

Staff Report for Town Council



Meeting Date: July 26, 2018

18-A-06 P&P Balaji Enterprise, LLC Annexation

Purpose: Conduct public hearing and defer action on requested annexation to allow final vote to coincide with final action on associated rezoning.

Prepared by: Wayne Nicholas, Planning

Speaker: Wayne Nicholas, Planning

Executive Summary: The owners of property located at 6900 Jenks Road (northwest corner of the Jenks Road and NC 55 Highway intersection) have petitioned for annexation of the property. Pursuant to statute, the Town Council must hold a public hearing before taking action on the request.

Associated Case(s): Rezoning 18-REZ-06 (Jenks Road and NC 55 Highway)

Recommendation: That Council conduct a public hearing and defer action on requested annexation to a future council meeting to allow final vote on the annexation to coincide with the final action on the associated Rezoning 18-REZ-06 (Jenks Road and NC 55 Highway).

Background:

Owners of property located outside of the corporate limits of the Town that desire to develop using Town utilities or that otherwise desire to be located in the corporate limits must first petition to be annexed, pursuant to the requirements of either NCGS Chapter 160A, Article 4, Part 1, when their property is contiguous to the corporate limits, or to NCGS Chapter 160A, Article 4, Part 4, when their property is not contiguous to the corporate limits. In either case, Council must conduct a public hearing on the annexation request prior to taking action. At the public hearing on a request for non-contiguous annexation, such as this, any property owner or resident of the annexation area and any Town resident may speak as to the sufficiency of the petition and the desirability of the annexation.

Once property is annexed, the property and its citizens become subject to all the laws, ordinances, and regulations of the Town and are entitled to receive the services the Town provides (fire and police protection; solid waste; utilities; etc.). If the annexed property is located in an area served by a rural fire department, the Town may also be required to assume a proportionate share of any debt related to equipment or facilities of the rural fire department. If the property is located outside of the Town's extraterritorial jurisdiction, the property owner must also submit a rezoning application in order to establish initial Town zoning designation upon annexation.

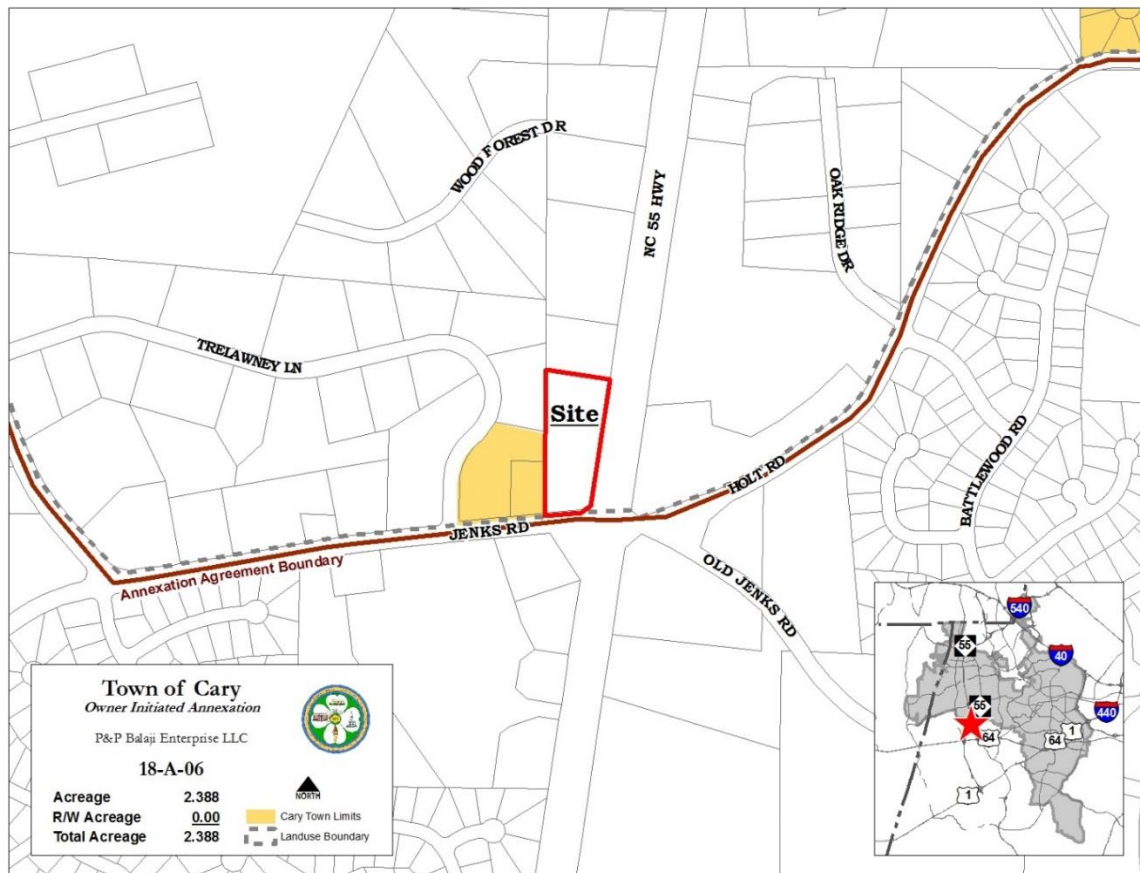
Discussion:

The owners of the following property filed an annexation petition with the Town on 4/26/2018

OWNER(S) AND PARCEL INFORMATION:

Property Owner(s) Address List	Property Location	Wake County Parcel Number (10-digit)	Wake County Real Estate ID	Deeded Acreage
P&P Balaji Enterprise, LLC 162 Mockingbird Court Apex, NC 27523-6367	6900 Jenks Road	0733627275	0078015	2.388
Total Deeded Acres				2.388

VICINITY MAP



[Click the map to see surrounding development activity.](#)

This annexation is associated with a proposed rezoning (case 18-REZ-06) that would apply initial Town of Cary zoning to the subject property and rezone two adjacent properties already within the Town Limits. The property proposed for annexation is located outside of the Town's extra-territorial jurisdiction (ETJ) and currently has a Wake County zoning designation of Highway District. Although the subject property is adjacent to two parcels already within the Town Limits, it is considered a satellite annexation since none of the three properties are adjacent to Town's primary corporate limits. Based on Wake County tax records, the property is currently vacant. The associated rezoning case proposes to rezone the properties to allow for commercial and/or other types of non-residential development. In order to develop under Cary's zoning regulations, the subject property must be annexed into Cary's corporate limits. As part of annexation into the Town, a Cary zoning designation must also be applied to the property.

As required by statute, the Town Clerk has certified that the Petition is valid and that the area to be annexed meets the following criteria: (1) the nearest point on the proposed satellite corporate limits is not more than three miles from the primary corporate limits of the Town; (2) no point on the proposed satellite corporate limits is closer to the primary corporate limits of another city than to the primary corporate limits of the Town; (3) the annexation area is so situated that the Town will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits; (4) if the annexation area, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision is included; and (5) the annexation area, when added to the area within all other satellite corporate limits, does not exceed ten percent (10%) of the area within the primary corporate limits of the Town].

On 6/28/2018, the Town Council adopted a Resolution calling for the public hearing to be held on 7/26/2018.

The following information may inform Council's decisions on this matter.

ZONING & PROPOSED USE:

Current Zoning: Wake County Highway District (HD)

Acreage: 2.388 plus 0 adjacent right of way = 2.388 total acres

Contiguous to Primary Corporate Limits: No; 0% contiguous (excluding satellite town limits)

Existing Use: Vacant

Proposed Use: Commercial

Active Associated Case(s): 18-REZ-06 (Jenks Road and NC 55 Highway) Rezoning

UTILITIES:

Water: Adjacent to site

Sewer: 6,500 feet northwest

DISTRICTS & TAX VALUE:

Fire District: Apex Fire District

Voting District: A
Tax Value: \$404,180

DRAFT Ordinance

18-A-06
P&P Balaji Enterprise, LLC

**AN ORDINANCE ANNEXING LANDS NOT CONTIGUOUS TO THE MUNICIPAL BOUNDARIES
OF THE TOWN OF CARY**

WHEREAS, the Town Council has been petitioned under G.S. 160A-58.1 to annex the area described below in Section 1 (the "Annexation Area"); and

WHEREAS, the Annexation Area is not contiguous to existing Town limits; and

WHEREAS, the Town Clerk of the Town of Cary certified the sufficiency of said Petition, the same being duly made after investigation; and

WHEREAS, on **6/28/2018**, the Town Council of the Town of Cary ordered a public hearing on the question of said annexation and Notice of a Public Hearing was published as required by law, which publication may have been on the Town of Cary website; and

WHEREAS, the matter came for public hearing before the Town Council of the Town of Cary on **7/26/2018**, at which time the owner of the Annexation Area and all Town residents were allowed to be heard; and

WHEREAS, the Town Council finds that the Annexation Area meets all the requirements of G.S. 160A-58.1(b); specifically, that (1) the nearest point on the proposed satellite corporate limits is not more than three miles from the primary corporate limits of the Town; (2) no point on the proposed satellite corporate limits is closer to the primary corporate limits of another city than to the primary corporate limits of the Town; (3) the Annexation Area is so situated that the Town will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits; (4) if the Annexation Area, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision is included; and (5) the Annexation Area, when added to the area within all other satellite corporate limits, does not exceed ten percent (10%) of the area within the primary corporate limits of the Town.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Cary, North Carolina that:

Section 1. The Annexation Area described below is hereby annexed to and made a part of the Town of Cary, effective on the date written below with a condition that the

property owner connect to Town of Cary utilities based upon the Town's policy(ies) in place on the effective date of this ordinance.

ANNEXATION AREA:

Wake County Parcel Identification #0733627275

LEGAL DESCRIPTION:

Beginning at an existing iron pipe having N.C. Grid Coordinates (NAD 83/2011) of N=732,494.73, E=2,036,654.48, thence from said beginning point South 81°23'14" East 240.34 feet to a rebar set on the western Right of Way of North Carolina Highway 55 (Variable width R/W), thence along said Right of Way South 08°35'44" West 466.93 feet to a rebar set at the intersection of said Right of Way and the northern Right of Way of Jenks Road (Variable width R/W), thence leaving said Right of Way and along the northern Right of Way of Jenks Road (Variable width R/W) South 55°55'27" West 49.75 feet to a rebar set on said Right of Way, thence continuing along said Right of Way South 84°34'33" West 132.03 feet to a rebar set on said Right of Way, thence leaving said Right of Way North 00°30'42" East 538.05 feet to the point and place of Beginning containing 2.388 Acres more or less.

Section 2. That from and after the effective date of this ordinance, the Annexation Area and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the Town of Cary, and shall be entitled to the same privileges and benefits as other parts of the Town. The Annexation Area shall be subjected to municipal taxes according to G.S. 160A-58.10.

Section 3. The Mayor of the Town of Cary shall cause an accurate map of the newly annexed territory together with a copy of this ordinance, duly certified, to be recorded in the Office of the Register of Deeds of Wake County or Chatham County, whichever is applicable to the annexed property, and in the Office of the Secretary of State of North Carolina.

Section 4. Pursuant to G.S. 160A-22, the Town Clerk is directed to update the Official Town Map ("Map") by drawing in the territory annexed, or setting out the boundaries in a written description, or showing the current Town boundaries by a combination of these techniques.

Section 5. Pursuant to G.S. 160A-23, the boundaries of Electoral District A are hereby revised to account for and include the territory annexed, and the Official Town Map of Electoral Wards is hereby amended to include the annexed territory in the said Electoral District. A copy of the Map shall be delivered to the Wake County Board of Elections or Chatham County Board of Elections, whichever is applicable to the annexed property, as required by G.S. 163-288.1.