

**Town of Cary, North Carolina
Rezoning Staff Report
14-REZ-14 215 S. Academy Street
Town Council Meeting
September 11, 2014**

REQUEST

To amend the Town of Cary Official Zoning Map to rezone 0.57 acres located at 215 S. Academy Street from General Commercial Conditional Use (GC-CU) to the Town Center zoning district with High Intensity Mixed Use (HMXD) sub-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(s) (10-digit)	Real Estate ID(s)	Deeded Acreage
Carroll G. and Sheila H. Ogle	0764500982	0061157	0.57 ±

PROJECT SUMMARY

In September 1987, the subject property was rezoned to the Business-1 Conditional Use (B-1-CU) zoning district.

In 2001, the Town Center Area Plan (TCAP) was adopted, which applied a land use plan designation of High Intensity Mixed Use (HMXD) to the site. To implement the TCAP, 18 zoning sub-districts were created and applied to properties within the TCAP, corresponding to each of the 18 plan designations shown on the TCAP. As a result, the plan designation and zoning sub-district are the same for the vast majority of properties within the TCAP. However, some properties, including the subject property, which had previously been zoned to a conditional use zoning district, maintained that zoning district and zoning conditions in effect at the time that the TCAP was adopted.

In 2003, the Land Development Ordinance was adopted, which replaced the B-1 base zoning district with the roughly-equivalent General Commercial (GC) base zoning district.

The request would rezone the subject property to the HMXD sub-district of the Town Center, consistent with the TCAP, thereby eliminating the existing GC-CU zoning conditions applied to the property when it was rezoned to the B-1 district in 1987 (*see Table under "Background Information" for a list of the existing zoning conditions*).

On January 9, 2014, the LDO was amended to enable development of new detached dwellings in the HMXD sub-district in some circumstances. The property owner has requested rezoning to the HMXD sub-district in order to develop additional residential units on the site consistent with those changes.

BACKGROUND INFORMATION

Applicant & Agent	Sheila Ogle
Acreage	0.57 ±
General Location	215 S. Academy Street

Schedule	Public Hearing July 17, 2014	Planning & Zoning Board August 18, 2014	Town Council September 11, 2014
Land Use Plan Designation	High Intensity Mixed Use		
Existing Zoning District	General Commercial Conditional Use (GC-CU)		
Existing Zoning Conditions <i>Per Conditional Use Zoning Permit Z-444-87-1 approved September 24, 1987</i>	<ol style="list-style-type: none"> 1. Only those uses allowed within the Town's O&I zoning jurisdiction will be allowed with the single exception that restaurants and support uses will also be permitted uses. 2. The architecture of the front (facing Academy Street), and both sides of the 2-story portion of the existing structure will be restored and preserved with no building addition allowed to encroach beyond the existing main roof ridgeline toward Academy Street. 3. Building setbacks shall be 10 feet from the southern property line, 30 feet from the eastern property line (rear property line), and 10 feet from the northern property line. Landscaped buffers along the southern and eastern property lines shall be continuous and a minimum width of 5 feet. 4. No parking shall be located between existing building and Academy Street. 		
Proposed Zoning District	Town Center: High Intensity Mixed Use (HMXD) Sub-district		
Proposed Zoning Conditions	None (<i>Town Center sub-districts may not be conditional use districts per Section 4.3.2 of the LDO</i>)		
Town Limits	Yes		
Valid Protest Petition	No		
Staff Contact	Mary Beerman, AICP (919) 469-4342 mary.beerman@townofcary.org		

SITE CHARACTERISTICS

Streams: According to Cary GIS maps, there are no streams or stream buffers present on the site. Field determination of such features will be made at the time of site plan review.

Floodplain: According to Cary GIS maps, there is no floodplain area on the site.

Adjacent Zoning and Land Use:

North -- Town Center zoning district with High Intensity Mixed Use (HMXD) sub-district; office
 South -- Town Center zoning district with High Intensity Mixed Use (HMXD) sub-district; duplex dwelling
 East -- Town Center zoning district with High Intensity Mixed Use (HMXD) sub-district; detached dwelling
 West (*opposite side of S. Academy Street*) -- Town Center zoning district with High Intensity Mixed Use (HMXD) sub-district; religious assembly

CONSISTENCY WITH LAND DEVELOPMENT ORDINANCE

Land Use

The HMXD plan designation and zoning sub-district allows a mix of commercial, office, and medium to high-density residential uses, as indicated in the Table below:

Use Category	Land Use	HMXD Sub-district
RESIDENTIAL	Detached residential	S
	Detached Multi-family	S
	Dormitory	P
	Group home	P
	Life care community	P
	Nursing home	S
	Boarding house	S

USES	Caretaker's residence	P	
	Multi-family dwelling	P	
	Multi-family dwelling, mid-rise	P	
	Residential use in non-residential building	P	
	Residential use in mixed use building	P	
	Semi-detached/attached dwelling	P	
	Townhouse	P	
	Heliport	S	
	Day care center	S	
	Day care home, large	S	
	Day care home, small	P	
	Government Services	P	
	Library	P	
	Museum	P	
	Community garden	P	
	PUBLIC/ INSTITUTIONAL USES	Outdoor amphitheater, public	S
		Park, public	P
		Neighborhood recreation center, public	P
		Resource conservation facility	P
		Public Safety Station	P
		Religious Assembly	S
		Pre-school	S
		College	P
School		P	
Utility facility, major		S	
Transportation facility		P	
Utility substation, minor		P	
COMMERCIAL USES		Club, lodge, or hall	S
		Bank, with drive-through service	S
	Bank, without drive-through service	P	
	Nightclub/bar, indoor operation	P	
	Nightclub/bar, with outdoor operation	P	
	Restaurant, indoor operation	P	
	Restaurant, with outdoor operation	P	
	Office, business or professional	P	
	Radio or TV broadcasting studio	S	
	Guest house	P	
	Hotel or motel	P	
	Amusement establishment	S	
	Commercial indoor recreational facility	P	
	Neighborhood recreation center, indoor/outdoor, private	S	
	Pool or billiard hall	S	
	Theater, large	P	
	Theater, small	P	
	ABC store	P	
	Convenience store	P	
	Farm market	P	
	Personal service establishment	P	
	Retail store	P	
	Parking lot	S	
	Parking structure	P	
	Auto sales/rental	P/S	
	Car wash	P/S	
	Towing and vehicle storage	P/S	
	Vehicle filling station	P/S	
	Vehicle service/repair	P/S	
	Antenna co-location on existing tower	P	
	Concealed (stealth) antennae and towers	S	
	Other building-mounted antennae and towers	S	
	Other freestanding towers	S	
	Outdoor storage	P/S	
Warehousing and distribution establishment	P/S		
Wholesale establishment	P/S		

Density and Dimensional Standards

	Existing Zoning District (GC-CU)		Proposed Zoning District (HMXD)
Min. Lot Size	None		None
Roadway Setback	30'		None
Side Yard Setback	10 feet per zoning conditions <i>(No side yard setback is required in general use GC District)</i>		None
Rear Yard Setback	30 feet per zoning conditions <i>(No rear yard setback required in general use GC District)</i>		None
Maximum Building Height	Within 100' of residential zoning district	35'	Minimum 20' (new structures) Maximum 65'
	More than 100' from residential zoning district	50'	
Increases to Maximum Building Height	May be increased by one foot for every additional foot provided between the building footprint and the minimum required setback		

Landscape Buffer

Landscaped buffers along the southern and eastern property lines shall be continuous and a minimum width of five feet.

Streetscape

Streetscape design for Academy Street and certain other streets within the Town Center are contained in the *Town of Cary Streetscape Master Plan*.

Traffic

The applicant has expressed an intent to develop three additional detached residences on the property. Being conservative, if the ITE Trip Generation (220) Single Family Dwelling was used for the trip generation, three units would generate 12 am peak hour trips and 5 pm peak hour trips.

However, in the HMXD district, other more intensive uses are also allowed. An assumed development of 5700 square feet of specialty retail use would generate 36 am and 36 pm peak hour trips (using ITE Trip Generation (814) Specialty Retail). An assumed development of 5700 square feet of office use would generate 9 am and 9 pm peak hour trips (using ITE Trip Generation (710) General Office Building). Neither of these scenarios would generate more trips than the 100 peak hour trip threshold to require a traffic study, therefore no traffic study is required.

Comprehensive Transportation Plan

Academy Street is designated as an "A" street per the Downtown Streetscape Project. Applicants are not required to build any improvements. However, right-of-way and/or easements should be provided by the applicant to support the Downtown Streetscape Plan.

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

Neighborhood Meeting

According to the applicant, a neighborhood meeting for the proposed rezoning was held on April 23, 2014. According to the information submitted by the applicant, one neighboring property owner attended the meeting, and no specific concerns were expressed.

Notification

Consistent with NC General Statutes, notice of the public hearing on the proposed rezoning was mailed to property owners within 400 feet of the subject property, published on the Town's website and posted on the subject property.

Town Council Public Hearing (*July 17, 2014*)

There were no speakers at the public hearing other than the applicant. A council member asked for clarification regarding the existing GC-CU zoning district, and options for additional detached dwellings if the rezoning was approved.

Planning and Zoning Board Meeting (*August 18, 2014*)

There were general questions from board members regarding the intended use of the property. The Planning and Zoning Board recommended approval of the request by a vote of 8-0.

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 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 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

Land Use Plan

The subject property is located within downtown Cary, and its future land use is governed by the **Town Center Area Plan**. The Town Center Area Plan (TCAP) recommends High Intensity Mixed Use (HMXD) for the property, which TCAP defines as a mix of commercial, office, and high- or medium-density housing, although the Plan does not anticipate or expect that a mix of uses must be provided on each parcel. The applicant is requesting HMXD zoning for the property, which is in keeping with the TCAP vision.

Growth Management Plan

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

R1 Guiding Principle: Ensure that adequate infrastructure and services are available concurrently with new development.

Analysis: The subject site is well-served by available and planned infrastructure and services.

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

Analysis: The subject site is located within the downtown core of the Town of Cary, which the Town Center Area Plan designates as a future employment center. The area is well served by existing infrastructure and will also benefit from the Downtown Cary Streetscape Project which will upgrade utilities and install new streetscapes, including sidewalks, street trees, street furniture and pedestrian-scaled lighting.

A1 Guiding Principle: Increase permitted densities in preferred growth areas to encourage desired forms of development.

Analysis: The subject site is located within the downtown core of the Town of Cary, which the Town Center Area Plan designates as a preferred area for future growth, including infill and redevelopment as appropriate.

Affordable Housing Plan

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

1. Provide for a full range of housing choices for all income groups, families of various sizes, seniors, and persons with special challenges.
2. Encourage the location of high density housing within walking and convenient commuting distance of employment, shopping, and other activities, or within a short walk of a bus or transit stop, through "mixed use" developments, residences created on the upper floors of nonresidential downtown buildings, and other creative strategies.

Analysis: The proposed HMXD zoning has the potential to support goal #1 above, and supports goal #2.

Comprehensive Transportation Plan

Academy Street is designated as an "A" street per the Downtown Streetscape Project and therefore, the applicants are not required to build any improvements. However, right-of-way and/or easements should be provided by the applicants to support the Downtown Streetscape Plan.

Parks, Recreation & Cultural Resources

According to the Parks, Recreation & Cultural Resources Master Plan, a street-side trail is proposed along the property's Academy Street frontage. Trail design will be in accordance with approved Streetscape Plan. A recreation fund payment will be due for residential development in accordance with the LDO.

Open Space Plan

According to the Open Space Plan, there are no issues related to this site.

Historic Preservation Master Plan

A goal of the Town's adopted 2010 Historic Preservation Master Plan is to "Preserve, protect and maintain Cary's historic resources." The subject parcel contains the Guess-White-Ogle House which is both a contributing building in the downtown Cary National Register Historic District (listed in 2001) and a designated Cary Historic Landmark (designated in 2008).

The Guess-White-Ogle House is an example of a dwelling that was expanded over time to reflect the prevailing architectural tastes of the day. Railroad "roadmaster" Captain Harrison P. Guess and his wife Aurelia purchased the land on which the house sits from Frank Page in 1880. They then built the original house, which is said to have been a two-story I-house, a common vernacular house type throughout Wake County, embellished with modest Greek Revival detailing. The house also had a rear ell. John White, a local Baptist minister, bought the house from the Guess family in 1896 and substantially remodeled and expanded it. He transformed the house into a Queen Anne structure by adding a three-story tower to the façade, a front bay window, and much decorative woodwork. The architectural history of the house reflects a broad pattern of continual adaptation of vernacular house types that can be seen in other houses in Wake County and across the southeast. Carroll and Sheila Ogle bought the property in 1997 and restored it.

Comments: The applicants have indicated a desire, subject to approval of this rezoning, to add additional buildings to the subject property. Because the property is a Cary Historic Landmark, the owners will be required to obtain a certificate of appropriateness from the Wake County Historic Preservation Commission before any development permits may be issued.

Summary Observations

- The proposed zoning is in keeping with the vision of the Town Center Area Plan.
- The proposed zoning supports three of the guiding principles of the Growth Management Plan and two goals of the Affordable Housing Plan.
- The subject property fronts on Academy Street, which will be improved as part of the Downtown Streetscape Project.
- The subject property is a designated Cary Historic Landmark, and as such must obtain a certificate of appropriateness from the Wake County Historic Preservation Commission before adding additional buildings to the property. The c.1880 house on the property is also a contributing building in the Cary National Register Historic District.

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-14 215 S Academy Street

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF THE TOWN OF CARY TO CHANGE THE ZONING OF 0.57 ACRES OWNED BY CARROLL AND SHEILA OGLE, BY REZONING FROM GENERAL COMMERCIAL CONDITIONAL USE (GC-CU) TO THE TOWN CENTER ZONING DISTRICT WITH HIGH INTENSITY MIXED USE (HMXD) 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

Property Owner(s)	County Parcel Number(s) (10-digit)	Real Estate ID(s)	Deeded Acreage
Carroll G. and Sheila H. Ogle	0764500982	0061157	0.57 ±

Section 2: That this Property is rezoned from General Commercial Conditional Use (GC-CU) to the Town Center zoning district with High Intensity Mixed Use (HMXD) sub-district, 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 regulations for the approved district and are binding on the Property.

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

Adopted and effective: *September 11, 2014*

Harold Weinbrecht, Jr.
Mayor

Date