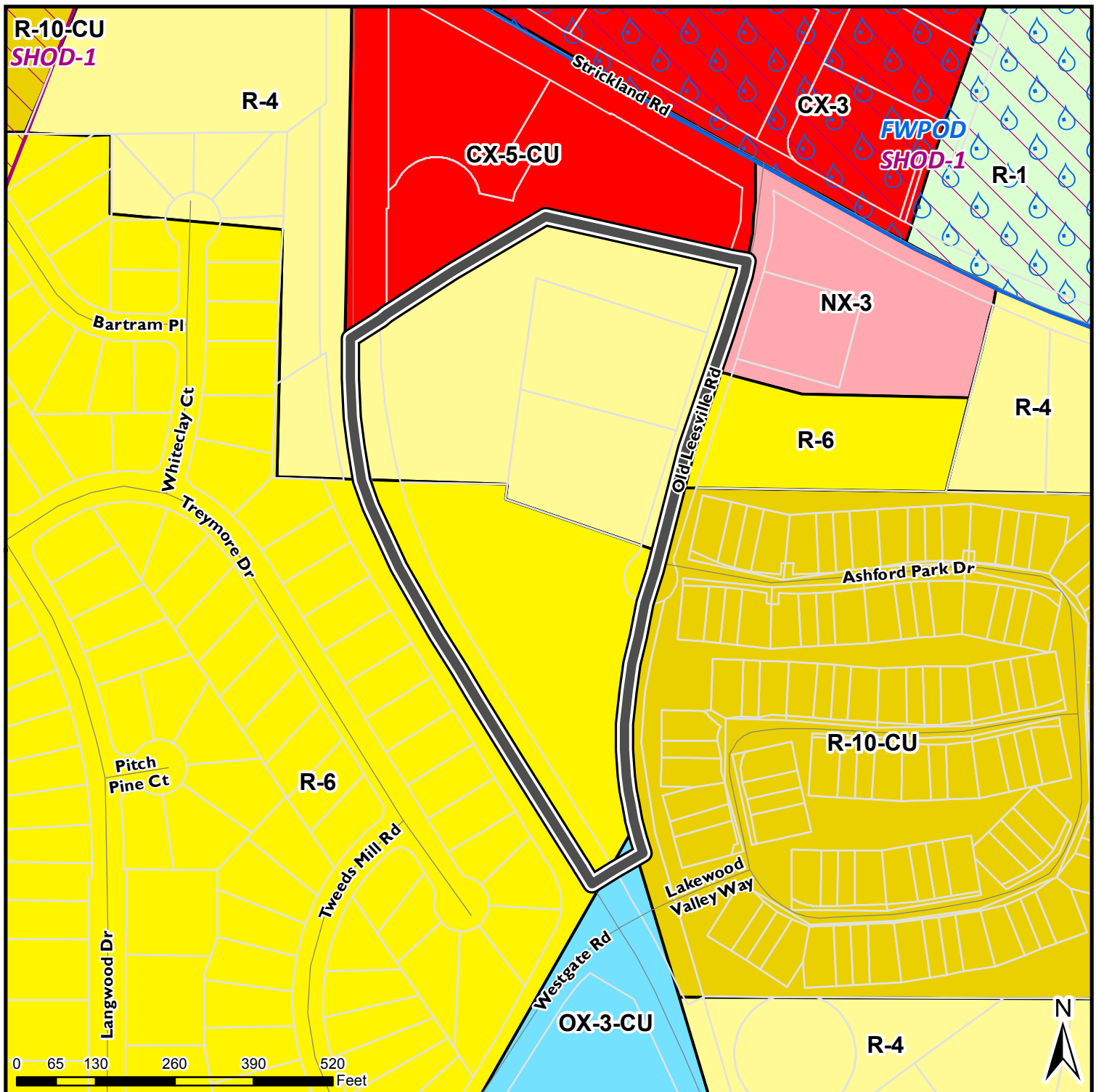


# Adopted Zoning Map

# Z-6-2016

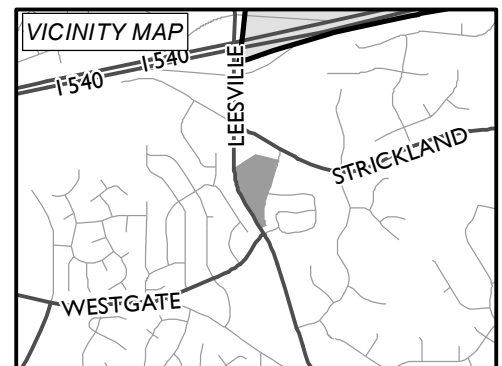


**Submittal  
Date**

2/3/2016

**Request:**

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





## Certified Recommendation

Raleigh Planning Commission

CR#

### Case Information: Z-6-16 – Leesville Road

<i>Location</i>	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
<i>Request</i>	Rezone property from Residential-4 & Residential-6 (R-4 & R-6) to Neighborhood Mixed Use-3 stories-Conditional Use (NX-3-CU)
<i>Area of Request</i>	7.72 acres
<i>Property Owners</i>	Mason Street LLC/ 115 S. Mason Street/ Apex, NC 27502; Stewart D. Marlowe & John D. Titchener, Jr./ PO Box 20667/ Raleigh, NC 27619
<i>Applicant</i>	Michael Birch: Morningstar Law Group: (919) 590-0388, <a href="mailto:mbirch@morningstarlawgroup.com">mbirch@morningstarlawgroup.com</a>
<i>Citizens Advisory Council (CAC)</i>	Northwest-- Jay Gudeman, Chair: (919) 789-9884; <a href="mailto:jay@kilpatrickguteman.com">jay@kilpatrickguteman.com</a>
<i>PC Recommendation Deadline</i>	July 11, 2016

### 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

<b><i>FUTURE LAND USE</i></b>	Office & Residential Mixed Use
<b><i>URBAN FORM</i></b>	Center: None Corridor: None Within Transit Stop Half-Mile Buffer? No
<b><i>CONSISTENT Policies</i></b>	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
<b><i>INCONSISTENT Policies</i></b>	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

<b><i>Neighbor Meeting</i></b>	<b><i>CAC</i></b>	<b><i>Planning Commission</i></b>	<b><i>City Council</i></b>	<b><i>Public Hearing</i></b>
1/7/16	3/8/16; 4/12/16: Y- 17, N- 14	4/12/16 (deferred); 4/26/16		

## Attachments

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

## Planning Commission Recommendation

<i>Recommendation</i>	
<i>Findings &amp; Reasons</i>	
<i>Motion and Vote</i>	

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.

Planning Director	Date	Planning Commission Chairperson	Date
-------------------	------	---------------------------------	------

Staff Coordinator: Doug Hill: (919) 996-2622; [Doug.Hill@raleighnc.gov](mailto:Doug.Hill@raleighnc.gov)



## Zoning Staff Report – Case Z-6-16

### Conditional Use District

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## 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



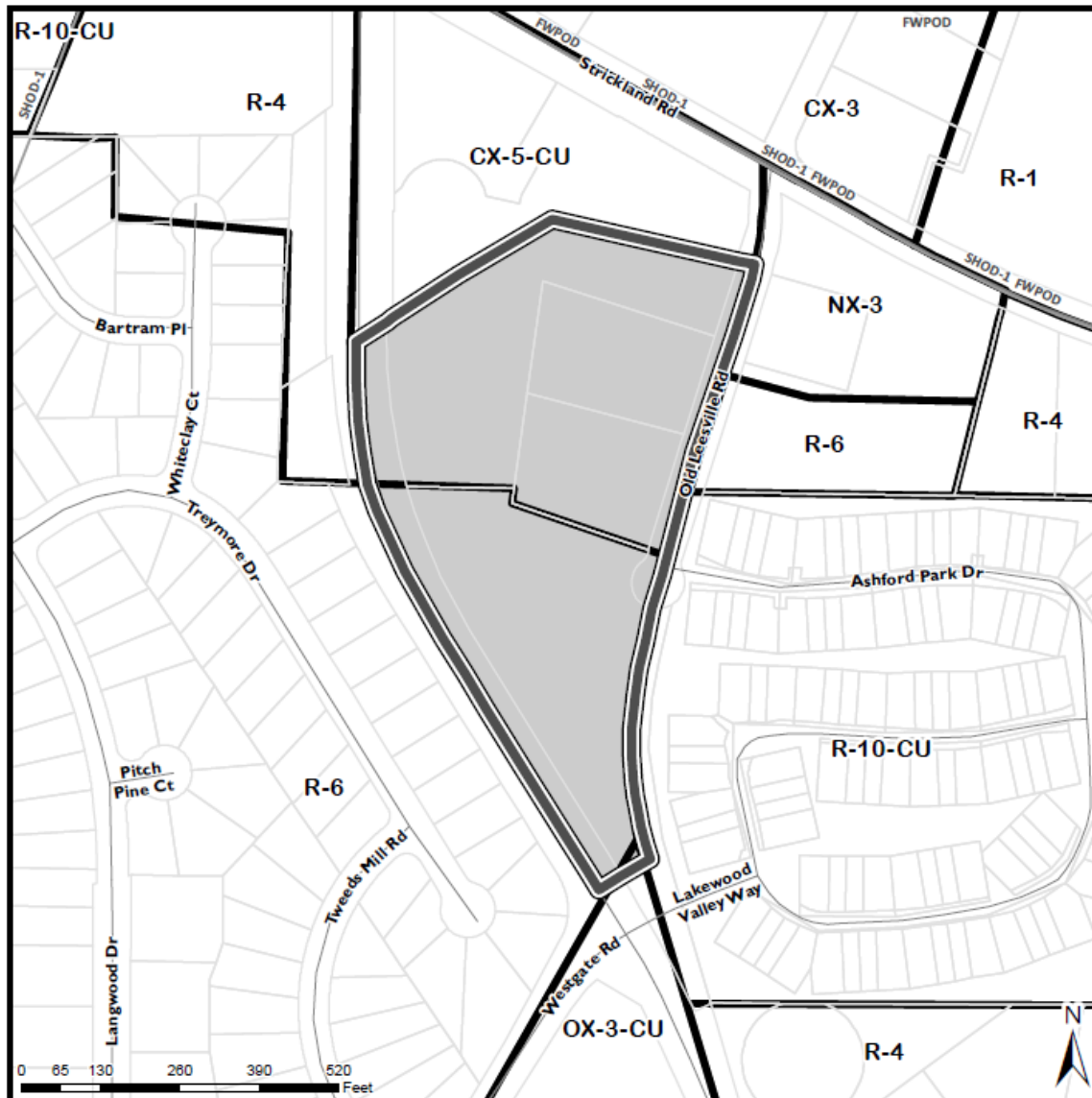
site are several large oak trees at 9601 Old Leesville. The southernmost property is vacant. The low point of the site is at its northwest, near Leesville Road; the high point is at the cul-de-sac of Old Leesville Road. Between, the site falls some 30 feet, east to west.

### Outstanding Issues

<i>Outstanding Issues</i>	<ol style="list-style-type: none"><li>1. Matters identified in staff comments.</li><li>2. Existing block perimeter exceeds UDO standards.</li><li>3. Sewer and fire flow matters may need to be addressed upon redevelopment.</li></ol>	<i>Suggested Mitigation</i>	<ol style="list-style-type: none"><li>1. Address matters identified in staff comments.</li><li>2. Address sewer and fire flow capacities at the site plan stage.</li></ol>
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# Existing Zoning Map

**Z-6-2016**

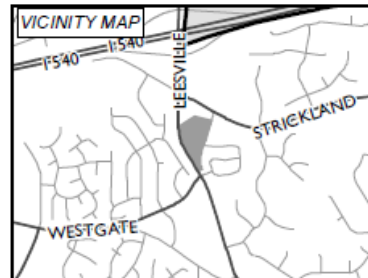


**Submittal  
Date**

2/3/2016

## Request:

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



# Rezoning Case Evaluation

## 1. Compatibility Analysis

### 1.1 Surrounding Area Land Use/ Zoning Summary

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

### 1.2 Current vs. Proposed Zoning Summary

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

\*Per conditions.

### 1.3 Estimated Development Intensities

	<b>Existing Zoning</b>	<b>Proposed Zoning</b>
<b>Total Acreage</b>	7.72	7.72
<b>Zoning</b>	R-4 & R-6	NX-3-CU
<b>Max. Gross Building SF</b>	<i>n/a</i>	63,000*
<b>Max. # of Residential Units</b>	36	36*
<b>Max. Gross Office SF</b>	(not permitted)	63,000*

<i>Max. Gross Retail SF</i>	<i>(not permitted)</i>	63,000*
<i>Max. Gross Industrial SF</i>	<i>(not permitted)</i>	<i>(not permitted)</i>
<i>Max. Potential F.A.R.</i>	<i>n/ a</i>	0.19

*\*Per conditions.*

The proposed rezoning is:

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

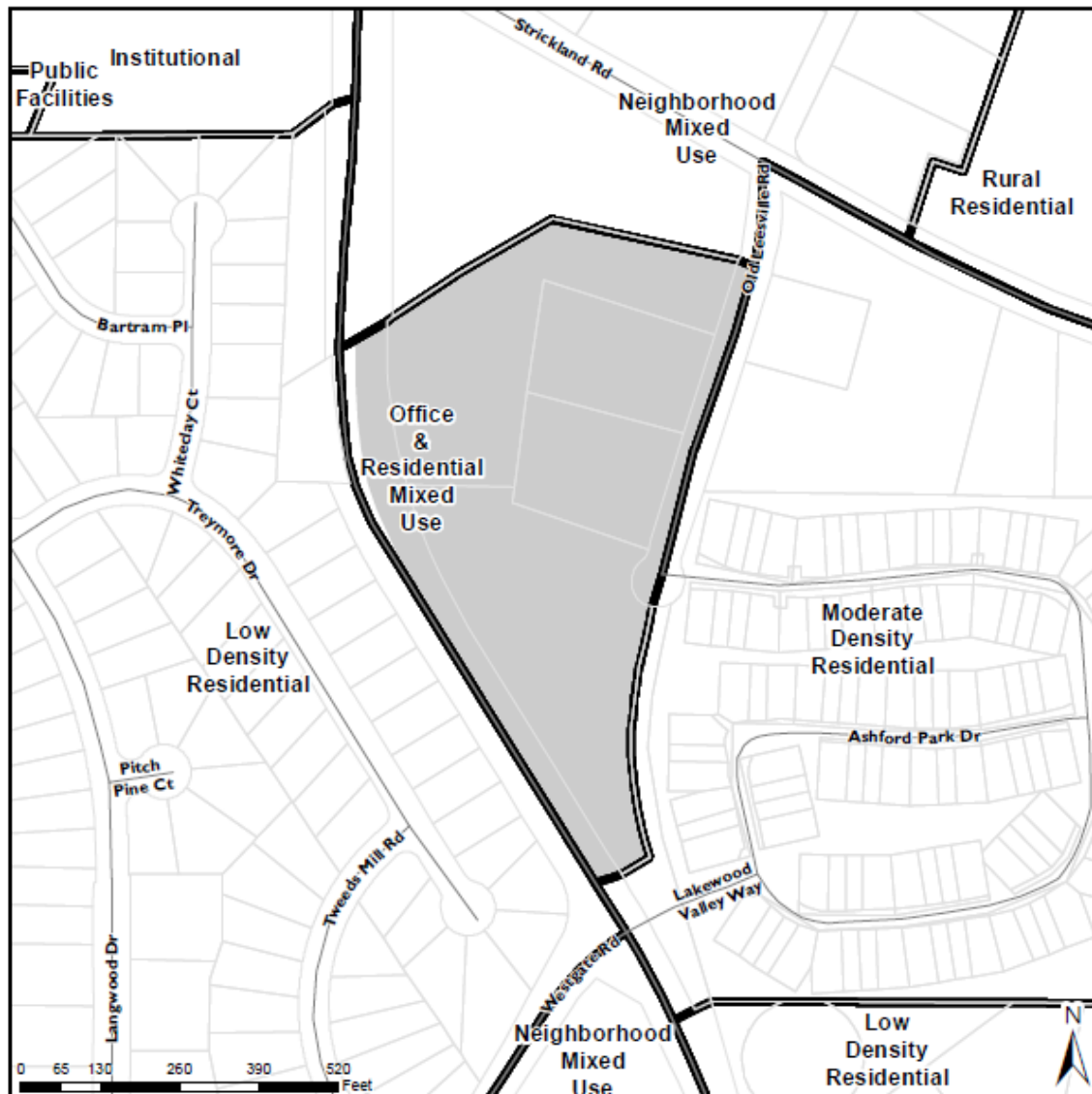
☐ **Incompatible.**

Analysis of Incompatibility:

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.

# Future Land Use Map

**Z-6-2016**

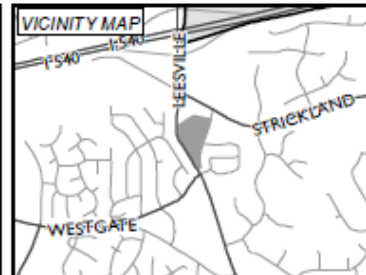


**Submittal Date**

2/3/2016

## Request:

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



## 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 26<sup>th</sup> 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

<i>Floodplain</i>	None
<i>Drainage Basin</i>	Sycamore
<i>Stormwater Management</i>	Article 9.2 UDO
<i>Overlay District</i>	None

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

	<i>Maximum Demand (current)</i>	<i>Maximum Demand (proposed)</i>
<i>Water</i>	19,750 gpd	22,500 gpd
<i>Waste Water</i>	19,750 gpd	22,500 gpd

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.

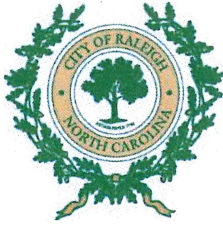
### Condition 16

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”.



# Planning & Development

## Development Services Customer Service Center

One Exchange Plaza  
1 Exchange Plaza, Suite 400  
Raleigh, North Carolina 27601  
Phone 919-996-2495  
Fax 919-516-2685

## Rezoning Application

Rezoning Request	OFFICE USE ONLY
<input type="checkbox"/> General Use <input checked="" type="checkbox"/> Conditional Use <input type="checkbox"/> Master Plan	Transaction Number
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.	

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	Phone	Fax
	Email	
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	Email	

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





# Planning & Development

## Development Services Customer Service Center

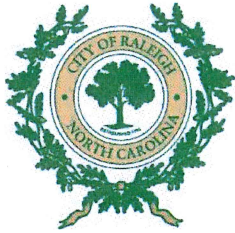
One Exchange Plaza  
1 Exchange Plaza, Suite 400  
Raleigh, North Carolina 27601  
Phone 919-996-2495  
Fax 919-516-2685

Conditional Use District Zoning Conditions		OFFICE USE ONLY
Zoning Case Number: Z-6-16		Transaction Number
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



# Planning & Development

**Development Services  
Customer Service Center**  
One Exchange Plaza  
1 Exchange Plaza, Suite 400  
Raleigh, North Carolina 27601  
Phone 919-996-2495  
Fax 919-516-2685

Conditional Use District Zoning Conditions		OFFICE USE ONLY
Zoning Case Number: Z-6-16		Transaction Number
Date Submitted: April 26, 2016		
Existing Zoning: R-4 and R-6	Proposed Zoning: NX-3-CU	

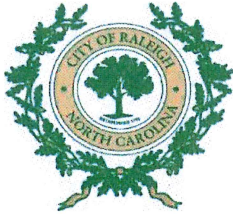
## NARRATIVE OF ZONING CONDITIONS OFFERED

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.

Owner/Agent Signature	Print Name





# Planning & Development

## Development Services Customer Service Center

One Exchange Plaza  
1 Exchange Plaza, Suite 400  
Raleigh, North Carolina 27601  
Phone 919-996-2495  
Fax 919-516-2685

Conditional Use District Zoning Conditions		OFFICE USE ONLY
Zoning Case Number: Z-6-16		Transaction Number
Date Submitted: April 26, 2016		
Existing Zoning: R-4 and R-6	Proposed Zoning: NX-3-CU	

### 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 1396, 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.

Owner/Agent Signature	Print Name
-----------------------	------------



# Planning & Development

## Development Services Customer Service Center

One Exchange Plaza  
1 Exchange Plaza, Suite 400  
Raleigh, North Carolina 27601  
Phone 919-996-2495  
Fax 919-516-2685

## Rezoning Application Addendum

Comprehensive Plan Analysis	OFFICE USE ONLY
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.	Transaction Number 460822 Zoning Case Number Z-6-16

### 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.

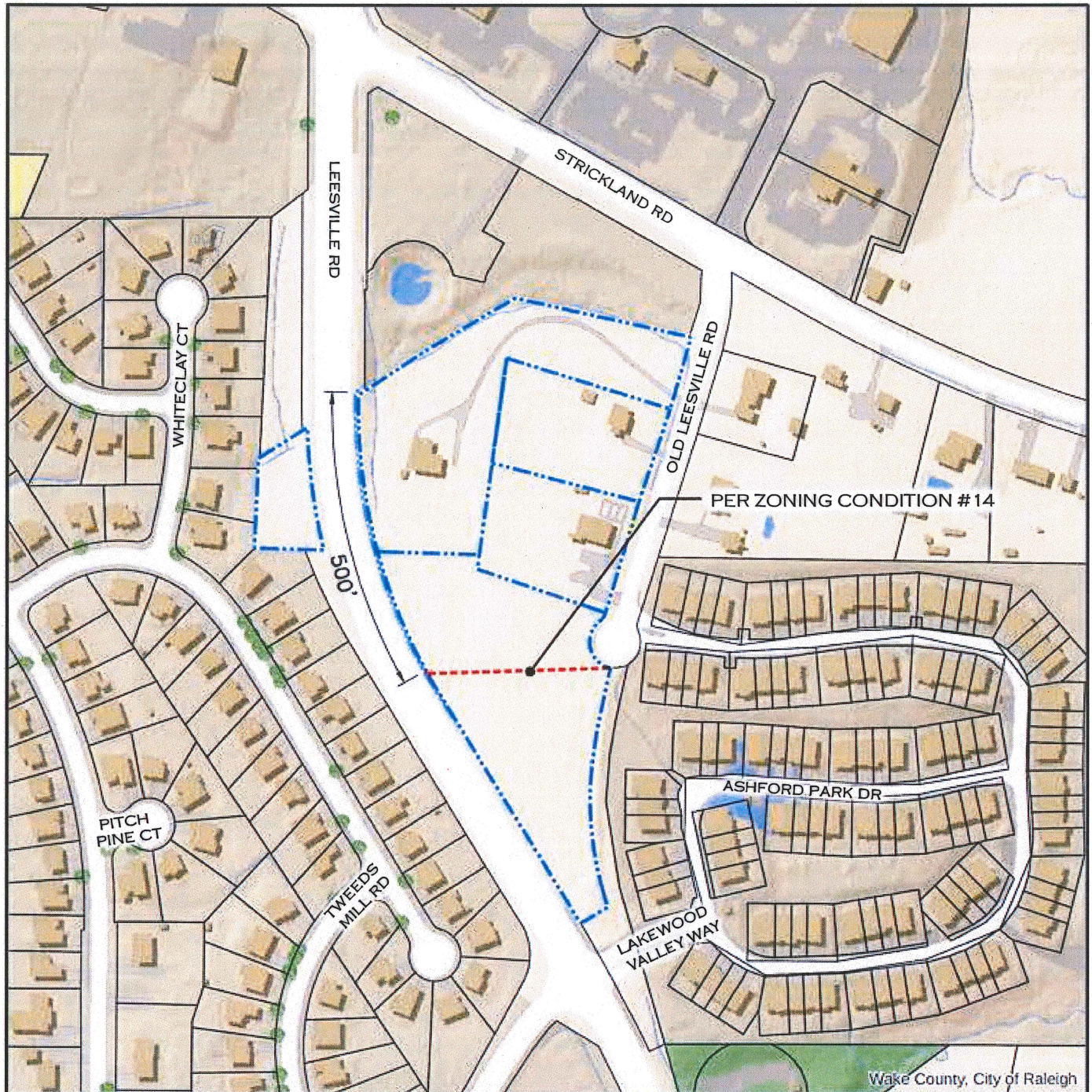
1. The property is designated Office & Residential Mixed Use on the Future Land Use Map, which encourages a mix of residential and office uses. The rezoning request for NX permits residential and office uses, as well as retail uses. Because the rezoning request permits retail uses, the rezoning request 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 5.6 "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.

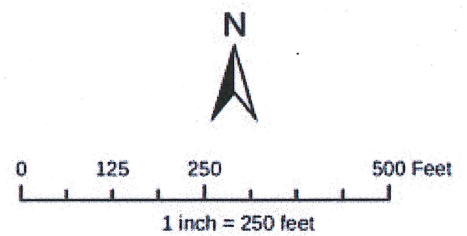
1. The rezoning request benefits the public by providing retail uses within walking distance of residential uses and other retail uses, thereby reducing the need for additional vehicle trips on Leesville Road and Strickland Road to access goods and services.
2. The rezoning request is reasonable and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





Z-6-16- EXHIBIT A

(04/22/2016)



**Disclaimer**  
iMaps makes every effort to produce and publish the most current and accurate information possible. However, the maps are produced for information purposes, and are **NOT** surveys. No warranties, expressed or implied, are provided for the data therein, its use, or its interpretation.



REPORT OF MEETING WITH ADJACENT PROPERTY OWNERS  
ON JANUARY 7, 2016

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.



## EXHIBIT A

### NEIGHBORHOOD MEETING NOTICE



Michael Birch | Partner  
630 Davis Drive, Suite 200  
Morrisville, NC 27560

919-590-0388  
mbirch@morningstarlawgroup.com  
www.morningstarlawgroup.com

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

CHUNG, SEONGTAEK 1700 WHITECLAY CT RALEIGH NC 27617-7903	ADAMS, SUSAN K 9508 TREYMORE DR RALEIGH NC 27617-5270	MASON STREET LLC 115 S MASON ST APEX NC 27502-1916
REXRODE, LONNIE 1704 WHITECLAY CT RALEIGH NC 27617-7903	ROBBINS, RANDALL & MEREDITH 9504 TREYMORE DR RALEIGH NC 27617-5270	DRAYMOOR MANOR TOWNHOMES ASSOC INC 3739 NATIONAL DR STE 101 RALEIGH NC 27612-4844
SIDNEY KLOTZ & RICHARD ELMORE 1708 WHITECLAY CT RALEIGH NC 27617-7903	RITTER, GRETAL S RITTER, NOEL A 9512 TREYMORE DR RALEIGH NC 27617-5270	PLACHETKA, KATHLEEN A 13134 ASHFORD PARK DR RALEIGH NC 27613-4141
KRAUSE, KIM 1800 WHITECLAY CT RALEIGH NC 27617-7902	MASON STREET LLC 115 S MASON ST APEX NC 27502-1916	ANDERSON, JO ANN 13138 ASHFORD PARK DR RALEIGH NC 27613-4141
SPENCE, RICHARD K JR 1804 WHITECLAY CT RALEIGH NC 27617-7902	WCWATTERS, DAVID M WALLACE, LACEY C 9408 TREYMORE DR RALEIGH NC 27617-5269	REIBEL, DONALD B TRUSTEE 13136 ASHFORD PARK DR RALEIGH NC 27613-4141
BARRA, JOEL 1528 TREYMORE DR RALEIGH NC 27617-5270	MITCHELL, JAMES E MITCHELL, JOYCE 1101 HYDE ST RALEIGH NC 27609-5501	ERICSON, DOUGLAS P 13132 ASHFORD PARK DR RALEIGH NC 27613-4141
SMITH, MATTHEW SMITH, REBECCA 1532 TREYMORE DR RALEIGH NC 27617-5270	SEAMAN, JEFFREY C SEAMAN, MICHELLE 9412 TREYMORE DR RALEIGH NC 27617-5269	GRIFFIN, DAVID ALAN GRIFFIN, MARY CLARK 13357 ASHFORD PARK DR RALEIGH NC 27613-4150
AUSTIN, DEBRA ANN 1516 TREYMORE DR RALEIGH NC 27617-5270	LLOYD, MARTIN W 205 LAKE NORMAN DR CARY NC 27519-9556	SAINTSING PROPERTIES LLC EDNA S DILLARD 9608 OLD LEESVILLE RD RALEIGH NC 27613-7520

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

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

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

FOMA, MICHELLE MARIE  
520 TREYMORE DR  
RALEIGH NC 27617-5270

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

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

ALLEN, MELINDA  
3142 ASHFORD PARK DR  
RALEIGH NC 27613-4141

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

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

HIGGINS, THOMAS J  
3355 ASHFORD PARK DR  
RALEIGH NC 27613-4150

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

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

ARNEBORN, CHRISTER L  
ARNEBORN, MAUD C  
3353 ASHFORD PARK DR  
RALEIGH NC 27613-4150

BURKE, MELANIE MOSER  
9400 TREYMORE DR  
RALEIGH NC 27617-5269

ENTEX HOMES  
225 CRESCENT GRN STE 250  
ARY NC 27518-8119

LEESVILLE DEVELOPMENT  
COMPANY LLC  
ATTN: GORDON H KOLB JR  
3920 MAGAZINE ST  
NEW ORLEANS, LA 70115-2641

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

## **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