



Certified Action of the City of Raleigh Planning Commission

City of Raleigh
Development Plans Review Center
One Exchange Plaza
Raleigh, NC 27601
(919) 516-2626
www.raleighnc.gov

Case File / Name: SP-15-11 / West Morgan Street Apartments

General Location: The west side of West Morgan Street, between Hillsborough Street and Tryon Hill Drive.

Owner: FMW at Hillsborough & Morgan, LLC
Designer: Geoscience Group, Inc.

CAC: Hillsborough

Nature of Case: Requested approval of two mixed use buildings totaling 395,600 square feet on a 3.77 acre site comprised of three lots zoned Industrial-2 with Pedestrian Business Overlay District. The parcels will be recombined such that each building will be on its own lot and a third lot for future phase 2 development will be created.

Building 1 (with frontage on West Morgan Street) is an 185,515 square foot mixed-use building comprised of 115 dwelling units, 5,296 square feet of commercial uses and a two level parking deck containing 151 spaces.

Building 2 (with frontage along Tryon Hill Drive and Wakefield Avenue) is a 210,085 square foot mixed-use building comprised of 134 dwelling units, 4,699 square feet of commercial uses, and a two level parking deck containing 183 parking spaces.

This proposal contains a request to allow residential dwelling units in the Industrial-2 and PBOD zoning districts with a residential density of 66 units per acre, and a request for alternate means of compliance to reduce the width of a transitional protective yard along the east property line of Building 2 by ten feet. This site is located within 400 feet of a residential use.

Key Issues: Alternate means of compliance for a 110' section of the transitional protective yard (TPY) located on the east side of Building 2. Required TPY width is 20'; this plan is providing 10' in width with trees installed at 10' in height at the time of planting instead of the required 8'. Shrubs are being installed at 24" in height instead of the required 18". Ivy will be planted on the wall of the parking garage as well. The applicant has provided a letter explaining the rationale for this alternate based on code section 10-2082.4.

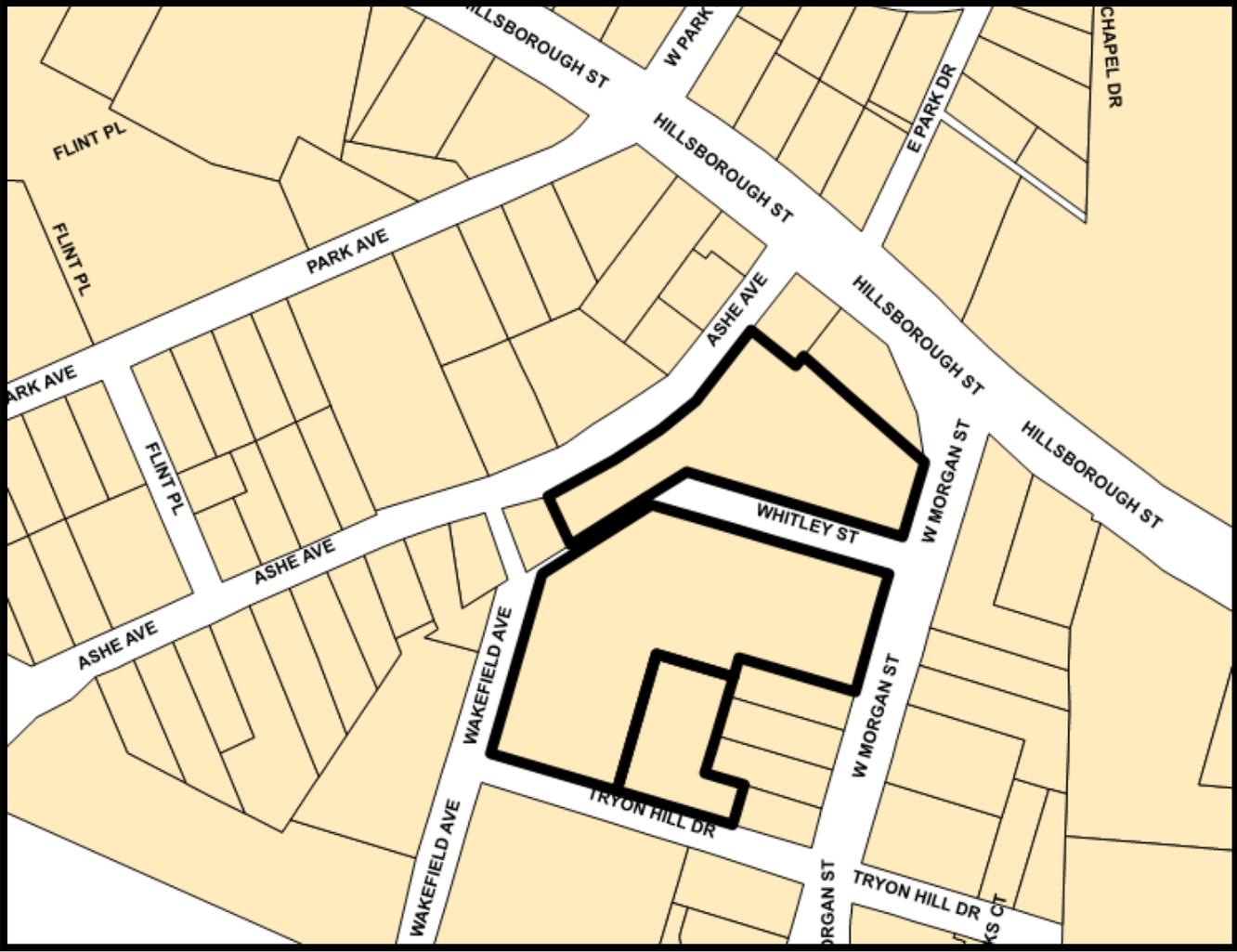
The Planning Commission must find this site plan meet the standards for approval of a residential development in a Industrial-2 with Pedestrian Business Overlay District in accordance with Code Sections 10-2055 (d)(1) and 10-2051(d)(1) subsections b and c , providing sufficient open space, parking, minimum net lot area, and minimum yard setbacks.

The Planning Commission must find that this site plan meets the standards for approval of a residential development exceeding 40 dwelling units per acre density located in the Pedestrian Business Overlay District in accordance with Code Sections 10-2055(d)(1) and 10-2051-(d)(1)c tier 2, providing parking in a deck which meets the standards of 10-2051-(d)(1)c 3.

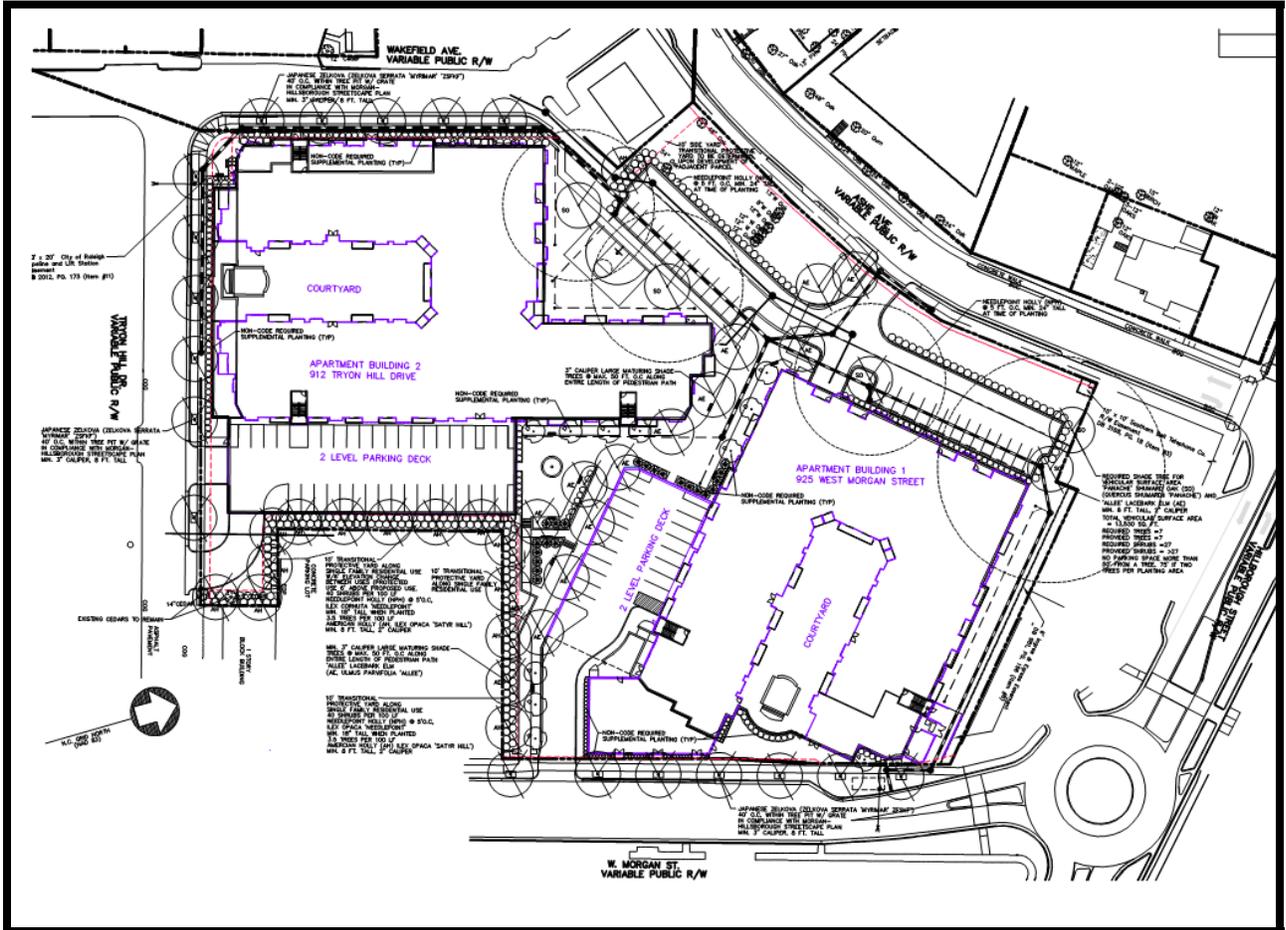
Key Issues (continued):

The Planning Commission must determine that this development complies with the zoning conditions of Z-11-10.

Contact: Jim Zanoni, FMW at Hillsborough & Morgan, LLC



SP-15-11 West Morgan Street – Location Map



SP-15-11 West Morgan Apartments – Site Plan

SUBJECT: SP-15-11 / West Morgan Street Apartments

CROSS-REFERENCE: Z-11-10

LOCATION: This site is located on the west side of West Morgan Street, south of its intersection with Hillsborough Street, inside the City Limits.

REQUEST: This request is to approve two mixed use buildings totaling 395,600 square feet on a 3.77 acre site comprised of three lots zoned Industrial-2 with Pedestrian Business Overlay District. The parcels will be recombined such that each building will be on its own lot and a third lot for future phase 2 development will be created.

Building 1 (with frontage on West Morgan Street) is an 185,515 square foot mixed-use building comprised of 115 dwelling units, 5,296 square feet of commercial uses and a two level parking deck containing 151 spaces.

Building 2 (with frontage along Tryon Hill Drive and Wakefield Avenue) is a 210,085 square foot mixed-use building comprised of 134 dwelling units, 4,699 square feet of commercial uses, and a two level parking deck containing 183 parking spaces. This proposal contains a request to allow residential dwelling units in the Industrial-2 and PBOD zoning districts with a residential density of 66 units per acre, and a request for alternate means of compliance to reduce the width of a transitional protective yard along the east property line of Building 2 by ten feet. This site is located within 400 feet of a residential use.

OFFICIAL ACTION: Approval with conditions

CONDITIONS OF APPROVAL: As noted on the Staff Report, attached

FINDINGS: The Planning Commission finds that, with the following conditions of approval being met, this request conforms to Chapter 2, Part 10, Sections 10-2047, 10-2055, 10-2051, 10-2132.2, Chapter 3, Part 10, Sections 10-3001-3059. This approval is based on a preliminary plan dated 5/17/11, owned by FMW at Hillsborough & Morgan, LLC, submitted by Geoscience Group, Inc.

ADDITIONAL NOTES: On May 3, 2011, the City Council approved Resolution 2011-364; the closing of a right-of-way formerly known as Whitley Street and a portion of an unnamed alley.

On June 7, 2011, the City Council approved a variance from the requirement to dedicate:

- ½ of a 90' right-of-way along West Morgan Street
- 20' slope easement along Ashe Avenue
- ½ of a 60' right-of-way along Tryon Hill Drive
- ½ of a 60' right-of-way along Wakefield Avenue

Given the existing context of the West Morgan Streets, Tryon Hill Drive, Ashe Avenue, and Wakefield Avenue areas, the existing right-of-way width was found to be adequate.

**VARIANCES /
ALTERNATES:**

Requested alternate means of compliance for a 110' section of the transitional protective yard (TPY) located on the east side of Building 2. Required TPY width is 20'; this plan is providing 10' in width with trees installed at 10' in height at the time of planting instead of the required 8'. Shrubs are being installed at 24" in height instead of the required 18". Ivy will be planted on the wall of the parking garage as well. The applicant has provided a letter explaining the rationale for this alternate based on code section 10-2082.4.

To PC: June 28, 2011
Case History: N/A
Staff Coordinator: Meade Bradshaw
Motion: Haq
Second: Mattox
In Favor: Anderson, Batchelor, Butler, Harris Edmisten, Haq, Mattox, Schuster, Sterling Lewis
Opposed:
Excused:

This document is a true and accurate statement of the findings and recommendations of the Planning Commission. Approval of this document incorporates all of the findings of the Staff Report attached.

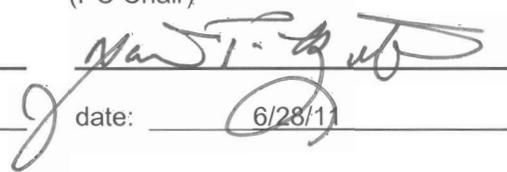
Signatures:

(Planning Dir.)



date: 7-26-11

(PC Chair)



date: 6/28/11



Staff Report

**RECOMMENDED
ACTION:** Approval with Conditions

**CONDITIONS OF
APPROVAL:**

Planning Commission Actions:

- (1) That the Planning Commission finds that this site plan meets the standards for approval of a preliminary site plan, Code Section 10-2132.2(d);
- (2) That the Planning Commission finds that this site plan meets the standards for approval of a residential development in a Industrial-2 with Pedestrian Business Overlay District in accordance with Code Section 10-2051(d)(1)b providing sufficient parking, minimum net lot area, and minimum yard setbacks and open space required by 10-2055(d)(4);
- (3) That the Planning Commission finds that this site plan meets the standards for approval of a residential development exceeding 40 dwelling units per acre density located in the Pedestrian Business Overlay District in accordance with Code Section 10-2051-(d)(1)c tier 2, providing parking in a deck which meets the standards of 10-2051-(d)(1)c 3;
- (4) That the Planning Commission finds that this site plan meets the standards of Code Section 10-2082.4 for approval of an alternate means of compliance for the reduction of the transitional protective yard along the eastern property line of Building 2;

Administrative Actions:

Prior to issuance of a grading permit for the site:

- (5) That demolition permits for all existing structures on site be issued by the Planning Department and that the demolition number appear on the recombination plat;
- (6) That a recombination map be approved by the City and recorded with the register of deeds to close the right-of-way of Whitley Street and the adjacent alley as approved with conditions by the Raleigh City Council per resolution number 2011-364, case STC-2-11;

Prior to issuance of building permits in the Inspections Department:

- (7) That an encroachment agreement for any plantings or planters to be located within the public right-of-way is approved by the City Council by separate action. An application for encroachment into the public right of way for the landscaping located within the right of way as indicated on the preliminary plan, shall be submitted to the City's Encroachment Coordinator in the Public Works Department for review, and that the City Council approve the encroachment request. Following City Council approval of the encroachment, an encroachment agreement, prepared in accordance with Raleigh City Code Sections 12-1001 and 12-1021(a), shall be filed with the Public Works Department, and the encroachment

agreement is to be recorded with the Wake County Register of Deeds. Maintenance of the encroachment shall be the responsibility of the property owner;

- (8) That a landscape permit is obtained from the urban forester in the Parks and Recreation Department for new landscaping in the public right-of-way;
- (9) That the City Attorney approves a sidewalk easement deed for the portion of the proposed pedestrian ways on private property adjacent to public rights-of- way as well as the sidewalk meeting zoning condition (n);
- (10) That 14'X 20' transit easements located on along Morgan Street be approved by the transit planner in the Public Works Department, be shown on all maps for recording, and that a transit easement deed approved by the City Attorney is recorded with the local County Register of Deeds. That the recorded copy of this transit easement deed be provided to the Planning Department within 14 days of recordation. If a recorded copy of this easement deed is not provided to the Planning Department within the 14 day period, further plat recordings and building permits authorization may be withheld;
- (11) That a recombination plat be submitted to and approved by the City for the development as shown on this plan and that the recombination plat be approved and recorded with all required transit, sidewalk, utility and stormwater easements shown on it;
- (12) That a minor tree removal permit be issued by the Forestry Specialist in the Planning Department for removal of all subject trees greater than 3" dbh size;
- (13) That a bus shelter is shown on all plans and constructed in accordance with zoning condition X of Z-11-10; and
- (14) That a fee in fee-in-lieu of road construction along Tryon Hill, Ashe Avenue, and Wakefield Avenue in an amount determined by the City Engineer, is paid in the Public Works Department.

ZONING:

**ZONING
DISTRICTS:**

Industrial-2 CUD with Pedestrian Business Overlay District

Z-11-10 Hillsborough Street, As used herein, the “Property” refers to those certain tracts or parcels of land containing approximately 6.67 acres located on the south side of Hillsborough Street between Park Avenue and West Morgan Street in Raleigh, North Carolina, having Wake County PIN 1703-29-0807, 1703-19-8695, 1703-19-9501, 1703-19-5540, 1704-10-9162, 1704-10-9027, 1704-10-8049, 1704-10-8117, 1704-10-7141, 1703-19-7985, 1704-10-6017 and 1703-19-6982.

Prohibited Uses

(a) The following uses, as listed in the Schedule of Permitted Land Uses in Zoning

Districts in section 10-2071 of the Raleigh City Code, shall be prohibited on the property:

- mini warehouse storage facility
- airfield or landing strip
- heliport
- cemetery
- correctional/penal facility – governmental and non-governmental
- crematory
- funeral home
- adult establishment
- carwash facility
- kennel/cattery
- vehicle sales/rental
- automotive service and repair facility
- pawn shop
- rifle range – all kinds
- bottling plant
- bulk products (storing, sorting and breaking)
- bulk storage of flammable and combustible liquids
- incinerator
- machine shop
- manufacturing – restricted and general
- mining and quarrying
- outdoor storage – all kinds
- scrap materials – indoor storage
- solid waste – indoor and outdoor reclamation and landfill
- terminal, facility, railroad roundhouse and depot
- gas plant
- power plants – other power plants
- warehousing/distribution center
- wholesale laundry, dyeing and dry cleaning
- wholesaling
- camp
- outdoor stadium/theater/amphitheatre/racetrack
- riding stable
- fraternity/sorority house

- convention center/assembly hall
- exterminating service
- railroad freight station or stop

(b) No more than 30% of the total number of dwelling units located within any single "group housing development" or "multi-family dwelling development" as defined by the Raleigh City Code shall contain more than two bedrooms.

(c) No special use permit allowing outdoor amplified entertainment after 11:00 p.m. shall be issued for any use developed within the site area West of Ashe Avenue (PIN 1704-10-8117; DB 12747, PG 1007; PIN 1704-10-8049; DB 13324, PG 2399; PIN 1704-10-9162; DB 13324, PG 2399; PIN 1704-10-9027; DB 13324, PG 2399; PIN 1704-10-7141; DB 12572, PG 2361; PIN 1704-10-6017; DB 12572, PG 2361; PIN 1703-19-6982; DB 12572, PG 2361; PIN 1703-19-7985; DB 12572, PG 2361, as shown on the attached exhibit).

Mixed-Use Development & Pedestrian Orientation

(d) Upon redevelopment, building elevations fronting along Hillsborough Street shall have active uses on at least 75% of their frontage at sidewalk level and on upper floors. For the purposes of this condition (d), active uses are defined as commercial (other than parking facilities listed in the Schedule of Permitted Land Uses in Zoning Districts), office, restaurant, and/or retail sales (other than retail sales-highway) that front the right-of-way and have at-grade access, except for upper floors, where any use listed in the Schedule of Permitted Land Uses in Zoning Districts (other than parking facilities listed in the Schedule of Permitted Land Uses in Zoning Districts) that is not otherwise prohibited by the City Code or this rezoning ordinance is allowed.

(e) Upon redevelopment, building elevations fronting along Morgan Street shall have active uses on at least 75% of their frontage at sidewalk level and on upper floors. Building elevations fronting along Tryon Hill Drive and the east side of Wakefield Avenue shall have active uses along at least 50% of their frontage at sidewalk level and on upper floors. For the purposes of this condition (e), active uses are defined as commercial (other than parking facilities listed in the Schedule of Permitted Land Uses in Zoning Districts), office, restaurant, and/or retail sales (other than retail sales-highway) that front the right-of-way and have at-grade access, except for upper floors, where any use listed in the Schedule of Permitted Land Uses in Zoning Districts (other than parking facilities listed in the Schedule of Permitted Land Uses in Zoning Districts) that is not otherwise prohibited by the City Code or this rezoning ordinance is allowed. The amount of floor area gross dedicated to ground floor active uses required by this condition (e) along Morgan Street, Tryon Hill Drive and the east side of Wakefield Avenue shall collectively be no less than 9,500 square feet of gross floor area.

(f) Upon redevelopment, building elevations fronting along Ashe Avenue and Park Avenue shall have active uses along at least 50% of their frontage at sidewalk level and on upper floors. For the purposes of this condition (f), active uses are defined as residential (including units accessed by stoops), commercial (other than parking facilities listed in the Schedule of Permitted Land Uses in Zoning Districts), office, restaurant and/or retail sales (other than retail sales-highway) that front the right-of-way and have at-grade access, except for upper floors, where any use listed in the Schedule of Permitted Land Uses in Zoning Districts (other than parking facilities listed in the Schedule of Permitted Land Uses in Zoning Districts) that is not otherwise prohibited by the City Code or this rezoning ordinance is allowed.

(g) Parking below buildings and/or surface parking shall conform to Hillsborough Morgan Streetscape and Parking Plan. No parking lot lights, or lights within parking structures, shall cast glare outside of the property per City of Raleigh lighting ordinance (parking screening is handled in the Hillsborough Morgan Streetscape and Parking Plan). Any development on the subject property shall be parked on the development site per the Hillsborough Morgan Streetscape and Parking Plan.

(h) Building facades fronting public rights-of-way will have no more than 50 feet of unbroken plane. Balconies, bays or building steps of at least two feet may be used to relieve facades.

(i) Development on the site area East of Ashe Avenue (PIN 1703-29-0807; DB 12572, PG 2349; PIN 1703-19-8695; DB 12572, PG 2361; PIN 1703-19-9501; DB 12979, PG 123, as shown on attached exhibit) shall consist of no less than three buildings. The building footprint of any single building located on the site area East of Ashe Avenue shall not exceed fifty percent (50%) of the total site area East of Ashe Avenue.

(j) In the event the properties being redeveloped are zoned with a Pedestrian Business Overlay District, residential development on the site area East of Ashe Avenue shall not exceed 285 dwelling units. Upon redevelopment, the site area East of Ashe Avenue shall have a maximum of 20,000 square feet floor area gross (excluding floor area devoted to elevator shafts, stairwells, mechanical equipment, attics, balconies and mezzanines, enclosed porches) of street level retail sales/commercial uses (other than parking facilities listed in the Schedule of Permitted Land Uses in Zoning Districts).

(k) Upon redevelopment, development on the site area West of Ashe shall consist of no less than two buildings. The building footprint of any single building located on the site area West of Ashe Avenue shall not exceed sixty-five percent (65%) of the total site area West of Ashe Avenue.

(l) In the event the properties being redeveloped are zoned with a Pedestrian Business Overlay District, residential development on the site area West of Ashe Avenue shall not exceed 175 dwelling units. Upon redevelopment, the site area West of Ashe Avenue shall have a minimum of 4,000 square feet floor area gross of street level retail sales/commercial uses (other than parking facilities listed in the Schedule of Permitted Land Uses in Zoning Districts). Upon redevelopment, no single retail tenant space may exceed 20,000 square feet floor area gross. Retail uses on the site area West of Ashe Avenue shall be restricted to ground level.

(m) There shall be no drive-through window located on the property.

Open Space

(n) A pedestrian way connecting Ashe Avenue and West Morgan Street shall be constructed and maintained. This pedestrian way shall have a minimum average width of twenty feet, inclusive of a paved sidewalk a minimum eight feet in width. The pedestrian way will incorporate green space, lawns, play areas, planted areas, plazas, patios or other similar features along its entire length and at least one of these green areas shall engage the public. The pedestrian way area may be included in the publicly accessible open space required by below rezoning condition (o). The access point on Ashe Avenue to and from the pedestrian way shall be located mid-block, between Hillsborough Street and Wakefield Avenue, such that no portion of the access point can be located within 188 feet of the northwest corner of the parcel with PIN 1703-19-7728 (DB 11420, PG 972) or

within 188 feet of the northern corner of the parcel with PIN 1704-20-0054 (DB 8093, PG 1266), as measured along the Ashe Avenue public right-of-way. The access point on Morgan Street to and from the pedestrian way shall be located mid-block, between Hillsborough Street and Tryon Hill Drive, such that no portion of the access point can be located within 200 feet of the southeast corner of the parcel with PIN 1703-29-0422 (DB 2979, PG 859) or within 200 feet of the southeast corner of the parcel with PIN 1703-29-1936 (DB 10176, PG 1246), as measured along the Morgan Street public right-of-way. Any buildings immediately adjacent to the pedestrian way on the subject property shall consist of no more than one level of above-grade covered parking, screened per the Hillsborough Morgan Streetscape and Parking Plan (see section entitled "Vehicular Parking Areas") and those floors above the structured parking shall contain any use that is listed in the Schedule of Permitted Land Uses in Zoning Districts (other than parking facilities listed in the Schedule of Permitted Land Uses in Zoning Districts) that is not otherwise prohibited by the City Code or this rezoning ordinance. This pedestrian way shall not be closed to general public use, except for repair or maintenance. Inclusion of this pedestrian way in the project is contingent upon abandonment of Whitley Street.

(o) With regard to the site area East of Ashe Avenue, a minimum of 10% of site area East of Ashe Avenue will be private open space for use by the residents, such as balconies, courtyards, roof decks and pool areas. Contingent on the abandonment of Whitley Street, and in addition to the 10% of private open space provided by the first sentence of this rezoning condition (o), an additional 10% of the site area East of Ashe Avenue will be open space accessible by the general public, including at a minimum lawns, greens, play areas, planted areas, pathways, plazas or other similar areas.

(p) With regard to the site area West of Ashe Avenue, a minimum of 5% of the site area West of Ashe Avenue will be private open space for use by residents, such as balconies, courtyards, roof decks and pool areas. In addition to the 5% of private open space provided by the first sentence of this rezoning condition

(p), an additional 5% of the site area West of Ashe Avenue will be open space accessible by the general public, including at a minimum lawns, greens, play areas, planted areas, pathways, plazas or other similar areas.

(q) A bicycle air pump open for public use shall be installed in the general area of where the property lines of 925 W. Morgan Street (PIN 1703-29-0807 and DB 12572, PG 2349) meets the neighboring property of 1207 Hillsborough Street (PIN 1703-29-1936 and DB 10176, PG 1246) at the West Morgan Street right-of-way, and shall be maintained by the owner of 925 W. Morgan Street (PIN 1703-29-0807 and DB 12572, PG 2349) or a property owners association.

(r) The area measuring 20 feet by 30 feet located at the corner of Tryon Hill Drive and Wakefield Avenue, described in Deed Book 2012, Page 173 in the Wake County Registry, shall be maintained as open space, accessible to the public and with an outdoor seating area including at least two public benches consistent with those provided for in the Streetscape and Parking Plan.

Transitions

(s) In addition to the uses prohibited in above condition (a), bar, nightclub, tavern, and lounge, as listed in the Schedule of Permitted Land Uses in Zoning Districts in section 10-2071 of the Raleigh City Code, shall be prohibited as a principal use within 50 feet of the public right-of-way of Hillsborough Street.

(t) In the event the property located at 105 Park Avenue (PIN 1704-10-6180;

DB 6986, PG 599) is being used as a single-family dwelling or two-family dwelling at the time of site plan approval for properties immediately adjacent to 105 Park Avenue (PIN 1704-10-6180; DB 6986, PG 599), then the following conditions shall apply:

(1) The maximum building height for any portion of a building within 25 feet of any property line adjacent to 105 Park Avenue (PIN 1704-10-6180; DB 6986, PG 599) shall be 45 feet; outside of this 25 feet zone, the maximum building height for any portion of a building is 70 feet.

(2) In addition to the uses prohibited in above condition (a), bar, nightclub, tavern, and lounge, as listed in the Schedule of Permitted Land Uses in Zoning Districts in section 10-2071 of the Raleigh City Code, shall be prohibited within 50 feet of the property line of 105 Park Avenue (PIN 1704-10-6180; DB 6986, PG 599).

(u) In the event the properties located at 909 West Morgan Street (PIN 1703-29-0533; DB 874, PG 80), 913 West Morgan Street (PIN 1703-29-0548, DB 1100, PG 528) are being used as single-family dwellings or two-family dwellings at the time of site plan approval for properties immediately adjacent to 909 and 913 West Morgan Street, then the following conditions shall apply:

(1) The minimum building setback shall be 10 feet from any property line of 909 West Morgan Street (PIN 1703-29-0533; DB 874, PG 80) or 913 West Morgan Street (PIN 1703-29-0548, DB 1100, PG 528);

(2) The maximum building height for any portion of a building within 25 feet of any property line adjacent to 909 West Morgan Street (PIN 1703-29-0533; DB 874, PG 80) or within 25 feet of 913 West Morgan Street (PIN 1703-29-0548, DB 1100, PG 528) shall be 45 feet; outside of this 25 feet zone, the maximum building height for any portion of a building is 70 feet;

(3) In addition to the uses prohibited in above condition (a), bar, nightclub, tavern, and lounge, as listed in the Schedule of Permitted Land Uses in Zoning Districts in section 10-2071 of the Raleigh City Code, shall be prohibited within 50 feet of 909 West Morgan Street (PIN 1703-29-0533; DB 874, PG 80) or shall be prohibited within 50 feet of 913 West Morgan Street (PIN 1703-29-0548, DB 1100, PG 528).

(v) In the event the property located at 109 Ashe Avenue (PIN 1703-19-7728; DB 11420, PG 972) is being used as a single-family dwelling or two-family dwelling at the time of site plan approval for properties immediately adjacent to 109 Ashe Avenue (PIN 1703-19-7728; DB 11420, PG 972), then the following conditions shall apply:

(1) The maximum building height for any portion of a building within 25 feet of the eastern-most property line (side yard) of 109 Ashe Avenue (PIN 1703-19-7728; DB 11420, PG 972) shall be 45 feet; the maximum building height outside this 25 feet zone shall be 70 feet;

(2) The maximum building height for any portion of a building within 10 feet of the southern-most property line (rear yard) of 109 Ashe Avenue (PIN 1703-19-7728; DB 11420, PG 972), excluding any alley right-of-way, shall be 45 feet; the maximum building height outside this 10 feet zone shall be 70 feet;

(3) For uses other than a single family dwelling use, there shall be a minimum side yard building setback of 10 feet from the common property line of the property and 109 Ashe Avenue (PIN 1703-19-7728; DB 11420, PG 972);

(4) In addition to the uses prohibited in above condition (a), bar, nightclub, tavern, and lounge, as listed in the Schedule of Permitted Land Uses in Zoning Districts in section 10-2071 of the Raleigh City Code, shall be prohibited within 50 feet of 109 Ashe Avenue (PIN 1703-19-7728; DB 11420, PG 972).

(w) The parcel located at 106 Wakefield Avenue (PIN 1703-19-5540; DB 12587, PG 1071, as shown on attached exhibit) shall not be subject to this rezoning ordinance.

Public Improvements

(x) Prior to lot recordation or the issuance of any building permit, whichever shall first occur, the owner of the property shall deed to the City transit easements to the extent required to measure fourteen feet (14') in depth from back-of-curb by twenty feet (20') long adjacent to the public right-of-way on Hillsborough Street and on Morgan Street to support bus stops for current and future transit services in the area. The location of the transit easements shall be reviewed and approved by the Transit Division of the City and the City Attorney or his designee shall approve the transit easement deed prior to recordation in the Wake County Registry. If, prior to the issuance of the first building permit for development on the property, a bus stop is located at one or both of the transit easements deeded pursuant to this condition (x), then the owner of the developing property shall, with the approval of the City's Transit Division, construct an ADA accessible shelter within that easement or easements for which there is a bus stop at a cost not to exceed \$5,000 per shelter, or in the alternative, the shelter(s) may be integrated into building architecture with canopies or other appropriate measures for sheltering riders with Transit Division approval, and such approval shall not be unreasonably withheld.

(y) Mitigation requirements for any traffic impacts associated with a traffic impact analysis completed for any development on the subject properties cannot include the widening of Hillsborough Street, Morgan Street or Ashe Avenue. The prohibition on any such widening does not include driveways or turn lanes required by the City of Raleigh and North Carolina Department of Transportation. The foregoing condition shall not eliminate the need to mitigate traffic conditions required by the City Code or by traffic safety.

(z) Upon redevelopment of the site area West of Ashe Avenue including the parcel with PIN 1704-10-8117 (DB 12747, PG 1007), Park Drive will be realigned to meet Hillsborough Street at a 90 degree angle (known as the "prewar alignment"), subject to approval by the North Carolina Department of Transportation and the City of Raleigh.

SETBACKS / HEIGHT:

This plan conforms to all minimum setback standards. Building 1 - Front yard = 0', rear yard = 75', front / rear aggregate = 75', side yard = 28' and 30', side yard aggregate = 58'. Building 2 - Front yard = 5', rear yard = 5', front / rear aggregate = 10', side yard = 10' and 3', side yard aggregate = 13'. This plan conforms to maximum height standards of the Hillsborough Morgan Streetscape and Parking Plan. The maximum building height reaches 70' adhering to the 10' setback adjacent to property (PIN 1703197728, DB 11420 PG 0972).

PARKING:

Off-street parking conforms to minimum requirements: 217 spaces required, based on one parking space per unit with the PBOD exempting the first 16 units and 0 spaces required for retail uses due to the retail square footage not exceeding 10,000 square feet or have any establishment open past 11:00 pm; 334 spaces are provided. Requisite bicycle parking required by 10-2055(e) (6) has been provided in the parking deck and along the public sidewalks.

LANDSCAPING: Street yard landscaping in conformity with Section 10-2082.5 is shown. Vehicular surface area landscaping in conformity with Section 10-2082.6 is shown. This is a high density residential use under Section 10-2082.9. An alternate means of compliance is being requested from providing a 20' type C transitional protective yard along the east property line of Building 2. All other transitional protective yards are shown in compliance with City standards in the following locations:

Location	Yard type required	Width proposed
Building 1 South	20' Type C	20'
Building 2 East	20' Type C	*10'

*Alternate means of compliance for a 110' section of the transitional protective yard (TPY) located on the east side of Building 2. Required TPY width is 20'; this plan is providing 10' in width with trees installed at 10' in height at the time of planting instead of the required 8'. Shrubs are being installed at 24" in height instead of the required 18". Ivy will be planted on the wall of the parking garage as well. The applicant has provided a letter explaining the rationale for this alternate based on code section 10-2082.4.

TREE CONSERVATION: This plan conforms to code section 10-2082.14. Existing trees on site do not require preservation due to the size of the parent parcels and disturbance to critical root zone areas. Tree removal permits shall be required from the Forestry Specialist to remove trees on-site greater than 3"dbh.

DEVELOPMENT INTENSITY: A density of 66 units per acre is proposed. The applicants are allowed increases in residential densities in excess of 40 units per acre through the Pedestrian Business Overlay District. For each of the ten standard contained in the Pedestrian Business Overlay District 10-2055(d)(1)a that the Planning Commission finds the plan complies with, an increase in density of 60 units per acre is allowed. At the proposed density of 66 units per acre, the plan would have to meet one standard to achieve the desired density. The applicants claim that their plan meets standard 10-2051-(d)(1)c tier 2, providing parking in a deck which meets the standards of 10-2051-(d)(1)c 3. This standard reads as follows:

Parking Deck: At least eighty (80) per cent of the off-street parking spaces provided are contained in a multilevel parking structure. Parking decks shall be visually integrated into the principle building. Parking decks shall be designed to be compatible with other buildings on the site by using compatible building materials and architectural designs, as reflected in scale, color, texture, fenestration, width, height, roof lines, and other similar architectural gauges. However, parking decks located within the interior of the property and not visible from any public street, private street, common open space area or adjacent property shall be exempt from this provision. No more than seventy-five (75) feet total of the ground level of the sides of the building or parking deck (measured twenty (20) feet deep from the facade of the building) located on the sides of the lot fronting a public street, private street or common open space area shall be devoted to parking, driveways and/or loading areas. The proposed parking deck has been evaluated by staff and was found to be compliant with these standards.

OPEN SPACE: The Pedestrian Business Overlay District requires that a minimum of 5% of the total land area of the development to be set aside as open space. "Open space" is defined to include: greenways; any common outdoor landscaped and recreation spaces; outdoor decks; roof gardens and other similar outdoor community space accessible to and available for use by visitors of the development." The Code calls for open space first to be met by widening the sidewalks to a minimum of 14' in width. After that is achieved, any deficit in open space can be met with courtyards, roof gardens, outside dining and recreation space so long as ½ of the required open space shall be in one continuous part with a minimum length and width dimension of 20 feet. But zoning condition o of Z-11-10 requires an additional five percent of open space accessible by the general public which may include lawns greens play areas planted areas pathways plazas or other similar areas.

Based on the property's gross acreage of 3.77 acres, the base minimum amount of open space required by the both the Pedestrian Business Overlay District and the zoning conditions for the tract is 16,422 square feet. The applicant's plan provides a minimum of 25,414 square feet of qualifying open space is to be provided through 14' wide sidewalks, the requirement of a pedestrian path meeting per zoning condition (n), and a 20'x30' area at the corner of Tryon Hill Drive and Wakefield Avenue per zoning condition (r). The proposed development meets the configuration provisions of the code. The proposed open space exceeds the minimum 5% requirement by 10,299 square feet.

Zoning Condition (o) required an additional open space of 10% for private open space for the use by the residents, such as balconies, courtyards, roof decks, and pool areas. The base minimum amount of open space required for the tract is 16,422 square feet. 17,700 square feet has been provided with the use of courtyards, pool, and balconies.

PHASING: There are 2 phases with this development. Phase 1 is the site development of SP-15-11. Phase 2 will be approved at a later date.

UNITY OF DEVELOPMENT: Unity of development and sign criteria are not required in this development.

ZONING CONDITION COMPLIANCE: Zoning condition (b) requires that no more than 30% of the total number of dwelling units located within any single "group housing development" or "multi-family dwelling development" as defined by the Raleigh City Code shall contain more than two bedrooms.

Building 1 has 8-three bedroom units (8/115 = 7% greater than 2- bedroom units). Building 2 has 4-three bedroom units (4/134 = 3% greater than 2-bedroom units).

Zoning condition (e) requires that building elevations fronting along West Morgan Street shall have active uses on at least 75% of their frontage at sidewalk level and on upper floors. Building elevations fronting along Tryon Hill Drive and the east side of Wakefield Avenue shall have active uses along at least 50% of their frontage at sidewalk level and on upper floors. For the purposes of this condition (e), active uses are defined as commercial (other than parking facilities listed in the Schedule of Permitted Land Uses in Zoning Districts), office, restaurant, and/or retail sales (other than retail sales-highway) that front the right-of-way and have at-grade access, except for upper floors, where any use listed in the

Schedule of Permitted Land Uses in Zoning Districts (other than parking facilities listed in the Schedule of Permitted Land Uses in Zoning Districts) that is not otherwise prohibited by the City Code or this rezoning ordinance is allowed. The amount of floor area gross dedicated to ground floor active uses required by this condition (e) along Morgan Street, Tryon Hill Drive and the east side of Wakefield Avenue shall collectively be no less than 9,500 square feet of gross floor area.

Building 1 has 207.5' of linear frontage along West Morgan Street. 184' of the frontage of Building 1 is commercial active uses. $184/207.5 = 88.7\%$ of the street frontage along West Morgan Street are active uses. $88.7\% > 75\%$

Building 2 has 180.5' of linear frontage along West Tryon Hill Drive. 150' of the Tryon Hill Road frontage of Building 2 is commercial active uses. $150/180.5 = 83.1\%$ of the street frontage along Tryon Hill Drive are active uses. $83.1\% > 50\%$

Building 2 has 199' of linear frontage along Wakefield Avenue. 115.4' of the Wakefield Avenue frontage of Building 2 is commercial active uses. $115.4/199 = 57.9\%$ of the street frontage along Wakefield Avenue are active uses. $57.9\% > 50\%$

9,995 square feet active uses > 9,500 square feet active uses

Zoning condition (h) requires that building facades fronting public rights-of-way will have no more than 50 feet of unbroken plane. Balconies, bays or building steps of at least two feet may be used to relieve facades.

Building steps and Balconies to each unit are being used to create an unbroken plane

Zoning condition (m) states that there shall be no drive-through window located on the property.

No proposed Drive-through

Zoning condition (j) requires that In the event the properties being redeveloped are zoned with a Pedestrian Business Overlay District, residential development on the site area East of Ashe Avenue shall not exceed 285 dwelling units. Upon redevelopment, the site area East of Ashe Avenue shall have a maximum of 20,000 square feet floor area gross (excluding floor area devoted to elevator shafts, stairwells, mechanical equipment, attics, balconies and mezzanines, enclosed porches) of street level retail sales/commercial uses (other than parking facilities listed in the Schedule of Permitted Land Uses in Zoning Districts).

Proposed development is 249 dwelling units with 9,995 square feet of active uses

**COMPREHENSIVE
PLAN:**

GREENWAY: There is no greenway on this site.

**THOROUGHFARE
/ COLLECTOR
PLAN:**

Dedication of right-of-way and construction of the following streets are required by the Thoroughfare and Collector Street Plan:

<u>Street</u>	<u>ROW</u>	<u>Construct</u>	<u>Slope Esmt.</u>
Tryon Hill Drive	½ 55'	N/A	N/A
Wakefield Avenue	½ 55'	N/A	N/A

On June 7, 2011, the City Council approved a variance from the requirement to dedicate:

- ½ of a 90' right-of-way along West Morgan Street
- 20' slope easement along Ashe Avenue
- ½ of a 60' right-of-way along Tryon Hill Drive
- ½ of a 60' right-of-way along Wakefield Avenue

Given the existing context of the West Morgan Streets and Ashe Avenue, the existing right-of-way dedicated width was found to be adequate. Additional right-of-way is reimbursable under the facility fees program. A fee in lieu of road construction will be required on the north side of Tryon Hill Road, on the east side of Wakefield Avenue, and on the southeast side of Ashe Avenue.

TRANSIT: The following transit-oriented features of this site are incorporated into the proposed plan: An easement will not be recorded due to the building façade along West Morgan Street being adjacent to public right-of-way, but the applicants are deeding a transit easement and constructing a transit shelter in accordance with Zoning Condition (x) on West Morgan Street.

URBAN FORM: This site is located within the West Morgan Street Special Study Area of the 2030 Comprehensive Plan and the Hillsborough Morgan PBOD, with guidance given in the Urban Design Elements of the comprehensive plan, as well as the Hillsborough Morgan Streetscape and Parking Plan. These elements call for pedestrian-oriented buildings and sites, and transitions to adjacent neighborhoods. The site plan addresses these goals through the use of the following: wide sidewalks, street trees, ground floor commercial space, multiple connections to the street, screening and wrapping of structured parking, and transitions in building height.

HISTORIC / DISTRICTS: This site is not located in or adjacent to a designated Historic District.

APPEARANCE COMMISSION: No Comments

SUBDIVISION STANDARDS:

BLOCK LAYOUT: The proposed street layout conforms to City Code, providing for efficient circulation of traffic within the entire neighborhood area. The maximum block length in this development meets the 1500-foot standard as noted in the Streets, Sidewalks and Driveway Access Handbook. No dead end street in this development exceeds 800 feet in length.

On May 3, 2011, the City Council approved the closing of a right-of-way formerly known as Whitley Street and a portion of an unnamed alley.

PUBLIC UTILITIES: City water and sewer services are available. The developer is responsible for installation of all lines necessary to provide service to this site.

- SOLID WASTE:** Individual lot service to be provided by private contractor.
- CIRCULATION:** Proposed street, sidewalk, and driveway improvements shall conform to normal City construction standards.
- PEDESTRIAN:** A sidewalk is required along the property's frontage on West Morgan Street, Tryon Hill Drive, Ashe Avenue, and Wakefield Avenue. Proposed sidewalk locations conform to the Hillsborough Morgan Streetscape and Parking Plan.
- FLOOD HAZARD:** There are no flood hazard areas on this site.
- STORMWATER MANAGEMENT:** This site is subject to stormwater management nitrogen reduction and stormwater runoff control requirements of Part 10 Chapter 9. The stormwater runoff control is exempt under code section 10-9023(b)(1). The increase in peak stormwater runoff between the pre-development and post-development conditions for the 2-year and 10-year storm events is 10% or less. Nitrogen reduction is being met through the net reduction of impervious area.
- WETLANDS / RIPARIAN BUFFERS:** No wetland areas or Neuse River riparian buffers are required on this site.
- OTHER REGULATIONS:** Developer shall meet all City requirements, including underground utility service (§10-3059), flood protection measures (Part 10, Chapter 4), and the soil erosion ordinance (Part 10, Chapter 5), unless specifically varied by this approval.