

**Town of Cary, North Carolina
Rezoning - Staff Report
Case 13-REZ-05 Jones House
Town Council Meeting
July 25, 2013**

REQUEST

To Amend the Town of Cary Official Zoning Map to rezone 0.39 acres located at 324 S. Academy Street from the Town Center zoning district with General Commercial Conditional Use (GC-CU) sub-district, 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	County Parcel Number(s) (10-digit)	Real Estate ID(s)	Deeded Acreage
Town of Cary 316 N Academy Street Cary, NC 27513	0764407068	0037143	0.39

PROJECT SUMMARY

In January 1987, the subject property was rezoned to Business-2 Conditional Use (B-2-CU) zoning.

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 the zoning district (as the Town Center sub-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-2 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-2 district in 1987 (see Table under "Background Information" for a list of the existing zoning conditions).

BACKGROUND INFORMATION

Applicant	Town of Cary		
Agent	Philip Smith, Comprehensive Planning Manager		
Acreage	0.39 ±		
General Location	324 S Academy Street		
Schedule	Public Hearing June 27, 2013	Planning & Zoning Board July 15, 2013	Town Council July 25, 2013

Land Use Plan Designation	High Intensity Mixed Use (HMXD) in Town Center Area Plan (TCAP)
Existing Zoning District	Town Center: General Commercial Conditional Use (GC-CU) Sub-district
Existing Zoning Conditions <i>Per Conditional Use Zoning Permit Z-401-86-1 approved January 22, 1987</i>	1. Allow small businesses to occupy building. 2. Exterior appearance of the building not to be changed. 3. Parking shall be limited to existing area (as per submitted plan). 4. Parking area may not be paved without a site plan.
Proposed Zoning District	Town Center: High Intensity Mixed Use (HMXD) Sub-district
Proposed Zoning Conditions	None
Town Limits	Yes .
Valid Protest Petition	No
Staff Contact	Mary Beerman, Senior Planner (919) 469-4342 mary.beerman@townofcary.org

CONSISTENCY WITH LAND DEVELOPMENT ORDINANCE

Land Use

The HMXD TCAP plan designation and zoning sub-district allows a mix of commercial, office, and medium to high-density residential uses. A comparison of uses allowed in the General Commercial zoning district and the HMXD zoning district is attached.

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	None		None
Rear Yard Setback	None		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

A 20-foot Type C (Aesthetic) buffer is required between the adjacent commercial uses to the north and west. This buffer area is intended to create the impression of spatial separation without eliminating visual contact between uses by providing an intermittent visual obstruction from the ground to a height of at least 20 feet. The buffer may include a combination of a wall, fence, earthen berm, existing vegetation, or planted vegetation.

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

Both the existing and proposed zoning district allow commercial use. There would be no net change in trips if the rezoning request is approved. A 2,026 square-foot commercial building would generate 6 pm

peak hour trips using Specialty Retail Center in the ITE Trip Generation Manual, 8th edition. No traffic study would be required.

Stormwater

At the time of site plan review, the future plan must meet all stormwater management and detention requirements. Peak flow from the one-, two-, five- and 10-year storm events must be determined and must be attenuated back to pre-development conditions from the discharge point leaving the development.

SUMMARY OF PROCESS AND ACTIONS TO DATE

Notification

On June 12, 2013 the Planning Department mailed notification of a public hearing on the request to property owners within 400 feet of the subject property. Notification consistent with General Statutes was published in the Cary News on June 12 and 19, 2013. Notice of the public hearing was posted on the property June 12, 2013.

Neighborhood Meeting

A neighborhood meeting for the proposed rezoning was conducted by Town staff on June 10, 2013. Invitations were mailed to property owners within 400 feet of the subject property. No residents attended the meeting, although one call was received prior to the meeting. The caller questioned the difference in zoning requirements between the HMXD and the Cottage Business and Residential (CB&R) sub-district, as well as the building code requirements that would apply to the renovation of the Jones House located on the subject property.

Town Council Public Hearing (June 27, 2013)

There were no speakers and no comments from council members at the public hearing.

Planning and Zoning Board Meeting (July 15, 2013)

Several Planning and Zoning Board members expressed concern with removal of the existing zoning condition which states "*Exterior appearance of the building not to be changed.*" Phil Smith, Comprehensive Planning Manager, pointed out that the Town has received bids and is preparing to start construction including replacing the existing vinyl siding with wood, removing the glass enclosure on the porch, and making other modifications to restore the building to a more historic condition. Board members expressed concern that other changes could be made if the property was sold at a later date. The board recommended approval of the rezoning with addition of a zoning condition specifying that the architectural features be substantially maintained in historic condition.

Subsequent to the Planning and Zoning Board meeting, staff determined that the Land Development Ordinance does not provide the option to create conditional use zoning districts from the Town Center sub-districts. For this reason, the recommendation of the Planning and Zoning Board cannot be fulfilled by creating a zoning condition. Recordation of a deed restriction by the Town prior to any future sale of the property could be used as a means to meet the intent of the Planning and Zoning Board recommendation.

CRITERIA FOR CONSIDERATION IN REVIEWING REZONINGS

Section 3.4.1(E) of the Land Development Ordinance sets forth the following criteria that should be considered in reviewing rezonings:

1. The proposed rezoning corrects an error or meets the challenge of some changing condition, trend or fact;
2. The proposed rezoning is consistent with the Comprehensive Plan set forth in Section 1.3 (LDO);
3. The Town and other service providers will be able to provide sufficient public safety, educational, recreational, transportation and utility facilities and services to the subject property while maintaining sufficient levels of service to existing development;

4. The proposed rezoning is unlikely to have significant adverse impacts on the natural environment, including air, water, noise, stormwater management, wildlife and vegetation;
5. The proposed rezoning will not have significant adverse impacts on property in the vicinity of the subject tract;
6. The proposed zoning classification is suitable for the subject property.

APPLICABLE COMPREHENSIVE OR AREA PLAN REQUIREMENTS

Land Use Plan

Town Center Area Plan

The governing land use element of the Comprehensive Plan for the subject parcel is the Town Center Area Plan (TCAP), adopted in 2001. The TCAP designation for the subject property is High Intensity Mixed Use. The rezoning request will bring the existing zoning into compliance with the Town Center Plan land use designation for the property. Properties to the north, east and south of the subject property share the HMXD designation, while the property to the west, along Dry Avenue, is designated as Cottage Business and Residential.

The Town Center Area Plan further calls for limiting surface parking in the High Intensity Mixed Use District and the Town has subsequently eliminated minimum parking requirements in the HMXD sub-district. Extensive on-site parking would harm the historically residential character of the Jones House. Rezoning to HMXD removes the minimum parking requirement for the property, thus accomplishing two objectives – helping to preserve the historic character of the property and minimize surface parking, a goal of the HMXD sub-district.

Growth Management Plan

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

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

Analysis: The Town Center is an existing employment center and the property is already served by water and sewer. This rezoning will help facilitate the rehabilitation and reuse of this property.

2. C2 Guiding Principle: Ensure public investment decisions are consistent with the Town's growth management goals.

Analysis: This property was purchased by the Town as part of its strategy to revitalize the Town Center Area. Its strategic location at the corner of Dry and Academy and its long-standing vacant and deteriorating condition made it a priority for acquisition. This rezoning is a necessary step in rehabilitating the property and returning it to productive use.

3. Q1 Guiding Principle: Continue Cary's leadership role in quality growth and development.

Analysis: The historic preservation and reuse of the Jones House as one of the prime contributing structures within the Downtown Historic District will help improve the quality and appearance of this important area of our Town Center.

Affordable Housing Plan

Based on the rezoning request and proposed use of the property, the Affordable Housing Plan is not applicable.

Comprehensive Transportation Plan

S. Academy Street is designated as a minor thoroughfare.

Existing Section: 2-lanes; undivided in approximately 75'-foot ROW (not including previous "square" area)

Future Section: 2-lanes; undivided (part of the Signature Academy Street project)

Sidewalks: Existing on both sides

Bicycle Lanes: N/A
Transit: None required
Status of Planned Improvements: N/A

Dry Avenue is designated as a minor thoroughfare.
Existing Section: 3-lanes in approximately 55-foot ROW
Future Section: 3-lanes
Sidewalks: Existing on both sides
Bicycle Lanes: N/A
Transit: None required
Status of Planned Improvements: N/A

Parks, Recreation & Cultural Resources Facilities Master Plan
 According to the Parks, Recreation and Cultural Resources Facilities Master Plan there are no issues related to this site.

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

Open Space Plan
 According to the Open Space Plan there are no significant natural resources associated with this site.

Historic Preservation Master Plan
 The Historic Preservation Master Plan identifies the house on this property, a circa 1890 house known as the Jones House, as one of Cary’s most significant historic properties. The house and property are located within the Cary (downtown) National Register Historic District on a prominent corner directly across from the old Cary High School (now the Cary Arts Center). According to the national register nomination, in its early years the Jones House was occupied at various times by principals and students of Cary High, and helps “illustrate Cary’s late nineteenth-century prosperity as both a commercial and an educational center.” The house retains many of its original Queen Anne features, including the picturesque roofline, wrap-around porch with sawn and turned ornamentation, scalloped trim and small multi-paned windows in the gables, and a cutaway bay window. Although the exterior has been altered with the enclosure of the front porch and the addition of aluminum siding, its essential character remains intact. In addition, the house retains most of its original interior features and finishes, including paneled doors with hardware, banister and newels, door and window surrounds with bulls-eye corner blocks, beaded-board ceilings and wainscot, and corbelled chimneys.

SUMMARY OF STAFF OBSERVATIONS REGARD PLAN CONSISTENCY	
Comprehensive Plan Element	Staff Observation
Land Use Plan	No issues or concerns
Growth Management Plan	No issues or concerns
Affordable Housing Plan	No issues or concerns
Comprehensive Transportation Plan	No issues or concerns
PRCR Master Plan	No issues or concerns
Open Space Plan	No issues or concerns
Historic Preservation Master Plan	No issues or concerns

APPLICANT’S JUSTIFICATION STATEMENT

Attached are the applicant’s responses to the justification questions contained in the application form. Please note that these statements are that of the applicant and do not necessarily represent the views or opinions of the Town of Cary.

ORDINANCE FOR CONSIDERATION

13-REZ-05 Jones House

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF THE TOWN OF CARY TO CHANGE THE ZONING OF 324 S ACADEMY STREET OWNED BY THE TOWN OF CARY BY REZONING FROM TOWN CENTER DISTRICT WITH GENERAL COMMERCIAL CONDITIONAL USE (GC-CU) SUB-DISTRICT, TO TOWN CENTER DISTRICT WITH HIGH INTENSITY MIXED USE (HMXD) SUB-DISTRICT

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CARY:

ection 1: The Official Zoning Map is hereby amended by rezoning the area described as follows:

PARCEL & OWNER INFORMATION

Property Owner	County Parcel Number(s) (10-digit)	Real Estate ID(s)	Deeded Acreage
Town of Cary 316 N Academy Street Cary, NC 27513	0764407068	0037143	0.39

Section 2: That this Property is rezoned from Town Center District with General Commercial Conditional Use (GC-CU) Sub-district to Town Center District with High Intensity Mixed Use (HMXD) Sub-district subject to the individualized development conditions set forth herein, if any, 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: This ordinance shall be effective on the date of adoption.

Adopted and effective: *July 25, 2013*

Harold Weinbrecht, Jr.
Mayor

Date