Request:

7.72 acres from

R-4 & R-6

to NX-3-CU
**Case Information: Z-6-16 – Leesville Road**

| **Location** | Leesville Road, east side, south of its intersection with Strickland Road, and extending east to Old Leesville Road. Addresses: 9501 Leesville Road, 9513 & 9601 Old Leesville Road, & that portion of 9605 Old Leesville Road east of Leesville Road. PINs: 0788047444, 0788048627, 0788048872, & that portion of 0788045738 east of Leesville Road. |
| **Request** | Rezone property from Residential-4 & Residential-6 (R-4 & R-6) to Neighborhood Mixed Use-3 stories-Conditional Use (NX-3-CU) |
| **Area of Request** | 7.72 acres |
| **Property Owners** | Mason Street LLC/ 115 S. Mason Street/ Apex, NC 27502; Stewart D. Marlowe & John D. Titchener, Jr./ PO Box 20667/ Raleigh, NC 27619 |
| **Applicant** | Michael Birch: Morningstar Law Group: (919) 590-0388, mbirch@morningstarlawgroup.com |
| **Citizens Advisory Council (CAC)** | Northwest-- Jay Gudeman, Chair: (919) 789-9884; jay@kilpatrickguteman.com |
| **PC Recommendation Deadline** | July 11, 2016 |

**Comprehensive Plan Consistency**
The rezoning case is XXX Consistent □ Inconsistent with the 2030 Comprehensive Plan.

**Future Land Use Map Consistency**
The rezoning case is □ Consistent XXX Inconsistent with the Future Land Use Map.

**Comprehensive Plan Guidance**

| **FUTURE LAND USE** | Office & Residential Mixed Use |
| **URBAN FORM** | Center: None |
| | Corridor: None |
| | Within Transit Stop Half-Mile Buffer? No |
| **CONSISTENT Policies** | Policy LU 1.3 – Conditional Use Consistency |
| | Policy LU 5.1 – Reinforcing the Urban Pattern |
| | Policy LU 5.2 – Managing Commercial Development Impacts |
| | Policy LU 5.4 – Density Transitions |
| | Policy LU 5.6 – Buffering Requirements |
| | Policy LU 6.2 – Complementary Uses and Urban Vitality |
| | Policy LU 7.5 – High-Impact Commercial Uses |
| **INCONSISTENT Policies** | Policy LU 1.2 – Future Land Use Map and Zoning Consistency |
| | Policy LU 10.6 – Retail Nodes |
Summary of Proposed Conditions

1. Certain uses prohibited.
2. Maximum floor area for non-residential uses limited to 63,000 sf; maximum of 36 dwelling units prescribed; allocation covenant prescribed.
3. Maximum floor area for a single non-residential building limited to 50,000 sf.
4. Maximum building height limited to 2 stories/ 40 feet.
5. Hours of retail sales and truck deliveries limited.
6. Pole-mounted lighting fixtures to be of full-cutoff design; maximum height 20 feet.
7. No commercial use or public entrance to face Old Leesville Road.
8. No driveway cut allowed from Old Leesville Road.
9. No solid waste facilities within 50 feet of east lot lines.
10. No delivery truck access permitted to or from Old Leesville Road.
11. Wall, with lighting, required along Old Leesville Road frontage, then south past site building/service area.
12. Drive-in or drive-through prohibited.
13. Solid waste service hours limited.
14. No building permitted to extend south of Old Leesville Road public right-of-way.
15. Tree conservation area specified on southernmost part of site.
16. Sidewalk required along west side of Old Leesville Road.
17. Primary building materials specified.
18. Residence at 9513 Old Leesville Road to be relocated.

Public Meetings

<table>
<thead>
<tr>
<th>Neighbor Meeting</th>
<th>CAC</th>
<th>Planning Commission</th>
<th>City Council</th>
<th>Public Hearing</th>
</tr>
</thead>
<tbody>
<tr>
<td>1/7/16</td>
<td>3/8/16; 4/12/16; Y-17, N-14</td>
<td>4/12/16 (deferred); 4/26/16</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Attachments

1. Staff report
2. Staff comments on conditions (per 4/15/16 amendments)
3. Traffic study worksheet

Planning Commission Recommendation

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 attached Staff Report.
Case Summary

Overview

The proposal seeks to rezone the site to permit non-residential uses, which are prohibited under the current zoning districts (R-4 and R-6). The request encompasses four properties, with frontage either on Leesville Road or Old Leesville Road. The northernmost property (9605 Leesville Road) is split by the right-of-way of Leesville Road; the western portion is not part of the rezoning request.

Over the past 15 years, the surrounding area has transformed from distinctly rural to suburban character and form. Fueled by completion of the nearby I-540 interchange and large residential developments both to the north and south of the interstate, multiple rezonings and subsequent redevelopment have resulted in the intersection of Leesville and Strickland roads becoming a retail hub. Construction currently underway will bring a third pharmacy to the parcels ringing the intersection; the fourth quadrant, long occupied by a church campus, is being joined to the west by other institutional uses (day care center and the Pine Hollow Middle School complex).

Accompanying these changes have been significant alterations to area roadways. In the early 2000s, the section of Leesville Road north of Westgate Road was re-routed and widened to the I-540 interchange; its former roadbed past Westgate Road became “Old Leesville Road.” With the construction of the Draymore Manor townhouse community at the new Westgate Road/Leesville Road intersection, just east of the subject site, the southernmost segment of the Old Leesville right-of-way was closed, and a terminus created where the street meets Ashford Park Drive, the connecting road which circles through Draymore.

The townhouse community is zoned R-10. North of Draymore, east of Old Leesville Road, are several large-lot residences; the area next to Strickland is zoned Neighborhood Mixed Use-3 stories (NX-3); the lot between that area and Draymore is R-6. Properties west of the site, across the new Leesville Road, are also zoned R-6, and are built out with single-family houses as the Pemberton, Westgate Estates, and Village at Westgate neighborhoods. North of them is the church property, zoned R-4.

Adjoining the site on the north is property zoned Commercial Mixed Use-5 stories-Conditional Use (CX-5-CU); present build-out, however, now nearing completion, is for a one-story pharmacy store (approved as SP-51-13). The retail center north of Strickland is zoned Commercial Mixed Use-3 stories; existing buildings there also are one story.

The parcel south of the site, across the intersection of Leesville, Westgate and Lakewood Valley Way, is currently vacant, but zoned Office Mixed Use-3 stories-Conditional Use (OX-3-CU). Case conditions (Z-9-09) restrict uses of that site to office or institution.

The subject site is at present mostly wooded. Up until 2014, the northernmost lot on the west contained a house, since removed. The two lots on Old Leesville Road each include a house; that at 9513 Old Leesville is on the state Study List of properties potentially eligible for inclusion on the National Register of Historic Places (see below). Adding to the character of the rezoning
site are several large oak trees at 9601 Old Leesville. The southernmost property is vacant. The low point of the site is at its northwest, near Leesville Road; the high point is at the cul-de-sac of Old Leesville Road. Between, the site falls some 30 feet, east to west.

**Outstanding Issues**

<table>
<thead>
<tr>
<th>Outstanding Issues</th>
<th>Suggested Mitigation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Matters identified in staff comments.</td>
<td>1. Address matters identified in staff comments.</td>
</tr>
<tr>
<td>2. Existing block perimeter exceeds UDO standards.</td>
<td>2. Address sewer and fire flow capacities at the site plan stage.</td>
</tr>
<tr>
<td>3. Sewer and fire flow matters may need to be addressed upon redevelopment.</td>
<td></td>
</tr>
</tbody>
</table>
Rezoning Case Evaluation

1. Compatibility Analysis

1.1 Surrounding Area Land Use/ Zoning Summary

<table>
<thead>
<tr>
<th>Subject Property</th>
<th>North</th>
<th>South</th>
<th>East</th>
<th>West</th>
</tr>
</thead>
<tbody>
<tr>
<td>Existing Zoning</td>
<td>Residential-4; Residential-6</td>
<td>Commercial Mixed Use-5 stories-Conditional Use</td>
<td>Residential-6; Office Mixed Use-3 stories-Conditional Use</td>
<td>Neighborhood Mixed Use-3 stories; Residential-6; Residential-10 Conditional Use</td>
</tr>
<tr>
<td>Additional Overlay</td>
<td>n/a</td>
<td>n/a</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>Future Land Use</td>
<td>Office &amp; Residential Mixed Use</td>
<td>Neighborhood Mixed Use</td>
<td>Low Density Residential; Neighborhood Mixed Use</td>
<td>Moderate Density Residential</td>
</tr>
<tr>
<td>Current Land Use</td>
<td>Single-unit living; vacant</td>
<td>Retail</td>
<td>Single-unit living; vacant</td>
<td>Single-unit living; townhouses</td>
</tr>
<tr>
<td>Urban Form (if applicable)</td>
<td>n/a</td>
<td>n/a</td>
<td>n/a</td>
<td>n/a</td>
</tr>
</tbody>
</table>

1.2 Current vs. Proposed Zoning Summary

<table>
<thead>
<tr>
<th></th>
<th>Existing Zoning</th>
<th>Proposed Zoning</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential Density:</td>
<td>4.66 DUs/ acre</td>
<td>4.66 DUs/ acre</td>
</tr>
<tr>
<td></td>
<td>(36 DUs total)</td>
<td>(36 DUs total)*</td>
</tr>
<tr>
<td>Setbacks:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Front:</td>
<td>R-4</td>
<td>R-6</td>
</tr>
<tr>
<td></td>
<td>20’</td>
<td>20’</td>
</tr>
<tr>
<td>Side:</td>
<td>10’</td>
<td>5’ (15’ aggr.)</td>
</tr>
<tr>
<td>Rear:</td>
<td>30’</td>
<td>20’</td>
</tr>
<tr>
<td>Retail Intensity Permitted:</td>
<td>-0-</td>
<td>63,000*</td>
</tr>
<tr>
<td>Office Intensity Permitted:</td>
<td>-0-</td>
<td>63,000*</td>
</tr>
</tbody>
</table>

*Per conditions.

1.3 Estimated Development Intensities

<table>
<thead>
<tr>
<th></th>
<th>Existing Zoning</th>
<th>Proposed Zoning</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Acreage</td>
<td>7.72</td>
<td>7.72</td>
</tr>
<tr>
<td>Zoning</td>
<td>R-4 &amp; R-6</td>
<td>NX-3-CU</td>
</tr>
<tr>
<td>Max. Gross Building SF</td>
<td>n/a</td>
<td>63,000*</td>
</tr>
<tr>
<td>Max. # of Residential Units</td>
<td>36</td>
<td>36*</td>
</tr>
<tr>
<td>Max. Gross Office SF</td>
<td>(not permitted)</td>
<td>63,000*</td>
</tr>
</tbody>
</table>
The proposed rezoning is:

☑ Compatible with the property and surrounding area.

☐ Incompatible.

Analysis of Incompatibility:

<table>
<thead>
<tr>
<th>Max. Gross Retail SF</th>
<th>(not permitted)</th>
<th>63,000*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Max. Gross Industrial SF</td>
<td>(not permitted)</td>
<td>(not permitted)</td>
</tr>
<tr>
<td>Max. Potential F.A.R.</td>
<td>n/a</td>
<td>0.19</td>
</tr>
</tbody>
</table>

*Per conditions.

The proposal is conditioned to minimize potential impacts of site development on nearby residential properties. Limitations are placed on site uses, building height, density, non-residential square footage, lighting, service/delivery times, and operating hours, and additional requirements are added for buffering.
Request:

7.72 acres from R-4 & R-6 to NX-3-CU

Submittal Date
2/3/2016
2. Comprehensive Plan Consistency Analysis

2.1 Comprehensive Plan

Determination of the conformance of a proposed use or zone with the Comprehensive Plan includes consideration of the following questions:

- Is the proposal consistent with the vision, themes, and policies contained in the Comprehensive Plan?
- Is the use being considered specifically designated on the Future Land Use Map in the area where its location is proposed?
- If the use is not specifically designated on the Future Land Use Map in the area where its location is proposed, is it needed to service such a planned use, or could it be established without adversely altering the recommended land use and character of the area?
- Will community facilities and streets be available at City standards to serve the use proposed for the property?

The proposal is inconsistent with the Future Land Use map, which envisions only a limited retail presence on site, in deference to office and/or residential uses. Rezoning could result in up to 63,000 square feet of retail on the properties. Nearly 160,000 square feet of non-residential development are already located around the Leesville/Strickland intersection. The Future Land Use designation foresees less intensive mixed uses on site, as a transition between existing residential areas and purely retail development, rather than bringing retail uses to them.

The Urban Form map does not prescribe specific Center or Corridor designation at the site or nearby.

The proposal provides numerous conditions, though, aimed at mitigating potential impacts from retail development, among them limitations on site uses, building height, density, non-residential square footage, lighting, service/delivery times, and operating hours, and added requirements for buffering, including provision of tree conservation and a screen wall.

Existing community facilities appear sufficient to accommodate redevelopment possible under the proposed rezoning. Construction of a cross-street would be needed to meet block perimeter standards.

2.2 Future Land Use

Future Land Use designation: Office & Residential Mixed Use

The rezoning request is:

☐ Consistent with the Future Land Use Map.

☒ Inconsistent

Analysis of Inconsistency:

The Future Land Use map designation envisions retail uses as accessory to office and/or residential development on the site. The requested zoning would allow solely retail uses (though also office and residential development).
2.3 Urban Form

Urban Form designation:

☒ Not applicable (no Urban Form designation)

The rezoning request is:

☐ Consistent with the Urban Form Map.

☒ Inconsistent

Analysis of Inconsistency:

(N/ A)

2.4 Policy Guidance

The rezoning request is inconsistent with the following policies:

Policy LU 1.2 - Future Land Use Map and Zoning Consistency
The Future Land Use Map and associated Comprehensive Plan policies shall be used to guide zoning, ensure the efficient and predictable use of land capacity, guide growth and development, protect public and private property investments from incompatible land uses, and efficiently coordinate land use and infrastructure needs.

The Future Land Use map designates the site for Office and Residential Mixed Use. The Comprehensive Plan affiliates Office Mixed Use (OX) zoning with that designation. OX could allow a limited retail presence on site, but only as part of a multi-story mixed use building. The proposed zoning would permit solely-retail uses of the property.

Policy LU 10.6 - Retail Nodes
Retail uses should concentrate in mixed-use centers and should not spread along major streets in a linear "strip" pattern unless ancillary to office or high-density residential use.

Area retail uses are focused to the north at Strickland Road, and to the south, at the Leesville Road/ Fairbanks Drive intersection. The proposal would extend retail zoning some 1,000 feet southward from Strickland Road, into a wedge of land between existing single-family and townhouse neighborhoods.

2.5 Area Plan Policy Guidance

The rezoning request is not within a portion of the City subject to an Area Plan.
3. Public Benefit and Reasonableness Analysis

3.1 Public Benefits of the Proposed Rezoning

- Provision of added goods and services in proximity to existing residential development.
- Conditions aim to reduce development intensity (e.g., limit square footage) and impacts (e.g., prohibited uses).

3.2 Detriments of the Proposed Rezoning

- The lack of transit and sidewalk connections favors access by automobile, potentially increasing traffic congestion.

4. Impact Analysis

4.1 Transportation

The site is located on the east side of Leesville Road approximately 0.1 miles south of Strickland Road. Leesville Road (SR 1839) is maintained by the NCDOT. Leesville Road is classified as a major street in the UDO Street Plan Map (Avenue, 4-Lane, Divided) and currently has a 5-lane cross section with curb & gutter but no sidewalk on the east side. An existing local street (Old Leesville Road) forms the subject parcel's eastern boundary. Old Leesville Road is a ribbon-paved street without curbs or sidewalks.

There are no City of Raleigh CIP projects planned for Leesville Road. There are no state STIP projects for Leesville Road in the vicinity of the Z-6-2016 site.

Offers of cross access to adjacent parcels shall be made in accordance with the Raleigh UDO section 8.3.5.D. Site access will be provided via Leesville Road and the existing parcel to the north.

The existing block perimeter of public streets is ~7,600 linear feet. In accordance with section 8.3.2 of the UDO, the maximum block perimeter for NX-3 zoning is 3,000 feet. A public street connection between Leesville Road and Old Leesville Road will be needed to meet this provision of the UDO. However, Old Leesville Road is privately maintained.

Approval of case Z-6-2016 would increase average PM peak hour trip volume by 311 veh/hr; daily trip volume will increase by 4,346 veh/day. A traffic impact analysis report is required per the Raleigh Street Design Manual section 6.23. Staff notes that a traffic study was received for case Z-14-2015 (withdrawn 26th January, 2016); the increase in land use intensities are small enough that the TIA for Z-14-2015 remains valid for Z-6-2016.

Impact Identified: Block Perimeter exceeds standard.

4.2 Transit

Leesville Road is not served by the current transit system. Neither the City of Raleigh Short Range Transit Plan nor the Wake County Transit Plan anticipates service along Leesville Road. There are no transit requests.

Impact Identified: None.
### 4.3 Hydrology

<table>
<thead>
<tr>
<th>Floodplain</th>
<th>None</th>
</tr>
</thead>
<tbody>
<tr>
<td>Drainage Basin</td>
<td>Sycamore</td>
</tr>
<tr>
<td>Stormwater Management</td>
<td>Article 9.2 UDO</td>
</tr>
<tr>
<td>Overlay District</td>
<td>None</td>
</tr>
</tbody>
</table>

Subject to Article 9.2 of UDO for Stormwater Controls. Neuse Buffers may exist on site.

**Impact Identified:** No impacts identified.

### 4.4 Public Utilities

<table>
<thead>
<tr>
<th></th>
<th>Maximum Demand (current)</th>
<th>Maximum Demand (proposed)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Water</td>
<td>19,750 gpd</td>
<td>22,500 gpd</td>
</tr>
<tr>
<td>Waste Water</td>
<td>19,750 gpd</td>
<td>22,500 gpd</td>
</tr>
</tbody>
</table>

The proposed rezoning would add approximately 2,750 gpd to the wastewater collection and water distribution systems of the City. There are existing sanitary sewer and water mains adjacent to portions of the properties.

**Impact Identified:** The developer may be required to submit a downstream sanitary sewer capacity study and those required improvements identified by the study must be permitted and constructed in conjunction with and prior to the proposed development being constructed.

Verification of available capacity for water fire flow is required as part of the building permit process. Any water system improvements required to meet fire flow requirements will also be required.

### 4.5 Parks and Recreation

The site is adjacent to a proposed greenway collector trail along the northern property boundary. No greenway easement requirements are anticipated at site plan. It is likely that a protected bike lane on Strickland, as outlined in the bike plan, will provide the connectivity for this area, as opposed to a connection across the northern boundary. Nearest greenway trail access is Hare Snipe Creek Trail, 3.0 miles. Recreation services are provided by Strickland Road Park, 0.8 miles.

**Impact Identified:** None.

### 4.6 Urban Forestry

Site plans and subdivisions 2 acres or more in size will be required to establish tree conservation areas per UDO Article 9.1 Tree Conservation.

**Impact Identified:** None.

### 4.7 Designated Historic Resources

The site does not include and is not within 1,000 feet of any Raleigh Historic Landmarks or properties listed on the National Register of Historic Places. However, the site does include the c. 1906 Leesville School Teacherage (9513 Old Leesville Road; PIN 0788048627), which has been determined by the NC State Historic Preservation Office as potentially being eligible for nomination to the National Register (survey number WA 1345). The building is also listed in the book *The Historic Architecture of Wake County* (1994). The rezoning request provides for the relocation of the building.
Impact Identified: None.

4.8 Community Development
This site is not located within a redevelopment plan area.

Impact Identified: None.

4.9 Impacts Summary
- Existing block perimeter exceeds UDO standards.
- Sewer and fire flow matters may need to be addressed upon redevelopment.

4.10 Mitigation of Impacts
- Address sewer and fire flow capacities at the site plan stage.

5. Conclusions
The proposal is inconsistent with the Future Land Use Map of the Comprehensive Plan, which foresees office or residential uses on the site; the proposal would allow solely retail uses. The site is not indicated on the Urban Form Map as being within a designated Center or on a Corridor. Proposed conditions, however, aim to mitigate potential development impacts.
Staff Comments: Z-6-16 Conditions (as amended 4/15/16)

Condition 8

Regarding TC-8-15, while that provision offers discretion to City Council in regard to provision of site access, it must be demonstrated that the result could still functionally “provide for safe, efficient and convenient vehicular and pedestrian access within developments and between adjacent developments and do not adversely affect traffic congestion.” Without this demonstration, the City Council cannot approve this zoning condition. Please specify how preventing direct access to Old Leesville Road would allow safe, efficient, convenient movement inside and adjacent to the site, while not adversely affecting traffic congestion.

Condition 10

Define the term “delivery truck” or delete the condition (in light of Condition 8).

Condition 11

Consider adding provision for screening the wall with plant materials.
Substitute the phrase “south of” for the word “past” (in two places: line 8 & line 9).
Add the phrase “; the gate shall be open and unlocked during the hours of operation specified in Condition 5.”

Condition 14

For greater clarity, please provide an Exhibit which illustrates the referenced metes and bounds, the location of the two conditioned points, and the connecting line.

Condition 16

Delete. The UDO will require a sidewalk.

Condition 18

Add specific note of when the house will be relocated; i.e., “prior to issuance of any building permit.”
Move the phrase “having an address of 9513 Old Leesville Road (Lot 30-A in Book of Maps 1985 Page 882)” to after the word “Teacherage”; delete the words “that is currently located on the aforementioned property”.
Rezoning Application

### Rezoning Request

- **Conditional Use**
- **Existing Zoning Classification:** R-4 and R-6
- **Proposed Zoning Classification Base District:** NX  Height: -3  Frontage: None

If the property has been previously rezoned, provide the rezoning case number.

Provide all previous transaction numbers for Coordinated Team Reviews, Due Diligence Sessions or Pre-Submittal Conferences.

<table>
<thead>
<tr>
<th>OFFICE USE ONLY</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transaction Number</td>
</tr>
</tbody>
</table>

### GENERAL INFORMATION

- **Property Address:** 9501 Leesville Road; 9513 Old Leesville Road, 9601 Old Leesville Road and that portion of 9605 Old Leesville Road east of Leesville Road
- **Date:** April 1, 2016 (revised)
- **Property PIN:** 0788-04-7444, 0788-04-8627, 0788-04-8872 and that portion of 0788-04-5738 east of Leesville Road
- **Deed Reference (Book/Page):** Book 14865, Page 2667; Book 12987, Page 1214 (that portion east of Leesville Rd); Book 8442, Page 1695
- **Nearest Intersection:** Leesville Road and Strickland Road
- **Property size (in acres):** 7.72 ac

- **Property Owner/Address:**
  - Mason Street, LLC
  - 115 S. Mason Street
  - Apex, NC 27502
  - Stewart D. Marlowe & John D. Titchener, Jr.
  - PO Box 20667
  - Raleigh, NC 27619

- **Project Contact Person/Address:**
  - Michael Birch, Morningstar Law Group
  - 630 Davis Drive, Suite 200
  - Morrisville, NC 27560

- **Phone:** 919.590.0388
- **Fax:**
- **Email:** mbirch@morningstarlawgroup.com

### Owner/Agent Signature

A rezoning application will not be considered complete until all required submittal components listed on the Rezoning Checklist have been received and approved.
Conditional Use District Zoning Conditions

Zoning Case Number: Z-6-16

Date Submitted: April 26, 2016

Existing Zoning: R-4 and R-6

Proposed Zoning: NX-3-CU

NARRATIVE OF ZONING CONDITIONS OFFERED

1. The following principal uses shall be prohibited: bed and breakfast; retail sales – fuel (including gasoline and diesel fuel); vehicle sales/rental – all types; detention center, jail, prison; vehicle repair (minor).

2. The maximum amount of gross floor area of nonresidential uses shall be 63,000 square feet. The maximum amount of residential dwelling units shall be 36 dwelling units. Prior to recordation of a subdivision plat or the issuance of a building permit, whichever shall first occur, the owner of the property shall cause to be recorded in the Wake County Registry a restrictive covenant that allocates among the lot(s) of record comprising the property the nonresidential gross floor area and number of dwelling units permitted by this rezoning ordinance. Such restrictive covenant shall be approved by the City Attorney or his designee prior to recordation of the restricted covenant. Such restrictive covenant shall provide that it may be amended or terminated only with the prior written consent of the City Attorney or his designee. No building permit shall be issued for any use until an allocation covenant approved by the City Attorney or his designee is recorded with the Wake County Register of Deeds Office. For the purposes of this rezoning ordinance, the term “nonresidential uses” shall mean all those land uses except those listed under the “Residential” use category in the Allowed Principal Use Table in UDO section 6.1.4.

3. The maximum amount of gross floor area for a single nonresidential tenant space shall be 50,000 square feet.

4. The maximum building height for any building on the property shall be two stories and forty (40) feet, except for those height encroachments as allowed by UDO section 1.5.7.D.

5. The hours of operation for any Retail Sales use shall be between the hours of 6:00 a.m. and 11:00 p.m. Truck deliveries shall occur only between the hours of 7:00 AM and 9:00 PM, and shall be limited to Monday through Saturday, inclusive.

6. Any pole-mounted lighting fixtures shall be of full cut-off design, and pole-mounted site lighting for parking areas shall not exceed twenty (20) feet in height.

7. No commercial use shall have its front elevation facing Old Leesville Road. Additionally, no building entrance open and available to the general public shall be located on a building elevation facing Old Leesville Road.

8. This condition is being made pursuant to text change TC-8-15 and UDO section 10.2.4.E.2.c. There shall not be a driveway cut along the property’s frontage on Old Leesville Road. However, this condition shall not prohibit vehicular, bicycle and pedestrian access to and from the property to and from Old Leesville Road by way of cross access. Site development will comply with UDO section 8.3.1.E.

These zoning conditions have been voluntarily offered by the property owner. All property owners must sign each condition page. This page may be photocopied if additional space is needed.

Owner/Agent Signature  Print Name
## Conditional Use District Zoning Conditions

<table>
<thead>
<tr>
<th>Zoning Case Number: Z-6-16</th>
<th>OFFICE USE ONLY</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Transaction Number</td>
</tr>
<tr>
<td>Date Submitted: April 26, 2016</td>
<td></td>
</tr>
</tbody>
</table>

**Existing Zoning: R-4 and R-6**

**Proposed Zoning: NX-3-CU**

### NARRATIVE OF ZONING CONDITIONS OFFERED

9. No service areas used for trash collection, trash compaction or recycling collection shall be located within fifty (50) feet of the eastern property line adjacent to the Old Leesville Road public right-of-way or that parcel identified as Closed R/W-B on that plat recorded in Book of Maps 2004, Page 1396, Wake County Registry.

10. Delivery truck access to and from the property shall be prohibited from Old Leesville Road. For the purpose of this condition, “delivery truck” shall mean a truck having three or more axles or a two-axle truck with dual rear wheels pulling a trailer, which accesses the property for the purpose of discharging or collecting cargo.

11. Subject to tree conservation areas and prior to the issuance of a certificate of occupancy for the first building on the property, a closed wall measuring at least ten (10) feet in height but no taller than twelve (12) feet in height, as measured at all points along the wall, shall be installed along the property’s frontage along Old Leesville Road. The northern-most point of this wall shall be 150 feet from the intersection of Strickland Road and Old Leesville Road, but in no event within any required sight triangle or sight distance easement. The wall required by this condition shall be installed within that area measuring twenty (20) feet from the future right-of-way of Old Leesville Road and outside the required district yard setback, but parallel to an adjoining sidewalk, if any. If the wall is along a sidewalk on the west side of Old Leesville Road, then the portion of this closed wall along the sidewalk shall incorporate wall pack lighting located no higher than five (5) feet from the ground to illuminate the sidewalk. Additionally, this closed wall shall extend from its southern terminus along Old Leesville Road toward Leesville Road at least as far as (i) twenty (20) feet west the eastern-most elevation of the building, or (ii) west of the loading area and trash/recycling service area associated with the largest commercial building, whichever is farthest from Old Leesville Road. The maintenance of this wall shall be the obligation of the owner of the property. There shall be one gated opening in this wall to provide pedestrian and bicycle access to and from the property, and such gate shall be open and unlocked during the hours of operation for Retail Sales uses specified in Condition 5. On the east side of the wall required by this condition, for that portion of the wall parallel to Old Leesville Road, shrubs shall be planted at a rate of eighteen (18) per 100 linear feet of the wall parallel to Old Leesville Road, with such shrubs being a minimum three (3) feet in height at time of planting, and with such shrubs being installed prior to issuance of the first certificate of occupancy.

12. There shall be no drive-in or drive-through facility permitted on the property.

13. The hours of operation for service of trash and recycling facilities shall be between 7:00 AM and 7:00 PM, and shall be limited to Monday through Saturday, inclusive.

14. No building shall be located within that area south of the straight line connecting (i) the point where the areas designated “Closed R/W-A” and “Closed RW-B” join at the Old Leesville Road right-of-way as shown on plat recorded in Book of Maps 2004, Page 1396, and (ii) the point along the property’s frontage on Leesville Road that is five hundred (500) feet south of the property’s northern-most point of frontage along Leesville Road, measured along Leesville Road, as shown on attached Exhibit A.

These zoning conditions have been voluntarily offered by the property owner. All property owners must sign each condition page. This page may be photocopied if additional space is needed.

<table>
<thead>
<tr>
<th>Owner/Agent Signature</th>
<th>Print Name</th>
</tr>
</thead>
</table>
**Conditional Use District Zoning Conditions**

<table>
<thead>
<tr>
<th>Zoning Case Number: Z-6-16</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date Submitted: April 26, 2016</td>
</tr>
<tr>
<td>Existing Zoning: R-4 and R-6</td>
</tr>
</tbody>
</table>

**NARRATIVE OF ZONING CONDITIONS OFFERED**

15. The portion of the property immediately adjacent to that parcel identified as “Closed R/W-B” on that plat recorded in Book of Maps 2004, Page 1386, Wake County Registry, measuring at least thirty-two (32) feet in depth from the common boundary line, shall be maintained as a tree conservation area to the extent that this area (or a portion thereof) qualifies as a tree conservation area under UDO section 9.1. If this area (or a portion thereof) does not qualify as a tree conservation area, then such area shall remain undisturbed except for that disturbance required for any sewer, water, storm drainage, utility, or right-of-way easements or improvements required by the UDO, and new tree or shrub planting.

16. The primary building material shall be brick, stone, masonry or similar high quality material, or a combination thereof.

17. The two-story structure identified as the Leesville Teacherage, having an address of 9513 Old Leesville Road (Lot 30-A in Book of Maps 1985, Page 882, shall be relocated. This structure shall be removed from the property prior to issuance of a building permit for the property on which the structure is located, howsoever recombined or subdivided.

These zoning conditions have been voluntarily offered by the property owner. All property owners must sign each condition page. This page may be photocopied if additional space is needed.
## Comprehensive Plan Analysis

The applicant is asked to analyze the impact of the rezoning request. State Statutes require that the rezoning either be consistent with the adopted Comprehensive Plan, or that the request be reasonable and in the public interest.

### STATEMENT OF CONSISTENCY

Provide brief statements regarding whether the rezoning request is consistent with the future land use designation, the urban form map and any applicable policies contained within the 2030 Comprehensive Plan.

1. The property is designated Office & Residential Mixed Use on the Future Land Use Map, which encourages a mix of residential and office uses. The rezoning request for NX permits residential and office uses, as well as retail uses. Because the rezoning request permits retail uses, the rezoning request is inconsistent with the Future Land Use Map designation. However, as described below, the rezoning request furthers other important Comprehensive Plan policies and is reasonable and in the public interest.

2. The rezoning request is consistent with the following Comprehensive Plan policies: (i) Table LU-2 “Recommended Height Designations” because of the conditioned height maximum; (ii) LU 1.3 “Conditional Use District Consistency” because the proposed conditions are consistent with the Comprehensive Plan; (iii) LU 4.4 “Reducing VMT Through Mixed-Use” because the rezoning permits a mix of retail and office uses in close proximity to other services and residential neighborhoods; (iv) LU 4.5 “Connectivity” because development of the property will have cross-access over the property to the north, which is developing for retail uses; (v) LU 4.10 “Development at Freeway Interchanges” because the rezoning request would permit retail uses immediately adjacent to other retail uses, which creates a node in the southeast quadrant of a major intersection near the Leesville/l-540 interchange; (vi) LU 5.2 “Managing Commercial Development Impacts” because the proposed conditions address and mitigate potential impacts on nearby property; (vii) LU 5.6 “Buffering Requirements” because the rezoning request includes conditions that ensure appropriate transitions (taking into account existing features) to nearby property; (viii) LU 7.1 “Encouraging Nodal Development” because the rezoning request would permit additional retail uses adjacent to already permitted retail at a major intersection, with conditions that ensure height and scale of development respects the nearby residential properties; (ix) LU 7.4 “Scale and Design of New Commercial Uses” because the rezoning request includes conditions that ensure the height, scale and mass of development is compatible with surrounding properties and uses; (x) LU 7.6 “Pedestrian-Friendly Development” because the new development will provide sidewalks along adjoining streets, between the site and the development to the north, which will facilitate pedestrian access from the east.

### PUBLIC BENEFITS

Provide brief statements regarding the public benefits derived as a result of the rezoning request.

1. The rezoning request benefits the public by providing retail uses within walking distance of residential uses and other retail uses, thereby reducing the need for additional vehicle trips on Leesville Road and Strickland Road to access goods and services.

2. The rezoning request is reasonable and in the public interest because it permits retail goods and services in proximity to residential uses and at a scale, mass and intensity that is compatible with the surrounding residential uses and other nearby retail uses.
Pursuant to applicable provisions of the Unified Development Ordinance, a meeting was held with respect to a potential rezoning with adjacent property owners on Thursday, January 7, 2016, at 6:00 p.m. The property considered for rezoning totals approximately 7.81 acres, with the addresses of 9501 Leesville Road, 9513, 9601 & 9605 Old Leesville Road, and having Wake County Parcel Identification Numbers 0788-04-7444, 0788-04-8627, 0788-04-8872 and 0788-04-5738. This meeting was held at the Lake Lynn Community Center located at 7921 Ray Road, Raleigh, NC 27613. All owners of property within 100 feet of the subject property were invited to attend the meeting. Attached hereto as Exhibit A is a copy of the neighborhood meeting notice. A copy of the required mailing list for the meeting invitations is attached hereto as Exhibit B. A summary of the items discussed at the meeting is attached hereto as Exhibit C. Attached hereto as Exhibit D is a list of individuals who attended the meeting.
To: Neighboring Property Owner  
From: Michael Birch  
Date: December 23, 2015  
Re: Notice of meeting to discuss potential rezoning of property located on the east side of Leesville Road, south of Strickland Road, containing approximately 7.81 acres, with the addresses of 9501 Leesville Road, 9513, 9601 & 9605 Old Leesville Road, and having Wake County Parcel Identification Numbers 0788-04-7444, 0788-04-8627, 0788-04-8872 and 0788-04-5738 (the “Property”), which Property is outlined on the map on the back side of this notice.

We are counsel for a developer that is considering rezoning the Property, which is the same property subject to previous zoning case Z-14-15. The Property is currently zoned Residential-4 and Residential-6. The proposed zoning district is Neighborhood Mixed Use conditional use, with the proposed draft zoning conditions enclosed with this notice.

You are cordially invited to attend a meeting to discuss the potential rezoning. We have scheduled a meeting with surrounding property owners on Thursday, January 7, 2016 at 6:00 p.m. This meeting will be held in the dance room at the Lake Lynn Community Center located at 7921 Ray Road, Raleigh, NC 27613.

This meeting is required by the City of Raleigh and is intended to afford neighbors an opportunity to ask questions about the potential rezoning and for the owners to obtain suggestions and comments you may have about it. You are not required to attend, but are certainly welcome. After the meeting, we will prepare a report for the Raleigh Planning Department regarding the items discussed at the meeting.

Please do not hesitate to contact me directly should you have any questions or wish to discuss any issues. I can be reached at (919) 590-0388 or mbirch@morningstarlawgroup.com.
## EXHIBIT B

### LIST OF PROPERTY OWNERS TO WHOM NOTICES WERE SENT

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
<th>City</th>
<th>State</th>
<th>Zip</th>
</tr>
</thead>
<tbody>
<tr>
<td>HUNG, Seongtaek</td>
<td>700 Whiteclay CT</td>
<td>Raleigh</td>
<td>NC</td>
<td>27617-7903</td>
</tr>
<tr>
<td>EXRODE, Lonnie</td>
<td>704 Whiteclay CT</td>
<td>Raleigh</td>
<td>NC</td>
<td>27617-7903</td>
</tr>
<tr>
<td>SYDNEY KLOTZ &amp; RICHARD HLMORE</td>
<td>708 Whiteclay CT</td>
<td>Raleigh</td>
<td>NC</td>
<td>27617-7903</td>
</tr>
<tr>
<td>RAUSE, Kim</td>
<td>800 Whiteclay CT</td>
<td>Raleigh</td>
<td>NC</td>
<td>27617-7902</td>
</tr>
<tr>
<td>SPENCE, Richard K JR</td>
<td>804 Whiteclay CT</td>
<td>Raleigh</td>
<td>NC</td>
<td>27617-7902</td>
</tr>
<tr>
<td>BARRA, Joel</td>
<td>528 Treymore Dr</td>
<td>Raleigh</td>
<td>NC</td>
<td>27617-5270</td>
</tr>
<tr>
<td>SMITH, Matthew Smith, REBECCA</td>
<td>532 Treymore Dr</td>
<td>Raleigh</td>
<td>NC</td>
<td>27617-5270</td>
</tr>
<tr>
<td>AUSTIN, Debra Ann</td>
<td>516 Treymore Dr</td>
<td>Raleigh</td>
<td>NC</td>
<td>27617-5270</td>
</tr>
<tr>
<td>ADAMS, Susan K</td>
<td>9508 Treymore Dr</td>
<td>Raleigh</td>
<td>NC</td>
<td>27617-5270</td>
</tr>
<tr>
<td>ROBBINS, Randall &amp; Meredith</td>
<td>9504 Treymore Dr</td>
<td>Raleigh</td>
<td>NC</td>
<td>27617-5270</td>
</tr>
<tr>
<td>MASON STREET LLC</td>
<td>115 S Mason St</td>
<td>Apex</td>
<td>NC</td>
<td>27502-1916</td>
</tr>
<tr>
<td>FUNNELL, NORMAN</td>
<td>1101 Hyde St</td>
<td>Raleigh</td>
<td>NC</td>
<td>27609-5501</td>
</tr>
<tr>
<td>WCWATTERS, David M</td>
<td>9408 Treymore Dr</td>
<td>Raleigh</td>
<td>NC</td>
<td>27617-5269</td>
</tr>
<tr>
<td>WALLACE, Lacey C</td>
<td>13136 Ashford Park Dr</td>
<td>Raleigh</td>
<td>NC</td>
<td>27613-4141</td>
</tr>
<tr>
<td>MITCHELL, James E Mitchell, Joyce</td>
<td>1101 Hyde St</td>
<td>Raleigh</td>
<td>NC</td>
<td>27609-5501</td>
</tr>
<tr>
<td>SEAMAN, Jeffrey C Seaman, Michelle</td>
<td>9412 Treymore Dr</td>
<td>Raleigh</td>
<td>NC</td>
<td>27617-5269</td>
</tr>
<tr>
<td>GRIFFIN, David Alan Griffin, Mary Clark</td>
<td>13357 Ashford Park Dr</td>
<td>Raleigh</td>
<td>NC</td>
<td>27613-4150</td>
</tr>
<tr>
<td>SAINTSING PROPERTIES LLC</td>
<td>205 Lake Norman Dr</td>
<td>Cary</td>
<td>NC</td>
<td>27519-9556</td>
</tr>
<tr>
<td>SAINTSING PROPERTIES LLC</td>
<td>9608 Old Leesville Rd</td>
<td>Raleigh</td>
<td>NC</td>
<td>27613-7520</td>
</tr>
</tbody>
</table>
EXHIBIT C

SUMMARY OF DISCUSSION ITEMS

On Thursday, January 7, at 6:00 p.m., the applicant held a neighborhood meeting for the property owners adjacent to the parcels subject to the proposed rezoning. The following items were discussed:

1. Rezoning process and timeline
2. Proposed zoning conditions
3. Proposed retail uses
4. Hours of operation for specific uses
5. Maximum floor area of single use
6. Improvements on Old Leesville Road
7. Direction of stormwater drainage
8. Elevation of buildings relative to surrounding development
9. Location of lights and timing of operation
10. Location and hours of service for trash/recycling facilities
11. Wall along Old Leesville Road
12. Traffic/cut-through traffic concerns in townhome neighborhood
13. Gates at entrances to townhome neighborhood
14. Nonresidential traffic on Old Leesville
15. Location of tree preservation areas and landscaped areas
16. Landscape buffer adjacent to neighborhood
17. Maximum building height
18. Site circulation and service entrance/exit
EXHIBIT D

NEIGHBORHOOD MEETING ATTENDEES

1. Mike Dillard
2. Edna Dillard
3. Thomas Erwin
4. Jerry Cram
5. Denise Griffin
6. Craig Griffin
7. Carolyn Pennington
8. Don Reibel
9. Judy Reibel
10. Mary Griffin
11. TJ Higgins
12. Richard Spence