

**Town of Cary, North Carolina
Rezoning Staff Report
13-REZ-32 Stephens Road Property
Town Council Meeting
May 22, 2014**

REQUEST

To amend the Town of Cary Official Zoning Map by rezoning approximately 7.77 acres located at 2300 and 2400 Stephens Road from Residential 40 (R-40) to Residential 8 Conditional Use (R-8-CU). The applicant has offered a condition to limit the maximum number of dwelling units to 19.

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
Dewey V. Williams ETAL and Andrew M. Williams 5708 Brush Meadows Drive Fuquay Varina, NC 27529-8404	0772281757	0018110	5.8±
Robert and Maryellen Boening 1811 Tarbert Drive Cary, NC 27511-5037	0772189606	0023032	1.97±
Total Area			7.77±

BACKGROUND INFORMATION

Applicant	Dewey V. Williams ETAL, Andrew M. Williams and Robert and Maryellen Boening		
Applicant's Contact	Glenda Toppe Glenda S. Toppe & Associates 4139 Gardenlake Drive Raleigh, NC 27612		
Acreage	7.77±		
Location	2300 and 2400 Stephens Road		
Schedule	Town Council Public Hearing February 27, 2014	Planning & Zoning Board Public Hearing April 28, 2014	Town Council Meeting May 22, 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	The total number of dwelling units shall be limited to 19.		
Town Limits	Yes		
Valid Protest Petition	Yes		
Staff Contact	Debra Grannan Senior Planner Debra.grannan@townofcary.org (919) 460-4980		

SITE CHARACTERISTICS

Steams, Floodplain and Wetlands: Cary’s GIS maps do not indicate the presence of any stream buffers, wetlands or floodplain on the subject property. Field determination of such features will be required at the time of site plan review.

Adjacent Uses and (Zoning)

North – Detached Residential and Open Space (PDD Major-Wellington Park)
 South – Detached Residential (R-40) Opposite side of Stephens Road
 East – Detached Residential (R-40)
 West – Detached Residential (R-40)

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	2.44*
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 maximum density of 5.44 du/ac. The applicant has proposed a zoning condition to limit the total number of dwelling units to 19. This equates to a density of 2.44 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 adjacent lots in separate developments when lot sizes are 8,000 square feet or greater. This landscape area can be contained within the lots.

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.

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 1,200 square feet in size would be required.

Traffic

The applicant has proposed a maximum of 19 dwelling units. The subject property is 7.77 acres. The ITE Trip Generation manual (8th edition) states that 19 single-family homes would generate 23 trips during the am peak hours and 24 trips in the pm peak hours. Since this expected traffic is less than the 100 peak hour trip threshold established by the LDO, 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

Notification

On February 12, 2014 the Planning Department mailed notification of a public hearing on the request to property owners within 400 feet of the subject property. Notification was duly published on the Town of Cary website on February 14 and 21. Notice of the public hearing was posted on the property on February 13, 2014.

Neighborhood Meeting

According to the applicant, a neighborhood meeting for the proposed rezoning was held on December 10, 2013. According to the information submitted by the applicant, approximately 20 property owners attended the meeting. According to the meeting minutes provided by the applicant, resident questions and concerns included stormwater management and road connectivity.

Town Council Public Hearing (February 27, 2014)

Staff presented a summary of the case and proposed conditions, and reported that there was a valid protest petition.

The applicant spoke in support of the request and stated that a new condition would be offered to limit the total number of lots to 19.

During the public hearing two nearby property owners spoke about protection for the quiet nature of Stephens Road, preservation of plant and wildlife and concerns about stormwater management. Both speakers expressed opposition to the proposed density.

Following the public hearing, the council asked for clarification on future plans for a connection between Stephens Road and Forest Park Way, which is located in the Wellington Park PDD to the north of the subject property. Staff showed a copy of the original PDD map for the Wellington Park development that depicted the subject property as a future connection point. One council member verified with staff that at the time of site plan review, the stormwater management would need to be mitigated to pre-development conditions. One council member asked for information regarding the ownership of Stephens Road.

Changes Since the Town Council Public Hearing

The applicant has revised their proposed zoning condition to reduce the maximum number of dwelling units from 23 to 19. School enrollment data and trip generation projections have been amended to reflect this change.

Information regarding ownership of Stephens Road has been added to the staff report.

Planning and Zoning Board Public Hearing (April 28, 2014)

Staff presented the case and noted that the applicant had revised the zoning condition to limit the maximum number of dwelling units to 19, thus reducing the proposed density from 3 dwelling units per acre to 2.44 dwelling units per acre. The applicant spoke in support of the request. Four nearby property owners spoke in opposition to the potential connection of Forest Park Way to Stephens Road. One neighbor stated that he would prefer an R-12 zoning district instead of the proposed R-8 district.

The Planning and Zoning Board voted 5 to 4 to forward the request to Town Council with a recommendation for approval. Dissenting votes focused on potential traffic impacts to Stephens Road and the fact that a valid protest petition was still in place.

Changes Since the Planning and Zoning Board Public Hearing

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 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: Southeast Area Plan

The governing land use element for the subject parcel is Cary's Southeast Area Plan. The subject property is designated as Low-Density Residential (LDR) on the Future Land Use Map of the Southeast 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 limits the total number of dwelling units to 19, and thus limits the maximum density to 2.44 dwelling units per acre, fits within the Town's Land Use Plan designation.

The remaining parcels on Stephens Road are 38.64 acres over 20 lots for a density of 0.5 units per acre, with the exception of the Prestwyck Subdivision which has 37 homes on 10.39 for a density of 3.5 units per acre. Prestwyck is designated as Medium-Density Residential (MDR). The surrounding neighborhoods to the north and south, Benedum Place and Wellington place respectively, have similar densities to the proposed project. Benedum Place and Wellington Place are both designated as LDR on the town wide Land Use Plan. There are two single-family homes on the lots directly adjacent to the west and east of the subject properties. The homes are 200 feet and 50 feet respectively from the subject property lines.

Growth Management Plan

The Growth Management Plan includes the following Guiding Principles which 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 a third of a mile from the Crossroads mixed use activity center to the east and the Wellington Park mixed use activity center to the west.

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

Analysis: Utilities are available to this location.

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

Analysis: The site can be considered as a preferred growth area as it is located between two mixed use centers and well within Town limits.

Affordable Housing Plan

Based on the proposed land use, the goals of the Affordable Housing Plan are not applicable to this case.

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 miles east from the proposed rezoning. The nearest existing Triangle Transit bus service is provided along Piney Plains Road, approximately 0.3 miles 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 Facilities Master Plan, the Piney Plains Greenway is proposed along the northern edge of the property.

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

The Town's Greenway Committee reviewed and approved these comments at its February 2014 meeting.

Open Space Plan

According to the Open Space Plan approximately 30% of the site along the northern property boundary has mixed hardwood and conifer forests.

Historic Preservation Master Plan

There are no documented historic resources on this site.

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	5 to 8
	Middle School	1 to 3
	High School	1 to 3
Total Projected range of additional students ²		7 to 14
¹ Information regarding specific Wake County Public School assignment options may be found by visiting the following: http://assignment.wcpss.net/preview/myplan.html		
² The <i>Projected Range of Additional Students</i> 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 19 three-bedroom homes could yield 7 additional students, while 19 homes with greater than three bedroom units could yield 14 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-32 STEPHENS ROAD REZONING

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF THE TOWN OF CARY TO CHANGE THE ZONING OF APPROXIMATELY 7.77 ACRES OWNED BY DEWEY V. WILLIAMS ETAL, ANDREW M. WILLIAMS, AND ROBERT AND MARYELLEN BOENING, 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
Dewey V. Williams ETAL and Andrew M. Williams 5708 Brush Meadows Drive Fuquay Varina, NC 27529-8404	0772281757	0018110	5.8±
Robert and Maryellen Boening 1811 Tarbert Drive Cary, NC 27511-5037	0772189606	0023032	1.97±
Total Area			7.77±

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 total number of dwelling units shall be limited to 19.

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

Adopted and effective: *May 22, 2014*

Harold Weinbrecht, Jr.
Mayor

Date