

18-REZ-24

PAID

TOWN OF CARY  
Planning Department

AUG 23 2018

Submit to the Planning Department, P.O. Box 8005, Cary, NC 27512

For office use only: **DEVELOPMENT SERVICES** Rezoning Case #

Payment Method: CASH \_\_\_ CHECK  CREDIT CARD \_\_\_ Amount: \$ 1900- P&Z HTE# 19-121

#10154

**APPLICATION FOR REZONING**

Associated Annexation Petition  Yes  No

Traffic Impact Study  Yes TAR Number: N/A  
 No Staff confirmation: Initials \_\_\_\_\_ Date \_\_\_\_\_

This application is deemed sufficiently complete for purposes of submittal.

Planning Staff Signature [Signature] Date 08/23/18  
Submittal deadlines incorporate sufficiency review of rezoning/land use plan amendment applications. Signature by Planning Staff is required prior to payment of fees and final acceptance of application.

STAFF USE ONLY: Circle applicable Parts: 1 2 3A/B1 3B2 3B3 3B4 3C1 3C2 3C3 3C4 3D 3E1a 3E1b 3E2 3F

Fees will not be accepted until the application is deemed sufficiently complete and signed by Planning Staff.

**REZONING FEE:**

- \$1,400.00 – General rezoning, or initial zoning associated with owner-initiated annexation petition, 5 acres or greater
- \$300.00 – Initial zoning associated with citizen-initiated annexation petition, less than 5 acres
- \$1,900.00 – Conditional use rezoning (per change of zoning classification requested)
- \$2,500.00 – Mixed Use District Rezoning (New MXD, or major amendment to existing PDP)
- \$500.00 – Mixed Use District Rezoning (Minor amendment to existing PDP - typically less than 50% of floor area, number of units, etc.)
- \$2,500.00 – New application or major amendments to approved Major PDD
- \$1,250.00 – Minor PDD or Minor Amendment to Existing PDD

NOTE: An additional fee of \$150 will be charged for each additional public hearing or neighborhood meeting required due to changes in the request made during the rezoning process.

|                                    |                                 |   |
|------------------------------------|---------------------------------|---|
| <b>Project Name</b>                |                                 | Wade Drive Townhomes<br><u>Townhouses</u>   |
| <b>Name of PDD (if applicable)</b> |                                 |   |
| <b>Location</b>                    | <b>Address</b>                  | 6937 & 6940 Wade Drive  |
|                                    | <b>General Location</b>         | West of the intersection of Wade Drive and Lapis Lane   |
|                                    | <b>Jurisdiction (check one)</b> | <input type="checkbox"/> Cary Corporate Limits <input type="checkbox"/> Cary ETJ <input checked="" type="checkbox"/> Wake Co.* <input type="checkbox"/> Chatham Co.*<br><small>* Submittal of an annexation petition is required if rezoning is requested</small> |

## Part 1: Applicant Information

| Applicant                   | Applicant's Contact                          |
|-----------------------------|--|
| Name <u>Property Owners</u> | Name <u>Jason Barron</u>                     |
| Firm <u>as</u>              | Firm <u>Morningstar Law Group</u>            |
| Address <u>listed below</u> | Address <u>421 Fayetteville St   Ste 530</u> |
| City, State, Zip _____      | City, State, Zip <u>Raleigh, NC 27601</u>    |
| Phone (area code) _____     | Phone (area code) <u>(919) 590-0371</u>      |
| Email _____                 | Email <u>jbarron@morningstarlawgroup.com</u> |

## Part 2: Parcel & Owner Information

| Property Owner(s)<br><i>Provide property owner name and address as it appears in the Wake or Chatham County Tax Records,</i> | County Parcel Number(s)<br>(10 digit) | Real Estate ID(s) | Deeded Acres <sup>1</sup> |
|--|---------------------------------------|-------------------|---------------------------|
| <b>Octavia, LLC</b><br>2474 Walnut St   #256<br>Cary, NC 27519   | <b>0733-45-6323</b>                   | <b>0084072</b>    | 12.56                     |
| <b>Robert Chadwick, Claire Chadwick, Natanya Chadwick, &amp; Jeffrey Haggins</b><br>6937 Wade Dr<br>Cary, NC 27519           | <b>0733-44-6778</b>                   | <b>0084073</b>    | 6.37                      |
|  |                                       |                   |                           |
|  |                                       |                   |                           |
|  |                                       |                   |                           |
|  |                                       |                   |                           |
| <b>Total Acres</b>   |                                       |                   | <b>18.93</b>              |

<sup>1</sup> A property survey showing zoning district boundaries and acreages is required if multiple zoning districts are proposed or if the proposed rezoning applies to only a portion of a parcel.

### Part 3A: Rezoning Request

Pre-Application Conference:  Yes    Date: \_\_\_\_\_     No

|                        |  |  |
|------------------------|--|--|
| <b>Existing Zoning</b> | <b>Base Zoning District(s)</b>                                   | <b>Residential-40 Watershed (R-40W)</b>  |
|                        | <b>Zoning Overlay District(s)</b><br><i>Check any that apply</i> | <input type="checkbox"/> Mixed Use Overlay District<br>(Name: _____)<br><br><input type="checkbox"/> Conservation Residential Overlay District<br><br><input type="checkbox"/> Airport Overlay District<br><br><input type="checkbox"/> Watershed Protection Overlay District<br><input type="checkbox"/> Jordan Lake <input type="checkbox"/> Jordan Lake Critical Area <input type="checkbox"/> Swift Creek<br><br><input type="checkbox"/> Historic Preservation Overlay District |
|                        | <b>Zoning Conditions</b><br><i>(if any)</i>                      | <b>None</b>  |
| <b>Proposed Zoning</b> | <b>Proposed Base Zoning District(s)</b>                          | <b>Transitional Residential – Conditional Use (TR-CU)</b>  |
|                        | <b>Proposed Zoning Conditions</b>                                | <input type="checkbox"/> No zoning conditions are proposed<br><br><input checked="" type="checkbox"/> Zoning conditions are proposed and included in attached affidavit  |
|                        | <b>Proposed Changes to Overlay Districts</b>                     | <b>NONE</b>  |
|                        | <b>Summary of Proposed Development or Purpose of Request</b>     | <b>A townhome development with no more than 85 dwelling units</b>  |

## Part 3B: Applicant's Rezoning Justification Statement(s)

### Rezoning Justification Statement #1 *Required for all rezoning requests*

Describe how the proposed rezoning meets the criteria listed below.

Section 3.4.1(E) of the Land Development Ordinance states that Council should consider the following criteria when reviewing all proposed rezonings:

- (1) The proposed rezoning corrects an error or meets the challenge of some changing condition, trend, or fact;

*Applicant's Comments: The subject property is not within the Town's corporate limits nor it's ETJ; however, it is adjacent to both. This rezoning request is paired with a voluntary annexation request for the property. Though this property is adjacent to existing Town of Cary limits, it is worth noting that there is a satellite annexation at the corner of Jenks Road and Trelawney Lane, southeast from the site. Additionally, there are active submittals, including annexation requests for property off Page Road just south of the site. Despite not being in the Town's ETJ, this area is changing. The rezoning request responds to changing demand in the market for more suburban living.*

- (2) The proposed rezoning is consistent with the Comprehensive Plan and the purposes set forth in Section 1.3 of this Ordinance;

*Applicant's Comments: The Future Growth Framework Map designates the property as a Traditional Neighborhood. Guidance in the Cary Community Plan suggests that Transitional Residential is an appropriate district within this designation. Moreover, the Cary Community Plan suggests that townhomes are characteristic of residential neighborhoods in this designation. Therefore, the proposed rezoning is consistent with the Comprehensive Plan.*

- (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;

*Applicant's Comments: The applicant submits that the proposed rezoning will not impair the ability of the Town to provide adequate services to other areas within the Town. Moreover, the Town of Cary has a funded project to bring utilities under i540 from the west to extend services to this area. This indicates that the Town anticipates, and in fact is planning on additional development in this area.*

- (4) The proposed rezoning is unlikely to have significant adverse impacts on the natural environment, including air, water, noise, stormwater management, wildlife, and vegetation;

*Applicant's Comments: Development on the subject property is impacted by the existence of natural features and the buffers related thereto. These buffers, along with the Town's stormwater measures, are calculated to minimize impact on the natural environment such that there are no significant adverse effects.*

- (5) The proposed rezoning will not have significant adverse impacts on other property in the vicinity of the subject tract; and

*Applicant's Comments: Development on the subject property pursuant to the proposed rezoning is not expected to have significant adverse impacts on other property in the vicinity. On the contrary, the proposed rezoning may spur activity in an otherwise underutilized area close to Town.*

- (6) The proposed zoning classification is suitable for the subject property.

*Applicant's Comments: The subject property is of a sufficient size and shape for development consistent with the proposed rezoning.*

**Rezoning Justification Statement #2** *Required for all rezoning requests*

Describe how the proposed rezoning is consistent with or supported by the visions and policies of the [Cary Community Plan](#). *Attach additional sheet if necessary.*

Growth Framework Map: The Growth Framework map designates this area as Traditional Neighborhood. Guidance within the Cary Community Plan suggests that townhome development is consistent with this designation, particularly within its own discrete pod.

The subject property is on the periphery of the Traditional Neighborhood designation. At first glance, it may appear to be in the middle of the designation, but the I-540 corridor, which is west of the site, acts as a physical and visual barrier to development. Thus, the properties on either side of I-540 are peripheral properties with respect to the Traditional Neighborhood designation. Townhome development on the subject property could be within its own distinct pod while still maintaining connectivity to nearby areas. Therefore, the proposed rezoning is consistent with the Growth Framework Map.

  LIVE   Chapter, Policy   2  

Provide more housing choices for all residents – this policy recognizes the need for a diverse array of housing options throughout different areas of the Town to encourage and support diverse communities along age, income, family status, and more. The area around the subject property primarily is made up of single family detached housing. The proposed rezoning will help to better achieve the aim of this policy by introducing townhome living in an area of the Town where it is lacking.

  LIVE   Chapter, Policy   3  

Provide for more housing options in new neighborhoods – The intent of this policy is to increase the mix of housing options in developing parts of Town. Certainly, this area is a developing part of Town. The Town of Cary has a funded project to bring utilities from the Manor’s subdivision west of this area under I-540 to provide access to municipal utilities for future development. This large investment from the Town is calculated to encourage growth in this part of Town. The existing built environment offers single family detached housing. The proposed rezoning for a townhome development will increase the mix of housing stock in this area of Town, consistent with this policy.

  LIVE   Chapter, Policy   5  

Support residential development on infill and redevelopment sites – This policy recognizes that new development in Cary increasingly will occur on infill sites, like the subject property. As a result, this policy calls for a balancing of desires both for complimentary design and other policies within the Cary Community Plan. The property is adjacent to I-540 which does not bode well for single-family development. The surrounding area is within the County and previously has not had access to municipal utilities. With the installation of I-540 nearby and the forthcoming extension of municipal utilities, the character of this area is changing and now is a good candidate for higher density development than the current character of the area. The proposed rezoning achieves the right balance between these contending policies given the pattern of development in this area.

**Part 3C : Owner's Signature(s)** Completion of the applicable sub-section(s) is required for all rezoning requests except requests to rezone to a General Use District

Check applicable sub-section(s)

- 3C(1) – Required where property owner is an Individual
- 3C(2) – Required where property owner is a Limited Liability Company (LLC)
- 3C(3) – Required where property owner is General Partnership (GP), Limited Partnership (LP) or Limited Liability Partnership (LLP)
- 3C(4) – Required where property owner is a Corporation

(Attach additional sheets if necessary)

**Part 3C(1): Individual** All owners must sign, including husband & wife, and all joint tenants.  
(Notary not required)

Property Owner Printed Name Natanya Chadwick  
 Property Owner Signature Natanya Chadwick Date 8-17-2018

Property Owner Printed Name Jeffrey C. Haggins  
 Property Owner Signature Jeffrey Haggins Date 8/19/2018

Property Owner Printed Name Robert W. Chadwick  
 Property Owner Signature Robert Chadwick Date 8/19/2018

Property Owner Printed Name Claire J. Chadwick  
 Property Owner Signature Claire Chadwick Date 8/19/2018

Property Owner Printed Name \_\_\_\_\_  
 Property Owner Signature \_\_\_\_\_ Date \_\_\_\_\_

Property Owner Printed Name \_\_\_\_\_  
 Property Owner Signature \_\_\_\_\_ Date \_\_\_\_\_

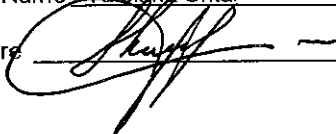
Property Owner Printed Name \_\_\_\_\_  
 Property Owner Signature \_\_\_\_\_ Date \_\_\_\_\_

**Part 3C(2): LIMITED LIABILITY COMPANY** - The area to be rezoned is owned by a limited liability company properly registered with the State of North Carolina. If 'member managed' all members must sign. If 'manager managed,' all managers must sign. **(Must be notarized).**

**Manager-Managed**

Manager(s) is/are:

Printed Name Tatsiana Shtal

Signature  Date 8/16/18

Printed Name \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

Printed Name \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

**Member-Managed**

Member(s) is/are:

Printed Name \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

Printed Name \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

Printed Name \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

If member/manager is an individual:

STATE OF NORTH CAROLINA

COUNTY OF WAKE

I, Bryan Slaughter, a Notary Public, certify that Tatsiana Shtal  
(Name of Notary) (Name of Notary)

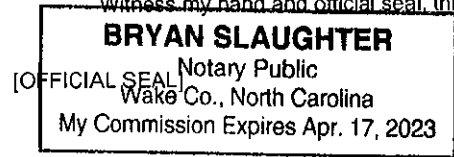
personally came before me this day and acknowledged that he/she is Manager (Circle One) of

Octavia, LLC and that he/she, as Manager (Circle One) of  
(Name)

Octavia, LLC he/she, as Manager, being authorized voluntarily executed the  
(Name of LLC) (Circle One)

foregoing on behalf of said limited liability company for the purposes stated therein.

Witness my hand and official seal, this the 16 day of August, 2018.



Bryan Slaughter  
Notary Public  
Bryan Slaughter  
Printed Name of Notary Public

My Commission expires April 17, 2023

If member/manager is a corporation:

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, a Notary Public, certify that \_\_\_\_\_  
(Name of Notary) (Name)

personally came before me this day and acknowledged that he/she is \_\_\_\_\_  
(Title of Corporate Officer)

of \_\_\_\_\_, which is a, (Member / Manager) of \_\_\_\_\_  
(Name of Corporation) (Circle One) (Name of LLC)

\_\_\_\_\_ of \_\_\_\_\_, (Member / Manager) of  
(Title of Corporate Officer) (Name of Corporation) (Circle One)

\_\_\_\_\_ being authorized to do so, voluntarily executed the foregoing on  
(Name of LLC)

behalf of said limited liability company for the purposes stated therein.

Witness my hand and official seal, this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

[OFFICIAL SEAL]

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Printed Name of Notary Public

My Commission expires: \_\_\_\_\_



### **Part 3E: Affidavit Signed by Property Owner or Authorized Agent**

*Completion of the applicable sub-section(s) is required for all rezoning requests except requests to rezone to a General Use District. Must be notarized.*

Check applicable sub-section(s)

- 3E(1a)** – Required where the property owner maintains sole authority to make binding statements and commitments regarding the request, and the property owner is one or more individuals.

and/or

- 3E(1b)** – Required where the property owner maintains sole authority to make binding statements and commitments regarding the request, and the property owner is a corporate or similar entity.

**OR**

- 3E(2)** – Required where the property owner has authorized another individual or entity to represent him/her through the public hearing process and make binding statements and commitments regarding the request. *(Selection of this option requires submittal of Power of Attorney or redacted sales contract per Part 3D above)*

### **NOTE:**

**Each time proposed zoning conditions are revised after the initial submittal, a new affidavit must be provided to the case planner.**