

**Town of Cary, North Carolina
Rezoning Staff Report
13-REZ-19 Chapel Hill Road Townes
Town Council Meeting
December 19, 2013**

REQUEST

To amend the Town of Cary Official Zoning Map by rezoning approximately 16.2 acres located at 9475 and 9493 Chapel Hill Road from Residential 40 (R-40) to Residential Multi-family Conditional Use (RMF-CU), with zoning conditions that limit the types of uses and density, and require a minimum amount of masonry material on building facades.

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
JAS & JAS LLC 208 Oxcroft Street Cary, NC 27519	0754772396	0111757	5.0
JAS & JAS LLC 208 Oxcroft Street Cary, NC 27519	0754762985	0059677	11.26
Total Area			16.26

BACKGROUND INFORMATION

Applicant	JAS & JAS LLC 208 Oxcroft Street Cary, NC 27519		
Agent for Applicant	Glenda Toppe Glenda S. Toppe & Associates 4139 Gardenlake Drive Raleigh, NC 27612		
Acreage	16.26 ±		
General Location	9475 and 9493 Chapel Hill Road		
Schedule	Public Hearing October 10, 2013	Planning & Zoning Board November 18, 2013	Town Council December 19, 2013
Land Use Plan Designation	Low Density Residential (LDR) to Medium Density Residential (MDR)		
Existing Zoning District(s)	Residential 40 (R-40)		
Existing Zoning Conditions	None		
Proposed Zoning District(s)	Residential Multi-family Conditional Use (RMF-CU)		
Proposed Zoning Conditions	<ol style="list-style-type: none"> 1. The uses on the site shall be limited to semi-detached/attached dwellings or townhomes. 2. The maximum density shall be 6.5 dwelling units per acre. 3. A minimum of 50% of all townhomes shall be constructed with a two-car garage. The balance of the townhomes shall be constructed with a one-car garage. 4. The Town of Cary masonry material requirement for attached residential buildings will be increased from 35% to a minimum of 40% surface area. 		

Town Limits	The subject properties are located inside the Town of Cary corporate limits.
Valid Protest Petition	Yes
Staff Contact	Wayne Nicholas, Planning Manager (919) 465-4610 wayne.nicholas@townofcary.org

SITE CHARACTERISTICS

Streams: Cary GIS maps indicate that both of the properties are potentially impacted by stream buffers. Field determination of these features will be required at the time of site plan review.

Floodplain, Wetlands: Cary's GIS maps do not indicate any floodplains or wetlands on the subject properties. Field verification of such features is required at the time of site plan review.

Adjacent Uses and (Zoning)

North – Vacant (R-40), detached dwellings (R-20); and, office (OI-CU) (opposite side of Chapel Hill Road)

South – Religious assembly (R-20 and R-40) and railroad right-of-way

East – Townhomes (TR), and detached dwellings (R-8, R-20, and R-40) (opposite side of Chapel Hill Road)

West – Vacant (R-40) and railroad right-of-way

CONSISTENCY WITH LAND DEVELOPMENT ORDINANCE (LDO)

Land Use

The zoning conditions proposed by the applicant would limit land uses to semi-detached/attached dwelling units and townhomes.

Density and Dimensional Standards

	Existing Zoning District Residential 40 (R-40)	Proposed Zoning District Residential Multi-Family Conditional Use (RMF-CU)
Max. Gross Density (du/ac)	1.08	6.5 *
Min. Lot Size (square feet)	40,000	6,000
Min. Lot Width (feet)	With Septic Tank/Well 150 (160 for corner Lots) With public sewer 125 (135 for corner lots)	20
Min. Roadway Setback (feet)	From thoroughfare: 50 From collector: 30 From other streets: 20	From thoroughfare: 50 From collector: 30 From other streets: The roadway setback between the front of the dwelling and the roadway shall be no less than 18 feet when parking is provided between the dwelling and the roadway or 10 feet when parking is not provided.
Min. Side Yard Setback (feet)	With septic tank/well: 20 With public sewer: 15	3 minimum, 16 aggregate; 16 between building groupings
Min. Rear Yard Setback (feet)	30	On thoroughfare, collector or other streets the width of the roadway and rear setbacks shall equal at least 20 feet and any individual setback shall be a least three (3) feet.

Maximum Building Height (feet)	35	35
*Typical RMF zoning districts have a maximum density of 12 du/ac. A zoning condition, proposed by the applicant, limits the density to 6.5 dwelling units per acre.		

Open Space: With regard to required open space, Section 8.3.2 of the LDO reads: *The developer of each residential development requiring development approval shall set aside at least five hundred (500) square feet of open space for each dwelling unit.* This requirement is applicable to uses that require submittal of a site plan.

Landscape Buffer: Based on the land uses specified within the zoning conditions proposed by the applicant, buffers for the subject property would be required as follows:

- 20-foot Type B adjacent to the religious assembly use (buffer shared with adjacent property);
- 30-foot Type B adjacent to the railroad right-of-way (entire buffer on subject property);
- 40-foot Type A adjacent to the lots with detached dwellings (entire buffer on subject property);
- 40-foot Type A adjacent to the vacant, residentially zoned land (buffer shared with adjacent property);

Streetscape: The properties are adjacent to Chapel Hill Road, which is designated on the Town's Comprehensive Transportation Plan as a major thoroughfare. In accordance with Chapter 7 of the LDO, a fifty-foot (50') Type A (opaque) streetscape is required between residential development and a major thoroughfare.

Traffic

The maximum number of units proposed is 105 townhomes. Using ITE Land Use 230, there would be 54 am and 63 pm peak hour trips generated for this use. The threshold for a traffic study is 100 peak hour trips, so a traffic study would not 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

Neighborhood Meeting

According to the applicant, a neighborhood meeting for the proposed rezoning was held on August 15, 2013. According to the information submitted by the applicant, six residents attended the meeting. According to the meeting minutes, resident questions and concerns pertained to traffic along Chapel Hill Road, limiting the proposed use to townhomes, the number of proposed dwelling units, building height and garages, and improvements for Chapel Hill Road.

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 on September 25, 2013.

Town Council Public Hearing (October 10, 2013)

Staff presented an overview of the request. The applicant's representative explained their justification for the requested zoning designation, and also indicated that the applicant would be offering an additional zoning condition regarding the minimum amount of masonry material required on building facades.

During the public hearing, two citizens spoke in opposition to the proposed rezoning. Concerns were expressed by these speakers regarding traffic on Chapel Hill Road and that they were not aware of any plans for improving the road. Those in opposition believed that the traffic problem should be addressed before development is approved.

Two individuals spoke in favor of the request. Those supporting the rezoning believed that this development was appropriate for the area and noted that the development would create a residential component in close proximity to a religious use and a commercial area.

Town Council members acknowledged the concerns regarding traffic on Chapel Hill Road. It was noted that as development occurs along a road, improvements to the road are made along the frontage of the developing property. One council member commented on the historic house on the property and believed it was significant due to the style of the house. Another council member indicated that they were aware of concerns from citizens regarding density and trees. The council member noted the importance of providing adequate buffers and that consideration should be given to adding conditions regarding these issues. The applicant was asked by a council member to clarify which facades of the buildings would be subject to the condition regarding the increased amount of masonry material. The applicant stated they would work with staff to ensure this condition was clear.

Changes Since the Town Council Public Hearing

The applicant revised the proposed zoning conditions as follows:

- Clarified the condition regarding garages to specify that at least 50% of all townhomes shall be constructed with a two-car garage, and the balance of units shall be constructed with a one-car garage;
- Added a condition that the masonry material requirement for attached residential buildings will be increased from 35% to a minimum of 40% surface area.

Notification – Planning and Zoning Board Public Hearing

On November 7, 2013 the Planning Department mailed notification of the Planning and Zoning Board 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 November 6 and 13, 2013. Notice of the public hearing was posted on the property on November 6, 2013.

Planning and Zoning Board Public Hearing (November 18, 2013)

Staff summarized the request and noted the changes to the proposed zoning conditions since the public hearing before Town Council. Due to the changes, a second public hearing before the Planning and Zoning Board was required. During the public hearing, Glenda Toppe, representing the applicant, explained the reasons for the requested zoning and the proposed conditions. Three citizens spoke in support of the request.

Mr. Shaw asked about the density of the development to the east. Staff noted that the development is slightly more than five dwelling units per acre. Mr. Shaw also asked about peak hour traffic and the widening of Chapel Hill Road. Staff explained that volumes were not available since a traffic study was not required, and indicated that there was no dedicated capital funding for widening the road.

Mr. Evangelista asked about zoning conditions related to roadway improvements and preserving the house on the property. Staff confirmed that there were no conditions regarding these items. Mr. Evangelista also asked about the condition pertaining to the masonry material requirements. Ms. Harris-Best and Mr. Shaw asked if road widening and the existing house would be addressed at the time of site plan approval.

Mr. Miller asked about preserving the historic house on the property. Staff indicated that options for preservation had been discussed with the applicant, including relocating the structure as well as preserving on-site. The applicant indicated that they would continue discussions with the staff regarding this matter. Mr. Gascoigne asked if the proposed density is more restrictive than what could be allowed under the Land Use Plan designation. Staff noted that medium density is between three and eight units per acre.

Mr. Werner noted that the proposed density is consistent with the Land Use Plan, and noted the transition to the commercial development to the west. Mr. Shaw indicated that the proposed density is less than the potential maximum. He also expressed concern about turning movements and additional traffic on Chapel Hill Road. Mr. Miller believed the use is appropriate for the area and noted the transition. He expressed concern about the historic house on the property and would like to see it protected and preserved on-site if possible. Mr. Swanstrom noted the concerns about Chapel Hill Road and the historic structure; he expressed support for the density and transition.

The Planning and Zoning Board recommended approval of the request by a vote of 7-2.

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

Future land use recommendations for the subject parcels are given by the townwide Land Use Plan, adopted in November 1996. The Land Use Plan Map recommends that these properties be developed as either Low or Medium Density Residential, as indicated by the label "LDR/MDR" on the Plan Map¹. This designation includes densities ranging from 1 to 8 dwellings per acre. Full definitions of the LDR and MDR categories are given in Chapter 6, Sections 6.4 and 6.5 of the Land Use Plan. In summary:

- LDR describes single-family detached residential uses at densities typically between 1 and 3 dwellings per acre.
- MDR describes single-family attached or detached uses at densities typically between 3 and 8 dwellings per acre. Single-family attached uses might include duplexes, triplexes, and townhomes. Multi-family is typically not envisioned within MDR areas, unless warranted by the use of a clustered/conservation development design.

Chapter 6, Section 6.5.2 of the Land Use Plan Document notes that "residential densities should transition gradually between high, medium, and low density." Historically, density transitions have been made either by providing a gradual change in density or lot size, or by providing an appropriate vegetative buffer transition, or by use of an architectural or design transition, or a combination of two or more of these approaches.

Thus, while the broad definitions for "LDR to MDR" on the Plan Map indicate a potential density range of anywhere from 1 to 8 dwellings per acre, the specific density and/or housing type that might be appropriate for the subject parcels can also depend on context and transitions to adjacent residential properties. In evaluating the case, the Planning and Zoning Board and Town Council typically make the determination as to the most appropriate density within the density range, depending on the site's context and transitions.

¹ Note: In 1996, the label "LDR/MDR" was used to indicate that housing in either density category could be appropriate. In later years, the labeling practice changed to using the label "LDR to MDR".

Planning History for the Subject Parcels:

- The Land Use Plan designations along the south side of Chapel Hill Road in this vicinity are unchanged from plan adoption in 1996.
- There was a prior Comprehensive Plan Amendment (CPA) request submitted in December 2010, as case 10-CPA-11. However, that case was subsequently withdrawn by the applicants in March 2011, following the first public hearing. That case had requested that the parcels be designated as part of the Community Activity Center (CAC) that is primarily located within the Town of Morrisville, and focused around the four quadrants of the intersection of NW Cary Parkway and Chapel Hill Road.

Planning History for the Surrounding Area:

There have been a number of Land Use Plan changes along the Chapel Hill Road corridor between NW Maynard and NW Cary Parkway since initial plan adoption in 1996. These include:

- The Land Use Plan Map was cosmetically amended in 2009 for the parcel immediately east of the subject parcels, to reflect the construction of the SVI Temple, by changing the Plan Map for that parcel from “LDR/MDR” to “OFC/INS” (Office/Institutional). (Temple construction did not require a change to R40 zoning, so there was no event requiring a formal CPA.)
- In 2003 the Land Use Plan was amended along both sides of Chapel Hill Road, approximately 1,600 feet east of the subject parcels, with the adoption of the NW Maynard Activity Center Land Use Plan. That plan was subsequently amended in 2006 for the properties on the southwest quadrant of that intersection (south side of Chapel Hill Road).
- 09-CPA-05, approved in May 2010, changed the future land use designations for an assemblage of nine properties totaling 13.9 acres on the north side of Chapel Hill Road, diagonally opposite the subject properties. For that tract, the future land use designation was changed from LDR to “Low to Medium Density Residential” (LDR to MDR).

Growth Management Plan

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

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

Analysis: Utilities are available within this infill site location.

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

Analysis: The site is an infill site, located within 1,000 feet of the Park Place Shopping Center, and less than ½ mile from the new Park West Village in Morrisville. The site is also convenient to the Weston Office Park, as well as the office and industrial uses along James Jackson Avenue (one mile travel distance to either Weston Parkway or James Jackson Ave.).

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

Analysis: The site can be considered as a preferred growth area, since it is an infill site and in close proximity to major employment centers.

Affordable Housing Plan

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

- Goal #1. Provide for a full range of housing choices for all income groups, families of various sizes, seniors, and persons with special challenges.
- Goal #6. 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.

- Goal #7. Actively participate in the renewal of neighborhoods suffering from physical deterioration or from the inequitable distribution of public resources in the past.
- Goal #8. Assure a quality living environment and access to public amenities for all residents, present and future, of the Town of Cary, regardless of income.

Comments: The provision of housing at this location would seem to support Goal #6, since the site is within walking distance of Park Place Shopping Center. The closest entrance to Park Place is located approximately 1,000 feet from the site at its closest point, following Chapel Hill Road. The case may also support Goal #7, by providing new housing and redevelopment along this section of Chapel Hill Road. Increases in traffic along Chapel Hill Road over the last 40 years have affected the quality of life for the older single-family lots along the road. Depending on the specific housing types ultimately provided on the site, the case may or may not help to support Goals #1 and #8 above.

Comprehensive Transportation Plan

Chapel Hill Road is designated as a Major Thoroughfare

Existing Section: 2 lanes, undivided with a wide shoulder/turn lane in approximately 75-foot ROW

Future Section: 6 lanes, median divided in 124-foot ROW

Sidewalks: Existing on the north side; required on both sides

Bicycle Lanes: 14-foot-wide outside lanes required on both sides

Status of Planned Improvements: NC 54 from NW Maynard Road west to Morrisville is currently under a feasibility study to explore road widening and rail options. This is a feasibility study only and there is currently no funding allocated to construct any improvements at this time.

Bus Transit: At present there is no C-Tran or Triangle Transit bus service along this section of Chapel Hill Road. The nearest existing C-Tran service is provided via Routes 1 and 2 on Maynard Road, approximately 0.6 mile east of the site at the closest point. The long-range expansion plans for C-Tran envision a potential future route along NW Cary Parkway, approximately 0.4 miles west of the site at the closest point.

Regional Light Rail Transit: Triangle Transit's regional transit plans envision a light rail corridor along the North Carolina Railroad Corridor, with a station stop near the southwest corner of the Park Place Shopping Center, where NW Cary Parkway bridges over the railroad. Depending on the siting of future pedestrian trails for the station, walking distance to the subject site could be as close as 0.3 miles at the closest point, or as far as 0.5 miles at the closest point. However, final funding and approval for Triangle Transit's proposed rail system has not yet been secured, and project dates are therefore unknown.

Parks, Recreation & Cultural Resources Facilities Master Plan

According to the Parks, Recreation and Cultural Resources Facilities Master Plan, a greenway was proposed along the parcel's southeastern property boundary. The original intent of this greenway was to provide a connection between the Chapel Hill Road street-side trail, and the formerly proposed light rail station at 160 Towerview Court. This greenway connection would have required a grade-separated crossing of the railroad corridor.

Since the site on Towerview Court is no longer being considered for a light rail station, staff recommends removal of the proposed section of greenway on the subject property and that no greenway easement dedication be required. These comments were reviewed and approved by the Town's Greenways Committee at its September 19, 2013 meeting, and by the Parks, Recreation & Cultural Resources Advisory Board at its October 7, 2013 meeting.

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

A goal of the Town's adopted 2010 Historic Preservation Master Plan is to "Preserve, protect and maintain Cary's historic resources." One of the subject parcels (9475 Chapel Hill Road) contains the circa 1938 Richard House, which is listed in the Cary/Wake County Architectural and Historical Inventory.

The house is a 2-story, 2-bay stone veneer dwelling exhibiting Craftsman design features such as a hip roof with wide overhanging eaves, porch, and porte cochere supported by large, tapered piers, six-over-one sash windows, and a half-timber design over the front entrance. The house is said to have been built around 1939 by the Richard family, and its historic nature should be viewed within the context of the boom, bust and recovery between the World Wars (1919-1941). Though Craftsman-style houses were popular in Wake County and Cary in the early twentieth century, this house is especially notable because of its stone veneer and porte cochere, features that are somewhat rare in Cary's remaining inventory of Craftsman houses. (Note: Porte cochere is the architectural term used to describe the side-projecting porch that provides protection for vehicles and people entering the house.)

Summary Observations

- The density requested by the rezoning is within the density range identified by the Land Use Plan. As noted previously, however, while the "LDR/MDR" designation on the Plan Map indicates a potential density range of anywhere from 1 to 8 dwellings per acre, the specific density and/or housing type that might be appropriate for the subject parcels can also depend on context and transitions to adjacent residential properties. In evaluating the case, the Planning and Zoning Board and Town Council typically may determine the most appropriate density within the density range, depending on the site's context and transitions.
- The requested rezoning seems to support three of the Guiding Principles from the Growth Management Plan.
- The requested rezoning seems to support two of the goals of the housing plan, and may support up to two additional goals, depending on the final housing product selected.
- The site is presently not well-served by bus transit, but may enjoy better service as the C-Tran system is expanded over time. The site may someday be served nearby by light rail transit to downtown Cary and Raleigh, however this is presently uncertain.
- The requested rezoning does not at present address the issue of preservation of the historic 1938 Richard House, and therefore does not further the goals of the Historic Preservation Master Plan.

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	11 - 36
	Middle School	6 - 24
	High School	4 - 19
Total Projected range of additional students ²		21 - 79

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

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 provided by the 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

13-REZ-19 CHAPEL HILL ROAD TOWNES

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF THE TOWN OF CARY TO CHANGE THE ZONING OF APPROXIMATELY 16.26 ACRES, LOCATED AT 9475 AND 9493 CHAPEL HILL ROAD AND OWNED BY JAS & JAS LLC, BY REZONING FROM RESIDENTIAL 40 (R-40) TO RESIDENTIAL MULTI-FAMILY CONDITIONAL USE (RMF-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(s)	County Parcel Number(s) (10-digit)	Real Estate ID(s)	Deeded Acreage
JAS & JAS LLC 208 Oxcroft Street Cary, NC 27519	0754772396	0111757	5.0
JAS & JAS LLC 208 Oxcroft Street Cary, NC 27519	0754762985	0059677	11.26
Total Area			16.26

Section 2: That this Property is rezoned from Residential 40 (R-40) to Residential Multi-family Conditional Use (RMF-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. The uses on the site shall be limited to semi-detached/attached dwellings or townhomes.
2. The maximum density shall be 6.5 dwelling units per acre.
3. A minimum of 50% of all townhomes shall be constructed with a two-car garage. The balance of the townhomes shall be constructed with a one-car garage.
4. The Town of Cary masonry material requirement for attached residential buildings will be increased from 35% to a minimum of 40% surface area.

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

Adopted and effective: December 19, 2013

Harold Weinbrecht, Jr.
Mayor

Date