PAID

TOWN OF CARY
Planning Department

DEC 20 2016

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

For office use only:

Payment Method: CASH ___ CHECK ✓ CREDIT CARD ___ Amount: $ 1900- P&Z HTE# 17-662

DEVELOPMENT SERVICES #2157

17-REZ-02

APPLICATION FOR: *(check all that apply)*

☐ **LAND USE PLAN AMENDMENT** *(Complete Parts 1, 2 and 4)*

☒ **REZONING** *(Complete Parts 1, 2 and 3)*

Associated Annexation Petition ☐ *Yes* ☒ *No*

Traffic Impact Study Required ☐ *Yes TAR Number:* N/A
☒ *No Staff confirmation: Initials*_____ *Date*_____

This application is deemed sufficiently complete for purposes of submittal.

Planning Staff Signature Debra Hannan *Date* 12/20/16

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 3C1 3C2 3C3 3C4 3D 3E1a 3E1b 3E2 3F 4A 4B

Check all that apply: *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

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.

LAND USE PLAN AMENDMENT FEE:

☐ $2,000.00 – Land Use Plan Amendment, or land use element of an area plan

Project Name		Wackena Road - Highcroft Investors
Name of PDD *(if applicable)*		1620
Location	**Address**	0 Wackena Road
	General Location	located south of and contiguous to 1704 Wackena Road
	Jurisdiction *(check one)*	☐ Cary Corporate Limits ☒ Cary ETJ ☐ Wake Co.* ☐ Chatham Co.* **Submittal of an annexation petition is required if rezoning is requested*

Part 1: Applicant Information

Applicant		Applicant's Contact	
Name		Name	J.W. Shearin
Firm	Highcroft Investors LLC	Firm	JS Development Company LLC
Address	PO BOx 3557	Address	4441 Six Forks Rd., 106-261
City, State, Zip	Cary, NC 27519-3557	City, State, Zip	Raleigh, NC 27609
Phone (area code)	919 819 1481	Phone (area code)	919 819 1481
Email		Email	jwshearin@yahoo.com

Part 2: Parcel & Owner Information

Property Owner(s) *Provide property owner name and address as it appears in the Wake or Chatham County Tax Records,*	**County Parcel Number(s) (10 digit)**	**Real Estate ID(s)**	**Calculated Acres** [1]
Highcroft Investors LLC PO Box 3557 Cary, NC 27519-3557	0735501702	0409176	2.55
Total Acres			2.55

[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 Meeting: ☐ *yes* *Date:* _____ ☒ *no* Not Required

Existing Zoning	**Base Zoning District(s)**	Residential-40 (R-40)
	Zoning Overlay District(s) *Check any that apply*	☐ Mixed Use Overlay District (Name: _____) ☐ Conservation Residential Overlay District ☐ Thoroughfare Overlay District ☐ Airport Overlay District ☒ Watershed Protection Overlay District ☒ Jordan Lake ☐ Jordan Lake Critical Area ☐ Swift Creek ☐ Historic Preservation Overlay District
	Zoning Conditions *(if any)*	n/a
Proposed Zoning	**Proposed Base Zoning District(s)**	Residential-8 Conditional Use (R-8 CU)
	Proposed Zoning Conditions	☐ No zoning conditions are proposed ☒ Zoning conditions are proposed and included in attached affidavit
	Proposed Changes to Overlay Districts	n/a
	Summary of Proposed Development or Purpose of Request	A maximum density of 3 du/ac

Applicable Area Plan *(if any)*	☐ Town Center Area Plan ☐ Southeast Area Plan ☐ Southwest Area Plan ☒ Northwest Area Plan ☐ Chatham/Cary Joint Land Use Plan ☐ Carpenter Community Plan ☐ Alston Activity Center Concept Plan ☐ Other _____ ☐ None applicable to site
Land Use Plan	**Existing Plan Designation:** Mediium Density Residential (MDR) **Associated Land Use Plan Amendment Submitted** ☐ yes ☒ no

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 majority of the properties in the immediate area have been rezoned in the last couple years. The adjacent properties are zoned the same as this proposed request.

(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: This request is consistent with the land use 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: Municipal services will be adequate to serve future development of this property.

(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: No adverse impacts are projected from this request.

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

Applicant's Comments: No adverse impact to adjacent properties. It actually compliments by requesting the same zoning to allow for cohesive development.

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

Applicant's Comments: This request is supported by the land use plan and is the same as recent cases in the area to R-8 zoning.

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 _____

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 _____

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 Highcroft Investors LLC MANAGER Tim Smith

Signature [illegible] Date Oct 18, 2014

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, ROBIN R. ROSE, a Notary Public, certify that TIM SMITH
(Name of Notary)

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

HIGHCROFT INVESTORS LLC and that he/she, as Member / Manager *(Circle One)*
(Name)

HIGHCROFT INVESTORS LLC and that he/she, as Member / 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 18TH day of OCTOBER, 2016.

[OFFICIAL SEAL]

ROBIN R. ROSE NOTARY PUBLIC WAKE COUNTY, NC

Notary Public

ROBIN R. ROSE
Printed Name of Notary Public

My Commission expires: 2-18-18

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.

Part 3E(1b) Affidavit of Corporate Entity Property Owner

STATE OF NORTH CAROLINA
COUNTY OF WAKE

AFFIDAVIT OF
Highcroft Investors LLC
(Owner Corporation/LLC/etc.)

I, Tim Smith, 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. Highcroft Investors LLC ("the Applicant") is the owner of certain real property located at 1204 WACKENA ROAD, and identified as County Parcel # 0735501702 ("the Property").

3. On or about Dec 27th 16 [insert date], the Applicant submitted to the Town of Cary an Application for a rezoning of the Property ("the Application").

4. I am the Manager [insert title of person signing] for the Applicant and I have been duly authorized to represent and bind the Applicant and execute this Affidavit.

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

1. Use shall be limited to detached residential and neighborhood recreation.

2. Density shall be limited to three (3) units per acre.

6. In addition to the zoning conditions or provisions listed above in paragraph 5, 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 5, are collectively referred to hereinafter as the "Conditions of Approval").

7. 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.

8. 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 9th day of Dec, 2016

Name:
Title:

Sworn and subscribed before me this the 9 day of December, 2016.

Notary Public

My commission expires: 1-21-2018

[Notarial Seal]

WAKE COUNTY, N.C.
NOTARY PUBLIC
VANESSA T. JENKINS