

**Town of Cary, North Carolina
Rezoning Staff Report
13-REZ-30 Harvey Property at Yates Store Road
Town Council Meeting
March 13, 2014**

REQUEST

This proposed amendment to the Town of Cary Official Zoning Map seeks to rezone approximately 5.44 acres from Residential 40 (R-40) to Residential 8 Conditional Use (R-8-CU). The conditions proposed by the applicant would:

- limit the maximum density to 2.8 dwelling units per acre;
- limit the maximum number of lots to 15; and
- require a 30-foot-wide Type B (semi-opaque) buffer along the northern boundary of the subject property.

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
Thomas J. and Nancy O. Harvey 3502 Manford Drive Durham, NC 27707	0725536785	0120629	5.44±
Total Area			5.44±

BACKGROUND INFORMATION

Applicant	Thomas J. and Nancy O. Harvey 3502 Manford Drive Durham, NC 27707		
Applicant's Representative	Glenda Toppe Glenda S. Toppe and Associates 4139 Garden Lake Drive Raleigh, NC 27612		
Acreage	5.44 ±		
Location of Subject Property	1720 Yates Store Road		
Schedule	Town Council Public Hearing January 30, 2014	Planning & Zoning Board February 17, 2014	Town Council Meeting March 13, 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)	Residential 8 Conditional Use (R-8-CU)		
Proposed Zoning Conditions	<ol style="list-style-type: none"> 1. The maximum density shall be limited to 2.8 dwelling units per acre 2. The maximum number of lots shall be limited to 15 3. There shall be a 30-foot-wide Type B (semi-opaque) buffer along the northern boundary of the subject property 		
Town Limits	The subject property 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 Debra.grannan@townofcary.org (919) 460-4980
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SITE CHARACTERISTICS

Streams: According to Cary’s GIS maps, a small portion of the southeast corner of the subject property is impacted by a stream buffer. Field determination of such features shall be required at the time of development plan review.

Floodplain and Wetlands: Cary’s GIS Maps do not indicate the presence of any floodplain or wetland areas on the subject property. Field determination of such features shall be required at the time of development plan review.

Topography: There are no significant issues with the topography of the subject property.

Adjacent Land Use and Zoning:

North – Detached Residential (R-40)

South – Detached Residential (R-40)

East – Detached Residential (Planned Development District; Amberly PDD)

West – Detached Residential (Planned Development District) Amberly PDD)

CONSISTENCY WITH LAND DEVELOPMENT ORDINANCE

Density and Dimensional Standards

	Existing Zoning District Residential 40 (R-40)	Proposed Zoning District Residential 8 Conditional Use (R-8 CU)
Max. Gross Density (du/ac)	1.08	2.8*
Min. Lot Size (sq. ft.)	40,000	8,000
Minimum Lot Width (feet)	With Septic Tank/Well: 150 (160 for corner Lots) With public sewer: 125 (135 for corner lots)	60 (70 for Corner Lot)
Minimum Roadway Setback (feet)	From thoroughfare: 50 From collector: 30 From other streets: 20	From thoroughfare: 50 From collector: 30 From other streets: 20
Side Yard Setback (feet)	With septic tank/well: 20 With public sewer: 15	10
Rear Yard Setback (feet)	30	20
Maximum Building Height (feet)	35	35

*Typical Residential 8 (R-8) zoning districts allow a density of 5.44 du/ac. The applicant has proposed a zoning condition to limit the density to 2.8 dwelling units per acre.

Landscape Buffer: In accordance with Chapter 7 of Cary’s LDO, a 20-foot-wide landscape area planted to a Type B (semi-opaque) standard is required between two residential developments with lots 8,000 square feet or greater in size. The landscape area may be located on individual lots. The applicant has proposed a condition to provide a 30-foot-wide landscape buffer planted to a Type-B (semi-opaque) standard along the

northern property line. This buffer would be platted in Common Open Space, separate from the individual lots.

Community Gathering Spaces and Plazas

Section 7.10.5 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. The minimum size for the community gathering space for the subject property would be 1,200 square feet.

Streetscape: Yates Store Road is classified on the Town's Comprehensive Transportation Plan as a thoroughfare. In accordance with Section 7.2.4 of the LDO, a 50-foot Type-A (opaque) streetscape is required.

Traffic: The applicant is proposing 15 detached dwelling homes which would generate 21 am and 20 pm peak hour trips using the ITE Trip Generation Manual. The threshold for a traffic study is 100 peak hour trips, so a traffic study was not conducted.

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

On January 14, 2014 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 January 15 and 22, 2014. Notice of the public hearing was posted on the property on January 16, 2014.

Neighborhood Meeting

According to the applicant, a neighborhood meeting for the proposed rezoning was held on November 25, 2013. According to the information submitted by the applicant, nine (9) adjacent property owners attended the meeting. According to the meeting minutes provided by the applicant, meeting attendees raised questions and concerns regarding traffic, drainage and buffers between the proposed development and the property to the north.

Town Council Public Hearing (January 30, 2014)

Staff presented the request and noted that there were no protest petitions. During the public hearing the applicant provided additional information about the case. There were no other speakers during the public hearing. There were no questions from council members about the request.

Planning and Zoning Board Meeting (February 17, 2014)

Staff presented the case and reported that no issues were raised at the Town Council public hearing. The applicant spoke briefly about their discussions with the adjacent property owner to the north, and described the 30-foot-wide Type-B (semi-opaque) buffer proposed between the two properties.

The Planning and Zoning Board voted 7-0 to forward the request to Town Council with a recommendation for approval.

Changes Since the Planning and Zoning Board Meeting

None

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: Northwest Area Plan

The governing land use element for the subject parcel is Cary's Northwest Area Plan. The subject property is designated as Low-Density Residential (LDR) on the Future Land Use Map of the Northwest Area Plan. The LDR land use category includes residential uses which range from 1 to 3 dwellings units per acre, with uses restricted to single family detached units. The proposed rezoning from Residential 40 (R-40) to Residential 8 Conditional Use (R-8-CU) with a condition that the maximum density shall be limited to 2.8 dwelling units per acre fits within the Town's Land Use Plan designation.

Planning History for the site: The LDR future land use recommendation for the site dates from adoption of the Northwest Area Plan in 2002. Prior to that, the future land use recommendation was given by the townwide Land Use Plan, adopted in 1996; however that plan also recommended future LDR uses.

Growth Management Plan

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

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

Analysis: Utilities are available at this site.

- 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 within about ¾ mile of the Cary Park Town Center activity center, about 2 miles from the Alston Regional Activity Center, and less than 4 miles from Research Triangle Park.

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

Analysis: The entire Northwest Area Plan can be considered as a preferred growth area, consistent with the guiding philosophy that encouraged more intense development in the Northwest Area, in order to preserve lower densities in the Southwest Area. The site can also be considered a preferred growth area since it is an infill site, immediately adjacent to existing 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.
2. 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.
3. Assure a quality living environment and access to public amenities for all residents, present and future, of the Town of Cary, regardless of income.

Observations: Given the proposed rezoning conditions, it is unclear whether or not the proposed rezoning may or may not further the first and second goals cited above. In general, cases with zoning comparable to that proposed have not furthered the affordability goals.

Comprehensive Transportation Plan

Yates Store Road is designated as a Major Thoroughfare

Existing Section: Two-lane, undivided section (26-foot roadway on 80-foot ROW) with swale ditches

Future Section: Four-lane, median-divided section (78-foot roadway on 100-foot ROW) with curb & gutter

Sidewalks: Existing: Sidewalk on west side / Future: Sidewalks on both sides

Bicycle Lanes: Existing: None / Future: 14-foot-wide outside lanes

Transit: None

Status of Planned Improvements: No planned improvements

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 fund payment 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 February 3, 2014 meeting.

Open Space Plan

The site does not include any significant natural resources, as identified on the Town’s inventory of priority natural resources.

Historic Preservation Master Plan

According to the Historic Preservation Master Plan, the site does not contain any identified historic resources. (At present, the only identified structure on the site is one single-family home, built in 1984.)

Summary Observations

1. The type of land use requested by the proposed rezoning – detached residential – is consistent with the Northwest Area Plan. The maximum housing density proposed by the rezoning – 2.8 dwellings per acre – is less than the Northwest Plan’s maximum recommended density of 3.0 dwellings per acre, and greater than the minimum recommended density of 1.0 dwellings per acre.
2. The proposed rezoning seems consistent with the goals of the Growth Management Plan.
3. The proposed rezoning is unlikely to further housing affordability or housing type diversity goals.
4. The proposed rezoning does not present any open space, natural resources, or historic preservation issues.

OTHER REFERENCE INFORMATION

Schools <i>This information is being provided for your review; however, the Wake County Board of Education controls capital projects for school capacities.</i>	Type ¹	Projected Range of Additional Students ²
	Elementary School	4 - 6
	Middle School	1 - 2
	High School	1 -3
Total Projected range of additional students ²		6 - 11

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 15 three-bedroom homes could yield six additional students, while 15 homes with greater than three bedroom units could yield 11 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

13-REZ-30 Harvey Tract

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF THE TOWN OF CARY TO CHANGE THE ZONING OF APPROXIMATELY 5.44 ACRES OWNED BY THOMAS J. AND NANCY O. HARVEY BY REZONING FROM RESIDENTIAL 40 (R-40) TO RESIDENTIAL 8 CONDITIONAL USE (R-8-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
Thomas J. and Nancy O. Harvey 3502 Manford Drive Durham, NC 27707	0725536785	0120629	5.44±
Total Area			5.44±

Section 2:

That this Property is rezoned from Residential 40 (R-40) to Residential 8 Conditional Use (R-8-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 maximum density shall be limited to 2.8 dwelling units per acre
2. The maximum number of lots shall be limited to 15;
3. There shall be a 30-foot-wide Type-B (semi-opaque) buffer along the northern boundary of the subject property.

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

Adopted and effective: *March 13, 2014*

Harold Weinbrecht, Jr.
Mayor

Date