

## Staff Report for Town Council



**Meeting Date:** July 26, 2018

### **18-A-10 Robert J. Lewey and Jacky Lewey Dillard Annexation**

**Purpose:** Conduct public hearing and defer action on requested annexation to allow final vote to coincide with final action on associated rezoning.

**Prepared by:** Wayne Nicholas, Planning

**Speaker:** Wayne Nicholas, Planning

**Executive Summary:** The owners of property located at 6705 Lewey Drive (approximately 630 feet east of the Lewey Drive and NC 55 Highway intersection) have petitioned for annexation of the property. Pursuant to statute, the Town Council must hold a public hearing before taking action on the request.

**Associated Case(s):** Rezoning 18-REZ-10 (Lewey Property)

**Recommendation:** That Council conduct a public hearing and defer action on requested annexation to a future council meeting to allow final vote on the annexation to coincide with the final action on the associated Rezoning 18-REZ-10 (Lewey Property).

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### **Background:**

Owners of property located outside of the corporate limits of the Town that desire to develop using Town utilities or that otherwise desire to be located in the corporate limits must first petition to be annexed, pursuant to the requirements of either NCGS Chapter 160A, Article 4, Part 1, when their property is contiguous to the corporate limits, or to NCGS Chapter 160A, Article 4, Part 4, when their property is not contiguous to the corporate limits. In either case, Council must conduct a public hearing on the annexation request prior to taking action. At the public hearing on a request for contiguous annexation, such as this, the owner may speak and allege that the Petition contains an error, and any town resident may speak and question the necessity for the annexation.

Once property is annexed, the property and its citizens become subject to all the laws, ordinances, and regulations of the Town and are entitled to receive the services the Town provides (fire and police protection; solid waste; utilities; etc.). If the annexed property is located in an area served by a rural fire department, the Town may also be required to assume a proportionate share of any debt related to equipment or facilities of the rural fire department. If the property is located outside of the Town's extraterritorial jurisdiction, the property owner must also submit a rezoning application in order to establish initial Town zoning designation upon annexation.

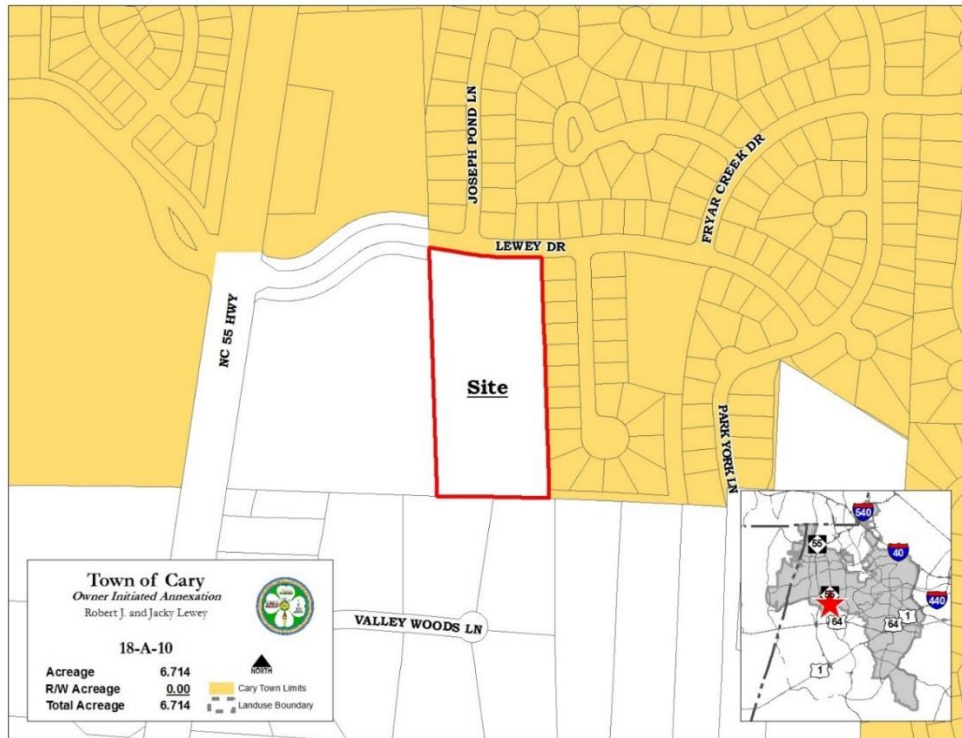
**Discussion:**

The owners of the following property filed an annexation petition with the Town on **4/17/2018**

**OWNER(S) AND PARCEL INFORMATION:**

Property Owner(s) Address List	Property Location	Wake County Parcel Number (10-digit)	Wake County Real Estate ID	Acreage
Robert J. Lewey and Jacky Lewey Dillard 1409 Jenks Carpenter Road Cary, NC 27519-9425	6705 Lewey Drive	0733863080	0041728	6.714
Total Acres				6.714

**VICINITY MAP**



[Click the map to see surrounding development activity.](#)

This annexation is associated with a proposed rezoning (case 18-REZ-10) to apply initial Town of Cary zoning to the subject property, which is located outside of the Town's extra-territorial jurisdiction (ETJ). The property currently has a Wake County zoning designation of R-40W and, based on Wake County tax records, contains a detached dwelling. The associated rezoning case proposes to increase the permitted residential density for the property and allow for development of detached dwellings. In order to develop under Cary's zoning regulations, the property must be annexed into Cary's corporate limits. As part of annexation into the Town, a Cary zoning designation must also be applied to the property.

As required by statute, the Town Clerk has certified that the Petition is valid. On 6/28/2018, the Town Council adopted a Resolution calling for the public hearing to be held on 7/26/2018.

The following information may inform Council's decisions on this matter.

**ZONING & PROPOSED USE:**

**Current Zoning:** Wake County Residential 40 Watershed (R-40W)

**Acreage:** 6.714 plus 0 adjacent right of way = 6.714 total acres

**Contiguous to Primary Corporate Limits:** Yes; 49.5 % (excluding satellite town limits)

**Existing Use:** Detached Dwelling

**Proposed Use:** Residential (Subdivision)

**Active Associated Case(s):** 18-REZ-10 (Lewey Property) Rezoning

**UTILITIES:**

**Water:** Adjacent to the site

**Sewer:** Adjacent to the site (serves only northern portion of property)

**DISTRICTS & TAX VALUE:**

**Fire District:** Apex Fire District

**Voting District:** D

**Tax Value:** \$285,152

**DRAFT Ordinance**

**18-A-10**

**Robert J. Lewey and Jacky Lewey Dillard**

**AN ORDINANCE ANNEXING LANDS CONTIGUOUS TO THE MUNICIPAL BOUNDARIES  
OF THE TOWN OF CARY**

WHEREAS, the Town Council has been petitioned under G.S. 160A-31 to annex the area described below in Section 1 (the "Annexation Area"); and

WHEREAS, the Annexation Area is contiguous to existing Town limits; and

WHEREAS, the Town Clerk of the Town of Cary certified the sufficiency of said Petition, the same being duly made after investigation; and

WHEREAS, on **6/28/2018**, the Town Council of the Town of Cary ordered a public hearing on the question of said annexation and Notice of a Public Hearing was published as required by law, which publication may have been on the Town of Cary website; and

WHEREAS, the matter came for public hearing before the Town Council of the Town of Cary on 7/26/2018, at which time the owner of the Annexation Area and all Town residents were allowed to be heard; and

WHEREAS, the Town Council finds that the Petition above mentioned meets all the requirements of G.S. 160A-31.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Cary, North Carolina that:

Section 1. The Annexation Area described below is hereby annexed to and made a part of the Town of Cary, effective on the date written below with a condition that the property owner connect to Town of Cary utilities based upon the Town's policy(ies) in place on the effective date of this ordinance.

**ANNEXATION AREA:**

Wake County Parcel Identification #**0733863080**

**Legal Description:**

Being all that tract or parcel of land containing 6.714 acres, more or less, and shown as PIN: 773.02 86 3080 on that survey entitled "Boundary Survey Map for Parkway Properties, LLC" dated March 26, 2018 prepared by Withers Ravenel, signed and sealed by Benjamin E. Dayton, PLS (L-4390) on April 3, 2018, and being more particularly described as follows:

**BEGINNING** at a new iron pipe located on the southern right of way of Lewey Drive, a 60' wide public right of way, and said point having NC Grid Coordinates of N: 736,419.19 and E: 2,038,192.39 feet, thence from said point and with the southern margin of Lewey Drive, the following courses and distances:

S 80°05'42" E, 105.19' to a new iron pipe;

Thence, a curve to the left with a radius of 1,122.61' and a chord bearing and distance of

S 85°19'27" E, 204.63' to a new iron pipe;

Thence, N 89°09'09" E, 58.41' to an existing iron pipe;

Thence leaving said right of way and with the common line of Brookstone Subdivision, Phase XIII (B.M. 1997, PG 1988), S 01°47'24" E, 795.35' to an existing iron pipe located on the common line of Lot 5, "Jasper C. Grimes Subdivision" (B.M. 1971, PG 125);

Thence, with the line of said Lot 5 and Lot 6, "Jasper C. Grimes Subdivision", N 89°04'54" W,

365.15' to an existing axle, a common corner with Tract 5, "Bertha S. Herndon Property" (B.M. 2000, PG 276);  
Thence with said Tract 5, N 01°47'22" W, 782.57' to an existing iron pipe;  
Thence, N 01°47'22" W, 40.85' to the point and place of **BEGINNING**.

The Annexation Area also includes all intervening streets, street rights-of-way, creeks, rivers, rights-of-way of any railroad or other public service corporation, or lands owned by the State of North Carolina or any of its political subdivisions.

Section 2. That from and after the effective date of this ordinance, the Annexation Area and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the Town of Cary, and shall be entitled to the same privileges and benefits as other parts of the Town. The Annexation Area shall be subjected to municipal taxes according to G.S. 160A-58.10.

Section 3. The Mayor of the Town of Cary shall cause an accurate map of the newly annexed territory together with a copy of this ordinance, duly certified, to be recorded in the Office of the Register of Deeds of Wake County or Chatham County, whichever is applicable to the annexed property, and in the Office of the Secretary of State of North Carolina.

Section 4. Pursuant to G.S. 160A-22, the Town Clerk is directed to update the Official Town Map ("Map") by drawing in the territory annexed, or setting out the boundaries in a written description, or showing the current Town boundaries by a combination of these techniques.

Section 5. Pursuant to G.S. 160A-23, the boundaries of Electoral District D are hereby revised to account for and include the territory annexed, and the Official Town Map of Electoral Wards is hereby amended to include the annexed territory in the said Electoral District. A copy of the Map shall be delivered to the Wake County Board of Elections or Chatham County Board of Elections, whichever is applicable to the annexed property, as required by G.S. 163-288.1.