

NOV 21 2018

For office use only:

Development Services

Rezoning Case #

Payment Method: CASH \_\_\_ CHECK  CREDIT CARD  #1664A Amount: \$1900.00 P&Z HTE# 19-285

**APPLICATION FOR REZONING**

18-REZ-28

Associated Annexation Petition  Yes  No

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

This application is deemed sufficiently complete for purposes of submittal.

Planning Staff Signature Katie Day Date 11-21-18

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>		Sorrell Acres
<b>Name of PDD (if applicable)</b>		None
<b>Location</b>	<b>Address</b>	0, 0, & 6610 Holly Springs Road
	<b>General Location</b>	Northwest and southwest quadrants of intersection of Holly Springs Road and SE Cary Parkway
	<b>Jurisdiction (check one)</b>	<input type="checkbox"/> Cary Corporate Limits <input checked="" type="checkbox"/> Cary ETJ <input 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>Shirley Sorrell</u>	Name <u>Jason Barron</u>
Firm _____	Firm <u>Morningstar Law Group</u>
Address <u>6610 Holly Springs Road</u>	Address <u>421 Fayetteville St   Ste 530</u>
City, State, Zip <u>Raleigh, NC 27606</u>	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 <sup>1</sup>
<b>Shirley Sorrell</b> 6610 Holly Springs Road Raleigh, NC 27606	<b>0772-53-4357</b>	<b>0065944</b>	1.47
	<b>0772-53-5158</b>	<b>0065943</b>	2.8
	<b>0772-53-7625</b>	<b>0065945</b>	4.15
<b>Total Acres</b>			<b>8.42</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: 11/7/18     No

<b>Existing Zoning</b>	<b>Base Zoning District(s)</b>	<b>Residential 40 (R40)</b>
	<b>Zoning Overlay District(s)</b> <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 checked="" type="checkbox"/> Watershed Protection Overlay District <input type="checkbox"/> Jordan Lake <input type="checkbox"/> Jordan Lake Critical Area <input checked="" type="checkbox"/> Swift Creek  <input type="checkbox"/> Historic Preservation Overlay District
	<b>Zoning Conditions</b> <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  <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 residential townhouse community of no more than 40 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 proposed zoning is sought to rezone a parcel which currently is in the Town's Planning Jurisdiction, but not its corporate limits. If successfully rezoned, the property will later be annexed to the Town's corporate limits under its new zoning through a development plan.*

- (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 proposed rezoning will foster convenient, compatible, and efficient relationships among existing land uses nearby, consistent with Section 1.3 of the LDO. Specifically, the requested TR district was established to allow for a variety of residential uses, and is appropriate in areas where the Comprehensive Plan designation supports medium or high density residential use, with the exception of multi-family structures. This district is appropriate for infill developments on sites smaller than ten (10) acres in established neighborhoods, as is being proposed here.*

- (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 rezoning will not adversely affect the ability of the Town or other service providers from providing adequate levels of service. In fact, this rezoning represents an opportunity to somewhat close an apparent gap in the Town's corporate limits. Closing these gaps is crucial to the effect and efficient provision of services, especially from emergency service providers whose coverage depends on the underlying jurisdiction.*

- (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 is not expected to have significant adverse impacts on the natural environment as it will be developed pursuant to the provisions in the LDO aimed at protected the same.*

- (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 allow for development which is more consistent the types of land uses already in the area and currently developing. Thus, the applicant submits that this rezoning will not have a significant adverse impact on properties within its vicinity.*

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

*Applicant's Comments: The subject property is of adequate 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 Future Growth Framework Map designates this area as a Traditional Neighborhood. Guidance within the Cary community Plan suggests that areas designated for Traditional Neighborhood ought primarily to be made up of single-family detached housing, but that small lot homes or townhomes also are consistent with this designation, provided they are located in discrete pods. The proposed rezoning would allow for the development of townhomes along property which fronts both Southeast Cary Parkway and Holly Springs Road. In this way, the townhomes would be located in a sensible, discrete section of the overall Traditional Neighborhood designation; namely, along some of the busiest roads within the designation. Moreover, the intersection of Holly Springs Road and Southeast Cary Parkway is just ½ a mile from the Destination Center at Jones Franklin Road and Tryon Road. Destination Centers are characterized as the areas where the most dense and intense development is appropriate within the Town. Therefore, not only is the proposed rezoning consistent with the Future growth Framework Map, it also would allow for townhome development in the most sensible location within the Traditional Neighborhood designations based on the site's proximity to one of Cary's planned Destination Centers.

LIVE Chapter, Policy 2 - As Cary continues to grow, its population becomes more diverse along several different categories. New residents differ in household size, age, race, ethnicity, income, abilities, and more. A diverse stock of housing inventory therefore is needed to meet the needs of new residents. The proposed rezoning is consistent with Policy 2 in the Live Chapter which is aimed at supporting more housing choices for all residents. This policy is not simply a blind endorsement for any type of housing, but instead recognizes that variety in housing types will be critical to serving Cary's ever diversifying population. The proposed rezoning would allow for the development of townhomes between a busy intersection and established single-family detached communities. For many, the existing housing stock of single-family detached homes on quarter acre or larger lots simply is unattainable, and even undesirable to others. The proposed rezoning will facilitate the development of a different housing type than is available in this area, and therefore is consistent with this policy.

LIVE Chapter, Policy 5 - Currently, the property has zoning which does not allow for a reasonable density on the property, especially in light of its frontage along both Southeast Cary Parkway and Holly Springs Road. Policy 5 in the Live Chapter recognizes that allowing for higher density housing on infill sites which take access from major thoroughfares is critical to the success of the overall area. Not only does higher density housing make infill development more economically viable, it also tends to support better reinvestment in other nearby areas than otherwise would be the case if the property were left to be developed as typical single-family detached housing. The proposed rezoning is consistent with this policy because it would allow for townhomes to be developed along Southeast Cary Parkway (a 4-lane, landscaped median divided facility) and Holly Springs Road (a 6-lane landscaped median divided facility).

WORK Chapter, Policy 1 - Aside from being a great place to live, one of the primary reasons for Cary's growth is that it is a great place to work. New businesses are attracted to Cary for a variety of reasons. Ensuring those businesses' success will be crucial to the long range success of Cary overall. This policy recognizes that access to a diverse labor force will require, among other things, diversity in housing options. The proposed rezoning will facilitate the development of a housing type that is not readily available today near the Destination Center at Jones Franklin Road and Tryon Road. Destination Centers offer a range of uses including ample employment opportunities. Therefore, not only does the proposed rezoning comply with this policy, it also could place new housing near employment opportunities which ultimate could reduce vehicle miles traveled.

*Page Left Blank Intentionally*

**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 Shirley Sorrell  
Property Owner Signature *Shirley Sorrell* Date 11-16-18

Property Owner Printed Name \_\_\_\_\_  
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 \_\_\_\_\_

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

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

*Page Left Blank Intentionally*



### **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.**

**Part 3E(1a) Affidavit of Individual Property Owner**

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

AFFIDAVIT OF

SHIRLEY SORRELL

(Property Owner)

I/We, Shirley Sorrell, being first duly sworn, hereby depose and say:

1. I am over eighteen years of age and competent to make this Affidavit. All statements made herein are based upon my personal knowledge.

2. I (“the Applicant”) am the owner of certain real property located at the northwest and southwest quadrants of the intersection of Holly Springs Road and Southeast Cary Parkway, and identified as having Wake County Tax Parcel Identification Numbers 0772-53-4357, 0772-53-5158, and 0772-53-7625 (“the Property”).

3. On or about November 19, 2018 [insert date], the Applicant submitted to the Town of Cary an Application for a rezoning of the Property (“the Application”).

4. The Applicant has agreed to volunteer the following zoning conditions or provisions in support of the Rezoning:

- a. The only uses allowed on the property shall be Townhouse, Neighborhood recreation center, and any associated Accessory Use.
- b. No more than 40 dwelling units may be built on the property.
- c. Any new streets developed on the subject property shall be dedicated as public right-of-way.
- d. No site or subdivision plan shall be approved for development on the property unless it contains greater than or equal to 2,400 square feet of Community Gathering Space, provided further that at least 1,000 square feet of Community Gathering Space is provided both north and south of the right-of-way for Southeast Cary Parkway.
- e. Within two (2) weeks after the final subdivision plat is recorded, developer of the Community shall record with the applicable Register of Deeds Office a Declaration of Covenants, Conditions, and Restrictions (“Declaration”) restricting the Community. Prior to applying for any building permits, the owner shall provide to the Town an opinion letter from an attorney, licensed to practice in North Carolina, that the Declaration was drafted in a form that the attorney, in his or her exercise of customary professional diligence, would reasonably recognize as compliant with applicable law, and that the Declaration effectively restricts the property such that, at a minimum:
  - i. Each front façade of any Townhouse shall contain a minimum of 35% masonry.
  - ii. No garage shall protrude more than two (2) feet beyond the plane of the front door or beyond the foundation of the front porch of the dwelling.

- iii. The main roof of any dwelling unit shall be pitched at 5:12 or greater.
- iv. Each dwelling unit on the end of a Townhouse building shall have at least one window on the exposed side.

5. In addition to the zoning conditions or provisions listed above in paragraph 4, the Applicant, through counsel or otherwise, may offer or consent to at any hearing before the Town of Cary Planning and Zoning Board or Town Council certain additional conditions of approval (which additional conditions of approval, along with the zoning conditions or provisions listed in paragraph 4, are collectively referred to hereinafter as the "Conditions of Approval").

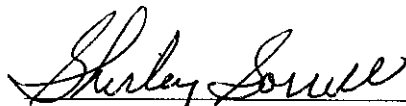
6. All Conditions of Approval that the Applicant offers in connection with the Rezoning are offered to address the conformance of the development and use of the site to Town ordinances and officially adopted comprehensive plan or other plan and to address the impacts reasonably expected to be generated by the development or use of the site.

7. I intend for the Town to rely on this Affidavit and in offering the Conditions of Approval, I hereby swear that:

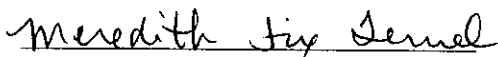
- a. all zoning conditions and provisions are freely offered as proposed zoning laws, based solely on the property owner/applicant's independent judgment; and
- b. the property owner/applicant is not relying upon any statement by the Town staff or any member of the Town Council in connection with the decision to offer any zoning conditions or provisions; and
- c. the property owner/applicant understands that other parties that have standing in the rezoning proceeding are relying on the validity of the zoning conditions and provisions; and
- d. the property owner/applicant intends for all future owners of the property to be bound by the zoning conditions and provisions should the Town Council adopt them as part of the rezoning; and
- e. the property owner/applicant will take all appropriate measures to ensure that future property owners are aware of the zoning conditions and provisions.

Further the Affiant sayeth not.

This the 16<sup>th</sup> day of November, 2018.

  
Name: Shirley Sorrell

Sworn and subscribed before me this the 16<sup>th</sup> day of November, 2018.

  
Notary Public

My commission expires: Aug. 11, 2023

[Notarial Seal] 