

**Town of Cary, North Carolina
Rezoning Staff Report
12-REZ-07 Bailey Park
Town Council Meeting
November 15, 2012**

REQUEST

To amend the Town of Cary Official Zoning Map to rezone approximately 10.43 acres located at Evans Road and Bailey Park Lane from Residential 20 (R-20) and Residential 40 (R-40) to Residential 8 Conditional Use (R-8-CU). The condition proposed by the applicant would limit the use to single-family detached residential use and uses allowed under the "Park and Open Space" use category of Chapter 5 of the Land Development Ordinance, with the exception that "public athletic fields" shall be prohibited.

There is a proposed Comprehensive Plan Amendment (12-CPA-02) associated with this case.

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)	Wake County Parcel Numbers (10-digit)	Real Estate IDs	Current Zoning	Deeded Acreage
Herbert Bailey PO Box 1225 Cary, NC 27513	0764192337	0028681	R-20	0.66
Herbert Bailey (same as above)	0764191496	003210	R-20	0.76
Herbert Bailey	0764192272	0021232	R-20	0.66
Herbert Bailey	0764195168	0150886	R-40	1.39
Herbert Bailey	0764196344	0150890	R-40	1.00
Herbert Bailey	0764195632	0297359	R-40	1.56
Herbert and Anita Bailey 505 Silvergrove Drive Cary, NC	0764191555	0003159	R-20	0.79
CCR Properties 201 Evans Estate Drive Cary, NC 27513	0764198603	0365273	R-40	2.61
John and Prenetta Evans 1138 Evans Road Cary, NC 27513	0764194507	0150892	R-40	1.0
Total Area				10.43 ±

BACKGROUND INFORMATION

Applicant & Agent	Jerry Turner and William Hood Jerry Turner and Associates, Inc. 905 Jones Franklin Road Raleigh, NC 27606 jerryturner@jerryturnerassoc.com (919) 851-7150		
Acreage	10.43 ±		
General Location	1100 block of Evans Road and Bailey Creek Lane		
Schedule	Public Hearing June 14, 2012	Planning & Zoning Board October 15, 2012	Town Council November 15, 2012
Land Use Plan Designation	Medium Density Residential (MDR)		
Existing Zoning District(s)	R-20 and R-40		
Existing Zoning Conditions	None		
Proposed Zoning District(s)	Residential 8 Conditional Use (R-8 CU)		
Proposed Zoning Conditions	Use shall be limited to single-family detached residential and uses allowed under the "Park and Open Space" use category of Chapter 5 of the Land Development Ordinance, with the exception that "public athletic fields" shall be prohibited.		
Town Limits	The parcel, located at 1130 Evans Road, is inside Cary's corporate limits. The remaining parcels are outside the Cary corporate limits, but inside Cary's planning jurisdiction. Annexation will be required at the time of site plan review.		
Valid Protest Petition	No		
Staff Contact	Debra Grannan Senior Planner Debra.grannan@townofcary.org (919) 460-4980		

SITE CHARACTERISTICS

Streams: According to Cary's most current GIS maps, the site is impacted by a stream buffer. Field determination will be required at the time of site plan review.

Floodplains or Wetlands: Cary's most current GIS maps do not identify any floodplains or wetlands on the subject property; however field determination will be required at the time of site plan review.

Topography: The elevation of the properties closest to Evans Road ranges between 440 to 450 feet. There is a gradual decrease in the elevation on the properties to the west of Evans Road, with elevations ranging between 420 and 430 feet.

Adjacent Uses

North – Single-Family Detached and Attached Residential (Chesapeake Landing Condominiums)

South – Single-Family Detached

East – Single-Family Detached

West – Single-Family Detached and Vacant (Zoned Residential)

CONSISTENCY WITH LAND DEVELOPMENT ORDINANCE

Density and Dimensional Standards

	Existing Zoning District R-40	Proposed Zoning District Residential 8 Conditional Use (R-8-CU) **
Max. Gross Density (du/ac)	1.08 du/ac	5.44
Min. Lot Size (Square Feet)	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)
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 *
<p><i>* Height may be increased one foot for every foot provided in addition to the minimum setbacks.</i> <i>** The proposed zoning condition applies to the permitted uses. The dimensional standards are consistent with Conventional R8 zoning</i></p>		

Landscape Buffer

In accordance with the LDO, at the time of subdivision plan approval a 20-foot-wide landscape area, planted to a Type-B (semi-opaque) standard will be required between the proposed single-family detached dwellings and the existing single-family detached residential uses surrounding the property. A 40-foot Type A (opaque) buffer will be required between the proposed use and the multi-family attached residential to the north.

Streetscape

Evans Road is designated as a thoroughfare; therefore, in accordance with Chapter 7 of the LDO, a 50-foot-wide Type-A (opaque) streetscape will be required adjacent to Evans Road at the time of subdivision plan approval.

Traffic

The current zoning designations for the subject properties are 2.87 acres of R-20 and 7.56 acres of R-40. This combined zoning has the potential to generate 20 trips during the am peak hours and 18 trips during the pm peak. This calculation was made according to code #210 (Single Family Detached Housing) in the ITE Trip Generation Manual. The proposed zoning of R-8-CU for 10.43 acres has the potential to generate 49 am and 63 pm peak hour trips assuming a maximum of 56 single-family units. This would be an increase of 29 am and 45 pm peak hour trips. Since this increase in trips is under the 50 peak hour trip threshold established in the LDO, no traffic study is required at the time of rezoning. A traffic study may be required at the time of development plan review.

SUMMARY OF PROCESS AND ACTIONS TO DATE

Neighborhood Meeting (April 4, 2012)

According to the applicant, a community meeting to discuss the proposed rezoning was conducted on April 4, 2012 at 7 p.m. at Cary First Christian Church located at 1109 Evans Road. The applicant reported

that they presented the case and responded to questions about which properties would be included and the nature of the proposed development.

Notification

On May 29, 2012 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 May 30 and June 6, 2012. Notice of the public hearing was posted on the property May 30, 2012.

Town Council Public Hearing (June 14, 2012)

Staff presented the case and noted that the one protest petition submitted was not valid. The applicant spoke about the appropriateness of the proposed use with the surrounding community. No one spoke in opposition to the request. The Town Council forwarded the request to the Planning and Zoning Board.

Planning and Zoning Board Meeting (October 15, 2012)

Staff presented the request and noted that there was not a valid protest. Staff added that there had been no changes to the proposed zoning conditions since the initial public hearing. The applicant spoke briefly to concur with staff's presentation and ask for the board's support for the request. During the discussion, several board members remarked on the consistency of the request to the Land Use Plan. One board member agreed with the proposed use but did not support the request because the applicant had not offered a condition pertaining to density limits.

The Planning and Zoning Board voted to recommend approval by a vote of 7 to 1.

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

Comprehensive Plan Element	Consistent	Not Consistent	Not Applicable
Land Use Plan	✓		
Parks, Recreation, and Cultural Resources Facility Master Plan	✓		
Growth Management Plan	✓		
Affordable Housing Plan			✓
Comprehensive Transportation Plan	✓		
Open Space and Historic Resources Plan	✓		

Land Use Plan

The townwide Future Land Use Plan designates the subject property as appropriate for Medium Density Residential (MDR), which is defined as three to eight dwelling units per acre (detached or attached). The applicant's request for a zoning of R-8-CU is in keeping with this land use designation.

Growth Management Plan

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

1. R1 Guiding Principle: Ensure that adequate infrastructure and services are available concurrently with new development.
2. L1 Guiding Principle: Concentrate growth near existing and planned employment centers and available and planned infrastructure to minimize costly service-area extensions.

Analysis: The subject site is located within an area where urban services are readily available, including a neighborhood activity center at the intersection of Evans Road and Maynard Road, located approximately 1.5 miles from the site. Office parks are located along Aviation Parkway and along Weston Parkway, both of which are located within five miles of the subject site.

Affordable Housing Plan

The Affordable Housing Plan includes the following goals that are 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. 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.
4. Assure a quality living environment and access to public amenities for all residents, present and future, of the Town of Cary, regardless of income.

Comprehensive Transportation Plan

Evans Road is designated as a **Major Thoroughfare**

Existing Section: 5-lane section with curb & gutter, (69-foot roadway, 91-foot right-of-way)

Future Section: 5-lane section with curb & gutter, (69-foot roadway, 91-foot right-of-way)

Sidewalks: Existing on both sides

Bicycle Lanes: Existing signed route with wide outside lanes

Transit: No existing or planned transit bus routes

Status of Planned Improvements: All planned improvements completed

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.

Recreation funds will be required for residential development in accordance with the Land Development Ordinance.

Open Space Plan

According to the Open Space Plan there are mixed conifers and hardwoods in the northeast corner of this site; the undeveloped parcels were designated as proposed open space conservation area.

Historic Preservation Master Plan

According to the Historic Preservation Master Plan, the subject site contains no known historic resources.

OTHER REFERENCE INFORMATION

Schools

The school information is being provided for your review; however, the Wake County Board of Education controls capital projects for school capacities and student assignment.

Assigned Schools	20 th Day Enrollment*	Permanent Seat Capacity	Average Percent Occupied	Projected Range of Additional Students**
Northwoods Elementary	607	591	103%	16-23
West Cary Middle	702	1170	60 %	3-9
Cary High School	2250	2198	102 %	4 -10
Total Projected range of additional students				23 - 42
<i>Current Enrollment and Building Capacity is based on the 20th day of the school year for 2011-2012 as supplied by the Wake County Public School System.</i>				
² The <i>Projected Number 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 57 three-bedroom homes could yield 23 additional students, while 57 homes with greater than three bedroom units could yield 42 students. The basis for making this calculation is based on multipliers provide from Wake County Schools Office of Student Assignment. At rezoning, student yield can not be accurately determined due to unknown variables.				

APPLICANT'S JUSTIFICATION STATEMENT

The following statements are provided by the applicant (shown below in italics) in response to the criteria established in the application (shown below in bold) and do not necessarily represent the views or opinions of the Town of Cary. Any statements as to the type, the quality, or the physical features are at the direction of the applicant and may be formulated into a condition:

1. Any issues with the size of the tract?

Response: *The size of the tract is appropriate and conducive to the single-family use being proposed. The tract is of ample size to accommodate the requested single-family use as well as all required buffers.*

2. How is the request compatible with the comprehensive plan (i.e. Land Use, Transportation, Open Space and Historic Resources)?

Response: *The request satisfies the goals and requirements of the comprehensive plan.*

3. What are the benefits and detriments to the owner, neighbors and the community?

Response: *The proposed rezoning is compatible with the existing and approved residential development in the immediate area of the proposed rezoning. Evans Estates (zoned R-8) is to the south of the property, Chesapeake Landings, a condominium community is located to the north and Bailey Creek subdivision (zoned R-12) along with a larger single-family parcel is located to the west. The proposed rezoning will provide consistency in the development within the immediate area, adding to the character of the neighborhood and community. The proposed development would be most similar to Evans Estates and would be the least dense portion of this neighborhood.*

4. How are the allowable uses with the proposed rezoning compatible with, or how do they relate to, the uses currently present on adjacent tracts?

Response: *As stated above, the proposed rezoning is compatible with and similar in nature with the existing and approved development on the adjacent tracts.*

5. What reductions/amendments and/or modifications to the development standards of the LDO are being requested and how are they justified? (PDD, new or amended) Applicants must list these items and/or clearly highlight them within the Planned Development document.

Response: Not Applicable

ORDINANCE FOR CONSIDERATION

12-REZ-07 Bailey Park

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF THE TOWN OF CARY TO CHANGE THE ZONING OF APPROXIMATELY 10.43 ACRES LOCATED AT EVANS ROAD AND BAILEY CREEK LANE BY REZONING FROM RESIDENTIAL 40 (R-40), AND RESIDENTIAL 20 (R-20) TO RESIDENTIAL 8 CONDNTIONAL 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)	Wake County Parcel Numbers (10-digit)	Real Estate IDs	Deeded Acreage
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CCR Properties 201 Evans Estate Drive Cary, NC 27513	0764198603	0365273	2.61
John and Prenetta Evans 1138 Evans Road Cary, NC 27513	0764194507	0150892	1.0
Total Area			10.43 ±

Section 2: That this Property is rezoned from Residential 40 and Residential 20 to Residential 8 Conditional Use 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: 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:

Use shall be limited to single-family detached residential use and uses allowed under the "Park and Open Space" use category of Chapter 5 of the Land Development Ordinance, with the exception that "public athletic fields" shall be prohibited.

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

Adopted and effective: *November 15, 2012*

Harold Weinbrecht, Jr.
Mayor

Date