

**Town of Cary, North Carolina  
Comprehensive Plan Amendment Staff Report  
12-CPA-05 Chatham Pointe  
Town Council Meeting  
January 10, 2013**

**REQUEST**

This Comprehensive Plan Amendment case is a request to amend Cary's Land Use Plan Map for one parcel of approximately 3.13 acres, located at the northeast corner of the intersection of Old Apex Road and West Chatham Street. The applicant's request is to change the future land use designation for the parcels from Commercial (COM) to Mixed Use (MXD).

*NOTE: The purpose of a comprehensive plan amendment is to evaluate the appropriateness of a proposed land use and/or other policy recommendation for the subject parcel(s) of land. Specific permitted land uses are addressed during review of a rezoning case, and technical design standards of the Land Development Ordinance are addressed during review of the site or subdivision plan. Details for zoning and land development standards can be found at <http://www.amlegal.com/library/nc/cary.shtml>.*

**SUBJECT PARCELS**

Property Owner	County Parcel Number (10-digit)	Real Estate ID(s)	Calculated Acreage
Apex Road Commercial, LLC 142 West Platt St. Tampa, FL 33606	0753754843	0018263	3.13

**BACKGROUND INFORMATION**

Applicant	Don Phillips Apex Road Commercial, LLC 142 West Platt St. Tampa, FL 33606 Ph. 813-868-3100 don@pdrllc.com		
Applicant's Contact Person	Ryan Hartney Phillips Development 142 West Platt St. Tampa, FL 33606 Ph. 813-380-2291 rhartney@pdrllc.com		
Acreage	3.13 +/- acres		
General Location	Northeast corner of the intersection of Old Apex Road and West Chatham Street		
Schedule	<b>Town Council Public Hearing</b> November 15, 2012	<b>Planning and Zoning Board Public Hearing</b> December 17, 2012	<b>Town Council</b> January 10, 2013
Existing Land Use Plan Designation	Commercial (COM)		
Proposed Land Use Plan Designation	Mixed Use (MXD)		
Existing Zoning District(s)	Planned Development District, Minor (PDD Minor). Nearest equivalent conventional zoning district is General Commercial (GC).		

Town Limits	The subject properties are located within the Cary corporate limits.
Staff Contact	Scott Ramage, Principal Planner ph. 919-462-3888 scott.ramage@townofcary.org

**SUMMARY OF PROCESS AND ACTIONS TO DATE**

**Notification**

On October 31, 2012 the Planning Department mailed notification of a public hearing on the request to property owners within 400 feet of the subject property. Notification of the Planning Board public hearing was mailed on December 4, 2012. Notification consistent with General Statutes was published in the Cary News on October 31 and November 7, 2012 for the Town Council public hearing, and on December 5 and December 12 for the Planning and Zoning Board public hearing. Notice of the public hearing was posted on the property on October 31, 2012.

**Town Council Public Hearing on November 15, 2012**

The applicant’s representative summarized the amendment request. No citizens spoke.

Council Discussion: Council members directed their comments and questions to the specifics of the associated rezoning case 12-REZ-26; no comments were made about the plan amendment request.

**Planning and Zoning Board Public Hearing on December 17, 2012**

Ms. Cindy Szwarcop, speaking on behalf of the applicant, stated that the amendment will add a multi-family component to the commercial/retail and office uses already allowed on this site, resulting in a vertical mixed-use project. She also commented that the site is adjacent to other high- and medium-density projects; the request supports principles of the Town’s Growth Management and Affordable Housing Plans; and mixed-use, infill development supports the shifting economy.

Three current residents of the adjacent Phillips Swift Creek Apartment Complex spoke in favor of the CPA request:

- Angelica Sterling said she would like to see a mix of services available to the apartment complex residents. She said young professionals are moving there, the area is safe, and nearby services will be very convenient.
- Thom del Rossi said it would be nice to be able to walk to get food and groceries after getting off work, and that being able to walk to services would help him save money on gas. He also believes development of the site will be good for the economy.
- Don Barnes said he often works from home and not having to get in his car to get a cup of coffee or something to eat would be nice. His apartment windows currently overlook the subject site, and he believes the proposed project provides a reasonable footprint for that land.

**Board Discussion:** Board members Brent Miller and John Shaw questioned the definition and enforceability of the Mixed-Use designation on the Land Use Plan. Board members Bill Gascoigne, Wayne Rogers, Hari Nath, and Al Swanstrom spoke in favor of the idea of a mixed-use designation for the subject site, with Mr. Rogers noting that “straight commercial” hasn’t flourished across the street from the subject site. The board voted 8-0 to recommend approval of the CPA request.

**COMPREHENSIVE PLAN SUMMARY**

**A. Land Use Plan**

Current Land Use Plan Designation: The townwide Land Use Plan recommends the subject parcel for future Commercial (COM) uses, which typically refers to retail and services uses. (The subject parcel is

not contained in any of the Town's area plans.) The commercial land use designation dates back to the original adoption of the Land Use Plan in 1996, and was based on recognizing the parcel's commercial zoning at that time, as part of the Oxxford Hunt PUD. The commercial land use designation was confirmed in February 1999, when Town Council adopted a comprehensive update of the Land Use Plan for all properties along the Old Apex Road corridor, from the planning boundary with the Town of Apex to a point just north of High House Road. The commercial land use designation was again confirmed in March 2006, when the parcel was separated from the Oxxford Hunt PUD, and incorporated into the new Chatham Pointe PDD.

Requested Land Use Plan Designation: The applicant requests that the property be redesignated for Mixed Use (MXD) development on the Land Use Plan Map. 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 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

**Analysis:** The proposed amendment is consistent with the Guiding Principles listed above.

#### **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.

**Analysis:** The proposed amendment supports the first goal above by adding to the range of housing choices within the area, and supports the second and third goals listed above by providing the potential for a mix of residential and non-residential uses on the same site.

#### **E. Comprehensive Transportation Plan**

**Old Apex Rd. is designated as a Major Thoroughfare.**

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

**Future Section:** 5 lanes in 9- 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:** 2 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.

**APPLICANT'S JUSTIFICATION STATEMENT**

Attached are the applicant's responses to the Comprehensive Plan Amendment 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.

**CRITERIA FOR CONSIDERATION IN REVIEWING COMPREHENSIVE PLAN AMENDMENTS**

Section 3.2.2(B) of the Land Development Ordinance states that proposals to amend the Comprehensive Plan shall be evaluated based upon whether the amendment is necessary in order to address conditions including, but not limited to, the following:

- 1. A change in projections or assumptions from those on which the Comprehensive Plan is based;  
**Analysis:** The 1996 townwide Land Use Plan identified the subject site as appropriate for commercial uses and this assumption was confirmed as recently as 2006 when the site was moved from the Oxxford Hunt PDD to the Chatham Pointe PDD. Even so, there is evidence of a continuing shift in demographics that began in the last decade (validated by the 2010 decennial census) which, along with changes in the economy, has yielded an increase in people who desire a mixed-use, more walkable lifestyle.
- 2. Identification of new issues, needs, or opportunities that are not adequately addressed in the Comprehensive Plan;  
**Analysis:** This request is an opportunity to provide a mix of uses and bring more residential units within walking distance of services.
- 3. A change in the policies, objectives, principles, or standards governing the physical development of the Town or any other geographic areas addressed by the Comprehensive Plan; or  
**Analysis:** None identified.
- 4. Identification of errors or omissions in the Comprehensive Plan.  
**Analysis:** No errors or omissions have been identified.

**STAFF ANALYSIS AND RECOMMENDATION**

Based on all available evidence, staff believes there will continue to be a demand for housing in close proximity to jobs and services in order to lessen commute distances, reduce emissions, and conserve resources. Staff recommends that the Townwide Land Use Plan Map be amended such that the subject property has a future land use designation of Mixed Use.