not include the statement that "uses that are compatible and complementary to the character of the surrounding neighborhood may also be considered, including uses such as religious institutions, schools, libraries, and daycare facilities." This statement would have been consistent not only with all the other land use categories used in the Southwest Area Plan, but also with other area plans. The statement would also have reflected uses allowed through the underlying Wake County and Town of Cary base zoning (R-40) in the area. The Southwest Area Plan acknowledges this situation in a text box included in Section 2.4, Chapter 2 of the plan, which states:

##### ***Other Acceptable Uses in Conservation Residential Areas***

*While this plan focuses its definitions for Low and Very Low Density Conservation Residential on single-family residential uses, one should note that most of the area designated as LCR and VLCR currently has R-40 base zoning. The R-40 District allows a number of uses other than single family residential, either by*

*right or as special uses. Such uses include churches, schools, daycare, and others. A full list of the allowed uses can be found in Cary's Land Development Ordinance.*

Therefore, while the Southwest Plan's strict definition for LCR does not accommodate schools, the plan does acknowledge the effect of R-40 District base zoning, which includes an allowance for schools.

**Planning History.** Prior to adoption of the Southwest Area Plan in 2004, future land use recommendations for the site were provided by Cary's townwide Land Use Plan, adopted in 1996. At that time, the site was recommended for Low Density Residential (LDR) or Traditional Neighborhood Development (TND), at densities of about 1-3 units per acre.

**Land Use Recommendations for Adjacent Parcels**

1. East: Properties east of the site have the same LCR land use designation as the subject site.
2. North: Properties north of the site are designated as Parks and Open Space, being part of the White Oak Creek floodplain and conservation area. The White Oak Greenway runs east-to-west along this corridor.
3. West and South: The areas both west and south of the site are within the Town of Apex's planning jurisdiction, and are designated as "Low Density Residential" by the Apex Comprehensive Plan, which includes residential development of up to three dwellings per acre.

**Growth Management Plan**

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

- Guiding Principle R1: Ensure that adequate infrastructure and services are available concurrently with new development.
- Guiding Principle L1: Concentrate growth near existing and planned employment centers and available and planned infrastructure to minimize costly service-area extensions.
- Guiding Principle L2: Ensure that future growth protects sensitive natural resources and protects open space.

Analysis: The proposed rezoning seems to satisfy the above principles, and is therefore generally consistent with the Growth Management Plan.

**Affordable Housing Plan**

The Affordable Housing Plan includes the following goals that may be relevant to this case:

**Goal #1.** Provide for a full range of housing choices for all income groups, families of various sizes, seniors, and persons with special challenges.

**Goal #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.

**Goal #6.** 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.

**Comments:**

Based on the proposed zoning, and the absence of zoning conditions, it is unlikely that the proposed rezoning will advance the affordability goals of the Affordable Housing Plan.

**Comprehensive Transportation Plan**

**Roberts Rd. is designated as a Minor Thoroughfare.**

**Existing Section:** 2-lane undivided in approximately 60-foot ROW

**Future Section:** 3 lanes in 70-foot ROW

**Sidewalks:** Sidewalks do not currently exist and will be required on both sides

**Bicycle Lanes:** Bicycle facilities do not currently exist, 14-foot-wide outside lanes will be required on both sides

**Status of Planned Improvements:** N/A

**Green Level Church is designated as a Major Thoroughfare.**

**Existing Section:** 2-lane undivided in approximately 60-foot ROW

**Future Section:** 4 lanes with landscaped median in 100-foot ROW.

**Sidewalks:** Sidewalks do not currently exist and will be required on both sides

**Bicycle Lanes:** Bicycle facilities do not currently exist, 14-foot-wide outside lanes will be required on both sides.

**Status of Planned Improvements:** N/A

**Transit:** The nearest existing transit service is provided by Triangle Transit Route 311 on NC Hwy 55, east of the site. From the closest points on the site, the distance to the 311 route is approximately 1.4 miles via Roberts Road, or 2.2 miles via Green Level West Road, or 1.5 miles via the White Oak Greenway.

There is no current C-Tran service in this area. Long-range C-Tran expansion plans envision a potential future route on Green Level West Road and Green Level Church Road, approximately ½ mile north of the site at the closest point. However, such expansion is not yet funded, and no future service date has been set.

**Parks, Recreation & Cultural Resources Facilities Master Plan**

According to the Parks, Recreation and Cultural Resources Facilities Master Plan there are no issues related to this site. Discussions have previously taken place between the Town and the Wake County Public School System regarding the shared use of facilities on site and the construction by WCPSS of a trailhead parking area along Green Level Church Road in the northwest portion of the property.

An approximate 20.4-acre conservation easement along White Oak Creek at the northern boundary of this property was purchased by the Town of Cary in 2004 with help from an NC Clean Water Management Trust Fund grant. The conservation easement has since been conveyed to and is currently held by the State of North Carolina, a requirement of the grant. The Town of Cary retains the right to construct a greenway trail within the conservation easement.

These comments were reviewed and approved by the Town's Greenway Committee at its September 19, 2013 meeting.

**Open Space Plan**

According to the Open Space Plan there are areas of bottomland forest and hardwood swamp along the northern property boundary and the riparian buffers that extend up into the site. Most of these areas are located within an approximate 20.4-acre Conservation Easement on the property which was purchased by the Town with the help of Clean Water Management Trust Fund grant money in 2004. The easement is currently held by the State of North Carolina.

**Historic Preservation Master Plan**

The site includes two old houses. Parcel #0723964723 (PIN) includes a 1,260-square-foot house built ca. 1910. This house appears dilapidated and was not included in the original 1992-94 Wake County Architectural and Historic Inventory or in subsequent inventory updates. Parcel #0733060430 (PIN), addressed as 7610 Roberts Road, includes a ca. 1901 house known as the Lassiter-Sloan House that is listed in the Wake County/Cary Architectural and Historic Inventory. This 1 ½-story, 1,928-square-foot, Triple-A cottage faces Roberts Road and appears to be in good condition. The "triple-A" cottage was a common early-twentieth-century house form in Wake County, so named for its distinctive roof with two end gables and a third, decorative gable on the front elevation. But while some of the original architectural features remain, the doors and windows of the house have been replaced and one of the interior rear chimneys removed. Two associated outbuildings are in poor condition. Based on current knowledge, the house would not qualify for a special historic designation.

**Summary Observations**

<b>SUMMARY OF STAFF OBSERVATIONS REGARDING PLAN CONSISTENCY</b>	
<b>Comprehensive Plan Element</b>	<b>Staff Observation</b>
Southwest Area Plan	Proposed R-40 base zoning is consistent with expectations of the Southwest Area Plan. Plan definitions do not specifically mention schools.
Growth Management Plan	No issues or concerns.
Affordable Housing Plan	The rezoning does not compromise the Affordable Housing Plan, but neither does it advance the goals of the plan.
Comprehensive Transportation Plan	No issues or concerns.
PRCR Master Plan	No issues or concerns.
Open Space Plan	No issues or concerns.
Historic Preservation Master Plan	Site includes the c. 1901 Lassiter-Sloan House, a 1½ story, Triple-A cottage listed in the Wake County/Cary Architectural and Historic Inventory. The house is in generally good condition. The doors and windows of the house have been replaced and a chimney removed, though some other original architectural features remain. The house has “medium” material integrity and would not likely qualify for any special historic designation.

**APPLICANT’S JUSTIFICATION STATEMENT**

Attached are the applicant’s responses to the justification questions contained in the application form. Please note that these statements are that of the applicant and do not necessarily represent the views or opinions of the Town of Cary.

**ORDINANCE FOR CONSIDERATION**

**13-REZ-10 H-7 High School (Roberts Road)**

AN ORDINANCE TO ESTABLISH INITIAL TOWN OF CARY ZONING FOR APPROXIMATELY 87.85 ACRES OWNED BY THE WAKE COUNTY BOARD OF EDUCATION AT THE NORTHEAST CORNER OF THE INTERSECTION OF GREEN LEVEL CHURCH ROAD AND ROBERTS ROAD BY APPLYING RESIDENTIAL 40 (R-40), WATERSHED PROTECTION OVERLAY (JORDAN LAKE WATERSHED), AND CONSERVATION RESIDENTIAL OVERLAY DISTRICT, LCR SUB-DISTRICT ZONING TO PROPERTY CURRENTLY ZONED WAKE COUNTY RESIDENTIAL 40 (WATERSHED) (R40W).

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**

<b>Property Owner(s)</b>	<b>County Parcel Number(s) (10-digit)</b>	<b>Real Estate ID(s)</b>	<b>Deeded Acreage</b>
Wake County Board of Education	0723964723	0374148	22.01
	0733060430	0374147	30.51
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<b>Total Acreage:</b>			<b>87.85 ±</b>
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**Section 2:**

That this Property is rezoned from Wake County Residential 40 (Watershed) (R-40W) to Residential 40 (R-40), Watershed Protection Overlay (Jordan Lake Watershed), and Conservation Residential Overlay District, LCR 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:** This ordinance shall be effective on the date of adoption.

Adopted and effective: *DATE*

\_\_\_\_\_  
Harold Weinbrecht, Jr.  
Mayor

\_\_\_\_\_  
Date