

**STAFF REPORT**

Town Council, April, 21, 2015

**Purse Property Rezoning 14-REZ-32 (PL15-018b)**

Consider action on a proposed rezoning request

Speaker: Ms. Debra Grannan

From: Jeffery G. Ulma, AICP, Planning Director

Prepared by: Debra Grannan, Senior Planner

Approved by: Benjamin T. Shivar, Town Manager

Approved by: Russ Overton, Assistant Town Manager

**REQUEST**

To amend the Town of Cary Official Zoning Map by applying initial Cary zoning to a 73.5-acre portion of an approximate 100.78-acre parcel located at 1116 White Oak Church road and Lewter Shop Road. A 29.3-acre portion of the property is located in Chatham County and approximately 44.19 acres is located in Wake County. The applicant has requested the property be zoned Residential 40 Conditional Use (R-40-CU).

There is an associated Owner-Initiated Annexation Petition (**14-A-15**) associated with the request.

**Annexation Area Exhibit**

If annexed into the Town of Cary, the subject property would also be subject to the Watershed Protection District (Jordan Lake sub-district).

The subject property is currently vacant. An approximate 27-acre portion of the parent parcel contains a detached residential dwelling, barn and accessory structures. That area is not included with the rezoning or annexation request.

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
Bryan G. Purse 2610 66 <sup>th</sup> Street SW Naples, Florida 34105-7310	Wake County 0724112547 Portion	Wake County 0011749 Portion	44.19
	Chatham County 0714914084 Portion	Chatham County AKPAR 19963 Portion	29.31
<b>Total Area</b>			73.50

**BACKGROUND INFORMATION**

Applicant	Bryan G. Purse 2610 66 <sup>th</sup> Street SW Naples, Florida 34105-7310
Agent	Glenda Toppe Glenda S. Toppe & Associates

	4139 Gardenlake Drive Raleigh, NC 27612 (919) 605-7390		
Acreage	73.5 ±		
General Location	1116 White Oak Church Road and Lewter Shop Road		
Schedule	<b>Town Council Public Hearing</b> January 28, 2015	<b>Planning &amp; Zoning Board</b> March 16, 2015	<b>Town Council Meeting</b> April 21, 2015
Land Use Plan Designation	Chatham County: Low Density Residential (LDR) Cary: VLCR		
Existing Zoning District(s)	Wake County: R-40 W and Chatham County: R-1		
Existing Zoning Conditions	None		
Proposed Zoning District(s)	Residential 40 Conditional Use (R-40-CU) Watershed Protection Overlay District (Jordan Lake Subdistrict)		
Proposed Zoning Conditions Exhibit A (Open Space and Greenway Exhibit)	<ol style="list-style-type: none"> <li>1. Use shall be limited to detached residential and neighborhood recreation.</li> <li>2. Along the western boundary, adjacent to the parcels identified by Chatham County PIN numbers 0714-81-9010 and 0714-90-0406, there shall be an area of common open space with a minimum width of 60 feet. This open space area shall contain a 20-foot-wide greenway easement, which shall be dedicated to the Town of Cary at the time of subdivision plat recording. Prior to the submittal of any building permits for lots which abut the easement area, the developer or property owner shall provide a letter from a professional engineer certifying that the easement area has been graded to Town of Cary standard specifications. The remaining area shall be planted to a Type-B (semi-opaque) standard. Allowable activity in the open space shall be limited to grading to tie in slopes, greenways, plantings, and utility lines and easements as allowed by the LDO.</li> <li>3. Along the western property boundary, adjacent to the parcel identified by Chatham County PIN 0714-81-6592, there shall be an area of common open space with a minimum width of 40 feet. This open space area shall be planted to a Type- B (semi-opaque) buffer standard. Allowable activity within the open space shall be limited to grading to tie in slopes, plantings, subdivision identification signage, and utility lines and easements as allowed by the LDO.</li> </ol>		
Town Limits	The subject property is located outside Cary's corporate limits and ETJ. An owner-initiated annexation petition, <b>14-A-15</b> , was submitted by the property owners in conjunction with this rezoning request.		
Valid Protest Petition	Protest petitions are not applicable to a map amendment (rezoning) that initially zones property being added to the Town's jurisdiction by annexation.		
Staff Contact	Debra Grannan Senior Planner (919) 460-4980 debra.grannan@townofcary.org		

#### SITE CHARACTERISTICS

**Streams:** Cary's most recent GIS maps indicate a stream buffer along the southern portion of the subject property. Field determination of such features shall be required at the time of development plan review.

**Floodplain and Wetlands:** Cary's most recent 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.

**Adjacent Zoning; Land Use**

North – R-40-CU and Chatham County R-1; Vacant and Detached Residential

South – Chatham County R-1; Detached Residential

East – (Opposite Side of White Oak Church Road) R-40-CU; Vacant

West – Chatham County R-1; Detached Residential; Vacant and Detached Residential

**CONSISTENCY WITH LAND DEVELOPMENT ORDINANCE**

**Density and Dimensional Standards**

	<b>Chatham County R-1</b>	<b>Wake County R-40 W</b>	<b>Proposed Residential Zoning District (R-40)</b>	<b>If Developed with a Cluster Development Option*</b>
Max. Gross Density <i>(Dwelling Units/Acre)</i>	1.089	1.00	1.08	1.09
Minimum Lot Size <i>(Square Feet)</i>	40,000 (If developed with well and septic, minimum lot size is 1.5 acres) 80,000 for a two-family dwelling	40,000	40,000	15,000
Minimum Lot Width <i>(Feet)</i>	100 (110 for two-family dwelling)	110	125 (135 for corner lot)	80 (90 for corner lot)
Roadway Setback <i>(Feet)</i>	40	30	From thoroughfare: 50 From collector: 30 From other streets: 20	From thoroughfare: 50 From collector: 30 From other streets:
Side Yard Setback <i>(Feet)</i>	25	15	15	10
Rear Yard Setback <i>(Feet)</i>	25	30	30	25
Maximum Building Height <i>(Feet)</i>	60	35	35	35
* Cluster Development requires compliance with open space requirements and other elements of LDO section 8.4.				

**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 centrally located public gathering space, such as a pedestrian park or park-like space, for new development and redevelopment sites. The minimum gathering space size for a site greater than 20.1 acres is 5,000 square feet.

**Landscape Buffer** In accordance with Chapter 7 of the LDO, a 20-foot landscape area, planted to a Type-B standard required between two single-family-detached residential uses when lot sizes are 8,000 square feet or greater. This area is not subject to the ownership restrictions applied to other buffers and may be located within the platted portion of lots. The applicant has proposed a condition to designate an area in common open space area along the western portion of the subject property.

**Streetscape:** A portion of the subject property fronts White Oak Church Road, which is designated as a Thoroughfare. According to Chapter 7 of Cary's LDO a 50-foot streetscape shall be required adjacent to this roadway.

**Traffic**

The proposed zoning density of 1.08 dwelling units per acre would result in a maximum of 79 dwelling units. Based on the ITE Trip Generation Manual, Land Use Code 210 – Single Family Detached Housing Units, the proposed rezoning is anticipated to generate approximately 65 am and 85 pm peak hour trips. The threshold for a traffic study is 100 peak hour trips; therefore, a traffic study is not required.

**Note:**

Per section 3.4.1.D.3 of Cary's Land Development Ordinance, a traffic study is required for rezoning applications when a development is anticipated to generate 100 or more peak hour trips. A residential subdivision with a total of 93 single-family units has the potential of generating 100 peak-hour trips.

**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**

Consistent with NC General Statutes, notice of the public hearing on the proposed rezoning was mailed to property owners within 800 feet of the property boundaries of the entire parent parcel, published on the Town's website and posted on the subject property. In accordance with the joint Chatham County-Cary Land Use plan, notification of the rezoning was mailed to the Chatham County Planning Director.

**Neighborhood Meeting**

According to the applicant, a neighborhood meeting for the proposed rezoning was held on September 16, 2014. According to the information submitted by the applicant, seven (7) residents attended the meeting. Questions and concerns expressed at the meeting focused on development related questions and proposed road improvements. Details are provided in the meeting minutes submitted by the applicant.

**Town Council Public Hearing (January 28, 2015)**

Staff presented an overview of the request and the associated annexation petition. Glenda Toppe, speaking on behalf of the applicant, described the consistency of the request with the Comprehensive Land Use Plan and the Chatham-Cary Joint Land Use Plan. She described plans to use the Conservation Residential Overlay District on the Wake County portion of the property and a cluster option on the Chatham County portion of the property. She noted that the developer would be working on adding a condition related to a buffer adjacent to the properties to the west.

During the public hearing, an adjacent property owner spoke about the potential impacts future roads and development could have on his property. A second nearby property owner expressed concern about stream preservation and stormwater drainage. He also expressed concern on the lack of transition if 15,000 square-foot lots were allowed adjacent to the existing large-lot subdivision to the west.

Town Council expressed concerns about future road connectivity requirements between the subject property and an adjacent development to the north. One council member commented on the need for transitions between the proposed development and the existing community.

**Changes Since the Town Council Public Hearing**

The applicant has proposed additional conditions to provide open space and greenway easements adjacent to the western property line.

### **Planning and Zoning Board Public Hearing (March 16, 2015)**

Staff presented the case and summarized the additional zoning conditions proposed by the applicant. The applicant described the consistency of the request with Cary's Land Use Plan and the joint Cary/Chatham Land Use Plan. There were no other speakers during the public hearing.

An engineer for the applicant provided an explanation of where a future greenway trail was proposed to be located. Two board members stated that they felt larger lots were more appropriate adjacent to the Chatham County neighborhood. One board member felt the proposed greenway location would impact the privacy of the adjacent property owners.

The Planning and Zoning Board voted 7-2 to forward the case to Town Council with a recommendation for approval.

### **Changes since the Planning and Zoning Board Public Hearing**

None

## **CRITERIA FOR CONSIDERATION 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 other property in the vicinity of the subject tract; and
6. The proposed zoning classification is suitable for the subject property.

## **APPLICABLE COMPREHENSIVE OR AREA PLAN REQUIREMENTS**

### **Land Use Plan**

Portions of the subject property lie in both Wake County and Chatham County and are governed by the provisions of two land use plans. Portions within Wake County are controlled by the [Southwest Area Plan](#), adopted in 2004 and amended in 2009. The Southwest Area Plan places emphasis on preserving the rural character of the area and of open space and historic areas. New development is to occur through large lot subdivisions or use of conservation overlays where smaller lot subdivisions may be constructed in exchange for dedication of additional open space. The Southwest Area Plan land use designation for the subject property is Very Low Conservation Residential (VLCR). VLCR requires the use of the conservation overlay district (CROD) and permits densities of up to 1.5 units per acre with the provisions of additional open space.

Portions of the subject property which lie within Chatham County are governed by the provisions of the [Chatham-Cary Joint Land Use Plan](#), adopted in June 2012. The priority of the joint plan is the protection of the Jordan Lake watershed and establishes an Urban Services Boundary approximately one-mile for the lake beyond which water and sewer services will not be extended. Areas east of the urban services boundary may receive utility extensions from Cary and may be voluntarily annexed into the Town. As utility services are anticipated, residential densities are also higher. The subject property has a designation under the joint plan of Low Density Residential, allowing densities of up to two dwelling units per acre.

The Southwest Cary area is a special focus area of the Imagine Cary effort to develop a new comprehensive plan for Cary. Although there are no final recommendations at this time for the area, public feedback suggests that 1) the emphasis on preserving open space and environmental and historic heritage of the area be maintained; 2) subdivisions be allowed to be constructed with suburban amenities (i.e. sidewalks, curb and gutters and streetlights rather than the rural cross-sections currently required;

and 3) a consistent transition of densities be achieved moving from higher densities near the Western Wake Freeway to lower densities in Chatham County.

The applicant is requesting R-40 Conditional Use, which conforms to both the Southwest Area Plan and the Chatham Cary Joint Land Use Plan and the likely direction of the Imagine Cary effort.

### **Growth Management Plan**

The Growth Management Plan includes the following Guiding Principle relevant to this case:

1. L2 Guiding Principle: Ensure that future growth protects sensitive natural resources and protects open space.

**Analysis:** The proposed development will be required to develop in conformance with the standards of the Conservation Residential Overlay District and the Watershed Protection Overlay District. Both of these districts require protection of environmental sensitive areas and/or the dedication and preservation of open space.

### **Affordable Housing Plan**

The Affordable Housing Plan includes the following goals that may be relevant to this case:

Comments: The proposal does not directly contribute to any goals of the Affordable Housing Plan.

### **Comprehensive Transportation Plan**

**White Oak Church Road is designated as a Major Thoroughfare**

**Existing Section:** 2 lanes (approximately 60 feet of right of way)

**Future Section:** 4-lane median-divided arterial (105-foot right of way) with 83-foot back of curb to back of curb, 23-foot median and 14-foot outside lanes

**Sidewalks:** Required outside of the right of way in SW area plan

**Bicycle Lanes:** 14-foot-wide outside lanes

**Transit:** No existing or planned routes

**Status of Planned Improvements:** No Town-funded projects

Since this development is located on the west side of the road, they would be responsible for constructing two lanes of the 4-lane roadway, donating half of the required right-of-way and when the property on the opposite side of the road is developed, the full width roadway will be built at that time.

**Note:** Based on the proposed limits of the rezoning request, the property frontage along White Oak Church road is less than 150 feet in width.

### **Parks, Recreation & Cultural Resources**

This site was not in the study area for the Parks, Recreation and Cultural Resources Facilities Master Plan, and the Chatham-Cary Joint Land Use Plan did not address parks, recreation or cultural resources facilities; therefore, there is no adopted greenway plan for this portion of Cary. Staff has discussed with the applicant the advantages of a greenway easement along the western property boundary and along the southern creek on site, as a placeholder for a future greenway network to serve this area. The applicant proposed a condition to provide a greenway trail along the western property line, but has not proposed a trail along the southern property line.

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

These comments were reviewed and approved by the Town's Greenway Committee at its January 22, 2015 meeting, and by the Town's Parks, Recreation and Cultural Resources Advisory Board at its February 2, 2015 meeting.

**Open Space Plan** According to the Open Space Plan, the majority of the site is forested with mixed hardwoods and conifers. According to aerial maps, the center portions of the site have been cleared (possibly for agricultural purposes).

**Historic Preservation Master Plan**

On the same tax parcel as the subject property, but outside the area planned for rezoning and annexation, is the historic Yates-Carpenter House. Located at the end of a dirt road off of White Oak Church Road in Wake County, the house is a one- and one-half-story, triple-A-roofed house with a center-hall plan and Victorian details. What appears to be the main block of the house was built in the mid-to-late nineteenth century onto an older, mid-nineteenth-century section, within which is nestled a c. 1830 one-room plank-log house believed to have been the boyhood home of Matthew T. Yates (1819-1888), North Carolina’s first missionary to China. Hilliard Rogers purchased the property from the William Yates family around 1865, and then gave it to Rufus and Elizabeth Rogers Carpenter. The property stayed in the Carpenter family until 1975.

Originally a 400 plus-acre farm, many of the farm buildings associated with the house are now gone. Remaining are a 1-story tenant house, 2-story barn, and a well house. In 1978, the Yates Baptist Association moved one of the outbuildings, a c. 1815 log cabin thought to have been the actual birthplace of Matthew Yates, off the site to the Yates Baptist Campground in Durham where it was reconstructed and restored. Matthew Yates was the son of William Yates, who is thought to have come to Wake County from Richmond County in the early 19<sup>th</sup> century. Matthew Yates studied at Wake Forest College to become a Baptist minister, and then in 1847, Matthew Yates and his wife, Eliza Moring, traveled to China to work as missionaries. They lived and worked in Shanghai off and on for 43 years. Yates became well-versed in the Chinese language and culture in Shanghai and eventually published a Chinese-English dictionary. He is well-known for his style of missionary work, which involved teaching people in their native language, a style which is thought to have influenced generations of missionaries.

The applicant's representative has indicated that the house and outbuildings are not part of the planned development.

**OTHER REFERENCE INFORMATION**

<b>Schools</b>	Type <sup>1</sup>	Projected Range of Additional Students <sup>2</sup>
<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	11 - 32
	Middle School	4 - 12
	High School	6 -14
Total Projected range of additional students <sup>2</sup>		21 – 59

<sup>1</sup>Information regarding specific Wake County Public School assignment options may be found by visiting the following: <http://assignment.wcps.net/preview/myplan.html>

<sup>2</sup> The *Projected Range of Additional Students* is an 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 78 three-bedroom homes could yield 21 additional students, while 78 homes with greater than three bedroom units could yield 59 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**  
**14-REZ-32 PURSE PROPERTY REZONING**

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF THE TOWN OF CARY BY APPLYING INITIAL CARY ZONING OF RESIDENTIAL 40 CONDITIONAL USE (R-40-CU) TO APPROXIMATELY 73.5 ACRES OWNED BY BRYAN G. PURSE. THE SUBJECT PROPERTY IS ALSO SUBJECT TO THE WATERSHED PROTECTION OVERLAY DISTRICT, JORDAN LAKE SUB-DISTRICT.

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**

<b>Property Owner(s)</b>	<b>County Parcel Number(s) (10-digit)</b>	<b>Real Estate ID(s)</b>	<b>Deeded Acreage</b>
Bryan G. Purse 2610 66 <sup>th</sup> Street SW Naples, Florida 34105-7310	Wake County 0724112547 Portion	Wake County 0011749 Portion	44.19
	Chatham County 0714914084 Portion	Chatham County AKPAR 19963 Portion	29.31
<b>Total Area</b>			<b>73.50</b>

**Section 2:**

That this Property is rezoned from Chatham County R-1 and Wake County R-40 W to Residential 40 (R-40) and Watershed Protection Overlay District, Jordan Lake Subdistrict, subject to the individualized development conditions set forth herein, 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. Use shall be limited to detached residential and neighborhood recreation.
2. Along the western boundary, adjacent to the parcels identified by Chatham County PIN numbers 0714-81-9010 and 0714-90-0406, there shall be an area of common open space with a minimum width of 60 feet. This open space area shall contain a 20-foot-wide greenway easement, which shall be dedicated to the Town of Cary at the time of subdivision plat recording. (Exhibit A) Prior to the submittal of any building permits for lots which abut the easement area, the developer or property owner shall provide a letter from a professional engineer certifying that the easement area has been graded to Town of Cary standard specifications. The remaining area shall be planted to a Type-B (semi-opaque) standard. Allowable activity in the open space shall be limited to grading to tie in slopes, greenways, plantings, and utility lines and easements as allowed by the LDO.
3. Along the western property boundary, adjacent to the parcel identified by Chatham County PIN 0714-81-6592, there shall be an area of common open space with a minimum width of 40 feet. This open space area shall be planted to a Type- B (semi-opaque) buffer standard. (Exhibit A) Allowable activity within the open space shall be limited to grading to tie in slopes, plantings, subdivision identification signage, and utility lines and easements as allowed by the LDO.



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

Adopted and effective: *April 21, 2015*

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Harold Weinbrecht, Jr.  
Mayor

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Date