

**Town of Cary, North Carolina
Rezoning - Staff Report
Case 12-REZ-32 Copperleaf Planned Development District Amendment
Town Council Meeting
April 18, 2013**

REQUEST

To amend the Town of Cary Official Zoning Map by rezoning approximately 5.5 acres located north of the Green Hope School Road and Palavern Lane intersection from Residential 40 (R-40) to Planned Development District (PDD) Amendment for the purpose of adding five single-family-detached residential lots to the existing Copperleaf PDD (Master Land Use Plan).

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 (10-digit)	Real Estate ID(s)	Deeded Acreage
Derby Downs LLC Ownership Managers: James Brandewie and Mike Ruth 104 Painted Turtle Lane Chapel Hill, NC 27516	0724543298	0100215	5.5 ±
Total Area			5.5 ±

PROJECT SUMMARY

The Copperleaf PDD was originally approved in 2004 for 137 dwelling units on approximately 137 acres. In 2007, council approved the addition of 3.99 acres to allow four additional units to the PDD. The current PDD is a 141.38-acre community that combines a mixture of very low density residential use with common open space. A minimum lot size of 20,000 square feet is required per the PDD document.

The requested amendment proposes to add 5.5 acres for a new sub-district (SF-4) that also requires this 20,000 square-foot minimum lot size.

BACKGROUND INFORMATION

Applicant	Derby Downs LLC Ownership Managers: James Brandewie and Mike Ruth 104 Painted Turtle Lane Chapel Hill, NC 27516		
Applicant's Contact Person	Glenda Toppe Glenda Toppe Associates		
Acreage	5.5 ±		
General Location	North of the Green Hope School Road and Palavern Lane intersection		
Schedule	Town Council Public Hearing February 27, 2013	Planning & Zoning Board March 18, 2013	Town Council Meeting April 18, 2013
Land Use Plan Designation	Conservation Residential, Very Low Density (VLCR)		

Existing Zoning District	Residential 40 (R-40) Conservation Residential Overlay District
Existing Zoning Conditions	None
Proposed Zoning District(s)	Planned Development District (PDD) Major
Proposed Zoning Conditions	As specified in the Planned Development District document and include limiting lots sizes to 20,000 square feet
Town Limits	The subject property is located inside Cary's ETJ, but outside the corporate limits. Annexation will be required at the time of site plan.
Protest Petitions	None
Staff Contact	Debra Grannan Senior Planner Debra.grannan@townofcary.org (919) 460-4980

SITE CHARACTERISTICS

Streams: According to Town of Cary GIS maps, the subject property is impacted by a stream buffer. Field determination of such features is required at the time of site plan review.

Floodplain and Wetlands: According to Town of Cary GIS maps, there are no floodplain or wetland areas on the subject property. Field verification of such features is required at the time of site plan review.

Topography: Cary's GIS maps show a decline in the topography in the vicinity of stream buffers identified on the subject property.

Adjacent Uses and Zoning

- North – Agricultural; Residential 40
- South – (Opposite side of Green Hope School Road) Single-family residential; Copperleaf Subdivision; Copperleaf PDD
- East – Agricultural; Residential 40
- West – Single Family Residential; Copperleaf subdivision; Copperleaf PDD

CONSISTENCY WITH LAND DEVELOPMENT ORDINANCE

Density and Dimensional Standards

	Existing Zoning District Residential 40 (R-40) Conservation Residential Very Low Density (VLCR)	If Developed under Conservation Subdivision Design for VLCR, R-12 Dimensional Standards Shall Apply for lots 12,000 sq. ft. or greater	Proposed Zoning District Planned Development District (PDD)
Max. Gross Density (Du./ac)	1.5 (Maximum Base density per Conservation Overlay District)	1.5 (Maximum Base density per Conservation Overlay District)	1
Min. Lot Size (Sq. Ft.)	40,000	15,000 (if site contains less than 20% of the total area in regulatory Open space)	20,000
Minimum Lot Width (Ft.)	With septic tank/well: 150 (160 for corner lot) With public sewer: 125	80 (90 for corner lot)	80

	(135 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	30
Side Yard Setback (Ft.)	With septic tank/well: 20 With public sewer: 15	10	10
Rear Yard Setback (Ft.)	30	25	30
Maximum Building Height (Ft.)	35*	35*	35*
*The maximum height limits set forth in Cary's Land Development Ordinance (LDO) Section 6.1 may be increased by one (1) foot for every additional foot provided between the building footprint and the minimum required setbacks in accordance with the LDO.			

Open Space

Chapter 4 of Cary's Land Development Ordinance indicates that a residential Planned Development District with 101 to 200 acres shall provide 12.5% of the parcel to be used as open space. With the addition of 5.5 acres to the existing PDD the total land area for Copperleaf will be 146.88 acres; therefore, 12.55 would equal 18.36 acres of required open space. The applicant is proposing 40.11 acres of total open space which is just over 27% of the entire land area. Open space may include regulatory buffer areas.

Landscape Buffer

The existing PDD states that "no building or parking setbacks shall be required against buffers, portions of buffers, streetscapes and any type of open space unless existing vegetation remains. Within non-residential parcels, there shall be no interior buffers or setbacks between separate buildings, even if under separate ownership."

Streetscape

The existing PDD states that "in keeping with the more rural character of the southwest Cary area, standard Town streetscape planting standards will not be provided along thoroughfares and collectors. Where possible, the existing tree line will be preserved." The applicant proposes that same language apply to Tract 4.

Traffic

The existing zoning of Residential 40 (R-40) for 5.5 acres would generate five (5) trips during the am peak hours and eight (8) trips during the pm peak hours based on the ITE Trip Generation Manual, 8th Edition. The proposed development of 5 single-family units would generate four (4) trips during the am peak hour and seven (7) trips during the pm peak hours. The proposed rezoning does not generate greater traffic than the existing zoning, so no traffic study is required. No traffic study would be required at site plan since this does not generate 50 or more peak hour trips.

Stormwater

At the time of site plan review, the future plan must meet all storm water 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, 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 February 13 and 20, 2013. Notice of the public hearing was posted on the property February 13, 2013.

Neighborhood Meeting

According to the applicant, a neighborhood meeting for the proposed rezoning was held on December 10, 2012. According to the information submitted by the applicant; six adjacent property owners attended the meeting. According to the meeting minutes submitted by the applicant, issues discussed pertained to how access to the subject property would be provided and questions about the type of development proposed.

Town Council Public Hearing

Staff presented the case and reported that there were no protest petitions. The applicant spoke briefly and described the plan to develop the property in a similar fashion to the existing Copperleaf Development. Council forwarded the case to the Planning and Zoning Board.

Planning and Zoning Board Meeting (March 18, 2013)

Staff presented the case and noted that the applicant had offered no changes to the proposal since the Town Council meeting. No issues or concerns were raised by the board members. The board forwarded the case to Town 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	✓		
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 subject property is located within the **Southwest Area Plan** where it is designated as appropriate for Conservation Residential, Very Low Density (VLCR) development. A VLCR designation means the property can be designed using either conventional R-40 subdivision design with a minimum lot size of 40,000 square feet, or 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 1.5 dwelling

units per acre. The subject request is a proposal to add 5.5 acres of VLCR-designated property to the existing Copperleaf PDD, which was approved in 2007 and met the vision of the Southwest Area Plan at the time. In 2009, the Southwest Area Plan was updated to recommend greater amounts of bonus open space for each bonus home lot granted.

The applicant wishes to create five single-family residential lots on 5.5 acres. Based on GIS-based staff analysis of the parcel, 3.5 lots would be the base number of lots allowed on 5.5 acres in the VLCR district. This means the applicant would need to provide bonus open space of just over .5 acre to gain the additional 1.5 lots desired. The applicant has indicated that the required bonus open space will be provided and the open space will adjoin a required stream buffer, meeting a VLCR goal of open space contiguity. Therefore, the subject request is in keeping with the Southwest Area Plan's long-range vision for density and growth in southwest Cary.

Growth Management Plan

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

- R1 Guiding Principle: Ensure that adequate infrastructure and services are available concurrently with new development.
- L2 Guiding Principle: Ensure that future growth protects sensitive natural resources and protects open space.

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. Promote the preservation of the Town of Cary's existing housing stock through housing rehabilitation resources to maintain the affordable housing that already exists in the community.
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.
4. Strive for innovation and partnerships in the creation of model ordinances, policies, and programs in the area of providing expanding housing opportunities for low- and moderate-income persons.
5. Facilitate the affordable housing activities of other entities within the Town of Cary, including construction of affordable housing units, rehabilitation of existing housing, homeownership training, and marketing of assistance programs.
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.
7. Actively participate in the renewal of neighborhoods suffering from physical deterioration or from the inequitable distribution of public resources in the past.
8. Assure a quality living environment and access to public amenities for all residents, present and future, of the Town of Cary, regardless of income.

Comments:

Comprehensive Transportation Plan

Green Hope School Road is designated as a Collector Road

Existing Section: 50-foot ROW, 2-lane road that dead ends

Future Section: 2-lanes

Sidewalks: Not required per Southwest Area Plan, existing street-side path on north side

Bicycle Lanes: n/a

Transit: There are no existing or proposed transit routes currently in the vicinity of the property.

Status of Planned Improvements: n/a

Parks, Recreation & Cultural Resources Facilities Master Plan

According to the Parks, Recreation and Cultural Resources Facilities Master Plan a street-side trail is proposed along the Green Hope School Road property frontage. A portion of this trail was completed with earlier phases of Copperleaf.

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

Open Space Plan

According to the Open Space Plan over 80% of the site is covered in mixed hardwoods and conifers.

Historic Preservation Master Plan

There are no known historic resources located on the subject property.

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	1 to 2
	Middle School	1
Total Projected range of additional students ²		3 to 5

¹Information regarding specific Wake County Public School assignment options may be found by visiting the following: <http://assignment.wcps.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 five three-bedroom homes could yield three additional students, while five homes with greater than three bedroom units could yield five 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 can not 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

12-REZ-32 COPPERLEAF PLANNED DEVELOPMENT DISTRICT

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF THE TOWN OF CARY TO CHANGE THE ZONING OF APPROXIMATELY 5.5 ACRES OWNED BY DERBY DOWNS, LLC, BY REZONING FROM RESIDENTIAL 40 (R-40) TO PLANNED DEVELOPMENT DISTRICT (PDD) FOR THE PURPOSE OF ADDING FIVE SINGLE-FAMILY-DETACHED LOTS TO THE EXISTING COPPERLEAF PDD.

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 (10-digit)	Real Estate ID(s)	Deeded Acreage
Derby Downs LLC Ownership Managers: James Brandewie and Mike Ruth 104 Painted Turtle Lane Chapel Hill, NC 27516	0724543298	0100215	5.5 ±
Total Area			5.5 ±

Section 2: That this Property is rezoned, subject to the individualized development conditions set forth in the "Copperleaf Planned Development District" document dated December 13, 2007 and on file in the Planning Department, as amended by the "Copperleaf Planned Development District Amendment" document approved by the Town Council as of this date and on file in the Planning Department, and subject 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 set forth in the Planned Development District document dated December 13, 2007 and on file in the Planning Department, as amended by the "Copperleaf Planned Development District Amendment" document approved by the Town Council as of this date and on file in the Planning Department.

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

Adopted and effective: April 18, 2013

Harold Weinbrecht, Jr.
Mayor

Date