

**Town of Cary, North Carolina
Rezoning - Staff Report
13-REZ-12 Ferrell Property at Copperleaf Reserve
Town Council Public Hearing
November 21, 2013**

REQUEST

To amend the Town of Cary Official Zoning Map by establishing initial Town of Cary zoning for approximately 4.15 acres located north of Ferson Road in Wake County. The subject property is currently outside Cary's Extra Territorial Jurisdiction (ETJ) and has a Wake County zoning designation of Residential 40 Watershed (R-40W). The applicant has requested a Cary zoning designation of Residential 40 (R-40) within the Conservation Residential Overlay District- Very Low Density (VLCR) Subdistrict and Watershed Protection Overlay District (Jordan Lake Subdistrict).

The applicant has also submitted a request for annexation, case number 13-A-19. Annexation is required before initial Cary zoning may be applied.

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
Frances S. and Phillip A. Ferrell 1032 Ferson Road Apex, NC 27523	0724352702	0416107	4.15 ±
Total Area			4.15 ±

BACKGROUND INFORMATION

Applicant	Phillip A. Ferrell and Frances S. Ferrell 1032 Ferson Road Apex, NC 27523		
Applicant's Contact	Dale Werenko, PE Withers and Ravenel, Inc 111 MacKenan Drive Cary, NC 27511 dwerenko@withersravenel.com (919) 469-3340		
Acreage	4.15 ±		
General Location	Unaddressed property off Ferson Road (500 feet north of Ferson Road and approximately 1,160 feet northwest of the intersection of Green Hope School Road and Morrisville Parkway)		
Schedule	Town Council Public Hearing September 26, 2013	Planning & Zoning Board October 21, 2013	Town Council Meeting November 21, 2013
Land Use Plan Designation	Conservation Residential, Very Low Density (VLCR); includes Southwest Area Plan Note 15		

Existing Zoning District(s)	Wake County Residential 40 Watershed (R40 W)
Existing Zoning Conditions	None
Proposed Zoning District(s)	Residential 40 (R-40) within the Conservation Residential Overlay District (CROD) – Very Low Density (VLCR) sub district, and Watershed Protection Overlay District (Jordan Lake Subdistrict)
Proposed Zoning Conditions	None
Town Limits	The subject property is located outside the corporate limits and the Town of Cary ETJ. A voluntary annexation petition, 13-A-19 was submitted by the property owners in association with this 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.
Staff Contact	Debra Grannan Senior Planner (919) 460-4980 Debra.grannan@townofcary.org

SITE CHARACTERISTICS

Streams: Cary's current GIS maps indicate a stream buffer along the western third of the subject property. Field determination of such features will be required at the time of development plan review.

Floodplain and Wetlands: Cary's current GIS maps do not indicate the presence of any floodplain or wetlands on the subject property. Field determination of such features will be required at the time of development plan review.

Topography: The south western portion of the subject property, near the above mentioned stream buffer, is shown to be the property's low-point based on Cary's current GIS maps with an elevation of 346 feet. The elevation increases gradually to between 360 and 366 feet toward the eastern edge of the property adjacent to the Copperleaf Reserve property.

Adjacent Uses and Zoning:
 North - Currently Vacant; Zoned PDD Major (Weldon Ridge)
 South - Single Family Residential; Zoned Wake County R-40W
 East - Currently Vacant, Zoned R-40 within the Conservation Residential Overlay District
 West - Single Family Residential and Agricultural Uses; Zoned Wake County R-40W

CONSISTENCY WITH LAND DEVELOPMENT ORDINANCE

Density and Dimensional Standards

Regulations	Existing Zoning Wake County Residential 40 Watershed (R-40W)	Residential 40 (R-40)	Requested Zoning Residential 40 (R-40) Conservation Residential Very Low Density (VLCR)
Maximum Gross Density (du/ac)	1.08	1.08	1.5

Minimum Lot Size (Sq. Ft.)	40,000	40,000	15,000 (If site contains less than 20% of the total area in regulatory open space)	8,000 (If site contains between 20 and less than 30% of the total area in regulatory open space)	6,000 (If site contains 30% or more of the total area in regulatory open space)
			<i>Lots 12,000 Sq. Ft. or greater</i>	<i>Lots between 11,999 and 8,000 sq. ft</i>	<i>(Lots less than 8,000 sq. ft.)</i>
Minimum Width at Building Line (feet)	110	150 (160 for corner lot)	80 (90 for Corner Lot)	60 (70 for Corner Lot)	60
Side Yard Setback (feet)	15	20 (With septic tank/well) 15 (with public sewer)	10	10	3 Minimum, 16 combined
Roadway Setback (Feet)	Front and corner: 30	From Thoroughfare:50 From collector: 30 From Other Streets: 20	From Thoroughfare: 50 From Collector: 30 From Other Streets: 20		From Thoroughfare: 50 From Collector: 30 From other streets: 18 (when parking is provided between dwelling and roadway) 10 (when no parking is provided)
Rear Yard Setback (feet)	30	30	25	20	Width of roadway & rear combined shall equal at least 40 feet with a minimum rear of 3
Maximum Building Height (feet)	35	35	35		
			<i>Note: Height may be increased by one foot for every foot provided in addition to the minimum building setback.</i>		

Open Space: If developed under the Conservation Residential Overlay District provisions, at the time of development plan review the site would be evaluated to ensure bonus open space requirements are consistent with LDO standards. The amount of bonus open space required per additional lot within the Conservation Residential, Very Low Density Subdistrict is 14,816 square feet. If developed under the R-40 development standards, no open space would be required.

Landscape Buffer: In accordance with Chapter 7 of Cary's LDO, a 20-foot-wide Type B (semi-opaque) buffer would be required between the subject property and adjacent single-family lots. However, no buffer will be required between the subject property and the Copperleaf Reserve neighborhood if developed as part of the same development plan.

Streetscape: The subject property is currently landlocked and has no frontage on collector roads or thoroughfares; therefore, streetscape standards will not be applicable.

Traffic

The proposed zoning of R-40 would allow for six (6) single-family homes that would generate five (5) trips during the a.m. peak hours and six (6) trips during the p.m. peak hours. The threshold to require a traffic study for rezoning cases is 100 peak hour trips; therefore, no traffic study is 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 September 10, 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 September 11 and September 18, 2013. Notice of the public hearing was posted on the property September 13, 2013.

Neighborhood Meeting

According to the applicant, a neighborhood meeting for the proposed rezoning was held on August 8, 2013. According to the information submitted by the applicant, five nearby property owners attended the meeting. According to the meeting minutes provided by the applicant, residents raised questions regarding the annexation policies of the town, construction traffic and the timing of the proposed project.

Town Council Public Hearing (September 26, 2013)

Staff presented an overview of the case and reported that they had received no opposition to the request. The applicant provided more details on the request and described their plan to develop the property as part of the Copperleaf Reserve Subdivision. No one spoke during the public hearing.

Changes Since the Town Council Public Hearing

None

Planning and Zoning Board Meeting (October 21, 2013)

Staff presented the case. The board asked if the proposed zoning was identical to that of the Copperleaf Reserve subdivision adjacent to the subject property. Staff verified that it was the same.

The board forwarded the request to Town Council with a recommendation for approval by a vote of 8-0.

Changes Since The Planning and Zoning Board Meeting

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 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

Southwest Area Plan

As per the Southwest Area Plan, the subject property's future land use designation is Conservation Residential, Very Low Density (VLCR). This category includes single-family-detached residential with a lot size of one (1) acre or more. The Southwest Area Plan's Note 15 applies to the Conservation Residential, Very Low Density (VLCR) area located between the Chatham/Wake County line and Flat Branch Creek. This note reads: Two types of residential development are appropriate within this area: (a) conventional single-family residential consistent with the existing R-40 zoning, on lots of at least 40,000 square feet, or (b) conservation subdivisions having lots smaller than 40,000 square feet but generally at least 15,000 square feet, up to a potential maximum of no more than about 1.5 dwellings per acre. The maximum density for conservation subdivisions is proportional to the amount of additional, non-regulatory open space provided. See Chapter 2 of the plan document for details and exceptions.

Analysis: This rezoning request is consistent with the Southwest Area Plan.

Growth Management Plan

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

1. R1 Guiding Principle: Ensure that adequate infrastructure and services are available concurrently with new development.
2. L2 Guiding Principle: Ensure that future growth protects sensitive natural resources and protects open space.
3. Q1 Guiding Principle: Continue Cary's leadership role in quality growth and development.

Analysis: Infrastructure and services are located near, but not adjacent to, the subject property. Development within the Conservation Residential Overlay District is designed to protect sensitive natural resources and open space as well as continue Cary's leadership role in quality growth and development.

Affordable Housing Plan

Based on the proposed land use, the Affordable Housing Plan is not applicable.

Comprehensive Transportation Plan

Ferson Road is designated as a local street.

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

Future Section: 2 lanes undivided in approximately 60-foot ROW

Sidewalks: Required on both sides

Bicycle Lanes: N/A

Transit: There are no existing or planned transit routes in the vicinity of the subject 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, there are no issues related to this site.

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, approximately two-thirds of the site is covered with a mixed hardwood and conifer forest.

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

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 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 six (6) three-bedroom homes could yield four additional students, while six homes with greater than three bedroom units could yield six 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-12 FERRELL PROPERTY AT COPPERLEAF RESERVE

AN ORDINANCE TO AMEND THE TOWN OF CARY OFFICIAL ZONING MAP BY ESTABLISHING INITIAL TOWN OF CARY ZONING ON APPROXIMATELY 4.1 ACRES LOCATED IN WAKE COUNTY AND OWNED BY FRANCIS S. AND PHILLIP A. FERRELL BY CHANGING THE DESIGNATION FROM WAKE COUNTY RESIDENTIAL 40 WATERSHED (R-40W) TO A CARY ZONING DESIGNATION OF RESIDENTIAL 40 (R-40) WITHIN THE CONSERVATION RESIDENTIAL OVERLAY DISTRICT – VERY LOW DENSITY SUBDISTRICT (VLCD) AND THE 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)	Deeded Acreage
Frances S. and Phillip A. Ferrell 1032 Ferson Road Apex, NC 27523	072435270	416107	4.15 ±
Total Area			4.15 ±

Section 2:

That this Property is rezoned from Wake County Residential 40 Watershed (R-40W) to Residential 40 (R-40) within the Conservation Residential Overlay District - Very Low Density (VLCR) Subdistrict and Watershed Protection Overlay District (Jordan Lake Subdistrict) 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.

Section 3: This ordinance shall be effective on the date of adoption.

Adopted and effective: *November 21, 2013*

Harold Weinbrecht, Jr.
Mayor

Date