



City of Fayetteville

433 Hay Street
Fayetteville, NC
28301-5537
(910) 433-1FAY (1329)

Meeting Agenda - Final Zoning Commission

Tuesday, May 9, 2023

6:00 PM

FAST Transit Center

1.0 CALL TO ORDER

2.0 APPROVAL OF AGENDA

3.0 CONSENT

3.01 A23-14. Order of Approval – Findings of Fact - Variance to reduce the setback requirement and increase the maximum height and square footage of a freestanding ground sign located at 225 Green Street (REID #0437644914000), containing 2.56 acres ± and being the property of Allison Holdings LLC, represented by Stan Futrell.

3.02 Approval of Minutes: April 11, 2023

4.0 PUBLIC HEARINGS (Public & Legislative)

4.01 P23-15. Rezoning from Agricultural Residential (AR) to Limited Commercial (LC) on 4.5 acres ±, located at 8205 Stoney Point Road (REID# 9485651707000) and 0 Rockfish Road (REID# 9485557246000) and being the properties of Dennis E Canady, John D Gillis, James Wright Gillis, and Robert Lewis Gillis, being represented by Thomas Neville of Yarborough, Winters & Neville, PA

4.02 P23-16. Rezoning from Agricultural Residential (AR) to Community Commercial (CC) of 3.43 acres ±, located at REID# 9485763126000 and being the property of John D. Gillis, represented by Mark Candler of Candler Development Group LLC.

4.03 P23-17. Rezoning from Single-Family Residential 10 (SF-10) to Neighborhood Commercial (NC), located at 5418 Morganton Road and part of 5413 Docia Circle (REID #s 0408719687000 & 0408810892000), totaling 1.12 acres ± and being the property of Lenim Properties, LLC, represented by Michael Adams of MAPS Surveying Inc.

- 4.04** P23-18. Creation of an Airport Entrance Corridor Overlay (AECO) zoning district located at 101 - 231 Airport Road (REID #0435332495000, 0435330824000, 0435236911000, 0435242118000, 0435148586000, 0435144419000, 0435141782000, 0435049899000, 0435047921000, 0435054007000, 0435043744000, 0435034978000, 0435047522000, 0435049049000, 0435049445000, 0435140388000, 0435131828000, 0435132815000, 0435133824000, 0435134864000, 0435136863000, 0435138871000, 0435123998000) on approximately 130+/- acres belonging to Cedar Creek Crossing West LLC, Kinlaw Rentals LLC, Asemota, Osaze Love-Efosa & Lily Efosa Igunbor, Draughon Holdings LLC, McDonald, Vadis, Smith, Izzie H. Heirs & Vadis S. McDonald, Hertz Corporation, Eaton Corp C/O Ducharme, McMillen & Assoc, Spivey, Phyllis Council, Vance Johnson Plumbing Inc, Pittman, W R & Linda, Warren, Mark A & Kim D, Fullblock LLC, Winstead Rentals Limited Partnership, Infinity Nine at Fay LLC, WFN Investment Group LLC, State of North Carolina, City of Fayetteville.

5.0 OTHER ITEMS OF BUSINESS

6.0 ADJOURNMENT



City of Fayetteville

433 Hay Street
Fayetteville, NC 28301-5537
(910) 433-1FAY (1329)

City Council Action Memo

File Number: 23-3341

Agenda Date: 5/9/2023

Version: 1

Status: Agenda Ready

In Control: Zoning Commission

File Type: Consent

Agenda Number: 3.01

TO: Zoning Commission

THRU: Will Deton - Planning & Zoning Manager

FROM: Heather Eckhardt, CZO - Planner II

DATE: May 9, 2023

RE: A23-14. Order of Approval - Findings of Fact - Variance to reduce the setback

requirement and increase the maximum height and square footage of a freestanding ground sign located at 225 Green Street (REID #0437644914000), containing 2.56 acres ± and being the property of Allison Holdings LLC, represented by Stan Futrell.

COUNCIL DISTRICT(S):

2 - Shakeyla Ingram

Relationship to Strategic Plan:

Strategic Operating Plan FY 2022

Goals 2027

Goal 4: Desirable Place to Live, Work and Recreate

- Objective 4.5 - Ensure a place for people to live in great neighborhoods.

Executive Summary:

This item was heard at the April 11 Zoning Commission meeting. The Commission voted unanimously to approve the variance as requested.

30.2.C.14 Variance:

The purpose of a variance is to allow certain deviations from the dimensional standards of this Ordinance (such as height, yard setback, lot coverage, or similar numeric standards) when the landowner demonstrates that, owing to special circumstances or conditions beyond the landowner's control (such as exceptional topographical conditions, narrowness, shallowness, or the shape of a specific parcel of land), the literal application of the standards would result in undue and unique hardship to the landowner and the deviation would not be contrary to the public interest.

Variances are to be sparingly exercised and only in rare instances or under exceptional

circumstances to relieve undue and unique hardships to the landowner. No change in permitted uses or applicable conditions of approval may be authorized by variance.

Background:

Owner: Allison Holdings LLC

Applicant: Stan Futrell

Requested Action: Reduce the setback requirement and increase maximum height and square footage of a freestanding ground sign

Zoning District: Downtown 2 (DT-2)

Property Address: 225 Green Street

Size: 2.56 acres ±

Existing Land Use: Office

Surrounding Zoning and Land Uses

- North: DT-2 - Legal office and bank
- South: DT-1 - Cross Creek Linear Park Trail
- East: DT-2 - Church, legal office, and park
- West: DT-1 - Cross Creek Linear Park Trail

Letters Mailed: 24

Issues/Analysis:

The subject property is 2.56 acres and is located at 225 Green Street. The site is commonly known as the Systel building. The 11-story structure contains the Internal Revenue Service, North Carolina Department of Environmental Quality, The Friend's Table, and a variety of office uses. According to the Cumberland County Tax Office records, the subject property was constructed in 1972.

The applicant has requested a variance to reduce the setback requirement and increase the permitted height and square footage for a freestanding sign. The subject property is currently zoned Downtown 2 (DT-2). Signage within the DT-2 zoning district is regulated by Table 30-5.L.8.A., Permitted Signs in Non Residential Zoning Districts, and Article 30-5.L.9., Signs Permitted in the DT-1 and DT-2 Downtown Zoning District. Note 8 in Table 30-5.L.8.A states that when there is a conflict between the two sections, the provisions of Section 30-5.L.9 shall apply. Additionally, Section 30-1.F.1 of the Unified Development Ordinance states "If a provision of this ordinance is inconsistent with another provision of this Ordinance,...the more restrictive provision shall govern...".

The applicant has requested a variance to three standards of the sign ordinance: setback, height, and copy area. The ordinance standards for ground signs in the DT-2 zoning district are below with the superseding sections italicized:

Setback:

- 30-5.L.9.a.7.d: Must be located in a yard area not required by the zoning district and one sign shall be permitted for each yard so provided.
- 30-5.L.8.A: *10 feet*

Height:

- 30-5.L.9.a.7.d: *The sign shall not be higher than seven feet above the elevation of the sidewalk from which it is intended to be viewed.*
- 30-5.L.8.A: 20 feet

Copy Area:

- 30-5.L.9.a.7.d: *One square foot of sign area per linear foot of building frontage*

with a maximum area of 20 square feet.

- 30-5.L.8.A: One square foot of sign area per linear foot of building frontage with a maximum area of 150 square feet.

The applicant intends to remove the existing sign and install a new sign in a new location. The proposed sign is 71.77 square feet, 10.83 feet tall, and is proposed to be 5 feet from the front property line along Green Street.

The specific measurements for the requested variances are as follows:

1. Reduction in setback from 10 feet to 5 feet
2. Increase in permitted height from 7 feet to 10.83 feet
3. Increase in permitted copy area from 20 square feet to 71.77 square feet

Insufficient Justification for Variance

The following does not constitute grounds for a Variance:

1. The siting of other nonconforming or conforming uses of land or structures in the same or other districts;
2. The request for a particular use expressly, or by inference, prohibited in the district; or
3. Economic hardship or the fact that property may be utilized more profitably with a Variance.

Subsequent Development

Due to the nature of the downtown area and its dense development, there is no minimum lot size in the DT-2 zoning district. The subject property is 2.56 acres which is comparable to other properties in the immediate area. The site was initially developed in 1972. Per the applicant, the current sign has been in existence since at least 1998 when the current owner purchased the building. Since its construction, the sign has been refaced as the bank tenancy has changed and when the North Carolina Department of Environmental and Natural Resources became the North Carolina Department of Environmental Quality.

The following findings are based on the responses submitted in the application by the applicant and the best available information about the proposal without the benefit of testimony provided at the evidentiary hearing.

Findings of Fact Statements as reviewed by the Planning Staff:

1. **There is sufficient evidence that the strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships as shown by the following evidence:**

The applicant states "Currently customers of the building's tenants (IRS, Bank, NC DEQ, various others) have a hard time finding the address of 225 Green St. We have to tell them when they call looking for a tenant to look for the black glass 11 story building, near the Market House traffic circle. We feel that a larger sign located near our main entrance on Green St would solve this directional problem, especially if the new signage was taller and looked similar to the building."

2. **There is sufficient evidence that any practical difficulties or unnecessary hardships result from unique circumstances related to the land, and are not the result of the actions of the landowner as shown by the following evidence:**

The applicant states "We are finding that city parking along Green St is part of the problem, not allowing customers to see the building parking entrance and physical

location (225 Green St). Taller directional signage along Green St entrance would allow customers to find us."

3. **There is sufficient evidence that the Variance is the minimum action that will make possible a reasonable use of land or structures as shown by the following evidence:**

The applicant states "New signage by our main Green St entrance would be a great help in directing customers to the proper location (225 Green St)."

4. **There is sufficient evidence that the Variance is in harmony with the general purpose and intent of this Ordinance and preserves its spirit as shown by the following evidence:**

The applicant states "The new signage would be tastefully done to blend in with the downtown area, and would appear as a taller sign to direct customers to their appointments within the tallest building in Fayetteville."

5. **There is sufficient evidence that in the granting of the Variance, the public safety and welfare has been assured and substantial justice has been done as shown by the following evidence:**

The applicant states "Signage would be installed by Fast Signs of Fayetteville in an area near the main parking entrance as to safely direct customers to the location of 225 Green St."

Budget Impact:

There is no immediate budgetary impact.

Options:

1. Motion to approve the findings of fact as presented
2. Motion to remand the findings of fact to staff for corrections.

Recommended Action:

Staff recommends approval of the findings of fact as presented.

Attachments:

1. Application
2. Aerial Notification Map
3. Zoning Map
4. Land Use Map
5. Subject Property Photos
6. Surrounding Property Photos
7. Site Plan
8. Proposed Sign
9. Order of Findings of Fact

Project Overview**#965501**

Project Title: 225 Green St
Application Type: 5.4) Variance
Workflow: Staff Review

Jurisdiction: City of Fayetteville
State: NC
County: Cumberland

Project Location

Project Address or PIN: 225 GREEN ST (0437644914000) **Zip Code:** 28301

GIS Verified Data

Property Owner: Parcel
• 225 GREEN ST: ALLISON HOLDINGS LLC

Acreage: Parcel
• 225 GREEN ST: 2.56

Zoning District: Zoning District
• 225 GREEN ST: LC

Subdivision Name:

Fire District: Fire District
• 225 GREEN ST: Secondary Fire Zone

Airport Overlay District:

Hospital Overlay District:
Cape Fear District:

Coliseum Tourism District:
Downtown Historic District: Downtown Historic District
• 225 GREEN ST: Downtown Historic District

Haymount Historic District:

Floodway: FloodWay
• 225 GREEN ST: AE

100 Year Flood: <100YearFlood>
Watershed:

500 Year Flood: <500YearFlood>

Variance Request Information

Requested Variances: Signage

Section of the City Code from which the variance is being requested.: larger directional/information signage for 11 story bld

Describe the nature of your request for a variance and identify the standard(s)/requirement(s) of the City Code proposed to be varied.:

install a larger directional/information (ground) sign in a more visible place as to direct people into building the meet with building tenants (IRS, NC DEQ, Dogwood Bank, and various other tenants. Current ground sign is in non visible location and is 8 ft wide by 5.5 ft high.

Propose new signage would be located new the main drive entrance on Green St and would be 6.63 ft wide and 10.83 ft

Identify the zoning district designation and existing use of land for all adjacent properties, including those across the street.:

Office, and professional use on Green St (law office, bank, church, post office)

high.

Justification for Variance Request - Use this and the following pages to answer the questions (upload additional sheets if necessary).

The Variance Standards states: A variance application shall be approved only upon a finding that all of the following standards are met.

1. Strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships; it shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property;
2. Any practical difficulties or unnecessary hardships result from unique
3. circumstances related to the land, such as location, size, or topography, and are not the result from conditions that are common to the neighborhood or the general public be the basis from granting a variance;
4. The Variance is the minimum action that will make possible a reasonable use of land or structures;
5. The Variance is in harmony with the general purpose and intent of this Ordinance and preserves its spirit; and
6. In the granting of this Variance, the public safety and welfare have been assured and substantial justice has been done.

Expiration - Variance

30-2.C.14.e.5.- Variance approval shall automatically expire if the applicant does not record the Variance with the Cumberland County Register of Deeds within 30 days after the date the Variance is approved.

Please complete the following five (5) questions to verify the evidence that all the required standards are applicable to your property and/or situation.

Please describe how strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.:

Currently customers of the buildings tenants (IRS, Bank, NC DEQ, various others) have a hard time finding the address of 225 Green St. We have to tell them when they call looking for a tenant to look for the black glass 11 story building, near the Market House traffic circle. We fill that a larger sign located near our main entrance on Green St would solve this directional problem, especially if the new signage was taller and looked similar to the building..

Please describe how any practical difficulties or unnecessary hardships result from unique circumstances related to the land, such as location, size, or topography, and are not the result of the actions of the landowner, nor may hardships resulting from personal circumstances as well as hardships resulting from conditions that are common to the neighborhood or the general public be the basis for granting a variance.:

We are finding that city parking along Green St is part of the problem, not allowing customers to see the building parking entrance and physical location (225 Green St). Taller directional signage along Green St entrance would allow customers to find us.

Please describe how the Variance is the minimum action that will make possible a reasonable use of land or structures.:

New signage by our main Green St entrance would be a great help in directing customers to the proper location (225 Green St)

Please describe how the Variance is in harmony with the general purpose and intent of this Ordinance and preserves its spirit.:

The new signage would be tastefully done to blend in with the downtown area , and would appear as a taller sign to direct customers to their appointments within the tallest building in Fayetteville.

Please describe how, in the granting of the Variance, the public safety and welfare have been assured and substantial justice has been done.:

Signage would be installed by Fast Signs of Fayetteville in an area near the main parking entrance as to safely direct customers to the location of 225 Green St.

Height of Sign Face : 10.83

Height of Sign Face:

Square Footage of Sign Face: 71.75

Height of Sign Face:

Square Footage of Sign Face : 71.75

Square Footage of Sign Face:
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Primary Contact Information

Contractor's NC ID#:

Project Owner

Stan Futrell
Allison Holdings, LLC
225 Green St, Ste 104
Fayetteville, NC 28301
P:9103239010
F:9103233957
sfutrell@systeloa.com

Project Contact - Agent/Representative

Stan Futrell
Allison Holdings, LLC
225 Green St, Ste 104
Fayetteville, NC 28301
P:9103239010
F:9103233957
sfutrell@systeloa.com

As an unlicensed contractor, I am aware that I cannot enter into a contract that the total amount of the project exceeds \$30,000. :

Project Contact - General Contractor

Greg West
RayWest DesignBuild
2818 Raeford Rd, Ste 300
Fayetteville, NC 28303
P:910-824-0503
greg.west@raywestdesignbuild.com

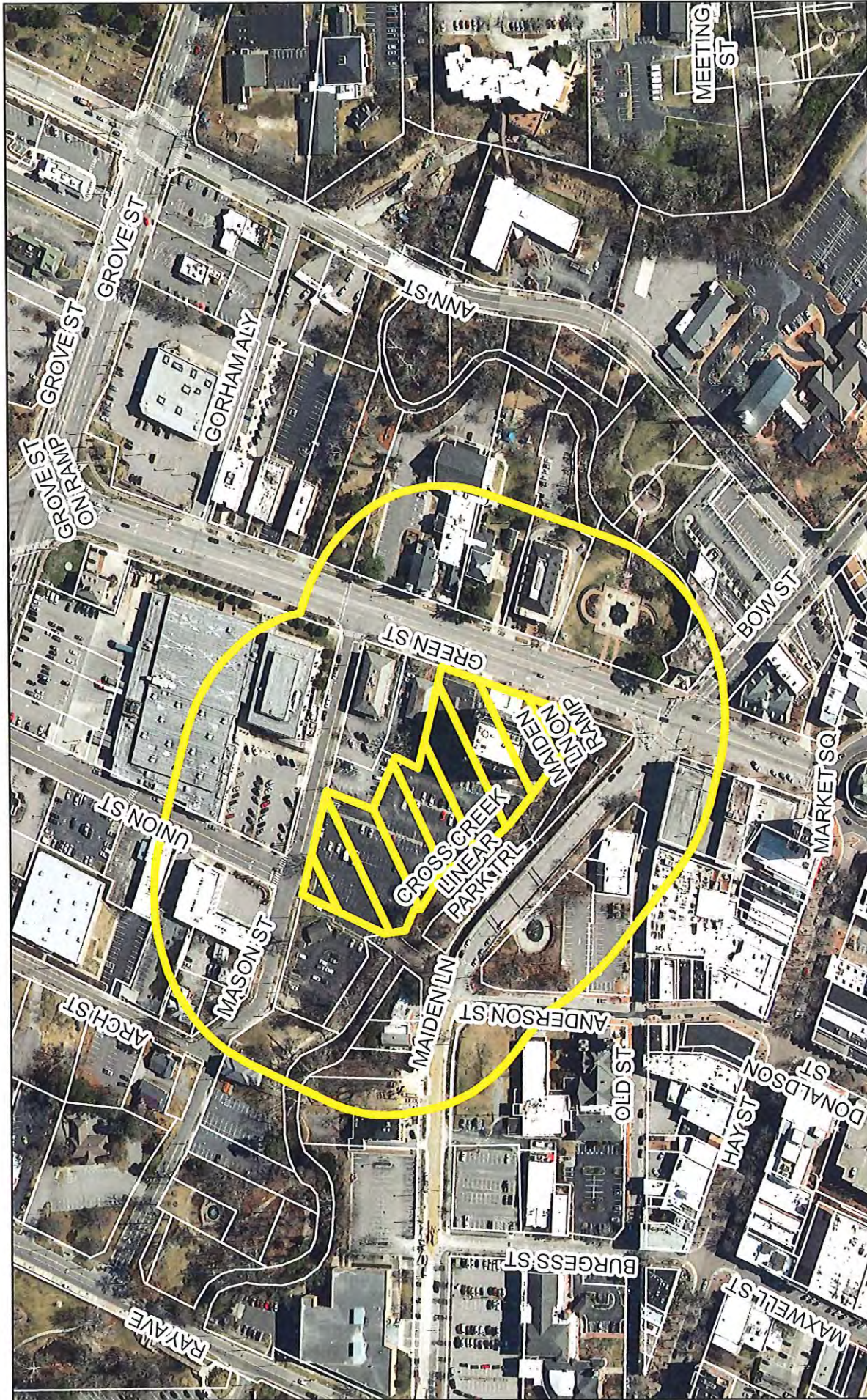
NC State General Contractor's License Number: 76368

Project Contact: Primary Point of Contact for the Sign Contractor

Vic Cannon
Fast Signs of Fayetteville
2807 Raeford Rd,
Fayetteville, NC 28303
P:910-678-8111
vic.cannon@fastsigns.com

NC State Mechanical Contractor's #1 License Number:
NC State Mechanical Contractor's #2 License Number:
NC State Mechanical Contractor's #3 License Number:
NC State Electrical Contractor #1 License Number:
NC State Electrical Contractor #2 License Number:
NC State Electrical Contractor #3 License Number:
NC State Plumbing Contractor #1 License Number:
NC State Plumbing Contractor #2 License Number:

Indicate which of the following project contacts should be included on this project: General Contractor, Sign Contractor



Aerial Notification Map

Case #: A23-14

Request: Variance
Freestanding sign

Location: 225 Green Street

Legend



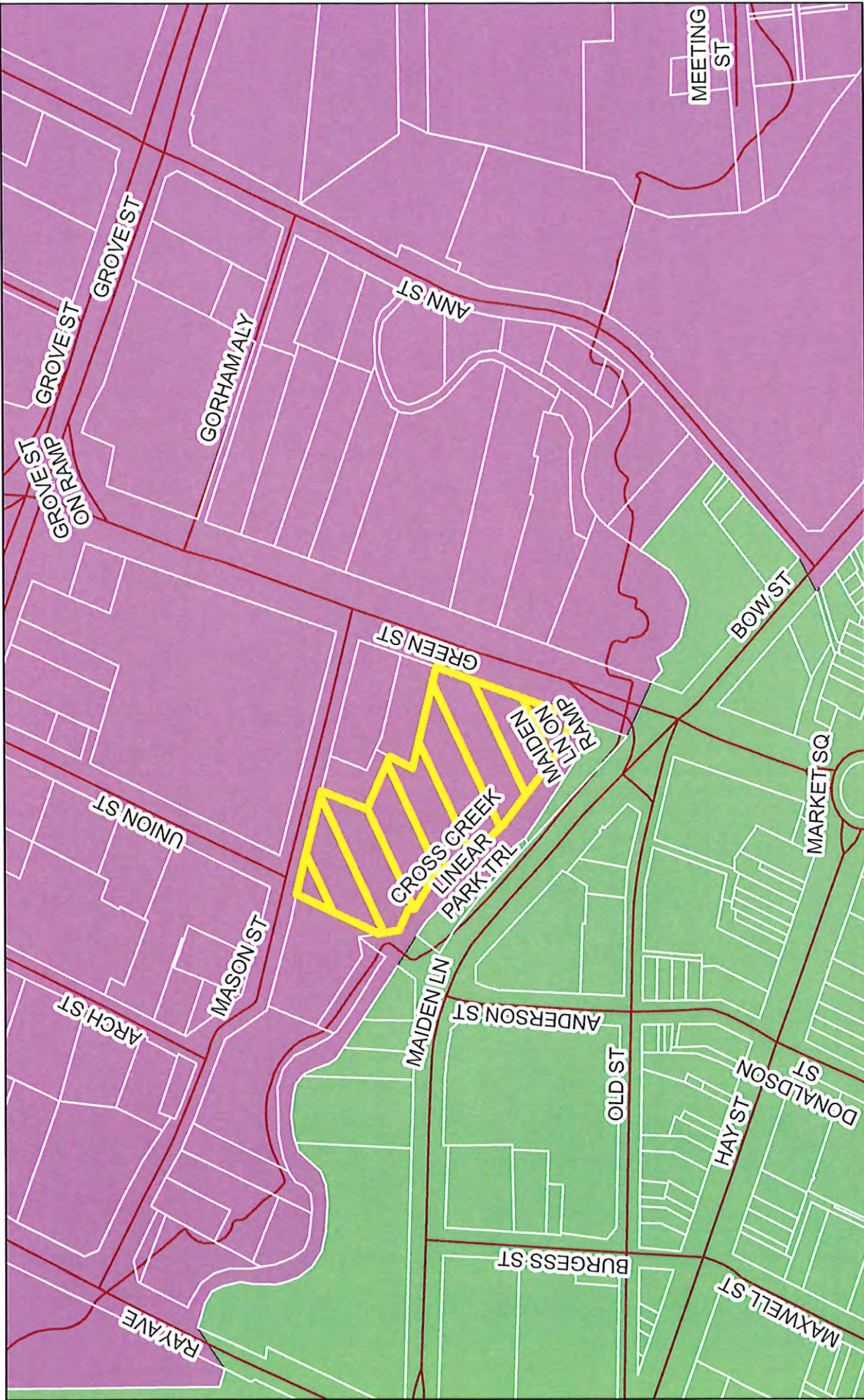
A23-14 Notification Buffer

A23-14



Letters are being sent to all property owners within the 300' buffer. Subject property is shown in the hatched pattern.








Zoning Map
Case #: A23-14

Request: Variance
Freestanding sign
Location: 225 Green Street

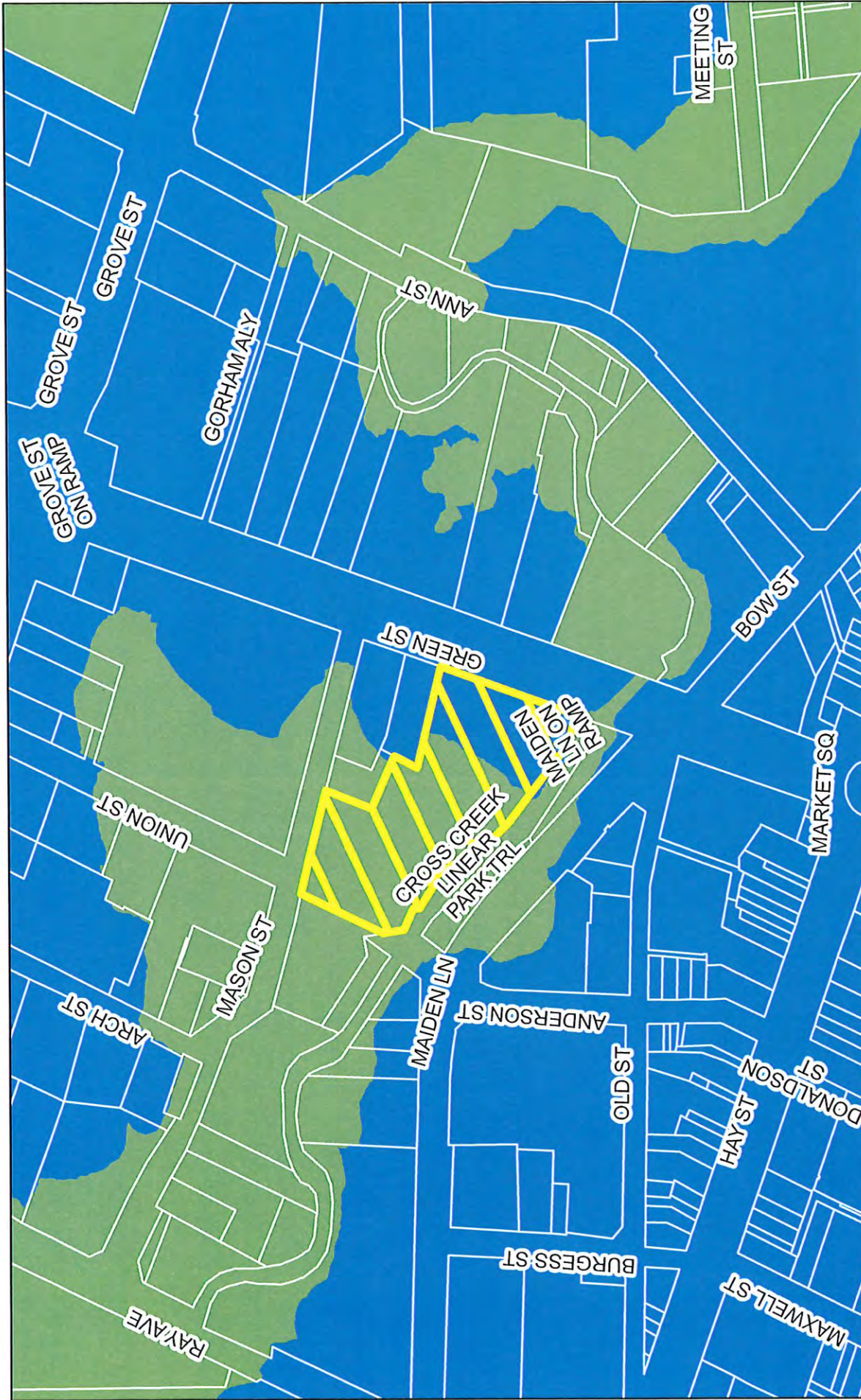
Legend

-  A23-14
- Zoning**
-  DT-1
-  DT-2



Letters are being sent to all property owners within the 300' buffer. Subject property is shown in the hatched pattern.





Land Use Map Case #: A23-14

Request: Variance
Freestanding sign

Location: 225 Green Street

Legend



A23-14

Land Use Plan 2040

Character Areas

PARKOS - PARK / OPEN SPACE

DTMXU - DOWNTOWN



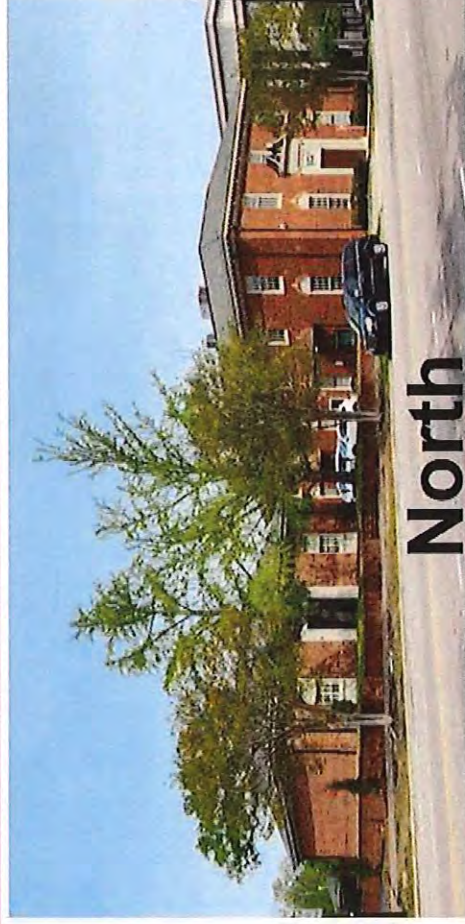
Letters are being sent to all property owners within the 300' buffer. Subject property is shown in the hatched pattern.





Subject Property







PRELIMINARY
DO NOT USE FOR
CONSTRUCTION

PROPOSED GROUND SIGN -
6.63' WIDE x 11' TALL


GREEN STREET

NOTES:

1. THIS SKETCH PLAN IS NOT A SURVEY. ALL PROPERTY BOUNDARIES SHOWN ON THIS SKETCH PLAN ARE BASED ON THE RECORD CURTAIN SURVEY FOR THE FRONT BOUNDARY. THE SKETCH PLAN SHALL BE LOCATED BY A PROFESSIONAL LAND SURVEYOR FOR ANY SIGN CONSTRUCTION TO ENSURE AT LEAST 5' SEPARATION FROM THE RIGHT-OF-WAY AND PROPOSED SIGN.
2. THE PURPOSE OF THIS SKETCH PLAN IS TO ILLUSTRATE THE PROPOSED SIGN DESIGN AND DIMENSIONS WERE PROVIDED BY OTHERS.
3. THE SIGN SHALL BE CONSTRUCTED PRIOR TO A SIGN PERMIT APPROVAL BY THE CITY OF FAYETTEVILLE PLANNING DEPARTMENT.



1 INCH = 30 FEET

| | | | |
|---|---|--|---|
| <div> <div>REVISIONS</div> <div> <div>PROPOSED</div> <div>SIGN LOCATION</div> <div>225 GREEN STREET, FAYETTEVILLE, NC</div> </div> </div> | <div> <div>CROSS CREEK</div> <div>COLUMBIA</div> <div>CUMBERLAND</div> </div> | <div> <div>  <div> <div>ENGINEERING - SURVEYING - DESIGNING - DRAFTING</div> <div>Larry King & Associates, R.L.S., P.A.</div> <div> <div>P.O. Box 53787</div> <div>1333 Morganton Road, Suite 201</div> <div>Morganton, NC 28655</div> <div>P (704) 489-4000 F (704) 483-4022</div> <div>www.lkarsa.com</div> </div> </div> <div> <div>NC FIRM</div> <div>0000000000</div> <div>C-5987</div> </div> </div> </div> | <div> <div>DATE</div> <div>3/26/2023</div> <div>PROJECTED BY</div> <div>AS NOTED</div> <div>DATE</div> <div>3/26/2023</div> <div>PROJECTED BY</div> <div>ALLISON</div> <div>2205 GREEN</div> </div> |
| | | | |

1 of 1

79.5"

225 Green Street
DOWNTOWN DISTRICT

NC DEQ

ACP

Carolina
Collaborative

Willie
Cooper, CPA

Ai Insurance

Draper Aden
Associated, INC.

Coy Brewer
Attorney

Legacy Asset
Mgmt Partners

12"

130"

8"

**CITY OF FAYETTEVILLE
STATE OF NORTH CAROLINA
ORDER TO APPROVE A VARIANCE**

To reduce the setback requirement and increase the maximum height and copy area of a freestanding ground sign located at 225 Green Street.

VARIANCE A23-14

Property Address: 225 Green Street
REID Number: 0437644914000
Property Owner: Allison Holdings LLC

The Zoning Commission for the City of Fayetteville, NC, held an evidentiary hearing on April 11, 2023, to consider a Variance request filed by Stan Futrell ("Applicant"), on behalf of Allison Holdings LLC ("Property Owners"), to reduce the setback requirement and increase the maximum height and square footage of a freestanding sign for the property located at 225 Green Street ("Subject Property").

On March 27, 2023, a notice of public hearing was mailed to the Applicant and Property Owners, and all of the owners of property within 300 feet of the Subject Property. On March 27, 2023, a notice of public hearing sign was placed on the Subject Property. On March 31 and April 7, 2023, a notice of public hearing advertisement was placed in the legal section of *The Fayetteville Observer*.

Having considered all of the sworn testimony, evidence, and oral arguments submitted at the hearing by the parties, the Zoning Commission makes the following FINDINGS OF FACT and CONCLUSIONS OF LAW:

Findings of Fact

1. Chapter 30, Article 5, Section L.9.a.7.d and Chapter 30, Article 5, Section L.8.a, of the City of Fayetteville's Code of Ordinances establishes the standards for signage in the Downtown 2 (DT-2) zoning district. These standards pertain to setbacks, sign height, and sign copy area.
2. Allison Holdings LLC is the owner of a commercially zoned property located at 225 Green Street, which contains approximately 2.56 acres \pm in the City of Fayetteville.
3. The Applicant filed an application for a Variance on March 2, 2023.
4. The Subject Property is zoned Downtown 2 (DT-2).
5. The Property Owner is requesting to reduce the setback for a freestanding sign from 10 feet to 5 feet, increase the maximum height of a freestanding sign from 7 feet to 10.83 feet, and increase the sign copy area from 20 square feet to 71.77 square feet.

6. The Applicant has the burden of proof to show that the Variance meets the following statutory requirements:

- a. Strict application of the Ordinance requirements results in practical difficulties and unnecessary hardship.
- b. Any practical difficulties or unnecessary hardships result from unique circumstances related to the land and are not the result of the actions of the landowner as shown.
- c. The Variance is the minimum action that will make possible a reasonable use of land or structures.
- d. The Variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit.
- e. In granting of the Variance, the public safety and welfare have been assured and substantial justice has been done.

7. The Subject Property is a Downtown 2 (DT-2) zoned property that is surrounded by Downtown 2 (DT-2) zoned properties to the north and east and Downtown 1 (DT-1) to the south and west.

8. The Subject Property is currently an office building with multiple tenants.

9. The Subject Property is approximately 2.56 acres and is near the intersection of Green Street and Maiden Lane.

10. This Variance addresses the Ordinance requirement for a sign to meet a 10-foot setback from the front property line, a maximum sign height of 7 feet, and a maximum sign copy area of 20 square feet.

11. Strict application of the Ordinance requirements results in practical difficulties and unnecessary hardship because the relative sign size compared to the building's size and location makes it difficult to identify the building.

12. Any practical difficulties or unnecessary hardships result from unique circumstances related to the land and are not the result of the actions of the landowner because the location of the building and sign size makes it difficult to identify the building and a taller directional sign will allow people to find the building.

13. The Variance is the minimum action that will make possible a reasonable use of land or structures because the sign will allow visitors to better see and identify the building.

14. The Variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit because the sign will be installed by a reputable sign company and the sign will be designed to mimic the building.

15. There is no evidence that the granting of this Variance would harm public safety and welfare, and substantial justice would be ensured. The larger sign will allow for more visibility and improve safety for those traveling to the building.

Conclusions of Law

1. The City of Fayetteville adopted the Unified Development Ordinance (UDO), codified under Chapter 30 of the City Code, to establish that "This Ordinance consolidates the City's zoning and subdivision regulatory authority as authorized by the North Carolina General Statutes".

2. The Applicant submitted a timely application in compliance with the UDO.

3. Notice was properly given and an evidentiary public hearing was held by the City of Fayetteville's Zoning Commission in compliance with the laws of North Carolina.

4. The City Development Services Department is responsible for the coordination and enforcement of the UDO.

5. All of the general and specific conditions precedent to the issuance of the requested Variance HAS been satisfied as:

- a. The strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships.
- b. Any practical difficulties or unnecessary hardships result from unique circumstances related to the land, and are not the result of the actions of the landowner.
- c. The Variance is the minimum action that will make possible a reasonable use of land or structures.
- d. The Variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit.
- e. The granting of the Variance assures the public safety and welfare and that substantial justice has been done.

6. Pursuant to Section 30-2.C.14.e.5, this Variance shall automatically expire if the Applicant does not record the Variance with the Cumberland County Register of Deeds within 30 days after the date the Variance is approved.

WHEREFORE, BASED ON THE FOREGOING FINDINGS OF FACTS AND CONCLUSIONS OF LAW, it is ORDERED by the City of Fayetteville's Zoning Commission that the application for the issuance of the Variance be APPROVED with no conditions.

VOTE: 5 to 0

This the 9th day of May, 2023.

PAVAN PATEL
Zoning Commission Chair

Cumberland County, North Carolina

Sworn to and subscribed before me this day by Pavan Patel

on the ____ day of _____, 2023.

(Official Seal)

Signature of Notary Public

_____, Notary Public
Printed Name of Notary Public

My Commission Expires: _____



City of Fayetteville

433 Hay Street
Fayetteville, NC 28301-5537
(910) 433-1FAY (1329)

City Council Action Memo

File Number: 23-3361

Agenda Date: 5/9/2023

Version: 1

Status: Agenda Ready

In Control: Zoning Commission

File Type: Consent

Agenda Number: 3.02

TO: Zoning Commission

THRU: Development Services, Planning and Zoning Division

FROM: Catina Evans - Office Assistant II

DATE: May 9, 2023

RE: Approval of Meeting Minutes: April 11, 2023

COUNCIL DISTRICT(S):

All

Relationship to Strategic Plan:

Strategic Operating Plan FY 2022

Goals 2026

Goal VI: Collaborative Citizen & Business Engagement

- Objective 6.2 - Ensure trust and confidence in City government through transparency & high-quality customer service.

Executive Summary:

The City of Fayetteville Zoning Commission conducted a meeting on the referenced date, which they considered items of business as presented in the draft.

Background:

NA

Issues/Analysis:

NA

Budget Impact:

NA

Options:

1. Approve draft minutes;
2. Amend draft minutes and approve draft minutes as amended; or
3. Do not approve the draft minutes and provide direction to Staff.

Recommended Action:

Option 1: Approve draft minutes.

Attachments:

Draft Meeting Minutes: April 11, 2023

CITY OF FAYETTEVILLE
ZONING COMMISSION MEETING
APRIL 11, 2023

Held At: FAST Transit Center
Community Room
505 Franklin Street
Fayetteville, North Carolina

BOARD PRESENT:

Commission Chair: Pavan Patel
Members: Kevin Hight, Alex Keith,
Phillip McCorquodale, Justin Herbe,
Clabon Lowe, Roger Shah

Development Services present:

Craig Harmon - Senior Planner
Heather Eckhardt - Planner II
Demetrius Moutos - Planner I
Clayton Deaton - Planning Manager
Joseph Senn - Zoning Administrator
Lisa Harper - Asst. City Attorney

1 CHAIRMAN PATEL: The meeting will now come to
2 order. Welcome to this meeting of the Fayetteville
3 Zoning Commission on April 11, 2023. My name is Pavan
4 Patel, and I am the chair of the Board. If the Board
5 members will please go around and state their name for
6 the record

7 MR. SHAH: Roger Shah.

8 MR. LOWE: Clabon Lowe.

9 MR. HERBE: Justin Herbe.

10 MR. MCCORQUODALE: Phillip McCorquodale.

11 MR. KEITH: Alex Keith.

12 MR. HIGHT: Kevin Hight.

13 CHAIRMAN PATEL: We'll follow the order
14 printed on the Agenda. A copy of the Agenda can be
15 found on the table in the back of the room. All
16 individuals wishing to speak as a witness should have
17 signed up prior to the meeting starting.

18 Is there a motion to approve tonight's --

19 MR. HIGHT: So moved.

20 CHAIRMAN PATEL: Do we have a second?

21 MR. KEITH: Second.

22 CHAIRMAN PATEL: All in favor?

23 (All respond aye.)

24 CHAIRMAN PATEL: Agenda approved. Do we have
25 a motion to approve the Consent Agenda?

1 MR. HIGHT: So moved.

2 CHAIRMAN PATEL: Do we have a second?

3 MR. SHAH: Second.

4 CHAIRMAN PATEL: All in favor.

5 (All respond aye.)

6 CHAIRMAN PATEL: Motion approved.

7 We will now open the evidentiary hearing for
8 case A23-14. The Applicant has requested a variance.
9 The property is located at 225 Green Street. A 4/5
10 vote of the Board is required to grant a variance.

11 This variance is a quasi-judicial evidentiary
12 hearing. That means it is like a court hearing. State
13 law sets limits and specific procedures and rules
14 concerning how this Board must make its decision.
15 These rules are different from other types of land use
16 decisions, like rezoning cases.

17 The Board's digression is limited. The Board
18 must base its decision upon competent, relevant and
19 substantial evidence in the record. A quasi-judicial
20 decision is not a popularity contest, it is a decision
21 constrained by the standards and the ordinance and
22 based on the facts presented.

23 If you will be speaking as a witness, please
24 focus on the facts and standards, not personal
25 preference or opinion. Participation is limited. This

1 meeting is open to the public, everyone is welcome to
2 watch. Parties with standing would have rights to
3 participate fully. Parties may present evidence, call
4 witnesses and make legal arguments. Parties are
5 limited to the Applicant, the local government and the
6 individuals who can show they will suffer special
7 damages. Other individuals may serve as witnesses when
8 called by the Board.

9 General witness testimony is limited to
10 facts, not opinions. For certain topics this Board
11 needs to hear opinion testimony from expert witnesses.
12 These topics include projections about impacts on
13 property values and projections about impacts of
14 increased traffic. Individuals providing expert
15 opinion must be qualified as an expert and provide the
16 factual evidence upon which they base their expert
17 opinion.

18 Witnesses must swear or affirm their
19 testimony. At this time we would administer the oath
20 for all individuals who intend to provide witness
21 testimony.

22 (Whereupon, all witnesses were called upon, duly
23 sworn by Lisa Harper, Esquire.)

24 CHAIRMAN PATEL: The parties to this case are
25 entitled to an impartial board. A Board member may not

1 participate in this hearing if she or he as a fixed
2 opinion about this matter, financial interest in the
3 outcome of the matter or close relationship with the
4 affected person.

5 Does any Board member have any partiality to
6 disclose and refusal to offer?

7 (No response.)

8 CHAIRMAN PATEL: Thank you. At this time we
9 will begin with staff presentations for case A23-14.

10 MS. ECKHARDT: Good evening. My name is
11 Heather Eckhardt, Planner II, here at the City of
12 Fayetteville. This is A23-14 for 225 Green Street.
13 Most everyone is going to know that as the Systel
14 Building at this point.

15 They are requesting a sign variance. There's
16 three standards they are requesting. One is to reduce
17 the setback requirement, and then the others are to
18 increase the maximum height of the sign and increase
19 the square footage of the sign. This will be a
20 freestanding ground sign.

21 Normally I'd show you a map of where the
22 building's at, I don't have that tonight, but you
23 should all know where Systel is. It was recently
24 rezoned to DT2 as part of our expansion of the downtown
25 area. The Future Land Use Plan calls for that entire

1 area to continue to develop as downtown mixed use with
2 open space interspersed, all of which is located in the
3 flood plain.

4 Again, I had a pretty picture of the building
5 and the existing sign, I don't have that. They are
6 surrounded by some office buildings, legal offices.
7 The Linear Park trail runs alongside their building. I
8 had a site plan and pictures of the sign for you, I
9 don't have that now. But I can go over, again, the
10 variances that they are requesting regarding setbacks,
11 height and size.

12 The UDO --

13 MS. HARPER: Ms. Eckhardt, they are in the
14 packages that the commissioners have?

15 MS. ECKHARDT: Yes.

16 MS. HARPER: So they can look there?

17 MS. ECKHARDT: Correct.

18 MS. HARPER: Thank you.

19 MS. ECKHARDT: So, the UDO requires a minimum
20 setback of 10 feet for ground signs. They are
21 requesting to reduce that setback to 5 feet. The
22 ordinance limits the maximum height to 7 feet in this
23 zoning district, and they are requesting a new maximum
24 height of 10.8 feet. And the copy area in this
25 district is 20 square feet, and they are requesting a

1 variance to go up to 71.77 square feet.

2 So, as far as options go, Commission can
3 choose to approve all three standards they are
4 requesting a variance for or a combination of the three
5 or they can choose to deny.

6 So we have one screen. So, again, the Systel
7 Building. I think we are good there. Zoning, land
8 use. This looks pitiful. But this is the existing
9 sign they have that they are trying to replace. As you
10 can see, it only holds two sign faces right now, and
11 they have far more tenants than that.

12 Surrounding properties. To the left is the
13 site plan showing where they intend to place the sign.
14 This is a rendering of the sign roughly showing where
15 they plan to locate it and what the sign will look
16 like. And, again, as we'll -- it's probably easier to
17 read, so I'll leave these up here for you for a second,
18 the setback standards they are requesting to vary from.

19 I think that's all for staff's presentation.
20 We ask that you hold any questions for staff until
21 after the evidentiary hearing.

22 CHAIRMAN PATEL: Thank you. At this time
23 we'll go ahead and open the evidentiary hearing to call
24 the witnesses.

25 Do we have the first witness? If you don't

1 mind just stating your name, address and relationship
2 to this case.

3 MS. EPLER: Good evening. I'm Lori Epler
4 with Larry King & Associates. We've been hired by
5 Mr. Keith Allison, the owner of this property, and
6 Mr. Stan Futrell, who is their management --
7 managing -- the property manager.

8 As you said, they do want to replace the
9 existing sign with a new sign. This building, you all
10 know, used to be the Wachovia Building and then it was
11 the Systel Building, now it's going to be the Dogwood
12 Bank Building. That announcement was made just
13 recently.

14 The area where they want to put the sign, I
15 just want to make sure you understand because we are
16 asking for a variance to the setback, which is
17 typically 10 feet. We are asking for a variance of 5
18 feet. That driveway that is right beside that sign is
19 an entrance only, it is not an exit. So I just want to
20 make sure I call it to your attention that this is not
21 going to prohibit anyone from seeing oncoming traffic
22 if they were to try and go out. They do not go out
23 that exit, it is an entrance only.

24 I will go over the findings of fact as
25 submitted by the owner. Those -- No. 1, we have to

1 prove there's sufficient evidence that the strict
2 application of the ordinance requirements results in
3 practical difficulties and unnecessary hardships.
4 Currently, customers of the building's tenants have a
5 hard time finding the address of 225 Green Street.

6 The owners have to tell them, when they call
7 looking for a tenant, to look for the -- to look for
8 the black glass 11-story building near the Market House
9 traffic circle. That's how they get people to that
10 building. They feel that a larger sign located near
11 the main entrance on Green Street would solve this
12 directional problem, especially if the signage was
13 taller and looked similar to the building.

14 No. 2, there's sufficient -- sufficient
15 evidence that any practical difficulties or unnecessary
16 hardships result from unique circumstances related to
17 the land and are not the result of the actions of the
18 landowner, as shown by this evidence.

19 The owner finds that the City parking along
20 Green Street is probably one of their largest problems.
21 It doesn't allow customers to see the building
22 entrance, the parking entrance or the address on the
23 front of the building. Taller directional signage
24 along the Green Street entrance would allow the public
25 to find them much easier.

1 There's sufficient evidence that -- No. 3,
2 there is sufficient evidence that the variance's
3 minimum action will make possible a reasonable use of
4 land or structures. So, the Applicant feels like that
5 the proposed signage by the main Green Street entrance
6 would be a great help in directing customers to the
7 proper location.

8 No. 4, there's sufficient evidence that the
9 variance is in harmony with the general purpose and
10 intent of the ordinance and preserves its spirit, as
11 shown by the evidence. The new signage would be
12 tastefully done to blend in with the downtown area and
13 would appear as a taller sign to direct customers to
14 their appointments within the tallest building in
15 Fayetteville.

16 No. 5, there's sufficient evidence that in
17 the granting of the variance the public safety and
18 welfare has been assured and substantial justice has
19 been done by the evidence. Their evidence for this is
20 the signage would be installed by Fast Signs of
21 Fayetteville, who is a reputable sign company, in an
22 area near the main parking entrance as to safely direct
23 customers to the location of 225 Green Street.

24 In addition to those findings of fact, I just
25 want to add that the UDO states, with regard to section

1 30L, "Signage," the purpose of this section is to
2 provide standards to safeguard life, public health,
3 safety, property and welfare by guiding, coordinating
4 and regulating the type, number, placement and scale of
5 signs referenced to different zoning districts, as well
6 as the quality of material construction, erection,
7 alteration, illumination, display, use, maintenance and
8 removal of signs in the City.

9 In addition, the purpose of this section is
10 to, No. 1, ensure the signage is sufficiently visible
11 to the public for which it is intended. That's the
12 main goal of this property owner. The proposed
13 location is the optimal one on this site. We've looked
14 at that property from the street, we've looked at it
15 internally, this is -- the proposed location is the
16 best location for that sign to give the public an idea
17 of what they are looking for and if it is in that
18 building.

19 The street parking and planning makes it
20 difficult to be seen anywhere else. Any signage on the
21 front of the building would only be seen within direct
22 view of the front door, and having names of all the
23 tenants in the building would help significantly to
24 inform the public of businesses located in that
25 building.

1 One of the other purposes of this section is
2 to ensure that signage reflects and compliments the
3 character of the location where it is installed. The
4 signage will mimic the style and materials of the
5 Systel Building, now the Dogwood Bank Building.
6 Another one, established standards in keeping with the
7 state of the art technology and materials. Again, the
8 sign will be similar in materials to the building,
9 which is very state of the art. Probably one of the
10 most -- one of the most, still, in the City of
11 Fayetteville.

12 Another purpose, coordinate and balance the
13 location of signage with other site features, including
14 site lighting and landscaping, in order to minimize
15 conflict and ensure adequate visibility of installed
16 signage. Like I said, this proposed location of this
17 sign is the best location, it wouldn't interfere with
18 the parking lot. If we push that sign back to 10 feet,
19 they are going to lose a prime parking space in their
20 parking lot.

21 Another purpose, enhance the esthetic
22 vitality of the City of Fayetteville by allowing and
23 promoting creative sign design. Since this building is
24 the tallest building in Fayetteville and has 117,350
25 square feet of leasable area, I would hope that some

1 creative leeway could be given in the design of the
2 sign, especially given there are two major government
3 agencies as well as other businesses located there.

4 The last one, establish clear requirements
5 and incentives for the effective display of addresses.
6 The prominent thing on the top of this sign is going to
7 be "225 Green Street." Right now, someone who is not
8 familiar with Fayetteville, be it the public, a new
9 employee in that building or an emergency responder, if
10 they did not know that address was the Systel Building
11 they wouldn't be able to find it because everything is
12 hidden. That's on the very top of this sign. One of
13 the largest things you're going to see on that sign is
14 the address. So the added height, because that address
15 is at the top of that sign, that's the first thing
16 people are going to see, especially emergency
17 responders.

18 So these are the majority of the purposes of
19 the section in the ordinance and ones that we feel will
20 adhere to in this request. With me is Mr. Stan
21 Futrell, he can answer any additional questions that
22 you might have. But if there's anything about what
23 I've presented, I will be glad to answer those.

24 CHAIRMAN PATEL: Thank you.

25 MR. SHAH: Where is the current sign now? Is

1 it ten foot back?

2 MS. EPLER: It is. It is pretty much back
3 close to the building. And it is a small sign,
4 probably about 4 feet tall.

5 MR. FUTRELL: About 4 1/2 feet tall, yeah.

6 MR. SHAH: So you would remove that sign and
7 then put it 5 feet back from the road?

8 MS. EPLER: Yes, sir. And it's going to be
9 put in a different location, it's going to be up on the
10 other side of the building.

11 MR. SHAH: I'm just curious, the previous
12 slide says copy area. What is the copy area?

13 MS. EPLER: That's the actual words that are
14 written on the sign with the tenants' names who are in
15 that building.

16 MR. SHAH: Okay. So can we go to the
17 previous slide?

18 MS. EPLER: This does not count toward the
19 copy area, it's all the rest of the ones on it that
20 does.

21 MR. SHAH: Okay. Are there only 20 words
22 allowed, that's all?

23 MS. EPLER: There's only 20 square feet
24 allowed.

25 MR. SHAH: Only 20 square feet.

1 MS. EPLER: That's 2 X 10.

2 MR. SHAH: And then I guess you were reading
3 the ordinance, right, which is not part of our package.
4 Where did that material come from, from the City books?

5 MS. EPLER: Yes, sir. That's in the
6 ordinance. That's the purpose of the sign ordinance.

7 MR. SHAH: Because it's not in here. Okay.
8 Thank you.

9 MS. EPLER: Thank you.

10 MR. HIGHT: Is this exactly what it's going
11 to look like?

12 MR. FUTRELL: Yes.

13 MS. EPLER: Yes, sir.

14 MR. HIGHT: I mean the color and everything.

15 MR. FUTRELL: No, it won't be grey, it will
16 be the bronze to match the building.

17 MR. HIGHT: Because you talked about leeway
18 to have a creative sign, but this doesn't appear to be
19 fairly creative. So what were you thinking -- or what
20 were you thinking about when you said that?

21 MS. EPLER: I will let Mr. Futrell -- he's
22 working with the sign folks.

23 MR. FUTRELL: This is the design we had come
24 up with with Fast Signs. They came to us with an arch
25 on the top, but the owners like the square because it

1 mimics the building.

2 MR. HIGHT: Okay. Thanks.

3 MR. SHAH: How many tenants do you have? I
4 mean, it's a big building.

5 MR. FUTRELL: Right now we have 25, but we
6 have two vacant floors that we're courting some other
7 tenants to come into.

8 MR. SHAH: I don't have any other questions.

9 CHAIRMAN PATEL: Thank you. Are there any
10 other speakers?

11 MR. SENN: We have one more speaker, Mr. Stan
12 Futrell.

13 MR. FUTRELL: That's me. I don't have
14 anything to add to what Lori said.

15 CHAIRMAN PATEL: Are there any other
16 questions from the Board right now?

17 (No response.)

18 CHAIRMAN PATEL: We'll go ahead and close the
19 evidentiary hearing. Go ahead and open it up for any
20 discussion, questions for staff.

21 MR. KEITH: Are we going to open it?

22 CHAIRMAN PATEL: I think the sign makes
23 sense.

24 MR. HIGHT: Well, the most convincing
25 argument to me is when they showed the building from

1 across the street, you can't even seen the sign that's
2 there.

3 MR. KEITH: Yeah, we were all asking -- we
4 all asked the question, "Where is the sign currently?"
5 and we've all been by that building who knows how many
6 times.

7 CHAIRMAN PATEL: Can you just --

8 MS. HARPER: Can you all speak up so the
9 stenographer can hear you? It will be on record and
10 she can get accurate minutes, please. So when you
11 speak -- if you'll speak up, speak one at a time, then
12 she'll be able to determine who is saying what during
13 the discussion. Thank you.

14 MR. KEITH: I'll repeat my statement. I
15 think it kind of says it all with this, but I think at
16 least two of us asked, "Where exactly is the sign
17 located now?" and we all in here have been by that
18 building probably, I would imagine, at least a few
19 dozen times, each one of us. And I think that pretty
20 much is evidence there that the sign is not large
21 enough.

22 CHAIRMAN PATEL: Can you -- do you mind,
23 Ms. Eckhardt, walking us through the options?

24 MS. ECKHARDT: Sure. So option 1 would be to
25 approve the variance for all three standards they are

1 requesting, so setback, height, square footage, also
2 known as copy area. Option 2 would be to approve any
3 combination of those three items. Option 3 would be to
4 approve with conditions. And then, of course, option 4
5 is to deny the variance.

6 MR. HIGHT: Mr. Chairman?

7 MR. SHAH: I --

8 MR. HIGHT: I'm sorry. I would just say, it
9 seems to me these variances are either going to be all
10 or nothing, because I don't know how you can give two
11 of them and not the third. You know what I'm saying?
12 Because the way the square footage is going to have to
13 work, they are all going to have to be -- which is
14 fine. So I would suggest we just really consider
15 either all of them or some limitations of some kind or
16 not.

17 MR. SHAH: I have one more question. Who
18 permits the copy area? I am trying to get a copy area,
19 city tells the businesses "This is your copy area," or
20 who tells --

21 MS. ECKHARDT: Who determines what is
22 considered to be signage?

23 MR. SHAH: Right.

24 MS. ECKHARDT: The ordinance outlines that.
25 So --

1 MR. SHAH: This size building, 20 square
2 feet?

3 MS. ECKHARDT: Correct.

4 MR. SHAH: And the City decides that?

5 MS. ECKHARDT: It's part of the ordinance.

6 MR. SHAH: Part of the ordinance.

7 MS. ECKHARDT: It's a text amendment that --

8 MR. SHAH: It is over 100,000 square feet
9 building, right?

10 MS. ECKHARDT: Probably.

11 MS. EPLER: 117,350.

12 MR. SHAH: In just 20 square feet? I mean, I
13 don't know how that's --

14 CHAIRMAN PATEL: Is there -- that's the only
15 pitch into the discussion. Are there any motions?

16 MR. MCCORQUODALE: I have a question. Madam
17 Attorney, since most all of them -- I just want to
18 clarify this based on everything that was brought up.
19 If we allow all three -- and of course, based on -- I
20 agree with Rog -- all 30.5 sections within that
21 dictates why they are asking for these variances, which
22 was covered in the findings of fact. If a motion is
23 made, is it okay to enter for record, based on the
24 presentation, all the findings of fact instead of going
25 through them again, or would that need to be gone

1 through again?

2 MS. HARPER: There was a lot of information
3 that was given. So in your findings it is preferable,
4 when you make your motion and when you're going through
5 the standard, that you list those things which you
6 think support that particular finding of fact.

7 MR. McCORQUODALE: Thank you, ma'am.

8 MS. HARPER: You can make one motion if
9 it's -- if it's -- if you want to move to approve all
10 three variances requested, you can do that in one
11 motion. But the information that you derived from the
12 presentation that was given needs to be articulated for
13 each finding of fact.

14 MR. McCORQUODALE: Thank you, ma'am.

15 MR. KEITH: I would like to make a motion
16 that we approve the variance requested in whole for
17 case A23-14, including the reduction of setback from 10
18 to 5 feet, as well as the height requirement from 7 to
19 10.83 feet, and the copy area increased from 22 to
20 71.77 square feet.

21 The finding of facts on this one showed
22 sufficient evidence that the strict application of the
23 ordinance requirement results in practical difficulty,
24 unnecessary hardship, and that is shown by --

25 THE REPORTER: Please speak up a little bit

1 more.

2 MS. HARPER: Mr. Keith, you're going to have
3 to speak up loud.

4 MR. KEITH: I think the most relevant piece
5 of information that Ms. Epler gave was the relative
6 sign size compared to the building size.

7 Then, moving forward, the second parameter is
8 that there's sufficient evidence that practical
9 difficulty or unnecessary hardship results from
10 circumstances related to the land and not as a result
11 of the actions of the landowner. With taller
12 directional signage on Green Street, it would allow
13 customers to find the building that currently seems
14 like, based on the evidence given, that it has been an
15 issue.

16 No. 3, there's sufficient evidence the
17 variance is -- the minimum action that will make
18 possible a reasonable use of land or structure, as
19 shown by the evidence also Ms. Epler brought up, which
20 indicated along the same lines that it would allow for
21 proper -- proper direction of vehicles entering in.

22 Then, No. 4, there's also sufficient evidence
23 that the variance is in harmony with the general
24 purpose and intent of the ordinance -- of the ordinance
25 and preserves the spirit. And that's based on she

1 indicates it's going to be done by Fast Signs, for one,
2 and also it's -- as it was laid out, that it's going to
3 be done in kind of a frame of the building, that square
4 with the same metallic look.

5 Then, finally, there is sufficient
6 evidence -- No. 5, there's sufficient evidence to grant
7 the variance based on public safety and welfare has
8 been assured and substantial justice has been done, as
9 shown by a similar fact that it's a larger sign for
10 more visibility and also the fact that Fast Signs is
11 going to do it, a very reputable company. It will --
12 it appears it will help with safety of travel coming in
13 the facility. So that is finding of facts on my
14 motion.

15 CHAIRMAN PATEL: Thank you.

16 MR. SHAH: I would second the motion.

17 CHAIRMAN PATEL: Thank you. All in favor.

18 MR. MCCORQUODALE: Mr. Chair, before you take
19 a vote, I have got one quick -- and it may be a framing
20 of No. 2, if -- where it says increase permitted height
21 from 7 feet to 10.83 feet, on the last page on the site
22 design they have got it at 11 feet. Could that be an
23 easy amendment? I'm going by -- if you've got that
24 last page, it's gotten -- I mean, I know it says 10.83
25 there, but it had 11 on the -- if that's going to cause

1 an issue if you're asking for 11 feet. It's just a
2 small calculation.

3 MR. HIGHT: Can we clarify that with the
4 Applicant?

5 MR. KEITH: It's 10.83, 130 inches.

6 MR. SHAH: 130 inches, right?

7 MR. KEITH: Yeah 10.83.

8 MS. EPLER: The actual rendering of the sign
9 is what we're asking for. It's 10.83.

10 MR. MCCORQUODALE: I just wanted to clarify.
11 Thank you.

12 CHAIRMAN PATEL: Thank you. So we have a
13 motion. A second?

14 MR. SHAH: Second.

15 CHAIRMAN PATEL: All in favor.

16 (All respond aye.)

17 CHAIRMAN PATEL: Any opposed?

18 (No response.)

19 CHAIRMAN PATEL: None. Motion approved.
20 Thank you.

21 The Zoning Commission is charged with the
22 review of applications for rezoning, conditional
23 rezoning and special use permits. We review according
24 to standards put forth in the UDO and ultimately make
25 recommendations to the City Council.

1 The burden of demonstrate -- demonstrating
2 that an application -- excuse me. The burden of
3 demonstrating that an application complies with
4 applicable standards is on the applicants. Our job is
5 to listen to the testimony from both sides, be
6 objective and fair at all times. Ultimately our goal
7 is to preserve the character, integrity of our
8 neighborhoods.

9 The finding of tonight's hearing will be
10 voted upon by this Commission and the result and
11 recommendations passed on to the City Council. The
12 extent of which any person feels aggrieved or hurt by
13 our recommendation, they have the right to appeal to
14 City Council within ten days of the recommendation.

15 With respect to your presentation, each side
16 has a total of 15 minutes to present their case, either
17 for or against the Applicant's request.

18 The parties to this case are entitled to an
19 impartial board. A Board member may not participate in
20 this hearing if she or he has a fixed opinion about
21 this matter, financial interest in the outcome of the
22 matter, or a close relationship with the affected
23 person. Does any Board member have any partiality to
24 disclose and refusal to offer?

25 (All respond no.)

1 CHAIRMAN PATEL: Thank you. The parties to
2 this case have rights for any ex parte communication to
3 be disclosed. Ex parte communication is any
4 communication about the case outside of the hearing.
5 That may include site visits as well as conversations
6 with parties, staff or general public. Does any Board
7 member have any site visits or communications to
8 disclose?

9 (All respond no.)

10 CHAIRMAN PATEL: Thank you. At this time we
11 will begin with staff presentations for case P23-11.

12 MR. MOUTOS: Good afternoon, everyone. My
13 name is Demetrius Moutos. I am a Planner I here with
14 the City of Fayetteville.

15 This case is located at 1682 and 1662 Middle
16 River Loop Road, which is just right across 95 from
17 Fayetteville Community Church. They -- Applicant is
18 requesting initial conditional zoning of two parcels to
19 heavy industrial conditional zoning in conjunction with
20 the petition for annexation into the city's corporate
21 limits. The reason for this request is to enable the
22 existing use of a telecommunications contractor to
23 continue, and then to facilitate, eventually, with the
24 annexation, connection of water and sewer services.

25 It's important to note that the use that they

1 are going for -- that they currently have is a use
2 that's, by rights, in the HI zoning district, hence the
3 request to rezone parcels -- initially zone the parcels
4 to heavy industrial.

5 The subject property is east of the Cape Fear
6 River and adjacent to Larry's Sausage to the east,
7 which is already currently within the City limits. A
8 couple of -- I guess last month there was actually the
9 property on the other side of Larry's Sausage, Kubota,
10 came through for initial zoning as well.

11 Across I-95, again, is Fayetteville Community
12 Church. To the west of the subject property is zoned
13 Cumberland County Plan Commercial. Across 95 to the
14 south is single family tenants, again, within the City
15 limits. Larry's Sausage, again, is already zoned heavy
16 industrial, it is right to the east -- directly to the
17 east. And then to the north is Cumberland County NP
18 zoning, which allows for industrial uses.

19 The Future Land Use Plan calls for the
20 parcels in question and the surrounding areas to be an
21 employment center, which include larger industrial uses
22 or business parks under the industrial employment
23 center designation. Here's a photo of the subject
24 property. Again, right across from I-95.

25 To the north of the site there's a 16-acre

1 lot owned by Carolina Sun Investment, LLC, which is
2 currently being used as open storage. Towards the
3 east, again, is Larry's Sausage, which is a facility
4 for meat processing and distribution. Since the site
5 is located adjacent to 95 on Middle River Loop, there
6 are no direct developments to the south, but, again,
7 across from the highway there is Fayetteville Community
8 Church. And then to the west there's three parcels of
9 land that are occupied by Star Electric Company,
10 Fulcher Electric, which is a traffic signal company,
11 Truck Tire Pro and Heritage Shutters. This is a
12 survey.

13 This is just the annexation map to attach the
14 annexation. Once we get into the conditions we can
15 come back to this, but you can see here that they very
16 clearly have some issues with what would be building
17 setbacks in the City, which is to be expected with
18 annexed properties. Just so everybody is aware.

19 So, again, while the proposed zoning would
20 allow for the existing use to continue, the site does
21 not currently conform to HI zoning standards. And, I
22 guess, I pretty much already covered this in some of
23 the other slides. So we'll get to the specifics of the
24 conditional zoning that are listed here.

25 The Applicant wants to ensure that the

1 existing building setbacks from the adjoining property
2 lines, as well as the interior property line, remain as
3 they currently exist on the site. And they want to
4 ensure that the exiting use areas on the site remain as
5 they currently exist and functional.

6 Three, the existing setback from the private
7 street right-of-way remain as they currently exist,
8 that the loading docks on the building at 1662 remain
9 as they currently exist and function without additional
10 screening. And, five, the existing access points, the
11 used areas, the parking around the site, remain, again,
12 as they currently exist.

13 The takeaway from this, the purpose of these
14 conditions is to make sure that any unforeseen damages
15 to the property does not prevent the property owner
16 from rebuilding according to the existing site
17 conditions -- existing current site conditions. If
18 there are any changes made to the interior or exterior
19 of the property, including remodeling, additions or
20 expansions, then the rules outlined in sections 30-7F1
21 and 30-7F2 must be followed. These are non-conformity
22 sections.

23 Additionally, if there's any change in how
24 the property is being used, as stated in 30-7F3, the
25 entire site must comply with off-street parking,

1 landscaping, perimeter buffers, screening and open
2 space standards. For any future expansions,
3 developments or changes on the site, they will need to
4 comply with current development standards to gradually
5 bring the property into compliance.

6 Professional planning staff is recommending
7 that you all move to approve the proposed map
8 amendments to initially -- to conditionally zone the
9 parcels to HI/CZ based on the fact that the proposed
10 map amendment adheres to the policy as outlined in the
11 Future Land Use Plan and can be made to conform with
12 the provisions found in the UDO. Future Land Use Plan,
13 again, calls for the subject parcel to be developed as
14 industrial/employment center, and the proposed zoning
15 district allows for uses that fit this category.

16 Two, the proposed zoning districts already
17 exist east of the site and would promote economical and
18 commercial development consistent with Goal No. 2,
19 Future land use goals.

20 Then, finally, the proposed zoning district
21 promotes logical and orderly development that would
22 make no substantial impact upon the public health,
23 safety or general welfare.

24 Here are your three options: Approve the map
25 amendment as presented, based on the evidence submitted

1 and the five conditions previously listed, which I can
2 go back to. Recommend approval of the map amendment to
3 a more restricted zoning district, again, based on the
4 evidence and the same five conditions. And then,
5 three, recommend denial. Pretty basic options there.

6 That's it for staff presentation. Please
7 save the questions for after the legislative hearing.
8 I can go back to any slide anybody wants to see.

9 CHAIRMAN PATEL: Thank you. How many
10 speakers?

11 MR. SENN: There are two speakers here,
12 Mr. Chairman.

13 CHAIRMAN PATEL: At this time we will go
14 ahead and open the legislative hearing. Do we have our
15 first speaker?

16 MR. SENN: First speaker in favor is
17 Mr. Charles Horne.

18 MR. HORNE: I don't have anything to add. I
19 would say, if you have questions about the use of the
20 property, we have been there for 20-plus years, at
21 least, operating as a wireless communications
22 contractor, and the business next door is currently
23 Blue Ridge -- Blue Ridge Power, which develops solar
24 electrical fields and things of that nature. I'm one
25 of the property owners, my father owns the other

1 adjacent property that is being requested for zoning
2 and it's relative attachment to sewer.

3 MS. HARPER: Sir, can you please give your
4 name and spell it for the stenographer? She needs to
5 know -- give your address and your relationship to the
6 case. I'm assuming you're one of the property owners.

7 MR. HORNE: I am, yes, ma'am.

8 MS. HARPER: If you can give your address,
9 please, so we can have it for the record.

10 MR. HORNE: I would be glad to. Charles E.
11 Horne, 1134 Offshore Drive, Fayetteville, North
12 Carolina is my home address. The property address is
13 1682 Middle River Loop, which I'm the property owner
14 for.

15 CHAIRMAN PATEL: Thank you, sir. Do we have
16 any other speakers?

17 MR. SENN: Yes, Mr. Chairman. The next
18 speaker is Mr. Jimmy Kizer.

19 MR. KIZER: Good evening. Jimmy Kizer, 115
20 Broadfoot Avenue, Moorman, Kizer & Reitzel Engineers.

21 Just to follow-up with the staff comments and
22 Mr. Horne's comments, this is an annexation-driven
23 request in order to get access to public water and
24 sewer for the business. The business has been
25 successful and is growing and they need access to

1 public utilities.

2 The conditions, as outlined by Demetrius, are
3 basically in response to the site not meeting current
4 UDO standards as far as building setbacks with the
5 interior property lines and the private street that
6 goes along the side of the site. So, in order to keep
7 things as is, we -- we came up with these conditions to
8 make sure that Mr. Horne's business can keep moving
9 along as it currently is. We don't have to do a whole
10 lot of changes in order to come into the City of
11 Fayetteville.

12 Other than that, I will be happy to answer
13 any questions that any members of the Board may have.

14 CHAIRMAN PATEL: Thank you, Mr. Kizer. Are
15 there any other speakers?

16 MR. SENN: There are no more speakers,
17 Mr. Chairman.

18 CHAIRMAN PATEL: At this time I will go ahead
19 and close the legislative hearing.

20 Are there any questions from the Board for
21 staff or the Applicants?

22 (No response.)

23 CHAIRMAN PATEL: Any discussion?

24 (No response.)

25 CHAIRMAN PATEL: Any motions?

1 MR. SHAH: I'll make a motion. I'll make a
2 motion to approve the conditional zoning of the two
3 parcels requesting annexation to heavy industrial
4 conditional located at 1682 Middle River Loop Road
5 based on the consistency and the reasonableness
6 statements provided by the City's professional staff.
7 Is that good?

8 MS. HARPER: Yes.

9 CHAIRMAN PATEL: Thank you. I'll second.

10 MR. MOUTOS: I don't know if it matters too
11 much, but it's technically two property addresses. One
12 parcel is kind of within the other.

13 MR. SHAH: I said two parcels.

14 MR. MOUTOS: I only heard one address.

15 MR. SHAH: Two contiguous parcels totaling
16 4.6.

17 MR. MOUTOS: Okay.

18 MR. SHAH: Sorry.

19 CHAIRMAN PATEL: Thank you. I'll second
20 Mr. Shaw's motion.

21 Do we have a vote in favor? All in favor?

22 (All respond aye.)

23 CHAIRMAN PATEL: Any against?

24 (No response.)

25 CHAIRMAN PATEL: Motion approved.

1 MR. HORNE: Thank you.

2 CHAIRMAN PATEL: We will now proceed with
3 staff presentation for case P23-12.

4 MS. ECKHARDT: All right. Case P23-12 is a
5 rezoning request submitted by Michael Adams of MAPS
6 Surveying for the property owners, which are LEF, LLC
7 and J & K General Contractor, Inc. The subject
8 properties are located at 0 Graham Road and 6677 Bailey
9 Lake Road for a total of 5.56 acres.

10 They are requesting to rezone from SF-10,
11 single family 10, to mix residential 5, MR-5. Aerial
12 photos of the subject property on Bailey Lake Road.
13 Just north of the subject property is Fire Station 17
14 and the fairly new Bailey Lake Dog Park, if you're
15 familiar with those. And just to the south, the
16 subdivision here is Arran Lakes West, just for point of
17 reference.

18 So, subject property is currently zoned
19 SF-10. As you can see, everything around it is. But I
20 will point out this property here was developed prior
21 to the UDO as apartments, and these lots here were also
22 developed prior to the UDO as duplexes. That will come
23 up here in a minute. Land use -- land use map calls
24 for it to continue to develop as low-density
25 residential, which is going to be primarily single

1 family subdivisions, but it does also call out for
2 duplexes and townhomes to be interspersed.

3 This is a picture of the subject property.
4 The house you see here to the left is actually 6665
5 Bailey Lake Road, that property is not involved in this
6 rezoning case. Just barely back here you can make out
7 a roof top. That is the smaller parcel, which is 6677
8 Bailey Lake Road, and then the larger vacant parcel
9 around and behind it is 0 Graham Road. The intent
10 would be to remove that further-back house, re-combined
11 the parcels, and the current plan is to develop
12 townhomes.

13 Now, I will point out this is a straight
14 rezoning to MR-5, so they would be permitted to do any
15 of the uses permitted in the MR-5 zoning district.
16 Again, surrounding that area we have the fire station,
17 Arran Lakes West to the south. To the east, across
18 Bailey Lake Road, this is a residential site, and then
19 to the west is the Emerald Gardens subdivision. I
20 thought I put the site plan on the PowerPoint here, but
21 I did not. But it is in your packets showing the
22 current plan for this site.

23 Again, current plan is 31 townhomes for this
24 site, access off of Bailey Lake Road. Again, straight
25 rezoning. They will not be held to that if this

1 rezoning is approved. So, as I mentioned before, Land
2 Use Plan calls for low-density residential. It did
3 also call for park open space in the rear because
4 there's flat plain on the property.

5 Low-density residential can include townhomes
6 as well as single-family developments. As I show on
7 the zoning map, there are some pre-existing multi-
8 family and two- to four-family development in the
9 surrounding area. And, of course, this housing would
10 add to the existing housing stock, and, as we all know,
11 we are currently in a housing shortage.

12 Staff recommends approval of the rezoning to
13 MR-5. I just found a typo in my PowerPoint here,
14 pardon that. It says, "Does not implement the policies
15 of the Future Land Use Plan," it does implement the
16 policies of the Future Land Use Plan, which is laid out
17 in your consistency statement that is in your packet.

18 But the proposed use does suit the area and
19 there are no other factors which will substantially
20 affect public health, safety, morales or general
21 welfare.

22 Staff asks that you hold any questions until
23 after the public hearing.

24 CHAIRMAN PATEL: Thank you, Ms. Eckhardt.
25 How many speakers do we have?

1 MR. SENN: There are two speakers in favor,
2 Mr. Chairman, and two in opposition. The first speaker
3 is Mr. Michael Adams. Please state your name and
4 address for the record.

5 MR. ADAMS: Mike Adams.

6 CHAIRMAN PATEL: Sorry, sir. I just want
7 to -- before I go ahead and open the legislative
8 hearing, I want to make sure all parties know, both for
9 and against, you have got 15 minutes combined total for
10 your case, so if you would like to reserve any time.
11 Just to give you some notice.

12 So at this time we'll open the legislative
13 hearing and you may resume.

14 MR. ADAMS: Mike Adams of MAPS Surveying, 216
15 Mason Street, Fayetteville 28301. We are the surveyors
16 that surveyed the property, did the layout. Like we
17 said, currently we can do 31, which is what we have on
18 the site plan. During the process we've -- the current
19 owner said, "Well, if I'm going to -- if we are going
20 to do this, maybe we could try and get some more."

21 He's going to have to build the
22 infrastructure, you see the road that goes through.
23 And right now we've got the buildings kind of spaced
24 out for some extra parking that's really not required.
25 It's going to be a -- we are hoping to do a gated

1 community through there to make this kind of a nice,
2 private area. The townhomes will each have a garage.

3 So, we are trying to do a little higher-end
4 quality project there. Like I said, there is some
5 wetland. There's sewer in the back, we intend to hook
6 up to water/sewer. We have very little road frontage
7 on Bailey Lake, which, of course, we'll put the
8 sidewalk in. And that's about it, if you-all have any
9 questions.

10 MR. SHAH: I do. So 31 units, the map you
11 have provided doesn't mean a thing, right? Like you
12 just said, that after -- if you want to increase more,
13 you will increase more?

14 MR. ADAMS: If we get the zoning.

15 MR. SHAH: Right.

16 MR. ADAMS: Yes, sir. The owner would like
17 to do 48 units.

18 MR. SHAH: Forty-eight units?

19 MR. ADAMS: Forty-eight.

20 MR. SHAH: So this map you have provided
21 means nothing?

22 MR. ADAMS: Right, currently.

23 MR. SHAH: So there is room for 48?

24 MR. ADAMS: Yes, sir. Yeah, we could add two
25 to three more buildings.

1 MR. SHAH: So, basically, if you do
2 multi-family you can do any number of units, right? I
3 don't know, that's really my question to the City.

4 How many units per acre? But I guess way
5 more than 48 for 5 acres, right?

6 MR. KEITH: Yeah, the UDO calls for, like, 20
7 units per acre -- or 24.

8 MR. SHAH: Twenty-four, yeah.

9 MR. ADAMS: I think so. Sounds right, yeah.

10 MR. KEITH: Yeah.

11 MR. SHAH: So this sight line means we don't
12 even want to look at, I don't know, 31 homes. So, if
13 approved, you will build 48, not 31?

14 MR. ADAMS: Yes, sir. Townhomes.

15 CHAIRMAN PATEL: Are there any questions
16 right now, or does anybody want to say anything?

17 MR. KEITH: This may be a question for City
18 staff. This buffer area, though, would be between the
19 MR-5 and the single-family residential area that is
20 required, I guess?

21 MR. ADAMS: I assume so. Like I said, we
22 would certainly adhere to that.

23 MR. KEITH: There's a certain level of buffer
24 that you'd have to abide by in the UDO. That would be
25 a question for City staff.

1 CHAIRMAN PATEL: Yeah. We can get some
2 clarification from City staff after the hearing is
3 closed. Thank you, sir.

4 Do we have the next speaker?

5 MR. SENN: Mr. Chairman, the next speaker is
6 Mr. Gary Futch. Please state your name and address for
7 the record.

8 MR. FUTCH: My name is Gary Futch. I
9 currently reside at 2538 North Edgewater Drive,
10 Fayetteville, North Carolina. Of course I'm speaking
11 for the rezoning to MR-5.

12 When -- when we met with TRC, Chester Green
13 and everybody, basically, we wanted to put in a gate
14 and make this an upscale community, which district 6
15 definitely needs. And, with that, to put in that gate
16 and have the HOA cover that we needed a little bit more
17 density.

18 So currently we're at 31 units that we could
19 build there with the current SF-10 zoning, but we
20 really need that 48 units for that HOA to be able to
21 cover that gated entrance and for the logistics to
22 cover a higher-priced community.

23 As you see in this spacing -- and I totally
24 understand, you know, it's tough to price up a mockup
25 of 48 units when we're not sure if we're going to be

1 able to do that. But with the 31 units, you definitely
2 see there's plenty of space.

3 Because I think currently there's five
4 buildings there, and it would be eight buildings in
5 total, six apiece. I wish we had a slide of the actual
6 rendering of it. It is a really nice building layout.
7 It does have a single car garage underneath it. And we
8 are hoping it brings some value to the community
9 because I don't think there's many -- I haven't done
10 the research, many gated communities in that particular
11 area.

12 CHAIRMAN PATEL: Thank you.

13 MR. HIGHT: Will there be other amenities?

14 MR. FUTCH: Not a whole lot of amenities.

15 MR. HIGHT: No pool or anything like that?

16 MR. FUTCH: No pool. There will be plenty of
17 green space because there's still going to be a lot of
18 space left over. Of course, you know, they're not
19 going to touch the back in the flood zone, staying out
20 of there.

21 But at this current time no -- no amenities
22 planned. Maybe a -- maybe a little park, but nothing
23 significant that would increase the HOA already.

24 CHAIRMAN PATEL: Are there any other
25 questions?

1 (No response.)

2 CHAIRMAN PATEL: Thank you. Who do we have
3 next?

4 MR. SENN: We have two speakers in
5 opposition. The first one is Sara Smith-Pitts. Please
6 state your name and address for the record.

7 MS. SMITH-PITTS: My name is Sara
8 Smith-Pitts. I live at 5831 Lake Villa Drive.

9 I have lived in this neighborhood for about
10 four years, and we -- we choose to move there primarily
11 because of the schools, that was initially the draw,
12 but also it is -- it's a neighborhood with retirees and
13 with first-time homeowners, like ourselves, and you can
14 walk and jog easily.

15 When I initially heard about this I was
16 concerned about the kind of project that would be
17 happening, and so I assumed, based on what I knew about
18 the builder, that it would be commercial and that there
19 would be a cut-through into my neighborhood. And I
20 believe that I understand now that it will not be
21 commercial and it will not be a cut-through in my
22 neighborhood. So I was concerned about traffic coming
23 into my neighborhood and I was -- did not want that.

24 Bailey Lake Road is already a very busy road,
25 and if you add 31 to 48 more homes, that's easily 60 to

1 70 more cars going up and down, leaving, pulling in and
2 out every day and there's -- it's already just a very
3 busy road. So I'm concerned how the traffic will be
4 routed.

5 Also -- so I wanted to know that, how the
6 traffic would be routed, if my neighborhood, Arran
7 Lakes West, would be affected at all. And, also, I
8 know that there will be a buffer between Arran Lakes
9 West and the building site, and I wanted to know how
10 large that buffer would be. So those are some of my
11 questions.

12 MR. SHAH: Where is your neighborhood? You
13 said your neighborhood, which --

14 MS. SMITH-PITTS: Arran Lakes West.

15 MR. HIGHT: Can we pull the map back up? So
16 maybe you can point out where you live in relation to
17 the project.

18 MS. ECKHARDT: Sure.

19 MS. SMITH-PITTS: So, this is Bailey Lake
20 Road. I live on Lake Villa Drive, right around here.
21 And so while I -- I come in off of Lake Villa and
22 usually just kind of go down this way.

23 You know, there are times when we take walks
24 through the neighborhood and we appreciate that there
25 are not folks from other parts of the city driving in

1 and out. And so, like I said, my concern is that there
2 would be a traffic cut-through that would affect it.
3 But, you know, there is a concern about how much
4 traffic is on Bailey Lake already.

5 MR. SHAH: So where is your entry point,
6 River Croft Road?

7 MS. SMITH-PITTS: River Croft or Shadow Lane.

8 MR. SHAH: Okay. But their entry is
9 different, right?

10 MS. SMITH-PITTS: Right. Which I just
11 learned. But I guess my concern still is, Bailey Lake
12 is still busy, you're talking about making it busier.
13 So...

14 MR. HIGHT: Well, you understand if we don't
15 approve the zoning they still can build 31 --

16 MS. SMITH-PITTS: Yes, I gathered that.

17 MR. HIGHT: That's not going away,
18 apparently.

19 MS. SMITH-PITTS: Right.

20 MR. HIGHT: All right. Thank you.

21 CHAIRMAN PATEL: Thank you.

22 MR. SENN: The last speaker in opposition,
23 Mr. Chairman, is a Melva Brown.

24 MS. BROWN: Good evening everyone. My name
25 is Melva Brown, and I am at 6665 Bailey Lake Road, 6667

1 is behind me.

2 My concern is, how's that going to work?
3 Again -- they said they couldn't do the gated
4 community, I got that part. But, again, if you put the
5 other one up -- you can see my house, it's in front.
6 They are on the side and then they go to the back, so
7 my house is sitting in front. I have been there before
8 all of that. It was Route 784, state route. It was a
9 tobacco field, the neighborhood she's talking about.

10 The land that I live on was my mother's
11 sister's, she was a Tysor (phonetic). And, again,
12 that's my house. This is where they are going to be
13 going down, that road, and that little -- if you can
14 see it -- roof, that's where they are talking about.
15 And they have come up because -- what is it called, a
16 plat -- well, I didn't get my land surveyed, and the
17 land that I was raised on and thought was mine -- is it
18 all right?

19 MR. HIGHT: Yeah.

20 MS. BROWN: -- apparently isn't. Because all
21 of this, my mother -- my parents, we took care of all
22 of that. So now I'm learning that that's not ours.
23 The light pole is not in our yard.

24 We have a storage unit in the back. You know
25 how you used to put those storage bins? Yeah, it's on

1 their land, and I can't understand why my parents would
2 put something on their land. I thought that was our
3 land all along.

4 I know there's a clothes line back there, and
5 my mother told me that that was the stopping point for
6 our land. But now -- but now it's their land? The
7 Tysors -- so I'm confused on how that's going to work.

8 MR. SHAH: Well, they did survey the land to
9 determine the boundaries.

10 MS. BROWN: Yes, I remember that.

11 MR. SHAH: And apparently part of the site
12 plan shows they will have a fence -- I guess, since
13 it's a gated -- fence around your home.

14 MS. BROWN: Yeah, but my -- my -- I was told
15 that we have a half an acre and it has shrunk down. I
16 don't understand. I'm confused.

17 I have been -- I have been going -- trying to
18 find -- I would ask that -- let me get my land
19 surveyed. Let me find out about my land. Because I
20 have the same thing that you guys -- I have been
21 tracking, because I just learned of this when they put
22 the rezoning sign out.

23 He's saying a sidewalk. They have a -- what
24 is it called? A stob -- those things they stick in the
25 ground? They have one. And see this double -- okay.

1 Straight in front of it in the ditch, they have a stob
2 out there. That's my land, too. So they are going to
3 get to take that too? That is the sidewalk?

4 MR. SHAH: Have you surveyed your land?

5 MS. BROWN: No, I haven't. That's what I
6 need to do.

7 MR. SHAH: Yes.

8 MS. BROWN: I do, because I want to know.

9 MR. HIGHT: Do you have the original deed?

10 MS. BROWN: From my parents? Because they
11 are deceased.

12 MR. HIGHT: For your property, do you have
13 any deed, any paperwork, that lays out your land?

14 MS. BROWN: No, I don't have one, but I am
15 trying to get one. But, again, I just found out about
16 this meeting, like -- I think the sign maybe was put
17 out -- my daughter and I noticed it maybe last week or
18 the week before. So then I called the number and the
19 person -- I think it was you Heather, right? Yeah. --
20 told me what was going on. So then that's when I
21 started researching everything.

22 Because, again, I -- this is foreign to me
23 and I'm trying to understand how my half an acre just
24 went into a little tiny box.

25 MR. SHAH: Have the builders or the

1 contractors or the owners of this property contacted
2 you in trying to explain anything? Have they met you?

3 MS. BROWN: The property that we are talking
4 about, 6677?

5 MR. SHAH: Yeah.

6 MS. BROWN: No. And if they have, I don't
7 know anything about it. I contacted, no one contacted
8 me. Now, I don't know if anybody came to my house
9 because my daughter and I are not there during the day,
10 but no one -- I have heard from no one, just the sign.
11 And I'm not -- I am not against it or for it, I just
12 want to understand so I can take --

13 MR. HIGHT: Did you get a letter from the
14 City?

15 MS. BROWN: I just got it.

16 MR. HIGHT: It came when? Today?

17 MS. BROWN: I want to say whenever I called
18 the young lady, Heather, that's when I got it. It says
19 March 27th on here.

20 MR. HIGHT: But you got it later, you're
21 saying?

22 MS. BROWN: Yes.

23 MR. SHAH: I suggest the owners of this new
24 land do explain to her -- or do need to talk to her,
25 right. She has a point.

1 MS. BROWN: Because I have -- I have their --
2 what they are going to put on there, and I understand
3 that. The lady that was before me -- Bailey Lake is a
4 very busy road. It's only a two lane, real slim road,
5 and the speed limit is very high because there's not
6 that many that sit on Bailey Lake Road, just a couple.

7 Again, I have been out there since it was a
8 dirt road, so it has advanced. I am not stopping
9 advancement, I just want to understand, what about my
10 land? Because I am not in a neighborhood and my -- my
11 dad worked hard for it, he served this country for it.

12 MR. McCORQUODALE: Mr. Chair, I guess I am
13 going to bring up a point that Kevin had earlier
14 tonight, that currently the way it is zoned, they
15 definitely can put 31 units, no questions asked, I
16 guess, as a board, in trying to strike a balance.

17 You know, obviously, where you live, when you
18 look at that -- and I am just clarifying. So the house
19 where you're at, basically, their drive is going to the
20 right of that pole, correct? Those boxes, the way I'm
21 looking at the drawing, to the right of it here?

22 MR. HIGHT: Is it the dirt road?

23 MS. BROWN: This is it. This is it right
24 here.

25 MR. HIGHT: That's going to be the entrance.

1 MR. MCCORQUODALE: So the pole and stuff is
2 going to be relocated.

3 I guess one thing -- all of this has -- we
4 understand the part about traffic. The one thing about
5 the City and the development standards and UDO and what
6 it comes by -- once they come to the City -- and he
7 mentioned -- that's just the first phase process. It's
8 a multi-phase process to go through the TRC, which is
9 the Technical Review Committee. Everybody within the
10 agencies and the departments within the City will have
11 their input within this, whether you talk about
12 sidewalks, streets, and all, including DOT, if it
13 requires them to say that.

14 I guess when you're looking at it, and if
15 you're going to continue to live here, it would be
16 advantageous of them being able to put a nice
17 decorative entranceway, fencing, which, you know,
18 can -- can go in multi versus ways as far as it will
19 appeal and match the housing that they are intending on
20 putting up, and, obviously, that's going to be down
21 your side and, obviously, in your backyard. I guess
22 that is one thing, if they are allowed to do that, to
23 have more revenue to be able to put those other
24 amenities in there to make it a nicer-looking facility
25 as far as the whole township itself, would that -- does

1 that make -- as far as a homeowner, you would like that
2 versus they put 31 in now but they may not be able to
3 do all the amenities based on the income they have got
4 from the development? I know that is a hard question,
5 but that's something you have to balance.

6 MS. BROWN: Again, I'm just trying to grasp
7 all this. And I would hope that there would be some
8 kind of, you know, fence or something.

9 MR. HIGHT: Can I ask a clarifying question?
10 Based on my understanding of what you have been saying,
11 it seems to me what you're saying is that part of this
12 area that they want to develop is actually your land.

13 MS. BROWN: I -- again, sir, I just need to
14 get my land surveyed first.

15 MR. HIGHT: So you're not sure where your
16 property --

17 MS. BROWN: No. Because what I thought was,
18 from what they surveyed, isn't. So, again, I would
19 like to get my land surveyed.

20 MR. SHAH: You do need a survey.

21 MS. BROWN: Yes, I do need a survey. Again,
22 all of this I was thinking was our land and now it's
23 not because they have a stob that's --

24 MR. HIGHT: You're talking the stake in the
25 ground?

1 MS. BROWN: Okay. They have a stake in the
2 ground and it goes all the way back. And it's two
3 stakes right here. So all of that that I thought was
4 our land, the grapevine and all that, isn't.

5 MR. SHAH: So did you used to maintain that
6 land?

7 MS. BROWN: Yes. Yes. That's what I'm
8 saying. And there's a -- like I said, we have been out
9 there before any of that. It's a little chicken wire
10 fence where we had our chickens and stuff. So, again,
11 we were maintaining all of that. And, again, my
12 parents told me that that was our land, we kept it cut
13 down and everything. Again, I need --

14 MR. SHAH: How long have you live there?

15 MS. BROWN: Since I have been 13.

16 MR. HIGHT: We don't need to get into
17 specifics, that's okay. Let's just say a while.
18 Right?

19 MS. BROWN: Okay, a while.

20 MR. MCCORQUODALE: Thank you for answering my
21 questions. I appreciate it, Mr. Chair. I was trying
22 to clarify that.

23 I know, as far as part of the land, that's
24 something this Board doesn't do, that's obviously
25 getting a survey, and a legal question, once you get to

1 it, and you hire a company to do that. Obviously the
2 company that is developing this, they are having to do
3 that because they have got to literally give the City a
4 full, certified, engineered drawing of everything, so
5 that will be done.

6 I appreciate you answering my question about
7 that. We are just trying -- this board does listen.

8 MS. BROWN: Yes, sir. I understand.

9 MR. SHAH: Thank you.

10 CHAIRMAN PATEL: At this time we'll close the
11 legislative hearing and go ahead and open questions for
12 staff from the Board. Any further discussion?

13 MR. KEITH: Just if they could get the map
14 back up, I wouldn't mind seeing a color version of the
15 zoning map.

16 MS. ECKHARDT: Sure.

17 MR. KEITH: Then another question is: What
18 type of buffer is -- I guess it will explain to the
19 adjacent owners what they might see or what they should
20 see.

21 MS. ECKHARDT: So for this development they
22 are going to be required to install a type-A buffer.
23 They have two options for buffering. The first option
24 is a 20 foot -- 25-foot wide vegetative buffer. And
25 option 2 is a 10-foot wide vegetative buffer with a

1 fence. So they have either of those two options when
2 it comes to buffering.

3 I believe there were some questions about
4 density. And -- you are correct about the whole 24 an
5 acre as far as the density goes. I will just clarify
6 two- to four-family -- no, those are not two- to
7 four-family dwellings, these are single-family attached
8 dwellings. Townhomes require a special use permit in
9 the SF-10 zone district. So while the density may be
10 permitted, there would be a different hearing process
11 involved in order to have townhomes approved on this
12 property if they did not rezone.

13 CHAIRMAN PATEL: I have a question. Just for
14 the feedback off of Mr. Keith's question with the
15 buffer, if the rezoning does pass, would the buffer
16 change at all for the 31 versus 48 units, or would it
17 just remain the same with the higher density?

18 MS. ECKHARDT: The buffers are dependent on
19 zoning district, so it really wouldn't have much to do
20 with density. I would have to pull up the table, but
21 if they remained SF-10 and got an SUP, there may not be
22 a buffer requirement at all.

23 CHAIRMAN PATEL: If they go to MR-5, would
24 the buffering increase?

25 MS. ECKHARDT: Yes, it would be the buffers I

1 just mentioned, either 25-foot wide or 10-foot wide
2 with a fence.

3 MR. SHAH: The map that they have provided,
4 the site plan, that is for SF-10, right?

5 MS. ECKHARDT: No, that is their proposal in
6 MR-5.

7 MR. SHAH: But they can now do it in SF-10?

8 MR. HIGHT: They just said that they were not
9 going to do that plan, they are doing the 48.

10 MR. SHAH: So they are not going to do this
11 plan?

12 MS. ECKHARDT: Yes, this was a draft plan.
13 they took to the Technical Review Committee to obtain
14 comments. They could potentially do that density as it
15 stands in SF-10, but they have to have a special use
16 permit.

17 MR. SHAH: If it stays in SF-10, can they
18 build 31 units, or no?

19 MS. ECKHARDT: Yes, with a special use
20 permit.

21 MR. SHAH: With a special use permit. Okay.

22 MR. HIGHT: But without a special use permit,
23 what can they build?

24 MR. SHAH: Single-family residential, right?

25 MS. ECKHARDT: Single-family homes.

1 MR. HIGHT: How many?

2 MS. ECKHARDT: 10,000 square feet per lot.

3 MR. HIGHT: Okay. Thank you.

4 MR. SHAH: Once it's zoned multi-family they
5 can literally do anything? They could build any number
6 of units, right?

7 MS. ECKHARDT: There is still density
8 limitations.

9 MR. KEITH: The last question is -- maybe the
10 last question. Lake Haven Drive, it appears to be a
11 city street that goes all the way into the property.

12 MS. ECKHARDT: It is.

13 MR. KEITH: So they would be able to
14 potentially --

15 MR. HIGHT: Use it as a cut-through.

16 MR. KEITH: -- use that as their street.

17 MS. ECKHARDT: They could access, but I don't
18 believe the intent is to access off of Lake Haven.

19 MR. McCORQUODALE: Based on that -- I'm
20 sorry.

21 CHAIRMAN PATEL: I'd just state, based on the
22 fact that they are making it gated, they probably
23 wouldn't want a cut-through.

24 MR. McCORQUODALE: Well, that and also, if
25 they are going to add more -- two more units, that's

1 going to cover that square footage, there's not going
2 to be enough ingress and egress to put a --

3 MR. HIGHT: Basically close off the road on
4 that side.

5 MR. McCORQUODALE: Yes.

6 MS. ECKHARDT: Mr. Shah, I believe you wanted
7 to see the zoning map in color?

8 MR. SHAH: Yeah.

9 MS. ECKHARDT: Do you have questions?

10 MR. SHAH: That is the zoning, right, all
11 around?

12 MS. ECKHARDT: Yes.

13 MR. HIGHT: Are there any plans, that you're
14 aware of, to widen Bailey Lake Road? Because that is a
15 very narrow road for all this extra traffic.

16 MS. ECKHARDT: Not that I'm aware of. It is
17 possible.

18 MR. KEITH: I think you-all mentioned this,
19 but Future Land Use Plan for the area is?

20 MS. ECKHARDT: Low-density residential.
21 Which, again, does for call for single-family
22 developments but also townhomes and duplexes to be
23 interspersed.

24 CHAIRMAN PATEL: Is there any other
25 discussion?

1 (No response.)

2 CHAIRMAN PATEL: Any questions?

3 MR. HIGHT: Madam Attorney, this does not
4 have to be an 80 percent vote, does it?

5 MS. HARPER: No.

6 MR. HIGHT: Just majority?

7 MS. HARPER: Majority.

8 MR. HIGHT: Thank you.

9 MR. KEITH: I know I talked in -- I guess,
10 pull out that study, I think you have all seen it, that
11 kind of shows the demand of families. And I know a lot
12 of times you have got big economy to scale issues,
13 departments all the time, so jumping from that 31 to
14 that 48 is probably -- is probably going to be better
15 for everybody involved. If that owner can manage it
16 better, they can spend more per unit on development and
17 do a little nicer amenities, I guess -- maybe not
18 amenities, but structurally.

19 MR. SHAH: But what's for neighbors in
20 that -- what's the neighbors in that --

21 MR. KEITH: Hmmmm?

22 MR. SHAH: What's the surrounding community?

23 MR. KEITH: I'm sorry, I can't hear you.

24 MR. SHAH: You say it will help if you bump
25 it up, right?

1 MR. KEITH: Yeah. It gives -- a lot of times
2 it gives developers a better economy to scale so they
3 can build a nicer product.

4 CHAIRMAN PATEL: How does it --

5 MR. SHAH: What about the public around?
6 What's better for them?

7 CHAIRMAN PATEL: Would that be for the
8 benefit --

9 MR. KEITH: I think the benefit is if we have
10 more, I guess, cheaper units.

11 MR. SHAH: How about the person who lives in
12 the front, will they get -- benefit?

13 MR. KEITH: I guess -- well, I don't think it
14 will affect her as much. I think one of the things
15 we've got to think is that there are houses along
16 Bailey Lake Road, but I would think eventually that any
17 main thoroughfare is going to turn to just some type of
18 commercial down the line. That's kind of LEI
19 (phonetic) or some type of incentive.

20 MR. SHAH: In the Future Land Use Plan it's
21 single-family residential, right?

22 MR. KEITH: Yeah. I just -- I don't know, I
23 am thinking out loud. But, yeah, it is.

24 MR. MCCORQUODALE: My thought process, Roger,
25 if they admit that -- if they are going to put a nice

1 decorative landscaping, including stone or wrought
2 iron, around the front or coming -- depending on, like
3 you said, with a 15-foot buffer and the fence, if they
4 are required to do that, based on the -- based on the
5 UDO, would those extra units, like they talked about,
6 support that type of development within that?

7 MR. HIGHT: Couldn't we open the hearing so
8 we can ask the developers some questions?

9 CHAIRMAN PATEL: Yeah, we can reopen the
10 legislative hearing.

11 MR. HIGHT: Would the developers come up,
12 please? The two guys who spoke in favor, I guess I
13 should say.

14 So, just as a clarification point, if all you
15 did was build the 31 units, what is the plan to
16 distinguish your new little neighborhood from the
17 surrounding neighborhoods?

18 MR. FUTCH: Of course we are going to try to
19 make it as nice as possible.

20 MR. HIGHT: You'll have an entranceway of
21 some description?

22 MR. FUTCH: Yes, sir.

23 MR. HIGHT: Would you have fencing,
24 necessarily, of some description?

25 MR. FUTCH: Yes, to verify the gate --

1 justify the gate.

2 MR. HIGHT: So you'll still try to do a gated
3 community with 31?

4 MR. FUTCH: We wouldn't be able to afford to
5 do that and make our cost. But we are still going to
6 make it as nice as possible.

7 You know, I don't want anybody to feel, you
8 know, like we are impeding. And we'll talk as much --
9 early and often. Anything you need, you can give us a
10 call.

11 MR. HIGHT: You're talking to the lady?

12 MR. FUTCH: Yes. But, with that, if we are
13 able to do 48, basically -- there's plenty of room for
14 it, basically. We will be able to do the gated
15 entrance and make it a lot nicer and put adequate
16 fencing, you know, and the adequate fencing would help
17 the property.

18 MR. HIGHT: When you say "gated community,"
19 are you going to have, like, a guard there or a key
20 thing that slides open?

21 MR. FUTCH: It wouldn't be a guard because
22 with a guard you need way more than 48, so it would be
23 more of a key style.

24 MR. HIGHT: A pass key?

25 MR. FUTCH: Or a remote fob type of thing.

1 MR. HIGHT: All right. Thank you.

2 CHAIRMAN PATEL: Any other questions for
3 them, the developer?

4 (No response.)

5 CHAIRMAN PATEL: Thank you. We close the
6 legislative hearing again. Is there any further
7 discussion, motion, question? Is there any motion to
8 be made?

9 MR. KEITH: I guess, just from my
10 understanding of it, I mean, I'll go ahead and make a
11 motion, we'll see where it goes.

12 I make a motion to approve the rezoning from
13 single family, SF-10, to mixed residential 5 for the
14 property indicated in P23-12 at 0 Graham Road and 6677
15 Bailey Lake Road, with that two separate parcels based
16 on what we have heard tonight. So I motion.

17 MR. MCCORQUODALE: I'll second.

18 CHAIRMAN PATEL: So we have a second. All in
19 favor?

20 (Two respond aye.)

21 MS. HARPER: How many is that?

22 CHAIRMAN PATEL: Two.

23 MR. HIGHT: We have to formally vote, though,
24 don't we?

25 MS. HARPER: It has to be a majority vote.

1 CHAIRMAN PATEL: So all opposed?

2 (Three respond no.)

3 CHAIRMAN PATEL: The motion failed two to
4 three.

5 MR. HIGHT: So do we need to make a motion
6 no, or is it that it just fails?

7 MS. HARPER: Well, you can make a motion --
8 someone can make a motion to deny.

9 MR. HIGHT: But do we have to if the motion
10 to approve failed?

11 MS. HARPER: Well, you didn't deny it, you
12 didn't approve it.

13 MR. HIGHT: I got you. It's a semantics
14 thing.

15 MS. HARPER: So the motion to approve has not
16 been -- did not pass, but no one has made a motion to
17 deny, so you can make a motion to deny.

18 MR. HIGHT: And if that passed?

19 MS. HARPER: If that passes -- but that
20 motion has not been made.

21 MR. KEITH: Am I correct in saying if we make
22 a motion to deny and it passes they will have to wait
23 another year, or do they already have to wait another
24 year to reapply?

25 MS. HARPER: Well, from my understanding,

1 Ms. Eckhardt, they can wait and reapply or they can go
2 forward with the special use permit for the 31 homes?

3 MR. HARMON: If you don't mind, if you-all
4 deny it tonight, they can appeal the City Council?

5 MS. HARPER: That's right, they can. I'm
6 sorry.

7 MR. HARMON: The City Council will hold a
8 separate public hearing on the issue and they will have
9 their own vote. Otherwise, if they don't do that,
10 then, yes, it would be denied and they have to wait a
11 year.

12 MS. HARPER: Or they can go before the City
13 Council?

14 MR. HARMON: Or it could come back --

15 MR. SHAH: Special use permit for 31 homes.

16 MS. HARPER: If you want -- someone wants to
17 make a motion to deny, that motion will have to be made
18 and seconded and voted upon.

19 MR. HIGHT: If one of you gentlemen will make
20 the motion, I will second it.

21 (No response.)

22 MR. SHAH: Can I say special use permit, or
23 no?

24 MS. HARPER: No. The motion would be to --
25 one motion was made to approve that did not pass, that

1 motion failed. So if someone wants to make a motion to
2 deny the rezoning request --

3 MR. SHAH: It will deny the conditions if
4 they can apply for a special use permit?

5 MS. HARPER: No, sir, you can make a motion
6 to deny.

7 MR. HIGHT: They will probably go to City
8 Council.

9 MS. HARPER: They can appeal to the City
10 Council or they choose how they want to handle it.

11 MR. SHAH: I will make a motion to -- for the
12 case P23-12, to deny the rezoning from single-family
13 residential to MR-5 located at 6677 Bailey Lake Road.
14 Based on the -- based on the consistency and the
15 reasonable statements, I do feel that some of the --
16 some of the land -- like, for example, Future Land Use
17 Plan calls for single-family residential and does not
18 call for MR-5, so that was inconsistent to me.

19 As far as the goals, goal No. 4, which is
20 desirable place to live, work and recreate, I don't
21 think it will be consistent because of the traffic
22 issues mentioned on Bailey Lake Road. With that much
23 traffic, I don't think that would be a desirable place
24 to live. Once again, the Future Land Use Plan, city
25 plan, 20-year plan, calls for single-family

1 residential.

2 I do feel like, once again, that they have
3 not applied for a special use permit to have 31 homes,
4 so 31 homes would be better and no more. That was my
5 feeling, and on those bases I would make the motion
6 that it was inconsistent on some of the goals and some
7 of the reasonableness.

8 MR. HIGHT: I'll second.

9 CHAIRMAN PATEL: All in favor of Mr. Shaw's
10 motion.

11 MR. HIGHT: The motion to deny.

12 (Three respond aye.)

13 CHAIRMAN PATEL: All against.

14 (Two respond aye.)

15 MS. HARPER: Motion passes three to two.

16 CHAIRMAN PATEL: So we will begin with staff
17 presentation now for case P23-13.

18 MR. MOUTOS: Hello, again. My name is
19 Demetrius. P23-13 is a request for a conditional
20 rezoning from heavy industrial to heavy industrial
21 conditional zoning located at 616 Person Street, being
22 1.57 acres. The owner is AOM II, LLC. They are
23 represented by Mr. Ned Garber, III.

24 MR. HIGHT: Is he here?

25 MR. MOUTOS: He is not. And neither is the

1 property owner. I believe they did sign up to speak,
2 but they are not here.

3 Subject property is located near the
4 intersection of Person Street and 301 between
5 Southeastern Boulevard and Old Wilmington Road. The
6 area surrounding subject property is primarily
7 industrial in nature with some limited commercial
8 across the street.

9 The blue over to the left there is all of our
10 newly designated Downtown II, so it is pretty close to
11 the downtown gateway, but not quite. Future Land Use
12 map calls for this area to maintain a status similar to
13 an employment center with high commercial developed
14 right next to it to the east.

15 Here's a photo of subject property taken from
16 across the street at Fayetteville Fire Station No. 1.
17 They have two buildings on the property, the main one
18 here and one in the back.

19 The property to the west of the subject
20 property is an existing building that appears to be
21 vacant. The property across Person Street to the
22 north, again, is Fayetteville Fire Station No. 1 that
23 is zoned limited commercial. Property to the east is
24 an auto repair shop that is zoned heavy industrial.
25 The property to the south contains areas for retail

1 uses and is also currently zoned heavy industrial.

2 The Applicant is requesting to rezone it,
3 again, from HI to HI/CZ specifically to allow for the
4 use of a car wash/auto detailing place. That use type
5 is currently not permitted in HI, they are, however,
6 already in operation.

7 The conditional rezoning will maintain the
8 zoning of heavy industrial while allowing the
9 additional use and will maintain continuity with the
10 surrounding HI zoning district while allowing use that
11 does compliment the surrounding land use. Again,
12 there's already a repair shop next door and various
13 heavy industrial places behind the property.

14 It is staff's recommendation that you all
15 move forward with approving the map, amending to HI/CZ,
16 based on all the following: The proposed map amendment
17 implements policies and documents in the Future Land
18 Use Plan. Those policies are found in the UDO.

19 Future Land Use Plan, again, calls for the
20 subject property to be developed as
21 industrial/employment center. The use is permitted by
22 the proposed change in zoning district classification
23 standards applied to such use and will be appropriate
24 in the immediate area of the land to be reclassified
25 due to the existing zoning and usage surrounding the

1 property. And there are no other factors that will
2 substantially affect public health, safety, morales or
3 the general welfare.

4 If you have -- these are options, fairly
5 basic, recommend approval map amendment to HI/CZ,
6 recommend approval map amendment to a more restricted
7 zoning district, or deny the map amendment request
8 outright.

9 If you have any questions, please, wait until
10 after the legislative hearing to ask. That concludes
11 staff presentation.

12 CHAIRMAN PATEL: Thank you. At this time I
13 will open the legislative hearing. Since we don't have
14 any speakers, I will go ahead and close the legislative
15 hearing.

16 Are there any questions?

17 MR. HIGHT: Mr. Chairman?

18 CHAIRMAN PATEL: Yes.

19 MR. HIGHT: I have two problems with this.
20 No. 1, there's no one here to speak other than City
21 staff.

22 No. 2, here we are, once again, people are
23 doing what they want to do and then they come in here
24 and we have got to clean it up for them. I'm really
25 getting tired of that. I would recommend that we

1 postpone this to next month and have those people come
2 in and speak to us personally.

3 CHAIRMAN PATEL: How does the rest of the
4 Board feel?

5 MR. SHAH: No, I agree with him.

6 CHAIRMAN PATEL: I agree with him, too.

7 MS. HARPER: Is that a motion?

8 MR. HIGHT: I'll make it a motion that this
9 piece of business be put off until next month.

10 MS. HARPER: Is there a second?

11 MR. SHAH: Could I ask a question to the
12 City, or no?

13 MR. HIGHT: I can withdraw my motion until we
14 ask questions. Can I do that?

15 CHAIRMAN PATEL: Sure.

16 MR. SHAH: The heavy industrial to heavy
17 industrial/conditional zoning, the only reason you're
18 doing conditional zoning is to allow a car wash?

19 MR. MOUTOS: Yes, sir. So, car wash/auto
20 detailing is not permitted in HI, it's permitted in LI.

21 MR. SHAH: It's permitted in LI?

22 MR. MOUTOS: Yes. This whole thing came
23 about because back in November, I believe it was --
24 now, I was on the other side on zoning -- the property
25 owners tried to come for a change of occupant, I

1 believe, for the car wash, and then it was realized
2 that they are technically not allowed to have it there.
3 So then they just came through with this for the
4 conditional zoning.

5 CHAIRMAN PATEL: Do they have the property
6 infrastructure for a car wash, though?

7 MR. MOUTOS: They have been operating as a
8 car wash, but I can't say with 100 percent certainty
9 whether they have, per building code, everything they
10 need.

11 MR. KEITH: Yeah, I think unless you're --
12 I'm pretty deep into looking at zoning stuff and UDO,
13 and I would have been pretty certain that, yeah,
14 auto -- like, that type of stuff would have been in HI
15 because HI is kind of the heaviest. Then if it's in
16 LI, that doesn't really -- I am not understanding why
17 the code would be that way.

18 MR. MOUTOS: Well, I think part of the
19 confusion is that -- so Royalty Auto Spa is the
20 business, and they are actually, like, a car
21 wrapping -- protective coating, ceramic wrapping-type
22 place, but in the process of doing that they have to
23 wash the cars. They have photos on their website that
24 shows them washing cars out on the property, so that's
25 why we classify them under auto -- auto detailing and

1 car wash, that's the closest thing to classify them.

2 MR. KEITH: Wouldn't that be kind of
3 auxiliary use?

4 I know that back when Delta Apparel was out
5 at the Soffee building they also had a retail section
6 even though that was -- they were in HI and that was a
7 very heavy industrial area and retail sales were not
8 allowed, but they have a small area that does retail
9 sales where you go in and buy it. I would think that
10 would fit in the same kind of scenario as this.

11 MR. MOUTOS: I mean, I see what you're saying
12 and I understand how it's kind of auxiliary services
13 work. But I think if you have something that is
14 necessary for ceramic coating -- I don't work in that
15 field so I don't exactly know, but I would imagine it
16 was something you have to do to every car that comes in
17 there to get wrapped, is you have to wash it first. So
18 I consider it primary.

19 MR. SHAH: I think I do agree with Mr. Hight,
20 without hearing from them as to what their intentions
21 are, them not -- electing to just not come to the
22 hearing -- do we have a choice that we can call them --
23 we are not denying it, we are just trying to call them
24 next month and see if they will come in and explain.

25 MR. MOUTOS: Yes, sir, absolutely. They were

1 notified and they had signed up to speak. So...

2 MR. SHAH: And everybody who is serious
3 should do it, you know?

4 MR. MOUTOS: Yeah.

5 MR. SHAH: It's not a -- like just put an
6 application in to the City and then let it go.

7 MR. HIGHT: For the record, I like -- I'm
8 happy with the business idea, that's not the point to
9 me, it's that we need clarification.

10 MR. KEITH: I think that we are -- I mean, we
11 are making a decision here based on not only, I guess,
12 the evidence at hand and the reality of it, but we are
13 basing it on the fact that they didn't show up, and
14 that seems like --

15 MR. SHAH: It's not showing up, it's getting
16 more information.

17 CHAIRMAN PATEL: Yeah, I think more so,
18 especially if they signed up to speak.

19 MR. SHAH: I am not saying they didn't show
20 up, what I am saying is we don't have enough
21 information on hand that we can ask someone -- before
22 he explained, we didn't even know -- we thought it was
23 a car wash, but it's not a car wash, we know, after he
24 told us. So we need information. I mean, I don't
25 know. It's up to everybody.

1 MR. KEITH: I think that's -- I mean, we can
2 look in our packet and it goes through -- "State --"
3 what I see on it, "State the extent to which the
4 proposed amendment demonstrates a community --"

5 MR. SHAH: You're talking about the
6 "Description" section?

7 MR. KEITH: So under -- yes. I'm in the
8 "Justifications." So on their -- they did do -- they
9 filled out all the stuff. When you do a rezoning, you
10 have got to fill out all this stuff, and they ask you
11 all the questions that -- or questions that likely get
12 asked up here sometimes, so they have done this work
13 for the meeting.

14 One of them note, "State the extent of which
15 the proposed amendment addresses the demonstrated
16 community need."

17 "There's a lot of business population
18 downtown that will be able to utilize offered
19 services."

20 "State the extent to which the proposed
21 amendment is compatible with existing proposed use of
22 surrounding subject land and why it's appropriate
23 zoning for the land."

24 "Proposed amendment is compatible with
25 proposed use in the area. There's a simple -- there

1 are similar businesses in the surrounding area and will
2 not cause any impact to any other surrounding
3 businesses."

4 MR. SHAH: So the first one is, "At the time
5 the business no longer exists the property will return
6 to HI." Can they do that?

7 MR. MOUTOS: I'm sorry?

8 MR. SHAH: If we rezone it to HI conditional,
9 what they are asking, they are saying, "As soon as this
10 business goes away we don't want that condition, we
11 would be obtaining HI."

12 MR. MOUTOS: It would still maintain the
13 conditional zoning to allow that use type. We would
14 have to come back through to take away the conditional
15 zoning.

16 CHAIRMAN PATEL: And then, one other thing, I
17 mean, it says here, "There's a lot of business
18 population downtown that will be able to utilize
19 offered services." I mean, if it's auxiliary use for
20 the wrapping, that's one thing. But if they are going
21 to start using it -- operating as an actual car wash
22 they intend to supply for revenue --

23 MR. KEITH: Yeah, I don't think that's
24 specifically saying the car wash, though, just the
25 operation of the business in general. Yeah, still --

1 yeah.

2 MR. SHAH: For a suggestion, if not -- we can
3 make a motion and then let's see...

4 MR. MCCORQUODALE: I guess, as far as I
5 understand, the people coming forward, I guess the part
6 on the HI, if they vacate them all -- basically they
7 are asking for the CZ just to be able to run -- because
8 it's not that -- that description of business is not
9 coded within HI's allowable entities to run out of
10 there.

11 So other than reclassifying that whole
12 property -- or rezoning it to a whole lot lower class,
13 they are just asking for the CZ, conditional zoning, to
14 allow that. If they move out, if someone else comes
15 in, another entity, they get a change of use that
16 actually meets the HI zone, the HI/CZ does not affect
17 it.

18 CHAIRMAN PATEL: Right.

19 MR. SHAH: Right.

20 CHAIRMAN PATEL: Does anyone want to make a
21 motion? Is there any further discussion?

22 MR. HIGHT: I can -- I can offer my motion to
23 postpone for a month.

24 CHAIRMAN PATEL: Do we have a motion?

25 MR. HIGHT: I move to postpone this for a

1 month.

2 MR. SHAH: You can do a motion, I guess,
3 whether we want to postpone or not and a second motion,
4 right?

5 MS. HARPER: That is the motion on the floor,
6 which requires a second. That is the current motion on
7 the floor.

8 MR. SHAH: To postpone?

9 MS. HARPER: To postpone to next month.

10 MR. SHAH: I guess all those -- who made the
11 motion?

12 MR. HIGHT: I made the motion.

13 MR. SHAH: All those in favor --

14 MS. HARPER: Well, it needs a second. If
15 there's no second, then the motion fails.

16 MR. HIGHT: If there's no second, we need
17 another motion.

18 MS. HARPER: Then we need another motion on
19 the floor.

20 MR. MCCORQUODALE: Mr. Chairman, I'll make a
21 motion. I would like to make a motion to, in case
22 P23-13, move to approve the conditional rezoning from
23 heavy industrial to heavy industrial/conditional
24 zoning, HI/CZ, to allow car washing/auto detailing on
25 1.57, plus or minus, acres located at 616 Person

1 Street.

2 CHAIRMAN PATEL: Do we have a second?

3 MS. HARPER: Is there a second?

4 MR. SHAH: It's just based on the
5 consistency?

6 MS. HARPER: Based on the --

7 MR. McCORQUODALE: Based on our consistency
8 statement and reading the statement within the packet
9 provided by City staff.

10 CHAIRMAN PATEL: Any second?

11 MR. SHAH: I'll second the motion.

12 CHAIRMAN PATEL: All in favor?

13 (Four respond aye.)

14 CHAIRMAN PATEL: All opposed?

15 MR. HIGHT: Opposed.

16 CHAIRMAN PATEL: Motion passes four to one.

17 All right. Thank you. Are there any other items
18 of business?

19 MR. HARMON: Mr. Chairman, the only other
20 item of business we have tonight is introducing you to
21 Mr. Will Deaton. He is taking Jennifer's place in our
22 department. Some of you may remember Will. He worked
23 with us as recently as six years ago and has most
24 recently been planning director in Rocky Mount. You
25 were with the City how many years?

1 MR. DEATON: About five, six.

2 MR. HARMON: About five to six, seven years.

3 Will has family -- he grew up in the area so knows
4 Fayetteville well, has worked here before. So a good
5 person to have on board.

6 MR. DEATON: Nice to meet you guys.

7 CHAIRMAN PATEL: Nice to meet you.

8 MR. HARMON: Mr. Chairman, that's all I have.

9 CHAIRMAN PATEL: Do we have a motion to
10 adjourn?

11 MR. KEITH: Motion to adjourn.

12 CHAIRMAN PATEL: Second?

13 MR. SHAH: Second.

14 CHAIRMAN PATEL: All in favor?

15 (All respond aye.)

16 CHAIRMAN PATEL: Thank you guys.

17 (Off the record at 7:56 p.m.)

18

19

20

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22

23

24

25

1 STATE OF NORTH CAROLINA

2 COUNTY OF CUMBERLAND

3
4
5 REPORTER'S CERTIFICATE

6 I, Sara Cahill, Registered Professional
7 Reporter, do hereby certify that the meeting/hearing
8 was taken by me and transcribed by me (or under my
9 supervision); and that the foregoing pages constitute a
10 true and correct transcript.

11 I do further certify that I am not counsel
12 for, or in the employment of any of the parties to this
13 action, nor am I interested in the results of this
14 action.

15 In witness whereof, I have hereunto set my
16 hand this 24th day of April 2023.

17
18
19 

20 Sara Cahill, RPR
21 NC Notary No.: 200734800168
22 My Commission Expires December 13, 2027
23
24
25



City of Fayetteville

433 Hay Street
Fayetteville, NC 28301-5537
(910) 433-1FAY (1329)

City Council Action Memo

File Number: 23-3345

Agenda Date: 5/9/2023

Version: 1

Status: Agenda Ready

In Control: Zoning Commission

File Type: Public Hearing
(Public & Legislative)

Agenda Number: 4.01

TO: Mayor and Members of City Council

THRU: Zoning Commission

FROM: Demetrios Moutos - Planner I

DATE: May 9, 2023

RE:

P23-15. Rezoning from Agricultural Residential (AR) to Limited Commercial (LC) on 4.5 acres ±, located at 8205 Stoney Point Road (REID# 9485651707000) and 0 Rockfish Road (REID# 9485557246000) and being the properties of Dennis E Canady, John D Gillis, James Wright Gillis, and Robert Lewis Gillis, being represented by Thomas Neville of Yarborough, Winters & Neville, PA

COUNCIL DISTRICT(S):

6 - Derrick Thompson

Relationship To Strategic Plan:

Strategic Operating Plan FY 2022

Goals 2027

Goal II: Responsive City Government Supporting a Diverse and Viable Economy

- Objective 2.1 - To ensure a diverse City tax base

Goal III: City invested in Today and Tomorrow

- Objective 3.2 - To manage the City's future growth and strategic land use.

Executive Summary:

The applicant is seeking to rezone one parcel and a portion of a second parcel from Agricultural-Residential (AR) to Limited Commercial (LC). The area to be rezoned totals 4.5 acres ±.

Background:

Applicant: Kimberlee Bozeman

Owner: Andy Priolo of Circle K

Requested Action: AR to LC

REID #: 9485651707000 & 9485557246000

Council District: 6 - Derrick Thompson

Status of Property: 8205 Stoney Point Road: Occupied Single Family House

0 Rockfish Road: Undeveloped, Farm Land

Size: 4.5 acres ±

Adjoining Land Use & Zoning:

- North: AR - Two Single Family Homes
- South: Community Commercial - Vacant Land and Future Roadway Improvement ROW
- East: AR and CC - Vacant Land and Clicks Nursery
- West: AR - Farmland

Annual Average Daily Traffic: Stoney Point Road: 13,500 (2021)

Letters Mailed: 107

Land Use Plans:

With the adoption of the 2040 Comprehensive Plan: Future Land Use Map & Plan on May 26, 2020, all properties within the city limits as well as properties identified as being in the Municipal Influence Area (MIA) are subject to this plan.

According to the Plan, it is recommended that this portion of the city should be developed as Low Density Residential (LDR). However, two other properties at this future intersection, located at 8159 and 8142 Stoney Point Road were rezoned in October of 2022 to Community Commercial, changing the future character of the area.

Low Density Residential is best described as mainly single family residential with some accessory dwellings; occasionally with duplexes (if isolated) or townhomes. Lots are typically meant for 1-4 dwellings per acre and have a suburban, auto-oriented character with utility services. According to the Plan, the area surrounding the subject properties is intended to develop as Low Density Residential, Neighborhood Mixed Use, and Open Space Subdivisions.

Issues/Analysis:

History:

The subject property was annexed into the city in 2005 as part of the Phase 5 Annexation Project. The single family house located at 8205 Stoney Point Road was built in 1958 according to County tax records. The 24.35-acre vacant parcel has never been developed.

The City Council voted to approve the requested rezoning (Case P22-44) of two parcels to the east of the subject property to Community Commercial on 12/12/2022 with no conditions of approval, thus setting a precedent and changing the future character of the area.

Surrounding Area:

Springfield Crossing subdivision is located to the north of the subject properties. Scattered single family housing and open space is located to the south and west of the subject properties. Across Stoney Point Road, there is undeveloped land and Click's Nursery & Greenhouse. The subject properties are adjacent to right of way for future roadway and improvements that will connect with I295.

Rezoning Request:

Land within the City is generally classified by the Unified Development Ordinance (UDO) to be within one of many base zoning districts. Land may be reclassified to one of several comparable zoning districts in accordance with Section 30-2.C.

The applicant is requesting to rezone an area currently zoned Agricultural Residential (AR) to Limited Commercial (LC). The applicant intends to construct a Circle K convenience store with gas sales on the site, although this is not a conditional zoning and the applicant can not be held to that type of development.

The attached site plan has been reviewed by the Technical Review Committee. At the meeting, standard development comments were provided regarding standards for parking, stormwater, landscaping, etc.

Straight Zoning:

The request is for a straight zoning from Agricultural Residential (AR) to Limited Commercial (LC).

The Limited Commercial (LC) District is established and intended to accommodate a wider range of moderate-intensity general retail, business, and service uses that serve groups of neighborhoods instead of just an individual neighborhood-e.g., grocery stores, drugstores, large restaurants, gas stations, and higher order retail uses like specialty stores. The district is not intended to accommodate intensive commercial or other business uses. Residential uses are encouraged on the upper floors of nonresidential establishments. The district is subject to standards intended to ensure development is compatible with surrounding residential neighborhoods.

The reclassification of land to a base zoning district without conditions allows all of the uses that are shown on the attached Use Table taken from the UDO. The Zoning Commission may not consider conditions or restrictions on the range of allowable uses, use standards, development intensities, development standards, and other applicable regulations.

Land Use Plan Analysis:

According to the Future Land Use Map & Plan, this general area is recommended to be developed as Low Density Residential (LDR) and Neighborhood Mixed Use (NMU). The requested rezoning is not in keeping with the Future Land Use Map, however, it is generally consistent with the Land Use Policies and Strategies of the Future Land Use Plan. The pending road improvements and eventual connection to I295 all but ensure this area will develop as commercial. There are already commercially zoned lots adjacent to and across the street from the subject properties.

Consistency and Reasonableness Statements:

The Future Land Use Plan also sets forth written goals, policies, and strategies. This application does follow the City's strategic, compatible growth strategies and does meet the goals of the Land Use Plan found on the attached Consistency and Reasonableness form.

Budget Impact:

There is not an immediate budgetary impact but there will be an economic impact associated with this rezoning that will occur due to taxes collected in the future.

Options:

1. Recommend approval of the map amendment to Limited Commercial (LC) as presented based on the evidence submitted, and finds that the rezoning is consistent with the City Council's recent actions and, as demonstrated by the attached consistency and reasonableness statement, approval of the rezoning would serve as an update to the future land use plan. (recommended);
2. Recommend approval of the map amendment to a more restrictive zoning district based on the evidence submitted and finds that the map amendment would be consistent with the Future Land Use Plan and an amended consistency statement;
3. Deny the map amendment request based on the evidence submitted and finds that the map amendment is inconsistent with the Future Land Use Plan.

Recommended Action:

The Professional Planning Staff recommends that the Zoning Commission move to recommend APPROVAL of the map amendment to LC based on the following:

- This proposal would update the future land use map if adopted, it also satisfies the Future Land Use Goals #1 and #2 and is generally consistent with the Land Use Policies and Strategies. Additionally, the proposed roadway improvements and eventual connection to I295 ensure this proposal will evolve to be an even better fit for the surrounding area.
- The uses permitted by the proposed change in zoning district classification and standards that apply to such uses are appropriate in the immediate area of the land to be reclassified due to the existing zoning and uses surrounding this property; and
- There are no other factors that will substantially affect public health, safety, morals, or general welfare.

Attachments:

1. Plan Application
2. Aerial Notification Map
3. Zoning Map
4. Land Use Plan Map
5. Subject Property
6. Surrounding Property Photos
7. Consistency and Reasonableness Statement
8. Site Plan

**Planning & Zoning**

433 Hay Street
Fayetteville, NC 28301
910-433-1612
www.fayettevillenc.gov

Project Overview**#956813**

Project Title: Circle K - Stoney Point Road
Application Type: 5.1) Rezoning (Map Amendment)
Workflow: Staff Review

Jurisdiction: City of Fayetteville
State: NC
County: Cumberland

Project Location**Project Address or PIN:**

- 8205 STONEY POINT RD (9485651707000)
- 0 ROCKFISH RD (9485557246000)

Zip Code: 28306**GIS Verified Data****Property Owner: Parcel**

- 8205 STONEY POINT RD: CANADY, DENNIS E
- 0 ROCKFISH RD: GILLIS, JOHN D;GILLIS, ROBERT LEWIS;GILLIS, JAMES WRIGHT

Acreage: Parcel

- 8205 STONEY POINT RD: 2.79
- 0 ROCKFISH RD: 24.35

Zoning District: Zoning District

- 8205 STONEY POINT RD: AR
- 0 ROCKFISH RD: AR

Subdivision Name:**Fire District:****Hospital Overlay District:****Cape Fear District:****Haymount Historic District:****100 Year Flood:** <100YearFlood>**Watershed:****Airport Overlay District:****Coliseum Tourism District:****Downtown Historic District:****Floodway:****500 Year Flood:** <500YearFlood>**General Project Information****Has the land been the subject of a map amendment application in the last five years?:** No**Previous Amendment Case #:****Acreage to be Rezoned:** 4.5**Water Service:** Public**Previous Amendment Approval Date:****Proposed Zoning District:** LC**Is this application related to an annexation?:** No**Sewer Service:** Public

A) Please describe all existing uses of the land and existing structures on the site, if any:

Parcel 9485-65-1707 has an existing residential structure and detached accessory building. Parcel 9485-55-7246, a contiguous parcel, is vacant with no existing structure.

B) Please describe the zoning district designation and existing uses of lands adjacent to and across the street from the subject site.:

All parcels are currently zoned AR. To the immediate north and west, adjacent parcels are also zoned AR. To the east and across Stoney Point Road is also zoned AR. To the South, the adjacent parcels are zoned CC and have located thereon residential structures.

Amendment Justification - Answer all questions on this and all pages in this section (upload additional sheets as needed).

A) State the extent to which the proposed amendment is consistent with the comprehensive plan and all other applicable long-range planning documents.:

This amendment is consistent with good land use practices and planned future growth. The Fayetteville Outer Loop Corridor has created a need for a change in zoning designations and future land use such that the current land use plan should be revised to reflect the presence of the Outer Loop Corridor.

B) Are there changed conditions that require an amendment? :

The construction of the Fayetteville Outer Loop Corridor has created a changed condition such that this amendment is necessary.

C) State the extent to which the proposed amendment addresses a demonstrated community need.:

Due to the anticipated rapid growth in this area, due to the planned changes to Stoney Point Road and creation of an intersection and new roadway at this location and the advent of the I-295 corridor, a broader range of commercial uses is necessary to accommodate the needs of this developing area.

D) State the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject land, and why it is the appropriate zoning district for the land.:

As a result of the hereinabove described changes in this area due to the I-295 Corridor, it is necessary to allow for commercial development in close proximity to the Corridor to provide local commercial goods and services to better serve the the residential growth.

E) State the extent to which the proposed amendment results in a logical and orderly development pattern.:

As shown above, the proposed change allows for a logical and orderly development pattern.

F) State the extent to which the proposed amendment might encourage premature development.:

The proposed change in zoning does not encourage premature development.

G) State the extent to which the proposed amendment results in strip-style commercial development.:

The proposed change in zoning would not encourage strip-style commercial development

H) State the extent to which the proposed amendment results in the creation of an isolated zoning district unrelated to adjacent and surrounding zoning districts.:

The adjacent property is zoned CC and another property diagonally across the intersection is zoned CC. The proposed change will establish the appropriate zoning for this property as a result of the construction of the Fayetteville Outer Loop Corridor. In all likelihood, the immediate surrounding property will also be rezoned to commercial. It will not result in an improper isolated zoning district unrelated to adjacent and surrounding land use.

I) State the extent to which the proposed amendment results in significant adverse impacts on the property values of surrounding lands.:

The investment in the proposed development is expected to increase property values in surrounding lands.

J) State the extent to which the proposed amendment results in significantly adverse impacts on the natural environment.:

The proposed change in zoning would not result in any significant adverse impact on the natural environment.

Primary Contact Information

Contractor's NC ID#:

Project Owner

Andy Priolo
Circle K
1100 Situs Court, Suite 100
Raleigh, NC 27606
P: (Phone)919-774-6700
apriolo@circlek.com

Project Contact - Agent/Representative

Thomas Neville
Yarborough, Winters & Neville, PA
115 E. Russell Street
Fayetteville, NC 28301
P: (Phone)910-433-4433
F: (Fax)910-433-2233
jtneville@ywnlaw.com

Project Contact - Primary Point of Contact for the Attorney

Thomas Neville
Yarborough, Winters & Neville, PA
115 E. Russell Street
Fayetteville, NC 28301
P: (Phone)910-433-4433
F: (Fax)910-433-2233
jtneville@ywnlaw.com

Project Contact - Primary Point of Contact for Engineer

Rick Baker
Timmons Group
5410 Trinity Road, Suite 102
Raleigh, NC 27607
P: (Phone)919-866-4951
rick.baker@timmons.com

As an unlicensed contractor, I am aware that I cannot enter into a contract that the total amount of the project exceeds \$30,000. :

NC State General Contractor's License Number:

**NC State Mechanical Contractor's #1 License
Number:**

**NC State Mechanical Contractor's #2 License
Number:**

**NC State Mechanical Contractor's #3 License
Number:**

NC State Electrical Contractor #1 License Number:

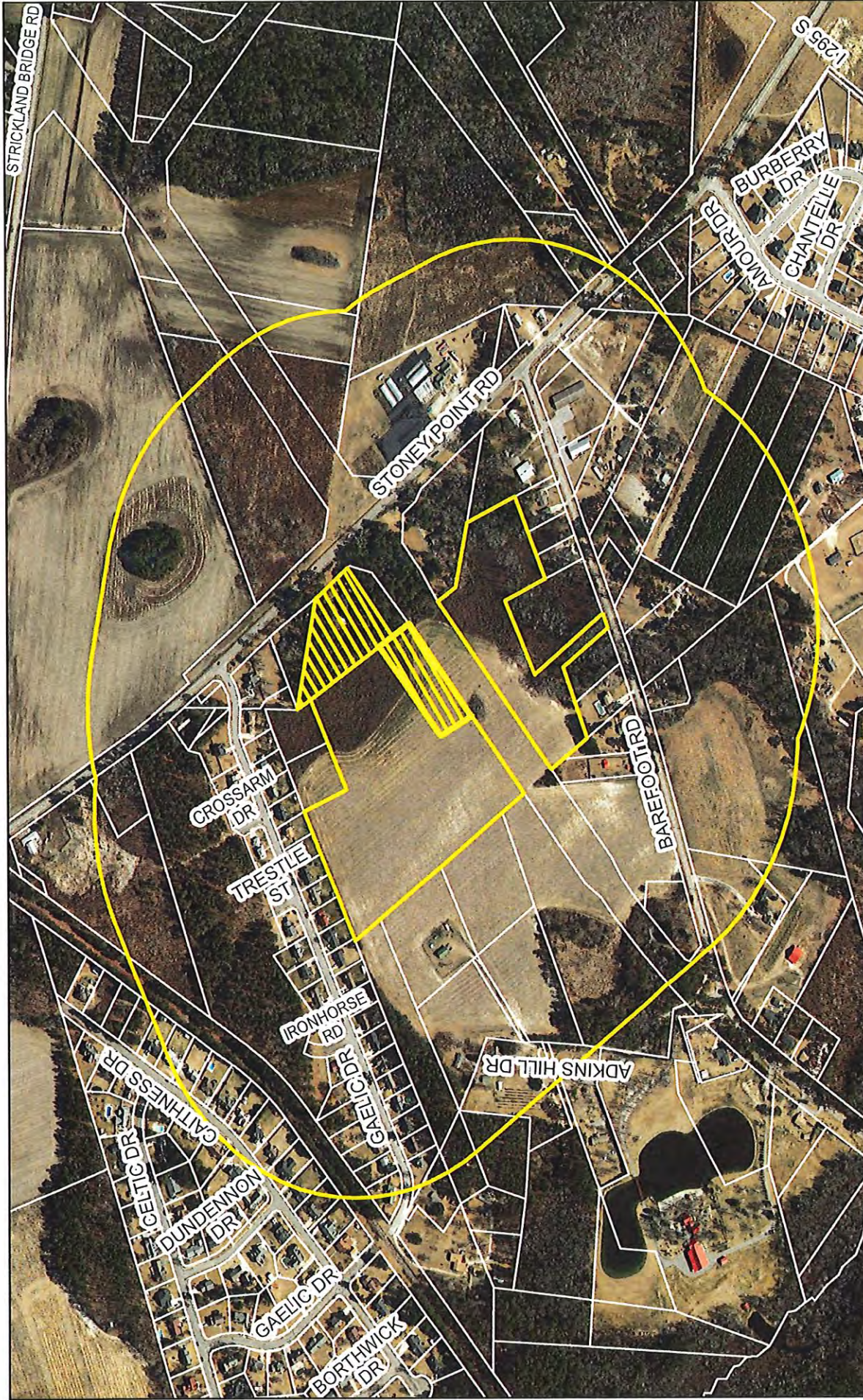
NC State Electrical Contractor #2 License Number:

NC State Electrical Contractor #3 License Number:

NC State Plumbing Contractor #1 License Number:

NC State Plumbing Contractor #2 License Number:

**Indicate which of the following project contacts
should be included on this project: Attorney,Engineer**



Aerial Notification Map





Case #: P23-15

Rezoning

Request: Limited Commercial (LC)

Location: 8205 Stoney Point Road & 0 Rockfish Road
9485651707000 & 9485557246000

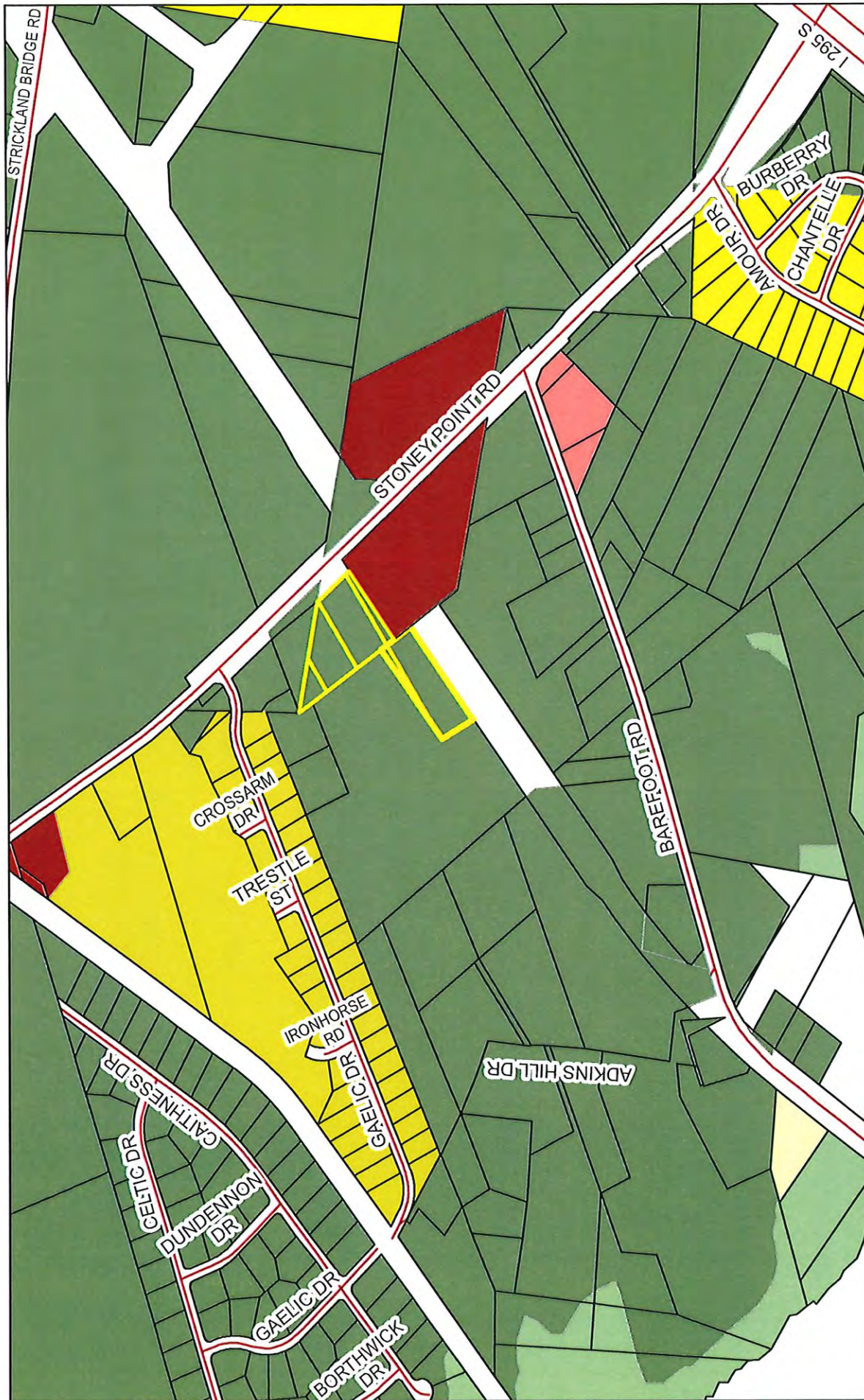
Legend

| | |
|---|---------------|
|  | 9485-55-7246 |
|  | P23-15 |
|  | P23-15 |
|  | P23-15 Buffer |



Letters are being sent to all property owners within the 1000' buffer. Subject property is shown in the hatched pattern.





Zoning Map Case #: P23-15

Rezoning
Request: Limited Commercial (LC)

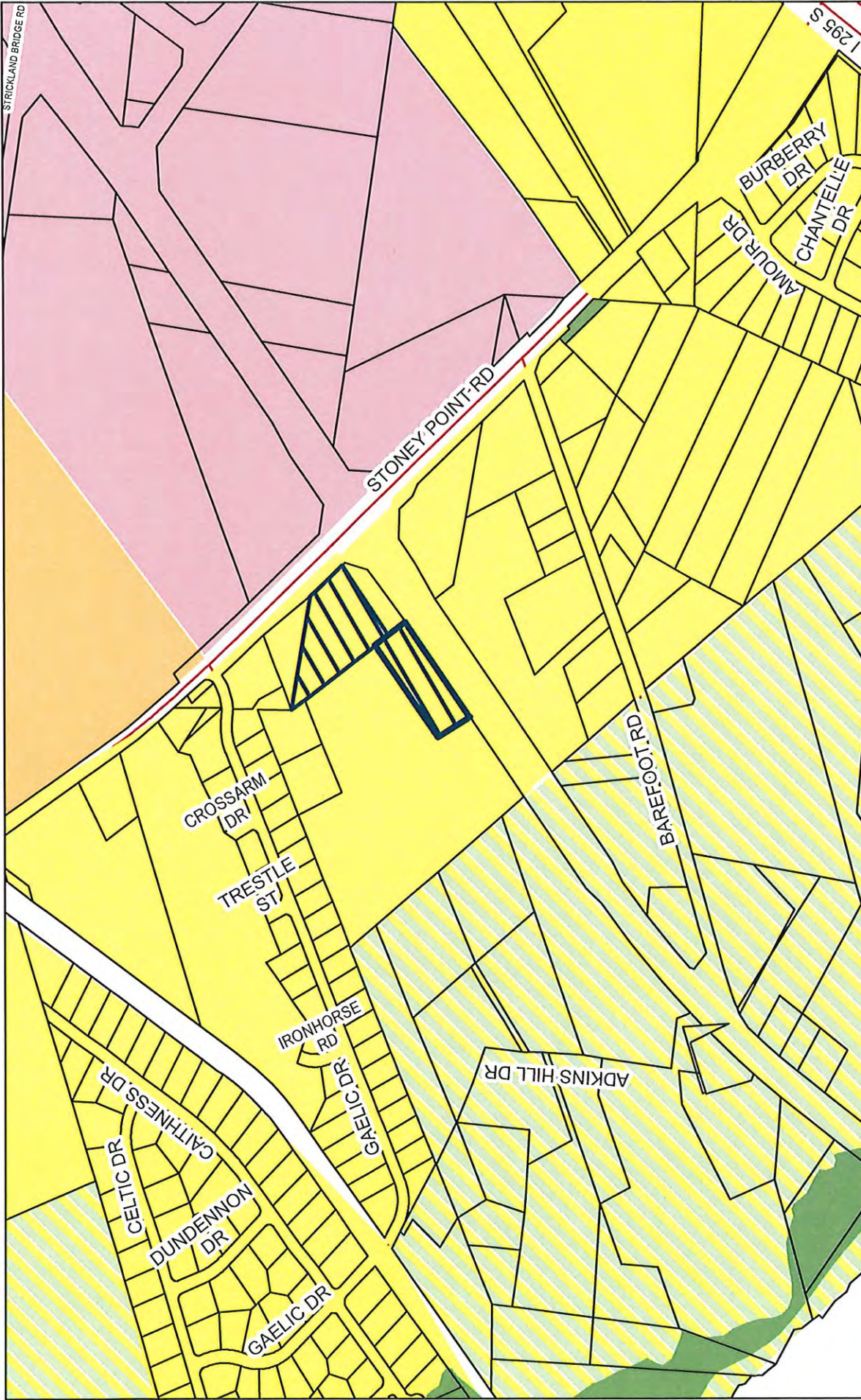
Location: 8205 Stoney Point Road & 0 Rockfish Road
9485651707000 & 9485557246000

Legend

| | | | |
|--|-------------------------------|--|--------------------------------------|
| | P23-15 | | CD - Conservation District |
| | CC Zoning | | LC - Limited Commercial |
| | CC Zoning | | SF-6 - Single-Family Residential 6 |
| | P23-15 | | SF-10 - Single-Family Residential 10 |
| | AR - Agricultural-Residential | | SF-15 - Single-Family Residential 15 |
| | CC - Community Commercial | | County |

Letters are being sent to all property owners within the 1000' buffer. Subject property is shown in the hatched pattern.





Future Land Use Map

Case #: P23-15

Rezoning

Request: Limited Commercial (LC)

Location: 8205 Stoney Point Road & 0 Rockfish Road
9485651707000 & 9485557246000

Legend



Land Use Plan 2040

Character Areas

- PARKOS - PARK / OPEN SPACE
- OSS - OPEN SPACE SUBDIVISIONS
- LDR - LOW DENSITY
- MDR - MEDIUM DENSITY
- NMU - NEIGHBORHOOD MIXED USE



Letters are being sent to all property owners within the 1000' buffer. Subject property is shown in the hatched pattern.





Subject Property





Consistency and Reasonableness Statement

Map Amendments

Pursuant N.C.G.S. Sections 160D-604 and -605, the Zoning Commission finds that the proposed zoning map amendment in case P23-15 is consistent/inconsistent with the City of Fayetteville's Future Land Use Map and Plan (Comprehensive Plan). The following analysis examines the proposed amendment relative to the goals and land-use policies and strategies of the Comprehensive Plan:

Consistency

1. GOALS

| GOAL(S) | CONSISTENT | INCONSISTENT |
|--|------------|--------------|
| GOAL #1: Focus value and investment around infrastructure and strategic nodes | X | |
| GOAL #2 Promote compatible economic and commercial development in key identified areas | X | |

2. LAND USE POLICES AND STRATEGIES:

| LAND USE POLICIES AND STRATEGIES | CONSISTENT | INCONSISTENT |
|---|------------|--------------|
| LUP 1: Encourage growth in areas well- served by infrastructure and urban services, including roads, utilities, parks, schools, police, fire and emergency services. | X | |
| 1.6: Require adequate infrastructure to be in place prior to or in tandem with new development. | X | |
| LUP 4: Create well-designed and walkable commercial and mixed use districts. | X | |
| 4.1: Ensure new development meets basic site design standards. | X | |
| 4.2: Encourage context sensitive site design. | X | |
| LUP 8: Require the reservation of open space and unique natural features in new developments. | X | |
| 8.2: Preserve unique natural features through site design. | X | |

3. The proposed amendment is consistent with the Future Land Use Map as follows:

| | | | | |
|-------------------------------------|--|----|--------------------------|--|
| <input checked="" type="checkbox"/> | The proposed land use is consistent and aligns with the area's designation on the FLU Map. | OR | <input type="checkbox"/> | The proposed land use is inconsistent and does not align with the area's designation on the FLU Map. |
| <input checked="" type="checkbox"/> | The proposed designation, as requested, would permit uses that are complimentary to those existing on adjacent tracts. | OR | <input type="checkbox"/> | The proposed designation, as requested, would permit uses that are incongruous to those existing on adjacent tracts. |

Reasonableness

The proposed zoning amendment is reasonable and in the public interest because it supports the policies of the Comprehensive Plan as stated above and the Strategic Plan as stated in the Staff Report, and because: [select all that apply]

- ☒ The size, physical conditions, and other attributes of the proposed use(s) will benefit the surrounding community.
- ☐ The amendment includes conditions that limit potential negative impacts on neighboring uses.
- ☒ The proposed uses address the needs of the area and/or City.
- ☒ The proposal adapts the zoning code to reflect modern land-use trends and patterns.

The amendment is also in the public interest because it: [select all that apply]

- ☒ improves consistency with the long-range plan.
- ☒ improves the tax base.
- ☐ preserves environmental and/or cultural resources.
- ☒ facilitates a desired kind of development.
- ☒ provides needed housing/commercial area.

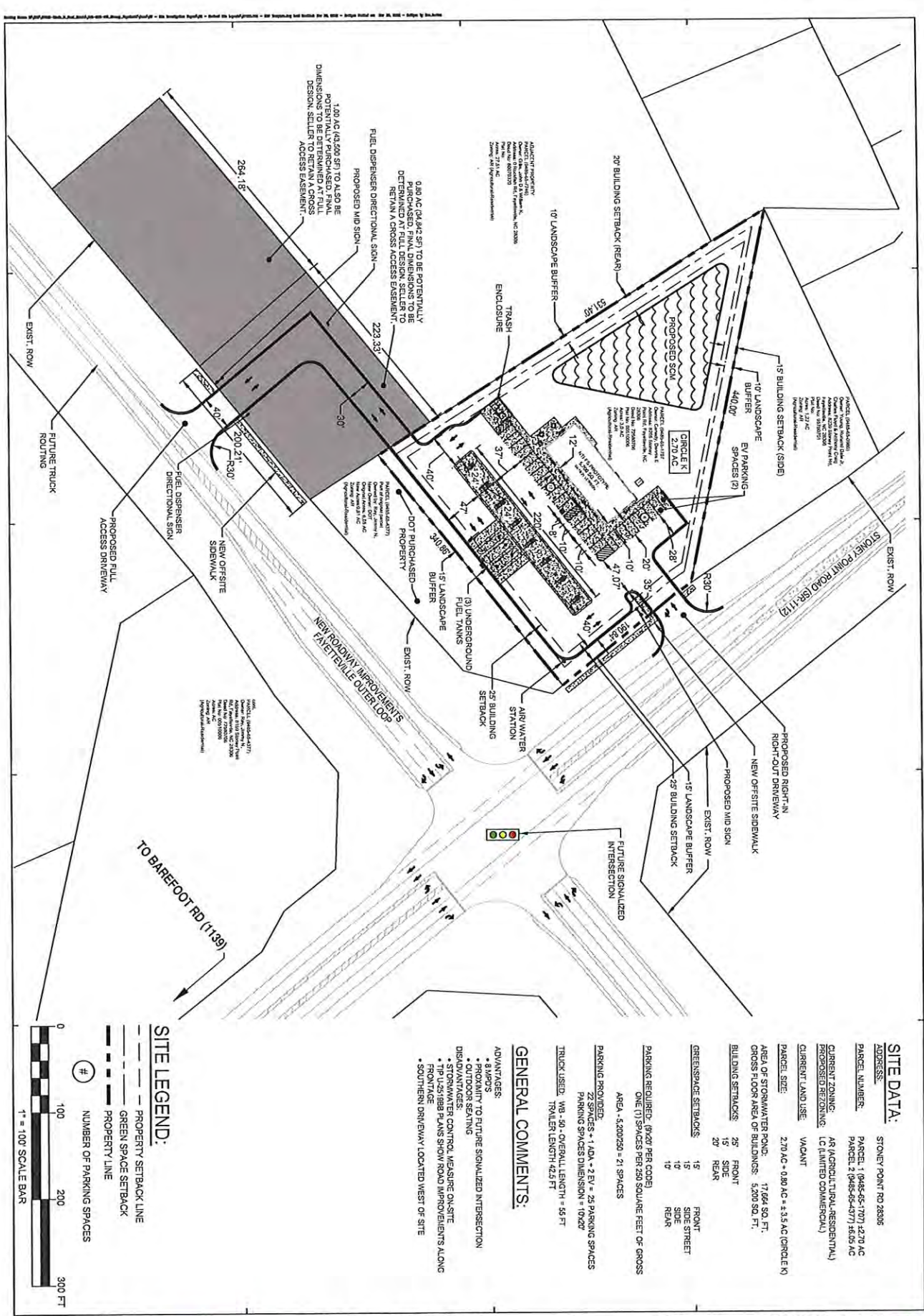
Additional comments, if any (write-in):

May 9, 2023

Date

Chair Signature

Print



SITE DATA:

ADDRESS: STONEY POINT RD 28306
PARCEL NUMBER: PARCEL 1 (048-65-107) 4270 AC
PARCEL 2 (048-65-177) 1659 AC
CURRENT ZONING: AR (AGRICULTURAL/RESIDENTIAL)
PROPOSED ZONING: LC (LIMITED COMMERCIAL)
CURRENT LAND USE: VACANT
PARCEL SIZE: 2.70 AC ± 0.90 AC ± 3.5 AC (CIRCLE K)
AREA OF STORMWATER POND: 17,668 SQ. FT.
GROSS FLOOR AREA OF BUILDINGS: 32,000 SQ. FT.

BUILDING SETBACKS:
25' FRONT
15' SIDE
20' REAR

GREENSPACE SETBACKS:
15' FRONT
10' SIDE
17' REAR

PARKING REQUIRED: (MAX PER CODE)
AREA - 5,200/250 = 21 SPACES
PARKING PROVIDED:
22 SPACES ± 1 ADA ± 2 EV ± 20 PARKING SPACES
PARKING SPACES DIMENSION: 10'x20'
TRUCK LANE: WB - 50' OVERALL LENGTH ± 45 FT
TRUCK LENGTH: 42.5 FT

GENERAL COMMENTS:

- ADVANTAGES:**
- 8 WPD'S
 - ADJACENT TO FUTURE SIGNALIZED INTERSECTION
 - FUTURE SETBACKS
 - DISADVANTAGES
 - STORMWATER CONTROL MEASURE ON-SITE
 - TIP U-25188 PLANS SHOW ROAD IMPROVEMENTS ALONG FRONTAGE
 - SOUTHERN DRIVEWAY LOCATED WEST OF SITE

SITE LEGEND:

- PROPERTY SETBACK LINE
 - GREEN SPACE SETBACK
 - PROPERTY LINE
 - (#) NUMBER OF PARKING SPACES
- 0 100 200 300 FT
1" = 100' SCALE BAR

TIMMONS GROUP

Timmons Group, Inc.
10000 West 10th Avenue, Suite 100
Denver, CO 80231
Phone: 303-440-1000

Project Manager: [Name]
Project Engineer: [Name]
Project Surveyor: [Name]
Project Designer: [Name]
Project Checker: [Name]
Project Approver: [Name]

02/22/2022 CSP REVIEW

NTI FAYETTEVILLE

8205 STONEY POINT ROAD
FAYETTEVILLE, NC
28306

PROJECT NAME: NTI FAYETTEVILLE
PROJECT NUMBER: 37530.101
SHEET TITLE: CONCEPTUAL SITE PLAN
SHEET NUMBER: CSP 1.0 W

CIRCLE K STORES INC.
37530.101
SHEET TITLE
CONCEPTUAL SITE PLAN
SHEET NUMBER



City of Fayetteville

433 Hay Street
Fayetteville, NC 28301-5537
(910) 433-1FAY (1329)

City Council Action Memo

File Number: 23-3346

Agenda Date: 5/9/2023

Version: 1

Status: Agenda Ready

In Control: Zoning Commission

File Type: Public Hearing
(Public & Legislative)

Agenda Number: 4.02

TO: Mayor and Members of City Council

THRU: Zoning Commission

FROM: Demetrios Moutos - Planner I

DATE: May 9, 2023

RE:

P23-16. Rezoning from Agricultural Residential (AR) to Community Commercial (CC) of 3.43 acres \pm , located at REID# 9485763126000 and being the property of John D. Gillis, represented by Mark Candler of Candler Development Group LLC.

COUNCIL DISTRICT(S):

6 - Derrick Thompson

Relationship To Strategic Plan:

Strategic Operating Plan FY 2022

Goals 2027

Goal II: Responsive City Government Supporting a Diverse and Viable Economy

- Objective 2.1 - To ensure a diverse City tax base

Goal III: City invested in Today and Tomorrow

- Objective 3.2 - To manage the City's future growth and strategic land use.

Executive Summary:

The applicant is seeking to rezone one parcel from Agricultural-Residential (AR) to Community Commercial (CC). The area to be rezoned totals 3.43 acres \pm .

Background:

Applicant: Mark Candler

Owner: John D. Gillis

Requested Action: AR to CC

REID #: 9485763126000

Council District: 6 - Derrick Thompson

Status of Property: Undeveloped; Farmland

Size: 3.43 acres ±

Adjoining Land Use & Zoning:

- North: AR - Vacant Land/Farmland
- South: CC & AR - Click's Nursery and Vacant Land
- East: AR - Vacant Land/Farmland
- West: AR - Vacant Land

Annual Average Daily Traffic: Stoney Point Road: 13,500 (2021)

Letters Mailed: 25

Land Use Plans:

With the adoption of the 2040 Comprehensive Plan: Future Land Use Map & Plan on May 26, 2020, all properties within the city limits as well as properties identified as being in the Municipal Influence Area (MIA) are subject to this plan.

According to the Plan, it is recommended that this portion of the city should be developed as Neighborhood Mixed Use (NMU). Neighborhood Mixed Use is best described as providing space for neighborhood scale commercial uses. This includes primarily a horizontal mix of uses with some vertically mixed uses in key locations. Typically, these uses would be 1-3 stories, include smaller-scale multifamily, attached and small lot single family, and retain a lower density on the edges. According to the Plan, the area surrounding the subject property is intended to develop as Neighborhood Mixed Use

Issues/Analysis:

History:

The subject property was annexed into the city in 2005 as part of the Phase 5 Annexation Project. To the best of our knowledge, the subject property has never been developed and has been used as open space/farmland since at least 1968, according to county aerial imagery.

Surrounding Area:

All the area surrounding the subject property is vacant/undeveloped land. Click's Nursery is to the southwest and Springfield Crossing residential subdivision lies across Stoney Point Road to the west. The subject property itself does not front any road, but will once future roadway and improvements are made to connect to I295 near Strickland Bridge Road.

Rezoning Request:

Land within the City is generally classified by the Unified Development Ordinance (UDO) to be within one of many base zoning districts. Land may be reclassified to one of several comparable zoning districts in accordance with Section 30-2.C.

The applicant is requesting to rezone an area currently zoned Agricultural Residential (AR) to Community Commercial (CC). The applicant noted in the application that future development will consist of a variety of commercial, multifamily, single family residential,

fuel conveniences, free standing food, multi-tenant business retail, and retail shopping.

Straight Zoning:

The request is for a straight zoning from Agricultural Residential (AR) to Community Commercial (CC).

The Community Commercial (CC) District is established and intended to accommodate a diverse range of medium- to high-intensity retail, service, and office uses that provide goods and services serving the residents and businesses in the community at large-e.g., shopping centers, convenience stores, retail sales establishments, and heavier commercial uses (subject to approval of a Special Use Permit (see Section 30-2.C.7)).

The district is typically located along major arterials, at the intersection of arterials, and along growth corridors identified in City plans. Higher-density residential uses are encouraged on the upper floors of nonresidential establishments, and may exist as stand-alone buildings as part of a larger horizontal mixed- use development. The district is subject to standards intended to ensure development is compatible with surrounding uses as well as the design standards in Article 30-5: Development Standards.

The reclassification of land to a base zoning district without conditions allows all of the uses that are shown on the attached Use Table taken from the UDO. The Zoning Commission may not consider conditions or restrictions on the range of allowable uses, use standards, development intensities, development standards, and other applicable regulations.

Land Use Plan Analysis:

According to the Future Land Use Map & Plan, this general area is recommended to be developed as Neighborhood Mixed Use (NMU). The requested rezoning is in keeping with the Future Land Use Map and Plan. The pending road improvements and eventual connection to I295 all but ensure this area will develop as commercial. There are already commercially zoned lots adjacent to and across the street from the subject property.

Consistency and Reasonableness Statements:

The Future Land Use Plan also sets forth written goals, policies, and strategies. This application does follow the City's strategic, compatible growth strategies and does meet the goals of the Land Use Plan found on the attached Consistency and Reasonableness form.

Budget Impact:

There is not an immediate budgetary impact but there will be an economic impact associated with this rezoning that will occur due to taxes collected in the future.

Options:

1. Recommend approval of the map amendment to Community Commercial (CC) as presented based on the evidence submitted and finds that the rezoning is consistent with the Future Land Use Map as demonstrated by the attached consistency and reasonableness statement (recommended);
2. Recommend approval of the map amendment to a more restrictive zoning district based on the evidence submitted and finds that the map amendment would be consistent with the Future Land Use Plan and an amended consistency statement;
3. Deny the map amendment request based on the evidence submitted and finds that the

map amendment is inconsistent with the Future Land Use Plan.

Recommended Action:

The Professional Planning Staff recommends that the Zoning Commission move to recommend APPROVAL of the map amendment to CC based on the following:

- The proposed zoning map amendment implements the policies adopted in the Future Land Use Plan (FLUP), and those policies found in the Unified Development Ordinance (UDO). The Future Land Use Plan calls for the subject property to be developed as Neighborhood Mixed Use.
- The uses permitted by the proposed change in zoning district classification and standards that apply to such uses are appropriate in the immediate area of the land to be reclassified due to the existing zoning and future land use in this area; and
- There are no other factors that will substantially affect public health, safety, morals, or general welfare.

Attachments:

1. Plan Application
2. Aerial Notification Map
3. Zoning Map
4. Land Use Plan Map
5. Subject Property
6. Consistency and Reasonableness Statement

04.1) Map Amendment Submittal Requirements

An application for Map Amendment must address the following issues:

Consistency with adopted plans, changed conditions requiring amendment, community need, compatibility with existing and proposed uses and zoning, logical development pattern, strip development, unneeded development, spot zoning, property value, environmental concerns, compatibility of permissible uses and existing uses.

☒ **Signed and notarized copy of the Affidavit of Ownership.**

Please download the affidavit of ownership form below, sign and notarize it, then upload a copy during step 2 of the submittal process.

[↓ Download Affidavit of Ownership Form](#)

☒ **Pre-application conference completed.** If you have not completed a pre-application conference, please call 910-433-1612.

Comments

| | |
|---|--|
| Mark Candler Candler Development Group LLC. 3/21/23 03:04 PM | 03/21/2023 Emailed Craig Harmon a request for Pre-application Conference call. Direct Contact for myself. Mark Candler (910) 263-0370 D. Thank you |
|---|--|

- ☐ Copy of an approved Certificate of Appropriateness (COA) if located within the Historic Landmark Overlay District (HLO).
- ☒ A copy of the recorded deed, or a written legal description if the application is for a portion of a larger tract.
- ☐ Scaled drawing showing all existing structures, site features, and setbacks.
- ☐ Elevations required if rezoning involves new construction or changes to an existing building.
- ☐ Transportation analysis, if required.

AFFIDAVIT OF OWNERSHIP

I, John B. Gillis, being duly sworn, deposes and says:

1. That I am the owner of the property/properties located at Strickland Bridge Road in the City of Fayetteville, a political subdivision of the State of North Carolina.

2. I do hereby give permission to Candler Development Group LLC to submit a Conditional Rezoning/Rezoning/Variance/Special Use (circle one) application to the City of Fayetteville on my behalf for the above referenced property/properties.

3. This authority is only granted for the application to be submitted on _____.

John B. Gillis
Signature of Affiant

John B. Gillis
Signature of Affiant

Cumberland County, North Carolina

Sworn to and subscribed before me this day on the 16th day of March, 2023.

(Official Seal)



[Signature]
Signature of Notary Public

Bhavesh Godhani, Notary Public
Printed Name of Notary Public

My Commission Expires: 11/01/2025.

Project Overview

#977266

Project Title: Lakay Realty**Application Type:** 5.1) Rezoning (Map Amendment)**Workflow:** Staff Review**Jurisdiction:** City of Fayetteville**State:** NC**County:** Cumberland**Project Location****Project Address or PIN:** 9485-76-3126 (Unverified)**Zip Code:** 28306**GIS Verified Data****Property Owner:****Zoning District:****Fire District:****Hospital Overlay District:****Cape Fear District:****Haymount Historic District:****100 Year Flood:** <100YearFlood>**Watershed:****Acreage:****Subdivision Name:****Airport Overlay District:****Coliseum Tourism District:****Downtown Historic District:****Floodway:****500 Year Flood:** <500YearFlood>**General Project Information****Has the land been the subject of a map amendment application in the last five years?:** No**Previous Amendment Case #:****Acreage to be Rezoned:** 3.43**Water Service:** Private**A) Please describe all existing uses of the land and existing structures on the site, if any:**

Existing Vacant Farm Land. No Structures are on the site.

Previous Amendment Approval Date:**Proposed Zoning District:** Community Commercial**Is this application related to an annexation?:** No**Sewer Service:** Private**B) Please describe the zoning district designation and existing uses of lands adjacent to and across the street from the subject site.:**

Zoning District Designation Existing is AR Contiguous to include Community Commercial Designation on property Sites 8142 & 8159 Stoney Point Rd.

Amendment Justification - Answer all questions on this and all pages in this section (upload additional sheets as needed).**A) State the extent to which the proposed amendment is consistent with the comprehensive plan and all other applicable long-range planning documents.:**

Property is situated in the 2030 Land Use Plan as Commercial District Area for the City of Fayetteville NC.

B) Are there changed conditions that require an amendment? :

No.

C) State the extent to which the proposed amendment addresses a demonstrated community need.:

Site will offer direct ingress / egress to the future on / off ramp of I-295.

Future Development is of the total contiguous properties which will come online through out the next two years.

Future Development will consist of Commercial, Multi-Family, Single Family Residential.

D) State the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject land, and why it is the appropriate zoning district for the land.:

Presently, 8142 & 8159 Stoney Point have rezoned to Community Commercial. This vacant land site additionally offers road frontage to the future on / off ramp of I-295. Highest & Best Use as indicated in the 2030 land use plan is CC Zoning.

E) State the extent to which the proposed amendment results in a logical and orderly development pattern.:

The City of Fayetteville NC will see an Increase in Traffic Flow in this space given future roadway improvements.

Population will benefit with the Future Development of High-End Commercial Conveniences to include Conveniences of Future Housing Development.

The City of Fayetteville will gain in City Taxation while being involved in the Area Development Processes.

F) State the extent to which the proposed amendment might encourage premature development.:

Zoning the site to Community Commercial will allow in this case a premature outlook of the maximum benefit to service the surrounding communities as well as new housing needs that will follow in the area.

I-295 is the anchor on this land mass project.

G) State the extent to which the proposed amendment results in strip-style commercial development.:

Strip-style commercial would-be part of the Total Development.

Similar to the Ramsey St Project next to Hutchen Law Firm.

Additional Future Development will include Fuel Conveniences on the corners to include Free Standing Food, Multi-Tenant Business Retail, Retail Shopping with Multi-Family & Single-Family Housing.

H) State the extent to which the proposed amendment results in the creation of an isolated zoning district unrelated to adjacent and surrounding zoning districts.:

Site does not offer an Isolated zoning district.

Surrounding Site(s) 8142 & 8159 Stoney Point are currently Zoned CC.

Site is part of a land assemblage. Collectively, Investors are purchasing land to be Developed as Commercial Conveniences meeting Family Housing Needs.

As the I-295 approaches this site including surrounding land, a Total Development land mass is being assembled to accomplish the mentioned Convenience of Commercial and Family Housing needs.

I) State the extent to which the proposed amendment results in significant adverse impacts on the property values of surrounding lands.:

Surrounding Land Values Expected to see an increase in valuation.

The City of Fayetteville expected to see an increase in revenue taxation as well.

J) State the extent to which the proposed amendment results in significantly adverse impacts on the natural environment.:

Existing Area is mostly Vacant Farmland. Future Development will not impact the natural environment any more than the Roadway Development of I-295 in the area.

Improvement to the Water & Sewer services in the area is expected. Roadway Improvements in the area are expecting to aid in Vehicle Travel / Congestion. Future Land Development connecting to City Municipalities are project to enhance conveniences for residences of Fayetteville NC.

Primary Contact Information

Contractor's NC ID#:

Project Owner

Mark Candler
Candler Development Group LLC.
171 brooke run, none
lumber bridge, NC 28357
P:19102630370
F:19108481008
markcandler@live.com

Project Contact - Agent/Representative

Mark Candler
Candler Development Group LLC.
171 Brooke Run
Lumber Bridge, NC 28357
P:19102630370
CandlerAssociates@outlook.com

Project Contact - Primary Point of Contact for the Developer

Mark Candler
Candler Development Group LLC.
171 brooke run, none
lumber bridge, NC 28357
P:19102630370
F:19108481008
markcandler@live.com

As an unlicensed contractor, I am aware that I cannot enter into a contract that the total amount of the project exceeds \$30,000. :

NC State General Contractor's License Number:

NC State Mechanical Contractor's #1 License Number:
NC State Mechanical Contractor's #2 License Number:
NC State Mechanical Contractor's #3 License Number:
NC State Electrical Contractor #1 License Number:
NC State Electrical Contractor #2 License Number:
NC State Electrical Contractor #3 License Number:
NC State Plumbing Contractor #1 License Number:
NC State Plumbing Contractor #2 License Number:

Indicate which of the following project contacts should be included on this project: Developer

8729
0672

BK 08729 PG 0672

FILED
CUMBERLAND COUNTY NC
J. LEE WARREN, JR.
REGISTER OF DEEDS
FILED Sep 27, 2011
AT 03:32:00 pm
BOOK 08729
START PAGE 0672
END PAGE 0674
INSTRUMENT # 31459
RECORDING \$25.00
EXCISE TAX \$137.00
RT

NORTH CAROLINA GENERAL WARRANTY DEED

Excise Tax: \$137.00

Parcel Identifier No. 9485-76-3126 Verified by _____ County on the ____ day of _____, 20____
By: _____

Mail/Box to: McCoy Wiggins Cleveland & O'Connor PLLC, 202 Fairway Drive, Fayetteville, NC 28305

This instrument was prepared by: Steven J. O'Connor, Attorney at Law

Brief description for the Index: _____

THIS DEED made this 21st day of September, 2011 by and between

GRANTOR
Gillis Development
Corporation, Inc.
8623 Galatia Church Road
Fayetteville, NC 28304

GRANTEE
John D. Gillis
8623 Galatia Church Road
Fayetteville, NC 28304

Enter in appropriate block for each Grantor and Grantee: name, mailing address, and, if appropriate, character of entity, e.g. corporation or partnership.

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in the City of _____, SeventyFirst Township, _____ County, North Carolina and more particularly described as follows:

See Exhibit "A" attached hereto and incorporated by reference herein.

The property hereinabove described was acquired by Grantor by instrument recorded in Book 3798 page 50.

All or a portion of the property herein conveyed _____ includes or X does not include the primary residence of a Grantor.

A map showing the above described property is recorded in Plat Book _____ page _____.

NC Bar Association Form No. 3 © 1976, Revised © 1/1/2010
Printed by Agreement with the NC Bar Association

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever, other than the following exceptions: All restrictive covenants, utility easements and applicable zoning ordinances of record.

IN WITNESS WHEREOF, the Grantor has duly executed the foregoing as of the day and year first above written.

Gillis Development Corporation, Inc. (SEAL)
By: Joseph H. Gillis, Sr. (Entity Name) Print/Type Name: _____
Print/Type Name & Title: Joseph H. Gillis Sr Pres. Print/Type Name: _____ (SEAL)
By: _____ Print/Type Name: _____ (SEAL)
Print/Type Name & Title: _____ Print/Type Name: _____ (SEAL)
By: _____ Print/Type Name: _____ (SEAL)
Print/Type Name & Title: _____ Print/Type Name: _____

State of _____ - County or City of _____
I, the undersigned Notary Public of the County or City of _____ and State aforesaid, certify that _____ personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed. Witness my hand and Notarial stamp or seal this _____ day of _____, 20____.

My Commission Expires: _____ Notary Public
(Affix Seal) Notary's Printed or Typed Name _____

State of North Carolina - County or City of Cumberland
I, the undersigned Notary Public of the County or City of Cumberland and State aforesaid, certify that Joseph H. Gillis, Sr. personally came before me this day and acknowledged that he is the President of Gillis Development Corporation, Inc., a North Carolina or corporation/limited liability company/general partnership/limited partnership (strike through the inapplicable), and that by authority duly given and as the act of such entity, he signed the foregoing instrument in its name on its behalf as its act and deed. Witness my hand and Notarial stamp or seal, this 21st day of September, 2011.

My Commission Expires: 11-29-2013
(Affix Seal) **(N.P. SEAL)** Cynthia W. Burris Notary Public
Notary's Printed or Typed Name _____

State of _____ - County or City of _____
I, the undersigned Notary Public of the County or City of _____ and State aforesaid, certify that _____
Witness my hand and Notarial stamp or seal, this _____ day of _____, 20____.

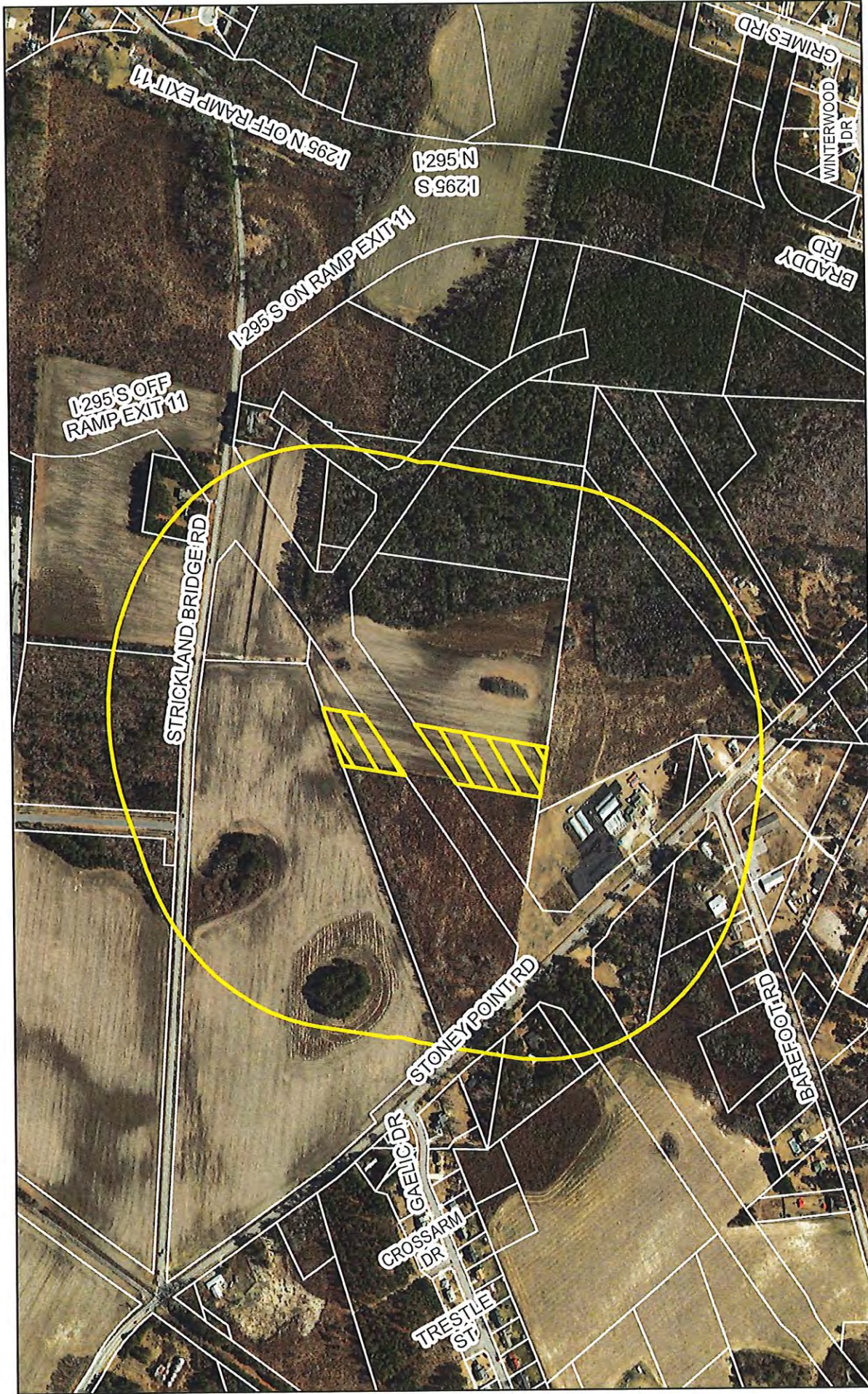
My Commission Expires: _____ Notary Public
(Affix Seal) Notary's Printed or Typed Name _____

EXHIBIT A

State of North Carolina
County of Cumberland

BEGINNING at an iron pipe, the Northeast corner of Lot No. 7 of a plat showing the division of the W. H. Capps Estate, per Special Proceeding Number 72-50, entitled J. H. Capps, et al, in the office of the Clerk of Superior Court of Cumberland County, as described in Deed recorded in Book 382, Page 317, Cumberland County Registry; thence for a first call, South 12 degrees 32 minutes West 920.7 feet with the eastern line of said Lot No. 7, to an iron post, the southeastern corner of Lot No. 7; thence South 75 degrees 26 minutes East 199.32 feet to an iron post, the southwestern corner of Lot No. 5 of said division; thence with the line of Lot No. 5, North 12 degrees 35 minutes East 1058.36 feet to an iron post, the Northwest corner of Lot No. 5 thence South 69 degrees 21 minutes West 238.92 feet to the place and point of BEGINNING, and being 4.54 acres, the same being Lot No. 6 of the W. W. Capps Division and being the same property described in Deed recorded in Book 380, Page 227, according to a plat of survey for E. L. Cook, dated June 1, 1976.

This tract is subject to a 12-foot roadway along the northern margin of said tract for access to a public road.



Letters are being sent to all property owners within the 1000' buffer. Subject property is shown in the hatched pattern.



Legend



P23-16 Buffer



P23-16

Aerial Notification Map

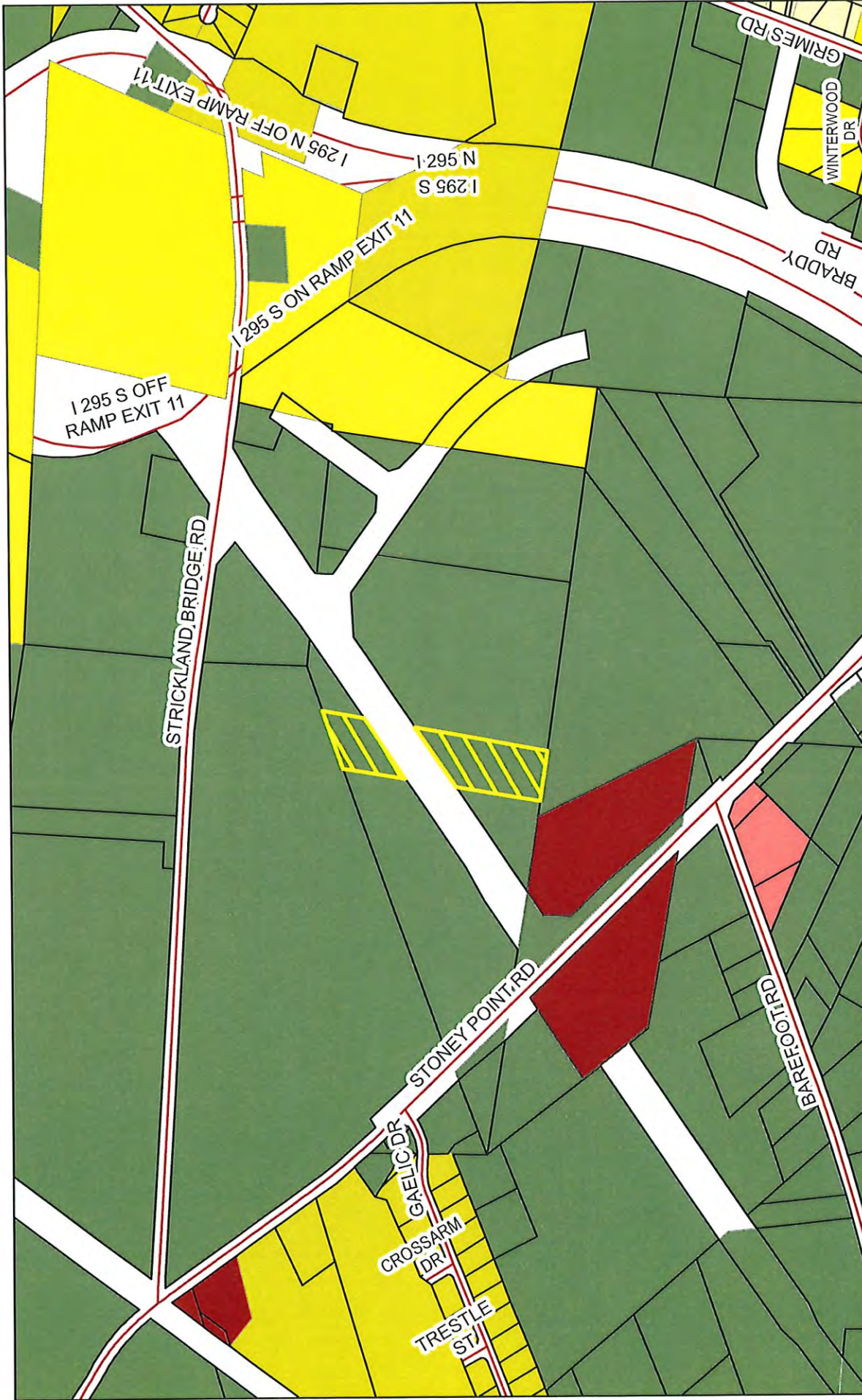
Case #: P23-16

Rezoning

Request: Community Commercial (CC)

Location: REID# 9485763126000

PIN: 9485-76-3126



Zoning Map

Case #: P23-16

Rezoning





Request: Community Commercial (CC)

Location: REID# 9485763126000

PIN: 9485-76-3126

Legend

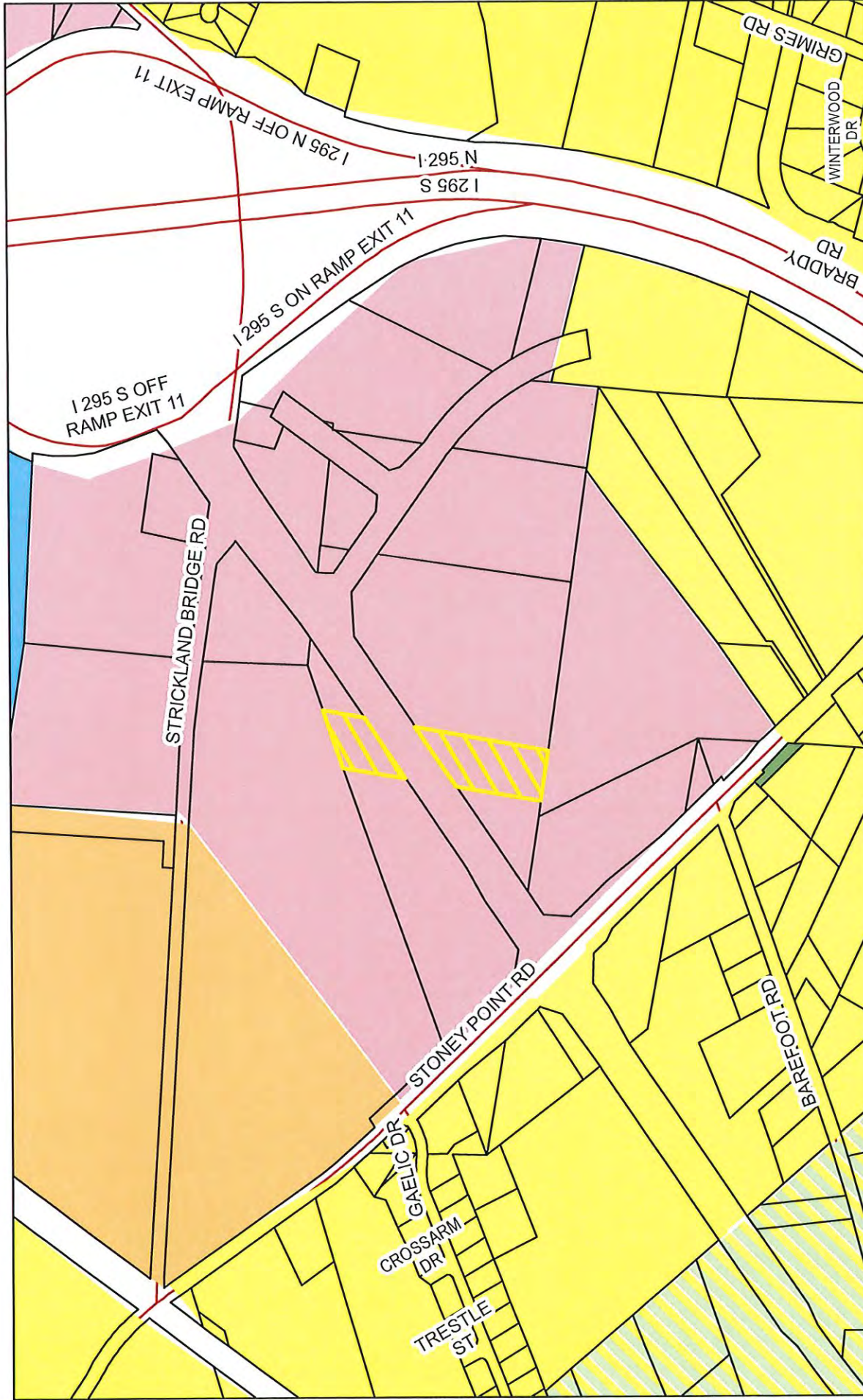
-  P23-16
-  CC Zoning
-  CC Zoning
-  AR - Agricultural-Residential
-  CC - Community Commercial

-  LC - Limited Commercial
-  SF-6 - Single-Family Residential 6
-  SF-10 - Single-Family Residential 10
-  SF-15 - Single-Family Residential 15



Letters are being sent to all property owners within the 1000' buffer. Subject property is shown in the hatched pattern.





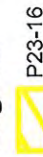
Future Land Use Map

Case #: P23-16

Rezoning
Request: Community Commercial (CC)

Location: REID# 9485763126000
PIN: 9485-76-3126

Legend



Land Use Plan 2040

Character Areas

PARKOS - PARK / OPEN SPACE

OSS - OPEN SPACE SUBDIVISIONS

LDR - LOW DENSITY

MDR - MEDIUM DENSITY

NMU - NEIGHBORHOOD MIXED USE

OI - OFFICE / INSTITUTIONAL

Letters are being sent to all property owners within the 1000' buffer. Subject property is shown in the hatched pattern.







Consistency and Reasonableness Statement

Map Amendments

Pursuant N.C.G.S. Sections 160D-604 and -605, the Zoning Commission finds that the proposed zoning map amendment in case P23-16 is consistent/inconsistent with the City of Fayetteville's Future Land Use Map and Plan (Comprehensive Plan). The following analysis examines the proposed amendment relative to the goals and land-use policies and strategies of the Comprehensive Plan:

Consistency

1. GOALS

| GOAL(S) | CONSISTENT | INCONSISTENT |
|--|------------|--------------|
| GOAL #1: Focus value and investment around infrastructure and strategic nodes | X | |
| GOAL #2 Promote compatible economic and commercial development in key identified areas | X | |

2. LAND USE POLICES AND STRATEGIES:

| LAND USE POLICES AND STRATEGIES | CONSISTENT | INCONSISTENT |
|--|------------|--------------|
| LUP 1: Encourage growth in areas well- served by infrastructure and urban services, including roads, utilities, parks, schools, police, fire and emergency services. | X | |
| 1.2: Encourage more intense uses, greater mix of uses, and denser residential types in key focal areas. | X | |
| LUP 2: Encourage Strategic Economic Development | X | |
| 2.1: Encourage economic development in designated areas. | X | |

3. The proposed amendment is consistent with the Future Land Use Map as follows:

| | | | |
|---|--|----|--|
| X | The proposed land use is consistent and aligns with the area's designation on the FLU Map. | OR | The proposed land use is inconsistent and does not align with the area's designation on the FLU Map. |
|---|--|----|--|

| | | | |
|---|--|----|--|
| X | The proposed designation, as requested, would permit uses that are complimentary to those existing on adjacent tracts. | OR | The proposed designation, as requested, would permit uses that are incongruous to those existing on adjacent tracts. |
|---|--|----|--|

Reasonableness

The proposed zoning amendment is reasonable and in the public interest because it supports the policies of the Comprehensive Plan as stated above and the Strategic Plan as stated in the Staff Report, and because: [select all that apply]

- ☒ The size, physical conditions, and other attributes of the proposed use(s) will benefit the surrounding community.
- ☐ The amendment includes conditions that limit potential negative impacts on neighboring uses.
- ☐ The proposed uses address the needs of the area and/or City.
- ☒ The proposal adapts the zoning code to reflect modern land-use trends and patterns.

The amendment is also in the public interest because it: [select all that apply]

- ☒ improves consistency with the long-range plan.
- ☒ improves the tax base.
- ☐ preserves environmental and/or cultural resources.
- ☒ facilitates a desired kind of development.
- ☒ provides needed housing/commercial area.

Additional comments, if any (write-in):

May 9, 2023

Date

Chair Signature

Print



City of Fayetteville

433 Hay Street
Fayetteville, NC 28301-5537
(910) 433-1FAY (1329)

City Council Action Memo

File Number: 23-3348

Agenda Date: 5/9/2023

Version: 1

Status: Agenda Ready

In Control: Zoning Commission

File Type: Public Hearing
(Public & Legislative)

Agenda Number: 4.03

TO: Mayor and Members of City Council

THRU: Zoning Commission
Will Deaton, AICP - Planning & Zoning Division Manager

FROM: Heather Eckhardt, CZO - Planner II

DATE: May 9, 2023

RE:

P23-17. Rezoning from Single-Family Residential 10 (SF-10) to Neighborhood Commercial (NC), located at 5418 Morganton Road and part of 5413 Docia Circle (REID #s 0408719687000 & 0408810892000), totaling 1.12 acres ± and being the property of Lenim Properties, LLC, represented by Michael Adams of MAPS Surveying Inc.

COUNCIL DISTRICT(S):

9 - Deno Hondros

Relationship To Strategic Plan:

Strategic Operating Plan FY 2022

Goals 2027

Goal II: Responsive City Government Supporting a Diverse and Viable Economy

- Objective 2.1 - To ensure a diverse City tax base

Goal III: City invested in Today and Tomorrow

- Objective 3.2 - To manage the City's future growth and strategic land use.

Executive Summary:

The applicant is seeking to rezone 5418 Morganton Road and a portion of 5413 Docia Circle from Single Family 10 (SF-10) to Neighborhood Commercial (NC). The two parcels have been recombined by plat but not yet mapped by Cumberland County. The total parcel size is 1.12 acres ±.

Background:

Applicant: Michael Adams, MAPS Surveying Inc.

Owner: Lenim Properties LLC

Requested Action: SF-10 to NC

REID #: 0408719687000 & 0408810892000

Council District: 9 - Deno Hondros

Status of Property: Vacant

Size: 1.12 acres

Adjoining Land Use & Zoning:

- North: SF-10 - Single family subdivision
- South: SF-10 - Single family subdivision
- East: SF-10 - Single family subdivision
- West: MR-5 - Apartments

Annual Average Daily Traffic: Morganton Road: 24,000 (2021)

Letters Mailed: 104

Land Use Plans:

With the adoption of the 2040 Comprehensive Plan: Future Land Use Map & Plan on May 26, 2020, all properties within the city limits as well as properties identified as being in the Municipal Influence Area (MIA) are subject to this plan.

According to the Plan, it is recommended that this portion of the city should be developed as Low-Density Residential (LDR). Low-Density Residential is best described as mainly single-family residential with some accessory dwellings; occasionally with duplexes (if isolated) or townhomes. Lots are typically meant for 1-4 dwellings per acre and have a suburban, auto-oriented character with utility services. According to the Plan, the area surrounding the subject property is intended to develop as Low-Density Residential as well

Issues/Analysis:

History:

The subject property was annexed into the city in 1988. There was a single-family house on the subject property however, it was demolished in 2021.

Surrounding Area:

The surrounding area is primarily residential in nature and zoned Single Family 10 (SF-10). However, there is an apartment development that is zoned Mixed Residential 5 (MR-5) to the west of the subject property. The subject property is located between Skibo Road/Morganton Road and Morganton Road/E Loch Haven Drive intersections. There are a variety of commercial uses at the Skibo Road and Morganton Road intersection and office and institutional uses located at the Morganton Road and E Loch Haven Drive intersection. However, the subject property is not adjacent to either of these existing office and commercial use areas.

Rezoning Request:

Land within the City is generally classified by the Unified Development Ordinance (UDO)

to be within one of many base zoning districts. Land may be reclassified to one of several comparable zoning districts in accordance with Section 30-2.C.

The applicant is requesting to rezone an area currently zoned Single Family Residential 10 (SF-10) to Neighborhood Commercial (NC). The Neighborhood Commercial (NC) zoning district is established and intended to accommodate small-scale, low-intensity, and "convenience" retail and service uses that provide goods and services serving the residents of the immediately surrounding neighborhood.

Straight Zoning:

The request is for a straight zoning from Single Family Residential 10 (SF-10) to Neighborhood Commercial (NC).

The Neighborhood Commercial (NC) zoning district is established and intended to accommodate small-scale, low-intensity, and "convenience" retail and service uses that provide goods and services serving the residents of the immediately surrounding neighborhood.

The reclassification of land to a base zoning district without conditions allows all of the uses that are shown on the attached Use Table taken from the UDO. The Zoning Commission may not consider conditions or restrictions on the range of allowable uses, use standards, development intensities, development standards, and other applicable regulations.

Land Use Plan Analysis:

According to the Future Land Use Map & Plan, this general area is recommended to be developed as Low Density Residential (LDR). The requested rezoning is not in keeping with the Future Land Use Map & Plan. Low Density Residential calls for single-family developments with duplexes and townhomes interspersed. The proposed zoning district of Neighborhood Commercial would allow smaller-scale commercial developments.

Consistency and Reasonableness Statements:

The Future Land Use Plan also sets forth written goals, policies, and strategies. This application does not follow the City's strategic, compatible growth strategies and does not meet the goals of the Land Use Plan found on the attached Consistency and Reasonableness form.

Conclusion:

While Neighborhood Commercial does not align with the Future Land Use Plan, the uses permitted in the Neighborhood Commercial district are of a type and scale which could serve the surrounding residential developments. If challenged, the courts could determine a rezoning to a commercial zoning district to be an illegal spot zoning. The Commission has the option to approve a more restrictive zoning district. The most restrictive commercial zoning district would be Office and Institutional which allows low-intensity professional and business offices.

Budget Impact:

There is not an immediate budgetary impact but there will be an economic impact associated with this rezoning that will occur due to taxes collected in the future.

Options:

1. Deny the map amendment request based on the evidence submitted and find that the map amendment is inconsistent with the Future Land Use Plan (recommended)
2. Recommend approval of the map amendment to NC as presented based on the evidence submitted and find that the rezoning is consistent with the Future Land Use Plan as demonstrated by the attached consistency and reasonableness statement.
3. Recommend approval of the map amendment to a more restrictive zoning district based on the evidence submitted and find that the map amendment would be consistent with the Future Land Use Plan and an amended consistency statement.

Recommended Action:

The Professional Planning Staff recommends that the Zoning Commission move to recommend DENIAL of the map amendment to NC based on the following:

- The proposed zoning map amendment does not implement the policies adopted in the Future Land Use Plan (FLUP), and those policies found in the Unified Development Ordinance (UDO). The Future Land Use Plan calls for the subject property to be developed as Low-Density Residential (LDR).
- The uses permitted by the proposed change in zoning district classification and the standards that apply to such uses are not appropriate in the immediate area of the land to be reclassified due to the existing zoning and uses surrounding this property; and
- There are no other factors that will substantially affect public health, safety, morals, or general welfare.

Attachments:

1. Plan Application
2. Aerial Notification Map
3. Zoning Map
4. Land Use Plan Map
5. Subject Property
6. Surrounding Property Photos
7. Consistency and Reasonableness Statement

Project Overview

#990402

Project Title: Lenim Properties LLC
Application Type: 5.1) Rezoning (Map Amendment)
Workflow: Staff Review

Jurisdiction: City of Fayetteville
State: NC
County: Cumberland

Project Location

Project Address or PIN: 5418 MORGANTON RD
(0408719687000)

Zip Code: 28314

GIS Verified Data

Property Owner: Parcel
• 5418 MORGANTON RD: LENIM PROPERTIES LLC

Acreage: Parcel
• 5418 MORGANTON RD: 0.64

Zoning District: Zoning District
• 5418 MORGANTON RD: MR-5

Subdivision Name:

Fire District:

Airport Overlay District:

Hospital Overlay District:

Coliseum Tourism District:

Cape Fear District:

Downtown Historic District:

Haymount Historic District:

Floodway:

100 Year Flood: <100YearFlood>

500 Year Flood: <500YearFlood>

Watershed:

General Project Information

Has the land been the subject of a map amendment application in the last five years?: No

Previous Amendment Approval Date:

Previous Amendment Case #:

Proposed Zoning District: NC

Acreage to be Rezoned: 1.12

Is this application related to an annexation?: No

Water Service: Public

Sewer Service: Public

A) Please describe all existing uses of the land and existing structures on the site, if any:

Parcel is currently vacant.

B) Please describe the zoning district designation and existing uses of lands adjacent to and across the street from the subject site.:

Properties to the north, east, and south (across Morganton Road) are currently zoned SF-10.

Property to the west is currently zoned MR-5

Amendment Justification - Answer all questions on this and all pages in this section (upload additional sheets as needed).

A) State the extent to which the proposed amendment is consistent with the comprehensive plan and all other applicable

long-range planning documents.:

Similar properties along Morganton Road have been rezoned to NC. Long range plan is to provide commercial uses for residential properties near this property

B) Are there changed conditions that require an amendment? :

no. Recombination plat recently recorded.

C) State the extent to which the proposed amendment addresses a demonstrated community need.:

Rezoning would supply nearby residents with a quick and easy access to commercial properties without having to navigate onto Morganton Road.

D) State the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject land, and why it is the appropriate zoning district for the land.:

This zoning is appropriate in the fact that the surrounding properties are all zoned residential. This would be the appropriate buffer from residential to commercial.

E) State the extent to which the proposed amendment results in a logical and orderly development pattern.:

Similar properties along Morganton Road are being rezoned to this zoning with more to follow in the near future.

F) State the extent to which the proposed amendment might encourage premature development.:

None. All properties surrounding this property are fully developed.

G) State the extent to which the proposed amendment results in strip-style commercial development.:

Even though all properties surrounding this are currently zoned residential, this rezoning would create a needed neighborhood commercial area for nearby residents. As more properties along this stretch of Morganton also become commercial, the strip style development of this property would be done away with.

H) State the extent to which the proposed amendment results in the creation of an isolated zoning district unrelated to adjacent and surrounding zoning districts.:

For the time being, this would be the case but as more properties become commercial, this would become non-existent

I) State the extent to which the proposed amendment results in significant adverse impacts on the property values of surrounding lands.:

No adverse affects. Would improve property values.

J) State the extent to which the proposed amendment results in significantly adverse impacts on the natural environment.:

No adverse impacts. All plans would be regulated by current engineering and environmental conditions. (storm drainage etc)

Primary Contact Information

Contractor's NC ID#:

Project Contact - Agent/Representative

Michael Adams
MAPS Surveying Inc.
1306 Fort Bragg Road
Fayetteville, NC 28305
P:910-484-6432
maps@mapssurveying.com

Project Owner

Sang Huynh
Lenim Properties LLC
429 Homestead Dr
Fayetteville , NC 28303
P:910-624-9259
rsearch@gmail.com

Project Contact - Primary Point of Contact for the Architect

Rob Evans

545 Pearl St
Fayetteville, NC 28303
P:910-624-9259
rsearch@gmail.com

As an unlicensed contractor, I am aware that I cannot enter into a contract that the total amount of the project exceeds \$30,000. :

NC State General Contractor's License Number:

NC State Mechanical Contractor's #1 License Number:

NC State Mechanical Contractor's #2 License Number:

NC State Mechanical Contractor's #3 License Number:

NC State Electrical Contractor #1 License Number:

NC State Electrical Contractor #2 License Number:

NC State Electrical Contractor #3 License Number:

NC State Plumbing Contractor #1 License Number:

NC State Plumbing Contractor #2 License Number:

Indicate which of the following project contacts should be included on this project: Architect

AFFIDAVIT OF OWNERSHIP

I, Sang T Huynh, being duly sworn, deposes and says:

1. That I am the owner of the property/properties located at 5418 Morganton Rd in the City of Fayetteville, a political subdivision of the State of North Carolina.

2. I do hereby give permission to MAPS Surveying Inc to submit a Conditional Rezoning/Rezoning/Variance/Special Use (circle one) application to the City of Fayetteville on my behalf for the above referenced property/properties.

3. This authority is only granted for the application to be submitted on April 4, 2023.

[Signature] Lenim Properties LLC
Signature of Affiant Organizer.

Signature of Affiant

Roberson
Cumberland County, North Carolina

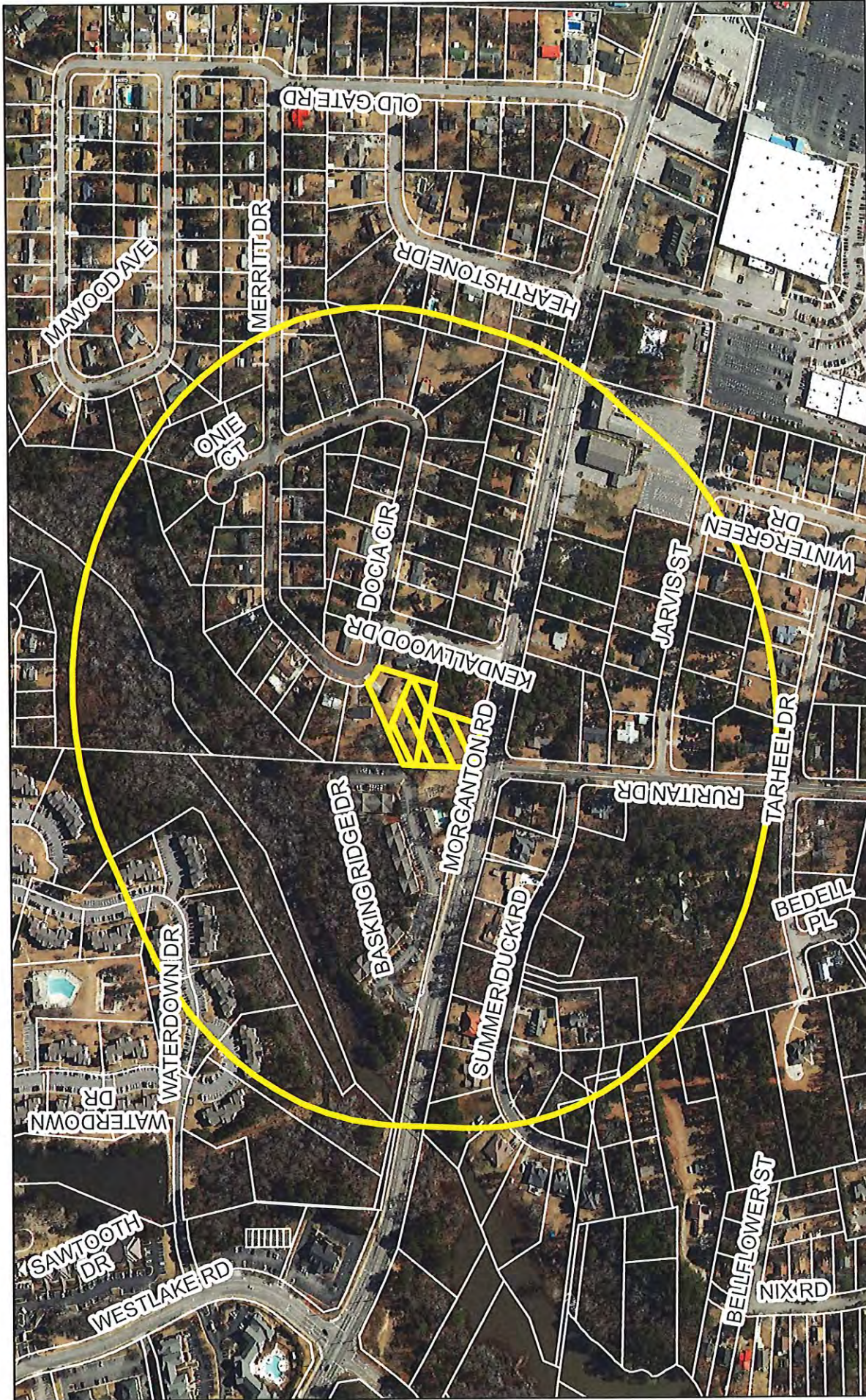
Sworn to and subscribed before me this day on the 4th day of April, 2023

Kelly Ivory
Signature of Notary Public

Kelly Ivory, Notary Public
Printed Name of Notary Public

My Commission Expires: 6/21/27





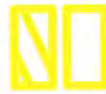
Aerial Notification Map

Case #: P23-17

Request: Rezoning
Single Family 10 (SF-10) to Neighborhood Commercial (NC)

Location: 5418 Morganton Road

Legend

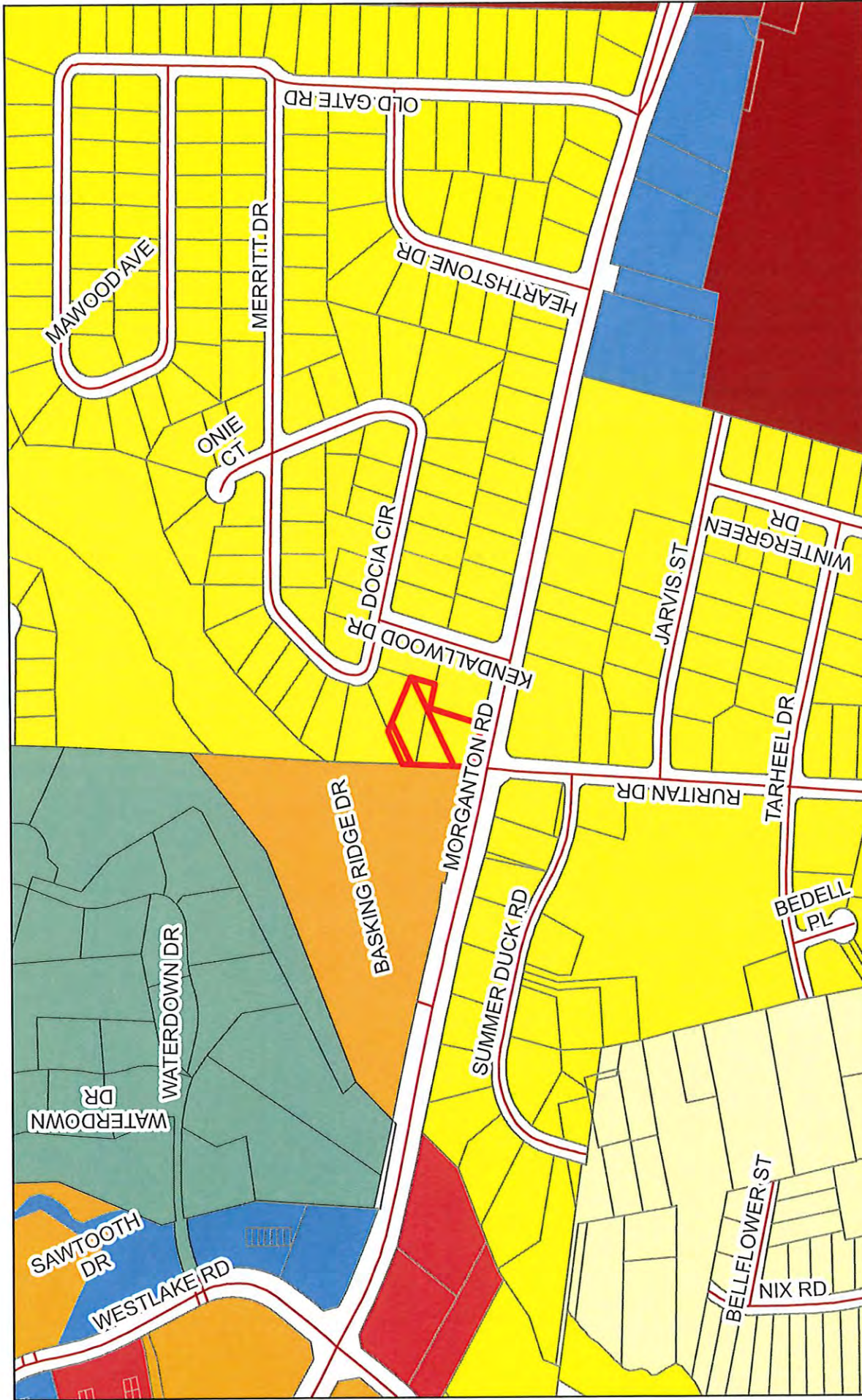


P23-17

P23-17 Notification Buffer

Letters are being sent to all property owners within the 1,000' buffer. Subject property is shown in the hatched pattern.





Zoning Map Case #: P23-17

Request: Rezoning
Single Family 10 (SF-10) to
Neighborhood Commercial (NC)

Location: 5418 Morganton Road

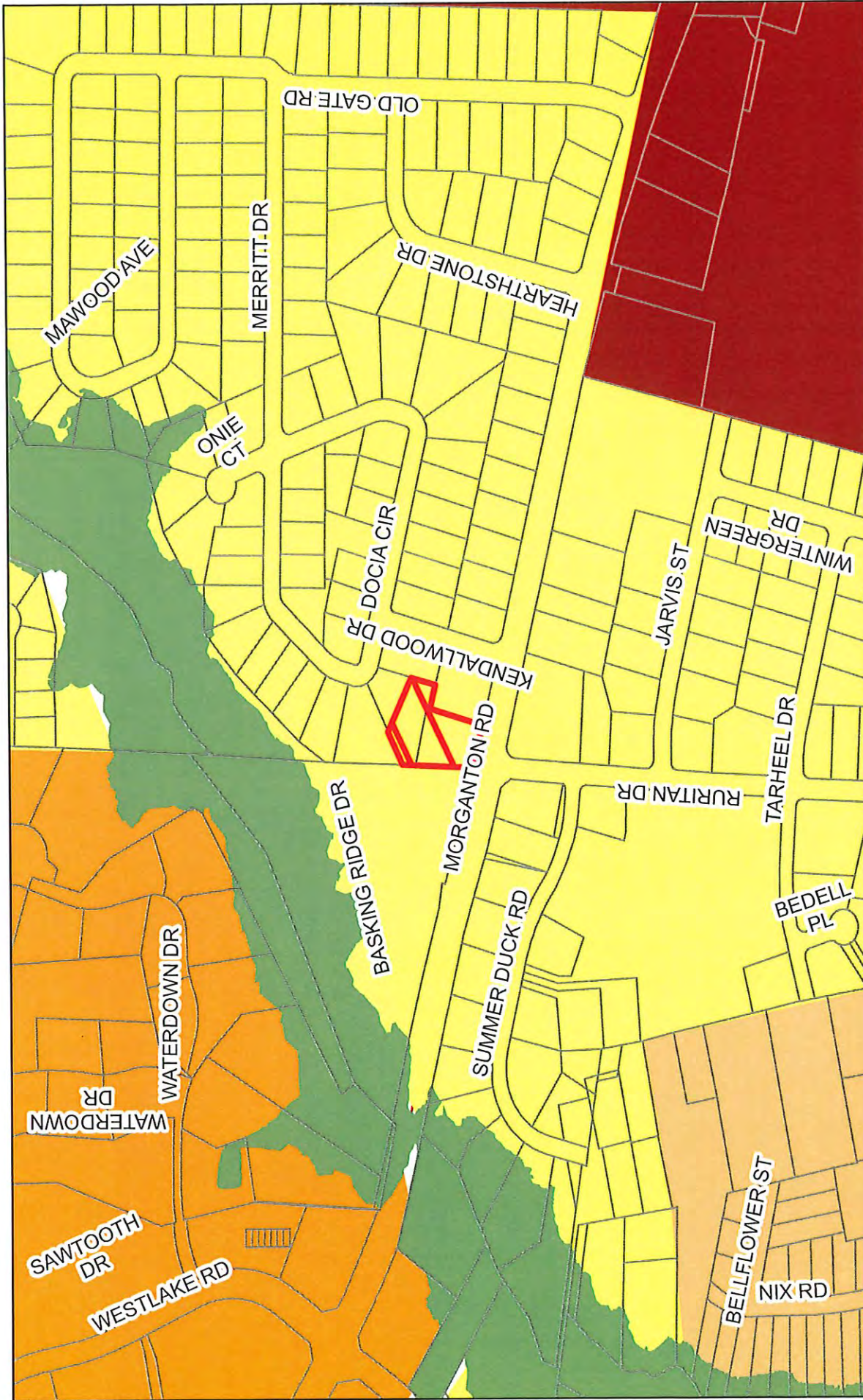
Legend

- | | | | |
|--|------------------------------|--|--|
| | P23-17 | | OI - Office & Institutional |
| | CC - Community Commercial | | SF-6 - Single-Family Residential 6 |
| | MR-5 - Mixed Residential 5 | | SF-10 - Single-Family Residential 10 |
| | NC - Neighborhood Commercial | | PND - Planned Neighborhood Development |



Letters are being sent to all property owners within the 1,000' buffer. Subject property is shown in the hatched pattern.





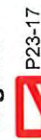
Land Use Map

Case #: P23-17

Request: Rezoning
Single Family 10 (SF-10) to
Neighborhood Commercial (NC)

Location: 5418 Morganton Road

Legend



P23-17

Land Use Plan 2040

Character Areas

PARKOS - PARK / OPEN SPACE

LDR - LOW DENSITY

MDR - MEDIUM DENSITY

HDR - HIGH DENSITY RESIDENTIAL

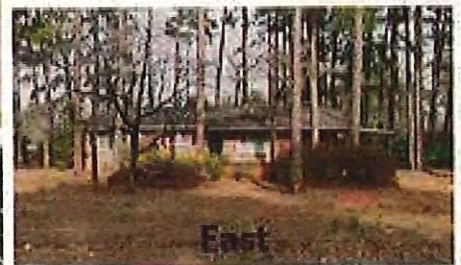
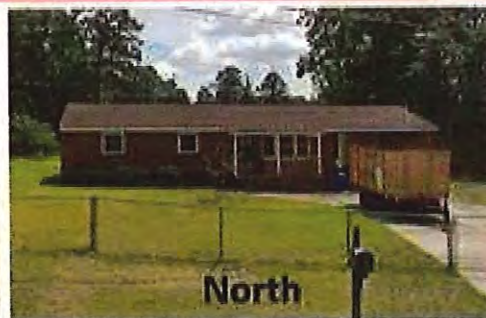
RC - REGIONAL CENTER



Letters are being sent to all property owners within the 1,000' buffer. Subject property is shown in the hatched pattern.







Consistency and Reasonableness Statement

Map Amendments

Pursuant N.C.G.S. Sections 160D-604 and -605, the Zoning Commission finds that the proposed zoning map amendment in case P23-17 is consistent/inconsistent with the City of Fayetteville's Future Land Use Map and Plan (Comprehensive Plan). The following analysis examines the proposed amendment relative to the goals and land-use policies and strategies of the Comprehensive Plan:

Consistency

1. GOALS

| GOAL(S) | CONSISTENT | INCONSISTENT |
|--|------------|--------------|
| Goal # 1: Focus Value and Investment around infrastructure and strategic nodes | X | |
| Goal # 2: Promote compatible economic and commercial development in key identified areas. | | X |

2. LAND USE POLICES AND STRATEGIES:

| LAND USE POLICES AND STRATEGIES | CONSISTENT | INCONSISTENT |
|---|------------|--------------|
| LUP 1: Encourage growth in areas well-served by infrastructure and urban services, including roads, utilities, parks, schools, police, fire, and emergency services. | X | |
| 1.7: Encourage a logical progression of housing development and discourage "leapfrog" development. | | X |
| LUP 2: Encourage strategic economic development. | | X |
| 2.1: Encourage economic development in designated areas. | | X |
| LUP 4: Create well-designed and walkable commercial and mixed-use districts | X | |
| 4.1: Ensure new development meets basic site design requirements. | X | |

3. The proposed amendment is consistent with the Future Land Use Map as follows:

| | | | | |
|--------------------------|--|----|-------------------------------------|--|
| <input type="checkbox"/> | The proposed land use is consistent and aligns with the area's designation on the FLU Map. | OR | <input checked="" type="checkbox"/> | The proposed land use is inconsistent and does not align with the area's designation on the FLU Map. |
| <input type="checkbox"/> | The proposed designation, as requested, would permit uses that are complimentary to those existing on adjacent tracts. | OR | <input checked="" type="checkbox"/> | The proposed designation, as requested, would permit uses that are incongruous to those existing on adjacent tracts. |

Reasonableness

The proposed zoning amendment is reasonable and in the public interest because it supports the policies of the Comprehensive Plan as stated above and the Strategic Plan as stated in the Staff Report, and because: [select all that apply]

- ☒ The size, physical conditions, and other attributes of the proposed use(s) will benefit the surrounding community.
- ☐ The amendment includes conditions that limit potential negative impacts on neighboring uses.
- ☐ The proposed uses address the needs of the area and/or City.
- ☐ The proposal adapts the zoning code to reflect modern land-use trends and patterns.

The amendment is also in the public interest because it: [select all that apply]

- ☐ improves consistency with the long-range plan.
- ☒ improves the tax base.
- ☐ preserves environmental and/or cultural resources.
- ☐ facilitates a desired kind of development.
- ☐ provides needed housing/commercial area.

Additional comments, if any (write-in):

May 9, 2023

Date

Chair Signature

Print



City of Fayetteville

433 Hay Street
Fayetteville, NC 28301-5537
(910) 433-1FAY (1329)

City Council Action Memo

File Number: 23-3350

Agenda Date: 5/9/2023

Version: 1

Status: Agenda Ready

In Control: Zoning Commission

File Type: Public Hearing
(Public & Legislative)

Agenda Number: 4.04

TO: Mayor and Members of City Council

THRU: Zoning Commission
Will Deaton, AICP - Planning & Zoning Division Manager

FROM: Heather Eckhardt, CZO - Planner II

DATE: May 9, 2023

RE:

P23-18. Creation of an Airport Entrance Corridor Overlay (AECO) zoning district located at 101 - 231 Airport Road (REID #0435332495000, 0435330824000, 0435236911000, 0435242118000, 0435148586000, 0435144419000, 0435141782000, 0435049899000, 0435047921000, 0435054007000, 0435043744000, 0435034978000, 0435047522000, 0435049049000, 0435049445000, 0435140388000, 0435131828000, 0435132815000, 0435133824000, 0435134864000, 0435136863000, 0435138871000, 0435123998000) on approximately 130+/- acres belonging to Cedar Creek Crossing West LLC, Kinlaw Rentals LLC, Asemota, Osaze Love-Efosa & Lily Efosa Igunbor, Draughon Holdings LLC, McDonald, Vadis, Smith, Izzie H. Heirs & Vadis S. McDonald, Hertz Corporation, Eaton Corp C/O Ducharme, McMillen & Assoc, Spivey, Phyllis Council, Vance Johnson Plumbing Inc, Pittman, W R & Linda, Warren, Mark A & Kim D, Fullblock LLC, Winstead Rentals Limited Partnership, Infinity Nine at Fay LLC, WFN Investment Group LLC, State of North Carolina, City of Fayetteville.

COUNCIL DISTRICT(S):

2 - Shakeyla Ingram

Relationship To Strategic Plan:

Strategic Operating Plan FY 2022

Goals 2027

Goal III: City invested in Today and Tomorrow

- Objective 3.2 - To manage the City's future growth and strategic land use.

Executive Summary:

This request will align with Cumberland County's Airport Entrance Corridor Overlay which regulates the placement of mobile/manufactured homes along Airport Road. There are a limited number of parcels along Airport Road that are within the city limits of Fayetteville. The current zoning for those parcels does not allow the placement of mobile/manufactured homes. Therefore, the overlay will not change the character of the parcels located within the city limits of Fayetteville.

Background:

Applicant: City of Fayetteville

Owner: Various

Requested Action: Airport Entrance Corridor Overlay

REID #: Multiple

Council District: 2 - Shakeyla Ingram

Status of Property: Various

Size: 130 acres +/-

Adjoining Land Use & Zoning:

- North: R10, M(P) CU, LI, and HI - Commercial
- South: R6A, M2, M(P), C3 - Commercial and Industrial
- East: M(A) - Airport
- West: C(P) and M(P) - Commercial

Annual Average Daily Traffic: Airport Road: 10,000 (2021)

Letters Mailed: 129

Land Use Plans:

With the adoption of the 2040 Comprehensive Plan: Future Land Use Map & Plan on May 26, 2020, all properties within the city limits as well as properties identified as being in the Municipal Influence Area (MIA) are subject to this plan.

According to the Plan, it is recommended that this portion of the city and the city's Municipal Influence Area should be developed as an Industrial/Employment Center except for 101 Airport Road which is intended to be Highway Commercial. Highway Commercial is intended for high-intensity nonresidential uses often located near major intersections and highway interchanges. Industrial/Employment Centers are intended for high-intensity nonresidential uses with high impact or likelihood of nuisance including larger industrial uses or business parks.

Issues/Analysis:

History:

The Fayetteville Regional Airport was constructed at its current location in 1949. By the late 1960s, there was still limited development around Fayetteville Regional Airport however, there were a few residential houses located along Airport Road as well as AAA Mobile Home Park on Dunebuggy Lane. Over time this area has grown to include an

additional mobile home park as well as numerous commercial and industrial sites along Airport Road.

Surrounding Area:

The surrounding area is largely commercial in nature with a variety of City and County zoning designations ranging from lower-intensity commercial zoning districts to industrial zoning districts. Uses vary from manufactured home parts supply store to Eaton Corporation which manufactures electrical components.

There are small residential areas interspersed throughout the area but many were developed in the late 1980s and early 1990s before the commercial and industrial developments began in the early 2000s. There are two mobile home parks within the overlay, AAA Mobile Home Park and Smith Mobile Home Park, and a large subdivision, Tanglewood Estates, is located just outside of the proposed overlay.

Zoning Overlay Request:

Land within the City is generally classified by the Unified Development Ordinance (UDO) to be within one of many base zoning districts. Land may be reclassified to one of several comparable zoning districts in accordance with Section 30-2.C. Additionally, land may be located within a number of overlay zoning districts. These overlay districts add supplementary development standards to address area-specific conditions and needs while maintaining the base zoning district.

The City of Fayetteville has submitted this application to work in conjunction with Cumberland County in updating the Airport Overlay District. This district encompasses properties in the City and County which are located around the Fayetteville Regional Airport. Cumberland County has proposed an amendment to the existing ordinance that would prohibit the establishment of mobile/manufactured homes within the newly created Airport Entrance Corridor Overlay along Airport Road. Any existing mobile/manufactured homes may remain. However, once a mobile/manufactured home is removed it may not be replaced.

The proposed overlay would affect a total of 23 parcels located along Airport Road. These properties range from existing mobile home parks to commercial businesses. Any existing mobile home parks will remain as is and any commercial or industrial entities will be unaffected.

Land Use Plan Analysis:

According to the Future Land Use Map & Plan, this general area is recommended to be developed as Highway Commercial and Employment Center. The requested overlay is in keeping with the Future Land Use Map & Plan.

Consistency and Reasonableness Statements:

The Future Land Use Plan also sets forth written goals, policies, and strategies. This application does follow the City's strategic, compatible growth strategies and does meet the goals of the Land Use Plan found on the attached Consistency and Reasonableness form.

Conclusion:

This request will help align the City of Fayetteville's Airport Overlay District ordinance with Cumberland County's Airport Overlay District ordinance. This will provide continuity in enforcement along Airport Road. Additionally, the City of Fayetteville Unified Development Ordinance restricts the placement of mobile/manufactured homes to existing mobile home parks and parcels within mobile home overlay districts. None of the

parcels within the city limits of Fayetteville along Airport Road meet these standards. Therefore, the prohibition of mobile/manufactured homes along Airport Road will not result in any changes for parcels located in the City of Fayetteville along Airport Road.

Budget Impact:

None

Options:

1. Recommend approval of the map amendment as presented based on the evidence submitted and finds that the rezoning is consistent with the Future Land Use Plan as demonstrated by the attached consistency and reasonableness statement (Recommended)
2. Deny the map amendment request based on the evidence submitted and finds that the map amendment is inconsistent with the Future Land Use Plan.

Recommended Action:

The Professional Planning Staff recommends that the Zoning Commission move to recommend APPROVAL of the map amendment based on the following:

- The proposed zoning map amendment does implement the policies adopted in the Future Land Use Plan (FLUP), and those policies found in the Unified Development Ordinance (UDO). The Future Land Use Plan calls for the subject properties to be developed as Highway Commercial and Employment Center.
- The uses permitted by the proposed change in zoning district classification and the standards that apply to such uses are appropriate in the immediate area of the land to be reclassified due to the existing zoning and uses surrounding this property; and
- There are no other factors that will substantially affect public health, safety, morals, or general welfare.

Attachments:

1. Plan Application
2. Aerial Notification Map
3. Zoning Map
4. Land Use Plan Map
5. Subject Property
6. Surrounding Property Photos
7. Consistency and Reasonableness Statement

Project Overview

#1008314

Project Title: Airport Entrance Corridor Overlay
Application Type: 5.1) Rezoning (Map Amendment)
Workflow: Staff Review

Jurisdiction: City of Fayetteville
State: NC
County: Cumberland

Project Location

Project Address or PIN:

- 2959 GILLESPIE ST (0435034978000)
- 2915 GILLESPIE ST (0435043744000)
- 116 AIRPORT RD (0435047522000)
- 0 AIRPORT RD (0435047921000)
- 2901 ORBIE CIR (0435049049000)
- 0 AIRPORT RD (0435049899000)
- 101 AIRPORT RD (0435054007000)
- 2932 DOC BENNETT RD (0435123998000)
- 152 AIRPORT RD (0435131828000)
- 160 AIRPORT RD (0435132815000)
- 166 AIRPORT RD (0435133824000)
- 2923 RETIREMENT CIR (0435134864000)
- 176 AIRPORT RD (0435136863000)
- 2902 DUNEBUGGY LN (0435138871000)
- 144 AIRPORT RD (0435140388000)
- 135 AIRPORT RD (0435141782000)
- 0 AIRPORT RD (0435144419000)
- 165 AIRPORT RD (0435148586000)
- 195 AIRPORT RD (0435236911000)
- 185 AIRPORT RD (0435242118000)
- 221 AIRPORT RD (0435330824000)
- 231 AIRPORT RD (0435332495000)

Zip Code: 28306

GIS Verified Data

Property Owner: Parcel

- 2959 GILLESPIE ST: CEDAR CREEK CROSSING WEST LLC
- 2915 GILLESPIE ST: ADVANCED WATER SYSTEMS OF COASTAL CAROLINA, LLC
- 116 AIRPORT RD: ASEMOTA, OSAZE LOVE-EFOSA; LILY, EFOSA IGUNBOR
- 0 AIRPORT RD: DRAUGHON HOLDINGS LLC
- 2901 ORBIE CIR: MCDONALD, VADIS
- 0 AIRPORT RD: DRAUGHON HOLDINGS LLC
- 101 AIRPORT RD: GSP TRANSPORTATION INC
- 2932 DOC BENNETT RD: EATON CORP

Acreage: Parcel

- 2959 GILLESPIE ST: 15.93
- 2915 GILLESPIE ST: 1.84
- 116 AIRPORT RD: 1.27
- 0 AIRPORT RD: 1.39
- 2901 ORBIE CIR: 6.5
- 0 AIRPORT RD: 2.52
- 101 AIRPORT RD: 1.39
- 2932 DOC BENNETT RD: 56.61
- 152 AIRPORT RD: 2.37
- 160 AIRPORT RD: 2.3
- 166 AIRPORT RD: 2.04

- 152 AIRPORT RD: SPIVEY, PHYLLIS
COUNCIL;GOODMAN, RENEE COUNCIL;COUNCIL,
ARTICE LEE JR
- 160 AIRPORT RD: SPIVEY, PHYLLIS
COUNCIL;GOODMAN, RENEE COUNCIL;COUNCIL,
ARTICE LEE JR
- 166 AIRPORT RD: SPIVEY, PHYLLIS
COUNCIL;GOODMAN, RENEE COUNCIL;COUNCIL,
ARTICE LEE JR
- 2923 RETIREMENT CIR: SPIVEY, PHYLLIS
COUNCIL;GOODMAN, RENEE COUNCIL;COUNCIL,
ARTICE LEE JR
- 176 AIRPORT RD: VANCE JOHNSON PLUMBING INC
- 2902 DUNEBUGGY LN: TAR HEEL HOLDINGS LLC
- 144 AIRPORT RD: WARREN, MARK A;WARREN, KIM D
- 135 AIRPORT RD: FULLBLOCK LLC
- 0 AIRPORT RD: WINSTEAD RENTALS LIMITED
PARTNERSHIP
- 165 AIRPORT RD: J&C INDUSTRIAL PARTNERS,
L.L.C.;FEDFAYA INDUSTRIAL PARTNERS, LLC
- 195 AIRPORT RD: WFN INVESTMENT GROUP LLC
- 185 AIRPORT RD: FULLBLOCK LLC
- 221 AIRPORT RD: STATE OF NORTH CAROLINA
- 231 AIRPORT RD: CITY OF FAYETTEVILLE
- 2923 RETIREMENT CIR: 2.64
- 176 AIRPORT RD: 2.75
- 2902 DUNEBUGGY LN: 1.7
- 144 AIRPORT RD: 0.58
- 135 AIRPORT RD: 2.14
- 0 AIRPORT RD: 1
- 165 AIRPORT RD: 8.5
- 195 AIRPORT RD: 2.87
- 185 AIRPORT RD: 4.49
- 221 AIRPORT RD: 6
- 231 AIRPORT RD: 4.36

Zoning District: Zoning District

- 2959 GILLESPIE ST: cnty
- 2915 GILLESPIE ST: cnty
- 116 AIRPORT RD: cnty
- 0 AIRPORT RD: cnty
- 2901 ORBIE CIR: cnty
- 0 AIRPORT RD: HI
- 101 AIRPORT RD: cnty
- 2932 DOC BENNETT RD: cnty
- 152 AIRPORT RD: cnty
- 160 AIRPORT RD: cnty
- 166 AIRPORT RD: cnty
- 2923 RETIREMENT CIR: cnty
- 176 AIRPORT RD: cnty
- 2902 DUNEBUGGY LN: cnty
- 144 AIRPORT RD: cnty
- 135 AIRPORT RD: HI
- 0 AIRPORT RD: cnty
- 165 AIRPORT RD: cnty
- 195 AIRPORT RD: cnty
- 185 AIRPORT RD: cnty
- 221 AIRPORT RD: cnty
- 231 AIRPORT RD: M/A

Fire District:

Subdivision Name:

Airport Overlay District: Airport Overlay District

- 2959 GILLESPIE ST: 1
- 2915 GILLESPIE ST: 1
- 116 AIRPORT RD: 1
- 0 AIRPORT RD: 1

- 2901 ORBIE CIR: 1
- 0 AIRPORT RD: 1
- 101 AIRPORT RD: 1
- 2932 DOC BENNETT RD: 1
- 152 AIRPORT RD: 1
- 160 AIRPORT RD: 1
- 166 AIRPORT RD: 1
- 2923 RETIREMENT CIR: 1
- 176 AIRPORT RD: 1
- 2902 DUNEBUGGY LN: 1
- 144 AIRPORT RD: 1
- 135 AIRPORT RD: 1
- 0 AIRPORT RD: 1
- 165 AIRPORT RD: 1
- 195 AIRPORT RD: 1
- 185 AIRPORT RD: 1
- 221 AIRPORT RD: 1
- 231 AIRPORT RD: 1

Hospital Overlay District:

Cape Fear District:

Haymount Historic District:

100 Year Flood: <100YearFlood>

Watershed:

Coliseum Tourism District:

Downtown Historic District:

Floodway:

500 Year Flood: <500YearFlood>

General Project Information

Has the land been the subject of a map amendment application in the last five years?: No

Previous Amendment Case #:

Acreage to be Rezoned: 130

Water Service: Public

A) Please describe all existing uses of the land and existing structures on the site, if any:

Residential, commercial, industrial

Previous Amendment Approval Date:

Proposed Zoning District: Airport Entrance Corridor Overlay

Is this application related to an annexation?: No

Sewer Service: Public

B) Please describe the zoning district designation and existing uses of lands adjacent to and across the street from the subject site.:

Residential, commercial, and industrial uses

Combination of city and county zoning districts

Amendment Justification - Answer all questions on this and all pages in this section (upload additional sheets as needed).

A) State the extent to which the proposed amendment is consistent with the comprehensive plan and all other applicable long-range planning documents.:

Request by Cumberland County to provide consistency with AECO in the County.

B) Are there changed conditions that require an amendment? :

No

C) State the extent to which the proposed amendment addresses a demonstrated community need.:

Amendment will address request by Cumberland County

D) State the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the

subject land, and why it is the appropriate zoning district for the land.:

The proposed overlay will not affect any existing structures within the city limits of Fayetteville. The overlay is cohesive with existing zoning regulations within the city limits of Fayetteville.

E) State the extent to which the proposed amendment results in a logical and orderly development pattern.:

Overlay will have limited affect on development.

F) State the extent to which the proposed amendment might encourage premature development.:

Overlay will not encourage premature development.

G) State the extent to which the proposed amendment results in strip-style commercial development.:

Overlay does not address strip style development.

H) State the extent to which the proposed amendment results in the creation of an isolated zoning district unrelated to adjacent and surrounding zoning districts.:

Overlay will not affect underlying zoning districts.

I) State the extent to which the proposed amendment results in significant adverse impacts on the property values of surrounding lands.:

No affect

J) State the extent to which the proposed amendment results in significantly adverse impacts on the natural environment.:

No affect

Primary Contact Information

Contractor's NC ID#:

Project Owner

Heather Eckhardt
City of Fayetteville
433 Hay St
Fayetteville, NC 28301
P:(910) 4331992
heckhardt@ci.fay.nc.us

Project Contact - Agent/Representative

Heather Eckhardt
City of Fayetteville
433 Hay St
Fayetteville, NC 28301
P:(910) 4331992
heckhardt@ci.fay.nc.us

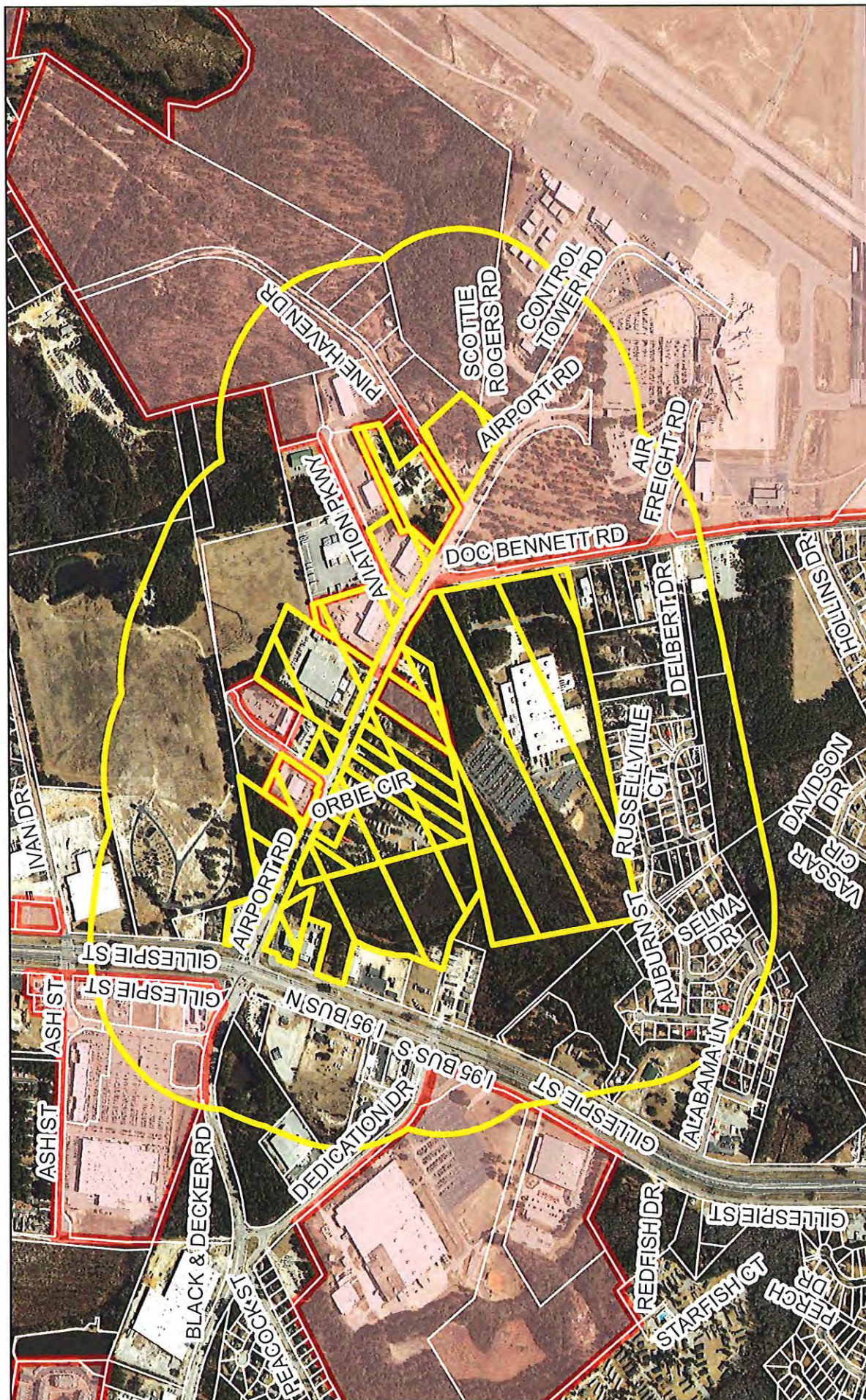
As an unlicensed contractor, I am aware that I cannot enter into a contract that the total amount of the project exceeds \$30,000. :

NC State General Contractor's License Number:

NC State Mechanical Contractor's #1 License Number:
NC State Mechanical Contractor's #2 License Number:
NC State Mechanical Contractor's #3 License Number:
NC State Electrical Contractor #1 License Number:
NC State Electrical Contractor #2 License Number:
NC State Electrical Contractor #3 License Number:
NC State Plumbing Contractor #1 License Number:

NC State Plumbing Contractor #2 License Number:




Indicate which of the following project contacts should be included on this project:



Letters are being sent to all property owners within the 1,000' buffer. Subject property is shown in the hatched pattern.



Legend

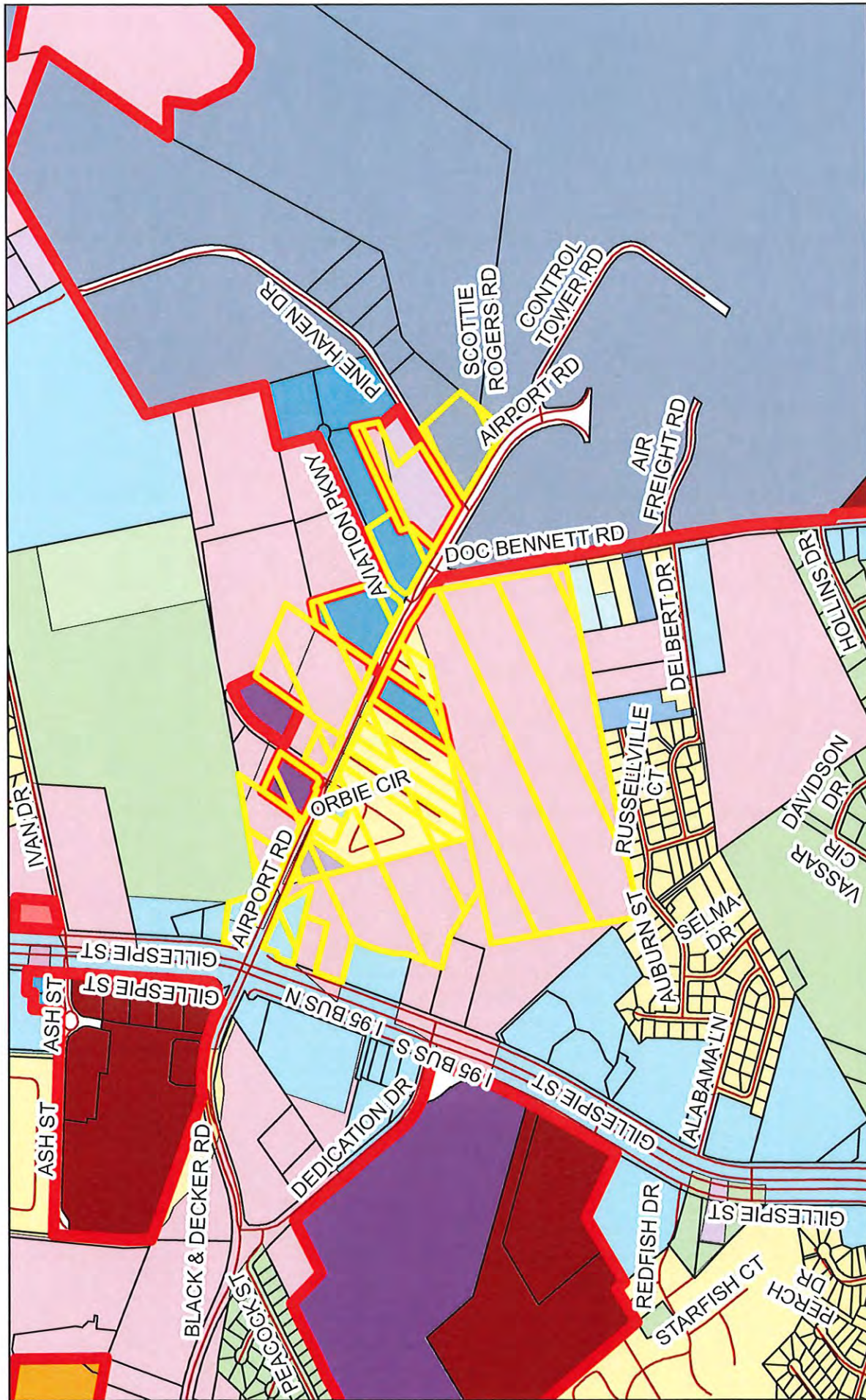
-  AEEO
-  1,000' Notification Area
-  City Limits

Aerial Notification Map

Case #: P23-18

Request: Overlay
Airport Entrance Corridor Overlay

Location: 101 - 231 Airport Road



Letters are being sent to all property owners within the 1,000' buffer. Subject property is shown in the hatched pattern.



Legend

- AECO
- City Limits
- CC - Community Commercial
- HI - Heavy Industrial
- LC - Limited Commercial
- LI - Light Industrial
- M/A - Military/Airport
- MR-5 - Mixed Residential 5
- County

Cumberland County Zoning

- M1(P)
- M2
- R10
- R5A
- R6A
- RR

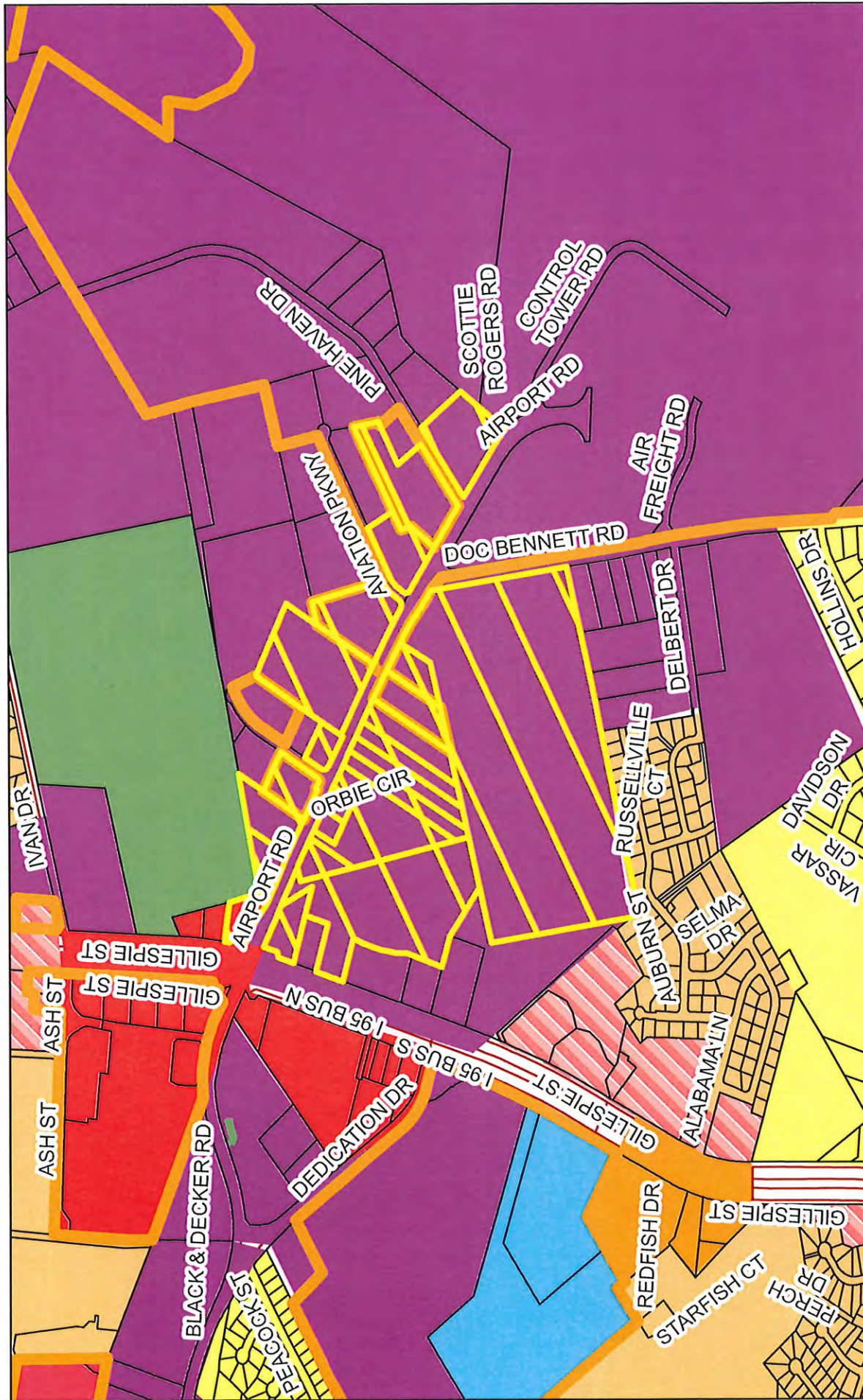
gis_ware_1

- C(P)
- C2(P)
- C3
- HS(P)
- M(P)

Zoning Map
 Case #: P23-18

Request: Overlay
 AECO

Location: 101 - 231 Airport Road



Letters are being sent to all property owners within the 1,000' buffer. Subject property is shown in the hatched pattern.



- Legend**
- AEEO
 - City Limits
 - Land Use Plan 2040**
 - Character Areas**
 - HDR - HIGH DENSITY RESIDENTIAL
 - CSR - COMMERCIAL STRIP REDEVELOPMENT
 - CC - COMMUNITY CENTER
 - HC - HIGHWAY COMMERCIAL
 - OI - OFFICE / INSTITUTIONAL
 - EC - EMPLOYMENT CENTER
 - PARKOS - PARK / OPEN SPACE
 - LDR - LOW DENSITY
 - MDR - MEDIUM DENSITY

Land Use Map

Case #: P23-18

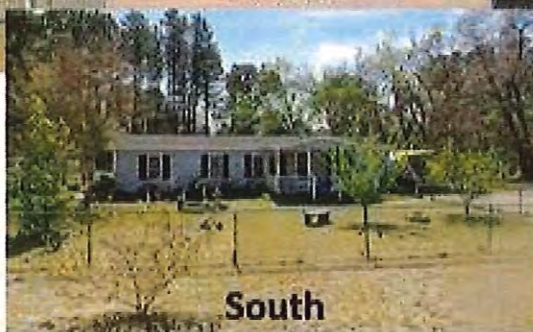
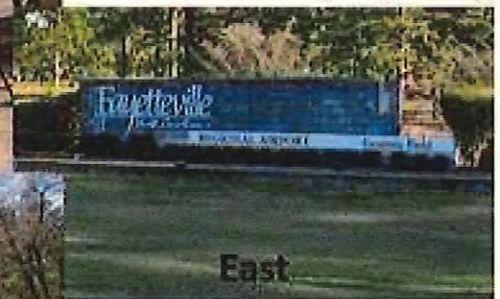
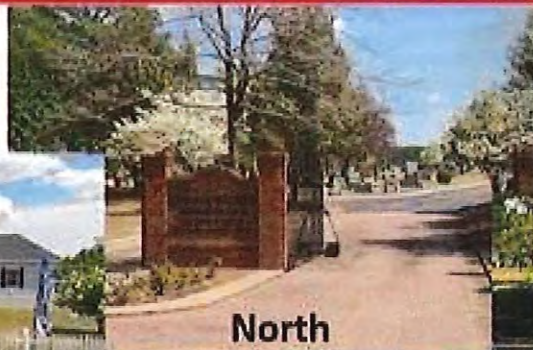
Request: Overlay
AEEO

Location: 101 - 231 Airport Road



Subject Property





Consistency and Reasonableness Statement

Map Amendments

Pursuant N.C.G.S. Sections 160D-604 and -605, the Zoning Commission finds that the proposed zoning map amendment in case P23-18 is consistent/inconsistent with the City of Fayetteville's Future Land Use Map and Plan (Comprehensive Plan). The following analysis examines the proposed amendment relative to the goals and land-use policies and strategies of the Comprehensive Plan:

Consistency

1. GOALS

| GOAL(S) | CONSISTENT | INCONSISTENT |
|--|------------|--------------|
| Goal # 1: Focus Value and Investment around infrastructure and strategic nodes | X | |
| Goal # 2: Promote compatible economic and commercial development in key identified areas. | X | |

2. LAND USE POLICES AND STRATEGIES:

| LAND USE POLICES AND STRATEGIES | CONSISTENT | INCONSISTENT |
|---|------------|--------------|
| LUP 1: Encourage growth in areas well-served by infrastructure and urban services, including roads, utilities, parks, schools, police, fire, and emergency services. | X | |
| 1.7: Encourage a logical progression of housing development and discourage "leapfrog" development. | X | |
| LUP 2: Encourage strategic economic development. | X | |
| 2.1: Encourage economic development in designated areas. | X | |
| LUP 3: Encourage redevelopment along underutilized commercial strip corridors and reinvestment in distressed residential neighborhoods. | X | |
| 3.1: Examine and identify targeted redevelopment and infill areas throughout the city. | X | |

3. The proposed amendment is consistent with the Future Land Use Map as follows:

| | | | | |
|-------------------------------------|--|----|--|--|
| <input checked="" type="checkbox"/> | The proposed land use is consistent and aligns with the area's designation on the FLU Map. | OR | | The proposed land use is inconsistent and does not align with the area's designation on the FLU Map. |
| <input checked="" type="checkbox"/> | The proposed designation, as requested, would permit uses that are complimentary to those existing on adjacent tracts. | OR | | The proposed designation, as requested, would permit uses that are incongruous to those existing on adjacent tracts. |

Reasonableness

The proposed zoning amendment is reasonable and in the public interest because it supports the policies of the Comprehensive Plan as stated above and the Strategic Plan as stated in the Staff Report, and because: [select all that apply]

- ☒ The size, physical conditions, and other attributes of the proposed use(s) will benefit the surrounding community.
- ☐ The amendment includes conditions that limit potential negative impacts on neighboring uses.
- ☐ The proposed uses address the needs of the area and/or City.
- ☐ The proposal adapts the zoning code to reflect modern land-use trends and patterns.

The amendment is also in the public interest because it: [select all that apply]

- ☒ improves consistency with the long-range plan.
- ☒ improves the tax base.
- ☐ preserves environmental and/or cultural resources.
- ☒ facilitates a desired kind of development.
- ☐ provides needed housing/commercial area.

Additional comments, if any (write-in):

May 9, 2023

Date

Chair Signature

Print