

**Town of Cary, North Carolina
Rezoning Staff Report
12-REZ-21 The Manors at Green Level Crossing Addition
Town Council Meeting
December 13, 2012**

REQUEST

To amend the Town of Cary Official Zoning Map by applying initial zoning to property currently located outside Cary's Extraterritorial Jurisdiction (ETJ). There is a citizen-initiated Annexation Petition, Case Number 12-A-16, associated with the rezoning. Annexation must be approved prior to application of a Cary zoning district.

The applicant has requested to rezone approximately 5.79 acres, located at 7416 and 7404 Roberts Road, from Wake County Residential 40 (R-40W) to a Cary zoning designation of Residential 40 (R-40) with the Conservation Residential Overlay District (Low Density subdistrict) and the Watershed Protection Overlay District (Jordan Lake Subdistrict).

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
Ann R. Pearce 7404 Roberts Road Cary, NC 27519	0733254271	0053587	2.04 ±
Robert E. Tucker and Mary E. Tucker 7416 Roberts Road Cary, NC 27519	0733252375	0259560	3.75 ±
Total Area			5.79 ±

BACKGROUND INFORMATION

Applicant	Tony Adams, Toll Brothers 8129 Green Level Church Road Apex, NC 27523 tadams@tollBrothersInc.com		
Agent	Glenda Toppe, Glenda S. Toppe & Associates PO Box 30725 Raleigh, NC 27622 Glenda@gstplanning.com		
Acreage	5.79±		
General Location	7416 and 7404 Roberts Road		
Tentative Schedule	Town Council Public Hearing October 25, 2012	Planning & Zoning Board November 19, 2012	Town Council December 13, 2012
Land Use Plan Designation	Conservation Residential Low Density (LCR)		
Existing Zoning District(s)	Wake County Residential 40 (R-40W)		
Proposed Zoning District(s)	Residential 40 (R-40) base district; Conservation Residential Overlay District, with Low Density Conservation Residential subdistrict; Jordan		

	Lake Watershed Overlay District.
Town Limits	The subject property is located outside the corporate limits and the Town of Cary ETJ. A citizen-initiated annexation petition has been submitted in conjunction with the rezoning request.
Valid Protest Petition	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.
Town of Cary Staff Contact	Debra Grannan Senior Planner debra.grannan@townofcary.org (919) 460-4980

SITE CHARACTERISTICS

Streams: Cary's current GIS maps identify a stream located along the eastern boundary of the subject property. Field determination of such features is required at the time of site plan review.

Adjacent Uses (Zoning)

North and West – Single-family Residential (Town of Cary, Residential 40)
 South - Vacant (Town of Apex, Low Density Residential)
 East - Agricultural and Vacant (Wake County Residential 40)

CONSISTENCY WITH LAND DEVELOPMENT ORDINANCE

Density and Dimensional Standards

	Existing Zoning District Wake County Residential 40 (R-40W)	Proposed Residential 40 (R-40)	Conservation Residential Overlay District *
Max. Gross Density (du/ac)	1	1.08	Up to 2.5 (Depending on the amount of additional open space provided)
Min. Lot Size (Sq. Ft.)	40,000 or cluster or "Open Space Development" where lot size may be reduced and area is set aside as permanent open space	40,000	If site contains less than 20% of the total area in regulatory open space: 10,000 If Site contains between 20% and less than 30% of the total area in regulatory open space: 8,000 If site contains 30% or more of the total area in regulatory open space: 6,000
Minimum Lot Width (Feet)	110	With septic tank/well: 150 (160 for corner lot) With public sewer: 125 (135 for corner lot)	60 (70 for Corner lot)
Roadway Setback (Feet)	30	From thoroughfare: 50 From collector: 30 From other streets: 20	From thoroughfare: 50 From collector: 30 From other streets: 20

Side Yard Setback (Feet)	15 (30 at corner)	With septic/well: 20 With public sewer: 15	10
Rear Yard Setback (Feet)	30	30	20
Maximum Building Height (Feet)	35	35	35
*Note: For LCR Lots, all dimensional requirements (i.e. setbacks, lot width) shall conform to R-8 residential standards.			

Open Space

In order to take advantage of the density bonus options, the minimum amount of Bonus Open Space required for each additional lot: 8,872 square feet.

Landscape Buffer

According to Chapter 7 of the LDO, required landscaping areas to be provided between two class 2 uses are not subject to ownership restrictions applied to other buffers and may be located within the platted portion of a lot.

Streetscape

Roberts Road is designated as a minor thoroughfare. In accordance with the LDO, a 50-foot-wide, Type A (opaque) streetscape shall be required for residential development along this roadway.

Traffic

The existing Wake County zoning on the properties is Residential 40 (R-40W). The R-40W zoning district allows maximum residential densities of 1.0 du/acre. As provided by the applicant, the estimated acreage in R-40W is 5.79 acres. Using the existing zoning, the properties would support approximately six (6) single-family lots with an estimated trip generation potential of five trips during the A.M. peak hours and six trips during the P.M. peak hours.

The applicant is requesting to rezone the property to Town of Cary zoning R-40, with the opportunity for additional bonus lots since the request also includes a Conservation Residential Overlay District. Under R-40 zoning, the property could support six (6) dwelling units and under the Conservation Residential Overlay District, the property could support up to fourteen (14) dwelling units. Summarized below is the trip generation potential of each of these types of residential intensities.

- 6 single-family (R-40) – Five trips during the A.M. peak hours and 6 trips during the P.M. peak hours
- 14 single-family homes (Overlay District) - 11 trips during A.M. peak hours and 14 P.M. peak hour trips

Since the proposed intensities do not generate 50 or more new peak hour trips compared to existing zoning, a traffic study is not required at the time of rezoning in accordance with LDO section 3.23, Adequate Public Facilities for Roads. If the property develops with the intensities as defined above, a traffic study will not be required at the time of site plan application either.

SUMMARY OF PROCESS AND ACTIONS TO DATE

Notification

On October 9, 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 October 10 and 17, 2012. Notice of the public hearing was posted on the property on October 10, 2012.

Neighborhood Meeting (August 21, 2012)

Neighborhood meetings are optional for properties where initial Town of Cary zoning is requested. The applicant reported that they conducted a neighborhood meeting on August 21, 2012. Concerns from adjacent neighbors focused in whether or not the developer would provide an amenity facility for the neighborhood.

Town Council Public Hearing (October 25, 2012)

Staff presented the case and noted that since the subject property was outside Cary's ETJ it was not eligible for a protest petition. Staff added that they had not received any inquiries from adjacent property owners regarding the case. The applicant spoke briefly and explained that their plan was to add the subject property to the existing Manors at Green Level Crossing neighborhood. There were no speakers during the public hearing. In response to staff comments regarding existing structures on the subject property, which are listed in Cary's historic resources inventory, the Town Council asked for additional information. The applicant stated that they would meet with staff to discuss the future of those structures.

Planning and Zoning Board Meeting (November 19, 2012)

Staff presented the case and noted that there was an associated annexation petition with the rezoning request. Staff added that there had been no changes to the request since the Town Council public hearing, but that more research had been conducted to determine the lack of historic significance for existing structures on the subject property. The applicant described the consistency of the request with the Comprehensive Land Use Plan.

A board member asked for clarification on the timing of an annexation and rezoning process. Staff explained that an annexation would need to occur prior to applying Cary zoning to the property. Also, a board member asked if staff had contacted Capital Area Preservation to discuss the existing structures; which staff confirmed they had. The board agreed with staff's assessment in the staff report and forwarded the case to council with a recommendation for approval 9-0.

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	X		
Parks, Recreation, and Cultural Resources Facility Master Plan	X		
Growth Management Plan	X		
Affordable Housing Plan			X
Comprehensive Transportation Plan	X		
Open Space Plan	X		

Land Use Plan

The subject property is located within the **Southwest Area Plan**. On the Future Land Use Map of the Southwest Area Plan, the subject property is recommended for Conservation Residential Low Density (LCR) development. An LCR designation means the property can either be designed using conventional R-40 subdivision design with a minimum lot size of 40,000 square feet, or the property can be designed using conservation subdivision design principles under the Conservation Residential Overlay District (CROD) zoning overlay. Subdivisions zoned R-40 but developed under the CROD can have up to 2.5 units per acre provided that a certain amount of extra open space is provided and certain other development standards are followed. The applicant wishes to rezone the subject parcel to Residential 40 with Conservation Residential Overlay District (CROD) zoning. This request is in keeping with the Southwest Area Plan.

Growth Management Plan

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

1. L2 Guiding Principle: Ensure that future growth protects sensitive natural resources and protects open space.
2. A1 Guiding Principle: Increase permitted densities in preferred growth areas to encourage desired forms of development.

Affordable Housing Plan

Based on the proposed zoning, the Affordable House Plan does not apply to this case.

Comprehensive Transportation Plan

Roberts Road is designated as a Minor Thoroughfare

Existing Section: 2-lanes in approximately 60-foot ROW

Future Section: 3-lanes; 70-foot ROW

Sidewalks: Not currently in place; required on both sides

Bicycle Lanes: 14-foot-wide outside lanes required

Transit: No requirements

Parks, Recreation & Cultural Resources Facilities Master Plan

According to the Parks, Recreation & Cultural Resources Facilities Master Plan, there are no issues related to this site.

A recreation fund payment will be due for residential development in accordance with the LDO.

Historic Preservation Master Plan

A goal of the Historic Preservation Master Plan is to preserve, protect, and maintain Cary's historic resources. One of the subject parcels located at 7416 Roberts Road contains a circa 1910 farmhouse and outbuildings known as the Williams-Roberts Farm. The property is listed in Cary's historic resources inventory. The one-and-one-half-story house is a frame pyramidal cottage featuring a hip-roofed ell, wrap-around porch supported by tapered square posts, a front hip dormer and interior chimneys. The house is listed as being in good condition but with medium material integrity, reflecting the fact that some features of the house appear to have been replaced and synthetic siding has been added. There are a number of circa 1920-1930 outbuildings in mostly fair condition (a 2010 aerial photograph shows at least nine standing outbuildings) located behind the house. In an earlier 1990 survey, the outbuildings were identified as including a smokehouse, wash house, tobacco barns, sheds and a log potato house.

Staff Analysis

Landscape/Context: The house and outbuildings are located on an approximately 3.75-acre parcel on Roberts Road at the southwestern edge of Cary's planning area, approximately 1,500 feet west of the intersection of Roberts Road with I-540, and approximately 1,900 feet east of a potential future school site owned by Wake County. The applicant's stated desire is to develop the subject property as a continuation of the existing Manors at Green Level subdivision, which abuts the subject property on two sides. Roberts Road, a designated minor thoroughfare on Cary's Comprehensive Transportation Plan, is

planned ultimately to be a 3-lane road with sidewalks and wide outside lanes to accommodate bicycles. Town GIS maps indicate that these planned future road improvements will place the future right-of-way of Roberts Road within 50 feet of the existing farmhouse. Finally, because Roberts Road serves as the planning boundary between Cary and Apex in this vicinity, the Town of Apex provides planning and zoning for property located across Roberts Road from the subject property. On the Apex side of Roberts Road, Town of Apex records show approved plans for a +/- 140-lot subdivision that is yet to be built.

Buildings: In the original 1990 Wake County Architectural and Historic Resources Survey, the surveyors found the farm house to be in good and fairly original condition, but didn't recommend it at that time for any special historic designation. In ensuing years, two survey updates have noted continued deterioration of the outbuildings as well as changes to the house. In addition, a recent discussion with one of the former owners (who is now a current next-door-neighbor) confirms that the house has in the past decade been renovated inside and out, with the exterior changes including addition of synthetic siding, replacement of the windows and front door, and replacement of at least two porch columns. In addition, the original tin roof was replaced with asphalt shingles about nine years ago after a tree fell on the house during a storm. During storm repairs, one of the three interior chimneys was also removed.

Overall, staff's observation is that the exterior of the house is in good but modernized condition, having been renovated at the expense of several original and significant architectural features. In the case of the outbuildings, staff's observation of the outbuildings from the right-of-way of Roberts Road, supplemented by current photographs provided by the applicant, confirms that three of the outbuildings appear to be in good condition; six appear to be in fair to poor condition; and six appear to be in poor to deteriorated condition.

Analysis of Preservation Potential: The former farmstead is located in a rapidly evolving area as evidenced by 1) the opening of I-540 less than a third of a mile east of the site, 2) the new housing development abutting the property, 3) the planned housing development across the road in Apex's jurisdiction, and 4) the potential Wake County public school site located just north of the subject site. In addition, the farm house is situated close to and facing Roberts Road, which will be widened with a third lane and sidewalks as traffic from surrounding residential development increases. These factors, combined with the changes to the farmhouse, including replacement of certain defining historic features such as the front door, porch columns, and windows, lead staff to conclude that the farmstead has lost much of its historic context and architectural integrity, and therefore has limited preservation potential.

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	2 to 6
	Middle School	1 to 2
	High School	1 to 3
Total Projected range of additional students ²		4 to 11

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 Number 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 five, 3-bedroom homes could yield four additional students, while 14 homes with greater than three bedroom units could yield 11 students. The basis for making this calculation is based on multipliers provided 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 proposed initial zoning request is required by the Town of Cary in order to annex the properties such that Town services may be provided to them. The assemblage is of adequate size at approximately 5.79 acres, for supplement of the existing manors at Green Level Crossing conservation residential subdivision.*

The site drops approximately 25 to 30 feet between the southwest corner of the site (Frontage on Roberts Road) and the northeast corner of the site (corresponding to a stream course along the eastern boundary.) There is ample acreage for uses consistent with or accessory to the existing subdivision to the north and west. Resource areas will be protected as required by Town of Cary standards..

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

Response: *This addition to the existing Manors at Green Level Crossing neighborhood that the proposed annexation and initial zoning will accommodate will be developed in accordance with the conservation Residential, Low-Density (LCR) designation in the Town's Southwest Area Plan. No land use plan Amendment is proposed. This proposal will accommodate a modest expansion of the existing Manors conservation subdivision and requests CROD to bolster consistency with the area plan.*

The proposal is consistent with the proposed open space/greenway network of the Southwest Area Plan since the conservation subdivision (and requested overlay district) corresponds to the Plan's goal for preservation of open space. Greenway connection and trails are already provided within the boundaries of the existing subdivision

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

Response: *The initial zoning necessary for annexation will allow Town services to be extended to the new acreage regardless of what the eventual use is for those properties, whether single-family lots, a recreation amenity, and/or additional open space and greenway connections. For the owner/developer, the initial zoning of the property allows the annexation to proceed in order that Town services may be extended to the additional parcels once annexed. A benefit to adjacent property owners could be increased access to the Town's greenway system. For now we see no detriment for adjacent property owners with regard to transition to Cary R-40 zoning from Wake R-40W zoning, or application of CROD to the 5.79 acres. Any perceived detriment following from the specifics of any future proposed use should be mitigated through buffering for the stream on the eastern boundary, as well as the larger buffer along Roberts Road as required for a conservation residential subdivision.*

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: *Cary's R-40 zoning and Wake County's R-40W zoning are compatible. The existing zoning districts in the immediate area, including Apex's jurisdictional area to the south across Roberts Road, are all low density residential districts. The existing Manors at Green Level Crossing community is already zoned R-40 with CROD. It is anticipated that adjacent properties to the east, currently zoned Wake County R-40W, will eventually transition to Cary R-40, or some other compatible zoning district, at some point in the future corresponding to the completion of the 540 corridor.*

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:

ORDINANCE FOR CONSIDERATION

12 -REZ-21 The Manors at Green Level Crossing Addition

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF THE TOWN OF CARY TO CHANGE THE ZONING OF APPROXIMATELY 5.79 ACRES LOCATED AT 7404 AND 7416 ROBERTS ROAD OWNED BY ANN R. PEARCE AND ROBERT E AND MARY E. TUCKER BY REZONING FROM WAKE COUNTY RESIDENTIAL 40 TO A TOWN OF CARY ZONING DESIGNATION OF RESIDENTIAL 40 WITH CONSERVATION RESIDENTIAL OVERLAY DISTRICT (LOW DENSITY SUBDISTRICT) AND WATERSHED PROTECTION OVERLAY DISTRICT (JORDAN LAKE SUBDISTRICT.)

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)	Area ± (Acres)
Ann R. Pearce 7404 Roberts Road Cary, NC 27519	0733254271	0053587	2.04 ±
Robert E. Tucker and Mary E. Tucker 7416 Roberts Road Cary, NC 27519	0733252375	0259560	3.75 ±
Total Acres			5.79 ±

Section 2: That this Property is rezoned from Wake County Residential 40 (R-40W) to Residential 40, Conservation Residential Overlay District (Low Density Subdistrict) and Watershed Protection Overlay District (Jordan Lake Subdistrict) subject to the individualized development conditions set forth herein, and 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: *December 13, 2012*

Harold Weinbrecht, Jr.
Mayor

Date