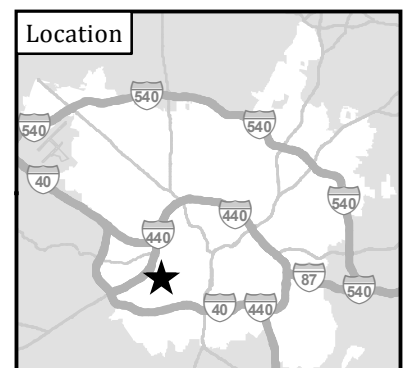


Property	1407 Stovall Dr; 3821, 3825, & 3829 Marcom St; 3824, 3826, & 3830 Kelford St
Size	1.81 acres
Existing Zoning	R-10 & RX-3-CU w/SRPOD
Requested Zoning	RX-3-UL-CU w/SRPOD





CERTIFIED RECOMMENDATION

Raleigh Planning Commission

CR#

CASE INFORMATION Z-9-2018 STOVALL DR, KELFORD STREET & MARCOM STREET

Location	Stovall Drive, Kelford Street & Marcom Street; west of Gorman Street, south of Western Boulevard Address: 1407 Stovall Dr; 3821, 3825, 3829 Marcom St; 3830, 3826, 3824 Kelford St PIN: 0793281605, 0793281514, 0793280494, 0793281485, 0793282456, 0793282662, 0793281693
Request	Rezone property from RX-3-CU-SRPOD & R-10-SRPOD to RX-3-CU-UL-SRPOD
Area of Request	1.81 acres
Corporate Limits	The rezoning site is within the ETJ and existing corporate limits.
Property Owner	Marcom Street Project, LLC 5520 McNeely Drive, Suite 100 Raleigh, NC 27612-7640
Applicant	Beth Trahos, Nelson Mullins Riley & Scarborough, LLP 4140 Parklake Avenue, Suite 200 Raleigh, NC 27612
Citizens Advisory Council (CAC)	West CAC Co-Chairperson Joshua Gill & Co-Chairperson Gabriel Sheffield Jgill.nc01@gmail.com, gabesheff@gmail.com
PC Recommendation Deadline	September 10, 2018

COMPREHENSIVE PLAN CONSISTENCY

The rezoning case is ☐ **Consistent** ☒ **Inconsistent** with the 2030 Comprehensive Plan.

FUTURE LAND USE MAP CONSISTENCY

The rezoning case is ☐ **Consistent** ☒ **Inconsistent** with the Future Land Use Map.

COMPREHENSIVE PLAN GUIDANCE

<i>FUTURE LAND USE</i>	Moderate Density Residential (MDR)
<i>URBAN FORM</i>	None.
<i>CONSISTENT Policies</i>	Policy LU 2.2 - Compact Development Policy LU 2.6 - Zoning and Infrastructure Impacts Policy LU 8.1 - Housing Variety Policy H 1.8 - Zoning for Housing Policy LU 8.14 Student-Oriented Housing

<i>INCONSISTENT Policies</i>	Policy LU 1.3 - Conditional Use District Consistency Policy LU 1.2 - Future Land Use Map and Zoning Consistency Policy LU 5.4 – Density Transitions Policy LU 5.1 Reinforcing the Urban Pattern Policy LU 5.6 - Buffering Requirements Policy LU 8.3 - Conserving, Enhancing, and Revitalizing Neighborhoods Policy EP 5.3 - Canopy Restoration
-------------------------------------	---

SUMMARY OF PROPOSED CONDITIONS

1. Dormitory, fraternity, sorority, telecommunication tower, medical, office, outdoor sports or entertainment facility, remote parking lot, personal services, eating and retail establishes are prohibited. 2. No more than 56 dwelling units shall be permitted on the property. 3. One, two and/or three-bedroom dwellings will be the only type permitted, and four-bedroom dwelling units specifically prohibited. 4. Trash and recycling facilities will be enclosed by a solid wooden fence. 5. The following conditions apply to the boundary line with property identified by PIN 0793 28 3413 and further described in Deed Book 14581, Page 2467 (“Murdock Parcel”): a. The building setback shall be no less than fifteen (15) feet. b. For any Protective Yard installed to meet Neighborhood Transitions requirements as defined in UDO Section 3.5, at least fifty percent (50%) of the landscape materials installed shall be evergreen.
--

PUBLIC MEETINGS

<i>Neighborhood Meeting</i>	<i>CAC</i>	<i>Planning Commission</i>	<i>City Council</i>
02/07/2018	05/15/2018, 6/19/18 (Y-11, N-2)	06/12/18	9/10/18

PLANNING COMMISSION RECOMMENDATION

- ☐ The rezoning case is **Consistent** with the relevant policies in the Comprehensive Plan, and **Approval** of the rezoning request is reasonable and in the public interest.
- ☐ The rezoning case is **Consistent** with the relevant policies in the comprehensive Plan, but **Denial** of the rezoning request is reasonable and in the public interest.
- ☐ The rezoning is **Inconsistent** with the relevant policies in the Comprehensive Plan, and **Denial** of the rezoning request is reasonable and in the public interest.
- ☐ The rezoning case is **Inconsistent** with the relevant policies in the Comprehensive Plan, but **Approval** of the rezoning request is reasonable and in the public interest due to changed circumstances as explained below. Approval of the rezoning request constitutes an amendment to the Comprehensive Plan to the extent described below.

Reasonableness and Public Interest	
Change(s) in Circumstances [if applicable]	
Amendments to the Comprehensive Plan [if applicable]	
<i>Recommendation</i>	
<i>Motion and Vote</i>	

ATTACHMENTS

1. Staff report
2. Comprehensive Plan Amendment Analysis

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 and Comprehensive Plan Amendment Analysis.

Planning Director

Date

Planning Commission Chairperson

Date

Staff Coordinator: Sara Ellis: (919) 996-2234; sara.ellis@raleighnc.gov



ZONING STAFF REPORT –Z-9-18

CONDITIONAL USE DISTRICT

OVERVIEW

The rezoning site is composed of seven parcels located on the east side of Stovall Drive, south of Marcom Street and north of Kelford Street. The site is just west of Gorman Street, about one half mile north of Avent Ferry Road and just under a half mile south of Western Boulevard. It is comprised of seven parcels, six of which have detached homes and one vacant parcel. The topography of the site slopes downward from east to west, funneling downward towards the middle of the vacant parcel on Stovall Drive, where a drain pipe channels storm water runoff eastward into a natural banked stream on the adjacent property immediately across the street. The vacant lot on Stovall Drive is heavily wooded, containing a number of mature hardwood trees, as well as some newer growth.

The area surrounding the rezoning site is primarily residential, consisting mostly of detached homes, garden style apartments, townhouses, and a mobile home park to the southwest. Properties on the block to the north, south and east display a shared urban form of low-density detached homes. The surrounding residential lots are irregular in shape and size, ranging from one-fifth to almost one-half of an acre. Homes in the area tend to be one-story and less than 1,500 square feet of heated space. The area to the west along Stovall Drive contains greater density, and mostly two-story garden apartments with an approximate density of 14 units per acre.

The larger area around the rezoning site, including the area directly east of Gorman Street, is comprised of townhouses and garden style apartments. The area is generally wooded with Gorman Street sloping downward as it runs toward the south. North Carolina State University's (NCSU) McKimmon Center and Centennial Campus lie just over a quarter mile to the northeast. Kentwood Park is about one-half mile southwest. Western Boulevard directly north of the site features an assortment of retail, restaurant, and personal service uses.

Zoning in the area is a mix of Residential-10 (R-10) and Residential Mixed Use with a three-story height limit (RX-3). Residential-4 (R-4) and Residential-6 (R-6) are found further to the west and the NC State University properties to the northeast are zoned Office Mixed Use. The commercial uses fronting Western Boulevard are zoned Neighborhood Mixed Use. All of the surrounding area has the Special Residential Parking Overlay District applied.

The Future Land Use designates the site for Moderate Density Residential, which recommends density of up to 14 units per acre. Medium Density Residential and High Density Residential designations are present on the east side of Gorman Street. NCSU is shown as Institutional on the Future Land Use Map, and Western Boulevard has the Neighborhood Mixed Use designation. There is no Urban Form guidance for the rezoning site. Avent Ferry Road to the south is a Transit Emphasis Corridor.

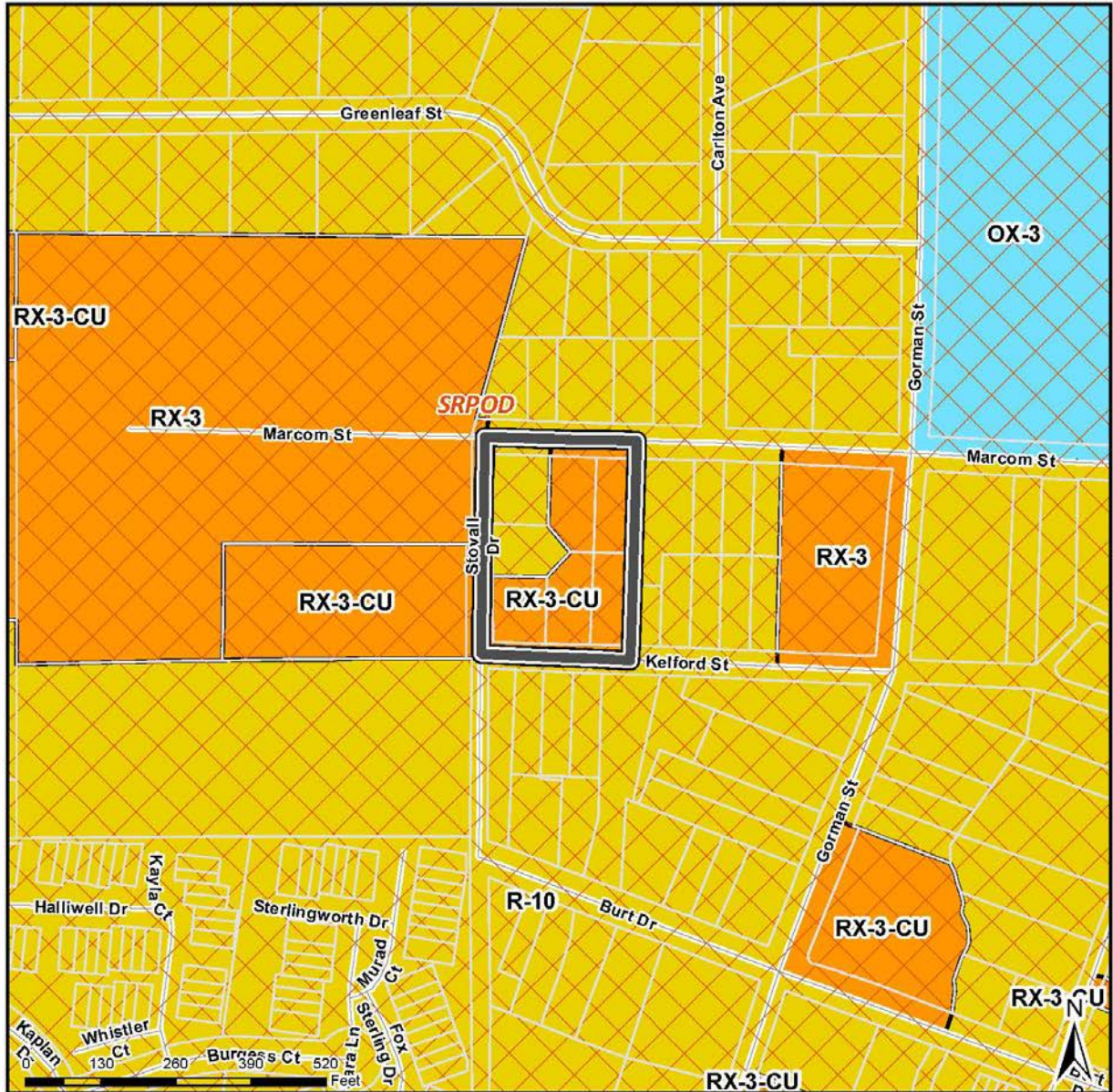
The current zoning on the property is split between Residential-10 with the Special Residential Parking Overlay District & Residential Mixed Use 3-Stories with Conditional-Uses and Special Residential Parking Overlay District. The main effects of the rezoning would be to remove the conditions currently applied to the property that limit building types to single family detached dwellings and townhouses, the two-story height limit, tree protections applied to a lot under two acres, and increase the permitted density by decreasing setbacks and allowing for attached dwellings. Under the proposed zoning, density would be limited by height. Neighborhood Transition requirements would apply if the request is approved, however they would only be required for one third of the total property line shared between the rezoning site and the neighboring midblock properties abutting the detached dwelling property, per current UDO requirements.

OUTSTANDING ISSUES

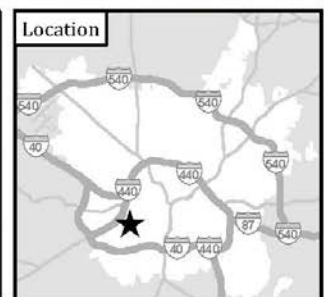
Outstanding Issues	<ol style="list-style-type: none"> 1. Inconsistent with 2030 Comprehensive Plan, 2. Condition specifying trash screen is duplicative of UDO. 	Suggested Mitigation	<ol style="list-style-type: none"> 1. Decrease density to 14 units per acre. 2. Remove or revise trash screening condition.
--------------------	--	----------------------	---

Existing Zoning

Z-9-2018



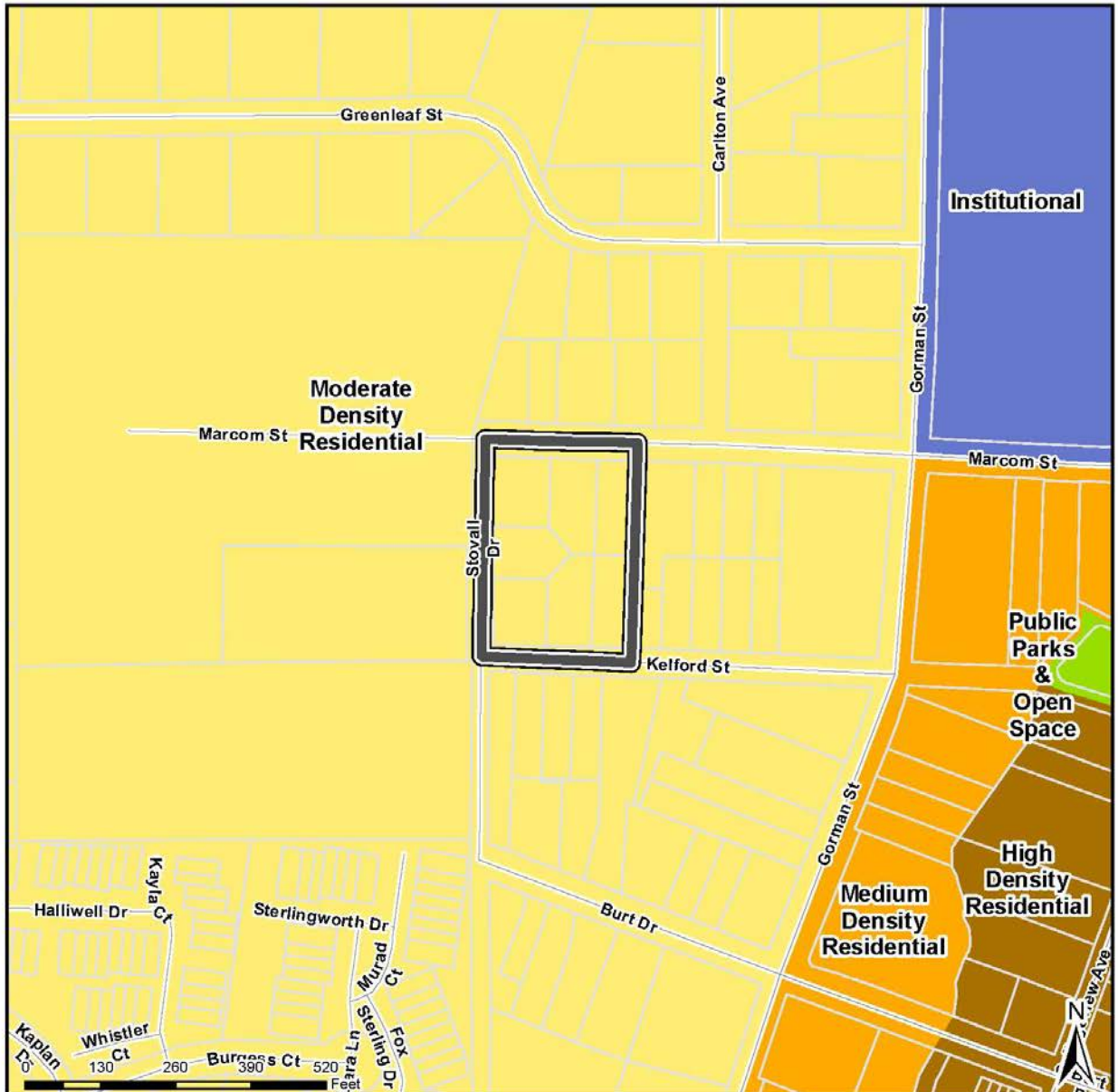
Property	1407 Stovall Dr; 3821, 3825, & 3829 Marcom St; 3824, 3826, & 3830 Kelford St
Size	1.81 acres
Existing Zoning	R-10 & RX-3-CU w/SRPOD
Requested Zoning	RX-3-UL-CU w/SRPOD



Map by Raleigh Department of City Planning (reckhowh), 4/16/2018

Future Land Use

Z-9-2018



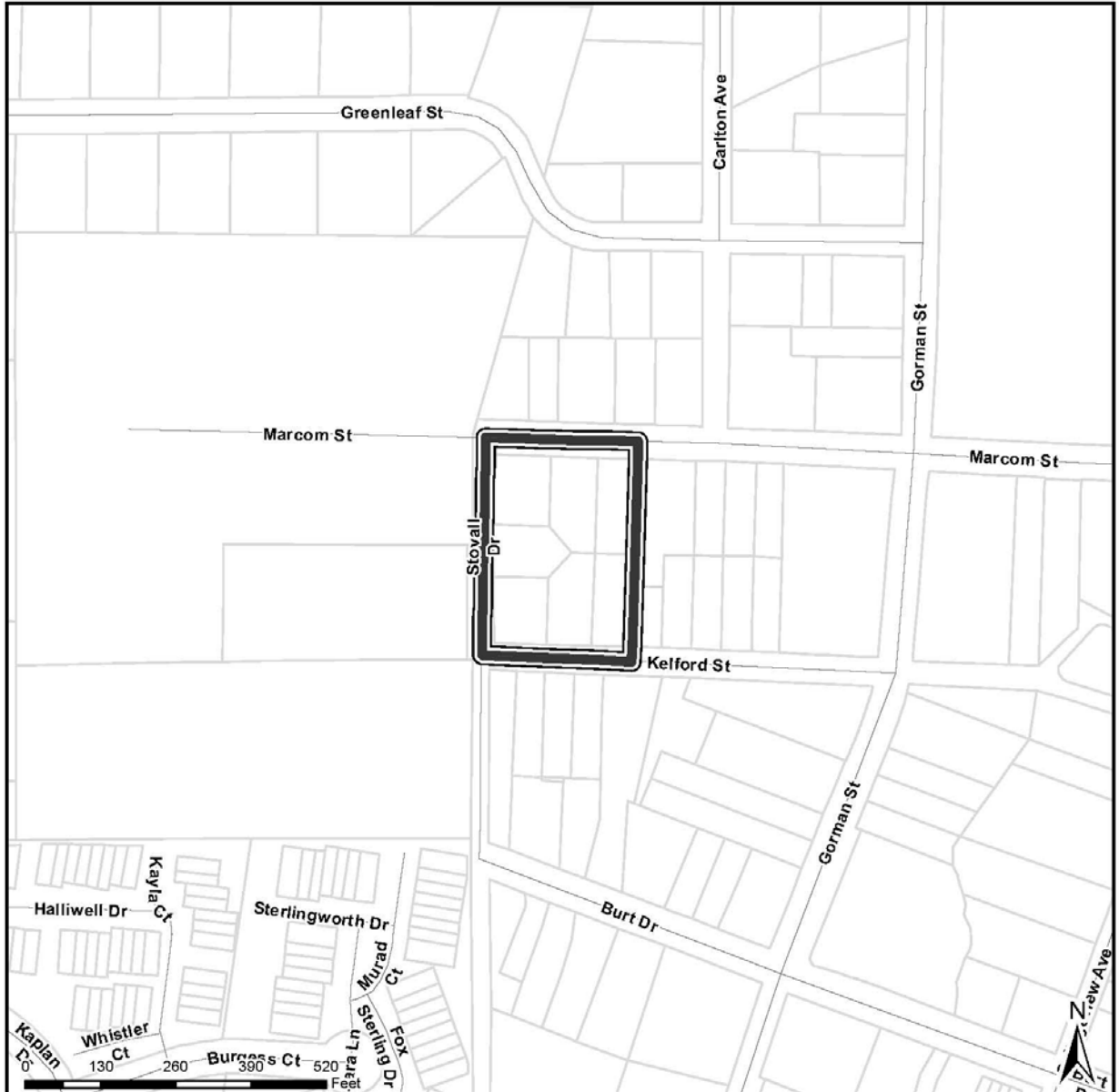
Property	1407 Stovall Dr; 3821, 3825, & 3829 Marcom St; 3824, 3826, & 3830 Kelford St
Size	1.81 acres
Existing Zoning	R-10 & RX-3-CU w/SRPOD
Requested Zoning	RX-3-UL-CU w/SRPOD



Map by Raleigh Department of City Planning (reckhowh); 4/16/2018

Urban Form

Z-9-2018



Property	1407 Stovall Dr; 3821, 3825, & 3829 Marcom St; 3824, 3826, & 3830 Kelford St
Size	1.81 acres
Existing Zoning	R-10 & RX-3-CU w/SRPOD
Requested Zoning	RX-3-UL-CU w/SRPOD



Map by Raleigh Department of City Planning (reckhowh); 4/16/2018

Comprehensive Plan

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

- A. Is the proposal consistent with the vision, themes, and policies contained in the Comprehensive Plan?

The proposal is consistent with the broad vision themes encouraging density near transit, employment and universities and increasing housing choices. The proposal however is not consistent overall with the supporting policies in the Comprehensive Plan. The policies addressing scale, massing, buffering, density transitions are inconsistent due to a possible density maximum that would allow roughly twice the density and less than half the setbacks currently permitted in the area.

Yes the request is consistent with the following vision themes:

Yes, this request is consistent with the Coordinating Land Use and Transportation Vision Theme because it allows for increased density in an area less than half a mile from multiple transit lines. The site is also located in close proximity to nearby employment, retail and public services.

Yes, this request is consistent with the Managing Our Growth Vision Theme because it will encourage density in an area adjacent to live, work and play opportunities. The site is located just over a mile from the Mixed-Use Center urban form designation and one half a mile south of the Avent Ferry Transit Emphasis Corridor, and approximately ¼ mile from multiple transit lines along Gorman Street.

Yes, this request is consistent with the Expanding Housing Choices Vision Theme because it will allow for apartments and attached dwellings, which current conditions do not permit. It will also allow for more a larger amount of housing to be developed on the property.

The request is inconsistent with the following vision theme:

The request is inconsistent with the Growing Successful Neighborhoods and Communities Vision Theme because it does not provide appropriate transition in density between the multi-family neighborhoods to the west and the surrounding single-family neighborhood to the north, east and south. The relatively high density that would be enabled by the proposal is also inconsistent with the Future Land Use Map recommendation for Moderate Density Residential.

- B. Is the use being considered specifically designated on the Future Land Use Map in the area where its location is proposed?

No, the density requested of 30.94 units per acre is approximately twice the suggested standard for an area designated Medium Density Residential; which recommends a maximum density of 14 units per acre.

- C. 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?

The proposal would be more appropriate in an area designated Medium Density Residential, which does not recommend a specified density and allows for greater development intensity than Medium Density Residential. The requested density of 30.94 units per acre is approximately twice the suggested standard for an area designated Medium Density Residential; which recommends a maximum density of 14 units per acre.

- D. Will community facilities and streets be available at City standards to serve the use proposed for the property?

Yes, the rezoning site is in an urbanized area with sufficient infrastructure to serve development allowed by the proposed zoning.

Future Land Use

Future Land Use designation:

The rezoning request is:

☐ **Consistent** with the Future Land Use Map.

☒ **Inconsistent**

Analysis of Inconsistency: The density is inconsistent with Comprehensive Plan Policies, and with the Future Land Use Map as it would allow for approximately twice the suggested density in a Moderate Density Residential zone.

Urban Form

Urban Form designation:

The rezoning request is:

☒ **Not applicable** (no Urban Form designation)

☐ **Consistent** with the Urban Form Map.

☐ **Inconsistent**

Analysis of Inconsistency: There is no Urban Form designation for this site.

Compatibility

The proposed rezoning is:

☐ **Compatible** with the property and surrounding area.

☒ **Incompatible.**

Analysis of Incompatibility: The proposed height is one story taller than existing properties on the blocks immediately surrounding the rezoning site. The Urban Limited frontage would allow for a 0 lot line setback, whereas the current zoning requires a minimum of 5' setback from the street. Existing primary street setbacks on the northern half of the block range from 10' to 50', and similar conditions exist in the surrounding neighborhood. The larger area contains uses that are similar to what is allowed in the requested district, but existing development has greater setbacks, lesser density and lower heights.

Public Benefits of the Proposed Rezoning

The request would increase the supply of housing and allow more options for shopping or personal services within walking distance of a residential area served by multiple transit lines and NCSU.

Detriments of the Proposed Rezoning

The increase in density allowed by the proposed zoning may have negative impacts on neighboring properties in terms of massing and form. The proposed density would allow for a density that is roughly twice the number suggested by the Future Land Use Map designation. The proposed urban limited frontage would allow for setbacks that less restrictive than existing developments are currently permitted by zoning.

Tree protection and coverage may be lost, the tree conservation ordinance would not apply, as the site is under two acres. The current zoning conditions on the RX-3-CU portion of the site call for at least 25% of the trees that are at least 25" in diameter to be preserved, and for a tree preservation plan to be submitted. The rezoning would remove the tree protection requirement.

Policy Guidance

The rezoning request is **consistent** with the following policies:

Policy LU 2.2 - Compact Development

New development and redevelopment should use a more compact land use pattern to support the efficient provision of public services, improve the performance of transportation networks, preserve open space, and reduce the negative impacts of low intensity and non-contiguous development.

The request allows for greater density in an area served by transit and existing City infrastructure. The rezoning site is in an urbanized location near Raleigh's core.

Policy LU 8.1—Housing Variety

Accommodate growth in newly developing areas of the City through mixed-use neighborhoods with a variety of housing types.

The request allows for housing types beyond detached homes and townhouses, that would increase the variety of housing types in the area.

Policy LU 2.6 Zoning and Infrastructure Impacts

Carefully evaluate all amendments to the zoning map that significantly increase permitted density or floor area to ensure that impacts to infrastructure capacity resulting from the projected intensification of development are adequately mitigated or addressed.

The area has sufficient water, sewer, road, transportation and other existing infrastructure to serve the possible increase in density per Staff review.

Policy H 1.8—Zoning for Housing

Ensure that zoning policy continues to provide ample opportunity for developers to build a variety of housing types, ranging from single-family to dense multi-family. Keeping the market well supplied with housing will moderate the costs of owning and renting, lessening affordability problems, and lowering the level of subsidy necessary to produce affordable housing.

Rezoning from RX-3-SRPOD & RX-10-SRPOD to RX-3-CU-UL-SRPOD allows for increased density, including apartments and attached homes which are not permitted under current zoning conditions.

Policy LU 8.14 Student-Oriented Housing

Encourage student-oriented housing, including fraternities, sororities, dormitories and rent-by-the-room, multi-bedroom apartments to locate in the area immediately adjacent to colleges/universities, in transit-oriented development areas, or in downtown.

The request would allow the development of multi-bedroom apartments approximately a quarter mile from NCSU's South Campus, and approximately half a mile from multiple transit stops.

The rezoning request is **inconsistent** with the following policies:

Policy LU 1.3 - Conditional Use District Consistency

All conditions proposed as part of a conditional use district (CUD) should be consistent with the Comprehensive Plan.

The conditions would permit of a density of 30.94 units per acre, which is roughly twice the density the Future Land Use Map suggests for the area.

Policy LU 1.2 - Future Land Use Map and Zoning Consistency

The Future Land Use Map shall be used in conjunction with the Comprehensive Plan policies to evaluate zoning consistency including proposed zoning map amendments and zoning text changes.

The rezoning request is to upzone the site from a maximum permitted density of 19 units per acre to approximately 30 units per acre. The Future Land Use map designates the area as Moderate Density Residential, which recommends a maximum density of 6-14 units per acre. The request is for a higher maximum density than the FLUM designation.

Policy LU 5.4 Density Transitions

Low- to medium-density residential development and/or low-impact office uses should serve as transitional densities between lower-density neighborhoods and more intensive commercial and residential uses. Where two areas designated for significantly different development intensity abut on the Future Land Use Map, the implementing zoning should ensure that the appropriate transition occurs on the site with the higher intensity.

The request would allow for a significantly higher density than currently exists on the subject parcels, and surrounding blocks. This would place two areas designated for significantly different development intensity adjacent to one another, with a transition yard covering one third of the subject property. To mitigate this impact, a condition specifying the type of transition yard and extending it beyond the code required portion of the property could create an appropriate transition between usage intensities.

Policy LU 5.1 - Reinforcing the Urban Pattern

New development should be visually integrated with adjacent buildings, and more generally with the surrounding area. Quality design and site planning is required so that new development opportunities within the existing urban fabric of Raleigh are implemented without adverse impacts on local character and appearance.

The proposed zoning would remove the zoning condition on the RX-3 portion of the site limiting height to 2 stories, and allowing for up to 3 stories. The surrounding area is a mix of one to two story detached houses. The nearest 3 story structures on Gorman Street have a much greater setback (at minimum of 20') on a street that is double the size of the streets surrounding the subject property. This impact could be

mitigated with greater setbacks, and a lower height to better integrate it with adjacent two story, and larger specified set backs.

Policy LU 5.6 - Buffering Requirements

New development adjacent to areas of lower intensity should provide effective physical buffers to avoid adverse effects. Buffers may include larger setbacks, landscaped or forested strips, transition zones, fencing, screening, height and/or density step downs, and other architectural and site planning measures that avoid potential conflicts.

The proposed rezoning would allow for a greater density of up to 30 units per acre, and is only required to have a protective yard along the border of the subject site and the adjacent detached home. As the rezoning site abuts two parcels to the east, the request would not require a buffer between the adjacent fourplex, which abuts approximately 67% of the rezoning site to the east. This would not provide a sufficient transition zone to the adjacent areas of lower intensity with the requested Urban Limited Frontage, that specifies a 0'-20' site setback. The proposal could provide sufficient buffering if a condition were added to specify a buffer around the property that may include; setbacks greater than 0', landscaping requirements, fencing or a forested strip.

Policy LU 8.3 Conserving, Enhancing, and Revitalizing Neighborhoods

Recognize the importance of balancing the need to increase the housing supply and expand neighborhood commerce with the parallel need to protect neighborhood character, preserve historic resources, and restore the environment.

The proposed rezoning would increase the housing supply, but the proposed density, height and setbacks are inconsistent with the neighborhood character. This could be mitigated with conditions that limit density, height and setbacks.

Policy EP 5.3 Canopy Restoration

Promote the reforestation of tree coverage that is typically lost during urban and suburban development through tree conservation, targeted tree plantings, urban forestry, and street tree plantings.

The existing conditions placed on the five parcels zoned RX-3-CU have a condition that specifies at least 25% of the site trees must be preserved, during and after any construction takes place on the site. Per the current UDO standards tree conservation on the site is not required. To mitigate this impact a tree conservation condition could be offered.

Impact Analysis

Transportation

1. The Z-9-2018 site is bounded by Stovall Drive on the west, Marcom Street on the north, and Kelford Street on the south. These streets are classified as local streets. Gorman Street, a 2-lane divided avenue, is located east of the site. There are

currently no sidewalks on Marcom Street nor Kelford Street from Gorman Street to the Z-9-2018 Site. Some portions of Stovall Drive in the vicinity of the site have sidewalks. The Z-9-2018 parcels are served by GoRaleigh route 12 on Gorman Street, with buses running every 30 minutes during peak travel periods. There are also several NC State Wolfline stops and routes within proximity to the site.

2. The Z-9-2018 site is located east of the Avent West Area Plan Study and west of the Mission Valley Area Plan and the Avent Ferry Road Corridor Studies. There are no specific projects currently planned within the vicinity of the Z-9-2018 site.
3. Offers of cross access to adjacent parcels shall be made in accordance with the Raleigh UDO section 8.3.5.D. The Z-9-2018 site is bounded by single family homes and garden apartments on the east. There are also several apartment developments west of the site. The site is located just west of NC State's campus. It is desirable to provide pedestrian & bicycle connections along Stovall Dr., Marcom St., and Kelford St. to Gorman Street.
4. Site access will be provided via Stovall Drive, Kelford Street, and Marcom Street. The subject parcels have a combined road frontage of approximately 815 feet. According to the Raleigh Street Design Manual, driveways accessing local streets (ROW < 80 Ft) must be spaced 200 feet apart. The Z-9-2018 site would be restricted to 1 access point on each street, unless a design exception is granted.
5. In accordance with UDO section 8.3.2, the maximum block perimeter for RX-3 zoning is 3,000 feet. The block perimeter for Z-9-2018, as defined by public rights-of-way for Kelford Street, Stovall Drive, Marcom Street, and Gorman Street is approximately 2,000 feet.
6. Approval of case Z-9-2018 would increase average peak hour trip volumes by approximately 17 veh/hr in the AM peak and by approximately 17 veh/hr in the PM peak; daily trip volume will increase by approximately 170 veh/day. These volumes are long-term averages and will vary from day to day. A traffic study is not required for case Z-9-2018.

Impact Identified: None.

Transit

1. Site is on neither an existing nor a planned transit route.

Impact Identified: None.

Hydrology

<i>Floodplain</i>	None
<i>Drainage Basin</i>	Bushy
<i>Stormwater Management</i>	Article 9.2 of the UDO
<i>Overlay District</i>	None

Impact Identified: None

Public Utilities

	<i>Maximum Demand (current use)</i>	<i>Maximum Demand (current zoning)</i>	<i>Maximum Demand (proposed zoning)</i>
<i>Water</i>	24,016 gpd	8,750 gpd	29,750 gpd
<i>Waste Water</i>	24,016 gpd	8,750 gpd	29,750 gpd

1. The proposed rezoning would add approximately 5,734 gpd to the wastewater collection and water distribution systems of the City. There are existing sanitary sewer and water mains adjacent to the proposed rezoning area

2. At the time of development plan submittal, a Downstream Sewer Capacity Study may be required to determine adequate capacity to support the proposed development. Any improvements identified by the study would be required to be permitted prior to the issuance of Building Permit & constructed prior to release of a Certificate of Occupancy

3. Verification of water available for fire flow is required as part of the Building Permit process. Any water system improvements recommended by the analysis to meet fire flow requirements will also be required of the Developer

Parks and Recreation

1. This site is not impacted by any existing or proposed greenway trails, corridors, or connectors.
2. Nearest existing park access is provided by Spring Park (0.25 miles) and Kentwood Park (1.0 mile).
3. Nearest existing greenway trail access is provided by Walnut Creek Greenway Trail (0.9 miles).
4. Park access level of service in this area is considered to be average.
5. This area is not considered a high priority for park land acquisition.

Impact Identified: None

Urban Forestry

Parcels collectively and separately are less than 2 acres in size. UDO Article 9.1 would not apply to a development plan less than 2 acres in size.

Impact Identified: None.

Designated Historic Resources

The site is not located within or adjacent to a National Register Historic District and/or Raleigh Historic Overlay District. It does not include nor is adjacent to any National Register individually-listed properties and/or Raleigh Historic Landmarks.

Impact Identified: None.

Community Development

Impact Identified: None.

Impacts Summary

The increase in density on the subject site has a minimal impact on the infrastructure in the area.

Mitigation of Impacts

None.

Conclusion

The rezoning request is to apply the Residential Mixed-Use district with a 3-story height limit and new conditions to a 1.81 acre parcel at the southern portion of a block bounded by Marcom Street to the north, Stovall Drive to the west, Kelford Street to the south and

Gorman Street to the east. The site is currently split zoned between R-10 and RX-3-CU with the SRPOD overlay district, and occupied by six detached homes and one vacant lot.

The existing conditions on the site only allow detached dwellings and townhomes with a maximum height of two stories. This existing condition limits the total possible density for the site to 19.34 unit per acre density, which is a density greater than surrounding multifamily and townhome developments. The proposed condition would allow a possible density of up to 35 units per acre, which is over twice the existing density of surrounding developments. The existing conditions also specify tree protection must be enacted for up to 25% of the trees on the site, if rezoned tree protection would not be required per the current UDO.

Proposed conditions would require a transition yard be extended along approximately one third of the shared property line, with a minimum setback of 15'. The surrounding multifamily properties have current setbacks of over 30' from side property lines, creating a scale that is smaller in form.

The proposal is inconsistent with the Comprehensive Plan due to the maximum density it would allow, which significantly exceeds the density recommended by the Future Land Use Map. Because it is inconsistent with the Comprehensive Plan, approval of the case would result in a Comprehensive Plan amendment. A possible amendment to resolve the inconsistency would be to designate the site for Medium Density Residential on the Future Land Use Map.

Case Timeline

<i>Date</i>	<i>Revision</i>	<i>Notes</i>
4/10/18	Application submitted with conditions.	
6/1/18	Revised conditions submitted.	

Appendix

Surrounding Area Land Use/ Zoning Summary

	<i>SUBJECT PROPERTY</i>	<i>NORTH</i>	<i>SOUTH</i>	<i>EAST</i>	<i>WEST</i>
Existing Zoning	R-10 & RX-3-CU	R-10	R-10	R-10	RX-3 & RX-3-CU
Additional Overlay	SRPOD	SRPOD	SRPOD	SRPOD	SRPOD
Future Land Use	Moderate Density Residential	Moderate Density Residential	Moderate Density Residential	Moderate Density Residential	Moderate Density Residential
Current Land Use	Detached House & Vacant	Detached & Attached Houses	Detached & Attached Houses	Detached & Attached Houses	Apartment
Urban Form	N/A	N/A	N/A	N/A	N/A

Current vs. Proposed Zoning Summary

Zoning	Existing Zoning		Proposed Zoning
	RX-3-CU & R-10 w/ SRPOD		RX-3-CU-UL-SRPOD
Total Acreage	1.81		1.81
Setbacks	R-10:	RX-3-CU:	RX-3-CU-UL:
Front:	10'	10'	0'-20'
Side:	10'	5'	0'-20'
Rear:	20'	10'	None
Residential Density:	19.34 Units/Acre		30.94 Units/Acre
Max. # of Residential Units	35		56
Max. Gross Building SF (if applicable)	44,000		44,800
Max. Gross Office SF	--		--
Max. Gross Retail SF	--		--
Max. Gross Industrial SF	--		--
Potential F.A.R	0.56		0.62

*The development intensities for proposed zoning districts were estimated using an impact analysis tool. The estimates presented are only to provide guidance for analysis.



COMPREHENSIVE PLAN AMENDMENT

ANALYSIS– CASE Z-9-18

OVERVIEW

The request is to rezone to Residential Mixed Use-3 Stories with an Urban Limited Frontage. Estimates produced by staff analysis indicate that a density of up to 30.94 dwelling units per acre is possible under the requested zoning. The Future Land Use Map designation for the site is Moderate Density Residential, which recommends a maximum density of 14 dwelling units per acre. The potential density allowed by the rezoning request is more aligned with the Medium Density Residential designation.

Narrative policies related to growing successful neighborhoods would also be subject to modification. Elements of these policies may be altered to account for distinct site context and attributes.

Amending the Future Land Use Map to the Moderate Density Residential designation for the rezoning site would improve overall consistency to a degree that the request would be consistent with the Comprehensive Plan. This designation is frequently used in contexts where low density neighborhoods are close to commercial areas and provide an appropriate transition of density and uses.

The inconsistent policies listed can be mitigated through zoning conditions offered by the applicant. Zoning conditions that limit height, mass, and density could be offered as well as conditions requiring additional buffering, and/or greater setbacks.

LIST OF AMENDMENTS

1. Policy LU 1.2 - Future Land Use Map and Zoning Consistency

*The Future Land Use Map shall be used in conjunction with the Comprehensive Plan policies to evaluate zoning consistency including proposed zoning map amendments and zoning text changes. **Future Land Use Map amendments would be required.***

- This policy would require an Future Land Use Map amendment to bring the proposed rezoning into compliance with the land use designation.

2. Policy LU 5.1 - Reinforcing the Urban Pattern

New development should be visually integrated with adjacent buildings, and more generally with the surrounding area. Quality design and site planning is required so that new development opportunities within the existing urban fabric of Raleigh are implemented without adverse impacts on local character and appearance.

Exceptions can be made for development that is within one half mile of existing or planned Bus Rapid Transit Routes and Universities.

- The resulting amendment to the Future Land Use Map would permit a significant increase in density to an area with a suggested density of 14 units per acre. By allowing for an exception near destinations such as employment centers or transit stops,

alternative means of transportation would be supported by the increased density.

3. Policy LU 5.4 Density Transitions

*Low- to medium-density residential development and/or low-impact office uses should serve as transitional densities between lower-density neighborhoods and more intensive commercial and residential uses. Where two areas designated for significantly different development intensity abut on the Future Land Use Map, the implementing zoning should ensure that the appropriate transition occurs on the site with the higher intensity. **Exceptions can be made if the proposed rezoning is located near a transit emphasis corridor, and university.***

- The resulting amendment to the Future Land Use Map would permit a significant increase in density, that would allow for denser growth near colleges and universities.

4. Policy LU 5.6 - Buffering Requirements

*New development adjacent to areas of lower intensity should provide effective physical buffers to avoid adverse effects. Buffers may include larger setbacks, landscaped or forested strips, transition zones, fencing, screening, height and/or density step downs, and other architectural and site planning measures that avoid potential conflicts. **When two adjacent areas are zoned for the same height, larger setbacks or transition zones may not be required as the intended height of the districts is already regulated.***

- This policy amendment would allow for a larger development potential, by focusing on future development possibilities rather than what currently exists.

AMENDED MAPS

The Future Land Use Map may be amended to Medium Density Residential for the rezoning site. This change would make the request consistent with the Comprehensive Plan.

IMPACT ANALYSIS

Changing the Future Land Use Map designation to Medium Density Residential would replace the currently recommended density maximum of 14 dwelling units per acre with a height recommendation of three or four stories and no numeric density cap. If a four-story zoning was requested and approved for the site, that may have negative impacts on the adjacent neighborhood in terms of height and mass.

Rezoning Application



RALEIGH
DEPARTMENT OF
CITY PLANNING



Department of City Planning | 1 Exchange Plaza, Suite 300 | Raleigh, NC 27601 | 919-996-2682

REZONING REQUEST

☐ General Use ☒ Conditional Use ☐ Master Plan

Existing Zoning Base District ^{9/10} R-10 & RX Height ³ Frontage Overlay(s) SRPOD CU

Proposed Zoning Base District ^{RX} Height ³ Frontage ^{UL} Overlay(s) SRPOD CU

Click [here](#) to view the Zoning Map. Search for the address to be rezoned, then turn on the 'Zoning' and 'Overlay' layers.

**OFFICE
USE ONLY**

Transaction #

Rezoning Case #

APR 9 2018 PM 3:54

If the property has been previously rezoned, provide the rezoning case number: A portion of the property was rezoned in 2009 (Z-12-09)

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

491619

GENERAL INFORMATION

Date 2/23/2018

Date Amended (1) 2/23/2018

Date Amended (2) 2/23/2018

Property Address 1407 Stovall St; 3821, 3825, 3829 Marcom St; ³⁸³⁰ 3820, 3824, 3826 Kelford St

Property PIN ⁹⁴ 0793270494, 0793281485, 0793281514, 0793281606, 0793281693, 0793282456, 0793282662

Deed Reference (book/page) 16548/1296, 16548/1292, 16548/1347, 16548/1294, 16548/1734, 16696/2305

Nearest Intersection Stoval St/Kelford St and Marcom St/Stoval St

Property Size (acres) 1.81 Total [0.50 (R10) and 1.31 (RX-3-CU)]

(For PD Applications Only) Total Units

Total Square Feet

Property Owner/Address

Marcom Street Project LLC
5520 McNeely Drive, Suite 100
Raleigh, NC 27612-7640

Phone

Fax

Email

Project Contact Person/Address

Beth Trahos
Nelson Mullins Riley & Scarborough, LLP
4140 Parklake Avenue, Suite 200
Raleigh, NC 27612

Phone (919) 329-3884

Fax

Email beth.trahos@nelsonmullins.com

Owner/Agent Signature

*Marcom Street Project, LLC
Gilad Simhon, Manager*

Email

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

SOSID: 1545253
Date Filed: 9/22/2016 1:06:00 PM
Elaine F. Marshall
North Carolina Secretary of State
C2016 266 00321

State of North Carolina
Department of the Secretary of State

Limited Liability Company
ARTICLES OF ORGANIZATION

Pursuant to §57D-2-20 of the General Statutes of North Carolina, the undersigned does hereby submit these Articles of Organization for the purpose of forming a limited liability company.

1. The name of the limited liability company is: Marcom Street Project LLC
(See Item 1 of the Instructions for appropriate entity designation)
2. The name and address of each person executing these articles of organization is as follows: (State whether each person is executing these articles of organization in the capacity of a member, organizer or both. **Note: This document must be signed by all persons listed.**)
Gilad Simhony 5520 McNeely Drive, Suite 100 Raleigh, NC 27612-member/organizer

3. The name of the initial registered agent is: Beth Black
4. The street address and county of the initial registered agent office of the limited liability company is:
Number and Street 5520 McNeely Drive Suite 100
City Raleigh State: NC Zip Code: 27612 County: Wake
5. The mailing address, if different from the street address, of the initial registered agent office is:
Number and Street _____
City _____ State: NC Zip Code: _____ County: _____
6. Principal office information: (Select either a or b.)
 - a. ☐ The limited liability company has a principal office.
The principal office telephone number: _____
The street address and county of the principal office of the limited liability company is:
Number and Street _____
City _____ State: _____ Zip Code: _____ County: _____

The mailing address, if different from the street address, of the principal office of the company is:

Number and Street _____

City _____ State: _____ Zip Code: _____ County: _____

b. ☒ The limited liability company does not have a principal office.

7. Any other provisions which the limited liability company elects to include (e.g., the purpose of the entity) are attached.

Privacy Redaction

8. (Optional): Please provide a business e-mail address: _____
The Secretary of State's Office will e-mail the business automatically at the address provided above at no cost when a document is filed. The e-mail provided will not be viewable on the website. For more information on why this service is offered, please see the instructions for this document.



9. These articles will be effective upon filing, unless a future date is specified:

This is the 13th day of September, 20 16.

Marcom Street Project LLC

Gilad Simhony

Signature

Gilad Simhony, organizer/member

Type or Print Name and Title

The below space to be used if more than one organizer or member is listed in Item #2 above.

Signature

Type and Print Name and Title

Signature

Type and Print Name and Title

Signature

Type and Print Name and Title

Signature

Type and Print Name and Title

NOTES:

1. Filing fee is \$125. This document must be filed with the Secretary of State.

CONDITIONAL USE DISTRICT ZONING CONDITIONS

Zoning Case Number Z-9-2018	OFFICE USE ONLY
Date Submitted: 8/31/18s	
<div style="display: flex; justify-content: space-between;"> Existing Zoning R10 w/ SRPOD & RX-3-CU w/ SRPOD Proposed Zoning RX-3-CU-UL w/ SRPOD </div>	
Narrative Of Zoning Conditions Offered	
<p>1. The following principal uses otherwise permitted in the RX zoning district shall be prohibited: Dormitory, fraternity, sorority; Telecommunication tower (any type); Medical; Office; Outdoor sports or entertainment facility of any size; Remote parking lot; Personal services permitted in the RX zoning district; Eating establishment and Retail sales.</p>	
<p>2. No more than 56 dwelling units shall be permitted on the subject property.</p>	
<p>3. No 4-bedroom dwelling units shall be permitted on the Property. Only a mix of 1-bedroom, 2-bedroom, and/or 3-bedroom dwelling units shall be permitted. No more than two (2) bathrooms shall be permitted in a dwelling unit.</p>	
<p>4. An open space area shall be maintained measuring at least seventy feet wide (70') along Kelford Street and extending at least eighty feet (80') into the subject property from Kelford Street adjacent to the common boundary with property identified by Wake County PIN 0793 28 3413 and further described in Deed Book 14581, Page 2467 for a total area of 5600 square feet of open space (hereinafter referred to as the "Marcom Open Space"). The Marcom Open Space may only be utilized for Protective Yards and all other uses permitted in Section 2.5.4 of the UDO. The Marcom Open Space shall be reforested with at least two (2) deciduous shade trees with a minimum caliper of 2.5 inches and a minimum height of twelve feet (12') at time of planting, three (3) evergreen trees at least twelve feet (12') in height at time of planting and at least twenty (20) evergreen shrubs at least six feet (6') tall at time of planting.</p>	
<p>5. The building setback shall be no less than fifteen feet (15') from the common boundary line between the subject property and property identified by PIN 0793 28 3413 and further described in Deed Book 14581, Page 2467.</p>	
<p>6. An open space area shall be maintained measuring at least seventy feet wide (70') along Marcom Street and extending at least eighty feet (80') into the subject property from Marcom Street adjacent to the common boundary with property identified by Wake County PIN 0793 28 3640 and further described in Deed Book 1478, Page 565 (hereinafter referred to as the "Kelford Open Space"). The Kelford Open Space may only be utilized for Protective Yards and all other uses permitted in Section 2.5.4 of the UDO. The Kelford Open Space shall be reforested with at least two (2) deciduous shade trees with a minimum caliper of 2.5 inches and a minimum height of twelve feet (12') at time of planting, three (3) evergreen trees at least twelve feet (12') in height at time of planting and at least twenty (20) evergreen shrubs at least six feet (6') tall at time of planting</p>	
<p>7. Exterior building surfaces shall consist of at least eighty percent (80%) cementitious siding, brick veneer or stone veneer, exclusive of roofs, windows, doors, porches, balconies, cornices and trim. No external building surface shall consist of vinyl or synthetic stucco</p>	
<p>8. For every thirty feet (30') of horizontal wall length, there shall be an articulation of at least eighteen inches (18") in depth, or a change in both color and material for a horizontal distance of six feet (6').</p>	
<p>9. Buildings shall be set back at least three feet (3') from the right-of-way of Marcom and Kelford Streets.</p>	
<p>10. At least fifteen percent (15%) of the paved area of any parking lot shall be constructed of pervious pavement, grass track, porous pavers, or similar material approved by the City of Raleigh.</p>	

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 _____

REZONING APPLICATION ADDENDUM #1**Comprehensive Plan Analysis****OFFICE USE ONLY****Transaction #****Rezoning Case #**

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 city's Future Land Use Map designates the Property a Moderate Density Residential. Moderate Density is defined as 7 To 14 dwelling units per acre. With populations trends and projections calling for higher residential densities, the Applicant believe that it is time to encourage higher densities than suggested by the Future Land Use Map to encourage better design and increased ridership on existing public transit routes. Applicant believes that limiting the building height to 3 stories is the appropriate means of limiting residential density for the development of this Property.

2. The City's Urban Form Map does not designate the Property or any of its adjacent public streets with any urban-significant distinction. The redevelopment of the Property is anticipated to include the Apartment Building type. Apartment Building types have required build-to setbacks pushing buildings along the primary street thereby providing for a more attractive traveling experience for those pedestrians walking along the public sidewalk system.

3.

4.

PUBLIC BENEFITS

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

1. This rezoning request provides a public benefit by rezoning the Property and allowing for its redevelopment consistent with many elements of the Comprehensive Plan.

2. This rezoning request provides a public benefit by allowing the Property to be developed for residential uses to support the substantial growth of the North Carolina State University area.

3. This rezoning request provides a public benefit with a corresponding increase of the City's tax base.

4. This rezoning request provides a public benefit because it provides for an additional transit easement to support the City's public transportation system and goals.

REZONING APPLICATION ADDENDUM #2	
Impact on Historic Resources The applicant is asked to analyze the impact of the rezoning request on historic resources. For the purposes of this section, a historic resource is defined as any site, structure, sign, or other feature of the property to be rezoned that is listed in the National Register of Historic Places or designated by the City of Raleigh as a landmark or contributing to a Historic Overlay District.	OFFICE USE ONLY Transaction # Rezoning Case #
INVENTORY OF HISTORIC RESOURCES List in the space below all historic resources located on the property to be rezoned. For each resource, indicate how the proposed zoning would impact the resource.	
No historic resources are located on the Property.	
PROPOSED MITIGATION Provide brief statements describing actions that will be taken to mitigate all negative impacts listed above.	
Not applicable.	

CONDITIONAL USE DISTRICT ZONING CONDITIONS		
Zoning Case Number		OFFICE USE ONLY Transaction # Rezoning Case #
Date Submitted		
Existing Zoning R10 w/ SRPOD & RX-3-CU w/ SRPOD	Proposed Zoning RX-3-CU-UL w/ SRPOD	
Narrative Of Zoning Conditions Offered		
<p>1. The following principal uses otherwise permitted in the RX zoning district shall be prohibited: Dormitory, fraternity, sorority; Telecommunication tower (any type); Medical; Office; Outdoor sports or entertainment facility of any size; Remote parking lot; Personal services permitted in the RX zoning district; Eating establishment and Retail sales.</p>		
<p>2. No more than 56 dwelling units shall be permitted on the subject property.</p>		
<p>3. No 4-bedroom dwelling units shall be permitted on the Property. Only a mix of 1-bedroom, 2-bedroom, and/or 3-bedroom dwelling units shall be permitted.</p>		
<p>4. Facilities for depositing trash and customarily recyclable materials shall be enclosed with a solid wooden fence.</p>		
<p>5. The following conditions apply to the boundary line with property identified by PIN 0793 28 3413 and further described in Deed Book 14581, Page 2467 ("Murdock Parcel"):</p> <p>a. The building setback shall be no less than fifteen (15) feet; and</p> <p>b. For any Protective Yard installed to meet Neighborhood Transitions requirements as defined in UDO Section 3.5, at least fifty percent (50%) of the landscape materials installed shall be evergreen.</p>		
<p>6.</p>		
<p>7.</p>		
<p>8.</p>		

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 _____

Ordinance: 616 ZC 640

Effective: 7-7-09

Z-12-09 - Conditional Use Marcom Street and Kelford Street - located between Marcom Street and Kelford Street at Stovall Drive, being Wake County PIN(s) 0793282662, 0793281693, 0793282456, 0793281485, and 0793280494. Approximately 1.31 acres rezoned to Residential - 15 Conditional Use District.

Revised Conditions Dated: 06/29/09

Narrative of conditions being requested:

1. The uses on the properties will be limited to single family detached dwellings or a townhouse development.
2. The maximum height of any buildings will be limited to thirty feet, as measured by City Code Section 10-2076(b) and two occupied stories.
3. There will be a minimum roof pitch of 4/12 on all buildings.
4. The front facades of the buildings will be broken up with minimum 4-foot offsets, forward or back, at least every 25 feet, or minimum 10-foot offsets at least every 50 feet.
5. Exterior building materials on all sides of the buildings will be limited to wood, fiber cement siding (such as Hardiplank and GAF WeatherSide TM-Fiber-Cement Siding (shingle style)), stone and brick. Vinyl siding and T-111 will not be permitted as building materials for buildings. The primary building materials (comprising more than 50% of the exterior surface area of buildings) will be wood and fiber cement siding. The secondary building material (comprising less than 50% of the exterior surface area of buildings) will be brick.
6. Pursuant to the Tree Survey, attached hereto as Exhibit 1, at least twenty-five percent (25%) of all trees anywhere on the Property measuring 24" diameter at breast height or greater (hereinafter referred to as "preserved site trees") will be preserved by Active Tree Preservation. At least twenty-five percent (25%) of those preserved site trees that are located within the yard setback areas will be preserved by Active Tree Preservation. Pursuant to Active Tree Preservation, pruning of no more than thirty percent (30%) of the Critical Root Zone for each preserved site tree is permitted. That permitted pruning of the Critical Root Zones will be performed under the supervision of a Certified Arborist, certified by the International Society of Arboriculture. During the demolition process, any land-disturbing activity, and construction process on the Property, the Critical Root Zones of the preserved site trees will be protected by surrounding them with protective fences. After the period of Active Tree Preservation has elapsed, no tree disturbing activity is permitted within the Critical Root Zones of any preserved site tree; this provision shall remain in effect in perpetuity.

Ordinance: 616 ZC 640

Effective: 7-7-09

7. The applicant must submit an Active Tree Preservation Plan to the City that must be approved by the City's Forestry Specialist. The plan required herein will be submitted prior to the earlier of any land-disturbing activity, demolition or construction.

8. The applicant must obtain a Tree Conservation Permit from the City Forestry Specialist prior to any tree disturbing activity.

9. In the event that a preserved site tree does not survive due to any tree disturbing activity, including those activities regulated by Raleigh City Code § 10-2082.3(d)(4), the preserved site tree shall be replaced with new shade trees which collectively total in diameter at breast height an amount equal to the diameter at breast height of the non-surviving tree, as measured at the time of the Tree Survey (Exhibit 1). In the event that a preserved site tree does not survive for any other reason, that tree will be replaced with new shade trees that collectively total one-half of the preserved site tree's diameter at breast height at the time of the Tree Survey (*i.e.*, a preserved site tree of 24" diameter at breast height will be replaced with new shade trees that have a combined total caliper of 12"). The minimum caliper of each replacement tree shall be 3" measured at six inches above the ground. Any replacement tree shall be planted in a planting area of at least three hundred fifty (350) square feet in an area with minimum dimensions of seven (7) feet. If the subject property fails to contain sufficient land area to replant the required replacement trees and replacement trees can not be planted on adjoining public street rights-of-way, then in lieu of such replacement trees, a fee equal to one hundred dollars (\$100.00) per caliper inch of replacement trees shall be paid to the City. The provisions of this condition shall be effective in perpetuity, and shall be included in the Homeowner's declaration of covenants, conditions, and restrictions recorded with respect to the Property prior to the sale of any dwelling units upon the Property. The Homeowners' Association shall be responsible for the enforcement of the provisions of this condition.

10. If either of the two City of Raleigh trees located in the public rights of way adjacent to Stovall Drive and Marcom Street, as shown in Exhibit 1, were to die due to impact from development of the Property, the applicant will provide payment to the City of Raleigh for the appraised landscape value of that tree. During the demolition process and construction process on the Property, the Critical Root Zones of those City of Raleigh trees will be protected by surrounding the Critical Root Zones in unpaved areas with protective fences.

11. The design of the townhouse development will meet the following conditions:

a) All townhouse buildings that are adjacent to a street shall contain a minimum of two townhouse dwelling units with first story porches on the front exteriors and a minimum of two townhouse dwelling units with first and second story

Ordinance: 616 ZC 640

Effective: 7-7-09

porches on the front exteriors. The dimensions of those porches shall be a minimum of 5 feet in depth and the full width of the townhouse dwelling unit. In all other townhouse buildings, there will be at least one townhouse dwelling unit in each townhouse building that contains a first floor porch on the front exterior and there will be at least one townhouse dwelling unit in each townhouse building that contains both first and second story porches on the front exterior. The dimensions of those porches shall be a minimum of 6 feet wide and 4 feet deep. There shall be roofs over all of the porches.

b) There will be a minimum of one bay window on an end townhouse dwelling unit in each townhouse building, and there will be a minimum of one bay window on the front facade of each townhouse building in the townhouse development.

c) In the same townhouse building, the roofing materials utilized on bay windows and porch roofs will be different materials than are utilized on the roofs of the townhouse buildings.

d) Architectural style asphalt roofing shingles and/or metal roofing will be used on all townhouse dwelling units.

e) The exterior facades of adjacent townhouse dwelling units will be of different colors or color ranges.

12. Townhouse dwelling units will be a minimum of 16 feet wide, and will have a maximum of three bedrooms and two and one-half bathrooms.

13. The front entrances for all townhouse dwelling units in all perimeter townhouse buildings that are adjacent to a street will face the street.

14. Parking for all townhouse dwelling units shall only be in the interior of the townhouse development. If a parking space is visible from a public right-of-way, the parking space will be screened from the public right-of-way in accordance with the planting standards as outlined in Special Highway Overlay District-3 zoning.

15. In addition to the number of parking spaces required by the Raleigh City Code and without allowing any parking space reduction for the landscaped planting area, ten percent (10%) more parking spaces than required by the Raleigh City Code will be provided for the townhouse development.

16. The townhouse development will contain no more than one curb cut per street.

17. Each townhouse dwelling unit will be constructed over a crawl space, and garages will be constructed on concrete slabs at or below grade.

Ordinance: 616 ZC 640

Effective: 7-7-09

18. Stormwater retention devices on the Property will retain the 2-year, 10-year, and 50-year storm events.

19. All retaining walls will be of brick.

20. Reimbursement for additional right-of-way that is dedicated to the City of Raleigh shall be at the current R-10 values.

21. A dumpster and recycling center will be provided and will be located in the interior of the townhouse development. The dumpster pickup will be limited to the Raleigh Solid Waste and Recycling hours, which are currently from 7:00 am, until 7:00 p.m.

22. Upon the development and sale of dwelling units upon the Property, (i) no more than two dwelling units upon the Property shall be sold to any individual or entity, and (ii) no more than one additional dwelling unit upon the Property shall be sold to any individual or entity related by marriage or by more than ten percent (10%) common equity ownership to an owner or contract purchaser of another dwelling unit upon the Property. After the initial sale of all of the dwelling units constructed upon the Property to individual buyers owning no more than two units pursuant to subsection (i) above, such units shall not thereafter be offered for sale or rental in any coordinated, centralized manner. The provisions of this condition shall be included in the Homeowners' Association's declaration of covenants, conditions, and restrictions recorded with respect to the Property prior to the sale of any dwelling units upon the Property, and the Homeowners' Association shall be responsible for the enforcement of the provisions of this condition.

23. An offer of cross-access will be provided to one of the two adjacent properties to the vest (fronting Stovall Drive) at the time of site plan approval.

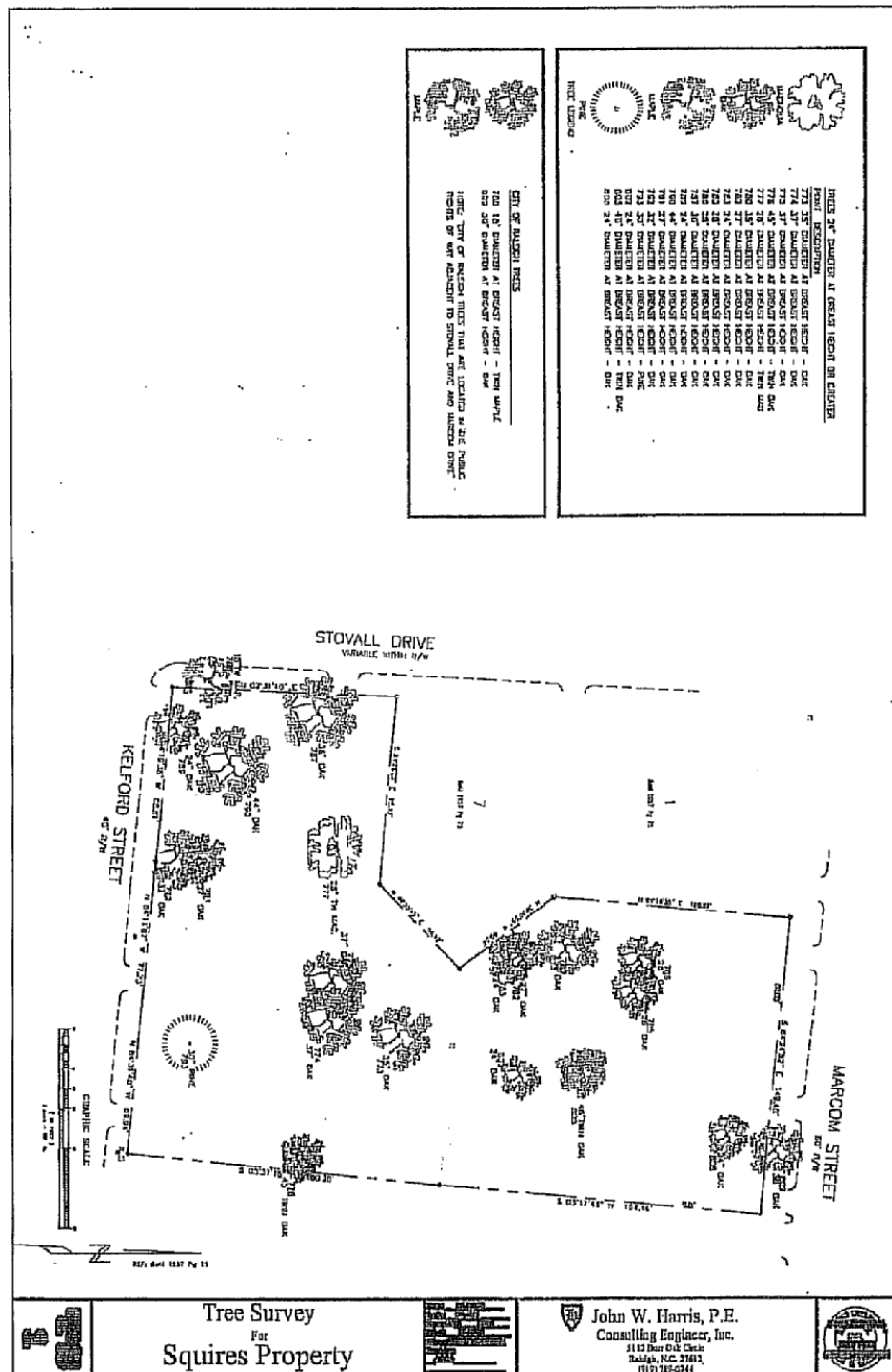


EXHIBIT
1