Town of Cary

NOV 02 2017

Development Services

TOWN OF CARY
Planning Department

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

For office use only: Rezoning Case # 17-REZ-30

Payment Method: CASH ___ CHECK ___ CREDIT CARD ✓ Amount: $ 2500.00 P&Z HTE# 18-298

APPLICATION FOR REZONING

Associated Annexation Petition ☐ *Yes* ☒ *No*

Traffic Impact Study ☒ *Yes* *TAR Number:* 17-TAR-415
☐ *No* *Staff confirmation: Initials*_____ *Date*_____

This application is deemed sufficiently complete for purposes of submittal.

Planning Staff Signature Debra Grannan *Date* 11/2/17

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		WakeMed Medical Office Park
Name of PDD ***(if applicable)***		NONE
Location	**Address**	0, 200, 204, 208, 212, 216, 218, 222, & 226 Ashville Ave
	General Location	Near WakeMed on southside of US1
	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	Property Owners	Name	Jason Barron
Firm		Firm	Morningstar Law Group
Address		Address	421 Fayetteville St | Ste 530
City, State, Zip		City, State, Zip	Raleigh, NC 27601
Phone (area code)		Phone (area code)	(919) 590-0371
Email		Email	jbarron@morningstarlawgroup.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)**	**Deeded Acres** [1]
HTA MPOC LLC (98.5965% Condo Owner) **16435 N Scottsdale Rd | Ste 320** **Scottsdale, AZ 85254** **&** **Vanjan LLC (1.4035% Condo Owners)** **4324 Basal Creek Ln** **Fuquay-Varina, NC 27526**	0762-34-8383 0762-34-8500 0762-34-9688 0762-44-0349 0762-44-1567 0762-44-2747 0762-44-3249 0762-44-3411	180782; 188462-64 198398; 210686 198397; 200355-59 193977; 196234-39 3761; 210687 206685 187532; 188459-61 187533; 188465-69	10.5
Total Acres			10.5

[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:* *Sept. 20, 2017* ☐ *No*

Existing Zoning	**Base Zoning District(s)**	**General Commercial Conditional Use (GCCU)**
	Zoning Overlay District(s) *Check any that apply*	☒ Mixed Use Overlay District (Name: Crescent Village) ☐ Conservation Residential 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)*	**Z-581-90-1 – "Apex Macedonia Road will be improved to the same section as in front of Regency Park with landscape median."**
Proposed Zoning	**Proposed Base Zoning District(s)**	**Mixed Use District (MXD)**
	Proposed Zoning Conditions	☐ No zoning conditions are proposed ☒ Zoning conditions are proposed and included in attached affidavit
	Proposed Changes to Overlay Districts	**NONE**
	Summary of Proposed Development or Purpose of Request	**The proposed rezoning is sought to facilitate the development of approximately 250,000 square feet of office space with a multi-story parking deck and a reduction in the thoroughfare buffer.**

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 rezoning seeks to meet the increased demand for Class A medical office space. Increased health care demands have put a strain on the existing supply of medical office space. This rezoning is sought in order to provide high quality healthcare service to Cary residents.

(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 Growth Framework Map designates the subject property as a Destination Center. The Cary Community Plan offers guidance which suggests that the requested MXD district is an appropriate zoning category for land with a Destination Center designation. Thus, the requested 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 proposed development will not hinder the ability of the Town and other service providers from adequately addressing the needs of Cary residents. Moreover, the Town and other service providers will be able to provide the requisite amount of services to the proposed development.

(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 development is unlikely to have a significant impact on the natural environment. The project area is currently, and will continue to be, subject to the Swift Creek Watershed Protection Overlay District which helps to ensure that property is developed in a manner which is not detrimental to the natural resources of the Town.

(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 is within an existing medical office park adjacent to WakeMed. The proposed project will facilitate the redevelopment of portions of the medical park in a manner that will increase the overall office space consistent with the master plans for the medical park. In this way, the proposed rezoning will not have significant adverse impacts on property within the vicinity.

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

Applicant's Comments: The proposed rezoning is suitable for the size and shape of the subject property.

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 part of a Destination Center. The Cary Community Plan suggests that an MXD zoning district would be appropriate for an area with a Destination Center designation. Moreover, the proposed development contemplates multi-story structures which will help to provide the appropriate amount of density/intensity of uses that the Cary Community Plan contemplates within its Destination Centers.

Work Chapter, Policy 8

This policy places important on supporting the growth of firms which exist in the Town of Cary. It recognizes that the market for office users is dynamic, so the Town must adapt to meet market demands, particularly for the types of users the Town wishes to attract. The proposed rezoning represents an opportunity to expand an existing medical office park, potentially to support the growth of WakeMed and other area healthcare providers.

Shape Chapter, Policy 2

This policy strives to place more dense office uses in Destination Centers. The proposed development would facilitate multiple multi-story office buildings and supporting infrastructure within a Destination Center. In this way, the proposed development brings Cary one step closer to achieving its vision for this Destination Center.

Work Chapter, Policy 1

The aim of this policy is to support to continued growth of Cary's local economy. The proposed rezoning will facilitate the implementation of a long range master plan for the Medical Park which would achieve a steady growth of the healthcare sector within Cary over time. By introducing more office space within the medical office park, WakeMed will be able to remain in Cary for years to come.

_____ Chapter, Policy _____

Rezoning Justification Statement #4 *Required only when rezoning to or amending the Preliminary Development Plan component of a Mixed Use District*
Describe how the proposed rezoning meets the criteria listed below.

In addition to the criteria for a general rezoning specified in Section 3.4.1(E), rezoning requests to a MXD district shall be reviewed for compliance with the following criteria contained in LDO Section 4.5.2(E), as applicable [i.e., it may not be reasonable or practical to expect that some existing or partially-built mixed use districts (formerly activity center concept plans or mixed use sketch plans) to achieve certain design standards]:

(1) ***Intensity, Type, and Mix of Uses***
The preliminary development plan includes an appropriate intensity, type, and mix of land uses, as outlined by the guidelines contained in the Comprehensive Plan. This shall be assessed in relation to the scale of the Mixed Use Overlay District and the mix and relationship of existing and planned uses, including residential, commercial, office, and institutional uses;

Applicant's Comments: The preliminary plan includes an appropriate intensity and type of use for the area. This area is within a Destination Center which generally contemplates multi-story buildings. The anticipated use is for medical office, which is the prevailing character of the existing uses.

(2) ***Site Design***
The preliminary development plan shows how the proposed development will meet or exceed Town site design guidelines and other established Town standards, including connections and linkages to immediately adjacent properties;

Applicant's Comments: The preliminary plans show that the appropriate amount of parking will be achieved through a multi-story parking structure. Furthermore, points of access are shown on the plan. The proposed development will meet the standards of the LDO for new development.

(3) ***Expected Land Uses***
The extent to which the proposed development provides the expected land uses, including medium- and higher-density housing, outlined by the numerical and other guidelines contained in the Comprehensive Plan;

Applicant's Comments: As is outline within the preliminary plan, the proposed development includes two, 4-story medical office buildings and a parking deck.

(4) ***Public Spaces***
The preliminary development plan includes some formal outdoor space(s) for public use, such as a park, village green, or plaza; and

Applicant's Comments: Public space will be provided per the LDO.

(5) ***Scale and Context***
The preliminary development plan demonstrates that the proposed development is appropriate for the context and location, responds to the unique conditions of the area, and provides reasonable transitions within and adjacent to the district.

Applicant's Comments: The PDP shows that the proposed development is in keeping with the character of the surrounding area. The unique conditions of the area suggest that the area ought to be developed for medical uses in order to concentrate those resources in one area.

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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 _____

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 _____

Property Owner Printed Name _____

Property Owner Signature _____ Date _____

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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 _____

Signature _____ Date _____

Printed Name _____

Signature _____ Date _____

Printed Name _____

Signature _____ Date _____

☒ **Member-Managed**

Member(s) is/are: **HEALTHCARE TRUST OF AMERICA HOLDINGS, LP**

Printed Name **Robert Milligan, Chief Financial Officer**

Signature _____ Date 10/30/17

Printed Name _____

Signature _____ Date _____

Printed Name _____

Signature _____ Date _____

If member/manager is a corporation:

STATE OF South Carolina

COUNTY OF Charleston

I, Fatima Sakarya, a Notary Public, certify that Robert Milligan personally came before me this day and acknowledged that he/she is Chief Financial Officer of Healthcare Trust of America, Inc., the general partner of Healthcare Trust of America Holdings, LP, which is the sole Member of HTA – MPOC, LLC and that he/she, being authorized to do so, voluntarily executed the foregoing on behalf of said limited liability company for the purposes stated therein.

Witness my hand and official seal, this the 30th day of October, 2017.

[OFFICIAL SEAL]

Notary Public

Fatima Sakarya

Printed Name of Notary Public

My Commission Expires:

Fatima Sakarya
Notary Public, State of South Carolina
Commission expires August 30, 2026

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 Jane R Holt

Signature Jane R Holt Date 10-30-17

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 NC

COUNTY OF WAKE

I, RICHARD MYRTLE, a Notary Public, certify that JANE R. HOLT
(Name of Notary)

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

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

Vanjan LLC, 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 30 day of October, 2017.

[OFFICIAL SEAL]

Richard Myrtle
Notary Public

RICHARD MYRTLE
Printed Name of Notary Public

RICHARD MYRTLE NOTARY PUBLIC WAKE COUNTY, N.C. My Commission Expires 02/20/2018

My Commission expires: 2/20/2018

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 3C(3): GENERAL PARTNERSHIP, LIMITED PARTNERSHIP OR LIMITED

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.