

**Town of Cary, North Carolina
Rezoning Staff Report
12-REZ-20 Herndon Burt Property
Town Council Meeting
August 8, 2013**

REQUEST

To Amend the Town of Cary Official Zoning Map to apply initial zoning of Residential Multi-Family Conditional Use (RMF-CU) to 15.78 acres located at the northwest corner of the NC 55 Highway and Turner Creek Road intersection. There is a citizen-initiated Annexation Petition, Case Number 12-A-15, associated with the rezoning. Annexation must be approved prior to application of a Cary zoning district.

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	Current Zoning (Wake County)	Deeded Acreage
Leon W. & Shirley W. Herndon 6828 Turner Creek Road Cary, NC	0733772367	0288461	R-40(W) HD	12.74
Kathleen Lassiter Burt 6824 Turner Creek Road Cary, NC	0733763757	0288460	R-40(W) HD	3.04
Total Area				15.78

BACKGROUND INFORMATION

Applicant & Agent	Robbie Bell Bass, Nixon & Kennedy, Inc.		
Acreage	15.78 ±		
General Location	Northwest corner of NC 55 Highway and Turner Creek Road intersection		
Schedule	Town Council Public Hearing October 25, 2012	Planning & Zoning Board Public Hearing April 15, 2013 June 17, 2013	Town Council August 8, 2013
Land Use Plan Designation	Medium Density Residential (MDR)		
Existing Zoning Districts (Wake County)	Residential 40 Watershed District [R-40(W)] (± 5.42 ac) Highway District (HD) (± 10.36 ac).		
Proposed Zoning District (Town of Cary)	Residential Multi-Family Conditional Use (RMF-CU); Watershed Protection Overlay District (Jordan Lake sub-area)		
Initial Proposed Zoning Conditions (Presented at 10-25-12 Town	1. A 100-foot building and parking setback from the northern property line shall be provided. 2. Permitted land uses shall be limited to the following: group home; life care community; nursing home; duplex dwelling (maximum of 120 dwelling		

<p><i>Council Public Hearing)</i></p>	<p>units); patio dwelling (maximum of 68 dwelling units); townhouse (maximum of 120 dwelling units); public park; public or private recreation center; and resource conservation facility.</p>
<p>Revised Zoning Conditions</p> <p><i>(Presented at 4-15-13 Planning and Zoning Board Public Hearing - revisions since 10-25-12 Town Council hearing shown in bold typeface)</i></p>	<ol style="list-style-type: none"> 1. A 100-foot building and parking setback from the northern property line shall be provided. 2. An 80-foot Type A buffer shall be provided along the northern property line from the 100-foot Town of Cary UTB eastward to NC 55. In addition to the 80-foot Type A buffer, a 20-foot re-vegetated buffer consisting of 8-foot tall Cryptomeria planted eight feet OC diagonally shall be provided; between this same 80-foot Type A buffer and the 20-foot re-vegetated buffer a 6-foot-high wooden fence shall be constructed. 3. An 80-foot undisturbed buffer shall be provided along the northern property line (behind the 20-foot Town of Cary sanitary sewer easement) from the Town of Cary 100-foot UTB westward towards the western property line. 4. Permitted land uses shall be limited to the following: group home; life care community; nursing home; duplex dwelling (maximum of 120 110 dwelling units); patio dwelling (maximum of 68 dwelling units); townhouse (maximum of 120 110 dwelling units); public park; public or private recreation center; and resource conservation facility 5. Building units shall consist of 50% masonry on the front and 35% masonry on the sides and rear. 6. A 6-foot-high wooden privacy fence shall be installed along the western property line behind any proposed dwelling unit. 7. Adhere to the recommended improvements as shown on Figure ES-3 of the 13-TAR-370 Traffic Study. Improvements are as follows: <ol style="list-style-type: none"> A. Provide 100 foot long left turn lane on NC55 to serve proposed access Number 2. B. Provide a left and right turn lane exiting site from proposed access Number 2 onto NC55. C. Provide a straight, left and right turn lane exiting site from proposed access Number 1 onto Turner Creek Road. D. Provide stop signs for both proposed site access Number 1 and Number 2.

<p>Current Proposed Zoning Conditions <i>(To be presented at 6-17-13 Planning and Zoning Board public hearing - revisions since 4-15-13 Planning and Zoning Board hearing shown in bold typeface)</i></p>	<ol style="list-style-type: none"> 1. As shown on the attached Exhibit A, a 100-foot building and parking setback from the northern property line shall be provided. 2. An 80-foot Type A buffer shall be provided along the northern property line from the 100-foot Town of Cary UTB eastward to NC 55. In addition to the 80-foot Type A buffer, a 20-foot re-vegetated buffer consisting of 8-foot tall Cryptomeria planted eight feet OC diagonally shall be provided; between this same 80-foot Type A buffer and the 20-foot re-vegetated buffer a 6-foot-high wooden fence shall be constructed. An exhibit depicting these buffers is attached as <u>Exhibit A</u>. 3. An 80-foot undisturbed buffer shall be provided along the northern property line (behind the 20-foot Town of Cary sanitary sewer easement) from the Town of Cary 100-foot UTB westward towards the western property line. 4. Permitted land uses shall be limited to the following: life care community; nursing home; duplex dwelling (maximum of 140 94 dwelling units); patio dwelling (maximum of 68 dwelling units); townhouse (maximum of 140 94 dwelling units); public park; public or private recreation center; and resource conservation facility 5. Building units shall consist of 50% masonry on the front and 35% masonry on the sides and rear. 6. A 6-foot-high wooden privacy fence shall be installed along the western property line behind any proposed dwelling unit. 7. Adhere to the recommended improvements as shown on Figure ES-3 of the 13-TAR-370 Traffic Study. Improvements are as follows: <ol style="list-style-type: none"> A. Provide 100 foot long left turn lane on NC55 to serve proposed access Number 2. B. Provide a left and right turn lane exiting site from proposed access Number 2 onto NC55. C. Provide a straight, left and right turn lane exiting site from proposed access Number 1 onto Turner Creek Road. D. Provide stop signs for both proposed site access Number 1 and Number 2. 8. All dwelling units constructed upon the property shall include a minimum 2-car garage.
<p>Town Limits</p>	<p>The subject property is located outside the corporate limits and the Town of Cary ETJ. A citizen-initiated annexation petition, 12-A-15, has been submitted by the property owners in conjunction with this rezoning request.</p>
<p>Protest Petition</p>	<p>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.</p>
<p>Staff Contact</p>	<p>Mary Beerman, Senior Planner (919) 469-4342 mary.beerman@townofcary.org</p>

SITE CHARACTERISTICS

Streams: According to Town of Cary GIS maps, there is a stream buffer on the northeast portion of the property. Field determination of such features is required at the time of site plan review.

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

Wetlands: According to information provided by the applicant, wetlands have been mapped in the northeast portion of the property where a farm pond was previously located (pond was drained a number of years ago). Field verification of such features is required at the time of site plan review.

Surrounding Land Use and Zoning:

North – Chesney Glen Subdivision (residential); Residential-8 Conditional Use (R-8-CU).

South – Turner Creek Elementary School; Residential 40 (R-40).

East – Vacant, Single-family Residential, and Day Care; Residential 40 (R-40), Highway District (HD) (Wake County), Office/Institutional Conditional Use (OI-CU).

West – Single-family Residence; Residential-8 Conditional Use (R-8-CU).

CONSISTENCY WITH LAND DEVELOPMENT ORDINANCE

Land Use

The applicant has proposed zoning conditions that limit the use of the property to certain uses allowed in the RMF zoning district. *(Other uses allowed in the RMF zoning district that are not specifically listed as permitted in the zoning conditions would be prohibited. These prohibited uses include the following: multi-family dwelling; cemetery; library; museum; day care center; small and large day care home; government office; public safety station; public utility facility; public athletic field; community garden; public outdoor amphitheatre; religious assembly; pre-school; school; major utility facility; transportation facility; minor utility station; antenna co-location on existing tower (no existing tower); and concealed antennae and towers.*

At the Town Council Public Hearing, it was suggested that the applicant consider modifying the zoning conditions to remove group homes as a potential land use, which the applicant has done. However, federal and state law require that group homes and family care homes must generally be permitted in all residential zoning districts, including RMF. Therefore, failure to list group or family care homes as a permitted use will not bar group or family care homes from locating in this RMF-CU zoning district if they otherwise comply with federal, state, and local laws.

The current zoning of the property is R-40 (Residential 40) and HD (Highway District), both of which are Wake County zoning districts. The land uses allowed in these districts are indicated in Article 4 (Use Regulations) of the Wake County Unified Development Ordinance.

Density and Dimensional Standards

	RMF Zoning District	Proposed RMF-CU Zoning District
Max. Gross Density	12.0 du/acre	Duplex or Townhouse: max. 94 du; 6.0 du/ac Patio dwelling: max.68 du; 4.3 du/ac
Min. Lot Size	Residential uses: None specified Non-residential uses: 10,000 sf	
Minimum Lot Width	Residential uses: 20' Non-residential uses: 60' (70' for corner lot)	

	RMF Zoning District	Proposed RMF-CU Zoning District
Front Yard Setback	<u>Turner Creek Road</u> : 30' <u>Internal Streets</u> : 18' if on-site parking is provided between the dwelling and street; otherwise, 10'	Proposed zoning conditions include a 100' setback from the northern property line for all building and parking areas, in addition to the standard setback requirements applicable in the RMF zoning district.
Side Yard Setback	<u>Residential uses</u> : 16' both sides combined; 16' between bldg. groups <u>Non-residential uses</u> : 10', plus 4' for each full story over 2 stories	
Rear Yard Setback	<u>Duplex or Townhouse</u> : 40' minimum for front and rear setback combined; minimum 3' for individual rear setback <u>Patio dwelling</u> : 20' <u>Non-residential</u> : 20'	
Maximum Building Height	35' <i>(Note: Height may be increased by one foot for every foot provided in addition to the minimum building setback).</i>	

Landscape Buffer

In accordance with the Land Development Ordinance (LDO), at the time of site or subdivision plan approval, a 30-foot Type B (semi-opaque) buffer, or a 40-, 50-, or 65-foot Type A (opaque) buffer, will be required adjacent to the residential property to the west of the subject property, depending on the specific use to be developed. The applicant has proposed zoning conditions that will result in a predominately undisturbed buffer along the northern property line, ranging from 80 to 100 feet in width.

Streetscape

In accordance with the LDO, a 50-foot Type A (opaque) streetscape adjacent to NC 55 Highway and a 30-foot Type A (opaque) streetscape adjacent to Turner Creek Road will be required at the time of site or subdivision plan approval.

Future Extension of Rapport Drive

Reservation of a 50-foot right-of-way to provide a connection to the terminus of Rapport Drive (275 feet to the west of the subject property, in the Harmony Subdivision) was required as a zoning condition when the adjacent property to the west was rezoned on May 11, 2006 (Case Number 05-REZ-41). The right-of-way reservation required by that zoning condition was originally recorded in the Wake County Registry at BM 2006-1570 and stubbed to the subject property 20 feet south of its northwest corner. A subsequent plat was recorded at BM 2012-1119 to shift the point of connection to the subject property about 80 feet further south, to accommodate the proposed zoning condition to provide additional buffering between the subject property and the Chesney Glen Subdivision to the north.

At the time of site plan approval, connectivity provisions of the LDO require that the internal road network include a connection from NC 55 Highway to the point at which the right-of-way reservation on the adjoining property connects to the western boundary of the subject property. However, a physical road connection between NC 55 Highway and Rapport Drive is not be required with development of the subject property. Such connection could be required upon future development of the parcel that lies between the subject property and Harmony Subdivision.

Potential for the ultimate creation of a second access point into the Harmony Subdivision via Rapport Drive was a major safety concern expressed by many of the speakers at the Town Council public hearing. Some of these same concerns were expressed during the approval process for the Turner Creek Planned Development District, which includes Harmony Subdivision. The text below is an excerpt from the Turner Creek PDD document, approved May 26, 2005, which makes reference to future connectivity.

1.3.4 Circulation

Vehicular access for a maximum density of 300 dwelling units will be provided from an extension of Turner Creek Road. While practical and physical barriers to providing other external road

connectors exist, all reasonable, good faith efforts to provide one or more additional road connectors will be pursued by the developer and/or the Town of Cary as development proceeds.

In the event that the Town purchases or otherwise acquires the requisite interests to construct another road connector, the developer shall contribute the sum of \$150,000 towards such construction. The developer's financial obligation hereunder shall lapse five years following the date of rezoning approval.

Regardless, at the time of development plan review, future subdivision and/or site plans within the Turner Creek PDD will be required to provide an internal street layout conducive to logical external connections so as not to preclude such connection(s) through adjoining properties.

Staff is concerned that the proposed development will not provide a connection to Rapport Drive. Staff believes that the adjacent property, under the same ownership as the rezoning site, could have been included as part of this rezoning case so that the connection could be addressed. Ideally, this application would have included the adjacent property so that this important connection could be addressed and to resolve the need for a second point of access to the existing development, Harmony Subdivision, to improve public access.

Traffic

Information presented at October 25, 2012 Public Hearing

The existing Wake County zoning on the properties is R-40W and HD. The R-40W zoning district allows maximum residential densities of 1.0 du/acre and HD zoning district allows maximum residential densities of 1.45 du/acre. As provided by the applicant, the estimated acreage in R-40W is 5.42 acres and 10.36 acres in HD zoning district. Using the existing zoning, the properties would support approximately twenty (20) single-family lots with an estimated trip generation potential of 24 A.M. peak hour trips and 25 P.M. peak hour trips. Based on the zoning conditions offered by the applicant, the potential uses with the highest peak hour traffic generation are listed below:

- 68 single-family (patio) - 57 A.M. peak hour trips and 74 P.M. peak hour trips
- 110 townhomes/duplex units - 56 A.M. peak hour trips and 65 P.M. peak hour trips

NCDOT District Engineer's Office and Town of Cary staff was approached by the applicant to consider a full movement driveway onto NC Highway 55 for access to the development. Based on a preliminary review, NCDOT and staff may support a full movement entrance, subject to further review of driveway placement, final site plan layout, and traffic operations review.

Information Presented at the April 15, 2013 Planning and Zoning Meeting

The rezoning applicant elected to have a traffic study conducted by the Town. Traffic Analysis Report 13-TAR-370 was prepared by the Town's on-call traffic engineering consultant Hatch, Mott, MacDonald and completed in March 2013. Findings of the study are as follows:

Project Description

68 Single Family Dwellings (note: 68 single family dwellings were used in the analysis in lieu of 110 townhomes since the trip generation potential for single family was higher than townhome uses).

- Trip Generation
 - 729 daily trips (364 enter, 364 exit)
 - 57 a.m. peak hour trips (14 enter, 43 exit)
 - 74 p.m. peak hour trips (47 enter, 27 exit)
- Intersections Studied
 - NC 55 at Parkscene Lane/Shopping Center Access
 - NC 55 at Turner Creek Drive / Lewey Drive
 - NC 55 and Proposed Access
 - Turner Creek Drive and Proposed Access

Existing (2013) Conditions

All existing intersections studied currently operate at LOS D or better.

- NC 55 at Parkscene Lane/Shopping Center Access (signalized)
 - LOS A in a.m. peak hour
 - LOS B in p.m. peak hour
- NC 55 at Turner Creek Drive / Lewey Drive (signalized)
 - LOS B in a.m. peak hour
 - LOS A in p.m. peak hour
- Turner Creek Drive and School Access (unsignalized)

Note: the northbound left and right-turn lane is considered the worst performing movement and is reported below.

 - LOS B in a.m. peak hour
 - LOS A in p.m. peak hour

Background (2015) Conditions

Note: The applicant desired to have the build-out year of the project to be 2015. All existing intersections studied currently operate at LOS D or better.

- NC 55 at Parkscene Lane/Shopping Center Access (signalized)
 - LOS A in a.m. peak hour
 - LOS B in p.m. peak hour
- NC 55 at Turner Creek Drive / Lewey Drive (signalized)
 - LOS B in a.m. peak hour
 - LOS B in p.m. peak hour
- Turner Creek Drive and School Access (unsignalized)

Note: the northbound left and right-turn lane is considered the worst performing movement and is reported below.

 - LOS C in a.m. peak hour
 - LOS A in p.m. peak hour

Build-out with Development (2015) Conditions

All existing intersections studied are anticipated to operate at LOS D or better.

- NC 55 at Parkscene Lane/Shopping Center Access (signalized)
 - LOS A in a.m. peak hour
 - LOS B in p.m. peak hour
- NC 55 at Turner Creek Drive / Lewey Drive (signalized)
 - LOS B in a.m. peak hour
 - LOS B in p.m. peak hour
- Turner Creek Drive and School Access / Proposed Access (unsignalized)

Note: the southbound shared left, thru, and right-turn lane is considered the worst performing movement and is reported below.

 - LOS E in a.m. peak hour
 - LOS B in p.m. peak hour
- NC 55 at Proposed Access

Note: the eastbound shared left and right-turn lane is considered the worst performing movement and is reported below.

 - LOS B in a.m. peak hour
 - LOS E in p.m. peak hour

Roadway Mitigation Findings

To improve intersections that were expected to operate with a poor level of service (below LOS D), the following mitigation findings were developed and **agreed to be constructed by the applicant**:

- **Provide 100-foot northbound left turn lane on NC55 to serve proposed access.**
- **Provide a shared left and right-turn lane exiting the site from proposed access onto NC55.**
- **Provide a shared left, straight, and right turn lane exiting the site from proposed access onto Turner Creek Road.**
- **Provide stop signs for both proposed site access.**

The executive summary of the Traffic Analysis Report for the rezoning is attached. The report is in a draft stage until action on the rezoning case is taken, at which time it will be finalized.

Additional Information

Town staff has performed a preliminary traffic signal warrant analysis for the intersection of NC 55 and Catlin Road / Parkscene Lane and have determined that the side street volumes are not quite high enough to satisfy warrants for traffic signal installation.

In the past 5 years, there have been approximately 2,300 collisions on or along NC 55 in all of Wake County. Of those crashes, 572 were injury crashes with 2 of those being fatalities. One fatal crash occurred in Apex in 2008. The second was the fatal crash located in Cary. In this crash, an elderly driver was following her son as they turned off Parkscene Drive and onto NC 55. As she followed behind him, she turned into oncoming traffic traveling north on NC 55. No other fatal crashes to report. 13 Type A crashes (debilitating), 132 Type B crashes (apparent injury). The rest are minor injuries, property damage only, or other/hit and run.

New Information

After the Planning and Zoning meeting, the applicant decreased the number of Townhome units to 94. Using the Land Use Code 230 in the Trip Generation Manual for Townhomes would generate 50 am and 58 pm peak hour trips. The traffic study analyzed 68 single-family homes which expected 57 am and 74 pm peak hour trips because 68 single family homes generates more traffic than 110 townhomes or the newly proposed 94 townhomes. Traffic studies always look at the greatest trip generator proposed to give the most conservative estimate of the transportation impact.

SUMMARY OF PROCESS AND ACTIONS TO DATE

Neighborhood Meeting

According to materials submitted by the applicant, a neighborhood meeting was conducted, and was attended by five residents in addition to the property owners. According to neighborhood meeting minutes provided by the applicant, there were concerns and questions regarding the following: proximity of existing houses to the north; stormwater and erosion; size and price range of proposed units; rationale for multi-family use; construction timeline; and traffic.

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.

Town Council Public Hearing (October 25, 2012)

Seventeen property owners from adjoining neighborhoods spoke in opposition to the request. The primary area of concern related to the potential for a future road connection to Rapport Drive. In addition, there were concerns with potential drainage and erosion impacts on adjacent parcels in the Chesney Glen neighborhood to the north. (*See draft meeting minutes for additional detail regarding comments received at the public hearing.*)

Changes After Town Council Public Hearing

1. Addition of Zoning Conditions Pertaining to the Perimeter Buffer and Fencing

- An 80-foot Type A buffer shall be provided along the northern property line from the 100-foot Town of Cary UTB eastward to NC 55. In addition to the 80-foot Type A buffer, a 20-foot re-vegetated buffer consisting of 8-foot-tall Cryptomeria planted 8 feet OC diagonally shall be provided; between this same 80-foot Type A buffer and the 20-foot re-vegetated buffer a 6-foot-high wooden privacy fence shall be constructed.
- An 80-foot undisturbed buffer shall be provided along the northern property line (behind the 20-foot Town of Cary sanitary sewer easement) from the Town of Cary 100-foot UTB westward towards the western property line.

- A 6-foot-high wooden privacy fence shall be installed along the western property line behind any proposed dwelling unit.
2. **Elimination of “Group Homes” as a Permitted Use**
It should be noted that although not listed as a permitted use in the proposed zoning conditions, group homes meeting certain criteria are protected by Federal and State regulations which over-ride local zoning restrictions, and as such may be allowed, even if prohibited by zoning conditions.
 3. **Reduction in Maximum Number of Dwelling Units Allowed**
The maximum number of townhome or duplex dwelling units allowed was reduced from 120 (7.6 du/acre) to 110 (7.0 du/acre).
 4. **Building Materials**
50% masonry on the front and 35% on the sides & rear.
 5. **Traffic Study**
A traffic study was performed, and the applicant added a zoning condition to complete the road improvements recommended in the study. These improvements include:
 - 100-foot long left turn lane on NC55 to serve proposed access Number 2;
 - left and right turn lanes exiting proposed access Number 2 onto NC55;.
 - straight, left and right turn lanes exiting proposed access Number 1 onto Turner Creek Rd.; and
 - stop signs for access Number 1 and Number 2.

Planning and Zoning Board Public Hearing (April 15, 2013)

Thirteen property owners from adjoining neighborhoods spoke in opposition to the request. Concerns included traffic safety in relation to the Turner Creek Elementary School, transition to the adjacent single-family residential developments, density, lower housing value, and school capacity. Discussion by Board members opposed to the request included concern with transition between uses, traffic, and density. The Board recommended denial of the proposed rezoning by a vote of 6-3.

Changes After the Planning and Zoning Board Public Hearing

The applicant submitted the following revisions to zoning conditions after the Planning and Zoning Board public hearing:

1. Decreased maximum number of townhouse or duplex units from 110 (7.0 du/acre) to 94 (6.0 du/acre);
2. Added condition to require that each unit include a 2-car garage; and
3. Provided exhibit map to illustrate proposed buffers and building setbacks

Planning and Zoning Board Public Hearing (June 17, 2013)

Thirteen property owners from adjoining neighborhoods spoke in opposition to the request. Concerns included traffic safety in relation to the Turner Creek Elementary School, traffic safety on NC 55 Hwy., transition to the adjacent single-family residential developments, density, and lower housing values. Three speakers representing the applicant spoke in support of the request. Board members discussed traffic and pedestrian safety issues, with several members indicating that concern related to school access is not a rezoning issue. The board recommended approval of the request by a vote of 6-3.

CRITERIA FOR CONSIDERATION IN REVIEWING REZONINGS
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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

The Southwest Area Plan is the governing document for the subject property. The future land use designation of this site is Medium Density Residential (MDR), which is defined as single-family attached or detached housing at three to eight units per acre. Note 6b, found on the Southwest Area Plan Future Land Use Map, is applicable to this property: *Medium Density Residential development shall be at least 100 feet from the existing single-family neighborhood.*

Analysis: The proposed density of seven units per acre falls within the range of the Medium Density Residential (MDR) land use designation.

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 payment-in-lieu will be required for residential development in accordance with the Land Development Ordinance.

These comments were reviewed and approved by the Town's Parks, Recreation and Cultural Resources Advisory Board at its October 1, 2012 meeting.

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. L1 Guiding Principle: Concentrate growth near existing and planned employment centers and available and planned infrastructure to minimize costly service-area extensions.

Analysis: Adequate infrastructure and services appear to be available within or around the subject property. Potential development on this property would infill between a school and existing neighborhoods along the NC 55 Highway corridor.

Affordable Housing Plan

1. Provide for a full range of housing choices for all income groups, families of various sizes, seniors, and persons with special challenges.
2. 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.
3. Assure a quality living environment and access to public amenities for all residents, present and future, of the Town of Cary, regardless of income.

Analysis: A medium density residential housing product may have the potential to support the goals of the Affordable Housing Plan.

Comprehensive Transportation Plan

NC 55 is designated as a Major Thoroughfare.

Existing Section: 5 lanes in approximately 150-foot ROW

Future Section: 4-lane, median-divided road in a minimum 100-foot ROW

Sidewalks: Required on both sides

Bicycle Lanes: 14-foot-wide outside lanes required

Transit: No transit requirements

Status of Planned Improvements: None

Turner Creek Rd. is designated as a local road.

Existing Section: 2 lanes with turn lane in approximately 70-foot ROW

Future Section: Existing

Sidewalks: Existing on the southern side, partially constructed on the northern side

Bicycle Lanes: N/A

Transit: No transit requirements

Status of Planned Improvements: None

Open Space Plan

According to the Open Space Plan, there are patches of bottomland forest / hardwood swamps near the northern end of the property, and near the central/eastern side of the property.

Historic Preservation Master Plan

There are no historic structures or historic landscapes associated with the subject property.

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	10 - 33
	Middle School	6- 21
	High School	3 - 17
Total Projected range of additional students²		19 – 71

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

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 12 three-bedroom homes could yield six additional students, while 12 homes with greater than three bedroom units could yield 10 students. The basis for making this calculation is based on multipliers provide 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

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-20 Herndon Burt Property

AN ORDINANCE TO APPLY INITIAL TOWN OF CARY ZONING TO APPROXIMATELY 15.78 ACRES LOCATED ON THE NORTH SIDE OF TURNER CREEK ROAD WEST OF NC 55 HIGHWAY BY REZONING FROM WAKE COUNTY RESIDENTIAL 40 WATERSHED DISTRICT [R-40(W)] AND WAKE COUNTY HIGHWAY DISTRICT (HD) TO TOWN OF CARY RESIDENTIAL MULTI-FAMILY CONDITIONAL USE (RMF-CU) AND WATERSHED PROTECTION OVERLAY DISTRICT (JORDAN LAKE SUB-AREA).

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
Leon W. & Shirley W. Herndon 6828 Turner Creek Road Cary, NC	0733772367	0288461	12.74
Kathleen Lassiter Burt 6824 Turner Creek Road Cary, NC	0733763757	0288460	3.04
Total Area			15.78

Section 2: That this Property is rezoned from Wake County R-40(W) and HD to RMF-CU and Watershed Overlay District; Jordan Lake Sub-area, subject to the individualized development conditions set forth herein, and 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:

1. As shown on the attached **Exhibit A**, a 100-foot building and parking setback from the northern property line shall be provided.
2. An 80-foot Type A buffer shall be provided along the northern property line from the 100-foot Town of Cary UTB eastward to NC 55. In addition to the 80-foot Type A buffer, a 20-foot re-vegetated buffer consisting of 8-foot tall Cryptomeria planted eight feet OC diagonally shall be provided; between this same 80-foot Type A buffer and the 20-foot re-vegetated buffer a 6-foot-high wooden fence shall be constructed. An exhibit depicting these buffers is attached as Exhibit A.
3. An 80-foot undisturbed buffer shall be provided along the northern property line (behind the 20-foot Town of Cary sanitary sewer easement) from the Town of Cary 100-foot UTB westward towards the western property line.
4. Permitted land uses shall be limited to the following: life care community; nursing home; duplex dwelling (maximum of 94 dwelling units); patio dwelling (maximum of 68 dwelling units); townhouse (maximum of 94 dwelling units); public park; public or private recreation center; and resource conservation facility
5. Building units shall consist of 50% masonry on the front and 35% masonry on the sides and rear.
6. A 6-foot-high wooden privacy fence shall be installed along the western property line behind any proposed dwelling unit.
7. Adhere to the recommended improvements as shown on Figure ES-3 of the 13-TAR-370 Traffic Study. Improvements are as follows:
 - A. Provide 100 foot long left turn lane on NC55 to serve proposed access Number 2.
 - B. Provide a left and right turn lane exiting site from proposed access Number 2 onto NC55.
 - C. Provide a straight, left and right turn lane exiting site from proposed access Number 1 onto Turner Creek Road.
 - D. Provide stop signs for both proposed site access Number 1 and Number 2.
8. All dwelling units constructed upon the property shall include a minimum 2-car garage.

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

Adopted and effective: *August 8, 2013*

Harold Weinbrecht, Jr.
Mayor

Date