

**Town of Cary, North Carolina
Rezoning Staff Report
13-REZ-15 Cornerstone Presbyterian Church
Town Council Meeting
January 9, 2014**

REQUEST

To amend the Town of Cary Official Zoning Map by rezoning 13.49 acres located at 2220 High House Road from Residential 40 (R-40) to Office & Institutional Conditional Use (OI-CU).

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
Cornerstone Presbyterian Church 2220 High House Road Cary, NC 27519	0744124590	0111613	13.49 ±

PROJECT SUMMARY

According to Wake County tax records, the property was developed with a 6,542-square-foot church in 2006. The site plan was approved in 2003, under the Unified Development Ordinance (UDO), which preceded the current Land Development Ordinance (LDO) adopted in July 2003. The LDO requires special use permit approval for religious assembly use on property zoned R-40 where such property is less than 20 acres. The UDO allowed religious assembly on parcels smaller than 20 acres by right.

The applicant has proposed to expand the existing church. To do so under current regulations would require either approval of a special use permit, or rezoning of the property to a district that allows religious assembly on less than 20 acres by right. The applicant has chosen to request rezoning to OI-CU, which allows religious assembly by right, with zoning conditions to limit use of the property to religious assembly.

BACKGROUND INFORMATION

Applicant	Dr. Fred Thrower, Cornerstone Presbyterian Church		
Agent	George Fowlston, Cornerstone Presbyterian Church		
Acreage	13.49 ±		
General Location	2220 High House Road		
Schedule	Public Hearing October 10, 2013	Planning & Zoning Board December 16, 2013	Town Council January 9, 2014
Land Use Plan Designation	Low Density Residential (LDR)		
Existing Zoning District	Residential 40 (R-40); Watershed Overlay District (Jordan Lake sub-area)		
Existing Zoning Conditions	none		
Proposed Zoning District	Office & Institutional Conditional Use (OI-CU); Watershed Overlay District (Jordan Lake sub-area)		
Proposed Zoning Conditions	Land use shall be limited to religious assembly uses. Any accessory day care or school use shall be limited to no more than 40 children or students.		
Town Limits	Yes		
Valid Protest Petition	Yes		
Staff Contact	Mary Beerman, AICP (919) 469-4342 mary.beerman@townofcary.org		

SITE CHARACTERISTICS

Floodplain and Stream Buffers: According to Cary GIS maps, the northern boundary of the site is potentially impacted by a stream buffer. Field determination of such features will be made at the time of site plan review.

Adjacent Zoning and Land Use:

North/West – Residential 12 (R-12); Berkeley Subdivision – detached dwellings;

South – (opposite side of High House Road) - Residential 12 (R-12);

East (opposite side of Durham and Southern Railroad) - Residential 40 (R-40); detached dwelling and two vacant properties

CONSISTENCY WITH LAND DEVELOPMENT ORDINANCE

Land Use

The property is currently developed with a religious assembly use (church).

Density and Dimensional Standards

	Existing Zoning District (R-40) <i>(applicable to non-residential uses allowed in R-40 district)</i>	Proposed Zoning District (OI-CU)
Max. Gross Density	N/A	No change
Min. Lot Size	None	No change
Minimum Lot Width	None	No change
Roadway Setback	30 Feet	No change
Side Yard Setback	None	No change
Rear Yard Setback	None	No change
Maximum Building Height	<ul style="list-style-type: none"> • Within 100’ of residential zoning district – 35 feet • More than 100’ from residential zoning district –50 feet May be increased by one foot for every additional foot provided between the building footprint and the minimum required setback	

Landscape Buffer

A 40-foot Type A buffer is required between the subject property and the Berkeley Subdivision (zoned R-12) to the north and west. A 30-foot Type B buffer is required between the subject property and the railroad right-of-way to the east.

Streetscape

A 30-foot-opaque streetscape buffer is required along High House Road.

Traffic

A traffic study is not required by the LDO since the nature of the proposed rezoning is such that the use is not expected to generate one hundred (100) or more peak hour trips. Peak hour trips are those occurring on the peak travel demand days on the adjacent roadway system, which normally occurs Monday thru Friday (e.g. daily trips on Sunday may not be applicable); therefore, since the dominate travel demand period for a religious assembly generally occurs on the weekend, and not during the normal weekday commuting period, the expected impact during weekday travel demand periods is anticipated to be minimal.

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 August 19, 2013. According to the information submitted by the applicant, 10 residents attended the meeting. According to the meeting minutes, resident questions and concerns included impact on home values, construction traffic, parking, lighting, drainage, and building setbacks.

Notification

On September 24, 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 September 25 and October 2, 2013. Notice of the public hearing was posted on the property September 25, 2013.

Town Council Public Hearing (October 10, 2013)

Five neighboring residents spoke in opposition to the request, and six members or officers of the church spoke in support (draft minutes). Issues raised by those opposed to the proposed rezoning included the following:

- Concern that change in the review process (from requiring a special use permit for expansion to allowing expansion with staff approval of a site plan) would result in less Town oversight.
- Concern that expansion would result in repeat of previous flooding on adjacent property that occurred when existing improvements on the church site were being developed.
- Concern with existing traffic pattern. (Direct access to the subject property is from High House Road via a right-in/right-out driveway access. Citrus Place, a public street in the adjacent Berkeley Subdivision, terminates in a cul-de-sac at the western edge of the existing parking lot on the subject property, providing a secondary access to High House Road through the adjoining subdivision).
- Request for larger buffers along the western property line.
- Concern that changing the zoning would open the door for other less compatible uses (such as office) to develop on the site if the existing owner decided to sell the property.

Neighborhood Meeting (October 22, 2013)

Mayor Weinbrecht, Council Members Gale Adcock and Ed Yerha, and staff member Mary Beerman attended a neighborhood meeting held by the applicant on October 22, 2013. Twenty-eight citizens attended the meeting, approximately one-half of which were residents of the adjoining neighborhood. The applicant provided information regarding the existing development on the church property and future plans, and gave residents an opportunity to express their concerns regarding the rezoning. Staff provided information to clarify procedures and regulations related to rezonings, special use permits and site plans.

Planning and Zoning Board Meeting (December 16, 2013)

The Planning and Zoning Board considered the proposed rezoning at its meeting on December 16, 2013, and recommended approval by a vote of 7-1. Several members noted that religious assembly was allowed by right in the R-40 district when the site plan for the existing church was originally approved. The member casting the dissenting vote stated that he agreed that rezoning could be preferred over a series of special use permits for expansion of the church site, but also believed that some additional buffer area could have been provided along the western property line.

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

The future land use designation of the subject property is Low Density Residential (LDR). Use of the property for religious assembly is consistent with this land use category.

Growth Management Plan

The Growth Management Plan includes the following Guiding Principle which is relevant to this case:

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

Affordable Housing Plan

Based on the proposed rezoning, the Affordable Housing Plan is not relevant to this case.

Comprehensive Transportation Plan

High House Road is designated as a Major Thoroughfare

Existing Section: 4 lanes; median divided in approximately 100-foot ROW

Future Section: Existing

Sidewalks: Existing on both sides

Bicycle Lanes: 14-foot-wide outside lanes exist

Transit: Provide a land easement of 8 feet x 18 feet adjacent to the public ROW – 18 feet being the length along the public ROW facing High House Road. Easement is for future transit stop amenity expansion (i.e. concrete pad, shelter, bench, trash can & bike rack). The start of the easement location should be 80 feet west of the entrance to the site/Citrus Place

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.

Open Space Plan

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

Historic Preservation Master Plan

No historic resources have been documented on this site.

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-15 Cornerstone Presbyterian Church

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF THE TOWN OF CARY TO CHANGE THE ZONING OF 13.49 ACRES OWNED BY CORNERSTONE PRESBYTERIAN CHURCH BY REZONING FROM RESIDENTIAL 40 (R-40) TO OFFICE & INSTITUTIONAL CONDITIONAL USE (OI-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	County Parcel Number(s) (10-digit)	Real Estate ID(s)	Deeded Acreage
Cornerstone Presbyterian Church 2220 High House Road Cary, NC 27519	0744124590	0111613	13.49 ±

Section 2: That this Property is rezoned from R-40 to OI-CU 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: 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. Land use shall be limited to religious assembly uses. Any accessory day care or school use shall be limited to no more than 40 children or students.

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

Adopted and effective: January 9, 2014

Harold Weinbrecht, Jr.
Mayor

Date