

**Town of Cary, North Carolina  
Rezoning Staff Report  
13-REZ-22 956 W. Chatham Street  
Town Council Meeting  
January 9, 2014**

**REQUEST**

To amend the Town of Cary Official Zoning Map by rezoning 0.85 acres located at 956 W. Chatham Street from Industrial (I) to Office and Institutional Conditional Use (OI-CU). The site is currently developed with a 9,700 square-foot, 2-story, office building. The proposed rezoning would limit land uses to office and school, with school use occupying no more than 4,500 square feet of floor area and serving no more than 40 students.

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
Katherine S. Winslow and Theodore H. Stevens	0753865959	0094710	.85 ±

**BACKGROUND INFORMATION**

Applicant	Hal Stevens, Victoria Associates LLC		
Agent	Robbie Bell, Bass Nixon & Kennedy		
Acreage	0.8574 ±		
General Location	956 W. Chatham Street		
Schedule	<b>Public Hearing</b> November 21, 2013	<b>Planning &amp; Zoning Board</b> December 16, 2013	<b>Town Council</b> January 9, 2014
Land Use Plan Designation	Office/Industrial (OFC/IND)		
Existing Zoning District(s)	Industrial (I)		
Existing Zoning Conditions	none		
Proposed Zoning District(s)	Office & Institutional Conditional Use (OI-CU)		
Proposed Zoning Conditions	1. Uses shall be limited to office and school. 2. School use shall be limited to a maximum of 40 students and 4,500 square feet of floor area.		
Town Limits	Yes		
Valid Protest Petition	No protest petition was submitted.		
Staff Contact	Mary Beerman, AICP (919) 469-4342 mary.beerman@townofcary.org		

**SITE CHARACTERISTICS**

**Streams and Floodplains:** According to Cary's GIS Maps, no floodplains or streams buffers impact the site.

**Adjacent Zoning and Land Uses:**

North – Industrial (I); outdoor storage of vehicles and equipment  
 South – Industrial (I); outdoor storage of vehicles and equipment  
 East (*opposite side of W. Chatham Street*) – Office & institutional (OI); day care center  
 West – Industrial (I); outdoor storage of vehicles and equipment

## CONSISTENCY WITH LAND DEVELOPMENT ORDINANCE

### Land Use

A comparison of uses allowed in the existing Industrial (I) zoning district, and the proposed Office & Institutional Conditional Use (OI-CU) zoning district is attached.

### Density and Dimensional Standards

	Existing Zoning District (I)	Proposed Zoning District (OI-CU)
Min. Lot Size		None
Minimum Lot Width		None
Roadway Setback		30 Feet
Side Yard Setback		None
Rear Yard Setback		None
Maximum Building Height		<ul style="list-style-type: none"><li>• Within 100 feet of residential zoning district – 35 feet</li><li>• More than 100 feet from residential zoning district – 50 feet</li><li>• May be increased by one foot for every additional foot provided between the building footprint and the minimum required setback</li></ul>

### Landscape Buffer

A 50-foot Type A perimeter buffer will be required if the site is redeveloped for school use, or if all or part of the existing office building on the site is utilized for school use. If the required buffer width cannot be met given the existing development on the site, the applicant has the option to request a buffer reduction through a quasi-judicial hearing process at the time of site plan approval.

### Streetscape

A 30-foot Type A streetscape buffer is required along W. Chatham Street.

### Traffic

The existing 9,700 square-foot building is being rezoned to O&I with several conditions. There will be no bank use or day care use allowed. The school use will be limited to 4,500 square feet and 40 students. A 40-student private school using the NCDOT MSTTA calculator would generate 35 am and 22 pm peak hour trips and would require a minimum queue length of 92 feet in addition to a 100-foot loading and unloading zone. The remaining 5,200 square feet of General Office ITE code (710) would generate 8 am and 8 pm peak hour trips. The total trips generated by this site would be 43 am and 30 pm peak hour trips. The threshold for a traffic study is 100 peak hour trips, so no traffic study is required at the time of rezoning. A traffic management plan needs to be submitted and coordinated with staff prior to establishing a school use.

### 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 September 25, 2013. According to the information submitted by the applicant, no residents attended the meeting.

### Notification

On November 5, 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 November 6 and 13, 2013. Notice of the public hearing was posted on the property November 6, 2013.

### **Town Council Public Hearing (November 21, 2013)**

There were no speakers at the public hearing other than the applicant, and no discussion by Town Council.

### **Planning and Zoning Board Meeting (December 16, 2013)**

The Planning and Zoning Board considered the request and recommended approval 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 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 the parcel for "Office/Industrial" ("OFC/IND") development.

**Definitions:** The OFC/IND land use category is defined in Chapter 6, Section 6.4 of the Land Use Plan, which simply notes that the classification includes both office and light industrial uses. In past practice, the OFC/IND land use category has most often been mapped to the Office/Research and Development (ORD) Zoning District, and sometimes to the Office and Institutional (OI) Zoning District, depending on the particular context and zoning conditions. Section 6.4 of the plan also describes uses that should be avoided within areas designated as OFC/IND, when the OFC/IND area is not part of a larger Office Park (as is the case here). Uses that should be avoided include:

- Any uses considered noxious when located next to the adjacent or nearby properties and land uses;
- Any uses generating appreciable amounts of pollution;
- "neighborhood" types of institutional uses such as neighborhood-sized libraries, parks, places of worship, and primary schools.

**Planning History.** At the time of adoption of the townwide Land Use Plan in 1996, the subject parcel, and its immediately adjacent parcels to the north, west, and south, were all designated for Office/Institutional land use (OFC/INS). These several parcels' land use designations were changed from OFC/INS to OFC/IND in February 1999, when Town Council adopted a comprehensive update of the Land Use Plan for all properties along the Old Apex Road/W. Chatham Street corridor, from the planning boundary with the Town of Apex to a point just north of High House Road. Part of the reason for the plan amendment at that time was to reflect the existing Industrial District zoning of those parcels, as well as to consider uses that might be more compatible with the adjacent Duke/Progress Energy vehicle facility and the nearby gas station at the corner of SW Maynard Road. There have been no Land Use Plan Map amendments in the immediate vicinity of the subject parcel since that time.

### **Planning Context: Land Use Recommendations for Adjacent Parcels**

1. North: The property immediately adjacent to the north is also designated for OFC/IND land uses on the Land Use Plan Map, and is also owned by the applicants. At present, the site appears to

contain a single industrial storage outbuilding. The next property north of that is designated Commercial ("COM"), and is an existing service station.

2. West and South: The adjacent parcels to the west and south are also designated for OFC/IND land uses on the Land Use Plan Map. These two parcels are owned by Duke/Progress Energy, and constitute a single facility that includes vehicle storage, a vehicle garage/service shop, and an office building.
3. East: Properties immediately east of the subject parcel, on the opposite side of W. Chatham Street, are designated for OFC/INS (Office/Institutional) land uses on the Land Use Plan Map. (The OFC/INS land use category has most often been mapped to the Office and Institutional (OI) Zoning District.)

**Analysis:** The applicant's zoning request should be evaluated both in the context of the Land Use Plan Map's designation for the property, and in the context of Section 6.4 of the Plan. Clearly, typical office uses would be compatible with both the Plan Map and Plan Document. However, the proposed rezoning conditions also caution against the inclusion of institutional uses such as primary schools within such a nonresidential area. The fact that the site is immediately adjacent to a Duke/Progress Energy facility for vehicle storage and maintenance, and adjacent to a site with a significant industrial storage outbuilding, should be considered when evaluating whether or not the proposed rezoning will be compatible with adjacent uses.

### **Growth Management Plan**

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

- Guiding Principle R1: Ensure that adequate infrastructure and services are available concurrently with new development.
- Guiding Principle L1: Concentrate growth near existing and planned employment centers and available and planned infrastructure to minimize costly service-area extensions.

**Analysis:** The proposed rezoning seems to satisfy the above principles, and is therefore generally consistent with the Growth Management Plan.

### **Affordable Housing Plan**

The Affordable Housing Plan is not applicable to this nonresidential zoning case.

### **Comprehensive Transportation Plan**

#### **West Chatham Street**

**Road Classification:** Designated as a **Major Thoroughfare**

**Existing Section:** 2 lanes undivided in approximately 70-foot ROW

**Future Section:** 3 lanes in 74-foot ROW (to accommodate bike lanes)

**Sidewalks:** Sidewalks required on both sides; no sidewalks currently exist.

**Bicycle Lanes:** 4-foot-striped bike lane required per CTP

**Status of Planned Improvements:** N/A

#### **Transit**

The nearest existing transit service is provided by C-Tran Routes 1 and 2 on Maynard Road, less than 350 feet from the site. Long-range C-Tran expansion plans envision a potential future route on Old Apex Road, approximately ¼ mile east of the site; however, such expansion is not yet funded, and no future service date has been set.

### **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**

There are no identified historic resources on the site.

**Comprehensive Plan: Summary Observations**

- The general office uses specified in the zoning conditions seem to be in conformance with the Land Use Plan, however, the condition to allow a school may not be consistent with the compatibility recommendations of the Land Use Plan.
- The requested rezoning seems consistent with Cary’s Growth Management Plan.
- The site does not contain any significant natural resources as identified by the Town.
- The site does not contain any identified historic resources.
- The site is well-served by C-Tran.

**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-22 956 W CHATHAM STREET**

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF THE TOWN OF CARY TO CHANGE THE ZONING OF 0.85 ACRES LOCATED AT 956 W CHATHAM STREET BY REZONING FROM INDUSTRIAL (I) TO OFFICE AND 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:

<b>Property Owner(s)</b>	<b>County Parcel Number(s) (10-digit)</b>	<b>Real Estate ID(s)</b>	<b>Deeded Acreage</b>
Katherine S. Winslow and Theodore H. Stevens	0753865959	0094710	.85 ±

**Section 2:** That this Property is rezoned from Industrial (I) to Office and Institutional Conditional Use (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. Uses shall be limited to office and school.
2. School use shall be limited to a maximum of 40 students and 4,500 square feet of floor area.

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

Adopted and effective: January 9, 2014

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Harold Weinbrecht, Jr.  
Mayor

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Date