Request:

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

Submittal Date
4/23/2015
## Rezoning Application

### Rezoning Request

- **General Use**
- **Conditional Use**
- **Master Plan**

**Existing Zoning Classification:** Residential-4 and Residential-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.

### General Information

<table>
<thead>
<tr>
<th>Property Address: 9501 Leesville Road; 9513, 9601 &amp; 9605 Old Leesville Road</th>
<th>Date</th>
<th>April 14, 2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nearest Intersection: Leesville Road and Strickland Road</td>
<td>Property size (in acres): 7.72 ac</td>
<td></td>
</tr>
</tbody>
</table>
| 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 | Phone: 919.590.0388 |
| Project Contact Person/Address: Michael Birch, Morningstar Law Group  
630 Davis Drive, Suite 200  
Morrisville, NC 27560 | Fax |
| Owner/Agent Signature | Email: mbirch@morningstarlawgroup.com |

### OFFICE USE ONLY

Transaction Number: 415492  
Date: 2-14-15
### Rezoning Request

- **General Use**
- **Conditional Use**
- **Master Plan**

**Existing Zoning Classification:** Residential-4 and Residential-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.

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- Apex, NC 27502

- Stewart D. Mariowe & 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

**Owner/Agent Signature**

<table>
<thead>
<tr>
<th>Phone</th>
<th>919.362.7181</th>
</tr>
</thead>
<tbody>
<tr>
<td>Email</td>
<td><a href="mailto:ahee@nc.rr.com">ahee@nc.rr.com</a></td>
</tr>
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Rezoning Application

Rezoning Request

☐ General Use  ☑ Conditional Use  ☐ Master Plan

Existing Zoning Classification: Residential-4 and Residential-6
Proposed Zoning Classification Base District: NX Height: -3 Frontage: None

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

415492

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

2-14-15

General Information

Property Address: 9501 Leesville Road; 9513, 9601 & 9605 Old Leesville Road

Property PIN: 0788-04-7444, 0788-04-8627, 0788-04-8872 and 0788-04-5738

Deed Reference (Book/Page): Book 14865, Page 2667; Book 12987, Page 1214; 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

Owner/Agent Signature

Phone
Fax
Email

Phone: 919.590.0368
Fax
Email: mbirch@morningstarlawgroup.com

Email

7smartw@ad.com
Conditional Use District Zoning Conditions

Zoning Case Number: 2-14-15

Date Submitted: April 14, 2015

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 floor area gross for nonresidential uses shall be 63,000 square feet.

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

4. The maximum building height for any building on the property shall be one story and 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 6:00 a.m. and 9:00 p.m.

6. Any pole-mounted lighting fixtures shall be of full cut-off design.

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: [Signature]

Print Name: John D Titchener Jr

[Signature]
Conditional Use District Zoning Conditions

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<tr>
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**Owner/Agent Signature**

[Signature]

**Print Name**

[Printed Name]
Rezoning Application Addendum

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/I-540 interchange; (vi) LU 5.2 “Managing Commercial Development Impacts” because the proposed conditions address and mitigate potential impacts on nearby property; (vii) LU 5.5 “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.
REPORT OF MEETING WITH ADJACENT PROPERTY OWNERS
ON JANUARY 29, 2015

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 29, 2015, 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.
EXHIBIT A

NEIGHBORHOOD MEETING NOTICE

To: Neighboring Property Owner
From: Michael Birch
Date: January 16, 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”).

We are counsel for a developer that is considering rezoning the Property. The Property is currently zoned Residential-4 and Residential-6. The proposed zoning district is Neighborhood Mixed Use (NX-3).

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 29, 2015 at 6:00 p.m. This meeting will be held in the meeting 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

CHUNG, SEONGTAEK
9700 WHITECLAY CT
RALEIGH NC 27617-7903

REXRODE, LONNIE
9704 WHITECLAY CT
RALEIGH NC 27617-7903

SIDNEY KLOTZ & RICHARD ELMORE
9708 WHITECLAY CT
RALEIGH NC 27617-7903

KRAUSE, KIM
9800 WHITECLAY CT
RALEIGH NC 27617-7902

SPENCE, RICHARD K JR
9804 WHITECLAY CT
RALEIGH NC 27617-7902

IBARRA, JOEL
9528 TREYMORE DR
RALEIGH NC 27617-5270

SMITH, MATTHEW SMITH, REBECCA
9532 TREYMORE DR
RALEIGH NC 27617-5270

AUSTIN, DEBRA ANN
9516 TREYMORE DR
RALEIGH NC 27617-5270

TUCKER, CEDRIC TUCKER, SYBIL C
9524 TREYMORE DR
RALEIGH NC 27617-5270

TOMA, MICHELLE MARIE
9520 TREYMORE DR
RALEIGH NC 27617-5270

ALLEN, MELINDA
13142 ASHFORD PARK DR
RALEIGH NC 27613-4141
HIGGINS, THOMAS J
13355 ASHFORD PARK DR
RALEIGH NC 27613-4150

FARNEBORN, CHRISTER L FARNEBORN, MAUD C
13353 ASHFORD PARK DR
RALEIGH NC 27613-4150

CENTEX HOMES
1225 CRESCENT GRN STE 250
CARY NC 27518-8119

DRAYMOOR MANOR TWNHME ASSN
CHARLESTON MGMT CORP
PO BOX 97243
RALEIGH NC 27624-7243

BANKS, GLADYS E M TRUSTEE GLADYS EM BANKS TRUST
13356 ASHFORD PARK DR
RALEIGH NC 27613-4149

NUNEZ, JOSE M NUNEZ, EDITA S
9508 TREYMORE DR
RALEIGH NC 27617-5270

ROBBINS, RANDALL & MEREDITH
9504 TREYMORE DR
RALEIGH NC 27617-5270

RITTER, GRETA L RITTER, NOEL A
9512 TREYMORE DR
RALEIGH NC 27617-5270

MASON STREET LLC
115 S MASON ST
APEX NC 27502-1916

WCWATTERS, DAVID M
WALLACE, LACEY C
9408 TREYMORE DR
RALEIGH NC 27617-5269

MITCHELL, JAMES E MITCHELL, JOYCE
1101 HYDE ST
RALEIGH NC 27609-5501
SEAMAN, JEFFREY C
SEAMAN, MICHELLE
9412 TREYMORE DR
RALEIGH NC 27617-5269

LLOYD, MARTIN W
205 LAKE NORMAN DR
CARY NC 27519-9556

MARLOWE, D STEWART JOHN D TITCHENER JR
PO BOX 20667
RALEIGH NC 27619-0667

MASON STREET LLC
115 S MASON ST
APEX NC 27502-1916

WEIGER, RONALD H WEIGER, CANDACE CAYE
13354 ASHFORD PARK DR
RALEIGH NC 27613-4149

PENNINGTON, CAROLYN COLE
13352 ASHFORD PARK DR
RALEIGH NC 27613-4149

MASON STREET LLC
115 S MASON ST
APEX NC 27502-1916

DRAYMOOR MANOR TOWNHOMES ASSOC INC
3739 NATIONAL DR STE 101
RALEIGH NC 27612-4844

PLACHTKA, KATHLEEN A
13134 ASHFORD PARK DR
RALEIGH NC 27613-4141

ANDERSON, JO ANN
13138 ASHFORD PARK DR
RALEIGH NC 27613-4141

REIBEL, DONALD B TRUSTEE
13136 ASHFORD PARK DR
RALEIGH NC 27613-4141
ERICSON, DOUGLAS P
13132 ASHFORD PARK DR
RALEIGH NC 27613-4141

GRIFFIN, DAVID ALAN GRIFFIN, MARY CLARK
13357 ASHFORD PARK DR
RALEIGH NC 27613-4150

SAINTSING PROPERTIES LLC
EDNA S DILLARD
9608 OLD LEESVILLE RD
RALEIGH NC 27613-7520

SAINTSING PROPERTIES, LLC
9608 OLD LEESVILLE RD
RALEIGH NC 27613-7520

UZOCHUKWU, BASIL I
13140 ASHFORD PARK DR
RALEIGH NC 27613-4141

DILLARD, EDNA
9608 OLD LEESVILLE RD
RALEIGH NC 27613-7520

DRAYMOOR MANOR TOWNHOME ASSOC INC
3739 NATIONAL DR STE 101
RALEIGH NC 27612-4844
EXHIBIT C

SUMMARY OF DISCUSSION ITEMS

On Thursday, January 29, 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. Zoning of surrounding properties
3. Proposed retail uses
4. Maximum floor area of single use
5. Impact on property values
6. Traffic/cut-through traffic concerns
7. Nonresidential traffic on Old Leesville
8. Concerns with grocery store use and associated impacts
9. Lighting, noise impacts
10. Location and service of dumpsters and loading areas
11. Location of tree preservation areas
12. Landscape buffer and fence/wall adjacent to neighborhood
13. Maximum building height
14. Site circulation and service entrance/exit
15. Sidewalk along Old Leesville
EXHIBIT D

NEIGHBORHOOD MEETING ATTENDEES

1. Alan Foster
2. TJ Higgins
3. C. Riley Parker
4. Karen Hammond-Smith
5. Denise Griffith
6. Pat Lynch
7. John Ward
8. Carolyn Pennington
9. Victoria Hamilton
10. Curtis Edwards
11. Mark Peglow
12. Katie Plachetka
13. Allan Johnston

4832-7446-9411, v. 1