

**Town of Cary, North Carolina
Rezoning Staff Report
12-REZ-11 Carpenter Hyde Property
Town Council Meeting
October 25, 2012**

REQUEST

The applicant, Adam Ashbaugh with L Star Management, LLC, has requested consideration of approval of an amendment to the Town of Cary Official Zoning Map to rezone approximately 21.19 acres from Residential 40 (R-40) to Residential 8 Conditional Use (R-8-CU). The conditions, proposed by the applicant, are contained within this staff report. The subject property is located west of Green Level Church Road, and north of McCrimmon Parkway.

NOTE: The purpose of the rezoning is to determine if the land uses and densities allowed in the proposed zoning district are appropriate for the site. Technical design standards of the Land Development Ordinance (LDO) are addressed during review of the site or the subdivision plan and can be viewed 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
Wendy Lynn Hyde and Kristy Carpenter 10511 Green Level Church Road Cary, NC 27519	0725972609	0045917	17.49 ±
Robert L. Hyde, II and Wendy L. Hyde 10517 Green Level Church Road Cary, NC 27519	0725976953	0297353	1.86 ±
Clemon and Caroline Knott 10651 Green Level Church Road Cary, NC 27519	0725985534	0244735	1.84 ±
Total Area			21.19 ±

BACKGROUND INFORMATION

Applicant & Agent	Adam Ashbaugh with LStar Management, LLC 410 Glenwood Avenue, Suite 130 Raleigh, NC 27603 adam@lstarland.com (919) 256-1981
Acreage	21.19 ±
General Location	West side of Green Level Church Road; Approximately 0.2 miles north of McCrimmon Parkway

Schedule	Town Council Public Hearing July 26, 2012	Planning & Zoning Board Meeting September 10, 2012	Town Council Meeting October 25, 2012
	Continued Town Council Public Hearing August 9, 2012		
Land Use Plan Designation	Medium Density Residential (MDR)		
Existing Zoning District(s)	Residential 40 (R-40)		
Existing Zoning Conditions	None		
Proposed Zoning District(s)	Residential 8 Conditional Use (R-8-CU)		
Proposed Zoning Conditions	<p>1. The maximum density shall be limited to three (3) dwelling units per acre and a maximum of 60 homes.</p> <p>2. The minimum density shall be 2.1 dwelling units per acre.</p> <p>3. Development shall be limited to single-family-detached residential homes.</p> <p>4. Lots shall be a minimum of 10,000 square feet.</p> <p>5. Lots shall be a minimum of 80 feet wide.</p> <p>6. A 20-foot-wide perimeter buffer shall be provided along the northern and western property lines adjacent to the existing Weycroft Subdivision. This buffer shall be located in common open space, outside of the individual lots. In the following areas, the buffer shall be planted so as to meet the Town of Cary LDO standard for a "Type-A" (opaque) Buffer:</p> <ul style="list-style-type: none"> • 300 feet along the northern property line measured from the future right-of way line of Green Level Church Road; • 125 feet along the western property line, measured northward from the right-of-way line of Enfield Hill Drive; • 100 feet along the western property line, measured southward from the right-of-way line of Enfield Hill Drive; • 175 feet along the western property line, measured northward from the southwest corner of the property nearest the existing Lot 90 as indicated on the record plat for Weycroft Subdivision, Phase 3, BM 2007 PG 0528; and • 400 feet measured northward and westward along the western/southwestern property line, beginning a distance of 85 feet from the right-of-way line of Bolton Grant Drive <p>These areas are shown on Exhibit A attached to these zoning conditions. In remaining perimeter buffer areas that contain existing vegetation, supplemental plantings shall be added, if necessary, to achieve a Type-B (semi-opaque) Buffer.</p> <p>7. An area of approximately 0.86 acres, adjacent to the parcel identified with Wake County Real Estate ID Number 0110679 and highlighted on Exhibit B attached to these zoning conditions, shall be restricted in use to either open space or a storm water management facility.</p>		
Town Limits	No. The subject property is located inside Cary's extraterritorial planning jurisdiction, but is outside the corporate limits. Annexation would be required at the time of development plan review.		
Valid Protest Petition	Yes.		
Staff Contact	Debra Grannan, Senior Planner (919) 460-4980 debra.grannan@townofcary.org		

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.

Floodplain and Wetlands: No floodplains or wetlands are identified on the subject property according to Cary's most current GIS maps.

Topography: According to Cary's GIS maps, there are gradual variations in the topography across the subject property.

Adjacent Land Uses:

- North - Single-family Residential, detached (Weycroft Subdivision)
- South - Single-family Residential, detached and vacant, common open space
- East - Single-family Residential, detached (Across Green Level Church Road)
- West - Single-family Residential, detached (Weycroft Subdivision)

CONSISTENCY WITH LAND DEVELOPMENT ORDINANCE

Density and Dimensional Standards

	Existing Zoning District Residential 40 (R-40)	Residential 8 LDO Standards	Proposed Zoning District Residential 8 Conditional Use (R-8-CU)
Max. Gross Density du/ac	1.08	5.44	3
Min. Gross Density du/ac	Not specified	Not specified	2.1
Min. Lot Size Sq. ft.	40,000	8,000	10,000
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 lots)	80
Roadway Setback feet	From thoroughfare: 50 From collector: 30 From other streets: 20	Same	Same
Side Yard Setback feet	With septic tank/well: 20 With public sewer: 15	10	10
Rear Yard Setback feet	30	20	20
Maximum Building Height* feet	35	35	35

*Height may be increased one foot for every foot provided. in addition to the minimum setbacks.

Landscape Buffers

Per Chapter 7 of the LDO, no buffer is required between two single-family detached residential developments when both contain lots 8,000 square feet or larger in size. However, a landscaped area, planted to a Type-B (semi-opaque) standard, is required. The landscaped area may be located within the platted portion of a lot.

The existing Weycroft subdivision, which borders the subject property to the north and west, has provided a 25-foot buffer recorded in common open space along its perimeter.

The applicant has proposed a zoning condition to require a 20-foot-wide Type-B (semi-opaque) Buffer along the northern and western boundary line of the subject property. The condition specifies that this buffer area be on a separately platted parcel of land.

Streetscape

According to Chapter 7 of the LDO, a 50-foot Type-A (opaque) streetscape is required along Green Level Church Road.

Traffic

According to the ITE Trip Generation manual, a 21.19-acre R-40 parcel with single-family development could generate 25 am and 26 pm peak-hour trips. The proposed use of 60 single-family homes could generate 52 am and 67 pm peak-hour trips. This would be an increase of 27 am and 41 pm peak-hour trips. Since this increase does not exceed the 50-trip threshold to require a traffic study as established in the LDO, no study is required at rezoning. A traffic study may, however, be required at the time of site plan review depending on the actual build-out of the parcel.

SUMMARY OF PROCESS AND ACTIONS TO DATE

Changes since the Planning and Zoning Board Meeting

None

Planning and Zoning Board Meeting (September 10, 2012)

Staff provided an overview of the case and reported that the applicant had modified the proposed zoning conditions. The applicant added language that increased the perimeter buffer performance from a Type – B to a Type-A buffer in areas that previously had been cleared of vegetation. The applicant also proposed a new zoning condition to require additional open space. The applicant described on-going discussions with adjacent property owners regarding the new conditions and efforts to reach private agreements. Two adjacent property owners spoke during the public hearing and indicated that a final agreement had not been reached.

The Planning and Zoning Board voted to recommend approval by a vote of 5 to 4.

Changes since the Town Council Public Hearing

The applicant submitted a revision to the zoning conditions regarding perimeter buffers to require a Type-A (opaque) buffer in specific locations where there is no existing vegetation. The applicant has also added a condition to require 0.86 acres of land to be designated for open space or a stormwater management facility.

Town Council Public Hearing (August 9, 2012)

Staff presented the case and explained that because of recently proposed conditions, there would be a public hearing required at the Planning and Zoning Board Meeting. The applicant described on-going discussions with adjacent property owners. Owners of the subject property and their agent asked for support for the request. Two adjacent property owners expressed on-going concerns. The Town Council forwarded the request to the Planning and Zoning Board.

Town Council Public Hearing (July 26, 2012)

Staff presented the request and listed the zoning conditions proposed by the applicant. Staff reported that there was a valid protest petition, and provided a summary of the concerns. The applicant provided more detail about the proposed zoning conditions and efforts to work with adjacent property owners. The applicant presented council with a list of concerns presented by the adjacent homeowners and an explanation as to how they intended to address those concerns.

During the public hearing, the owners of the subject property described the challenges they had experienced in rezoning the property and asked for Town Council’s support of the request. Several neighbors spoke in opposition to the case stating that private agreements with the applicant to address issues related to building design, traffic calming and annexation had not been reached. Adjacent property owners were also concerned about the applicant’s professional history as a developer and indicated they wanted to know who the builder would be.

Council asked when annexation of the property would be required, and staff responded that an annexation petition would be required at the time the development plan was submitted. To allow adjacent property owners more time to understand the recent, private conations offered by the applicant, the Town Council voted to continue the public hearing until the August 9, 2012 meeting.

Notification

On July 10, 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 July 11 and July 18, 2012. Notice of the public hearing was posted on the property July 12, 2012.

Neighborhood Meeting

According to the information provided in their rezoning application, the applicant conducted two community meetings regarding the proposed rezoning. Four people attended the meeting held on May 16, 2012 and 24 people attended the meeting held on May 22, 2012. The applicant reported that neighborhood comments included concerns regarding the proposed density, the type of development proposed, the value of future homes, the identity of the builder, and traffic calming options on neighborhood roads.

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; and
6. the proposed zoning classification is suitable for the subject property.

APPLICABLE COMPREHENSIVE PLAN REQUIREMENTS

Comprehensive Plan Element	Consistent	Not Consistent	Not Applicable
Northwest Area Plan	X		
Parks, Recreation & Cultural Resources Facilities Master Plan	X		
Growth Management Plan & Program	X		
Affordable Housing Plan			X
Comprehensive Transportation Plan	X		
Open Space Plan	X		
Historic Preservation Master Plan			

Northwest Area Plan

The subject property falls within the boundary of the Northwest Area Plan. The Northwest Cary Area Plan

covers a portion of the Town's planning area roughly 1-3 miles south and west of Research Triangle Park. The land use designation of the subject parcels is Medium Density Residential (MDR), which is defined as single-family attached or detached housing at three (3) to eight (8) units per acre.

Analysis: This request is on the lower end of an acceptable range for medium density residential housing, and is consistent with the Northwest Area Plan.

Parks, Recreation & Cultural Resources Facilities Master Plan

According to the Parks, Recreation and Cultural Resources Facilities Master Plan there are no public recreational facilities in the immediate vicinity of this site. A recreation payment-in-lieu would be assessed for residential development in accordance with the Land Development Ordinance.

Growth Management Plan

The Growth Management Plan includes the following Guiding Principles 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.
3. L2 Guiding Principle: Ensure that future growth protects sensitive natural resources and protects open space.
4. A1 Guiding Principle: Increase permitted densities in preferred growth areas to encourage desired forms of development.

Analysis: The Northwest Area Plan is considered a preferred growth area within the Town of Cary. The subject properties are located less than half a mile from the Alston Regional Activity Center as well as less than two miles from Research Triangle Park.

Affordable Housing Plan

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

Comprehensive Transportation Plan

Green Level Church Road is designated as a **Major Thoroughfare**.

Existing Section: 2-lane undivided with swale ditches (20-foot roadway, 60-foot right-of-way)

Future Section: 6-lane, median-divided with curb & gutter (102-foot roadway, 124-foot right-of-way)

Sidewalks: None (existing); both sides with 10-foot streetside trail on east side (future)

Bicycle Lanes: None (existing); wide outside lanes (future)

Transit: No fixed route (existing); future Northwest Route

Status of Planned Improvements: No plans at this time

McCrimmon Parkway is designated as a **Collector Avenue**.

Existing Section: 2-lane divided with curb & gutter (49-foot roadway, 100-foot right-of-way)

Future Section: 2-lane divided with curb & gutter (49-foot roadway, 70-foot right-of-way)

Sidewalks: Both sides existing

Bicycle Lanes: Wide lanes, signed route (existing); 4-foot striped bike lane (per typical section, future)

Transit: None

Status of Planned Improvements: No plans at this time

Open Space Plan

According to the Open Space Plan there are no significant resources on this site. This tract, however, and the adjacent Weycroft tract (when it was vacant) were initially indicated as open space proposed for conservation.

Historic Preservation Master Plan

The Wake County Architectural and Historic Inventory notes that the subject property contains several farm outbuildings dating from the early 1900s. The outbuildings were deemed ineligible for listing on the National Register. The primary building, a farmhouse, was demolished sometime prior to 2005.

STAFF OBSERVATION

The proposed rezoning is consistent with the Comprehensive Land Use Plan and all other adopted plans policies and documents.

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>	Assigned Schools	20th Day Enrollment ¹	Permanent Seating Capacity	Average Percent Occupied	Projected Range of Additional Students²
	Alston Ridge Elementary	629	800	79%	17 - 24
	Mills Park Middle School	1316	1387	95%	3 - 9
	Panther Creek High School	2455	2200	113%	4 - 11
Total projected range of additional students²					24 - 44
¹ <i>Current Enrollment and Building Capacity</i> is based on the 20 th day of the school year for 2011- 2012 as supplied by the Wake County Public School System. School assignment is not determined until the time of development.					
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 60 three-bedroom homes could yield 24 additional students, while 60 homes with greater than three bedroom units could yield 44 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 subject property encompasses three (3) separate parcels and is approximately 21.19 acres in size. There are no unusual physical characteristics of the site that would limit the development for the intended use of single family residential homes. The site is defined by three distinct drainage areas, two of which drain to existing farm ponds. These ponds and the associated drainage basins were reviewed and a determination made by the North Carolina Department of Environment and Natural Resources Division of Water Quality (NCDENR) not to be classified as stream features below or above the ponds.*

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

Response: *The proposed request is compatible with the Town of Cary Comprehensive Plan. Per the Town of Cary Land Use Plan, this parcel is designated as MDR – Medium Density Residential. The intended zoning is compatible with the criteria listed in Chapter 6, Section 6.5.2 – Criteria and Characteristics Common to All Residential Categories. Medium-Density Residential typical housing type includes single family detached, with lot sizes ranging from 6,000 to 12,000 square feet. The proposed zoning conditions contemplated in this request (Limitation to single family residential use,*

with 10,000 SF minimum lot sizes) are consistent with these criteria. The total density range falls slightly below the target density of 3-8 units/acre, due to the decision by the applicant to set a limit of residential lots to a maximum of 60 dwelling units, and to set aside additional buffer and open space area at the request of the adjacent property owners (Weycroft Subdivision).

The proposed project will also further the goals of the Land Use Plan, Section 6.6 – Parks, Greenways, Conservation Corridors and Open Space, specifically section 6.6.4 Open Space. The development will provide for a 50-foot wide streetscape buffer adjacent to Green Level Church Road, and set aside an additional 20' buffer along the property boundary abutting the Weycroft Subdivision within a separate tract of land to be dedicated to and maintained by the Homeowners Association. This offer of buffer area to be located outside of the platted portion of a lot exceeds the Town of Cary requirement for similar land uses (TOC Land Development Ordinance Section 7.2.3). The previously disturbed areas of this buffer shall be re-vegetated to a "Type B" buffer standard as outlined in Section 7.2.3 (D)(1)(b) of the Town of Cary LDO.

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

Response: *Benefits of the proposed rezoning include:*

- *creation of a single family residential development that fits within the context of the surrounding neighborhood;*
- *currently undeveloped land (infill property) will ultimately be developed and provide another housing option to the surrounding community;*
- *capping of maximum density allowed on the subject parcel as a condition of the proposed zoning will result in a decrease to the projected traffic volumes generated by the developed site if it were developed under conventional R8 zoning.*
- *widening of approximately 1,200 linear feet of Green Level Church Road; and .*
- *extension of Town of Cary reclaimed/reuse water system.*

Detriments to the owner from the proposed rezoning include a maximum density cap which could limit the number of homes built on the site. There are no perceived detriments to existing adjacent property owners as a result of this rezoning.

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: *The minimum 10,000 square foot lot size will provide an increase above the 8,000 square foot minimum allowed by the proposed zoning to make the proposed development compatible with the Weycroft Subdivision located north, west and south of the parcel. The neighborhoods will further be enhanced by the preservation of appropriate natural vegetative buffers between the properties and supplemental plantings to enhance perimeter buffer areas previously disturbed.*

The proposed use of single-family detached residential is compatible with the current uses in the area. Good land use planning principles support this type of development at this type of location. The existing residential property owners will be adequately protected by the provisions in the LDO.

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:

This section does not apply, as the proposed rezoning is not for a PDD request.

ORDINANCE FOR CONSIDERATION

12-REZ-11 CARPENTER HYDE PROPERTY

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF THE TOWN OF CARY TO CHANGE THE ZONING OF APPROXIMATELY 21.19 ACRES LOCATED AT GREEN LEVEL CHURCH ROAD AND OWNED BY WENDY LYNN HYDE, ROBERT HYDE, KRISTY CAPRENTER AND CLEMON AND CAROLINE KNOTT BY REZONING THE PROPERTY FROM RESIDENTIAL 40 (R-40) TO RESIDENTIAL 8 CONDITIONAL USE (R8-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)	County Parcel Number(s) (10-digit)	Real Estate ID(s)	Deeded Acreage
Wendy Lynn Hyde and Kristy Carpenter 10511 Green Level Church Road Cary, NC 27519	0725972609	0045917	17.49 ±
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Clemon and Caroline Knott 10651 Green Level Church Road Cary, NC 27519	0725985534	0244735	1.84±
Total Area			21.19 ±

Section 2: That this Property is rezoned from Residential 40 (R-40) to Residential 8 Conditional Use (R-8 -CU) subject to the individualized development conditions set forth herein, to all the requirements of the Cary Land Development Ordinance (LDO) and to 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 health, safety and general welfare and accepted and approved by the town are:

1. The maximum density shall be limited to three (3) dwelling units per acre and a maximum of 60 homes.
2. The minimum density shall be 2.1 dwelling units per acre.
3. Development shall be limited to single-family-detached residential homes.
4. Lots shall be a minimum of 10,000 square feet
5. Lots shall be a minimum of 80 feet wide
6. A 20-foot-wide perimeter buffer shall be provided along the northern and western property lines adjacent to the existing Weycroft Subdivision. This buffer shall be located in common open space,

outside of the individual lots. In the following areas, the buffer shall be planted so as to meet the Town of Cary LDO standard for a "Type-A" (opaque) Buffer:

- 300 feet along the northern property line measured from the future right-of-way line of Green Level Church Road;
- 125 feet along the western property line, measured northward from the right-of-way line of Enfield Hill Drive;
- 100 feet along the western property line, measured southward from the right-of-way line of Enfield Hill Drive;
- 175 feet along the western property line, measured northward from the southwest corner of the property nearest the existing Lot 90 as indicated on the record plat for Weycroft Subdivision, Phase 3, BM 2007 PG 0528; and
- 400 feet measured northward and westward along the western/ southwestern property line, beginning a distance of 85 feet from the right-of-way line of Bolton Grant Drive

These areas are shown on Exhibit A attached to these zoning conditions. In remaining perimeter buffer areas that contain existing vegetation, supplemental plantings shall be added, if necessary, to achieve a Type-B (semi-opaque) Buffer.

7. An area of approximately 0.86 acres, adjacent to the parcel identified with Wake County Real Estate ID Number 0110679 and highlighted on Exhibit B attached to these zoning conditions, shall be restricted in use to either open space or a storm water management facility.

These conditions address conformance of the development and use of the Property to ordinances and to officially adopted plans and address impacts reasonably expected to be generated by the development and by the use of the Property.

Section 4: This ordinance shall be effective on the date of adoption.
Adopted and effective: October 25, 2012

Harold Weinbrecht, Jr.
Mayor

Date