

PAID

SEP 20 2018

TOWN OF CARY
Planning Department

SEP 20 2018

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

Development Services

DEVELOPMENT SERVICES

For office use only:

Rezoning Case #

18-REL-25

Payment Method: CASH CHECK CREDIT CARD

Amount: \$ 1900

P&Z HTE# 19-187

180604

APPLICATION FOR REZONING

Associated Annexation Petition Yes No

Traffic Impact Study

Yes TAR Number: 18-TAR-435
 No Staff confirmation: Initials _____ Date _____

This application is deemed sufficiently complete for purposes of submittal.

Planning Staff Signature

[Signature]

Date 09/20/18

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.

Project Name		Green/Triangle Property
Name of PDD (if applicable)		
Location	Address	7512 Wake Road, 0 Astor Valley Circle, 11724 Green Level Church Road
	General Location	West side of Green Level Church Road near the Durham County Line
	Jurisdiction (check one)	<input type="checkbox"/> Cary Corporate Limits <input type="checkbox"/> Cary ETJ <input checked="" type="checkbox"/> Wake Co.* <input type="checkbox"/> Chatham Co.* *Submittal of an annexation petition is required if rezoning is requested

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) <i>Provide property owner name and address as it appears in the Wake or Chatham County Tax Records,</i>	County Parcel Number(s) (10 digit)	Real Estate ID(s)	Deeded Acres ¹
Lucille B. Green (50%) Kevin A. Green (16.7%) Mildred G. McManus (16.6%) Harold E Green Jr. (16.7%) 2321 Evangelines Way Virginia Beach, VA 23451-1077	0737-00-3472 (partial)	0026173	32.59
Triangle Brick Co 6523 NC Hwy 55 Durham, NC 27713	0727-80-5666	0174177	20.66
Triangle Brick Co 6523 NC Hwy 55 Durham, NC 27713	0726-99-2507 (partial)	0071194	29.31
Total Acres	82.56		

¹ 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: 3/14/18 No

Existing Zoning	Base Zoning District(s)	Residential-30 (R-30) (Wake County)
	Zoning Overlay District(s) <i>Check any that apply</i>	<input type="checkbox"/> Mixed Use Overlay District (Name: _____) <input type="checkbox"/> Conservation Residential Overlay District <input type="checkbox"/> Airport Overlay District <input type="checkbox"/> Watershed Protection Overlay District <input type="checkbox"/> Jordan Lake <input type="checkbox"/> Jordan Lake Critical Area <input type="checkbox"/> Swift Creek <input type="checkbox"/> Historic Preservation Overlay District
	Zoning Conditions <i>(if any)</i>	None
Proposed Zoning	Proposed Base Zoning District(s)	Residential-12 – Conditional Use (R-12-CU)
	Proposed Zoning Conditions	<input type="checkbox"/> No zoning conditions are proposed <input checked="" type="checkbox"/> Zoning conditions are proposed and included in attached affidavit
	Proposed Changes to Overlay Districts	Watershed Protection overlay District: NONE Jordan Lake
	Summary of Proposed Development or Purpose of Request	A single-family subdivision with no more than 134 dwelling units

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: Simultaneous with this rezoning application, an annexation petition for the same property is being considered. The current zoning is R-30 Wake County zoning. Once annexed into the Town of Cary, the property must be assigned Town of Cary zoning. This rezoning petition addresses the change in zoning required because of the annexation.

- (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 requested rezoning is consistent with many policies and goals within the Cary Community Plan as further explained elsewhere in the application.

- (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: Once annexed, the property will contribute to the Town's tax revenues which help fund the various services the Town provides. Development on the property consistent with the requested rezoning will not adversely affect the ability of service providers to maintain sufficient levels of service to existing developments.

- (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: The proposed rezoning will allow for development which is consistent with the LDO. The LDO provides safeguards for environmentally sensitive areas, stormwater management, and many other items. Development on the site will be consistent with the LDO standards, and therefore is not likely to have significant adverse impacts on the natural environment.

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

Applicant's Comments: The proposed rezoning will facilitate the development of a single-family community which is complementary with land use trends in this area over the past 5 years. The use will be harmonious with more recent developments in the area and therefore is not likely to have significant adverse impacts on other property in the vicinity of the project site.

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

Applicant's Comments: The property is of a suitable shape and size to accommodate development consistent with the requested zoning district.

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 designation for the property is Business/Industrial Park. Admittedly, the requested rezoning does not fit comfortably within this category; however, the assigned category does not make sense in this area. Aside from Alston Ridge Elementary, there is not a single non-residential use on the west side of Green Level Church Road from its beginning in Durham until Amberly Place near Carpenter Fire Station Road. Moreover, the suggested use types for this designation would promote uses which are incompatible with the pattern of development this area has experienced. Uses like mid-rise office, medical center/hospital, light industrial, research & development facility, high-rise office, warehouse storage, and heavy commercial are not harmonious with the single-family development this area has seen in recent years. Finally, the requested rezoning is consistent with many policies in the Cary Community Plan despite the awkward Business/Industrial Park designation in the Future Growth Framework Map.

LIVE Chapter, Policy 3 The intent of this policy is to make available an increase mix of housing options in developing parts of Town. With over 130 new dwelling units built in this area in the last 3 years, this area is appropriately characterized as a developing part of Town. Of those 130 units, less than 20% were detached units homes. Only one of those single-family units is on a lot greater than 0.25 acres. The proposed rezoning would allow for single family homes on lots no smaller than 0.25 acres, thereby increasing the mix of housing options available in this area. A development consistent with the requested rezoning could bring the mix of housing closer to 50-50 between attached and detached housing. This mix seems more appropriate for an area near the border of the more rural Chatham County and also is more consistent with the long range plan for the residential area just north in Durham County.

LIVE Chapter, Policy 5 The intent of this policy speaks directly to the thrust of the requested rezoning. This policy aims at supporting and encouraging residential infill development sites that compliment adjacent neighborhoods and residences. Specifically, this policy encourages residential infill development that maintains neighborhood character and improves the mix of housing stock. The latter point was explained above, and the former is manifest in light of the inelegant Business/Industrial Park designation. The character of these newer Cary neighborhoods would better be preserved through residential development consistent with the requested rezoning than with development consistent with the Growth Framework Map designation for this property. Prudently, the Cary Community Plan cautions new development within or adjacent to existing residential neighborhoods to be "context-sensitive" and "compatible" with neighboring properties. The proposed rezoning would facilitate a development that is both. Moreover, the requested rezoning is for a district which would allow residentially densities that are the same or less than surrounding areas. Thus, increased density/intensity as related to surrounding developments actually is not needed for the viability of this project.

SHAPE Chapter, Policy 6 Providing an appropriate transition between different types and intensities of land uses is a central tenant within the Cary Community Plan. In this area of Town; however, the Growth Framework Map pushes this challenge beyond practicality. The Business/Industrial Park designation borders a Mixed Neighborhood designation and a Suburban Neighborhood designation. It also extends along both sides of Green Level Church, which otherwise seems to be a natural boundary for this type of intensification of use near residential properties. The requested rezoning would result in a greater ability to develop the site with an appropriate transition from existing residential development than would be possible through development consistent solely with the Growth Framework Map. Except for the Growth Framework Map the requested rezoning is, on balance, consistent with the Cary Community Plan.

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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 Lucille B. Green

Property Owner Signature _____ Date _____

Property Owner Printed Name Kevin A. Green

Property Owner Signature Kevin A. Green Date 9/14/2018

Property Owner Printed Name Mildred G. McManus

Property Owner Signature _____ Date _____

Property Owner Printed Name Harold E. Green Jr.

Property Owner Signature _____ Date _____

Property Owner Printed Name _____

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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 Lucille B. Green

Property Owner Signature Lucille B. Green Date 09/17/2018

Property Owner Printed Name Kevin A. Green

Property Owner Signature Kevin A. Green Date 9/17/2018

Property Owner Printed Name Mildred G. McManus

Property Owner Signature _____ Date _____

Property Owner Printed Name Harold E. Green Jr.

Property Owner Signature Harold E. Green Jr. Date 09/17/18

Property Owner Printed Name _____

Property Owner Signature _____ Date _____

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Property Owner Printed Name Lucille B. Green

Property Owner Signature _____ Date _____

Property Owner Printed Name Kevin A. Green

Property Owner Signature _____ Date _____

Property Owner Printed Name Mildred G. McManus

Property Owner Signature Michael S. McManus Date 9/14/18

Property Owner Printed Name Harold E. Green Jr.

Property Owner Signature _____ Date _____

Property Owner Printed Name _____

Property Owner Signature _____ Date _____

Property Owner Printed Name _____

Property Owner Signature _____ Date _____

Property Owner Printed Name _____

Property Owner Signature _____ Date _____

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Part 3C(4): CORPORATION – The area to be rezoned is owned by a corporation properly registered with the State of North Carolina. **(Must be notarized).**

The President/Vice President is Richard Foster of Triangle Brick Company
(Typed or Printed Name) (Typed or Printed Corporation Name)

Signature [Handwritten Signature] Date 9/17/18

STATE OF North Carolina
COUNTY OF Wake

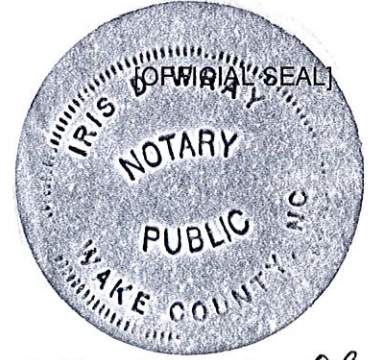
Iris B. Wray, a Notary Public, do hereby certify that Richard Foster
(Name of Notary) (Name of President/Vice President)

personally came before me this day and acknowledged that he/she is President / Vice-President
(circle one)

of Triangle Brick Company and that he/she as President / Vice-President
(Corporation Name) (circle one)

being authorized to do so, voluntarily executed the foregoing on behalf of said corporation for the purposes stated therein.

Witness my hand and official seal, this the 17 day of September, 2018.



[Handwritten Signature]
Notary Public
Iris B. Wray
Printed Name of Notary Public

My Commission expires 09-29-2020

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.