

**Town of Cary, North Carolina
Rezoning Staff Report
12-REZ-26 Chatham Pointe PDD Amendment
Town Council Meeting
March 28, 2013**

REQUEST

To amend the Town of Cary Official Zoning Map by revising the land uses allowed in Phase 2 of the previously-approved Chatham Point Planned Development District.

An associated Comprehensive Plan Amendment, 12-CPA-05, was approved by Town Council on January 10, 2013.

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 (10-digit)	Real Estate ID	Deeded Acreage
Apex Road Commercial, LLC 142 W. Platt Street Tampa, FL 33606	0753754843	0018263	3.13

PROJECT SUMMARY

The current adopted PDD master plan specifies 30,000 to 45,000 square feet of commercial and/or office use in Phase II. The proposed rezoning would amend Phase II of the Chatham Point Planned Development District (PDD) to allow up to 59 residential units, and 7,000 to 10,000 square feet of retail, commercial and office uses. The request includes a proposed reduction of streetscape width and a parking reduction.

After the initial public hearing before Town Council, it was determined that a parking reduction was needed. Information regarding the parking reduction was presented at the February 18, 2013 Planning and Zoning Board meeting, and in the associated staff report. Since the Planning and Zoning Board meeting, the applicant has further revised the request to:

- change the Phase II streetscape width from 15' to 20' (*representing a requested reduction of 10' rather than 15'*);
- enhance the Phase II streetscape with an architectural wall or fence;
- revise building height provisions to be consistent with Table 6.1-2 (*which allows a building height increase of 1 foot for each foot of additional setback provided*), with a maximum building height of 54 feet (*see page 17 of PDD Document*); and
- change the requested parking reduction from 20% to 16%.

The requested rezoning is being presented to the Planning and Zoning Board for a second time, as a public hearing, in order to provide the public with an opportunity to comment on the parking reduction request and other changes, and to provide the Planning and Zoning Board an opportunity to consider the changes proposed by the applicant since the February meeting.

BACKGROUND INFORMATION

Applicant & Agent	Ryan Hartney, Phillips Development		
Acreage	3.13±		
General Location	Northeast corner of West Chatham Street and Old Apex Road intersection		
Schedule	Town Council Public Hearing November 15, 2012	Planning & Zoning Board February 18, 2013 March 18, 2013 (public hearing)	Town Council March 28, 2013
Land Use Plan Designation	Mixed Use (MXD)		
Existing Zoning District	Planned Development District (Minor) [PDD (Minor)]		
Proposed Zoning District	Planned Development District (Minor) [PDD (Minor)]		
Proposed Zoning Conditions	As specified in Chatham Pointe PDD Document dated March 9, 2006, with proposed revisions that would allow up to 59 residential units, and 7,000 to 10,000 square feet of retail, commercial and office uses, in Phase II. Request includes reduction of streetscape width and parking reduction		
Town Limits	Yes		
Valid Protest Petition	No protest petitions were filed.		
Staff Contact	Mary Beerman, Senior Planner (919) 469-4342 mary.beerman@townofcary.org		

SITE CHARACTERISTICS

Streams: According to Cary GIS maps, a portion of the site is impacted by a stream buffer. Final determination regarding the presence of a stream and applicability of a stream buffer will be made at the time of site plan review.

Floodplain: According to Cary GIS maps, there is no floodplain area on the subject property. Final determination regarding the presence of floodplain area will be made at the time of site plan review.

Wetlands: Determination regarding wetlands will be made at the time of site plan review.

Surrounding Zoning and Land Uses:

North – PDD, Minor (Chatham Pointe PDD); Multi-family residential
 South (opposite side of West Chatham Street) – PDD Major (Oxford Hunt PDD); shopping center
 East (across CSX railroad) – Industrial; wholesale business
 West – PDD Major (Oxford Hunt PDD); convenience store

CONSISTENCY WITH LAND DEVELOPMENT ORDINANCE

Land Use

	Existing PDD District	Proposed PDD District
Land Use	Phase I: 197 Multi-family units (<i>existing</i>) Phase 2: 30,000-45,000 sf commercial/office use	Phase I: no change Phase 2: 59 multi-family units and 7,000 - 10,000 sf commercial/office use

Density and Dimensional Standards

	Existing PDD District	Proposed PDD District
Min. Lot Size	None	No change
Minimum Lot Width	None	No change
Front Yard Setback	30' from thoroughfare or collector	No change
Side Yard Setback	None	No change

Rear Yard Setback	None	No change
Maximum Building Height	Phase I: Multi-family use (<i>existing</i>) – 35' Phase II: Commercial/office use • 35' for non-residential buildings within 100' of residentially-zoned property • 50' for non-residential buildings more than 100' from residentially-zoned property	Phase I: no change Phase II: 54' maximum
Streetscape	Phase I: (<i>existing</i>) • Old Apex Rd – 30' opaque streetscape Phase II: • Old Apex Rd – 30' streetscape • W. Chatham St – 30' streetscape	Phase I: no change Phase II: • Old Apex Rd – 20' streetscape • W. Chatham St – 20' streetscape
Perimeter Buffers	Phase I: (<i>existing</i>) • North boundary – 30' Type A (opaque) buffer • West (railroad) – 40' Type B buffer Phase II: • West (railroad) – 40' Type B buffer	No change

Off-street Parking and Loading

Parking and loading requirements of Section 7.8 applicable to the proposed use are listed in the table below. The applicant has requested a variation from these standards as part of the rezoning request .

	LDO Standard	Variation Requested
Parking Required for Residential Use in Non-residential Building	2 parking spaces per dwelling unit plus .25 per bedroom over 2 bedrooms	16% Reduction in total number of required parking spaces
Parking Required for Retail Use	1 parking space per 250 sq.ft.	
Required Loading Berths	1 berth where gross floor area is less than 40,000 sq. ft.	No loading berth proposed

Section 4.2.3(D)(5) (*related to off-street parking and loading requirements in PDD districts*) states that the “master plan shall comply with the off-street parking and loading requirements of Section 7.8, except that variations from these standards may be permitted if a comprehensive parking and loading plan for the development is submitted part of the master plan that is suitable for the development and consistent with the intent and purpose of the off-street parking and loading standards of this ordinance”.

The applicant submitted a parking demand study in support of this request.

Traffic

A traffic study (12-TAR-343) was completed by the Town’s on-call traffic consultant, Martin Alexiou Bryson (MAB), for the Chatham Pointe PDD Amendment (a.k.a. Old Apex Mixed-Use Development). The traffic study was prepared assuming 11,000 square feet of retail space and a 59-unit apartment style building. Summarized below is the estimated vehicle trip generation for the project:

- Average daily traffic = 953 trips (476 entering, 477 exiting)
- A.M. peak hour traffic = 44 trips (14 entering, 30 exiting)
- P.M. peak hour traffic = 91 trips (53 entering, 38 exiting)

The traffic study evaluated all major intersections located within ½-mile of the proposed site. All intersections evaluated are expected to operate at level of service “D” or better, which is the defined threshold before roadway mitigations are required. The traffic study indicates the following improvements should be associated with the site plan:

Old Apex Road

- Widen to one-half of a five lane undivided roadway section (½ - 69'b/b).

W. Chatham Street

- Widen to one-half of two-three lane roadway section (½ - 45' to 56' b/b).

Access Driveway on Old Apex Road

- Provide one ingress lane and one egress lane. Provide channelization to restrict access to right-in, right-out, with left-in only provision (no left turn out provision).
- Stripe outside lane in northbound direction on Old Apex Road for a right-turn lane into driveway access.
- Re-stripe the existing southbound left-turn lane on Old Apex Road to provide 125-feet of vehicle storage.

Access Driveway on W. Chatham Street

- Provide one ingress lane and one egress lane. Provide proper channelization to restrict access to right-in, right-out only.
- Provide a short 50' right-turn lane on westbound W. Chatham Street into driveway access.
- Locate driveway further to the east along W. Chatham Street (50-100 feet) to achieve more distance from signalized intersection with Old Apex Road.

There were some miscellaneous internal circulation recommendations in the traffic study report, but those will be addressed during site plan review. No off-site mitigations were recommended. Road improvements recommended in the traffic study are included in the PDD document.

An Executive Summary of the Traffic Analysis Report is attached.

SUMMARY OF PROCESS AND ACTIONS TO DATE

Neighborhood Meeting

According to information provided by the applicant, a neighborhood meeting was held on September 17, 2012. No residents attended the meeting.

Notification

On October 30, 2012 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 October 31, and November 7, 2012. Notice of the public hearing was posted on the property on October 31, 2012.

Town Council Public Hearing (November 15, 2012)

There were no speakers at the public hearing other than the applicant. Council discussion included questions regarding the proposed streetscape reduction, building height and the mix of uses. There was some concern that 59 units is a lot to place on three acres. It was noted that the existing PDD is already set up to be a mixed use development and the proposed change would reduce the amount of commercial use. The applicant responded that the purpose of the request was to add residential to create a vertically integrated mixed use project.

Planning and Zoning Board Meeting (February 18, 2013)

There were questions and concerns from Board members concerning the proposed reduction to the streetscape, and the proposed building height. A motion to approve the request failed by a vote of 4-4. The Board forwarded the request to the Town Council with no recommendation.

Changes Since the Planning and Zoning Board Meeting

After the initial public hearing before Town Council, it was determined that a parking reduction was needed. Information regarding the parking reduction was presented at the February 18, 2013 Planning and Zoning Board meeting, and in the associated staff report, however that item was not advertised as a

public hearing. Since the Planning and Zoning Board meeting, the applicant has further revised the request to:

- change the Phase II streetscape width from 15 feet to 20 feet (*representing a requested reduction of 10 feet rather than 15 feet*);
- enhance the Phase II streetscape with an architectural wall or fence;
- revise building height provisions to be consistent with Table 6.1-2 (*which allows a building height increase of 1 foot for each foot of additional setback provided*), with a maximum building height of 54 feet (*see page 17 of PDD Document*); and
- change the requested parking reduction from 20% to 16%.

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

The requested rezoning was presented to the Planning and Zoning Board for a second time, as a public hearing, in order to provide the public with an opportunity to comment on the parking reduction request. In addition, this provided the public and the Planning and Zoning Board an opportunity to consider the other changes proposed by the applicant since the February meeting.

There were no speakers at the public hearing other than the applicant team. Board members had questions for the applicant concerning the parking reduction, streetscape reduction, and building height. The board recommended approval of the revised request by a vote of 6-3. Comments from individual board members included the following:

- Appreciation was expressed for changes made since last meeting. The data provided in the parking study and explanation by the applicant addressed previous concerns with parking.
- The plan overall seemed to be a good one, however, the density of the residential portion was believed to be too high in relation to density in Phase I, and no justification was found for the parking and streetscape reductions.
- Appreciation was expressed for the changes made by the applicant, however, with reductions to standards, the request did not meet all requirements of the ordinance.
- Support for the integration of uses was expressed, with some reservation with the mix of uses. More commercial use would be preferable. Overall, the project seemed to be a good one, and was a positive sign of growth and improvement in the area.
- Agreement was expressed with the previous comment that residential density was too high and there was no justification for the parking and streetscape reductions.
- Concern was expressed with the amount of reduction in the commercial use. It was suggested that the Town develop a policy for evaluating the percentage of uses to provide guidance for the board as well as applicant.
- It was noted that there is a lot of commercial use in the vicinity of the PDD. There was some concern with the streetscape reduction, however it was noted that the lot was unusual and had constraints. The parking reduction was not of concern, and it was observed that often more parking is required than is needed.

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

A. Land Use Plan

An associated Comprehensive Plan Amendment (12-CPA-05) to change the land use designation for the subject property from Commercial (COM) to Mixed Use (MXD) was approved by Town Council on January 10, 2013. The Mixed Use (MXD) category generally refers to areas containing a mix of commercial, office, and/or medium to high-density residential uses. In particular, Mixed Use areas are usually anticipated to have a mix of both residential and nonresidential uses. The mix of uses might occur either side-by-side in adjacent buildings, or vertically within individual buildings. In general, it is expected that there be a reasonable mix of uses, rather than a "token" mix. That is, it's generally expected that single major use type should not substantially dominate the mixed use site.

B. 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 fund payment will be required for residential development in accordance with the Land Development Ordinance.

C. Growth Management Plan

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

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

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

D. Affordable Housing Plan

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

- Provide for a full range of housing choices for all income groups, families of various sizes, seniors, and persons with special challenges.
- 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.
- Assure a quality living environment and access to public amenities for all residents, present and future, of the Town of Cary, regardless of income.

E. Comprehensive Transportation Plan

Old Apex Rd. is designated as a Major Thoroughfare.

Existing Section: Approximately 90-foot ROW; 2-3 lanes

Future Section: Five lanes in 9-foot ROW

Sidewalks: Partial sidewalk exists; required on both sides

Bicycle Lanes: 14-foot-wide outside lanes required

Status of Planned Improvements: N/A

West Chatham St. is designated as a Major Thoroughfare.

Existing Section: Approximately 80-ROW; 2-3 lanes with turn lanes at intersection

Future Section: Two lanes with landscape median transitioning to a 3-lane section; 70- to 78-foot ROW

Sidewalks: Do not exist; required on both sides

Bicycle Lanes: 4-foot-striped bike lane or 14-foot-wide outside lane required

Status of Planned Improvements: N/A

Transit Bus transit service is provided by C-Tran Routes 1 and 2 on Maynard Road, approximately 0.4 miles north of the site.

F. Open Space Plan

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

G. Historic Preservation Master Plan

The subject property does not contain any structures.

OTHER REFERENCE INFORMATION

Schools <i>This information is being provided for your review; however, the Wake County Board of Education controls capital projects for school capacities.</i>	Type ¹	Projected Range of Additional Students ²
	Elementary School	6-20
	Middle School	4-13
	High School	2-11
Total Projected range of additional students ²		12-44
¹ Information regarding specific Wake County Public School assignment options may be found by visiting the following: http://assignment.wcpss.net/preview/myplan.html		
² The <i>Projected Range of Additional Students</i> 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 provide from 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

12-REZ-26 Chatham Pointe PDD Amendment

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF THE TOWN OF CARY TO CHANGE THE ZONING OF APPROXIMATELY 3.13 ACRES LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF OLD APEX ROAD AND WEST CHATHAM STREET OWNED BY APEX ROAD COMMERCIAL, LLC BY AMENDING CERTAIN PROVISIONS OF THE CHATHAM POINTE PLANNED DEVELOPMENT DISTRICT (PDD) DOCUMENT APPLICABLE TO PHASE 2 OF THE PDD.

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 (10-digit)	Real Estate ID	Deeded Acreage
Apex Road Commercial, LLC 142 W. Platt Street Tampa, FL 33606	0753754843	0018263	3.13

Section 2: That this Property is rezoned, subject to the individualized development conditions set forth in the "Chatham Pointe Planned Development District" document dated March 9, 2006 and on file in the Planning Department, as amended by the "Chatham Pointe Planned Development District Amendment" document approved by the Town Council as of this date and on file in the Planning Department, and 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: 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 set forth in the Planned Development District document dated March 9, 2006 and on file in the Planning Department, as amended by the "Chatham Pointe Planned Development District Amendment" document approved by the Town Council as of this date and on file in the Planning Department

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

Adopted and effective: *March 28, 2013*

Harold Weinbrecht, Jr.
Mayor

Date