



City of Fayetteville

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

Meeting Agenda - Final Zoning Commission

Tuesday, November 14, 2023

6:00 PM

FAST Transit Center

1.0 CALL TO ORDER

2.0 APPROVAL OF AGENDA

3.0 CONSENT

3.01 Approval of Minutes: October 10, 2023

4.0 EVIDENTIARY HEARINGS

4.01 A23-45. Variance to reduce minimum lot size and minimum setbacks, located at 1804 Overlook Drive (REID 0438447528000), and being the property of Mark N. & Deborah D. Lynch.

5.0 PUBLIC HEARINGS (Public & Legislative)

5.01 P23-29. Initial zoning of one non-contiguous parcel totaling 21.05 ± acres, requesting annexation, to Mixed Residential 5 (MR-5) located at 0 Jossie Street (0520795388000), being the property of Joseph Griffin Sr. Revocable Trust Agreement, represented by R. Jonathan Charleston of the Charleston Group.

5.02 P23-44. Conditional rezoning from Downtown 2 (DT-2) to Downtown 2 Conditional Zoning (DT-2/CZ) located at 328 Person Street (REID 0437738057000), totaling 1.93 acres ± and being the property of 328 Person St LLC.

5.03 P23-46. Rezoning of 4.03 acres ± from Heavy Industrial (HI) to Community Commercial (CC), located at 328 Deep Creek Road (REID # 0447302240000), and being the property of Cumberland County Community Action Program Inc., represented by Del Crawford of Crawford Design Company.

5.04 P23-47. Rezoning of 1.86 acres ± from Mixed Residential 5 (MR-5) to Downtown 2 Conditional (DT-2/CZ), located at 344, 348 352 Hawley Lane and unaddressed Plummers Lane (REID # 0437848219000, 0437848347000, 0437848464000, 0437849540000), and being the property of Cumberland County Board of Education, Michael J Carpenter and Helen Kelly Heirs, represented by Jimmy Kizer, Moorman, Kizer & Reitzel, Inc. and Jermaine Walker, Cumberland County.

- 5.05** P23-48. Rezoning from Single Family Residential 6 (SF-6) to Mixed Residential 5 (MR-5) located at 420 & 432 Cedric St, two unaddressed parcels on Cedric St, 678 Bonnie St, and one unaddressed parcel on Bonnie St (REID 0418195255000, 0418194262000, 0418192186000, 0418193169000, 0418193367000, and 0418193316000), totaling 1.59 acres ± and being the property of Nathan Echols.
- 5.06** P23-49. Rezoning of 1.42 acres ± from Mixed Residential 5 (MR-5) to Heavy Industrial Conditional Zoning (HI/CZ), located at 1009, 1015, & 0 North Street (REID #'s 0438700243000, 0438700340000, & 0438609391000), and being the property of DRA LLC, represented by Thomas Lloyd of Franklin Johnson Commercial Real Estate.

6.0 OTHER ITEMS OF BUSINESS

7.0 ADJOURNMENT



City of Fayetteville

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

City Council Action Memo

File Number: 23-3674

Agenda Date: 11/14/2023

Version: 1

Status: Agenda Ready

In Control: Zoning Commission

File Type: Consent

Agenda Number: 3.01

TO: Zoning Commission

THRU: Will Deaton, AICP - Planning & Zoning Manager

FROM: Catina Evans - Office Assistant II

DATE: November 14, 2023

RE: Approval of Meeting Minutes: October 10, 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: October 10, 2023

**MINUTES
CITY OF FAYETTEVILLE
ZONING COMMISSION MEETING
FAST TRANSIT CENTER COMMUNITY ROOM
OCTOBER 10, 2023 @ 6:00 P.M.**

MEMBERS PRESENT

Pavan Patel, Chair
Stephen McCorquodale, Vice-Chair
Alex Keith
Kevin Hight
Tyrone Simon
Clabon Lowe, Alternate

STAFF PRESENT

Clayton Deaton, Planning and Zoning Division Manager
Craig Harmon, Senior Planner
Heather Eckhardt, Planner II
Demetrios Moutos, Planner I

Lisa Harper, Assistant City Attorney
Catina Evans, Office Assistant II

MEMBERS ABSENT

Justin Herbe

The Zoning Commission Meeting on Tuesday, October 10, 2023, was called to order by Chair Pavan Patel at 6:07 p.m.

I. APPROVAL OF THE AGENDA

MOTION: Kevin Hight made a motion to approve the agenda with the amendment to table case P23-39 until the Zoning Commission Meeting on Tuesday, November 14, 2023.

SECOND: Alex Keith

VOTE: Unanimous (5-0)

II. APPROVAL OF CONSENT ITEMS TO INCLUDE THE MINUTES FOR THE SEPTEMBER 12, 2023, MEETING

MOTION: Kevin Hight made a motion to approve the consent items.

SECOND: Clabon Lowe

VOTE: Unanimous (5-0)

III. LEGISLATIVE HEARINGS

Mr. Patel discussed the aspects of the legislative hearing. Mr. Patel asked if any of the Board members had any partiality (conflicts of interest) or any ex parte communication (site visits or conversations with parties to include staff members or the general public) to disclose regarding the case on the agenda for the evening. The commissioners did not have any partiality with the cases or ex parte communication to disclose regarding the cases. Ms. Harper had the speakers perform the oath.

Mr. Patel opened the legislative hearing for case P23-40.

P23-40. Rezoning of 6.00 acres ± from Single-Family Residential 6 (SF-6) to Mixed Residential 5 (MR-5), located at 1133 Berkshire Road (REID #0427008217000), and being the property of Berkshire Beckham Capital Investments LLC, represented by Brad Schuler of Paramounte Engineering, Inc.

Demetrios Moutos presented case P23-40. He stated that the property is located at 1133 Berkshire Road and owned by Berkshire Capital Investments LLC. They are requesting a rezoning from Single-Family Residential 6 (SF-6) to Mixed Residential 5 (MR-5) of 6.36 acres. The property is located south of Raeford Road and east of Owen Drive near the All American interchange. The property is behind the Chipotle restaurant. The property is zoned Single-Family 6 (SF-6) and there are commercial properties surrounding the area. There are Mixed Residential 5 (MR-5) and Single-Family 10 (SF-10) properties in the area. The Future Land Use Plan designates this area as a Community Center of which multifamily developments fall into this category. Mr. Moutos showed the Board a picture of the subject property. To the north are the Tallywood Arms Apartments. To the south are single-family zoned properties in the Glendale Acres subdivision, and to the west are more single-family properties in the Owen Village subdivision. The proposed rezoning is supported by the land use analysis and is aligned with the 2040 Comprehensive Plan. It addresses the increasing need for housing among Fayetteville's growing population. This rezoning aligns with the City's long-term goals, and it maintains compatibility with the existing developments. Mr. Moutos stated that the Staff recommendation is for the Board to approve the rezoning. Mr. Moutos presented the Board with their voting options.

Mr. Patel opened the hearing for speakers for case P23-40. Mr. McCorquodale informed Mr. Patel that the Board needed the speakers to be sworn in, but Ms. Harper stated that this was not necessary because this was a legislative hearing and not an evidentiary hearing. Mr. Patel reminded the speakers that they had a total of 15 minutes to speak in favor and in opposition. Speakers should be mindful to allow for questions within this timeframe.

Speakers in favor:

Brad Schuler, 122 Cinema Drive Wilmington, NC 28403

- Mr. Schuler said his office is representing the owner and their offices are in Wilmington, NC. He thanked the Staff for their presentation, and he added that he did not have much to add to what the Staff presented to the Board.
- If the rezoning is approved, it will give the property owner the ability to develop more townhome-style apartments in the area.
- He stated that affordable housing studies reveal that more housing is needed in the Fayetteville area—housing that consists of two to four units which is what the owner intends to build.
- The requested MR-5 zoning is consistent with the area and it is compatible with the community center classification of the comprehensive plan.
- Mr. Schuler said he would answer any questions.

A lady in the audience began to ask a question and Ms. Harper asked her if she had signed up to speak. The woman said yes, and Ms. Harper informed her that she could ask questions after all the speakers had finished. The first speaker Mr. Paschal began to speak and was reminded by Ms. Harper to speak up and clearly enough for the record. She informed the Chair as well to speak up so that the audience could hear him, and he could be on record.

Michael Paschal, 2219 Winterlochen Road, Fayetteville, NC 28305

- Mr. Paschal said he is with Berkshire Beckham Capital Investments, LLC.

- He is trying to increase the upper-end housing and put-up high-end townhouse development buildings on a 2.5-acre lot. They will be three-bedroom two two-bath townhomes with a lower-level garage entry.
- The rent will be higher than the cost for rentals in the surrounding area at \$1,800-\$2,000 per month.
- It will complement the new hospital expansion in the area.
- Mr. Paschal said his company is trying to improve the Glendale area. They are big on security and safety and keeping the area clean. They are trying to improve the area.

Mr. Hight pointed out an area behind a Chinese restaurant and asked Mr. Paschal if this is the location of the property and if the current buildings would be torn down. Mr. Paschal said they would not tear down any buildings. The current building was built in 1973 or 1974. It was not maximized and there is a wooded area behind the property where the apartments are located. He pointed out on the aerial map where the subject property is located and the location of the apartments. Mr. Hight asked Mr. Paschal if he was going to leave the area to the right of Berkshire alone. Mr. Paschal replied yes. He said they submitted a plan to the City which entailed a total of 24 or 25 units. Mr. Hight inquired about the location of the entrance and exit points to the property. Mr. Paschal said Berkshire Road would serve as the entrance and exit to the area. Mr. Keith asked Mr. Paschal if he planned to expand on the land. Mr. Paschal reiterated that they would use Berkshire as the entrance and exit point.

Mr. Simon asked Mr. Paschal if the units would be rentals and Mr. Paschal replied that they would be rentals. They would be a mixture of three and four-unit buildings. Mr. Paschal said he doubted that they would sell the units individually because it is easier to manage them together. Mr. McCorquodale asked if a rental company would manage the area, and Mr. Paschal said that the rental company would manage the area. He said they are projecting \$1600-\$2,000 rent per month. He acknowledged that the price is high, but pointed out that currently prices are high everywhere. He anticipates a high demand for this type of housing development among nurses and other medical professionals. Mr. Paschal added that there would be enough access points to absorb the traffic.

Speakers in opposition:

Kimberly Joyce, 3010 Alden Drive, Fayetteville, NC 28304

- Ms. Joyce said the proposed development would be located right behind her backyard. Ms. Joyce wanted to know the number of units proposed. She and her neighbors are concerned that the Berkshire area is too busy to be the entrance and exit point for the projected development. She pointed out that if the rent is high, it would increase the property values of surrounding houses.
- Mr. Schuler said there will be 25 units located that will not be anywhere near Ms. Joyce's property. He assured her that the developers would not tear down any buildings.
- Mr. Paschal said Clearwater is the property management in response to Ms. Joyce's question.

Ms. Harper reminded the speakers to air their concerns and then the Board would have the applicants answer their questions. She wanted to avoid any back-and-forth question-and-answer sessions. Ms. Joyce said the communities' concern is the access point of Berkshire into the area. Ms. Harper asked the Chair to have the applicant address this concern along with the question regarding the number of units.

David Young, 1201 Wentworth Place, Fayetteville, NC 28304

- Mr. Young stated important information about the neighborhood as well as a list of his concerns.
- He asked everyone to notify him if they were having a hard time hearing him from the back of the room because he had been having an issue hearing the previous speakers at his location at the back of the room.

- Mr. Young stated he has lived in the Glendale subdivision for 24 years. Mr. Young and his wife have raised four children in the Glendale Acres neighborhood.
- Mr. Young noted he would address the issues of safety, traffic, children, and pets.
- He moved to the Glendale neighborhood because it is an established and desirable area, and it is in an excellent spot in Fayetteville. He said there are a lot of elderly people and children in the area. He attested that at times you may see a stray soccer ball, basketball, frisbee, or something going out in the street.
- Mr. Young was concerned that he or the children in the neighborhood would be hit by cars moving down the street as well as the children in the area.
- The next point Mr. Young addressed is the fact that Glendale Acres is a walking area. People walk day and night. Glendale Acres used to have a community watch program in which members would drive through the area and make sure that things were safe. If you look at the situation there is the Glendale Apartments and they do have a situation of vehicles loitering in the area. Vehicles are parked in the area at 1 a.m. and 2 a.m. with their lights off. Cars fly down Alden and then cut in on Berkshire or Wentworth and tear off down roads where children play.
- Mr. Young said he saw a car drive through a neighbor's front yard while speeding and smash into a low border wall before taking off. He said now they are talking about adding more traffic issues by building these multi-family structures.
- Mr. Young noted a quote that was mentioned by a previous speaker (in favor) that there are enough access points. Mr. Young pointed out that there are not enough access points in the area. He said the residents would come off of All American and Owen Drive and up Berkshire and enter the area, creating more traffic. Mr. Patel noted that everyone in opposition will have a total of 15 minutes to speak and Mr. Young said the area should be accessible from Raeford Road, and they should add at least two speed bumps on Berkshire Road and at least three speed bumps on Alden Drive.

Deborah Monday, 1202 Wentworth Place, Fayetteville, NC 28304

- Ms. Monday is concerned about the stormwater runoff. She said that the street had flooded within the last two to three years because of rainfall.
- There are a lot of well-established trees over 100 years old in the area, and there are pecan trees that she wants to remain undisturbed so the neighbors can continue to collect pecans.
- Ms. Monday said she has been in the area for over 45 years. She said someone drove across her yard and tore up her grass before hitting the retaining wall. She is a walker who likes to walk her dog. The area has a lot of young people. The traffic is a safety issue for people who walk.
- Ms. Monday said with mixed-residential zoning a person can build anything in the area. She wants to know how high and how many units will be built. Mr. Patel informed her that the Board would get an answer to her question.
- Ms. Monday said only one access point is located at this property, and the only way she would agree to any development in the area is that there is an additional access point added off of Raeford Road. She mentioned that she was concerned about the property values being affected by this project.
- Ms. Monday said it would be terrible to have more traffic in the area.

Mr. Goodyear started to speak, and Mr. Patel had to request that he state his name and address. Mr. Goodyear complained that he had limited time to speak, and that he was trying to maximize his time. Ms. Harper reiterated that Mr. Goodyear must provide his name and address for the record.

Richard Goodyear, 121 Hunter Circle, Fayetteville, NC 28304

- Mr. Goodyear stated that he has lived in the area for ten years and the City will not come in and develop in the area. Mr. Goodyear said a tree fell on his garage and the City did nothing.
- He pointed out where the land is located and told the Board that the City will not develop in the area. He asked Mr. Paschal to look at him because it was disrespectful for Mr. Paschal to look down while he was talking. Ms. Harper explained to Mr. Goodyear that he needed to address the Board and watch his language.
- Mr. Goodyear apologized for his language, but he stated that they would be developing in his personal space. He said he bought his house because of the privacy he had in the surrounding area. Now this owner wants to build two-story units. He questioned if the listeners would want him to build a two-story building that looked down on their property. He reiterated that the development is not happening. He suggested that they build in another area. Mr. Goodyear said he does not understand nor see the development happening. He apologized for his language.

Berthe Young, 1201 Wentworth Place, Fayetteville, NC 28304

Ms. Young said she wanted to know if the proposed building owner also manages the Marlborough Apartments, and if they could make another access point from Marlborough Road.

Ms. Harper asked Mr. Patel if he was going to give the Staff and applicants time to answer the questions posed by the Board. Mr. Patel addressed the issues pointed out by the speaker, and he asked the Board or applicant to respond. Mr. Patel asked Mr. Schuler to explain how he would address the concerns. Mr. Schuler came upfront and stated that there would be 25 attached dwelling units. He said that there would be 18 cars at most during peak hours between 7-9 a.m. and 4-6 p.m. Mr. Schuler said that if you extend the road to Raeford Road, you will create a cut-through increasing the traffic.

Mr. Hight said he is torn. He wants to see nice developments, but he has lived in that neighborhood for 56 years and on the street in question. Mr. Hight said that the traffic had prohibited him from backing out of his driveway for 10 minutes. It is a huge cut-through area, and you have cars traveling over 30 miles per hour in the area. There are traffic issues, and he does agree with the need for a speed bump. Ms. Harper reminded Mr. Hight that this is not a discussion time, but a time to ask and answer questions. Mr. Hight asked Mr. Schuler if he could find another access point into the development. Mr. Hight suggested that they cut off access to Berkshire Road and make the traffic flow through Raeford Road. Mr. Hight asked if they own more than what is in yellow on the map and Mr. Schuler said they only own the highlighted land. Mr. Patel asked how high the building is and Mr. Schuler said they are two stories. Mr. Simon asked if the townhomes would be next to each other, and Mr. Schuler said yes. Mr. McCorquodale said that stormwater and landscaping must be mitigated under the Unified Development Ordinance. He said the City entities would study the traffic situation. Mr. Schuler said they would have to go back through the Technical Review Committee if rezoning is approved.

Mr. Patel closed and reopened the hearing so Mr. Keith could ask questions. Mr. Keith asked Mr. Moutos if the area could be rezoned conditional. Mr. Moutos said the Board could deny the rezoning request and the applicants would have to come back in a year and apply for a conditional rezoning.

Mr. Hight said the traffic has already been an issue in the Glendale area, and the City needs to act. He supports his neighbors and his neighborhood. He supports quality housing, and Mr. Hight asked that the Board be cautious with this zoning request. Mr. Keith was concerned with the number of cars coming through the area. Mr. Hight said that there is a school, and the area is well developed with multiple housing developments already in the area. He said there is no room to build more units in the area. The Staff and Board discussed how many more units the developers could place in the area.

Mr. Patel expressed his understanding of the neighbors' concerns and agreed on the necessity of implementing speed bumps. Following this, Mr. Hight inquired with Mr. Moutos about potential solutions to address the traffic issues. Mr. Moutos suggested that the Board could consider denying the rezoning, which would require the applicant to reapply for a conditional rezoning. Mr. Harmon clarified that the Board itself could not initiate this process but mentioned that the community could address traffic concerns by signing a petition. This petition would prompt the appropriate department to investigate and resolve the issue.

During the discussion, Mr. Keith highlighted that managing more units would become increasingly challenging. While advocating for property rights, he considered the various concerns raised by the community. Mr. Patel then sought further questions from the Staff.

Mr. Hight inquired about the options available for opposing the request if the Board were to approve the rezoning. Mr. Patel suggested approaching their City leaders, while Mr. Harmon explained that if the Board denied the request, the applicant could appeal to the City Council. In the event of Board approval, those in opposition could also appeal to the City Council. The appeal process simply involves filling out a form and paying a submission fee.

Mr. Hight concluded by asking about the presentation of this case at the next City Council meeting. Mr. Harmon confirmed that the case would indeed be presented during the City Council meeting scheduled for Monday, November 27, 2023.

MOTION: Alex Keith made a motion to approve the zoning change for case P23-40 from SF-6 to MR-5 based on the consistency and reasonableness statements.

SECOND: Tyrone Simon

VOTE: (4-1) (Kevin Hight opposed)

Mr. Patel opened the legislative hearing for case P23-41.

P23-41. Rezoning from Single-Family Residential 6 (SF-6) to Mixed Residential 5 (MR-5) located at 6677, 6655 Cliffdale Road and an unaddressed parcel on Cliffdale Road (REID #s 9497861260000, 9497863078000, and 9497862193000) totaling 2.8 acres ± and being the property of Juan & Denise Macias and JFC LLC, represented by George M. Rose, P.E.

Heather Eckhardt presented case P23-41. This case was a request from Juan and Denise Macias and JFC LLC, presented by George Rose to rezone three parcels on Cliffdale Road. One is unaddressed and the others are at 6677 and 6655 Cliffdale Road. The request is to rezone the properties from Single-Family Residential 6 (SF-6) to Mixed Residential 5 (MR-5). The parcels are located on Cliffdale Road to the west of Bunce Road and to the south, east, and west the area is surrounded by Hidden Creek Village Apartments.

The Future Land Use Plan calls for this area to develop as high-density residential. The land is currently vacant and undeveloped. To the north, you have the Village at Cliffdale apartments and to the west, they are surrounded by Hidden Creek Village Apartments. Ms. Eckhardt explained that the Mixed Residential 5 zoning district would allow for development that aligns with the High Density Residential designation on the FLUP. The current SF-6 designation is intended for single-family housing developments and is not in alignment with the Future Land Use Plan nor is it fitting for an area such as this section of Cliffdale Road. The subject property is located on a major thoroughfare and is surrounded by an existing apartment complex. Approval of this rezoning would allow for much-needed housing development. The staff is recommending approval of this rezoning based on the Future Land Use Plan and the uses permitted by proposed change in zoning district are appropriate in the immediate area. Ms. Eckhardt presented the Board with their voting options.

Mr. Patel opened the legislative hearing for case P23-41.

George Rose, 1206 Longleaf Drive, Fayetteville, NC 28305

- Mr. Rose explained to the Board that the property is completely surrounded by the Hidden Creek Village Apartments. Across the street and all around the property is MR-5 zoning.
- Access to the property would be directly on Cliffdale Road without any cut-throughs.
- The MR-5 zoning would allow for the development of 56 units however, the owner intends to build only 32 units.
- The area has water and sewer and they would follow the UDO requirements for stormwater.

Mr. Simon asked Mr. Rose if these are rentals and Mr. Rose said yes, the units will be rentals—these are apartments.

Mr. Patel closed the hearing for case P23-41.

MOTION: Stephen McCorquodale made a motion for Case P23-41 to approve the rezoning request from SF-6 to MR-5 as requested by the applicant based on the presentation by Staff and the provided consistency and reasonableness statement.

SECOND: Tyrone Simon

VOTE: Unanimous (5-0)

Mr. Patel opened the hearing for case P23-42.

P23-42. Conditional rezoning from Single-Family Residential 6 (SF-6) to Single-Family Residential 6 Conditional Zoning (SF-6/CZ) located at 1708 Bragg Boulevard (REID #0428703150000) totaling 2.8 acres ± and being the property of Linda Kay Davis-Amos, represented by Thomas Neville of Yarborough, Winters, & Neville, P.A.

Heather Eckhardt presented case P23-42. The request is for a conditional rezoning from SF-6 to SF-6/CZ. To the north is Mazerick Park and an elementary school. The Future Land Use Plan calls for the area to develop as medium-density residential. Ms. Eckhardt showed a picture of the 1940s single-family house located on the subject property. The area surrounding the subject property is zoned Single Family Residential 6 (SF-6). This is for a conditional rezoning with the following conditions: allow for an office in the SF-6 zoning district, require a type B buffer along residential properties, and to allow for one ground sign with a maximum square footage of 20 square feet. Ms. Eckhardt explained that staff is recommending denial of the request in part because approving this rezoning could open the door for future rezonings for commercial uses along this residential section of Bragg Boulevard. Additionally, the proposed use does not match the Future Land Use Plan. However, the proposed use is of a type and scale that would be low-impact and the owner intends to maintain the residential character of the structure. Based on these items, the Staff is recommending the denial of the rezoning request. It does not implement the policies of the Future Land Use Plan, and the uses permitted by the zoning change are not appropriate for the area. Ms. Eckhardt informed the Board of their voting options.

Speakers in favor:

Thomas Neville, 310 Dick Street, Fayetteville, NC 28301

- Mr. Neville informed the Board that he is speaking on behalf of his client, Ms. Amos.
- Mr. Neville stated that this is conditional zoning and they are willing to consider other conditions that will allow them to maintain the integrity of the neighborhood.
- Mr. Neville said that they are proposing an office use. No events will take place on the property just event planning. It will have little impact on the traffic.
- They propose to retain the residential character. Ms. Amos has been operating the business for a while. Then, she became aware that she was not meeting the zoning requirements. Her business looks just like a house and the landscaping is attractive. Ms. Amos has made several improvements to the property. The applicant has proposed a site plan for the internal use of the building.
- Mr. Neville showed the Board a map of the zoning area surrounding the property. A real estate office, an attorney's office, and a hair salon are in the vicinity of the property.
- He pointed out to the Board that the owner is not planning to change any part of the building's facade.
- Mr. Neville showed the Board the site plan with a 12-foot entranceway. The landscape will remain the same and the vegetative buffering will not cause any impact on the area.
- Mr. Neville showed the Board the house before the enclosure was built.
- Mr. Neville pointed out another building in the area that is residential in style, but it is used as office space.
- Mr. Neville reiterated that Ms. Amos has an event planning business. He said Ms. Amos is a consultant and coordinates events. She meets her clients by appointment only. They do not believe that this project would increase traffic in the area.

Mr. Hight asked Ms. Amos if her business was more online or in-person. Ms. Amos stated her business is a combination of online and in-person services. She speaks with potential clients virtually to determine if she will provide event planning services for them. If she provides services, then she meets with her clients in person. Mr. Hight inquired about how many people Ms. Amos would meet with at one time. Ms. Amos said she meets with one client at a time. He asked her why there was a need for the parking in the yard. Mr. Neville said that she would need to offer handicapped parking. Ms. Amos stated she was told by the City, during her meeting with the Technical Review Committee, that she needed three (3) additional parking spaces and a handicapped parking space. Mr. Simon asked Ms. Amos how many years she had been conducting her business in Fayetteville. Ms. Amos said she conducted the business from her home, but then after COVID, she decided that she would meet in a separate location. Ms. Amos said she has been in business since 2019. Mr. Simon asked if the signage was permanent or a temporary sign. Mr. Neville said they would agree to any type of signage.

Ms. Eckhardt said the City does not allow for temporary signage. Mr. Simon asked the Staff to explain the buffer type B. Mr. Neville said they requested their buffer with the City and the City told them that they would need a type B buffer. Mr. Simon asked if the land would have vegetation, and Mr. Neville said they would have trees and shrubs. Mr. Simon wanted confirmation that no events would take place on the property and Ms. Amos confirmed. Mr. Hight asked why the City was involved in the project, and Ms. Eckhardt said that parking is necessary according to the City ordinances and there are guidelines for having a single room rather than a whole building used as a site for this type of business. Mr. Simon asked Ms. Eckhardt what would happen if the Board recommended approval of this zoning request. Ms. Eckhardt said that the next step would be for the request to go to the City Council. If the Board denied the request, then the applicant could appeal with the City Council.

Mr. Patel closed the legislative hearing for case P23-42.

MOTION: Alex Keith made a motion for case P23-42 to approve the rezoning from SF-6 to SF-6 conditional zoning to allow for an office with a type B buffer and a ground sign with a max of 20 square feet.

SECOND: Stephen McCorquodale

VOTE: (4-1) (Kevin Hight opposes)

Mr. Patel opened the legislative hearing for case P23-43.

P23-43. Initial zoning of 13.84 acres ± from Planned Industrial District (M(P)/M(P) CZ) to Heavy Industrial (HI), located at 1416, 1446, and 1476 Middle River Loop (REID #s 0447683174000, 0447673767000, 0447672620000), and being the property of Fulcher Real Estate, LLC, represented by Kenneth Smith of Smith Site Consultants, PLLC.

Mr. Moutos presented case P23-43. He said it is located out on River Road and Middle Loop Road, and it involves three properties, located at 1416, 1446, and 1476 Middle River Loop. It is located on the corner of River Road. County zoning for this area is MP as well as there is MP/CZ. There is industrial zoning in the area. The whole parcel will be Heavy Industrial (HI) if this case is approved. The Future Land Use Map calls for this area to be industrial. Mr. Moutos showed the Board a picture of the subject property. It is a large property. To the north, there is a single-family house behind the property. To the south across I-95 is another single-family house. The proposed zoning is in alignment with the historical industrial heritage that dates to the 1960s. The staff will recommend approval. Mr. Moutos provided the Board with their voting options.

Speakers in favor:

Kenneth Smith, 121 Bulittle Drive, Linden, NC 28356

- Mr. Smith stated that his company, Carolina Power & Signalization contracts with various companies such as the Public Works Commission. They are the company that responds to the natural disasters within the state. They were acquired by a corporate entity that has close to 100,000 employees.
- Mr. Smith said the owner approached him back in November of last year. They went before Cumberland County Planning and sought to rezone the property. They had to do a conditional rezoning from CIP to MP which was the County's heavy industrial use district, because CIP was not conducive to where the property was located. The setbacks were not conducive and unfortunately that kicked in a ton of other issues including the County forcing septic and sewer for the property. The owner did have septic issues, and ultimately the sewer was landlocked. They did receive County approval for MP conditional zoning. The biggest issue was trying to get septic to work. At this point, the owner has acquired the two parcels that were landlocked.
- The owners are seeking to annex the property. They have gone through the Technical Review Committee process and submitted a site plan. The owners have a parking lot with 28 parking spaces and two handicapped spaces. The existing office space is approximately 20 square feet.
- They met with the Technical Review Committee, City Planning and Zoning, Engineering, Public Works Commission, and Department of Transportation have added their input concerning the project.
- The owners received favorable recommendations from Senior Planner Chester Green with the Technical Review Committee. Mr. Green has looked at the existing additions as well as the proposed improvements. The proposed improvements include an additional garage because their existing garage will be turned into additional office space. The garage will be an accessory structure and they will recombine the property to just one parcel.
- The garage will be turned into offices for the employees. The owner will recombine the parcel of land and have one structure.

- The owners had two meetings with the Department of Transportation. They had a meeting with Public Works Commission for water and sewer.
- City Planning was pleased with the existing landscaping. They have 100 ornamental trees and 200 shrubs.

Mr. Patel closed the hearing for case P23-43.

MOTION: Pavan Patel made a motion to approve the rezoning pursuant to the consistency and reasonableness statements provided by Staff.

SECOND: Alex Keith

VOTE: Unanimous (5-0)

I. OTHER BUSINESS

Craig Harmon asked for nominations for Chair.

MOTION: Stephen McCorquodale made a motion to reappoint Pavan Patel as Chair for another term.

SECOND: Tyrone Simon

VOTE: Unanimous (5-0)

Pavan Patel requested nominations for Vice-Chair.

MOTION: Kevin Hight nominated Alex Keith as Vice-Chair.

SECOND: Clabon Lowe

VOTE: Unanimous (5-0)

Mr. Hight made a request for microphones for the meetings, and he voiced concerns over the irate speaker. Ms. Harper was in agreement that they need to resolve the sound issue for the people attending the meetings.

II. ADJOURNMENT

MOTION: Kevin Hight made a motion to adjourn the September 12, 2023, meeting.

SECOND: Alex Keith

VOTE: Unanimous (5-0)

The meeting adjourned at 7:35 p.m.

Respectfully submitted by Catina Evans



City of Fayetteville

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

City Council Action Memo

File Number: 23-3660

Agenda Date: 11/14/2023

Version: 1

Status: Agenda Ready

In Control: Zoning Commission

File Type: Evidentiary Hearing

Agenda Number: 4.01

TO: Mayor and Members of City Council

THRU: Zoning Commission

FROM: Heather Eckhardt, CZO - Planner II

DATE: November 14, 2023

RE:

A23-45. Variance to reduce minimum lot size and minimum setbacks, located at 1804 Overlook Drive (REID 0438447528000), and being the property of Mark N. & Deborah D. Lynch.

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:

The applicant is requesting a variance to reduce the minimum lot size in the Single Family Residential 6 zoning district (SF-6) as well as the front, side, and rear yard setbacks for two structures on the subject property.

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.

Variations 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: Mark & Deborah Lynch

Applicant: Lori Epler of Larry King & Associates

Requested Action: Reduce minimum lot size and front, side, and rear yard setbacks

Zoning District: Single Family Residential 6 (SF-6)

Property Address: 1804 Overlook Drive and 116 Scott Avenue

Size: .23 acres ±

Existing Land Use: Two single family houses

Surrounding Zoning and Land Uses

- North: SF-6 - Single family house
- South: SF-6 - Vacant
- East: SF-6 - Single-family house
- West: SF-6 - Single-family house

Letters Mailed: 46

Issues/Analysis:

The two houses on the subject property were constructed in the early 1940s according to Cumberland County Tax records. Due to the age of the structures, the site is non-conforming. The Unified Development Ordinance outlines various standards regarding setbacks and minimum lot sizes. The UDO requires that lots within the SF-6 zoning district have a minimum lot size of 6,000 square feet and residential structures within the SF-6 zoning district must meet a minimum front yard setback of 25 feet, a minimum corner side yard setback of 25 feet, a minimum side yard setback of 10 feet, and a minimum rear yard setback of 30 feet.

The applicant has requested a variance from 4 standards of the UDO. The requested changes are as follows:

- Reduction in minimum lot size from 6,000 square feet to 3,447 square feet
- Reduction in multiple setbacks for two structures
 - 116 Scott Ave - Reduce front yard setback from 25 feet to 22 feet, reduce rear yard setback from 30 feet to 12 feet
 - 1804 Overlook Drive - Reduce front yard setback from 25 feet to 14 feet, reduce side yard setback from 10 feet to 9 feet, and reduce rear yard setback from 30 feet to 2 feet.

The owner purchased the property in its current state - two houses on one lot with nonconforming setbacks. The owner has requested these variances in order to bring the existing structures into compliance with the ordinance and allow the subdivision of the lot into two and sell one of the resulting lots in the current tenant of 1804 Overlook Drive.

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

The applicant is requesting to reduce the minimum lot size and setbacks in order to subdivide the property. Once the property has been subdivided, the owner will be able to sell one of the houses to the current tenant. There is no intended development or construction associated with this variance request.

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 "The request for a variance is being made for existing structures, not for new construction. Strict application of the ordinance requirements would prevent this owner from selling a structure to a tenant who has made this their home and desires to become a homeowner as opposed to a renter. Denial of this request will present a difficulty and hardship for both parties."

- 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 "The size location, and existence of two residential structures on one lot was present when the current owner purchased this property and had been the case for many years prior to his purchase."

- 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 "In order to allow the prospective buyer of 1804 Overlook Drive to purchase that home, a subdivision must take place. The size of the property would not support two lots without a variance. The conversation was had with city staff as to whether to request a rezoning or a variance. At the staff's advisement, a variance to the code is being requested."

- 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 "A variance would bring these two non-conforming structures into conformity with the code and would make them more harmonious with the other homes in the neighborhood in that they would be two lots and two houses."

- 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 “The two homes on this property have been operating as two separate residences for many years. And for public safety, have two separate addresses. A person who has not owned their own home would be able to purchase that home and have a more solid interest in the home and the neighborhood. With the need for affordable housing in our area, allowing a renter to purchase a home is definitely good for the welfare of that individual and a benefit to the community.

Budget Impact:

There is no immediate budgetary impact.

Options:

The Board’s Authority: The board has the authority to approve or deny the request and must base its decision on the answers to the following five required findings of fact:

If a member believes that the evidence presented is substantial, competent, and sufficient to meet the required findings of fact then the member may make a motion to approve the variance and the members must state all of the following five findings of fact along with the evidence that was presented to satisfy each finding.

If the members cannot find specific supporting facts under all five findings of fact, the members must consider a motion of denial. A motion of denial should indicate which of the five (5) of the findings of fact cannot be met.

The board can also place reasonable conditions on any variance approval.

If a member wishes to make a motion to approve the variance they should make a brief statement that recaps the evidence showing each of the five findings of fact. Any discussion by the Board following a motion may include a recap of the evidence supporting each of the five (5) factual findings.

Possible Motions and Factual Findings:

Motion to approve a variance to reduce the minimum lot size as well as the front yard, corner side yard, side yard, and rear yard setbacks.

Findings of Fact Required to Approve this Request:

1. Strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships as shown by the following evidence:

—

2. 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:

—

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

—

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

—

5. In the granting of the Variance, the public safety and welfare have been assured and substantial justice has been done as shown by the following evidence:

—

Motion to approve the variance(s) as requested but with added conditions
Findings of Fact Required to Approve this Request with added conditions:

1. Strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships as shown by the following evidence:

2. 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:

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

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

5. In the granting of the Variance, the public safety and welfare have been assured and substantial justice has been done as shown by the following evidence:

Motion to deny the variance as requested.

Findings of Fact Statements Required to Deny this Request:

1. There is not sufficient evidence that the strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships as shown by the following evidence:

—
2. There is not 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:

3. There is not 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:

4. There is not 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:

5. There is not 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:

Recommended Action:

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

Project Overview #1012381

Project Title: LYNCH	Jurisdiction: City of Fayetteville
Application Type: 5.4) Variance	State: NC
Workflow: Staff Review	County: Cumberland

Project Location

Project Address or PIN: 1804 OVERLOOK DR (0438447528000)	Zip Code: 28301
--	------------------------

GIS Verified Data

Property Owner: Parcel <ul style="list-style-type: none"> 1804 OVERLOOK DR: LYNCH, MARK N;LYNCH, DEBORAH D 	Acreage: Parcel <ul style="list-style-type: none"> 1804 OVERLOOK DR: 0.23
Zoning District: Zoning District <ul style="list-style-type: none"> 1804 OVERLOOK DR: SF-6 	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>

Variance Request Information

Requested Variances: Lot area,Minimum yard/setback

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

THE CURRENT OWNER PURCHASED THIS PROPERTY IN 2016. AT THAT TIME IT CONSISTED OF ONE LOT AND TWO STRUCTURES. BOTH STRUCTURES WERE BEING USED AS RESIDENCES BY DIFFERENT PARTIES. THE OWNER HAS CONTINUED TO USE THEM AS RENTAL PROPERTIES.

RECENTLY, ONE OF THE TENANTS HAS ASKED TO PURCHASE THE STRUCTURE THEY HAVE MADE THEIR HOME. THE OWNER WISHES TO SUBDMIDE THE PROPERTY SO AS TO SELL THE HOUSE AT 1804 OVERLOOK DRIVE.

Section of the City Code from which the variance is being requested.: 30-3.D.4. SINGLE-FAMILY RESIDENTIAL 6 (SF-6) DISTRICT DIMENSIONAL STANDARDS

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

ALL LOTS IN THE VICINITY ARE ZONED SF-6 AND APPEAR TO BE USED FOR RESIDENTIAL PURPOSES.

AS FAR AS THE CURRENT OWNER KNOWS, BOTH STRUCTURES WERE BUILT IN THE 1950'S.

THE CODE REQUIRES A LOT IN THIS ZONING DISTRICT TO BE A MINIMUM OF 6,000 SQUARE FEET. THE LOTS PROPOSED WILL BE 3447 SQUARE FEET AND 6898 SQUARE FEET.

THE CODE REQUIRES A FRONT YARD SETBACK OF 25 FEET. THE FRONT SETBACKS OF THE PROPOSED LOTS WILL BE 22.4 FEET (THIS IS EXISTING) AND 14.5 FEET.

THE CODE REQUIRES 10 FEET SIDE YARD SETBACKS. THE PROPOSED LOT 50 WOULD HAVE A SIDE YARD SETBACK OF 9.7.

THE CODE REQUIRES REAR SETBACKS OF 30 FEET. THE PROPOSED LOTS WOULD HAVE 12.9 AND 3.2 FEET SETBACKS.

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.:

THE REQUEST FOR A VARIANCE IS BEING MADE FOR EXISTING STRUCTURES, NOT FOR NEW CONSTRUCTION.

STRICT APPLICATION OF THE ORDINANCE REQUIREMENTS WOULD PREVENT THIS OWNER FROM SELLING A STRUCTURE TO A TENANT WHO HAS MADE THIS THEIR HOME AND DESIRES TO BECOME A HOMEOWNER AS OPPOSED TO A RENTER.

DENIAL OF THIS REQUEST WILL PRESENT A DIFFICULTY AND HARDSHIP FOR BOTH PARTIES.

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.:

THE SIZE, LOCATION AND EXISTANCE OF TWO RESIDENTIAL STRUCTURES ON ONE LOT WAS PRESENT WHEN THE CURRENT OWNER PURCHASED THIS PROPERTY AND HAD BEEN THE CASE FOR MANY YEARS PRIOR TO HIS PURCHASE.

Please describe how the Variance is the minimum action that will make possible a reasonable use of land or structures.:
IN ORDER TO ALLOW THE PROSPECTIVE BUYER OF 1804 OVERLOOK TO PURCHASE THAT HOME, A SUBDIVISION MUST TAKE PLACE. THE SIZE OF THE PROPERTY WOULD NOT SUPPORT TWO LOTS WITH OUT A VARIANCE.

THE CONVERSATION WAS HAD WITH CITY STAFF AS TO WHETHER TO REQUEST A REZONING OR A VARIANCE. AT THE STAFF'S ADVISEMENT, A VARIANCE TO THE CODE IS BEING REQUESTED.

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

A VARIANCE WOULD BRING THESE TWO NON-CONFORMING STRUCTURES INTO CONFORMITY WITH THE CODE AND WOULD MAKE THEM MORE HARMONIOUS WITH THE OTHER HOMES IN THE NEIGHBORHOOD IN THAT THEY WOULD BE TWO LOTS AND TWO HOUSES.

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

Height of Sign Face : 0

THE TWO HOMES ON THIS PROPERTY HAVE BEEN OPERATING AS TWO SEPARATE RESIDENCES FOR MANY YEARS. AND FOR PUBLIC SAFETY , HAVE TWO SEPARATE ADDRESSES.

A PERSON WHO HAS NOT OWNED THEIR OWN HOME WOULD BE ABLE TO PURCHASE THAT HOME AND HAVE A MORE SOLID INTEREST IN THE HOME AND THE NEIGHBORHOOD.

WITH THE NEED FOR AFFORDABLE HOUSING IN OUR AREA, ALLOWING A RENTER TO PURCHASE A HOME IS DEFINITELY GOOD FOR THE WELFARE OF THAT INDIVIDUAL AND A BENEFIT TO THE COMMUNITY.

Height of Sign Face: 0

Square Footage of Sign Face: 0

Height of Sign Face: 0

Square Footage of Sign Face : 0

Square Footage of Sign Face: 0

Primary Contact Information

Contractor's NC ID#:

Project Owner

MARK LYNCH

PO BOX 53590

FAYETTEVILLE, NC 28305

P:910.494.0233

MARKNLYNCH@GMAIL.COM

Project Contact - Agent/Representative

LORIEPLER

Larry King & Assoc.
1333 Morganton Road, Fayetteville
Fayetteville, NC 28305
P:9104834300
LEPLER@LKANDA.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:

AFFIDAVIT OF OWNERSHIP

I, MARK N LYNCH, being duly sworn, deposes and says:

1. That I am the owner of the property/properties located at 116 SCOTT AVE AND 1804 OVERLOOK DR in the City of Fayetteville, a political subdivision of the State of North Carolina.

2. I do hereby give permission to LORI S EPLER OF LARRY KING & ASSOCIATES 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 21, 2023.

[Handwritten Signature]
Signature of Affiant

Signature of Affiant

Cumberland County, North Carolina

Sworn to and subscribed before me this day on the 21ST day of APRIL, 2023.

[Handwritten Signature]
Signature of Notary Public

(Official Seal)



Sheryl Casey, Notary Public
Printed Name of Notary Public

My Commission Expires: 7-8-2023

BK 4661 PG 0336

21709

017205

RECEIVED
97 MAY 16 PM 4:20

CUMBERLAND COUNTY NC 05/16/97
22

\$100.00



Real Estate
Excise Tax

Excise Tax \$ 1 0 0 . 0 0

(164

GEORGE E. TATUM
REGISTER OF DEED
CUMBERLAND CO., N.

Recording Time, Book and Page

Tax Lot No. _____ Parcel Identifier No. _____
Verified by _____ County on the ____ day of _____, 19____
by _____

Mail after recording to **Barfield & Jenkins, P. O. Drawer 53515, Fayetteville, NC 28305**
This instrument was prepared by **Joel S. Jenkins, Jr.**

Brief Description for the index

841 Bragg Boulevard

NORTH CAROLINA GENERAL WARRANTY DEED

THIS DEED made this **May 9th, 1997**, by and between

GRANTOR

GRANTEE

**HORACE T. PRICE and wife,
WILMA PRICE**

**MARK N. LYNCH and wife,
DEBORAH D. LYNCH**

**841 Bragg Boulevard
Fayetteville, NC 28303**

Enter in appropriate block for each party: name, 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 or near the City of **Fayetteville, Cross Creek Township, Cumberland County, North Carolina** and more particularly described as follows:

BEING all of Lots 50 and 51 in SUBDIVISION OF J. F. FISHER PROPERTY and the same being duly recorded in Book of Plats 10, at page 6, Cumberland County, North Carolina Registry.

This conveyance is made subject to that Deed of Trust dated May 12, 1994 in the amount of \$20,000.00 and being duly recorded in Book 4158, page 800, Cumberland County Registry, North Carolina. In accepting this deed, the Grantees herein, as part of the consideration for this transfer, hereby assume all obligations of the Note and Deed of Trust referred to above and executed by Horace T. Price and Wilma A. Price.

10-

BK 4661 PG 0337

The property hereinabove described was acquired by Grantor by instrument recorded in Book 2501, Page 432.

A map showing the above described property is recorded in Plat Book 10, Page 6.

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 except for the exceptions hereinafter stated.

Title to the property hereinabove described is subject to the following exceptions:

Subject to restrictions, easements and rights of way of public record.

Subject to 1997 ad valorem taxes which are not yet due and payable.

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal, or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, the day and year first above written.

(Corporate Name)

Horace T. Price (SEAL)
Horace T. Price

By: _____

Wilma Price (SEAL)
Wilma Price

President

ATTEST: _____

(SEAL)

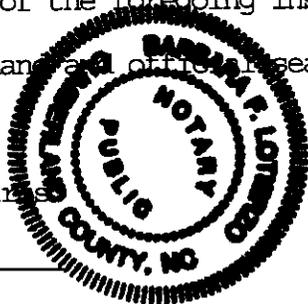
Secretary (Corporate Seal)

State of North Carolina

County of Cumberland

I, Barbara F. Lotierzo, a notary public of said county and state, do hereby certify that Horace T. Price and Wilma Price personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes herein expressed.

Witness my hand and official seal this the 9th day of May, 1997.



Barbara F. Lotierzo
Notary Public

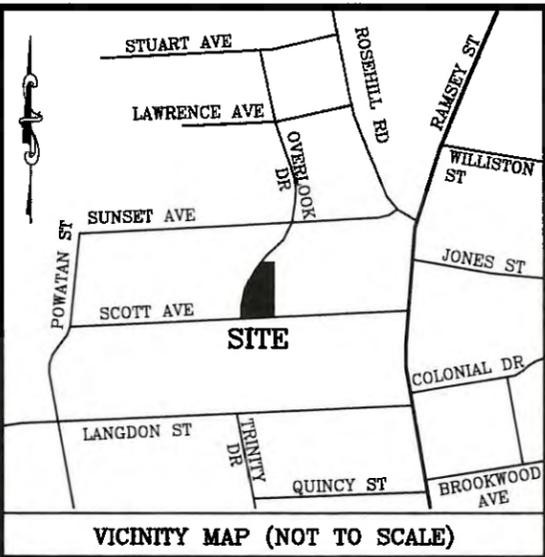
My commission expires

10/3/2000

The foregoing Certificate(s) of Barbara F. Lotierzo

is/are certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.

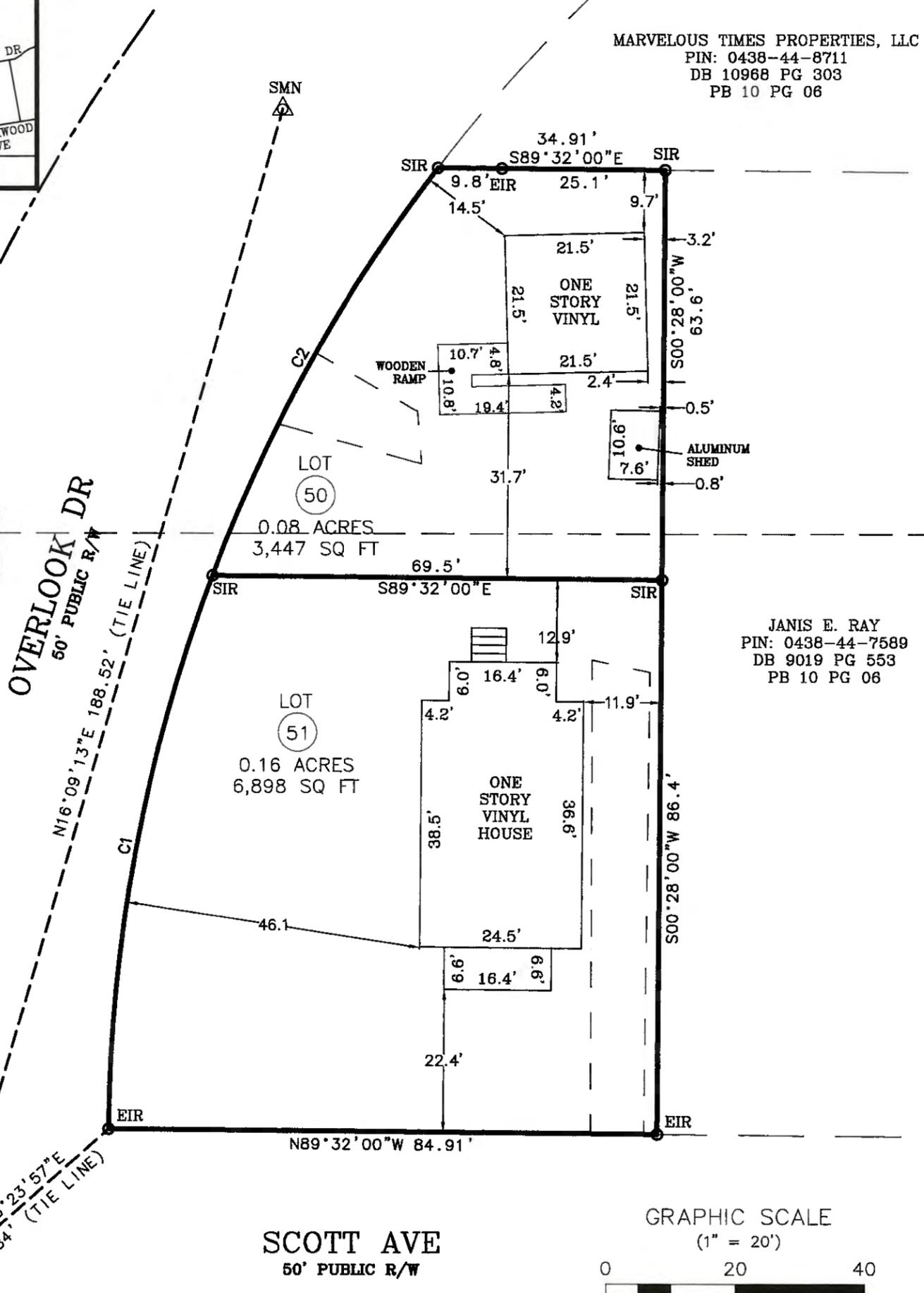
By George E. Tatum REGISTER OF DEEDS FOR CUMBERLAND COUNTY,
Rebim Jones Deputy/Assistant - Register of Deeds



CURVE TABLE				
CURVE	CHORD BEARING	RADIUS	ARC LENGTH	CHORD LENGTH
C1	N10°34'35"E	250'	88.23'	87.77'
C2	N29°00'43"E	250'	72.65'	72.40'

MARVELOUS TIMES PROPERTIES, LLC
 PIN: 0438-44-8711
 DB 10968 PG 303
 PB 10 PG 06

- LEGEND**
- BOUNDARY LINE
 - ADJOINERS
 - - - - TIE LINE
 - - - - RIGHT OF WAY
 - - - - DRIVE WAY (DIRT)
 - △ CONTROL CORNER
 - BREAK IN LINE
- R/W = RIGHT OF WAY
 EIR = EXISTING IRON ROD
 SIR = SET IRON ROD
 SMN = SET MAG NAIL
 DB = DEED BOOK
 PB = PLAT BOOK



JANIS E. RAY
 PIN: 0438-44-7589
 DB 9019 PG 553
 PB 10 PG 06

PB 10 PG 06

SCOTT AVE
50' PUBLIC R/W

VARIANCE APPLICATION

GRAPHIC SCALE
(1" = 20')

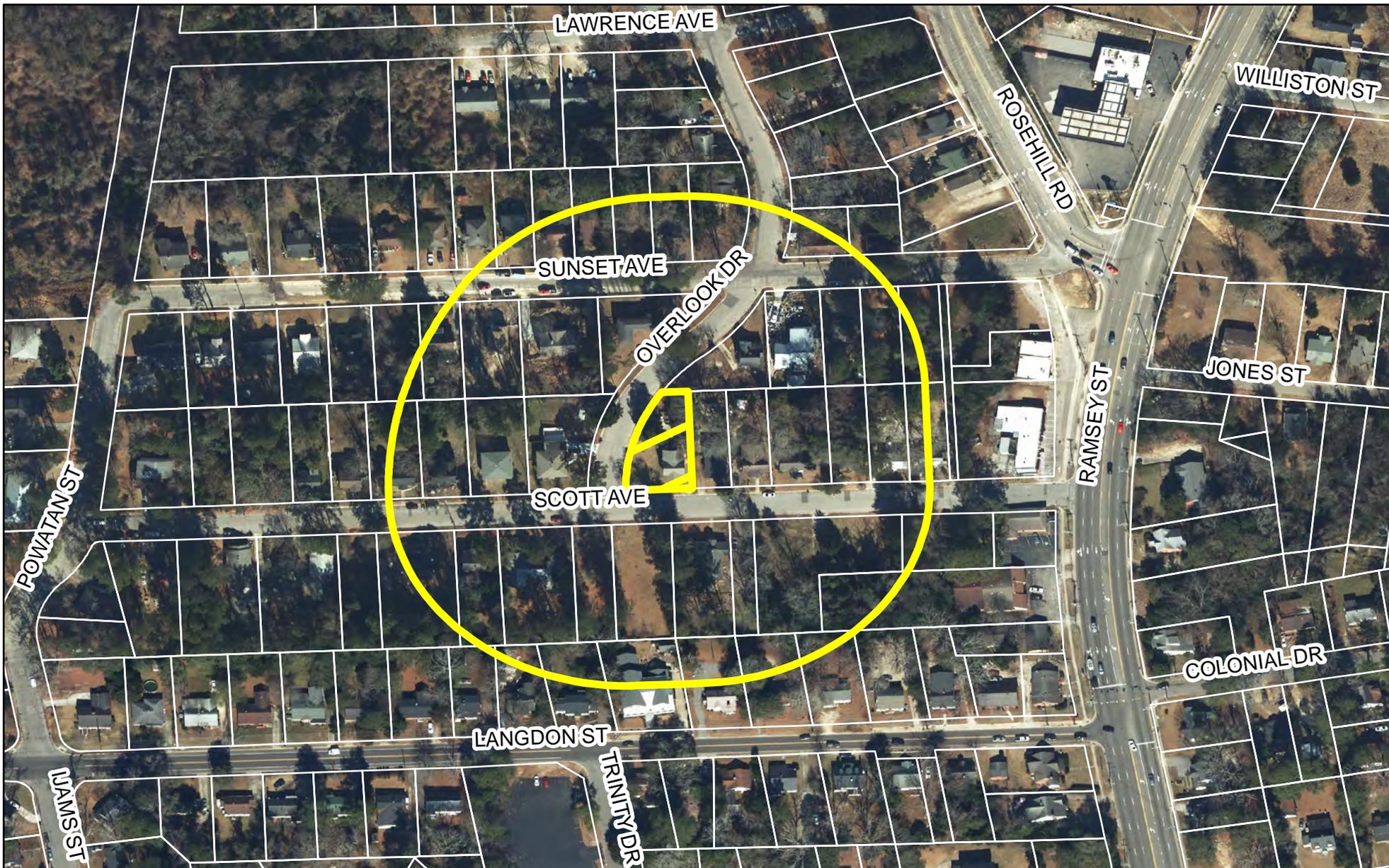
SURVEY FOR: MARK LYNCH
 ADDRESS: 1804 OVERLOOK DRIVE &
 116 SCOTT AVENUE.
 CITY: FAYETTEVILLE, NC
 COUNTY OF: CUMBERLAND

TOWNSHIP OF: CROSS CREEK
 DATE: 6 JUNE 2023
 SCALE: 1' = 20'
 REFERENCE: DB 4661 PG 336
 PB 10 PG 06, LOTS 50 & 51

Larry King & Associates, R.L.S., P.A.
 P.O. Box 53787
 1333 Morganton Road, Suite 201
 Fayetteville, NC 28305
 Phone: (910)483-4300
 Fax: (910)483-4052
 www.LKandA.com
 NC Firm License C-0887

"I CERTIFY THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN D.B. 4661, P.G. 336 OR OTHER REFERENCE SOURCE AS SHOWN); THAT THE BOUNDARIES NOT SURVEYED ARE INDICATED AS DRAWN FROM INFORMATION IN BOOK AND PAGE AS REFERENCED ABOVE THAT THE RATIO OF PRECISION OR POSITIONAL ACCURACY IS > 1:10,000; AND THAT THIS MAP MEETS THE REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA (21 NCAC 56.1600)."

W. Larry King
 W. LARRY KING, PROFESSIONAL LAND SURVEYOR L-13339



Aerial Notification Map

Case #: A23-45

Request: Variance

Location: 1804 Overlook Drive

Legend



A23-45

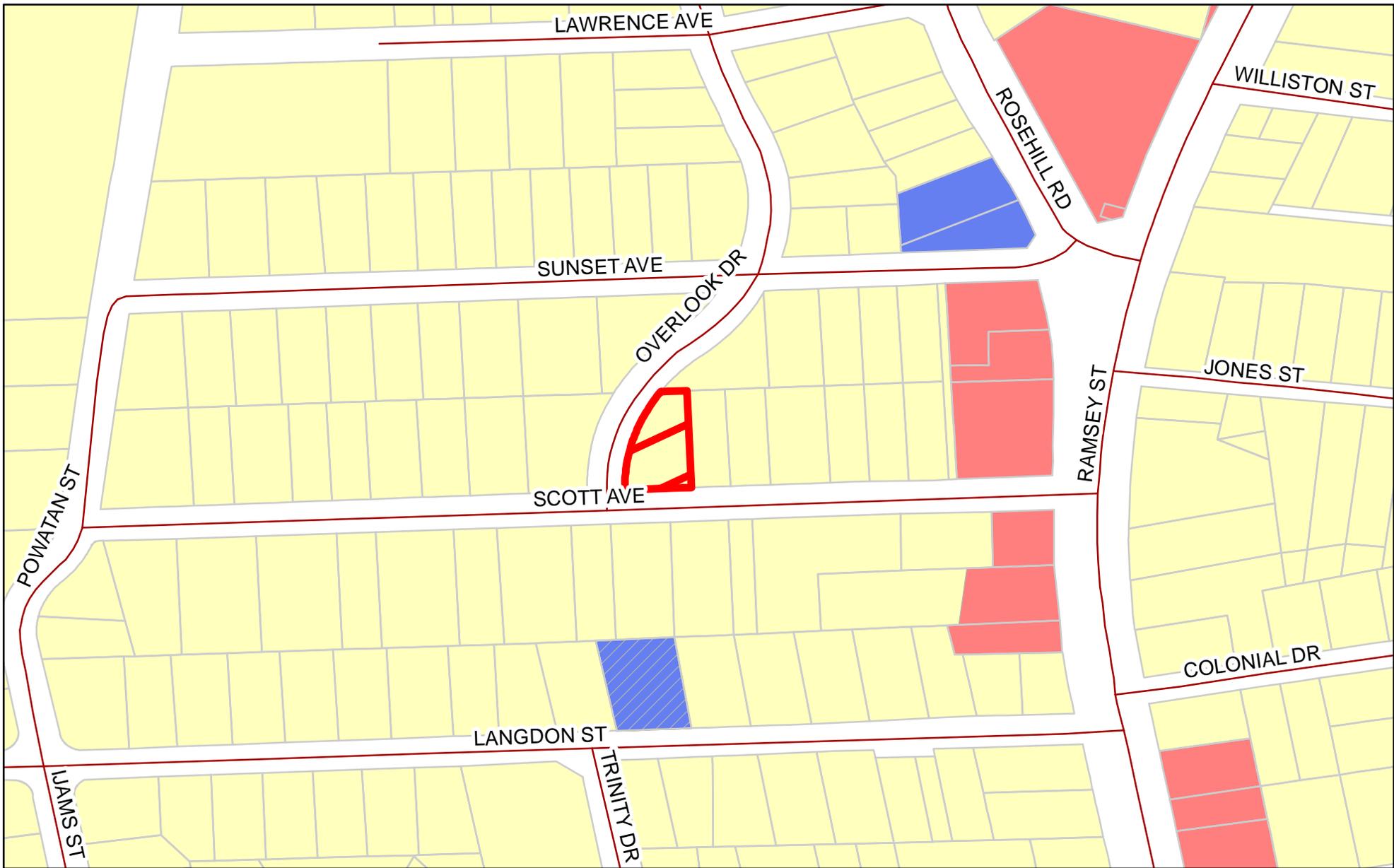


A23-45 Notification Buffer



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





Zoning Map

Case #: A23-45

Request: Variance

Location: 1804 Overlook Drive

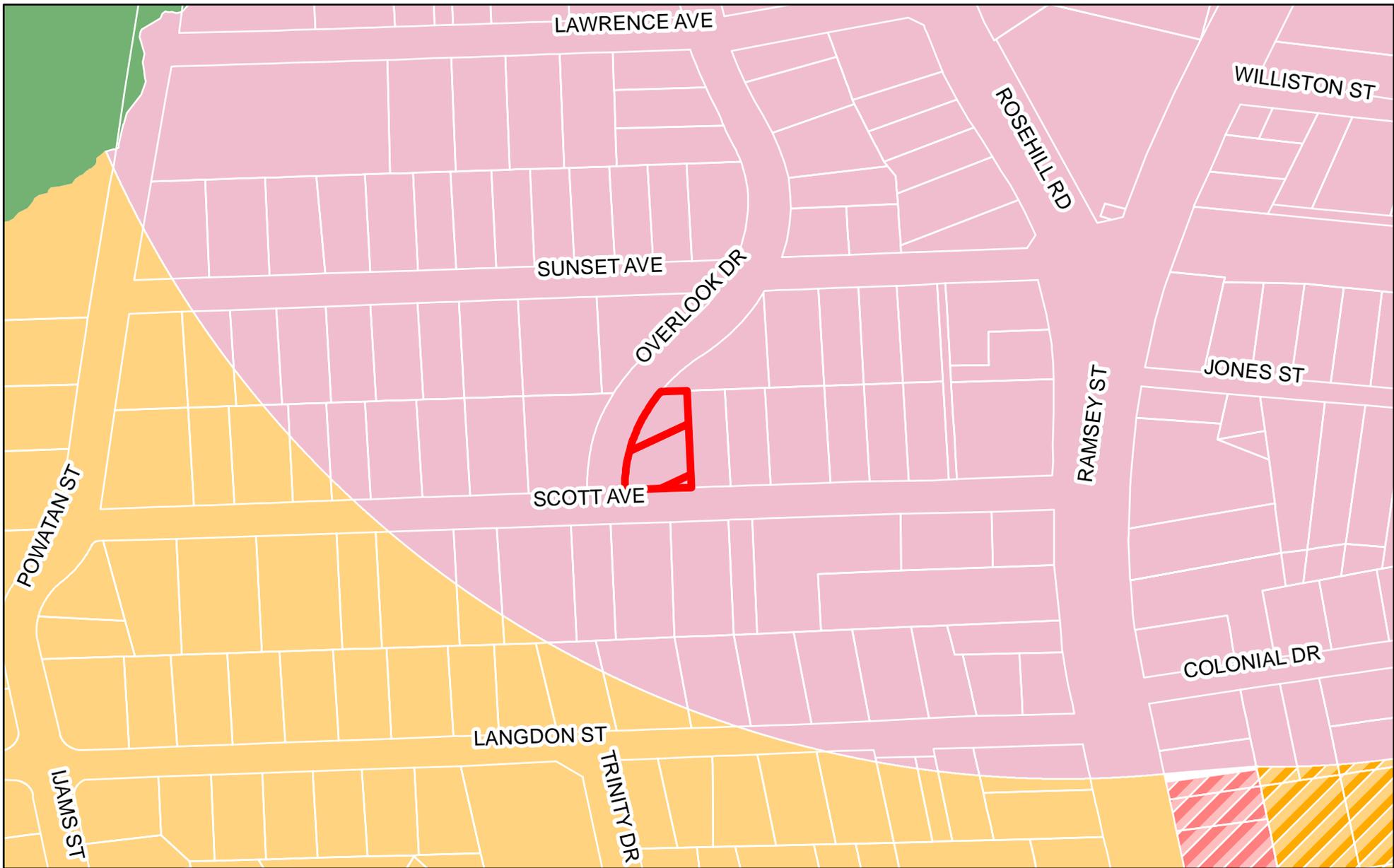
Legend

-  A23-45
-  LC - Limited Commercial
-  OI - Office & Institutional
-  OI/CZ - Conditional Office & Institutional
-  SF-6 - Single-Family Residential 6



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





Land Use Map

Case #: A23-45

Request: Variance

Location: 1804 Overlook Drive

Legend

 A23-45 **Land Use Plan 2040**

Character Areas

-  PARKOS - PARK / OPEN SPACE
-  MDR - MEDIUM DENSITY
-  NIR - NEIGHBORHOOD IMPROVEMENT
-  NMU - NEIGHBORHOOD MIXED USE
-  CSR - COMMERCIAL STRIP REDEVELOPMENT



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

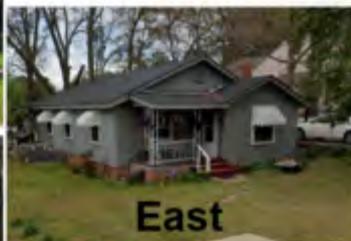


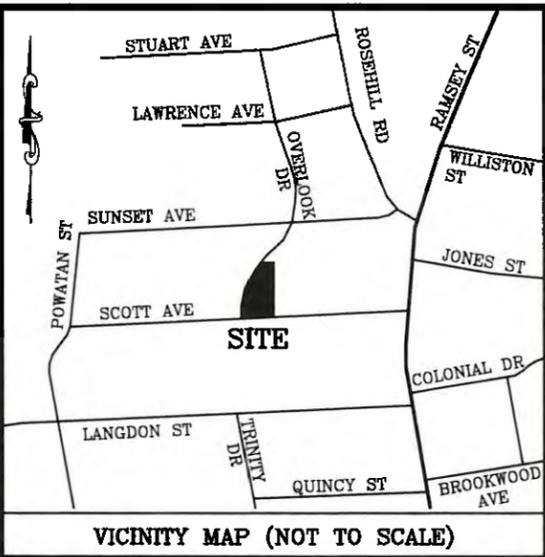


116 Scott Avenue



1804 Overlook Drive

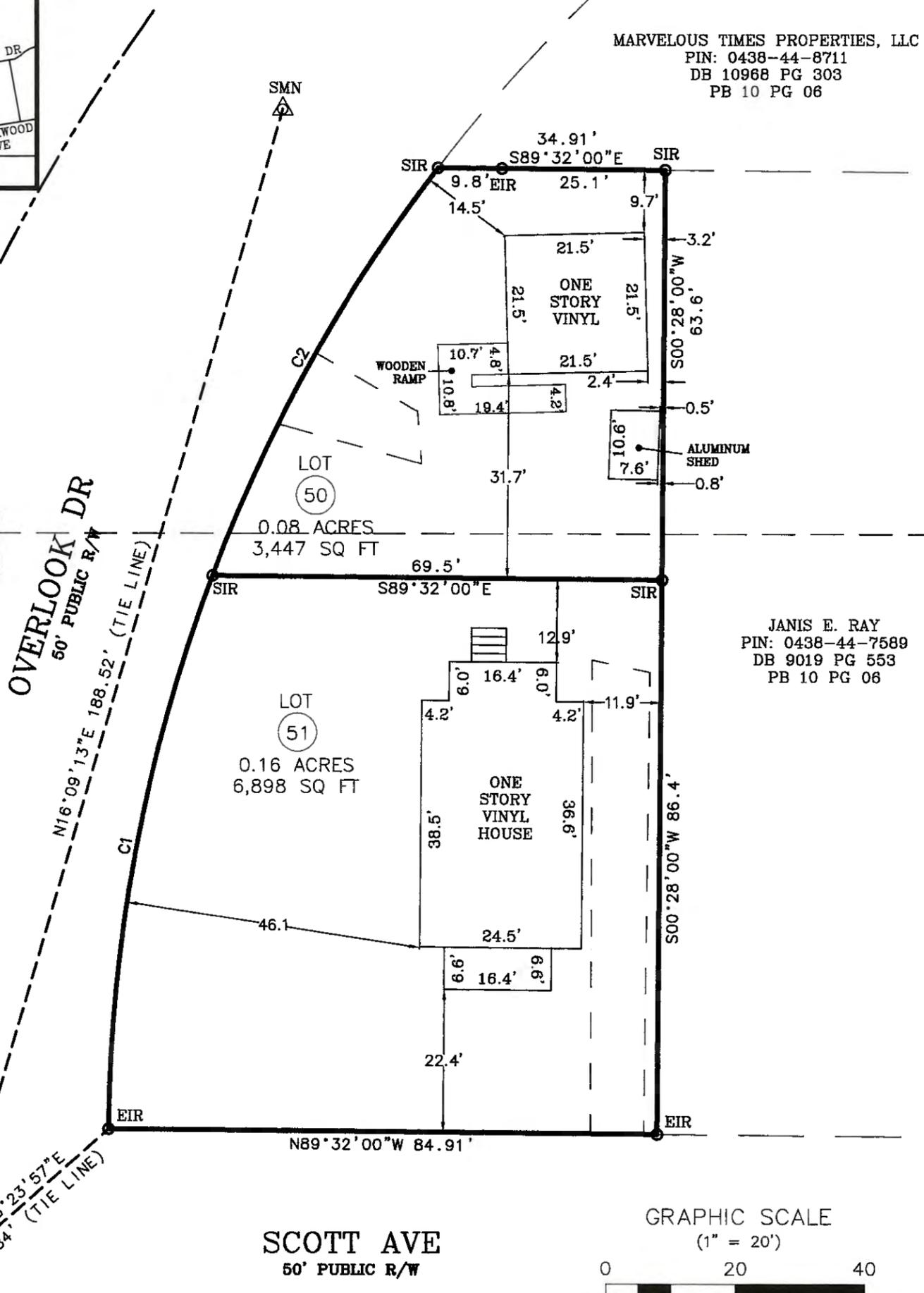




CURVE TABLE				
CURVE	CHORD BEARING	RADIUS	ARC LENGTH	CHORD LENGTH
C1	N10°34'35"E	250'	88.23'	87.77'
C2	N29°00'43"E	250'	72.65'	72.40'

MARVELOUS TIMES PROPERTIES, LLC
 PIN: 0438-44-8711
 DB 10968 PG 303
 PB 10 PG 06

- LEGEND**
- BOUNDARY LINE
 - - - ADJOINERS
 - - - TIE LINE
 - - - RIGHT OF WAY
 - - - DRIVE WAY (DIRT)
 - △ CONTROL CORNER
 - BREAK IN LINE
- R/W = RIGHT OF WAY
 EIR = EXISTING IRON ROD
 SIR = SET IRON ROD
 SMN = SET MAG NAIL
 DB = DEED BOOK
 PB = PLAT BOOK



JANIS E. RAY
 PIN: 0438-44-7589
 DB 9019 PG 553
 PB 10 PG 06

PB 10 PG 06

SCOTT AVE
50' PUBLIC R/W

VARIANCE APPLICATION

GRAPHIC SCALE
(1" = 20')

SURVEY FOR: MARK LYNCH
 ADDRESS: 1804 OVERLOOK DRIVE &
 116 SCOTT AVENUE.
 CITY: FAYETTEVILLE, NC
 COUNTY OF: CUMBERLAND

TOWNSHIP OF: CROSS CREEK
 DATE: 6 JUNE 2023
 SCALE: 1' = 20'
 REFERENCE: DB 4661 PG 336
 PB 10 PG 06, LOTS 50 & 51

Larry King & Associates, R.L.S., P.A.
 P.O. Box 53787
 1333 Morganton Road, Suite 201
 Fayetteville, NC 28305
 Phone: (910)483-4300
 Fax: (910)483-4052
 www.LKandA.com
 NC Firm License C-0887

"I CERTIFY THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN D.B. 4661, P.G. 336 OR OTHER REFERENCE SOURCE AS SHOWN); THAT THE BOUNDARIES NOT SURVEYED ARE INDICATED AS DRAWN FROM INFORMATION IN BOOK AND PAGE AS REFERENCED ABOVE THAT THE RATIO OF PRECISION OR POSITIONAL ACCURACY IS > 1:10,000; AND THAT THIS MAP MEETS THE REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA (21 NCAC 56.1600)."

W. Larry King
 W. LARRY KING, PROFESSIONAL LAND SURVEYOR L-13339



City of Fayetteville

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

City Council Action Memo

File Number: 23-3671

Agenda Date: 11/14/2023

Version: 1

Status: Agenda Ready

In Control: Zoning Commission

File Type: Public Hearing
(Public & Legislative)

Agenda Number: 5.01

TO: Mayor and Members of City Council

THRU: Zoning Commission

FROM: Demetrios Moutos - Planner I

DATE: November 14, 2023

RE:

P23-29. Initial zoning of one non-contiguous parcel totaling 21.05 ± acres, requesting annexation, to Mixed Residential 5 (MR-5) located at 0 Jossie Street (0520795388000), being the property of Joseph Griffin Sr. Revocable Trust Agreement, represented by R. Jonathan Charleston of the Charleston Group.

COUNCIL DISTRICT(S):

Prospective Council District - Kathy Jensen

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:

Initial zoning of one non-contiguous parcel totaling 21.05 ± acres, requesting annexation, to Mixed Residential 5 (MR-5) located at 0 Jossie Street (0520795388000), being the property of Joseph Griffin Sr. Revocable Trust Agreement, represented by R. Jonathan Charleston of the Charleston Group.

Background:

Applicant: Victoria Clarkson

Owner: Joseph Griffin Sr. Revocable Trust Agreement

Requested Action: Initial Zoning to Mixed Residential 5 (MR-5)

REID: 0520795388000

Prospective Council District: 1 - Kathy Jensen

Status of Property: Undeveloped

Size: 21.05 ± acres

Adjoining Land Use & Zoning:

? **North:** Single Family Subdivision (County Zoning R6 Residential District)

? **South:** Single Family Dwellings (County Zoning R6 and R6A)

? **East:** Single Family Dwelling, Cell Tower, and open space (County Zoning RR)

? **West:** Single Family Dwellings (County Zoning R6A Residential District)

Letters Mailed: 167

NCDOT_AADT (2021) McArthur Road: 16,500

Land Use Plans:

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

According to the Future Land Use Map, this parcel is designated for development as "Primarily single-family residential neighborhoods with small lots (3-6 dwellings per acre). Duplexes or townhomes may be interspersed, and low-rise apartments are also a possibility. While there is a predominant auto-oriented design, some areas may feature walkable neighborhoods and destinations." This land is classified under the Medium Density Residential (MDR) designation.

Issues/Analysis:

History:

The subject property was granted to the Joseph Griffin Sr. Revocable Trust Agreement by Maxwell and Joseph Griffin in October 2007. According to available aerial photography provided by Cumberland County via the Cumberland County GIS data viewer, the subject property has been undeveloped since at least 1968.

Surrounding Area:

To the north, there is a single-family subdivision, designated under County Zoning as R6 Residential District. On the southern side, the area primarily consists of single-family dwellings, with a mix of R6 and R6A zoning. To the east, there are single-family dwellings, a cell tower, and open space, designated as County Zoning RR. Finally, to the west, the land is zoned as R6A Residential District and comprises single-family dwellings.

Rezoning Request:

The applicant is requesting to initially zone a parcel as Mixed Residential 5 (MR-5) in conjunction with a petition to annex into the city's corporate limits. According to the applicant, the proposed amendment is in alignment with the City's 2040 Comprehensive Plan, focusing on infrastructure investment and attractive neighborhoods. It encourages growth in areas with adequate infrastructure, quality development standards, and a mix of housing types. The request for amendment arises from the intention to develop the property as a multi-family community, addressing the community's need for housing. It is

compatible with the surrounding land uses and proposed for multi-family dwellings. The change ensures logical development and doesn't encourage premature development, given the established single-family communities in the vicinity. There will be no strip-style commercial development, and it integrates well with adjacent zoning districts. Furthermore, the amendment doesn't significantly impact property values or the natural environment.

Straight Zoning:

Land falling within the city's corporate limits, as well as the Municipal Area of Influence, is categorized under specific base zoning districts established by the Unified Development Ordinance (UDO). Reclassification of land to comparable zoning districts is possible, following the guidelines stated in Section 30-2.C. In line with an annexation process, this rezoning request aims to initially zone a parcel as Mixed Residential. The Mixed Residential 5 (MR-5) district is established and intended to meet the diverse housing needs of City residents by accommodating a wide variety of residential housing types and arrangements at moderate to high densities, including single-family detached dwellings, two- to four-family dwellings, multi-family dwellings, and other residential development that may include single-family attached dwellings, and zero lot line development subject to the requirements of this Ordinance. All development in the district shall comply with the design standards in Article 30-5: Development Standards. MR-5 districts may also include centrally-located open space, complementary institutional uses (e.g., religious institutions, post offices, police sub-stations), day care facilities, and limited small-scale neighborhood-serving convenience retail uses (See 30-4.D. Accessory Uses).

The initial zoning request is not conditional. Therefore, the governing board may not consider conditions or restrictions on the range of allowable uses, use standards, development intensities, development standards, and other applicable regulations. If the governing board wishes to impose conditions, then the applicant must withdraw their application and resubmit a request to conditionally zone the parcel and a date for a separate legislative hearing to hear the new request must be set.

Land Use Plan Analysis:

The suggested rezoning harmonizes with the objectives outlined in the 2040 Comprehensive Plan in several ways. Firstly, it promotes growth in areas with robust infrastructure and urban services, encompassing education, transportation, and public safety resources. The property's strategic location, near Howard Hall Elementary School and Pine Forest High School, facilitates convenient access to quality education, while its proximity to I-295 ensures efficient citywide connectivity. Furthermore, Fayetteville Fire Station 19, situated just a 5-minute drive away, offers essential fire and emergency services. Additionally, the presence of PWC utilities in the vicinity provides an opportunity for the developer to connect to PWC water and sewer services, enhancing the property's utility.

Secondly, it encourages the construction of diverse housing types suitable for individuals of varying ages and income levels. Specifically, the development plan focuses on creating multi-family dwellings, thereby expanding housing options within the community.

Lastly, the rezoning will be held to standards of development standards that enhance the quality of neighborhoods. This commitment ensures that not only a range of housing choices is available but also that these developments meet the requirements for comfortable and appealing living, ultimately contributing to the overall neighborhood's

quality.

While the Land Use Plan doesn't explicitly call for multifamily development in this part of Fayetteville, it's essential to acknowledge that the current medium-density residential classification allows for the potential inclusion of low-rise apartments. Informally known as "garden apartments," these structures typically consist of 1-4 stories. The submitted plans for the proposed development reveal 3-story building elevations, although final approvals are pending.

Furthermore, Cumberland County, including Fayetteville, faces a well-documented shortage of affordable and overall housing. A recent housing stock analysis by the United States Census Bureau indicates that in 2021, there were an estimated 142,975 housing units, with only a minimal 0.4% (597 unit) change from 2020 to 2021. The estimate for 2022 is 143,715 units. With a population of 336,699 in Cumberland County as of July 1, 2022, and 208,873 within Fayetteville's city limits, the data emphasizes the growing demand for housing.

The 2021 affordable housing study revealed that while Fayetteville's population has continued to grow over the last decade, the number of constructed housing units has declined, leading to a constrained housing supply. Therefore, any housing construction, whether affordable or not, contributes to addressing this trend.

Regarding the zoning district comparison, if the property were to transition into the city under a zoning designation more directly compatible with the current county's R6 zoning, such as the city's SF-6 designation, the developer would be permitted to construct 152 multifamily units upon special use permit (SUP) approval. In contrast, under the requested MR-5 zoning, a maximum of 420 units would be allowed by right, based on a gross residential density limit of 20 dwelling units per acre. This highlights the potential for increased housing capacity with the proposed zoning change.

Consistency and Reasonableness Statements:

The Future Land Use Plan establishes goals, policies, and strategies. This application looks to follow the City's strategic compatible growth strategies by meeting the goals of the Land Use Plan found on the attached Consistency and Reasonableness form.

Budget Impact:

There are no immediate budgetary impacts to rezoning this parcel but there will be an economic impact associated with the annexation of this parcel.

Options:

1. Recommend approval of the map amendment to Mixed Residential (MR-5) as presented bas 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. 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 proposed map amendment to initially zone a parcel to Mixed Residential 5 (MR-5) based on the following:

- The proposed zoning map amendment adheres to the policies adopted in the Future Land Use Plan and can be made to conform with the provisions found in the Unified Development Ordinance (UDO). The Future Land Use Plan call for the subject parcel to be developed as Medium Density Residential (MDR) and the proposed zoning district allows for uses that fit this category; and
- The uses permitted by the proposed change in zoning district classification and the standards that apply to such uses will be appropriate in the immediate area of the land to be reclassified due to the existing zoning and the uses surrounding this property; and
- The proposed zoning district promotes logical and orderly development that would make no substantial impact upon the public health, safety, 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. District Standards
8. Consistency and Reasonableness Statement

Project Overview **#1027013**

Project Title: Jossie Street **Jurisdiction:** City of Fayetteville
Application Type: 5.1) Rezoning (Map Amendment) **State:** NC
Workflow: Staff Review **County:** Cumberland

Project Location

Project Address or PIN: 0 JOSSIE ST (0520795388000) **Zip Code:** 28311

GIS Verified Data

<p>Property Owner: Parcel</p> <ul style="list-style-type: none"> 0 JOSSIE ST: JOSEPH GRIFFIN SR REVOCABLE TRUST AGREEMENT <p>Zoning District: Zoning District</p> <ul style="list-style-type: none"> 0 JOSSIE ST: cnty <p>Fire District:</p> <p>Hospital Overlay District:</p> <p>Cape Fear District:</p> <p>Haymount Historic District:</p> <p>100 Year Flood: <100YearFlood></p> <p>Watershed:</p>	<p>Acreage: Parcel</p> <ul style="list-style-type: none"> 0 JOSSIE ST: 21.05 <p>Subdivision Name:</p> <p>Airport Overlay District:</p> <p>Coliseum Tourism District:</p> <p>Downtown Historic District:</p> <p>Floodway:</p> <p>500 Year Flood: <500YearFlood></p>
--	--

General Project Information

<p>Has the land been the subject of a map amendment application in the last five years?: No</p> <p>Previous Amendment Case #:</p> <p>Acreage to be Rezoned: 21.05</p> <p>Water Service: Public</p> <p>A) Please describe all existing uses of the land and existing structures on the site, if any: Vacant</p>	<p>Previous Amendment Approval Date:</p> <p>Proposed Zoning District: MR-5 Residential District</p> <p>Is this application related to an annexation?: Yes</p> <p>Sewer Service: Public</p> <p>B) Please describe the zoning district designation and existing uses of lands adjacent to and across the street from the subject site.: The adjacent properties are within the Cumberland County limits. The property is surrounded by single family residences zoned R6, except the following:</p> <ol style="list-style-type: none"> 1. The southwestern property is zoned R6A Residential District and is the site of multiple single family residences; 2. The southern property is zoned R6A; and 3. The eastern property is zoned RR Rural Residential.
---	---

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.:

The proposed amendment is consistent with the City's 2040 Comprehensive Plan goals as follows: Goal 1: Focus value and investment around infrastructure and strategic nodes; and Goal 4: Foster safe, stable and attractive neighborhoods.

Further, the proposed amendment aligns with the City's 2040 Comprehensive Plan policies as follows: LU 1: Encourage growth in areas well served by infrastructure and urban services; LU 2: Encourage development standards that result in quality neighborhoods; and LU 7: Encourage a mix of housing types for all ages and incomes.

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

The property is under contract and the buyer desires to develop the property as a multi-family community.

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

The proposed project addresses the community need for housing in the 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.:

The subject property is currently zoned R6 which allows for a mix of single and multi-family dwellings. The surrounding property is zoned R6A which also allows for a mix of single and multi-family dwellings. The proposed change to MR-5 will allow for the development of more multi-family dwellings.

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

The proposed amendment will allow the subject property to be developed as a multi-family development without the limitations of the number of units under the current R6 zoning district. The proposed change to MR-5 will allow for the development of multi-family dwellings.

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

The proposed amendment will not encourage premature development. The surrounding properties are established single family communities.

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

The proposed amendment will not result in 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 proposed amendment will not create an isolated district unrelated to the adjacent and surrounding zoning districts. Except for the eastern property zoned RR, the surrounding properties are either developed or the County's zoning designation allows for multi-family residential development.

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

The proposed amendment will not result in significant adverse impacts on the property values of the surrounding lands.

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

The proposed amendment will not result in significant adverse impacts on the natural environment.

Primary Contact Information

Contractor's NC ID#:

Project Owner

Darrin Collins

Alternative Investment Holdings, Inc.

220 N. McPherson Church Road, Suite A

Fayetteville, NC 28303

P:910-670-0630

darrin@cresfund.com

Project Contact - Primary Point of Contact for the Attorney

Catherine R. Washita Bamba, Esq.

The Charleston Group

201 Hay Street, Suite 2000

Fayetteville, NC 28301

P:910-485-2500

F:910-485-2599

cbamba@charlestongroup.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:

Project Contact - Agent/Representative

R. Jonathan Charleston

The Charleston Group

201 Hay Street, Suite 2000

Fayetteville, NC 28301

P:910-485-2500

jcharleston@charlestongroup.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:

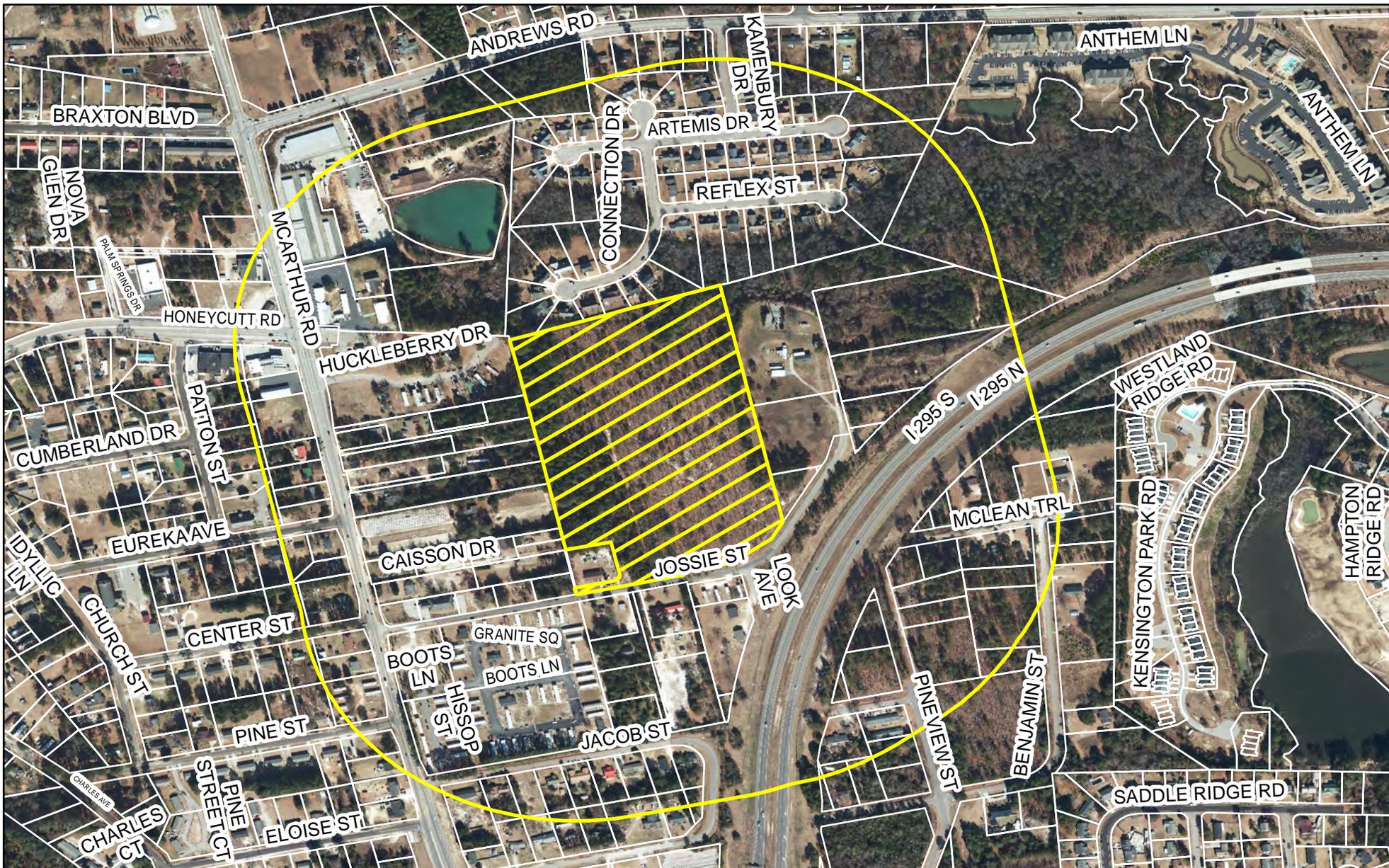
NC State Electrical Contractor #2 License Number:

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: Attorney



Aerial Notification Map

Case #: P23-29

Initial Zoning
Request: Mixed Residential 5 (MR-5)

Location: 0 Jossie Street

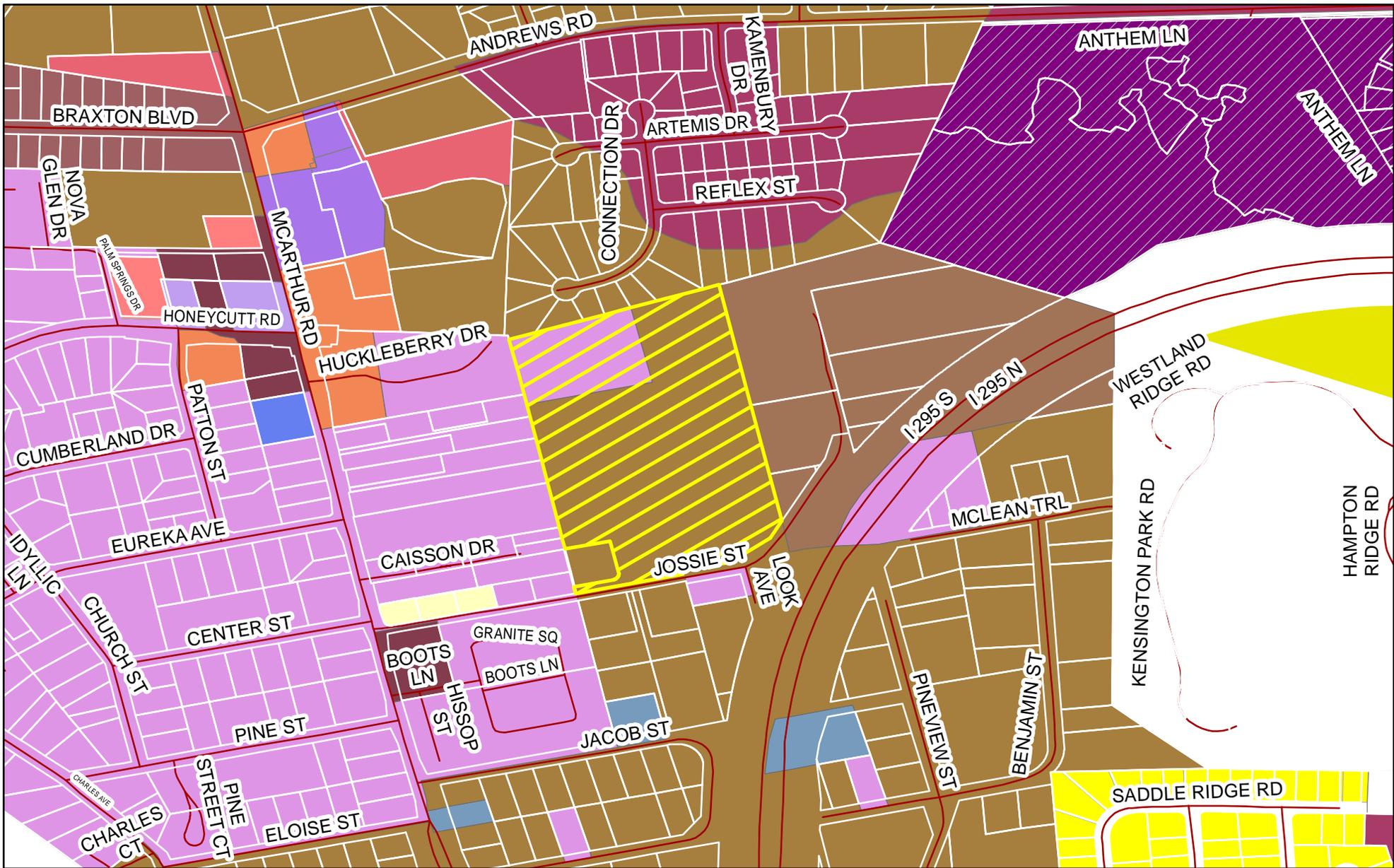
Legend

-  P23-29 Buffer
-  P23-29



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





Zoning Map

Case #: P23-29

Initial Zoning

Request: Mixed Residential 5 (MR-5)

Location: 0 Jossie Street

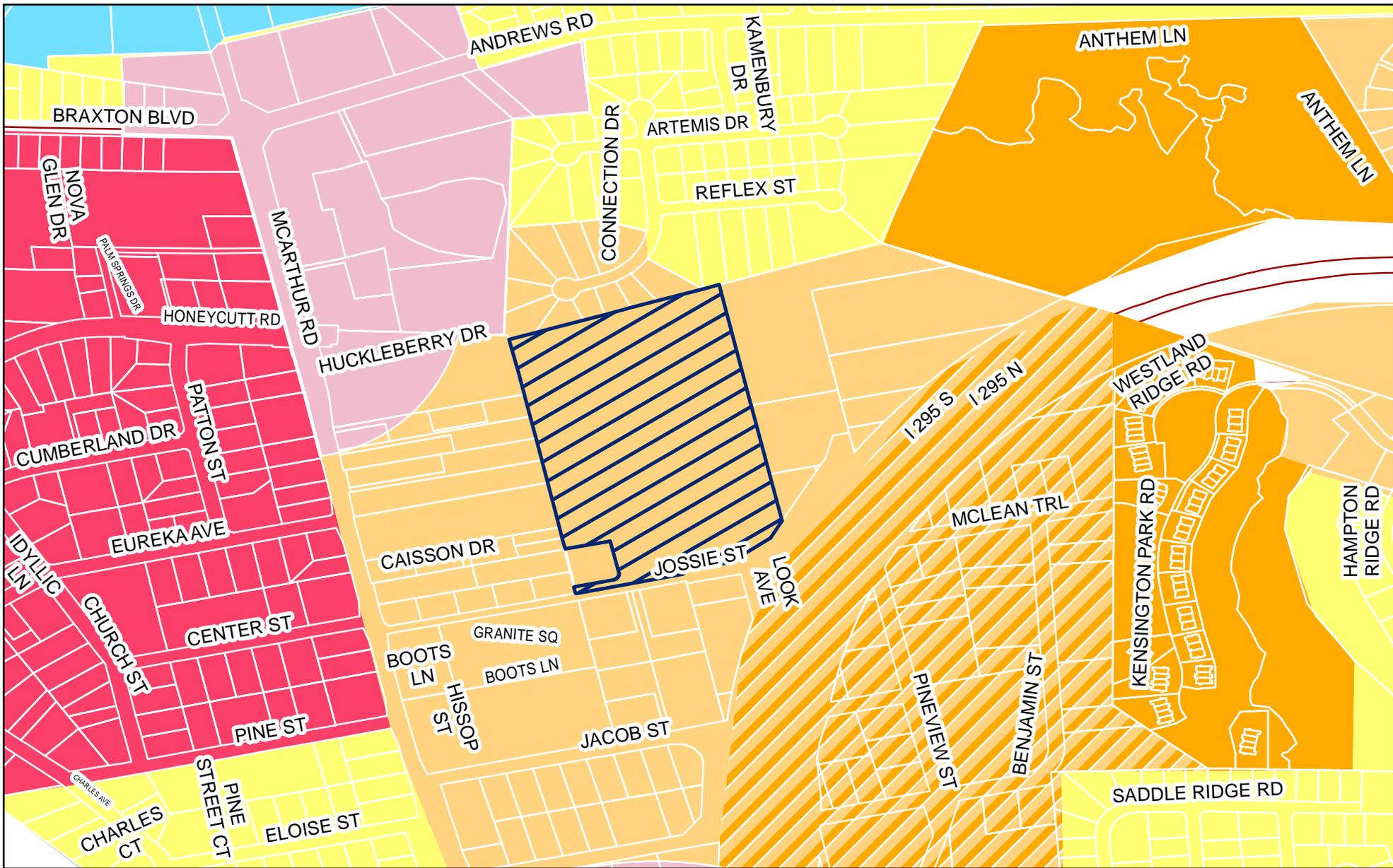
Legend

- | | | |
|-------------------------------|--------------------------------------|-------|
| P23-29 | SF-6 - Single-Family Residential 6 | CP |
| LC - Limited Commercial | SF-10 - Single-Family Residential 10 | CPCUD |
| MU/CZ - Conditional Mixed-Use | SF-15 - Single-Family Residential 15 | PND |
| OI - Office & Institutional | County | R10 |
| | CCZoning | R6 |
| | gis_ware_3 | R6A |
| | C1P | R6CU |
| | C1PCU | RR |
| | C2P | |



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 #: P23-29

Initial Zoning
Request: Mixed Residential 5 (MR-5)

Location: 0 Jossie Street

Legend

 P23-29 **Land Use Plan 2040**

Character Areas

-  PARKOS - PARK / OPEN SPACE
-  LDR - LOW DENSITY
-  MDR - MEDIUM DENSITY

 NIR - NEIGHBORHOOD IMPROVEMENT

-  HDR - HIGH DENSITY RESIDENTIAL
-  NMU - NEIGHBORHOOD MIXED USE
-  CC - COMMUNITY CENTER
-  OI - OFFICE / INSTITUTIONAL



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



Subject Property



Surrounding Properties



PART II - CODE OF ORDINANCES

CHAPTER 30 – UNIFIED DEVELOPMENT ORDINANCE

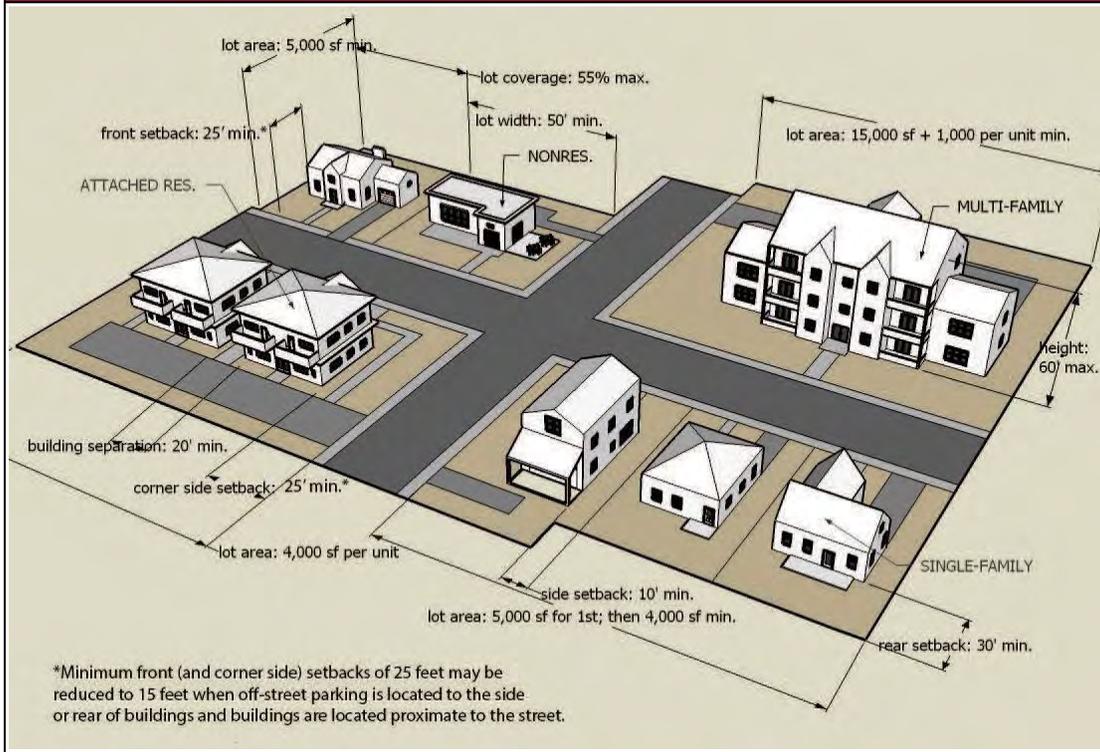
Article 30-3: Zoning Districts

30-3.D. Residential Base Zoning Districts

30-3.D.5. Mixed Residential 5 (MR-5) District

PURPOSE						
MR-5 MIXED RESIDENTIAL 5 DISTRICT	The Mixed Residential 5 (MR-5) district is established and intended to meet the diverse housing needs of City residents by accommodating a wide variety of residential housing types and arrangements at moderate to high densities, including single-family detached dwellings, two- to four-family dwellings, multi-family dwellings, and other residential development that may include single-family attached dwellings, and zero lot line development subject to the requirements of this Ordinance. All development in the district shall comply with the design standards in Article 30-5: Development Standards . MR-5 districts may also include centrally-located open space, complementary institutional uses (e.g., religious institutions, post offices, police sub-stations), day care facilities, and limited small-scale neighborhood-serving convenience retail uses (See 30-4.D. Accessory Uses).					
	DIMENSIONAL STANDARDS					
DIMENSIONAL STANDARD	SINGLE- FAMILY DETACHED DWELLINGS	SINGLE- FAMILY ATTACHED DWELLINGS	TWO- TO FOUR- FAMILY DWELLINGS	MULTI- FAMILY DWELLINGS	ALL OTHER PRINCIPAL USES [1]	ACCESSORY STRUCTURES
Lot area per unit, min. (sq. ft.) [2]	5,000 for 1st unit, then 4,000	4,000		15,000+ 1,000 per unit	5,000	n/a
Lot width, min. (ft.)	50					n/a
Gross residential density, max. (dwelling units/ acre) [3]	20; 24 if property abuts an Arterial, Collector, or Major Street (as defined in Article 30-9, Definitions)					n/a
Lot coverage, max. (% of lot area)	55					[4]
Height, max. (ft.) [3]	Greater of six stories or 75 feet					25; 15 where abutting a single-family zoning district or use with setback less than 10 feet
Front and corner side setback, min. (ft.) [5]	25 feet or 50 feet from centerline of private streets					Not allowed in front or corner side setbacks

Figure 30-3.D.5.c: MR-5 Typical Building/Lot Configuration



(Ord. No. S2011-014, § 1.2, 11-28-2011; Ord. No. S2012-001, Pt. 3, § 3.1, 1-23-2012; Ord. No. S2012-018, § 1.0, 9-10-2012; Ord. No. S2014-002, § 6a, 1-13-2014; Ord. No. S2014-005, § 3, 1-27-2014; Ord. No. S2014-015, § 5, 8-11-2014; Ord. No. S2015-008, § 4, 8-10-2015; Ord. No. S2019-018, 1, 04/23/2019; Ord. No. S2021-041, § 1, 10/25/2021)

Effective on: 8/10/2015

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 P23-29 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	
GOAL #4 Foster safe, stable, and attractive neighborhoods	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	
1.1: Work with Public Works Commission (PWC) and other utility provider to ensure that public facilities and services are planned in a coordinated manner	X	
1.3: Consider the costs and benefits of future extensions of utility service	X	
1.4: Require annexation and adherence to development standards for any development proposal within the city’s Municipal Influence Area (MIA) if city services are to be provided	X	
1.7: Encourage a logical progression of housing development and discourage “leapfrog” 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 6: Encourage development standards that result in quality neighborhoods.	X	
6.1: Encourage quality neighborhood design through maintaining and improving standards for streets, sidewalks, storm water and open spaces.	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.

X facilitates a desired kind of development.

X provides needed housing/commercial area.

Additional comments, if any (write-in):

November 14, 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: 23-3661

Agenda Date: 11/14/2023

Version: 1

Status: Agenda Ready

In Control: Zoning Commission

File Type: Public Hearing
(Public & Legislative)

Agenda Number: 5.02

TO: Mayor and Members of City Council

THRU: Zoning Commission

FROM: Heather Eckhardt, CZO - Planner II

DATE: November 14, 2023

RE:

P23-44. Conditional rezoning from Downtown 2 (DT-2) to Downtown 2 Conditional Zoning (DT-2/CZ) located at 328 Person Street (REID 0437738057000), totaling 1.93 acres ± and being the property of 328 Person St LLC

COUNCIL DISTRICT(S):

2 - Shakeyla Ingram

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
- Objective 2.4 - To sustain a favorable development climate to encourage business growth

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 has requested to conditionally zone the property at 328 Person Street from Downtown 2 (DT-2) to Downtown 2 Conditional Zoning (DT-2/CZ). The only proposed condition is to allow light manufacturing in the DT-2 zoning district. The proposed tenant is 4D Signs, a commercial sign company. The Unified Development Ordinance classifies sign-making as a type of light manufacturing.

Background:

Applicant: Nael Aziz

Owner: 328 Person St LLC

Requested Action: Conditional rezoning to DT-2/CZ

REID #: 0437738057000

Council District: 2 - Shakeyla Ingram

Status of Property: One commercial building

Size: 1.93 acres

Adjoining Land Use & Zoning:

- North: DT-2 - Commercial strip center and hotel
- South: DT-2 - Vacant lot
- East: DT-2 - Vacant lot and office building
- West: DT-2 - Mental health center and retail store

Annual Average Daily Traffic: Person Street: 9,900 (2021)

E Russell Street: 8,700 (2021)

Letters Mailed: 108

Additional Reviews: This project was reviewed by the Technical Review Committee and standard comments were provided.

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 Downtown (DTMXU). The Downtown designation calls for intense commercial, retail, and service uses with many 5+ story buildings (especially in the core) as well as dense residential uses, stacked vertically and urban neighborhoods on edges.

Issues/Analysis:

History:

The subject property and immediate area have been within the city limits of Fayetteville since the 1800s. Per Cumberland County Tax records, the building on the subject property was built in 1971. The property was a furniture store, most notably Kimbrell's Furniture, up until mid-2022 when the property was sold to the current owner, 328 Person St LLC.

The subject property is currently zoned Downtown 2 (DT-2) but prior to the creation of the DT-2 zoning district in 2022, the subject property was zoned Community Commercial (CC).

Surrounding Area:

The surrounding area is primarily commercial in nature with a combination of retail and office uses as well as the occasional restaurant. There are also numerous undeveloped lots in the area.

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.

Conditional Zoning:

The request is to rezone the subject property from Downtown 2 (DT-2) to Downtown 2 Conditional Zoning (DT-2/CZ).

The purpose of the CZ zoning district is “intended to provide a landowner and the City an alternative to rezoning the land to a standard base zoning district, where the base zoning allows certain uses and development that may be appropriate but also allow uses and development that may not conform to City plans or would have adverse impacts on public facilities or surrounding lands. Reclassification of land to a conditional zoning district allows a landowner to propose, and the City Council to consider, additional conditions or restrictions on the range of allowable uses, use standards, development intensities, development standards, and other regulations applicable in the parallel base zoning district. This enables the City to tailor a zoning classification to accommodate desirable development while avoiding or addressing anticipated problems that may arise from development otherwise allowed by the base zoning district.”

Specifics of this Conditional Rezoning:

The only proposed condition is to allow light manufacturing use in the DT-2 zoning district.

Land Use Plan Analysis:

According to the Future Land Use Map & Plan, it is recommended that this portion of the city should be developed as Downtown (DTMXU). The Downtown designation calls for intense commercial, retail, and service uses with many 5+ story buildings (especially in the core) as well as dense residential uses, stacked vertically and urban neighborhoods on edges. The Future Land Use Plan also sets forth written goals, policies, and strategies. This application follows 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:

While light manufacturing is not a use by-right in the DT-2 zoning district, the proposed use of the property for sign-making will not have a negative impact on the surrounding area. Although sign-making is classified as light manufacturing, a large portion of the building will be utilized for office and sales space and any construction of signs will take place inside the building. Additionally, the business will occupy a vacant building, provide a service to the city and surrounding area, and create job opportunities in the City of Fayetteville.

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. Recommends approval of the amendment to the DT-2/CZ 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. Recommends 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. Denies 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 DT-2/CZ 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 Downtown (DTMXU).
- The uses permitted by the proposed change in zoning district classification and standards 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. Building Plans
8. Consistency and Reasonableness Statement

Project Overview **#1070101**

Project Title: 4d SIGNS	Jurisdiction: City of Fayetteville
Application Type: 5.2) Conditional Rezoning	State: NC
Workflow: Staff Review	County: Cumberland

Project Location

Project Address or PIN: 328 PERSON ST (0437739203000) **Zip Code:** 28301

GIS Verified Data

Property Owner: Parcel • 328 PERSON ST: KIMBRELLS INVESTMENT CO INC	Acreage: Parcel • 328 PERSON ST: 0.92
Zoning District: Zoning District • 328 PERSON ST: CC	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

Proposed Conditional Zoning District: DT/CZ - Conditional Downtown	Lot or Site Acreage to be rezoned: 1.93
Was a neighborhood meeting conducted?: No	Date of Neighborhood Meeting:
Number of Residential Units: 0	Nonresidential Square Footage: 26388

Landowner Information

Landowner Name: 328 PERSON ST LLC	Deed Book and Page Number: 011507 & 00299
--	--

Written Description of Request - Answer all the questions under this section (upload additional sheets as needed).

<p>A) Describe the proposed use of the rezoned land, including the proposed types of site improvements, buildings, uses, proposed activities, hours of operation, and operating characteristics.: This project solely proposes interior renovations for the existing building to serve as a commercial signs' design and manufacturing business. The front area will consist of display and</p>	<p>B) Describe the proposed conditions that should be applied.: The scope of improvements to the facilities are only interior, and shall be minimal consisting of non-load bearing partitions needed for space layout and planning. The proposed conditions shall include light industrial to be allowed at this site for the use of CNC machines and table saws for light manufacturing/ assembly of</p>
--	--

sales areas, whereas the back of house area will consist of CNC commercial signs. machinery and saws for crafting and assembling signage.

The hours of operation shall be from 9am-5pm, six days a week (Monday-Saturday).

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

The current zoning classification of the property is DT2. There are no proposed modifications to the exterior/ appearance of the building.

The adjacent properties are also classified as DT2.

Uses of properties adjacent to the property are as follows:

- Across the street: Offices for professional services, restaurants, a motel.
- To the west: food services business, office/ professional services.
- To the east: vacant lot, professional services.

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.:

4D Signs is a Design company aiming at providing design and assembly services.

The property is consistent of 2 existing connected buildings: a ~19,000 sqft Masonry building, and a smaller ~7,400 sqft pre engineered metal building.

There will be minimal changes proposed to the footprint and facades of the building, except for egress doors that might need to be added.

The larger masonry building will consist of a business occupancy, and storage needed to support the business occupancy. The business portion of the building will be the primary portion facing Person Street.

Regarding property height and measurements, lot coverage, setbacks, front elevation fenestration, these are all in compliance with the DT-2 district requirements.

The only exception is the attached PEMB building which will serve as a shop serving the business.

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

No changed conditions impacting the building, other than the attached PEMB serving as a shop/ assembly area serving the business.

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

The business is intended to enrich the community providing a new business along Person Street, and providing new jobs to the local community. It is not intended to perform with manufacturing as its primary function/ occupancy.

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.:

Per descriptions, the primary use of this tenant will be for Business. Manufacturing will support the Business and Storage occupancies, which will be the primary occupancies.

Minimum impact will take place on the building envelope.

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

The Front elevation will serve as a Business front, similar to adjacent law firms and business on Person Street, with ample parking existing. It is expected for potential customers to interact and enter through the Front elevation facing Person Street.

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

The amendment will likely not encourage premature development as it will not impact the elevations/ footprint of the existing building.

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

N/A, existing building not impacted from footprint/ elevations perspective

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.:

Will not result in that due to the front elevation intended to serve as a Business front similar to adjacent properties on Person Street.

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

Will not result on values of adjacent properties due to the business occupancy being the primary occupancy facing Person Street.

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

Will not result in adverse impacts, limited CNC machinery to be used that does not have any known adverse environmental impacts.

Primary Contact Information

Contractor's NC ID#:

Project Owner

Nael Aziz

1 Ackerman Ave suit No.4, Clifton, NJ 07011

Clifton, NJ 28301

P:9084252371

4dsign2020@gmail.com

Project Contact - Agent/Representative

Nael Aziz

1 Ackerman Ave suit No.4, Clifton, NJ 07011

Clifton, NJ 28301

P:9084252371

4dsign2020@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, Ryan Stenberg, being duly sworn, deposes and says:

1. That I am the owner of the property/properties located at 328 Person St in the City of Fayetteville, a political subdivision of the State of North Carolina.

2. I do hereby give permission to 4D Sign Express, Inc. to submit a Conditional Rezoning/Rezoning/Variance/Special Use/Annexation (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 October 19th, 2023.


Signature of Affiant

Signature of Affiant

Cumberland County, North Carolina

Sworn to and subscribed before me this day on the _____ day of _____, 20__.

Please see attached California Jurat

Signature of Notary Public

(Official Seal)

_____, Notary Public
Printed Name of Notary Public

My Commission Expires: _____



Zeyad Musmar Architect
 3512 Appaling way, Durham, NC 27703
 919 985 9922
 zmmarchitect@gmail.com



06.22.2023

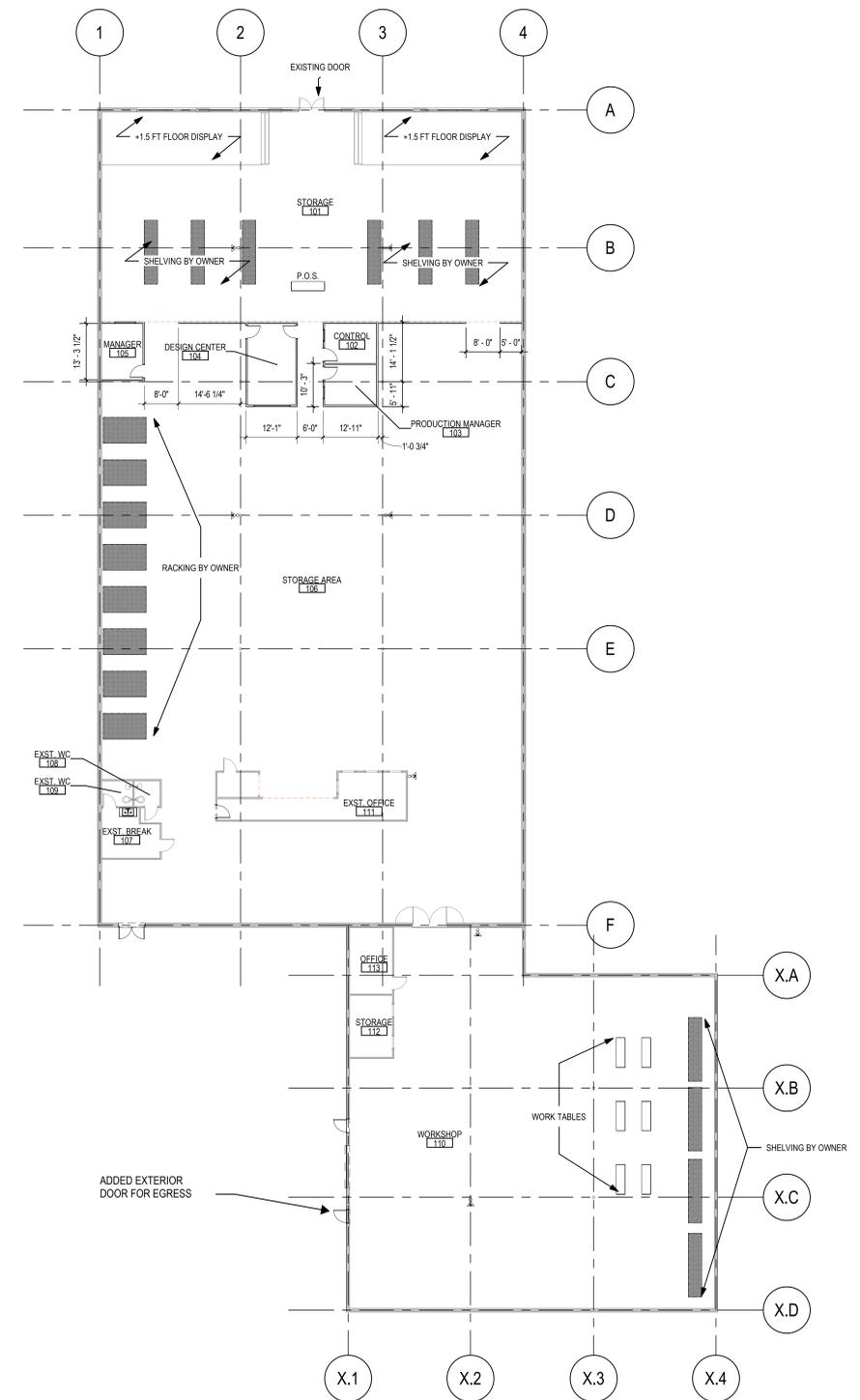
REV #	DESCRIPTION	DATE

4D SIGNS
 338 PERSON STREET
 FAYETTEVILLE, NC 28011

ISSUED SETS
IFC 06.22.23

Drawn By ZMM
 Project No. 23011

A1101
 FIRST FLOOR PLAN



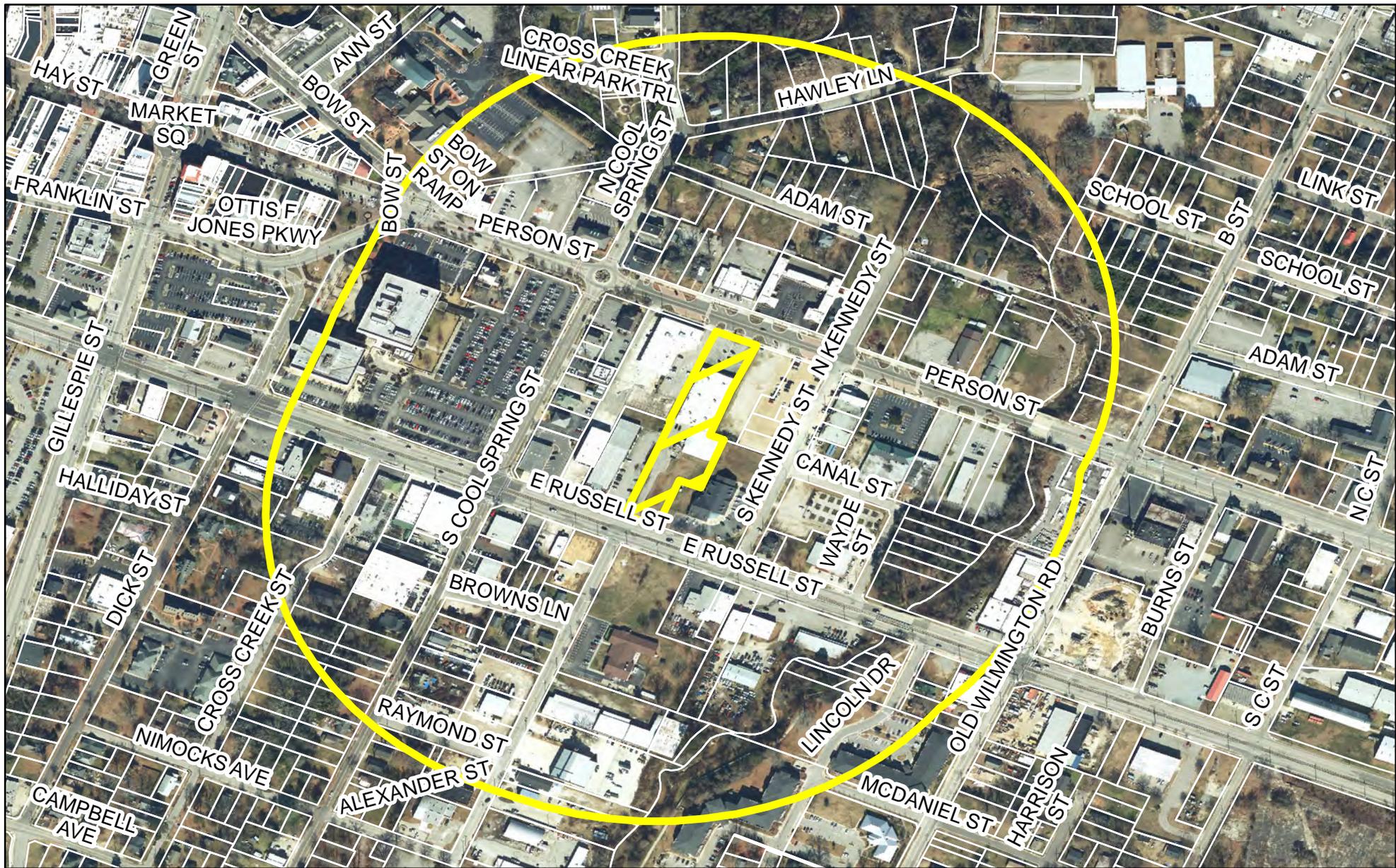
A2
A1101 **FIRST FLOOR PLAN**
 1/16" = 1'-0"

GENERAL NOTES

- INTERIOR DIMENSIONS ARE TO THE FACE OF PARTITION AS INDICATED, UNLESS OTHERWISE NOTED.
- SEE ENLARGED PLANS (TOILET, STAIRS, ELEVATORS, ETC) FOR DIMENSIONS IN THOSE AREA.
- PROVIDE FIRE SEALANT / SAFING AT JOINTS BETWEEN RATED WALLS AND STRUCTURE AND AT PENETRATIONS OF RATED WALL, FLOORS, AND ROOF ASSEMBLIES. PROVIDE SMOKE & ACOUSTIC BARRIER AT TOP OF ALL NON-RATED CMU WALLS THAT EXTEND TO STRUCTURE.
- SEE PLUMBING DRAWINGS FOR FLOOR DRAIN LOCATIONS. SLOPE CERAMIC AND ALL MUD SET TILE FLOORS TO DRAINS.
- "FEC" DENOTES FIRE EXTINGUISHER CABINET AND EXTINGUISHER
 "FE" DENOTES FIRE EXTINGUISHER AND BRACKET.
- M.O. INDICATES MASONRY OPENINGS AS NOMINAL DIMENSIONS
- PROVIDE THE FOLLOWING STENCILED WORDING ABOVE CEILING "FIRE AND SMOKE BARRIER, PROTECT ALL OPENINGS AT SMOKE/STOP PARTITION AND FIRE RATED WALLS." ALSO STENCIL EXACTLY WHAT TYPE OF RATING EACH WALL IS. FOR EXAMPLE: "1-HOUR FIRE BARRIER, 2-HOUR FIRE BARRIER, SMOKE PARTITION, ETC."
- "OF" DENOTES OWNER FURNISHED, CONTRACTOR INSTALLED.
 "OF" DENOTES OWNER FURNISHED, OWNER INSTALLED.
 "CF" DENOTES CONTRACTOR FURNISHED, CONTRACTOR INSTALLED.

FLOOR PLAN LEGEND

	1-HOUR FIRE BARRIER
	2-HOUR FIRE BARRIER
	3-HOUR FIRE BARRIER
	INDICATES SMOKE PARTITION
	INDICATES CAST CONCRETE
	INDICATES CONCRETE MASONRY UNITS
	INDICATES BRICK MASONRY
	INDICATES STEEL STUD FRAMED PARTITIONS
	INDICATES FIRE EXTINGUISHER CABINET THAT IS FLUSH MOUNTED TO WALL
	INDICATES FIRE EXTINGUISHER CABINET THAT IS SEMI-RECESSED INTO WALL
	INDICATES FIRE EXTINGUISHER CABINET THAT IS FULLY-RECESSED INTO WALL
	INDICATES FIRE EXTINGUISHER MOUNTED TO WALL



Aerial Notification Map

Case #: P23-44

Request: Conditional Rezoning
 Downtown 2 (DT-2) to
 Downtown 2 Conditional
 Zoning (DT-2/CZ)

Location: 328 Person Street

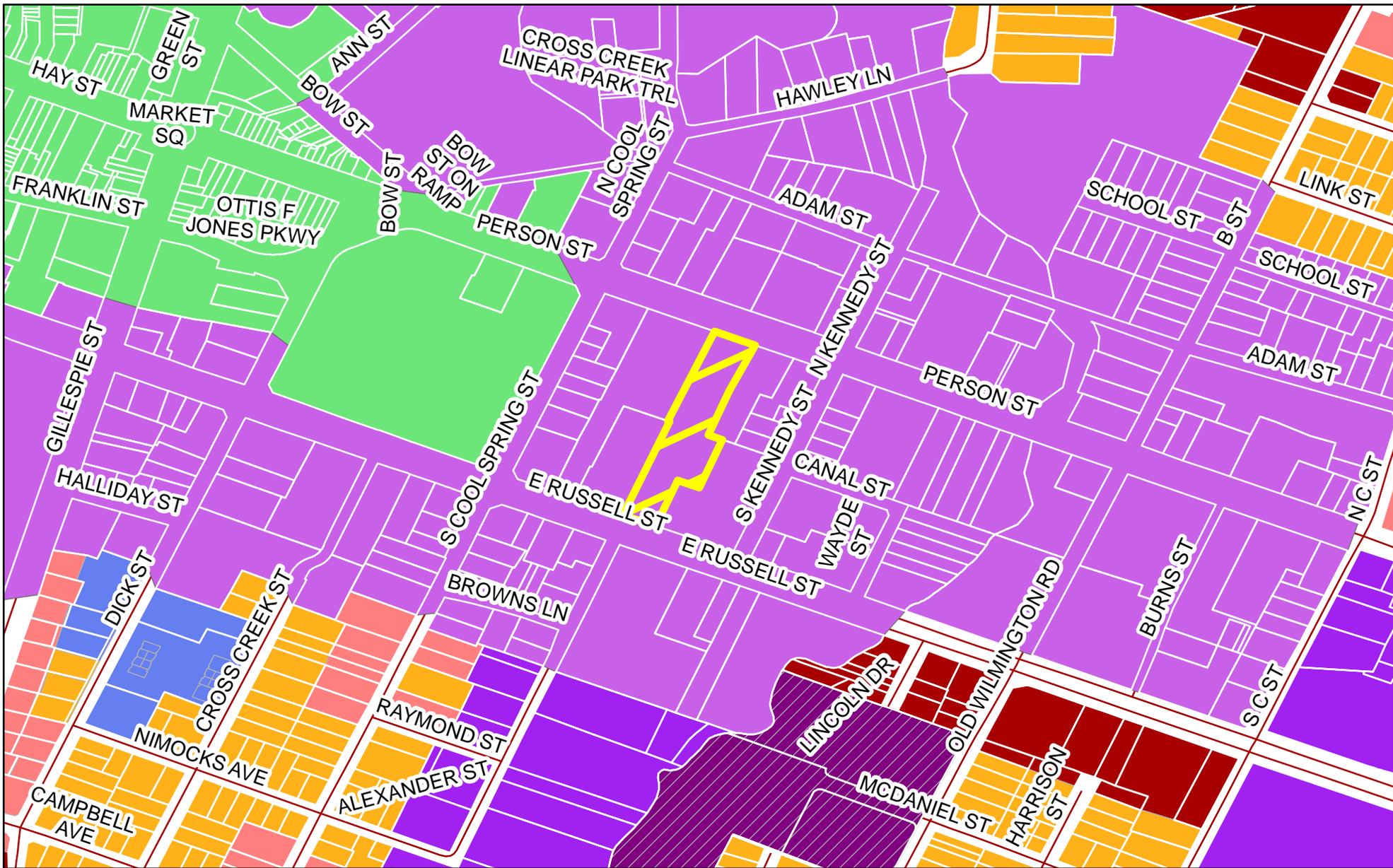
Legend

-  P23-44
-  P23-44 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 #: P23-44

Request: Conditional Rezoning
 Downtown 2 (DT-2) to
 Downtown 2 Conditional
 Zoning (DT-2/CZ)

Location: 328 Person Street

Legend

 P23-44 **DT Zoning**

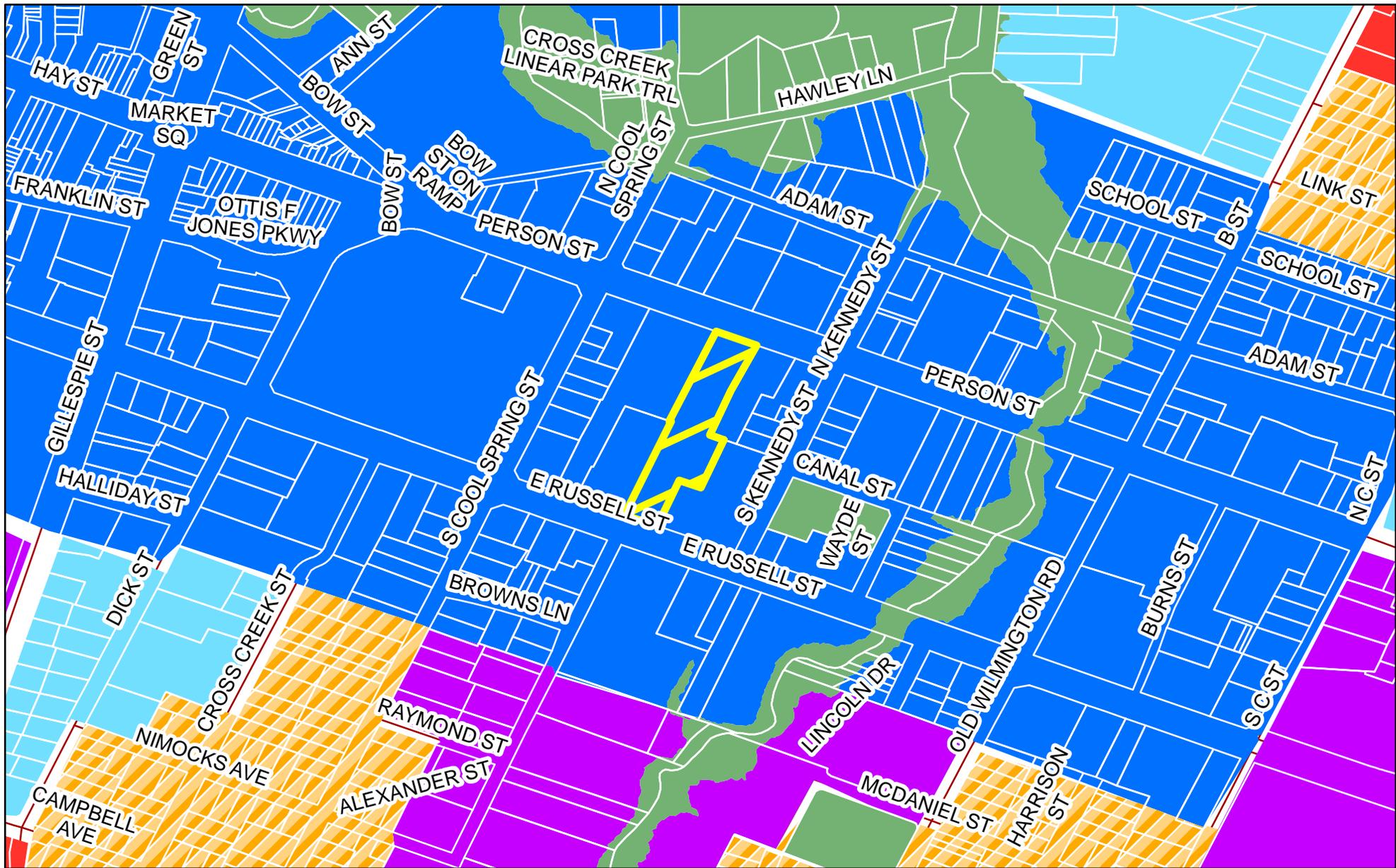
Zoning

-  DT-1
-  DT-2
-  CC - Community Commercial
-  HI - Heavy Industrial
-  LC - Limited Commercial
-  MR-5 - Mixed Residential 5 MU/
-  CZ - Conditional Mixed-Use OI -
-  Office & Institutional



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 #: P23-44

Request: Conditional Rezoning
 Downtown 2 (DT-2) to
 Downtown 2 Conditional
 Zoning (DT-2/CZ)

Location: 328 Person Street

Legend

 P23-44 Land Use Plan 2040

Character Areas

-  PARKOS - PARK / OPEN SPACE
-  NIR - NEIGHBORHOOD IMPROVEMENT
-  DTMXU - DOWNTOWN
-  HC - HIGHWAY COMMERCIAL
-  OI - OFFICE / INSTITUTIONAL
-  EC - EMPLOYMENT CENTER



Letters are being sent to all property owners within the 1,000' buffer. Subject property is shown in the hatched pattern.







West



North



South



East



Zeyad Musmar Architect
 3512 Appaling way, Durham, NC 27703
 919 985 9922
 zmmarchitect@gmail.com



06.22.2023

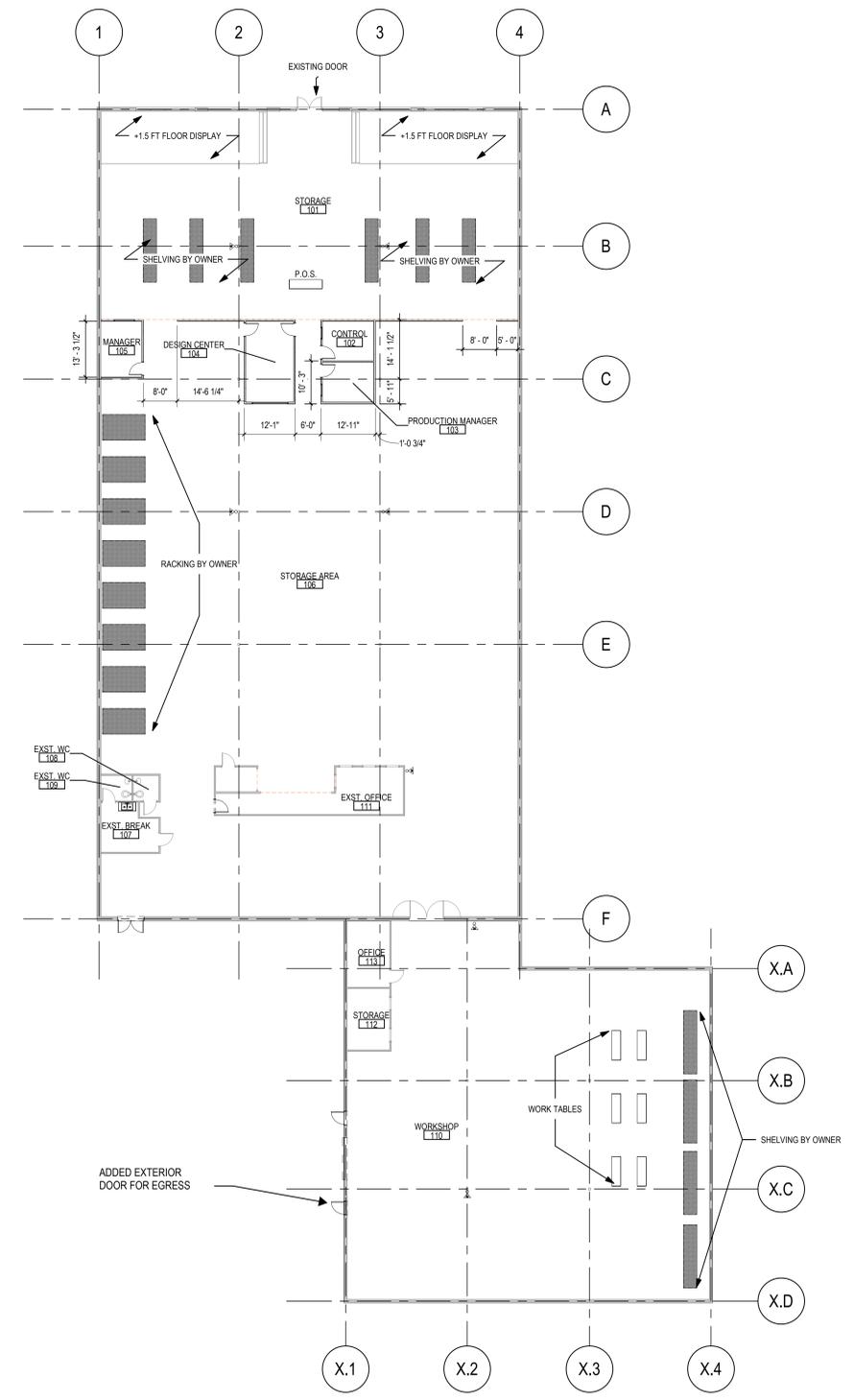
REV #	DESCRIPTION	DATE

4D SIGNS
 338 PERSON STREET
 FAYETTEVILLE, NC 28011

ISSUED SETS
IFC 06.22.23

Drawn By ZMM
 Project No. 23011

A1101
 FIRST FLOOR PLAN



A2 FIRST FLOOR PLAN
 A1101 1/16" = 1'-0"

GENERAL NOTES

- INTERIOR DIMENSIONS ARE TO THE FACE OF PARTITION AS INDICATED, UNLESS OTHERWISE NOTED.
- SEE ENLARGED PLANS (TOILET, STAIRS, ELEVATORS, ETC) FOR DIMENSIONS IN THOSE AREA.
- PROVIDE FIRE SEALANT / SAFING AT JOINTS BETWEEN RATED WALLS AND STRUCTURE AND AT PENETRATIONS OF RATED WALL, FLOORS, AND ROOF ASSEMBLIES. PROVIDE SMOKE & ACOUSTIC BARRIER AT TOP OF ALL NON-RATED CMU WALLS THAT EXTEND TO STRUCTURE.
- SEE PLUMBING DRAWINGS FOR FLOOR DRAIN LOCATIONS. SLOPE CERAMIC AND ALL MUD SET TILE FLOORS TO DRAINS.
- "FEC" DENOTES FIRE EXTINGUISHER CABINET AND EXTINGUISHER
 "FE" DENOTES FIRE EXTINGUISHER AND BRACKET.
- M.O. INDICATES MASONRY OPENINGS AS NOMINAL DIMENSIONS
- PROVIDE THE FOLLOWING STENCILED WORDING ABOVE CEILING "FIRE AND SMOKE BARRIER, PROTECT ALL OPENINGS AT SMOKE/STOP PARTITION AND FIRE RATED WALLS." ALSO STENCIL EXACTLY WHAT TYPE OF RATING EACH WALL IS. FOR EXAMPLE: "1-HOUR FIRE BARRIER, 2-HOUR FIRE BARRIER, SMOKE PARTITION, ETC."
- "OFICI" DENOTES OWNER FURNISHED, CONTRACTOR INSTALLED.
 "OFIO" DENOTES OWNER FURNISHED, OWNER INSTALLED.
 "CFICI" DENOTES CONTRACTOR FURNISHED, CONTRACTOR INSTALLED.

FLOOR PLAN LEGEND

	1-HOUR FIRE BARRIER
	2-HOUR FIRE BARRIER
	3-HOUR FIRE BARRIER
	INDICATES SMOKE PARTITION
	INDICATES CAST CONCRETE
	INDICATES CONCRETE MASONRY UNITS
	INDICATES BRICK MASONRY
	INDICATES STEEL STUD FRAMED PARTITIONS
	INDICATES FIRE EXTINGUISHER CABINET THAT IS FLUSH MOUNTED TO WALL
	INDICATES FIRE EXTINGUISHER CABINET THAT IS SEMI-RECESSED INTO WALL
	INDICATES FIRE EXTINGUISHER CABINET THAT IS FULLY-RECESSED INTO WALL
	INDICATES FIRE EXTINGUISHER MOUNTED TO WALL

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 P23-44 is consistent 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 investments 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	
LUP 3: Encourage redevelopment along underutilized commercial strip corridors and reinvestment in distressed residential neighborhoods	X	
3.2: Identify potential barriers for redevelopment and reinvestment and provide flexibility through modifications to development regulations while maintaining high standards.	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):

November 14, 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: 23-3673

Agenda Date: 11/14/2023

Version: 1

Status: Agenda Ready

In Control: Zoning Commission

File Type: Public Hearing
(Public & Legislative)

Agenda Number: 5.03

TO: Mayor and Members of City Council

THRU: Zoning Commission

FROM: Demetrios Moutos - Planner I

DATE: November 14, 2023

RE:

P23-46. Rezoning of 4.03 acres ± from Heavy Industrial (HI) to Community Commercial (CC), located at 328 Deep Creek Road (REID # 0447302240000), and being the property of Cumberland County Community Action Program Inc., represented by Del Crawford of Crawford Design Company.

COUNCIL DISTRICT(S):

2 - Shakeyla Ingram

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.

Goal IV: Desirable Place to Live, Work, and Recreate

- Objective 4.5 - To ensure a place for people to live in great neighborhoods

Goal VI: Collaborative Citizen and Business Engagement

- Objective 6.1 - To ensure collaborative relationships with the business community, local governments, military, and stakeholders.

Executive Summary:

The applicant is seeking to rezone one 4.03 acre ± parcel from Heavy Industrial (HI) to Community Commercial (CC).

Background:

Owner: Cumberland Community Action Program Inc.

Applicant: Del Crawford

Requested Action: HI to CC

REID #: 0447302240000

Council District: 2 - Shakeyla Ingram

Status of Properties: Currently used as a daycare, containing five modular structures with associated sidewalks, parking, and playgrounds.

Size: 4.03 acres ±

Adjoining Land Use & Zoning:

- North: LC & CC - Vacant land
- South: HI - Second Harvest Food Bank
- East: SF-6 - Vacant land with abutting single family properties
- West: HI - Vacant land and the Cape Fear River

Annual Average Daily Traffic: Deep Creek Road: 1,900 (2016) / Person Street: 15,000 (2021)

Letters Mailed: 79

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 Office / Institutional (OI). These areas allow medium density non-residential uses, light industrial, offices, flex spaces, warehousing, and large schools/institutions. Businesses and building in these areas are sometimes grouped in business parks. These areas also include utilities and city services.

Issues/Analysis:

History:

The subject property was annexed into the city in 1988. The subject property was initially developed sometime between 1982 and 1995, according to the aerial photography, which shows four buildings and a parking lot. The fifth building was added sometime between 1995 and 2001. Prior to this, the subject property was vacant. The historical and present use of the site is a daycare center. According to the applicant, the long-range plan is to remove the existing structures and replace with two new buildings and maintain the use as a daycare.

Surrounding Area:

The neighboring land use and zoning of the property are as follows: On the northern side,

there is undeveloped land with zoning designated as LC & CC. To the south, the Second Harvest Food Bank occupies property with zoning categorized as HI. Towards the east, there is vacant land zoned as SF-6, which is adjacent to single-family properties. Lastly, on the western side, there is vacant land and the presence of the Cape Fear River, with zoning identified as HI.

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 one parcel currently zoned Heavy Industrial (HI) to Community Commercial (CC). The Community Commercial (CC) District is designed to support a wide range of retail, service, and office businesses that offer goods and services to the local community. This includes shopping centers, convenience stores, retail shops, and some heavier commercial operations (with approval through a Special Use Permit process). Typically, you'll find CC Districts along major roads, intersections, and areas earmarked for growth in the city's plans. The district encourages having apartments or residential spaces on the upper floors of buildings, especially in mixed-use developments. There are rules in place to make sure that the development fits well with the surrounding area and adheres to specific design standards outlined in Article 30-5.

Straight Zoning:

The request is for a straight zoning from Heavy Industrial (HI) to Community Commercial (CC).

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, it is recommended that this portion of the city should be developed as Office / Institutional (O/I). These areas permit medium-density non-residential uses, such as light industrial facilities, offices, flexible workspaces, warehouses, and large schools or institutions. Often, businesses and buildings in these areas are clustered together in business parks. Additionally, these zones are equipped with utilities and city services to support their operations.

The proposed amendment seeks to maintain the existing use of the property, which currently functions as a daycare facility. The long-term plan involves replacing the current structures with two new buildings, aligning with the comprehensive plan and other long-range planning documents. This amendment is necessary because the current zoning designation does not permit daycare use, despite the facility being originally allowed to be constructed. The proposed amendment addresses a demonstrated community need by ensuring the continued provision of essential childcare services, with the current facility being updated to better serve the community.

The proposed amendment is compatible with the surrounding area, which features a mix of residential, commercial, and retail uses. It will not encourage premature development as it pertains to maintaining the existing daycare facility. The amendment is expected to result in a logical and orderly development pattern, enhancing the area's functionality and efficiency. It is unlikely to have significant adverse impacts on property values or the

natural environment, as it maintains the current use and complies with regulations and requirements. Overall, the amendment aims to ensure that the property remains a valuable resource for the community's childcare needs while adhering to zoning and development standards.

Consistency and Reasonableness Statements:

The Future Land Use Plan includes defined goals, policies, and strategies. This application aligns with the city's strategic growth strategies and fulfills the goals outlined in the attached Consistency and Reasonableness form.

Budget Impact:

While there won't be an immediate budgetary impact, this rezoning will have an economic impact in the future as it will lead to the collection of taxes.

Options:

1. Recommends approval of the map amendment to CC 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. Recommends 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. Denies 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 Office / Institutional (O/I).
- The uses permitted by the proposed change in zoning district classification and standards 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 **#1127547**

Project Title: Head Start Childcare Facility Replacement
Application Type: 5.1) Rezoning (Map Amendment)
Workflow: Staff Review
Jurisdiction: City of Fayetteville
State: NC
County: Cumberland

Project Location

Project Address or PIN: 328 DEEP CREEK RD
 (0447302240000) **Zip Code:** 28314

GIS Verified Data

<p>Property Owner: Parcel</p> <ul style="list-style-type: none"> 328 DEEP CREEK RD: CUMBERLAND COMMUNITY ACTION PROGRAM INC <p>Zoning District: Zoning District</p> <ul style="list-style-type: none"> 328 DEEP CREEK RD: HI <p>Fire District:</p> <p>Hospital Overlay District:</p> <p>Cape Fear District: Cape Fear District</p> <ul style="list-style-type: none"> 328 DEEP CREEK RD: 0 <p>Haymount Historic District:</p> <p>100 Year Flood: <100YearFlood></p> <p>Watershed:</p>	<p>Acreage: Parcel</p> <ul style="list-style-type: none"> 328 DEEP CREEK RD: 4.03 <p>Subdivision Name:</p> <p>Airport Overlay District: Airport Overlay District</p> <ul style="list-style-type: none"> 328 DEEP CREEK RD: 1 <p>Coliseum Tourism District:</p> <p>Downtown Historic District:</p> <p>Floodway:</p> <p>500 Year Flood: <500YearFlood></p>
--	---

General Project Information

<p>Has the land been the subject of a map amendment application in the last five years?: No</p> <p>Previous Amendment Case #:</p> <p>Acreage to be Rezoned: 4.03</p> <p>Water Service: Private</p> <p>A) Please describe all existing uses of the land and existing structures on the site, if any:</p> <p>The property is currently used as a daycare. It contains five modular structures with associated sidewalks, parking and playgrounds.</p>	<p>Previous Amendment Approval Date:</p> <p>Proposed Zoning District: Community Commercial (CC)</p> <p>Is this application related to an annexation?: No</p> <p>Sewer Service: Public</p> <p>B) Please describe the zoning district designation and existing uses of lands adjacent to and across the street from the subject site.:</p> <p>The current zoning district is HI (Heavy Industrial) with adjacent zones of CC (Community Commercial) and LC (Limited Commercial) and zoning of SF-6 (Single Family) across the street.</p>
--	--

CC and LC parcels are vacant with no current uses. The SF-6 parcels across the street are vacant with abutting residential housing properties.

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.:

The present use of the site is a day care. The long-range plan is to remove the existing structures and replace to two new buildings. Therefore, the existing and new uses for the property will be the same.

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

It is the understanding that the current zoning designation does not allow a daycare use although the daycare was allowed to be constructed originally. The amendment change will allow the continued use of the property for child daycare and bring the property into the present UDO conformity.

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

The current use of the property will be maintained with the proposed use. The current facility is being updated with new structures, walkways, etc. and will continue to provide the needs of the community with respect to child care.

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 existing and nearby uses are a mix of residential, commercial, and retail. The continued use of the site as a daycare will support the needs of the area for child care services.

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

The child care development proposed is a replacement of the current development. Therefore, the use will not change. It will be constructed in an efficient and orderly manner that will enhance the area.

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

There currently exist a daycare on site. Therefore, it should not affect the area and by over development.

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

The daycare is existing. The new structures, site improvements and landscaping proposed with not create strip 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 proposed zoning is compatible with adjacent zoning and the present use of the site.

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

No adverse impacts are anticipated. The proposed use of the site and the current use will be the same.

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

Any proposed development shall be in compliance with all regulations and requirements. The site shall be developed in the same general footprint of the current structures they replace.

Primary Contact Information

Contractor's NC ID#:

Project Owner

Daniel Barney
Cumberland Community Action Program, INC. a NC Corporation
316 Green St
Fayetteville, NC 28301

P:9103542826
daniel.barney@actionpathways.ngo

**Project Contact - Primary Point of Contact for the
Landscape Architect**

Del Crawford
Crawford Design Company (General)
116 N. Cool Spring St
Fayetteville, NC 28301
P:910-221-0033
admin@crawforddsn.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: Landscape Architect**



Aerial Notification Map

Case #: P23-46

Request: Rezoning Heavy Industrial (HI) to Community Commercial (CC)

Location: 328 Deep Creek Road

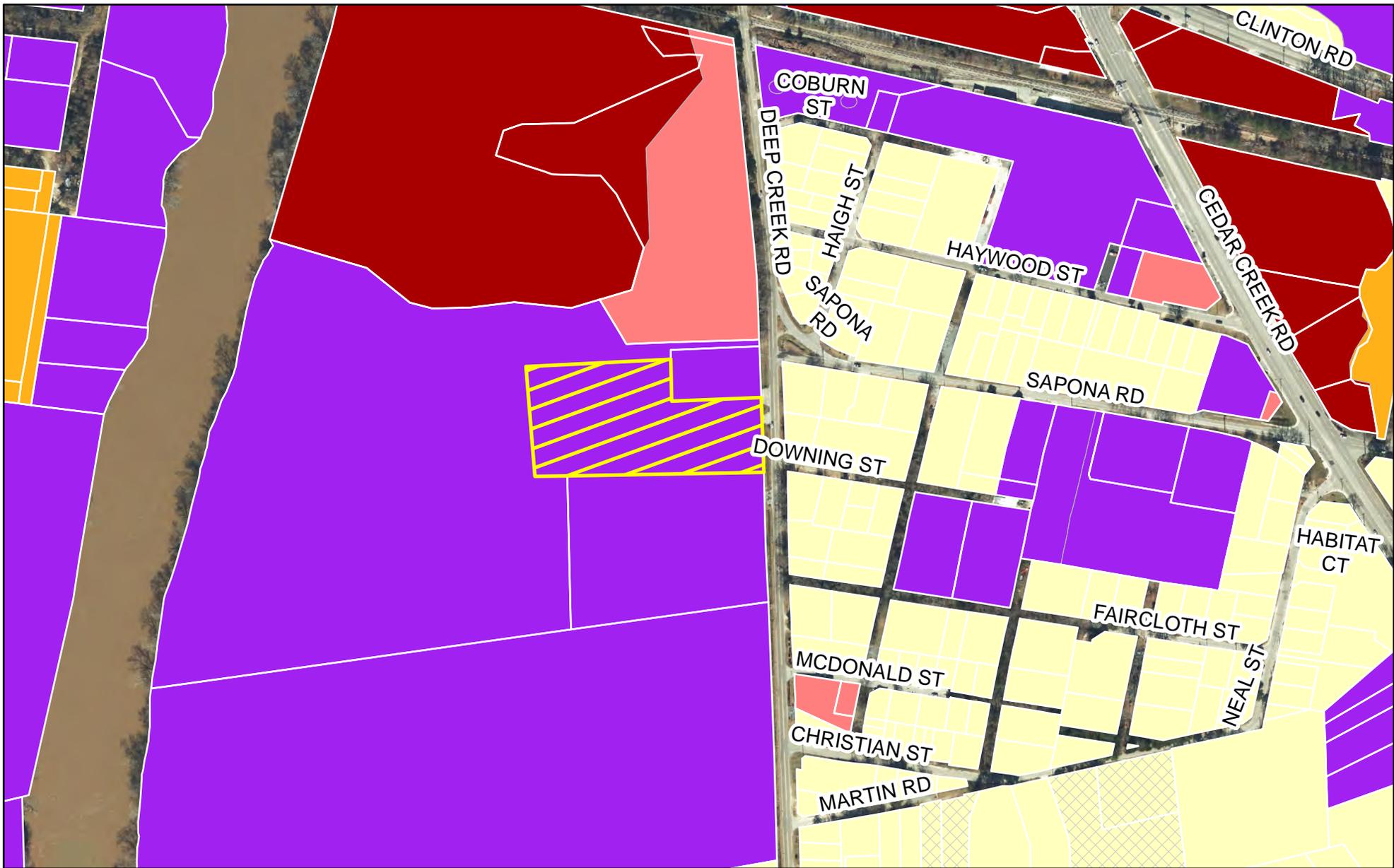
Legend

-  P23-26 Buffer
-  P23-46



Letters are being sent to all property owners within the 1,000' buffer. Subject property is shown in the hatched pattern.





Zoning Map

Case #: P23-46

Request: Rezoning Heavy Industrial (HI) to Community Commercial (CC)

Location: 328 Deep Creek Road

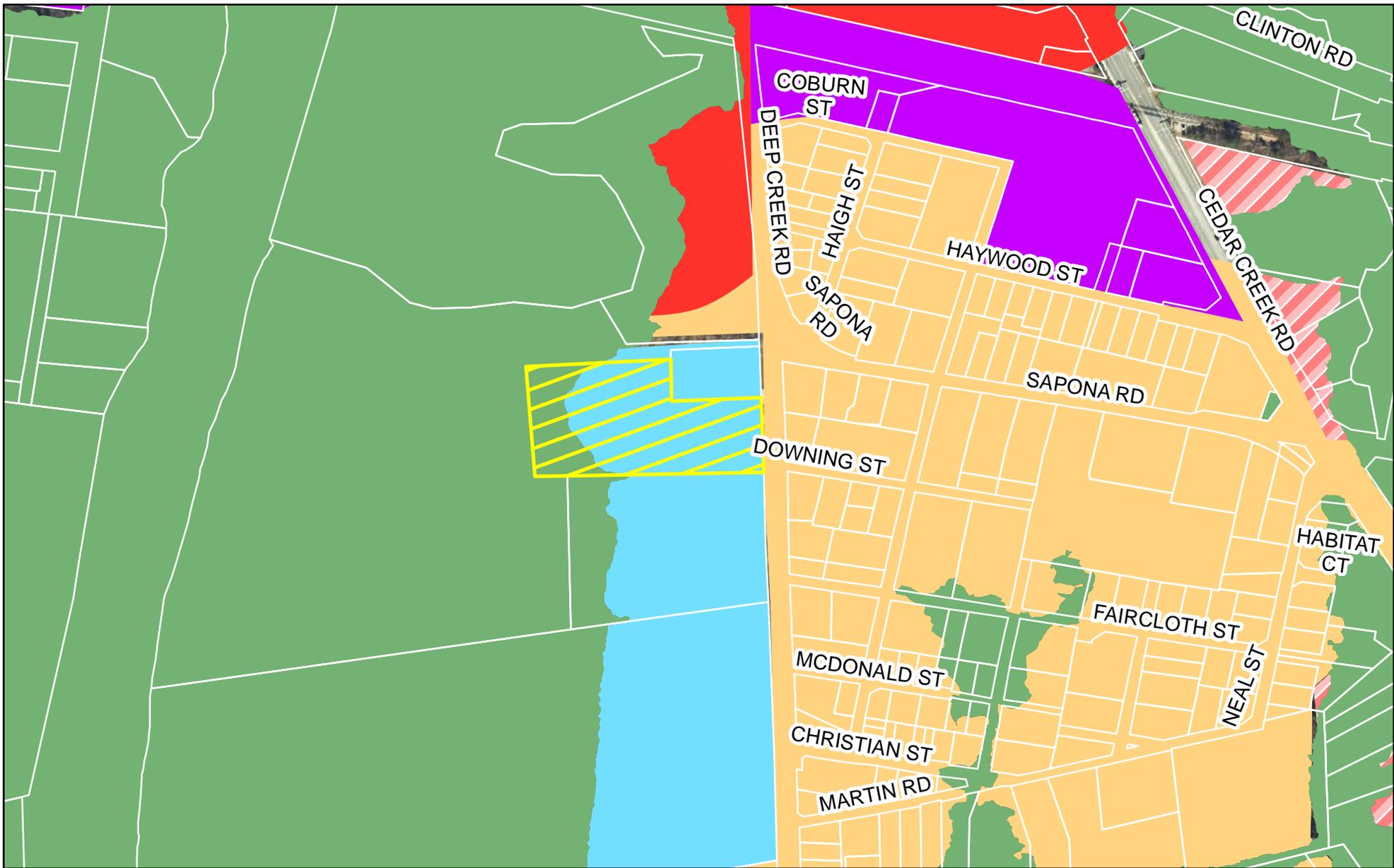
Legend

-  P23-46
-  CC - Community Commercial
-  HI - Heavy Industrial
-  LC - Limited Commercial
-  MR-5 - Mixed Residential 5
-  SF-6 - Single-Family Residential 6
-  SF-6/MHO - Single-Family Residential 6 Manufactured Home Overlay



Letters are being sent to all property owners within the 1,000' buffer. Subject property is shown in the hatched pattern.





Future Land Use Map

Case #: P23-46

Request: Rezoning Heavy Industrial (HI) to Community Commercial (CC)

Location: 328 Deep Creek Road

Legend

 P23-46

Land Use Plan 2040

Character Areas

-  PARKOS - PARK / OPEN SPACE
-  MDR - MEDIUM DENSITY

-  CSR - COMMERCIAL STRIP REDEVELOPMENT
-  HC - HIGHWAY COMMERCIAL
-  OI - OFFICE / INSTITUTIONAL
-  EC - EMPLOYMENT CENTER



Letters are being sent to all property owners within the 1,000' buffer. Subject property is shown in the hatched pattern.





Surrounding Properties



North



East



South

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 P23-46 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 2: Encourage Strategic Economic Development	X	
2.1: Encourage Economic development in designated areas <ul style="list-style-type: none"> • Encourage economic development in key areas including Downtown, Office / Institutional areas, Industrial / Employment areas, Regional and Community Centers, and Highway Commercial Areas. 	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 6: Encourage development standards that result in quality neighborhoods.	X	
6.1: Encourage quality neighborhood design through maintaining and improving standards for streets, sidewalks, storm water and open spaces.	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):

November 14, 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: 23-3677

Agenda Date: 11/14/2023

Version: 1

Status: Agenda Ready

In Control: Zoning Commission

File Type: Public Hearing
(Public & Legislative)

Agenda Number: 5.04

TO: Mayor and Members of City Council

THRU: Zoning Commission

FROM: Craig Harmon, CZO - Senior Planner

DATE: November 14, 2023

RE:

P23-47. Rezoning of 1.86 acres ± from Mixed Residential 5 (MR-5) to Downtown 2 Conditional (DT-2/CZ), located at 344, 348 352 Hawley Lane and unaddressed Plummers Lane (REID # 0437848219000, 0437848347000, 0437848464000, 0437849540000), and being the property of Cumberland County, Cumberland County Board of Education, Michael J Carpenter and Helen Kelly Heirs, represented by Jimmy Kizer, Moorman, Kizer & Reitzel, Inc. and Jermaine Walker, Cumberland County.

COUNCIL DISTRICT(S):

2 - Shakeyla Ingram

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
- Objective 2.4 - To sustain a favorable development climate to encourage business growth

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 has requested to conditionally zone four adjoining properties on Hawley and Plummers Lanes from Mixed Residential 5 (MR-5) to Downtown 2 Conditional Zoning

(DT-2/CZ). The only proposed condition is to allow an adjustment to the maximum setback distance. The proposed tenant is a Transitional Shelter Facility owned by Cumberland County. The Unified Development Ordinance (UDO) also requires a Special Use Permit (SUP) in the DT-2 district to operate this type of use. An application for a SUP has been applied for.

Background:

Applicant: Jimmy Kizer, Moorman, Kizer & Reitzel, Inc

Owner: County of Cumberland, represented by Jermaine Walker

Requested Action: Conditional rezoning to DT-2/CZ

REID #: 0437848219000, 0437848347000, 0437848464000, 0437849540000

Council District: 2 - Shakeyla Ingram

Status of Property: 1 Single Family Structure at 348 Hawley Ln, remaining is vacant

Size: 1.86 acres

Adjoining Land Use & Zoning:

- North: MR-5, LC & CC - Vacant and Commercial
- South: DT-2 - Board of Education Property
- East: DT-2 & CC - Board of Education Property & Commercial
- West: MR-5 & LC - Vacant - Flood Zone

Annual Average Daily Traffic: "B" Street: 5,900 (2018)

Letters Mailed: 128

Additional Reviews: This project was reviewed by the Technical Review Committee and standard comments were provided.

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 Official/Institutional (OI). The Official/Institutional designation calls for Medium-intensity nonresidential uses. Light industrial, office, flexspaces, warehouse, large schools/institutions. Businesses or buildings grouped, sometimes in business parks. This area also includes utilities and City services.

Issues/Analysis:

History:

The subject property and immediate area have been within the city limits of Fayetteville since the 1800s. Per Cumberland County GIS records, the subject properties were almost all developed by 1968. By 2008 only one house remained.

Surrounding Area:

The surrounding properties are a mix of residential, commercial and institutional in nature with many vacant lots and flood zone as well.

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.

Conditional Zoning:

The request is to rezone the subject property to Downtown 2 (DT-2).

The purpose of the CZ zoning district is “intended to provide a landowner and the City an alternative to rezoning the land to a standard base zoning district, where the base zoning allows certain uses and development that may be appropriate but also allow uses and development that may not conform to City plans or would have adverse impacts on public facilities or surrounding lands. Reclassification of land to a conditional zoning district allows a landowner to propose, and the City Council to consider, additional conditions or restrictions on the range of allowable uses, use standards, development intensities, development standards, and other regulations applicable in the parallel base zoning district. This enables the City to tailor a zoning classification to accommodate desirable development while avoiding or addressing anticipated problems that may arise from development otherwise allowed by the base zoning district.”

Specifics of this Conditional Rezoning:

The only proposed condition is to increase the maximum street front yard setback of 20 feet, to 70 feet. Due to the nature of the facility and the following factors the applicant wishes to increase this maximum setback; the desire to provide nice street yard landscaping, and to better match the existing school facility.

Land Use Plan Analysis:

According to the Future Land Use Map & Plan, it is recommended that this portion of the city should be developed as Office/Institutional (OI). The Official/Institutional designation calls for Medium-intensity nonresidential uses. Light industrial, office, flexspaces, warehouse, large schools/institutions. Businesses or buildings grouped, sometimes in business parks. This area also includes utilities and City services. The Future Land Use Plan also sets forth written goals, policies, and strategies. This application follows 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.

Summary:

According to the applicant, the Cumberland County government would like to construct a transitional housing facility to include educational services on land adjacent to an existing Cumberland County Schools Facility that is currently used by FTCC for vocational training. A new building is planned along with the associated parking, access, utilities and landscaping improvements.

The proposed facility would be used to temporarily house homeless citizens and provide them with services and assistance to help them to transition back to a stable quality of life. The facility will be used 24/7, with a larger staff being present during weekly and daily working hours to assist residents. The facility will house staff at all times to help monitor and minimize the movement of residents during non-working hours.

Budget Impact:

There is not an immediate budgetary impact.

Options:

1. Recommends approval of the amendment to the DT-2/CZ 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. Recommends 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. Denies 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 DT-2/CZ 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 Office/Institutional which includes government facilities.
- The uses permitted by the proposed change in zoning district classification and standards 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. Application
2. Aerial Notification Map
3. Zoning Map
4. Land Use Plan Map
5. Subject Property
6. Surrounding Property Photos
7. Site Plans
8. Consistency and Reasonableness Statement

Project Overview **#1143379**

Project Title: Cumberland County Transitional Shelter Facility **Jurisdiction:** City of Fayetteville
Application Type: 5.2) Conditional Rezoning **State:** NC
Workflow: Staff Review **County:** Cumberland

Project Location

Project Address or PIN: **Zip Code:** 28301

- 0 PLUMMERS LN (0437849540000)
- 352 HAWLEY LN (0437848464000)
- 348 HAWLEY LN (0437848347000)
- 344 HAWLEY LN (0437848219000)

GIS Verified Data

Property Owner: Parcel **Acreage: Parcel**

- 0 PLUMMERS LN: KELLY, HELEN HEIRS • 0 PLUMMERS LN: 0.25
- 352 HAWLEY LN: CARPENTER, MICHAEL J • 352 HAWLEY LN: 0.5
- 348 HAWLEY LN: CUMBERLAND COUNTY BOARD OF EDUCATION • 348 HAWLEY LN: 0.47
- 344 HAWLEY LN: CUMBERLAND COUNTY BD OF ED • 344 HAWLEY LN: 0.64

Zoning District: Zoning District **Subdivision Name:**

- 0 PLUMMERS LN: MR-5
- 352 HAWLEY LN: MR-5
- 348 HAWLEY LN: MR-5
- 344 HAWLEY LN: MR-5

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

Proposed Conditional Zoning District: DT/CZ - Conditional Downtown **Lot or Site Acreage to be rezoned:** 1.86
Was a neighborhood meeting conducted?: No **Date of Neighborhood Meeting:**
Number of Residential Units: 0 **Nonresidential Square Footage:** 0

Landowner Information

Written Description of Request - Answer all the questions under this section (upload additional sheets as needed).

A) Describe the proposed use of the rezoned land, including the proposed types of site improvements, buildings, uses, proposed activities, hours of operation, and operating characteristics.:

Cumberland County would like to construct a transitional housing facility to include services on land adjacent to an existing Cumberland County Schools Facility that is currently used by FTCC for vocational training. A new building is planned along with the associated parking, access, utility and landscaping improvements.

The proposed facility would be used to temporarily house homeless citizens and provide them with services and assistance to help them to transition back to a stable quality of life. The facility will be used 24/7, with a larger staff being present during weekly and daily working hours to assist residents. The facility will house staff at all times to help monitor and minimize the movement of residents during non-working hours.

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

The existing properties are zoned MR-5, and have been acquired by Cumberland County or were previously owned by the County or school system. Some of the property is used by the school for a parking lot and open space for the school facility. The remainder of the property contains single family homes or vacant lot.

Around the site to the north across Plummers Lane are MR-5 zoned vacant lots owned by the City of Fayetteville, to the South and east is the school facility which is zoned DT-2. To the west across Hawley Lane are MR-5 and LC zoned parcels owned by the City of Fayetteville. Extending further away from the site are additional DT-2 zoned parcels that contain single family homes or vacant lots. There is also some additional MR-5 zoned land with single family homes or are vacant lots and CC zoned parcels with associated commercial use.

B) Describe the proposed conditions that should be applied.:

The existing site is currently zoned MR-5, with the adjacent property Zoned DT-2. It is desired to zone the parcels to DT-2 to match the existing school property which the new proposed facility will coordinate training activities with. The DT-2 setbacks have a maximum street front yard setback of 20', but due to the nature of the facility, the desire to provide nice street yard landscaping, and to better match the existing school facility, it is requested that maximum setbacks be increased to 70'.

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.:

the proposed amendment is consistent with the development patterns that are taking place in the area around the community. The proposed amendment will permit the remaining county owned property to be combined and allow for the construction of a facility that will address a current need in the community.

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

Yes, it is requested that the front yard setback be increased to allow a building to be sited further back from the right of way

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

There is an urgent community need for additional services to support the transition of homeless citizens. This proposed amendment will allow for the construction of a new facility adjacent to existing resources.

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 amendment would accommodate the construction of an additional governmental facility that would leverage that training place at the existing school facility so it would be compatible with the existing uses.

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

The proposed amendment will support the extension of existing governmental institutions in the immediate area, and would be an orderly and logical developmental pattern.

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

The proposed amendment would not result in or encourage premature development in the area.

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

The proposed amendment would not result in a strip style center since the zoning would match the adjacent zoning.

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 proposed zoning amendment would fit the existing surrounding uses, which include DT-2, LC, CC and MR-5 uses.

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

The proposed amendment is not anticipated to have adverse impacts on the surrounding property values since all of the adjacent properties are owned by governmental bodies.

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

None

Primary Contact Information

Contractor's NC ID#:

Project Owner

Jermaine Walker
County of Cumberland
130 Gillespie Street, 214
Fayetteville, NC 28301
P:910-321-6602
jwalker@cumberlandcountync.gov

Project Contact - Agent/Representative

Cynthia Smith
Moorman, Kizer & Reitzel, Inc.
115 Broadfoot Avenue
Fayetteville, NC 28306
P:910-484-5191
csmith@mkrinc.com

Project Contact - Primary Point of Contact for Engineer

Jimmy Kizer
Moorman, Kizer & Reitzel, Inc.
115 Broadfoot Avenue
Fayetteville, NC 28305
P:910-484-5191
jkizerjr@mkrinc.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: Engineer



Aerial Notification Map
Case #: P23-47

Request: Rezoning to DT-2/CZ

Location: 344, 348 352 Hawley Lane and unaddressed Plummers Lane

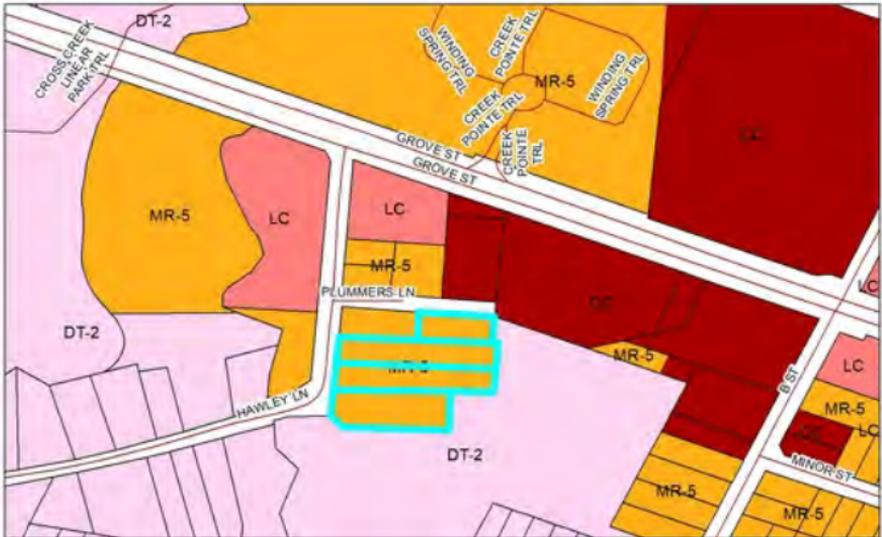
Legend

-  Subject Properties
-  1,000' Notification Area



Letters are being sent to all property owners within the 1,000' buffer. Subject property is shown in the hatched pattern.





Zoning Map

Case #: P23-47

Request: Rezoning to DT-2/CZ

Location: 344, 348 352 Hawley Lane and unaddressed Plummers Lane

Legend

- DT-2
- CC - Community Commercial
- LC - Limited Commercial
- MR-5 - Mixed Residential 5



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





Land Use Plan Map

Case #: P23-47

Request: Rezoning to DT-2/CZ

Location: 344, 348 352 Hawley Lane
and unaddressed Plummers Lane

Legend

Future Land Use 2040

Character Areas

- PARKS - PARK / OPEN SPACE
- NR - NEIGHBORHOOD IMPROVEMENT
- HDR - HIGH DENSITY RESIDENTIAL
- NMU - NEIGHBORHOOD MIXED USE
- DTMOU - DOWNTOWN
- HC - HIGHWAY COMMERCIAL
- CI - OFFICE / INSTITUTIONAL



Letters are being sent to all property owners within the 100' buffer. Subject property is shown in the hatched pattern.





Fayetteville
PIN 0437845779000
Zoned LC5

Fayetteville
PIN 0437847663000
Zoned MR5

Eastridge, Pamela
PIN 0437848665000
Zoned MR5

Marsh Wheeling LLC
PIN 0437849678000
Zoned CC

Marsh Wheeling LLC
PIN 0437942601000
Zoned CC

Wilcohes LLC
PIN 0437944517000
Zoned CC

Wilcohes LLC
PIN 0437945438000
Zoned CC

Fayetteville
PIN 0437845495000
Zoned MR5

Cumberland County Transitional
Housing Facility
37,925 Sq Ft Building
(205' X 185')
96 Parking Spaces
(4 Handicap Spaces)

Cumberland County
PIN 0437849540000 (0.25 Ac);
0437848464000 (0.50 Ac);
0437848347000 (0.47 Ac);
0437848219000 (0.64 Ac)
Zoned MR5 to be rezoned to DT-2

Service Distributing Co Inc
PIN 0437943442000
Zoned CC/MR5

Veterans Empowering
Veterans
PIN 0437945301000
Zoned CC

Veterans Empowering Veterans
PIN 0437944273000
Zoned CC

Epic Impact LLC
PIN 0437944147000
Zoned MR5

Culbreth
PIN 0437944121000
Zoned MR5

Culbreth
PIN 0437943095000
Zoned MR5

Culbreth
PIN 0437933969000
Zoned MR5

Cumberland County Board of Education
PIN 0437849172000 (8.32 Ac)
PB 21 PG 67
DB 763 PG 34
Zoned DT-2

McMillan
PIN 0437835953000
Zoned DT2

Practical Leased Time LLC
PIN 0437930905000
Zoned DT2

Practical Leased Time LLC
PIN 0437930945000
Zoned DT2

Carpenter
PIN 0437930991000
Zoned DT2

McGrue
PIN 0437931940000
Zoned DT2

Carpenter
PIN 0437931888000
Zoned DT2

McGrue
PIN 0437932826000
Zoned DT2

McMillan
PIN 0437835953000
Zoned DT2

Titan Contractor
Services LLC
PIN 043783676000
Zoned DT2

Fayetteville
PIN 0437837672000
Zoned DT2

Practical Leased Time LLC
PIN 0437839715000
Zoned DT2

Billings
PIN 0437839567000
Zoned DT2

drawn by CMS
checked MKR
reviewed MKR
date OCTOBER 2023
job no. 11-1028-02

SPECIAL USE PERMIT
HAWLEY LANE
DEVELOPMENT BY
COUNTY OF CUMBERLAND
Fayetteville, NC

no.	revision	by	date

115 Broadfoot Ave.
P.O. Box 53774
Fayetteville, N.C., 28305
Phone 910-484-5191
License #: F-0106



scale 1"=50'
Field Book No. N/A
SHEET 1 OF 1





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 P23-47 is consistent 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 investments 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	
LUP 3: Encourage redevelopment along underutilized commercial strip corridors and reinvestment in distressed residential neighborhoods	X	
3.2: Identify potential barriers for redevelopment and reinvestment and provide flexibility through modifications to development regulations while maintaining high standards.	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):

November 14, 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: 23-3662

Agenda Date: 11/14/2023

Version: 1

Status: Agenda Ready

In Control: Zoning Commission

File Type: Public Hearing
(Public & Legislative)

Agenda Number: 5.05

TO: Mayor and Members of City Council

THRU: Zoning Commission

FROM: Heather Eckhardt, CZO - Planner II

DATE: November 14, 2023

RE:

P23-48. Rezoning from Single Family Residential 6 (SF-6) to Mixed Residential 5 (MR-5) located at 420 & 432 Cedric St, two unaddressed parcels on Cedric St, 678 Bonnie St, and one unaddressed parcel on Bonnie St (REID 0418195255000, 0418194262000, 0418192186000, 0418193169000, 0418193367000, and 0418193316000), totaling 1.59 acres ± and being the property of Nathan Echols.

COUNCIL DISTRICT(S):

4 - D.J. Haire

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.

Goal IV: Desirable Place to Live, Work, and Recreate

- Objective 4.5 - To ensure a place for people to live in great neighborhoods

Goal VI: Collaborative Citizen and Business Engagement

- Objective 6.1 - To ensure collaborative relationships with the business community, local governments, military, and stakeholders

Executive Summary:

The applicant is seeking to rezone six parcels from Single Family Residential 6 (SF-6) to

Mixed Residential 5 (MR-5). The three parcels total 1.59 acres.

Background:

Owner/Applicant: Nathan Echols

Requested Action: SF-6 to MR-5

REID #: 0418195255000, 0418194262000, 0418192186000, 0418193316000,
0418193367000, 0418193169000

Council District: 4 - D.J. Haire

Status of Properties: Undeveloped

Size: 1.59 acres

Adjoining Land Use & Zoning:

- North: MR -5 - Vacant land
- South: MR-5 - Two-to-four family dwellings
- East: SF-6 - Vacant land and two-to-four family dwellings
- West: MR-5 - Vacant land and two-to-four family dwellings

Annual Average Daily Traffic: Bragg Boulevard: 47,000 (2021)

Letters Mailed: 145

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 Improvement (NIR). These areas allow higher density redevelopment and “missing middle” housing to increase private reinvestment and revitalize neighborhoods. Target areas include clusters of vacant and/or underutilized parcels.

Issues/Analysis:

History:

The subject property was annexed into the city in 1998. The subject properties have been vacant since the early 2000s. Previously, the subject properties had a variety of different structures, most likely residential in nature.

Surrounding Area:

The area around the subject properties is a mixture of single-family dwellings, two-to-four family dwellings, and multi-family dwellings. The area to the north of the subject properties is currently undeveloped. To the south of the subject properties, there are two quadplexes that were developed in the 1950s. The multi-family development to the east was developed in 1965 and the quadplex development to the west was developed in 1971. In 2019, two parcels on the south side of Cedric Street were successfully rezoned from SF-6 to MR-5. The rezoning to MR-5 gave the property owners the option to add additional dwelling units to the site while bringing the site into compliance (two-to-four family dwellings require a Special Use Permit in the SF-6 zoning district).

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 six parcels currently zoned Single Family Residential 6 (SF-6) to Mixed Residential 5 (MR-5). The Mixed Residential 5 zoning district is intended to meet the diverse housing needs of City residents by accommodating a wide variety of residential housing types and arrangements at moderate to high densities, including single-family detached dwellings, two-to-four family dwellings and multi-family dwellings.

Straight Zoning:

The request is for a straight zoning from Single Family Residential 6 (SF-6) to Mixed Residential 5 (MR-5).

The Mixed Residential 5 (MR-5) district is established and intended to meet the diverse housing needs of City residents by accommodating a wide variety of residential housing types and arrangements at moderate to high densities, including single-family detached dwellings, two- to four-family dwellings, multi-family dwellings, and other residential development that may include single-family attached dwellings, and zero lot line development subject to the requirements of the Ordinance.

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, it is recommended that this portion of the city should be developed as Neighborhood Improvement (NIR). These areas allow higher density redevelopment and “missing middle” housing to increase private reinvestment and revitalize neighborhoods. Target areas include clusters of vacant and/or underutilized parcels.

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:

The proposed MR-5 zoning district is an ideal zoning district for an area designated for Neighborhood Improvement by the Future Land Use Plan. The MR-5 zoning district would allow for the potential development of vacant land into higher-density residential structures such as multi-family dwellings.

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. Recommends approval of the map amendment to MR-5 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. Recommends 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. Denies 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 MR-5 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 Improvement (NIR).
- The uses permitted by the proposed change in zoning district classification and standards 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 **#1047359**

Project Title: Cedric Street **Jurisdiction:** City of Fayetteville
Application Type: 5.1) Rezoning (Map Amendment) **State:** NC
Workflow: Staff Review **County:** Cumberland

Project Location

Project Address or PIN: **Zip Code:** 28303

- 420 CEDRIC ST (0418195255000)
- 432 CEDRIC ST (0418194262000)
- 0 CEDRIC ST (0418192186000)
- 0 ? DR (0418193316000)
- 678 BONNIE ST (0418193367000)
- 0 CEDRIC ST (0418193169000)

GIS Verified Data

<p>Property Owner: Parcel</p> <ul style="list-style-type: none"> • 420 CEDRIC ST: ECHOLS, NATHAN • 432 CEDRIC ST: ECHOLS, NATHAN • 0 CEDRIC ST: ECHOLS, NATHAN • 0 ? DR: ECHOLS, NATHAN • 678 BONNIE ST: ECHOLS, NATHAN • 0 CEDRIC ST: ECHOLS, NATHAN 	<p>Acreage: Parcel</p> <ul style="list-style-type: none"> • 420 CEDRIC ST: 0.14 • 432 CEDRIC ST: 0.41 • 0 CEDRIC ST: 0.36 • 0 ? DR: 0.28 • 678 BONNIE ST: 0.26 • 0 CEDRIC ST: 0.14
--	---

<p>Zoning District: Zoning District</p> <ul style="list-style-type: none"> • 420 CEDRIC ST: SF-6 • 432 CEDRIC ST: SF-6 • 0 CEDRIC ST: SF-6 • 0 ? DR: SF-6 • 678 BONNIE ST: SF-6 • 0 CEDRIC ST: SF-6 	<p>Subdivision Name:</p>
--	---------------------------------

<p> Fire District: Hospital Overlay District: Cape Fear District: Haymount Historic District: 100 Year Flood: <100YearFlood> Watershed: </p>	<p> Airport Overlay District: Coliseum Tourism District: Downtown Historic District: Floodway: 500 Year Flood: <500YearFlood> </p>
---	---

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 #:

Acreage to be Rezoned: 1.7

Water Service: Public

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

No existing uses

Proposed Zoning District: MR5

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.:

Land is zoned SR-6. Surrounding land is all zoned MR-5 adjacent to CC. The proposal would be to combine the land into a single plot for a future site plan proposal and zoning proposal to conform to a long term plan for residential use. The overall intention would be to provide housing needs for the city of Fayetteville.

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 is to conditional rezoning land for future development in line with zoned properties surrounding it.

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

No

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

Demonstrated community need for 2/1 and 2/2 bedrooms in the local area to provide low or medium income housing at zip code 28303

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 surrounding area is also zoned MF5, and almost without exception the surrounding land is populated by duplex or quad plex buildings. Providing quality housing in a area adjacent to the new Project Bronco development and housing for Amazon distribution center workers serves a large community need for housing now and in the future. The surrounding land is also zoned MR5, and would conform to the area in terms of density. The intent is to provide a site plan with construction for a very small apartment housing.

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

The zoning amendment would conform to the surrounding density zoning as MR5

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

Not applicable

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

Not applicable

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.:

Will leave two corner lots as SR6, these will have street access both north and south if desired with no restrictions on entry to residents.

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

No significant impact

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

Single contour line in plats. No significant impact to natural environment with aim to preserve as many existing hard standing vegetation as possible. No significant hydrology runoff, planned underground water collection.

Primary Contact Information

Contractor's NC ID#:

Project Owner

Nathan Echols

334 Glen Canyon Dr
Fayetteville, NC 28303
P:2532046161
aresinvest@gmail.com

Project Contact - Agent/Representative

Nathan Echols

334 Glen Canyon Dr
Fayetteville, NC 28303
P:2532046161
aresinvest@gmail.com

Project Contact - General Contractor

Johnathon Wolk
Wolk360 LLC
3901 Barrett Dr, #205,
Raleigh, NC 27609
P:(919) 307-8296
jonathan@wolk360.com

Project Contact - Primary Point of Contact for the Surveyor

Johnathon Wolk
Wolk360 LLC
3901 Barrett Dr, #205,
Raleigh, NC 27609
P:(919) 307-8296
jonathan@wolk360.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:

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: 11

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

FILED	Aug 17, 2023
AT	12:29:31 PM
BOOK	11802
START PAGE	0520
END PAGE	0523
INSTRUMENT #	26043
RECORDING	\$26.00
EXCISE TAX	\$0.00

NORTH CAROLINA CORRECTIVE GENERAL WARRANTY DEED

Excise Tax:	Revenue was paid in Deed Book 11766, Page 572, Cumberland County Registry.
Parcel ID:	0418-19-5255, 0418-19-4262, 0418-19-2186, 0418-19-3316, 0418-19-3367 and 0418-19-3169
Mail/Box to:	Tally & Tally
Prepared by:	Jennifer Kirby Fincher, PLLC, 324 N. McPherson Church Rd, Fayetteville, NC 28303
Brief description for the index:	See attached

THIS GENERAL WARRANTY DEED ("Deed") is made on the 15 day of August, 2023, by and between:

GRANTOR	GRANTEE
Stephen F Hogan and wife, Kaisone P Hogan 302 Atlanta Ave Carolina Beach, NC 28428	Nathan Echols 334 Glen Canyon Rd Fayetteville, NC 28303

Enter in the appropriate block for each Grantor and Grantee their name, mailing address, and, if appropriate, state of organization and character of entity, e.g. North Carolina or other corporation, LLC, or partnership. Grantor and Grantee includes the above parties and their respective heirs, successors, and assigns, whether singular, plural, masculine, feminine or neuter, as required by context.

FOR VALUABLE CONSIDERATION paid by Grantee, the receipt and legal sufficiency of which is acknowledged, Grantor by this Deed does hereby grant, bargain, sell and convey to Grantee, in fee simple, all that certain lot, parcel of land or condominium unit in the City of Fayetteville, Fayetteville City, Cumberland County, North Carolina and more particularly described as follows (the "Property"):

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF.

**** THIS DEED IS BEING CORRECTED TO ADD THE FULL LEGAL DESCRIPTION****

All or a portion of the Property was acquired by Grantor by instrument recorded in Book 11207 Page 601.

All or a portion of the Property includes or does not include the primary residence of a Grantor.

A map showing the Property is recorded in Book _____ Page _____.

TO HAVE AND TO HOLD the Property and all privileges and appurtenances thereto belonging to Grantee in fee simple. Grantor covenants with Grantee that Grantor is seized of the Property in fee simple, Grantor has the right to convey the Property in fee simple, title to the Property is marketable and free and clear of all encumbrances, and Grantor shall warrant and defend the title against the lawful claims of all persons whomsoever, other than the following exceptions:

restrictions, easements and rights-of-way of record; ad valorem property taxes for the current year.

IN WITNESS WHEREOF, the Grantor has duly executed this North Carolina General Warranty Deed, if an entity by its duly authorized representative.

Stephen F Hogan

Name: Stephen F Hogan

Kaisone P Hogan

Name: Kaisone P Hogan

Name:

Name:

Entity Name

By:

Name:

Title:

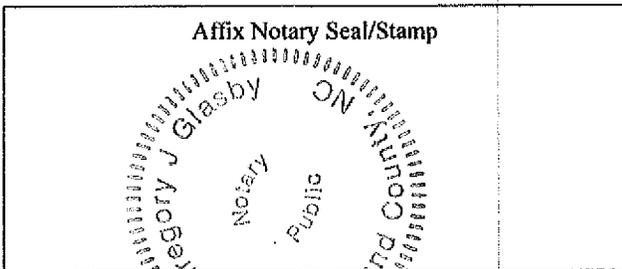
By:

Name:

Title:

STATE OF NORTH CAROLINA, COUNTY OF CUMBERLAND

I, Gregory J Glasby, a Notary of the above state and county, certify that the following person(s) personally appeared before me on the 15 day of August, 20 23 each acknowledging to me that he/she/they signed the foregoing document, in the capacity represented and identified therein (if any):
Stephen F Hogan and Kaisone P Hogan



Gregory J Glasby

Notary Public (Official Signature)

My commission expires: November 23, 2025

EXHIBIT "A"

Legal Description

PARCEL I:

PIN: 0418-19-5255

BEING ALL OF LOT 71 OF THE OAKLAND SUBDIVISION, PART 3, ACCORDING TO A PLAT OF THE SAME DULY RECORDED IN BOOK OF PLATS 17, PAGE 62, CUMBERLAND COUNTY, NORTH CAROLINA REGISTRY.

PARCEL II:

PIN: 0418-19-4262

BEING ALL OF LOTS 72, 73 AND 74 OF THE OAKLAND SUBDIVISION, PART 3, ACCORDING TO A PLAT OF THE SAME DULY RECORDED IN BOOK OF PLATS 17, PAGE 62, CUMBERLAND COUNTY, NORTH CAROLINA REGISTRY.

PARCEL III:

PIN: 0418-19-3169

BEGINNING at a point in the Northern margin of a 50 foot street known as Cedar Street South 72 degrees West 450 feet from the intersection of the Northern margin of Cedar Street and the Western margin of a 25 foot unimproved street, and running thence from said beginning point North 18 degrees West 118 feet to a stake; thence South 72 degrees West 50 feet to a stake; thence South 18 degrees East 118 feet to a stake in the Northern margin of Cedar Street; thence with the Northern margin of Cedar Street North 72 degrees East to the beginning point, and being all of Lot No. 75 of Oakland Subdivision, Part 3, as shown on plat recorded in Plat Book 17, Page 62, Cumberland County Registry.

Exhibit "A"

Legal Description Continued

PARCEL IV:

PIN: 0418-19-2186

BEING ALL OF LOTS 76, 77 AND 78 OF THE OAKLAND SUBDIVISION, PART 3, ACCORDING TO A PLAT OF THE SAME DULY RECORDED IN BOOK OF PLATS 17, PAGE 62, CUMBERLAND COUNTY, NORTH CAROLINA REGISTRY.

PARCEL V:

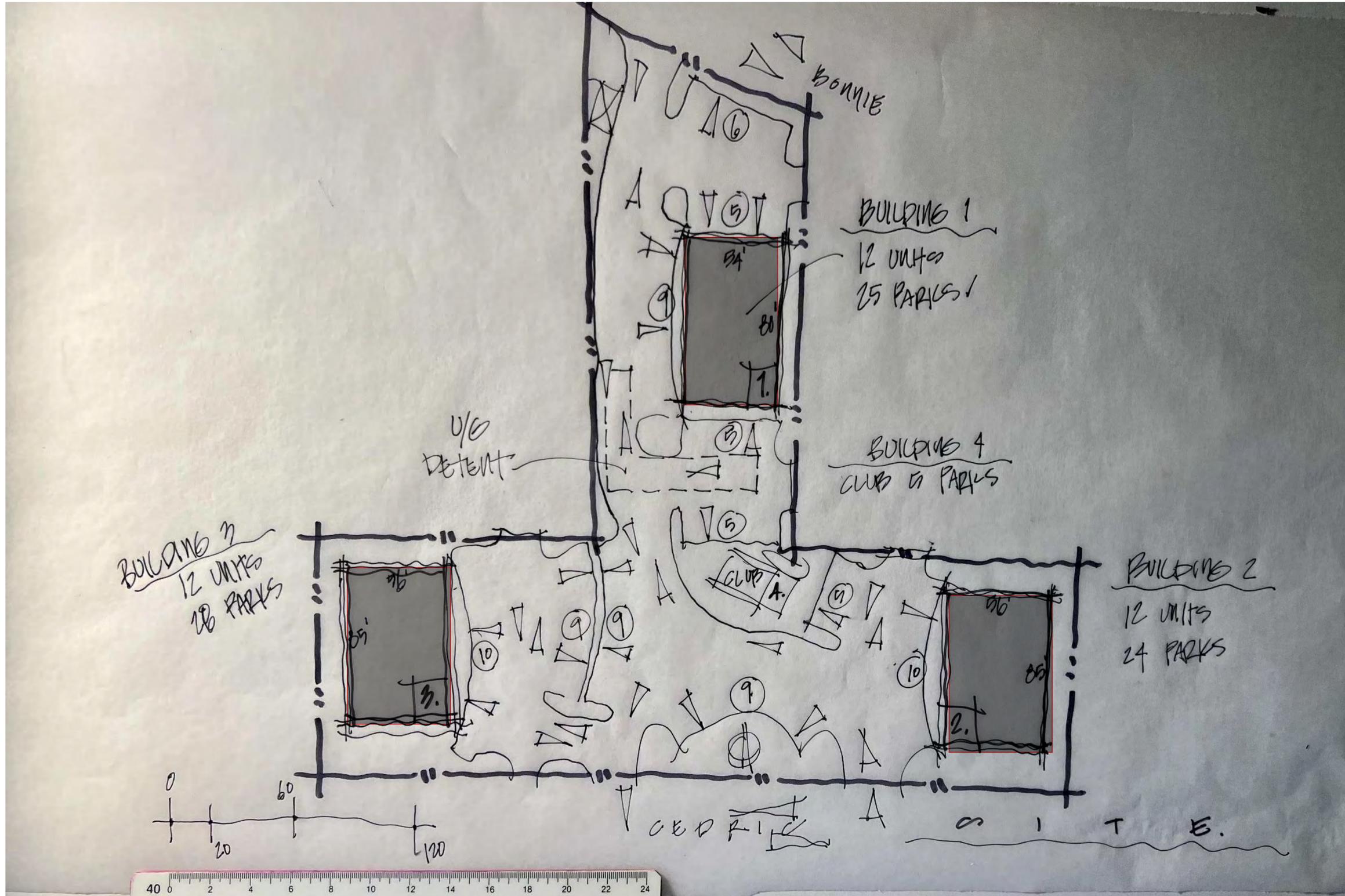
PIN: 0418-19-3316

BEING ALL OF LOT # 83 OF THE OKLAND SUBDIVISION, PART FOUR, AS PER PLAT OF THE SAME DATED FEBRUARY 14, 1959, WHICH PLAT IS REGISTERED IN BOOK OF PLATS 22, PAGE 73, CUMBERLAND COUNTY, NORTH CAROLINA REGISTRY.

PARCEL VI:

PIN: 0418-19-3367

BEING ALL OF LOT # 82 OF THE OKLAND SUBDIVISION, PART FOUR, AS PER PLAT OF THE SAME DATED FEBRUARY 14, 1959, WHICH PLAT IS REGISTERED IN BOOK OF PLATS 22, PAGE 73, CUMBERLAND COUNTY, NORTH CAROLINA REGISTRY.



SITE PLAN



Aerial Notification Map

Case #: P23-48

Request: Rezoning
 Single Family Residential 6 (SF-6) to
 Mixed Residential 5 (MR-5)

Location: 420 & 432 Cedric St, two unaddressed lots on Cedric St,
 678 Bonnie St and one unaddressed lot on Bonnie St

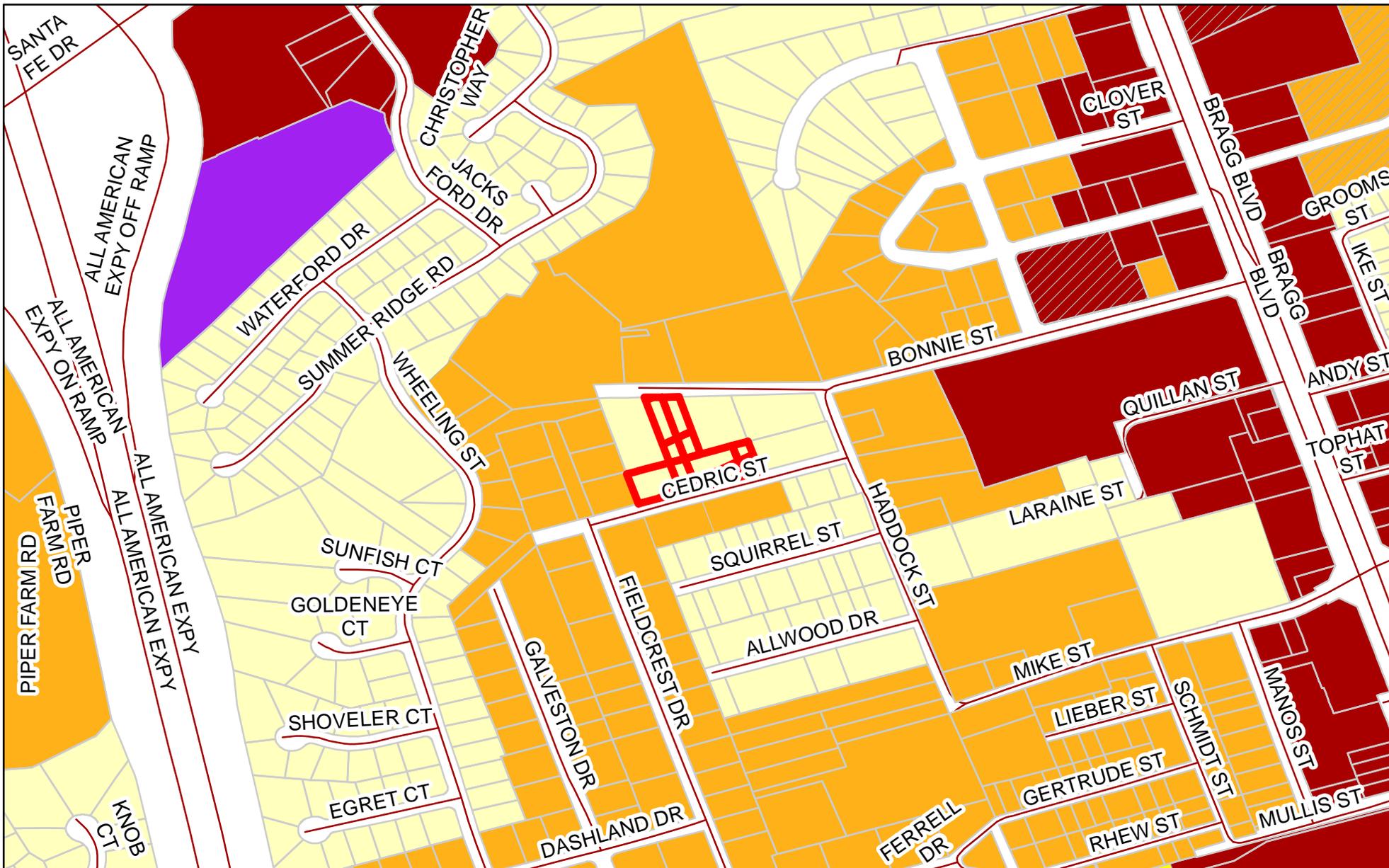
Legend

-  P23-48
-  P23-48 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 #: P23-48

Request: Rezoning
Single Family Residential 6 (SF-6) to
Mixed Residential 5 (MR-5)

Location: 420 & 432 Cedric St, two unaddressed lots on Cedric St,
678 Bonnie St and one unaddressed lot on Bonnie St

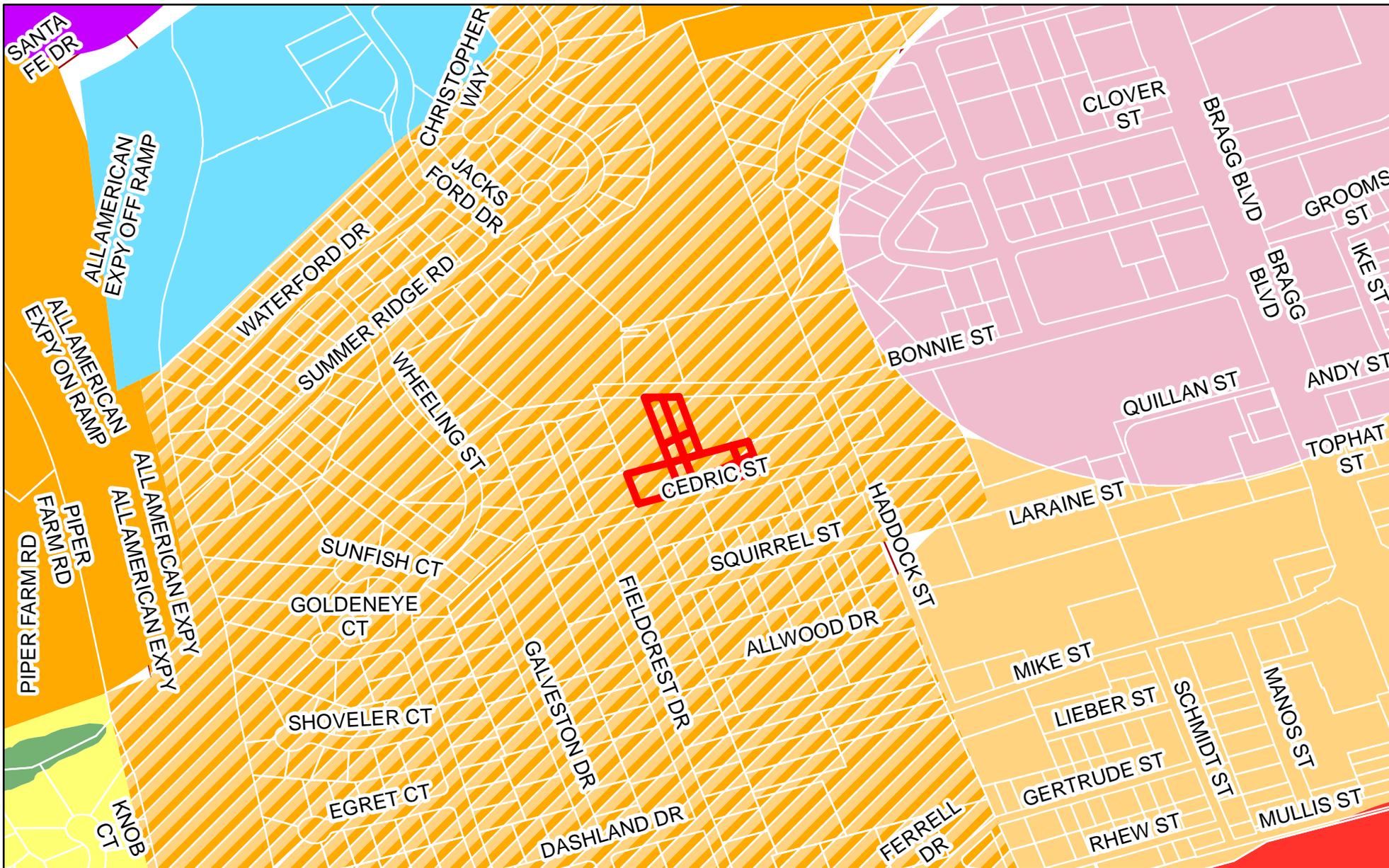
Legend

	P23-48		CC - Community Commercial
			CC/CZ - Conditional Community Commercial
			HI - Heavy Industrial
			MR-5 - Mixed Residential 5
			MR-5/CZ - Conditional Mixed Residential 5
			SF-6 - Single-Family Residential 6
			SF-10 - Single-Family Residential 10



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 #: P23-48

Request: Rezoning
Single Family Residential 6 (SF-6) to
Mixed Residential 5 (MR-5)

Location: 420 & 432 Cedric St, two unaddressed lots on Cedric St,
678 Bonnie St and one unaddressed lot on Bonnie St

Legend



P23-48

Land Use Plan 2040

Character Areas

- PARKOS - PARK / OPEN SPACE
- LDR - LOW DENSITY
- MDR - MEDIUM DENSITY
- NIR - NEIGHBORHOOD IMPROVEMENT

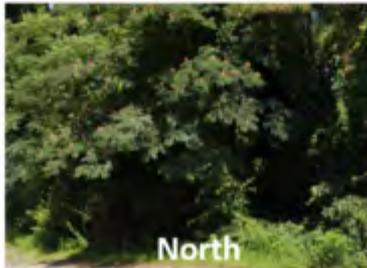
- HDR - HIGH DENSITY RESIDENTIAL
- NMU - NEIGHBORHOOD MIXED USE
- HC - HIGHWAY COMMERCIAL
- OI - OFFICE / INSTITUTIONAL
- EC - EMPLOYMENT CENTER



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 P23-48 is consistent 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 investments 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	
1.7: Encourage a logical progression of housing development and discourage “leapfrog” 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	

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):

November 14, 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: 23-3675

Agenda Date: 11/14/2023

Version: 1

Status: Agenda Ready

In Control: Zoning Commission

File Type: Public Hearing
(Public & Legislative)

Agenda Number: 5.06

TO: Mayor and Members of City Council

THRU: Zoning Commission

FROM: Demetrios Moutos - Planner I

DATE: November 14, 2023

RE:

P23-49. Rezoning of 1.42 acres ± from Mixed Residential 5 (MR-5) to Heavy Industrial Conditional Zoning (HI/CZ), located at 1009, 1015, & 0 North Street (REID #'s 0438700243000, 0438700340000, & 0438609391000), and being the property of DRA LLC, represented by Thomas Lloyd of Franklin Johnson Commercial Real Estate.

COUNCIL DISTRICT(S):

Council District 2 - Shakeyla Ingram

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
- Objective 2.4 - To sustain a favorable development climate to encourage business growth.

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 requesting to rezone 1.42 acres ± from Mixed Residential 5 (MR-5) to Heavy Industrial Conditional Zoning (HI/CZ), located at 1009, 1015, & 0 North Street (REID #'s 0438700243000, 0438700340000, & 0438609391000).

Background:

Applicant: Thomas Lloyd

Owner: DRA LLC

Requested Action: Rezoning from MR-5 to HI/CZ

REID: 0438700243000, 0438700340000, & 0438609391000

Prospective Council District: 2 - Shakeyla Ingram

Status of Property:

- 1009 North St. is currently vacant and covered with trees.
- 1015 North St. is partially wooded and also serves as outdoor storage for Fay Block Materials.
- 0 North Street is predominantly used for existing outdoor storage of Fay Block Materials.

Size: 1.42 ± total acres

Adjoining Land Use & Zoning:

- **North:** Industrial Material Storage (Zoned HI)
- **South:** Vacant/Wooded Property (Zoned MR-5)
- **East:** Industrial Material Storage (Zoned HI)
- **West:** Single Family Housing Zoned (MR-5)

Letters Mailed: 106

Land Use Plans:

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

According to the Future Land Use Map, these parcels are designated for development as follows: "Primarily single-family residential neighborhoods with small lots (3-6 dwellings per acre), with duplexes or townhomes interspersed, and the possibility of low-rise apartments. The area is mostly auto-oriented, but there are also some walkable neighborhoods and destinations." under the Medium Density Residential (MDR) designation. Applicant: Thomas Lloyd

Owner: DRA LLC

Requested Action: Rezoning from MR-5 to HI/CZ

REID: 0438700243000, 0438700340000, & 0438609391000

Prospective Council District: 2 - Shakeyla Ingram

Status of Property:

- 1009 North St. is currently vacant and covered with trees.
- 1015 North St. is partially wooded and also serves as outdoor storage for Fay Block Materials.
- 0 North Street is predominantly used for existing outdoor storage of Fay Block Materials.

Size: 1.42 ± total acres

Adjoining Land Use & Zoning:

- **North:** Industrial Material Storage (Zoned HI)
- **South:** Vacant/Wooded Property (Zoned MR-5)
- **East:** Industrial Material Storage (Zoned HI)
- **West:** Single Family Housing Zoned (MR-5)

Letters Mailed: 106

Land Use Plans:

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

According to the Future Land Use Map, these parcels are designated for development as follows: "Primarily single-family residential neighborhoods with small lots (3-6 dwellings per acre), with duplexes or townhomes interspersed, and the possibility of low-rise apartments. The area is mostly auto-oriented, but there are also some walkable neighborhoods and destinations." under the Medium Density Residential (MDR) designation.

Issues/Analysis:

History:

This area has been inside the city limits since 1949. According to their website, Fay Black Materials, Inc. was established in 1945 and is a manufacturer of concrete masonry and other hardscape and landscape materials. According to aerial photography provided by Cumberland County GIS, they have been steadily increasing the area of their business since at least 1968, with the most recent expansions and improvements taking place between 2013 and 2017. DRA, LLC obtained ownership of tracts 1 & 2 from Walker Johnson, Jr. (also known as Walker Jr. Johnson) and his wife, Margaret Smith Johnson, in January 2012. Tract 3 was purchased by DRA, LLC in June 2023 from The Estate of William Vance Cain, who is also known as Billy V. Cain, a North Carolina Estate, as well as from Robert Goodrich and his wife, Edna B. Goodrich.

Surrounding Area:

The subject parcels are bordered by a range of different land uses and zoning designations. To the north, there's an area designated for storing industrial materials, which is zoned as Heavy Industrial (HI). To the south, there's a vacant and forested property with a zoning classification of MR-5. On the eastern side, there's another area allocated for industrial material storage, also zoned as Heavy Industrial (HI). Lastly, to the west is single-family housing, zoned as MR-5.

Rezoning Request:

The applicant is seeking to rezone a parcel from MR-5 to HI/CZ. According to the applicant, the proposed amendment aligns with the comprehensive plan by conforming to existing land uses and designated as "High Suitability" for industrial activities. It addresses the need for expanding existing storage and supports a thriving local business while contributing to the city's tax base. The amendment is compatible with the surrounding vacant or applicant-operated uses, situated 110 feet from rail tracks, and follows the Long Range Plan's development pattern for the area. It won't encourage premature development, strip-style commercial development, or create an isolated zoning district. Moreover, it is not expected to have any significant adverse impacts on property values or the natural environment, given the nature of the stored goods and minimal traffic and noise associated with the use.

Conditional Zoning:

The request is to rezone the subject properties from MR-5 to HI/CZ.

The purpose of the CZ zoning district is "intended to provide a landowner and the City an

alternative to rezoning the land to a standard base zoning district, where the base zoning allows certain uses and development that may be appropriate but also allow uses and development that may not conform to City plans or would have adverse impacts on public facilities or surrounding lands. Reclassification of land to a conditional zoning district allows a landowner to propose, and the City Council to consider, additional conditions or restrictions on the range of allowable uses, use standards, development intensities, development standards, and other regulations applicable in the parallel base zoning district. This enables the City to tailor a zoning classification to accommodate desirable development while avoiding or addressing anticipated problems that may arise from development otherwise allowed by the base zoning district.”

Specifics of this Conditional Zoning:

The properties will be recombined and include a 10-foot-wide vegetative buffer along the western and southern portions that abut MR-5. There will also be a 6-foot-high solid concrete wall along the same property lines along the western and southern boundary.

Land Use Plan Analysis:

This expansion serves as a response to changed conditions, providing essential space for outside storage and positively impacting the community by supporting economic development recruitment efforts and increasing the city's tax base. The inclusion of a vegetative buffer, a 6-foot-high wall, and regular watering of the storage yard will safeguard the nearby housing from noise and dust.

Moreover, the proposed amendment won't encourage premature development, since most of the area is already zoned Heavy Industrial. Importantly, it will not result in strip-style commercial development or create an isolated zoning district unrelated to adjacent areas. In terms of property values and the natural environment, it should not have any significant adverse impacts, as the inert storage use will not produce harmful substances or noise, and this type of use already exists in the immediate vicinity, potentially increasing land and tax values.

Consistency and Reasonableness Statements:

The Future Land Use Plan includes defined goals, policies, and strategies. This application aligns with the city's strategic growth strategies and fulfills the goals outlined in the attached Consistency and Reasonableness form.

Budget Impact:

While there won't be an immediate budgetary impact, this rezoning will have an economic impact in the future as it will lead to the collection of taxes.

Options:

1. Recommend approval of the map amendment to HI/CZ 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. 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 HI/CZ 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 uses permitted by the proposed change in zoning district classification and standards 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. District Standards
8. Consistency and Reasonableness Statement
9. Site Plan

8/21/2023

Craig,

Included is the packet per the portal. As you see, the land is designated for Industrial, the surrounding land use is either vacant, industrial or rail. This is a perfect location for inert, liquid free storage addition to the existing use. Please contact me if there are any problems. As usual, a pleasure working with you.

Tom

AFFIDAVIT OF OWNERSHIP

I, Bob Allen Jr, being duly sworn, deposes and says:

1. That I am the owner of the property/properties located at 1009 & 1005 in the City of Fayetteville, a political subdivision of the State of North Carolina.

2. I do hereby give permission to Thomas Lloyd 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 _____.

Bob Allen Jr
Signature of Affiant

Signature of Affiant

Cumberland County, North Carolina

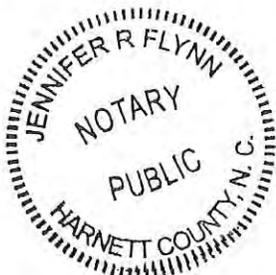
Sworn to and subscribed before me this day on the 20 day of October, 2023

Jennifer R. Flynn
Signature of Notary Public

(Official Seal)

Jennifer R. Flynn, Notary Public
Printed Name of Notary Public

My Commission Expires: 11/25/27



Plan Review Submittal

Application

Upload Files

Fees

Confirm and Submit

Confirm Your Application

 Print

Please review your application below for accuracy and use the edit button to make corrections if necessary.



Planning & Zoning

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

Project Overview

#1149329

Project Title: North Street Rezoning

Jurisdiction: City of Fayetteville

Application Type: 5.2) Conditional Rezoning

State: NC

Workflow: Staff Review

County: Cumberland

Project Location

Project Address or PIN: 0,1009, 1015 NORTH STREET (Unverified)

Zip Code: 28301

GIS Verified Data

Property Owner:

Acreage:

Zoning District:

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

Proposed Conditional Zoning District: HI/CZ -
Conditional Heavy Industrial

Lot or Site Acreage to be rezoned: 1.25

Was a neighborhood meeting conducted?: No

Date of Neighborhood Meeting:

Number of Residential Units: 0

Nonresidential Square Footage: 0

Landowner Information

Landowner Name: DRA, LLC

Deed Book and Page Number: see attached

Written Description of Request - Answer all the questions under this section (upload additional sheets as needed).

A) Describe the proposed use of the rezoned land, including the proposed types of site improvements, buildings, uses, proposed activities, hours of operation, and operating characteristics.:

The proposed use is outside storage for FayBlock. the only site improvement will be grading. The activity will be minimal intermittent placement or retrieval of block, between 8:00 AM and 6:00 PM.

B) Describe the proposed conditions that should be applied.:

These will be re-combined with a 10 foot wide vegetative buffer along the western and southern portion which abut MR5. There will also be a 6 foot high solid concrete wall along the same property lines along the western and southern boundary. The storage yard will be watered down as needed to prevent dust from escaping the site.

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

The zoning to the north of the site and across the street are both zoned HI. The adjacent property is used for outside storage of concrete block as is the lot across the street which stores trucks. The land adjacent to the west and south are zoned MR and the land to the west has housing separated by a wooded buffer. The southern adjacent land is wooded and vacant.

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.:

Consistent with Long Range Plan which calls for "High suitability" for Industrial Suitability.

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

Expansion of existing outside storage due to growth of the industry.

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

Aids an existing, viable industry, which helps our economic development recruiting, efforts and also increases the City's tax base.

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.:

There is some residential separated by woodland, but the remainder of the area is either Heavy Industrial or rail which is 110 feet away and adds to the viability of this area as suitable for Heavy Industrial zoning. The vegetative buffer, 6 foot high wall and periodic watering of the storage yard will protect the housing to the west from and noise or dust.

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

The Long-Range plan calls for this type of development pattern in this area and is an orderly extension of adjacent property into an area of similar vacant land.

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

As stated above, the Plan calls for this type of development pattern in the area and most of it is already zoned HI, with most of it developed as outside storage

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

It doesn't

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.:

It doesn't

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

It will not decrease land value as this type of use already exist in the immediate vicinity. It should increase it and the tax base. It will not decrease any residential value as Industry is already present adjacent to the residential.

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

No adverse affect as use is inert storage and will not produce liquid, fumes or noise.

Primary Contact Information

Contractor's NC ID#:

Project Owner

Kristen Allen
DRA, LLC
130 Builders Blvd.
Fayetteville, NC 28301
P: (Phone)9105743177
tom@franklinjohnsoncommercial.com

Project Contact - Agent/Representative

Thomas Lloyd

1100 Clarendon Street, 611

Fayetteville, NC 28305

P: (Phone)9105743177

tom@franklinjohnsoncommercial.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:

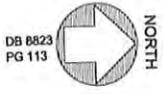
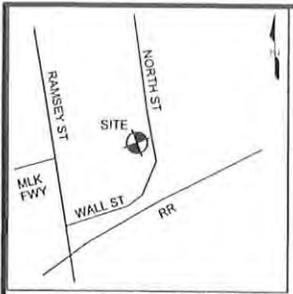
Indicate which of the following project contacts should be included on this project:

- I, acting as the agent for the owner/developer/organization hereby certify that I have their approval and that the information submitted is true. I understand that my failure to address any item listed shall result in the application being returned to me for revision/resubmission prior to review. In the event that any information is found to be false any decision rendered may be revoked at any time.

By checking the box, I am providing my electronic signature indicating that I have read and understand the above statement.

Confirm

Edit



Vicinity Map
(Not to Scale)

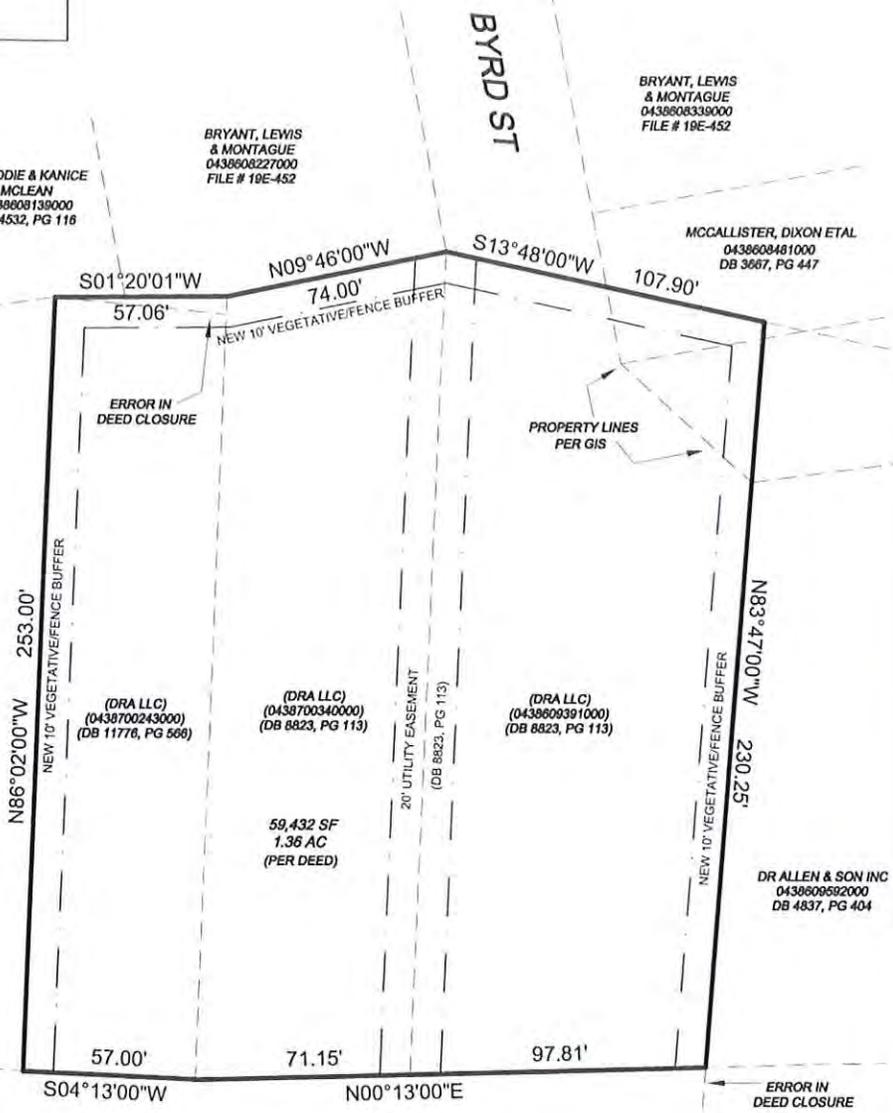
FREDDIE & KANICE
MCLEAN
0438608138000
DB 4532, PG 116

BRYANT, LEWIS
& MONTAGUE
0438608227000
FILE # 19E-452

BRYANT, LEWIS
& MONTAGUE
0438608339000
FILE # 19E-452

MCCALLISTER, DIXON ETAL
0438609461000
DB 3667, PG 447

CLARA JOHNSON
LIFE ESTATE
0438700147000
DB 5190, PG 820

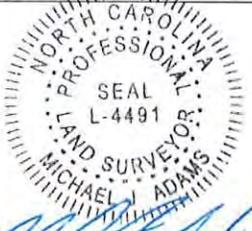


NORTH STREET
PUBLIC RW VARIES

BOUNDARY PLOT

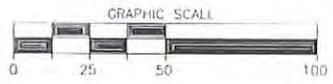
PROPERTY OF: DRA LLC
ADDRESS: NORTH ST
CITY: FAYETTEVILLE, NC
COUNTY: CUMBERLAND
TAX PIN: SEE MAP

TOWNSHIP: CROSS CREEK
DATE: OCTOBER 25, 2023
SCALE: 1" = 50'
REFERENCE: DB 8823, PG 113
DB 11776, PG 566



MICHAEL J. ADAMS
P.L.S.-L-4491
C.F.S. NC-075

M.A.P.S. SURVEYING, INC.
C-2589
216 MASON ST
FAYETTEVILLE, NC 28301
PHN: (910)484-6432
MAPS@MAPSSURVEYING.COM
DRAWN BY: MJA



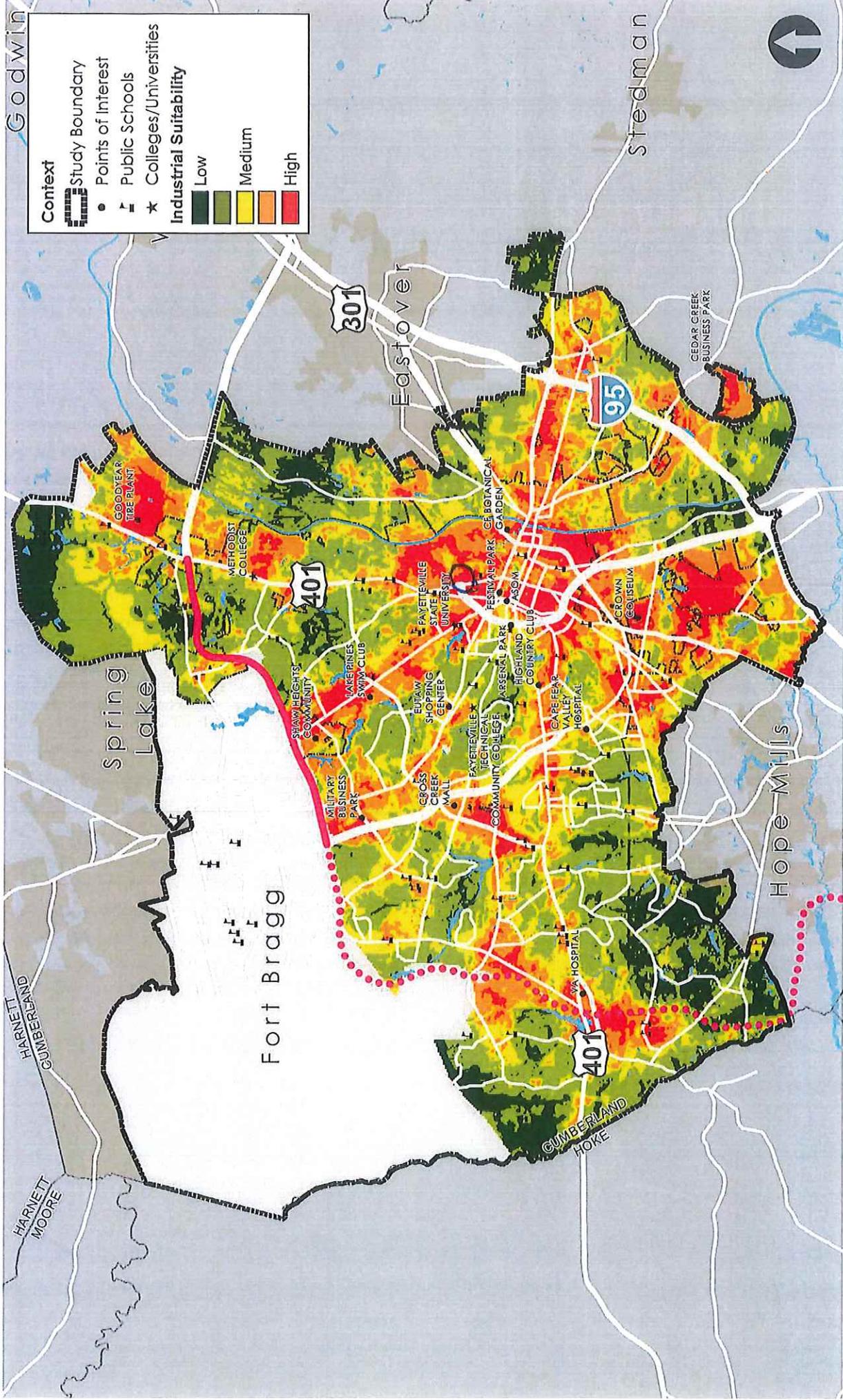
THIS MAP HAS BEEN DRAWN FROM DEEDS/PLATS OF RECORD. NO PHYSICAL SURVEY HAS BEEN PERFORMED AT THIS TIME. THE SURVEYOR MAKES NO ASSUMPTION OR CLAIM TO DEED ERRORS, PHYSICAL CONDITIONS, OR OTHER MATTERS THAT WOULD BE REVEALED BY AN ACCURATE AND CURRENT SURVEY.

Context

- Study Boundary
- Points of Interest
- Public Schools
- Colleges/Universities

Industrial Suitability

- Low
- Medium
- High



INDUSTRIAL SUITABILITY

8823
0113

OK 08823 PG 0113

TRACTS
1+2

FILED
 CUMBERLAND COUNTY NC
 J. LEE WARREN, JR.
 REGISTER OF DEEDS

FILED Feb 01, 2012
 AT 04:00:00 pm
 BOOK 08823
 START PAGE 0113
 END PAGE 0115
 INSTRUMENT # 04036
 RECORDING \$26.00
 EXCISE TAX \$20.00

DJ

NORTH CAROLINA GENERAL WARRANTY DEED

Excise Tax: \$20.00

Parcel Identifier Nos. 0438-60-9391 and 0438-70-0340 Verified By _____ County on
 the ___ day of _____ 20___
 By _____

Mail to: Anne M. Evans, Esq., McCoy Wiggins Cleveland & O'Connor PLLC, P.O. Box 87009,
 Fayetteville, NC 28304-7009

This Instrument was prepared by: Anne M. Evans, Esq., McCoy Wiggins Cleveland & O'Connor PLLC

Brief description for the Index: Two lots, North Street

THIS DEED made this 31st day of January, 2012, by and between

GRANTOR	GRANTEE
Walker Johnson, Jr. (aka Walker Jr. Johnson) and wife, Margaret Smith Johnson 4616 Desert Road Parkton, NC 28371	DRA, LLC, a North Carolina limited liability company 130 Builders Boulevard Fayetteville, NC 28301

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 _____ Township, Cumberland County, North Carolina and more particularly described as follows:

See Exhibit A attached hereto and incorporated herein by reference.

The Property hereinabove described was acquired by Grantor by instrument recorded in Book 4774, Page 304, Cumberland County, North Carolina, Public Registry.

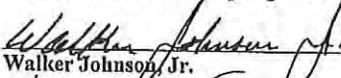
A map showing the above described property is recorded in Plat Book _____, Page _____, Cumberland County, North Carolina, Public Registry.

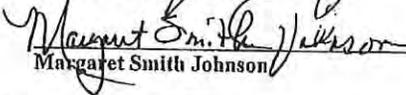
TO HAVE AND TO HOLD the aforesaid lots or parcels of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, the 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:

1. 2012 Cumberland County ad valorem taxes;
2. Easements, restrictions and rights of way of record in the Cumberland County, NC, Public Registry.

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

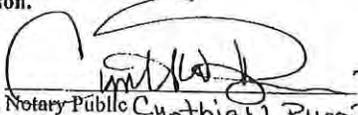
 (SEAL)
Walker Johnson, Jr.

 (SEAL)
Margaret Smith Johnson

STATE OF NORTH CAROLINA
COUNTY OF CUMBERLAND

I, the undersigned Notary Public, certify that the following persons ("Principals") personally appeared before me this day and I have personal knowledge of the identity of the Principals or have seen satisfactory evidence of the Principals' identity by a current state or federal identification with the Principals' photograph in the form of a driver's license or a credible witness has sworn to the identity of the Principals, with the Principals acknowledging to me that he/she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Name of Principals:
Walker Johnson, Jr. and wife, Margaret Smith Johnson.

Date: January 31, 2012.


Notary Public Cynthia W. Burris

My Commission Expires: 11-29-2013

[SEAL]

(N.P. SEAL)

Exhibit A

(attached to and incorporated into the Deed dated January 31, 2012 from Walker Johnson, Jr. aka Walker Jr. Johnson and wife, Margaret Smith Johnson, Grantor, to DRA, LLC, Grantee)

STATE OF NORTH CAROLINA

COUNTY OF CUMBERLAND

TRACT ONE:

BEGINNING at an iron stake in the western margin of North Street, George W. Brown's northeast corner, as described in Deed Book 188, Page 145, Cumberland County Registry, and runs thence with Brown's line North 86 degrees 02 minutes West 255.87 feet to an iron stake at the mouth of a small ditch where it enters the old canal; thence with said canal, North 9 degrees 46 minutes West 74 feet to an iron stake, at a manhole, the center of a 20 foot utility easement; thence with the center of said 20 foot utility easement, South 85 degrees 51 minutes East 268.89 feet to an iron stake in the western margin of North Street; thence with the western margin of North Street, South 0 degrees 13 minutes West 71.15 feet TO THE PLACE AND POINT OF BEGINNING.

0438 700340

TRACT TWO:

BEGINNING at a stake in the western margin of North Street, the northeast corner of the original one acre tract of which this is a part, as described in a deed recorded in Book 79, Page 550, Cumberland County Registry, being also the southeast corner of the McAllister property, as described in a deed recorded in Book 1096, Page 411, Cumberland County Registry, and running thence with the northern line of the original tract of which this is a part North 83 degrees 47 minutes West 243.81 feet to an iron stake on the north side of the base of a large oak tree; thence, continuing said call North 83 degrees 47 minutes West 14 feet to an iron stake, the northwest corner of the tract of which this is a part; thence South 13 degrees 48 minutes West 107.90 feet to a manhole, the center of a 20 foot easement; thence with the center of said easement South 85 degrees 51 minutes East 268.89 feet to an iron stake in the western margin of North Street, said line being also the northern line of the lot heretofore conveyed to James Brayboy as hereinbefore referred to; thence with the western margin of North Street North 0 degrees 13 minutes East 97.81 feet to an iron stake. The southern ten feet of the above described property is included as the northern portion of a 20 foot utility easement.

0438 60 9391

TITLE REFERENCE: See Deed recorded in Book 3052, Page 787, Cumberland County Registry, North Carolina.

TRACT
3

FILED	Jul 12, 2023
AT	03:53:02 PM
BOOK	11776
START PAGE	0566
END PAGE	0569
INSTRUMENT #	21699
RECORDING	\$26.00
EXCISE TAX	\$33.00

Prepared by: Jesse C. Tally
 Tally and Tally, Attorneys and Counselors at Law, PLLC
 Mail to: Person & Lee, PLLC, 231 Fairway Dr. Fayetteville, NC 28305

NORTH CAROLINA Revenue \$33.00

CUMBERLAND COUNTY WARRANTY DEED

THIS DEED, made this the 12th day of June, 2023, by and between **The Estate of William Vance Cain, also known as Billy V. Cain, a North Carolina Estate, and Robert Goodrich and wife Edna B. Goodrich**, collectively hereinafter called GRANTOR; and **DRA, LLC, a North Carolina Limited Liability Company, 130 Builders Blvd. Fayetteville, NC 28301**, hereinafter called GRANTEE;

WITNESSETH:

That the GRANTOR, for and in consideration of the sum of Ten Dollars and other valuable considerations to it paid by the GRANTEE, the receipt of which is hereby acknowledged, has given, granted, bargained, sold and conveyed, and by these presents does give, grant, bargain, sell and confirm unto the GRANTEE, and its successors and assigns, certain property located in the CITY OF FAYETTEVILLE, TOWNSHIP, CUMBERLAND COUNTY, STATE OF NORTH CAROLINA, and more particularly described as follows:

2023 PIN NUMBER: 0438-70-0243-

SEE ATTACHED EXHIBIT "A" FOR LEGAL DESCRIPTION.

The above lot is conveyed subject to the year 2023 ad valorem taxes that are to be prorated as of the date of closing.

No part of the land conveyed is the principal residence of the GRANTOR.

TO HAVE AND TO HOLD the above described premises, together with all the appurtenances

Submitted electronically by "Person & Lee PLLC"
 in compliance with North Carolina statutes governing recordable documents
 and the terms of the submitter agreement with the Cumberland County Register of Deeds.

thereunto belonging, or in any wise appertaining, unto the GRANTEE, and its successors and assigns, forever.

And the GRANTOR covenants that it is seized of said premises in fee simple and has the right to convey the same in fee simple; title to the property is marketable and that the said premises are free from encumbrances, other than restrictive covenants and easements appearing of record, and that it will warrant and defend the title to the same against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF, Grantor has duly executed this North Carolina General Warranty Deed, and if an entity by its duly authorized representative.

Estate of William Vance Cain, also known as Billy V. Cain

BY: Elizabeth C. Uxer (SEAL)
Elizabeth Cain Uxer, Executrix



SEAL-
STAMP

State of Ohio
Greene County

I, Eric Gove, a Notary Public for said county and state, do hereby certify ELIZABETH CAIN UXER, EXECUTRIX of THE ESTATE OF WILLIAM VANCE CAIN, a North Carolina estate, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

This the 12 day of June, 2023.

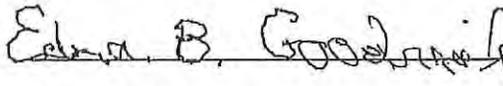
My commission expires: 12 / 08 / 25

Eric Gove Notary Public

additional signature page for the General Warranty Deed By and Between The Estate of William Vance Cain, also known as Billy V. Cain, and Robert Goodrich, Grantors, and DRA, LLC, Grantee

IN WITNESS WHEREOF, this deed the day and year first above written.

 _____ (SEAL)
Robert Goodrich

 _____ (SEAL)
Edna B. Goodrich

State of North Carolina

SEAL-
STAMP

Cumberland County

I, Jesse Cowles Tally, a Notary Public for said county and state, do hereby certify ROBERT GOODRICH and EDNA B. GOODRICH, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

This the 5th day of July, 2023.

My commission expires: 11 / 09 / 2024

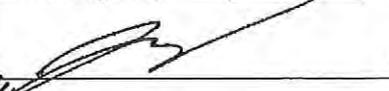
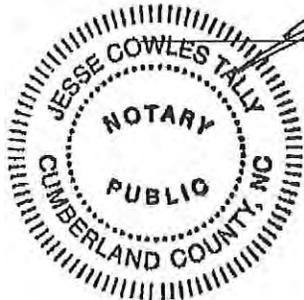
 _____ Notary Public


EXHIBIT "A"

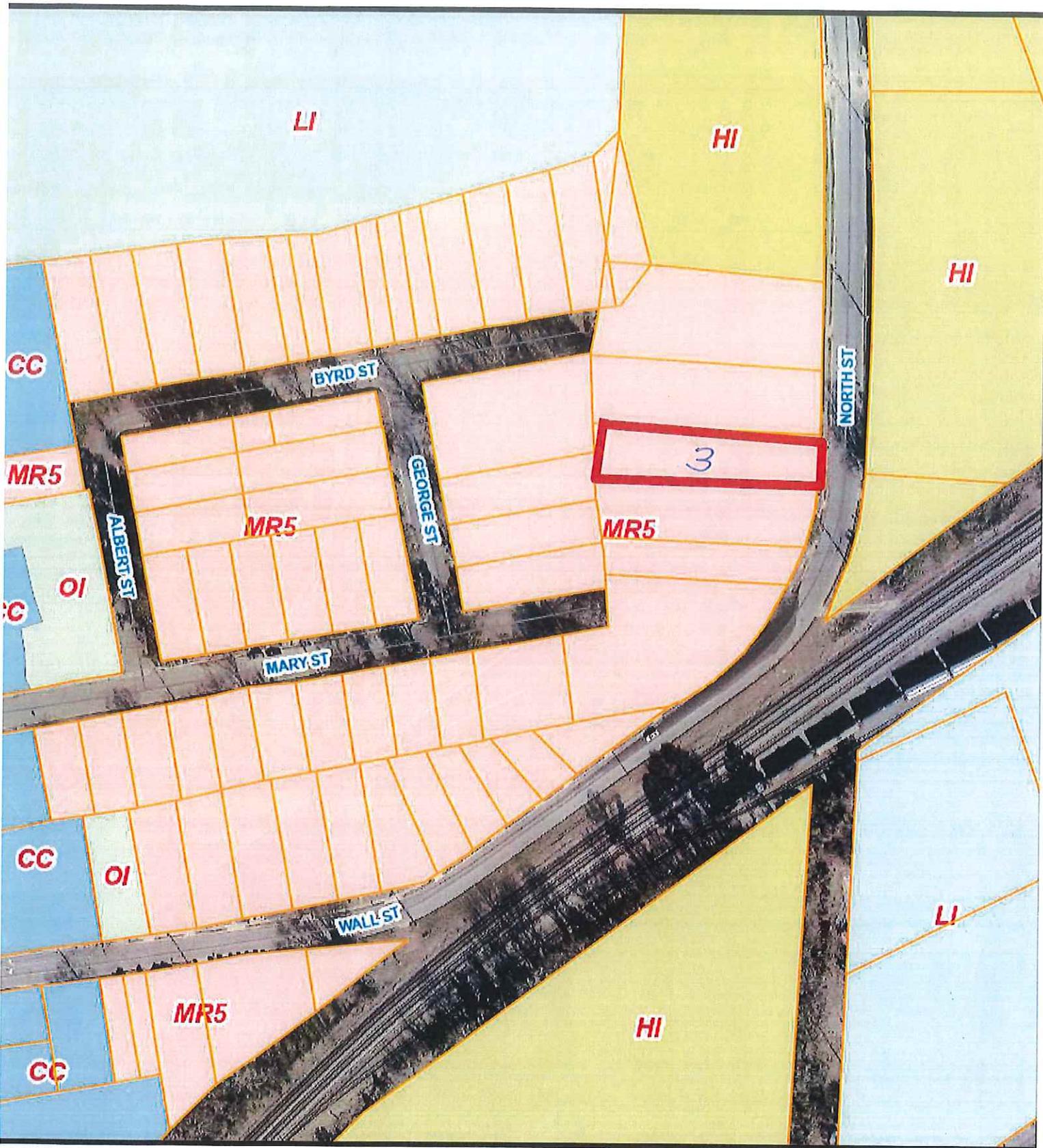
Legal Description

Parcel ID: 0438-70-0243

On the west side of North Street extended, and beginning at the mouth of the ditch where it runs into the canal at Evander Barney's South West corner and the North West corner of the tract of which this description is a part, and runs, with the said ditch along the Barney line S. 87 degrees 40' East 250 feet to the West edge of North Street extended; thence S 2 degrees 35' West along West edge of North Street 57 feet to a stake; thence North 87 degrees 40' West 257 feet to a stake in the edge of the canal; thence along the canal 57 feet to the beginning, and being the same lands described in the deed from E.G. Grady to Geo. W. Browne dated February 11, 1916 and recorded in Book C #9, at Page 145, Cumberland County Registry, the parties hereto being the widow and all of the heirs at law of the said Geo. W. Browne.

And being the same property conveyed to Robert Goodrich and Billy V. Cain via Bargain and Sale Deed located at Deed Book 7045, Page 339, Cumberland County, North Carolina Registry.

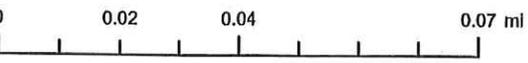
For further reference see Deed Book 5445, Page 579, Cumberland County Registry. Also see Estate of Willaim Vance Cain, Cumberland County Clerk of Superior Court Estate File #: 20-E-485.



Current Time: 8/21/2023 3:51 PM

THE COUNTY OF CUMBERLAND AND ITS GIS DEPARTMENT
 DISCLAIMS ACCOUNTABILITY FOR THIS PRODUCT AND MAKES NO
 WARRANTY EXPRESSED OR IMPLIED CONCERNING THE ACCURACY
 THEREOF. RESPONSIBILITY FOR INTERPRETATION OF THIS
 PRODUCT LIES WITH THE USER.

Fayetteville Zoning	
Parcels	LI LI
CC CC	MR5 MR5
HI HI	OI OI
	Streets



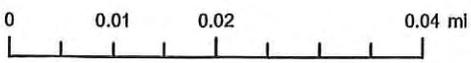


Current Time: 8/14/2023 4:30 PM



THE COUNTY OF CUMBERLAND AND ITS GIS DEPARTMENT DISCLAIMS ACCOUNTABILITY FOR THIS PRODUCT AND MAKES NO WARRANTY EXPRESSED OR IMPLIED CONCERNING THE ACCURACY THEREOF. RESPONSIBILITY FOR INTERPRETATION OF THIS PRODUCT LIES WITH THE USER.

	Parcels
	Addresses
	Streets



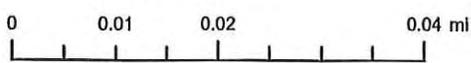


Current Time: 8/16/2023 1:44 PM



	Parcels
	Addresses
	Streets

THE COUNTY OF CUMBERLAND AND ITS GIS DEPARTMENT
 DISCLAIMS ACCOUNTABILITY FOR THIS PRODUCT AND MAKES NO
 WARRANTY EXPRESSED OR IMPLIED CONCERNING THE ACCURACY
 THEREOF. RESPONSIBILITY FOR INTERPRETATION OF THIS
 PRODUCT LIES WITH THE USER.



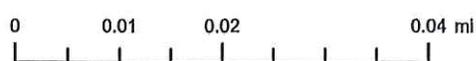


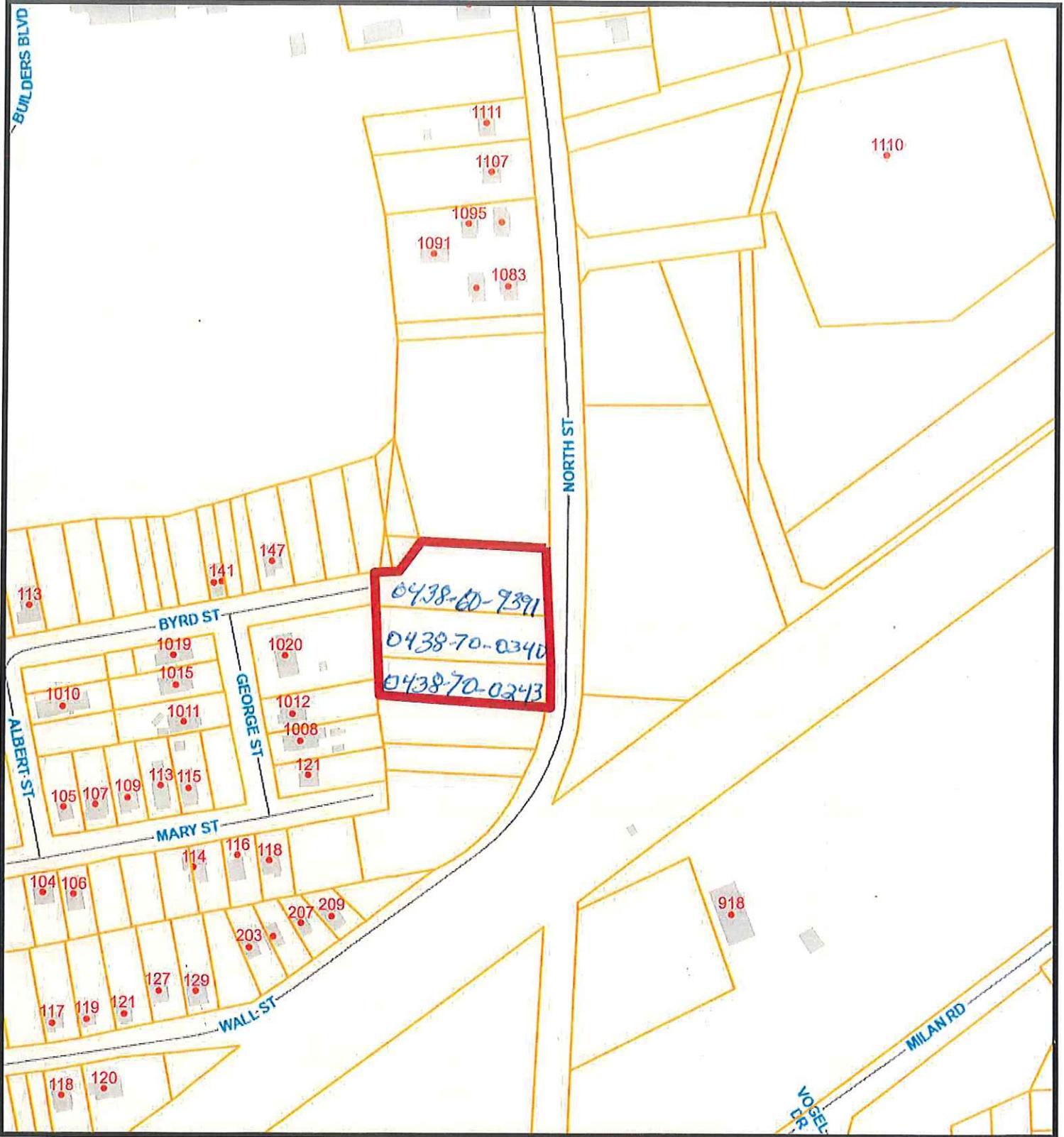
Current Time: 8/16/2023 1:46 PM



- Parcels
- Addresses
- Streets

THE COUNTY OF CUMBERLAND AND ITS GIS DEPARTMENT
 DISCLAIMS ACCOUNTABILITY FOR THIS PRODUCT AND MAKES NO
 WARRANTY EXPRESSED OR IMPLIED CONCERNING THE ACCURACY
 THEREOF. RESPONSIBILITY FOR INTERPRETATION OF THIS
 PRODUCT LIES WITH THE USER.

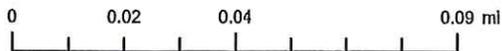


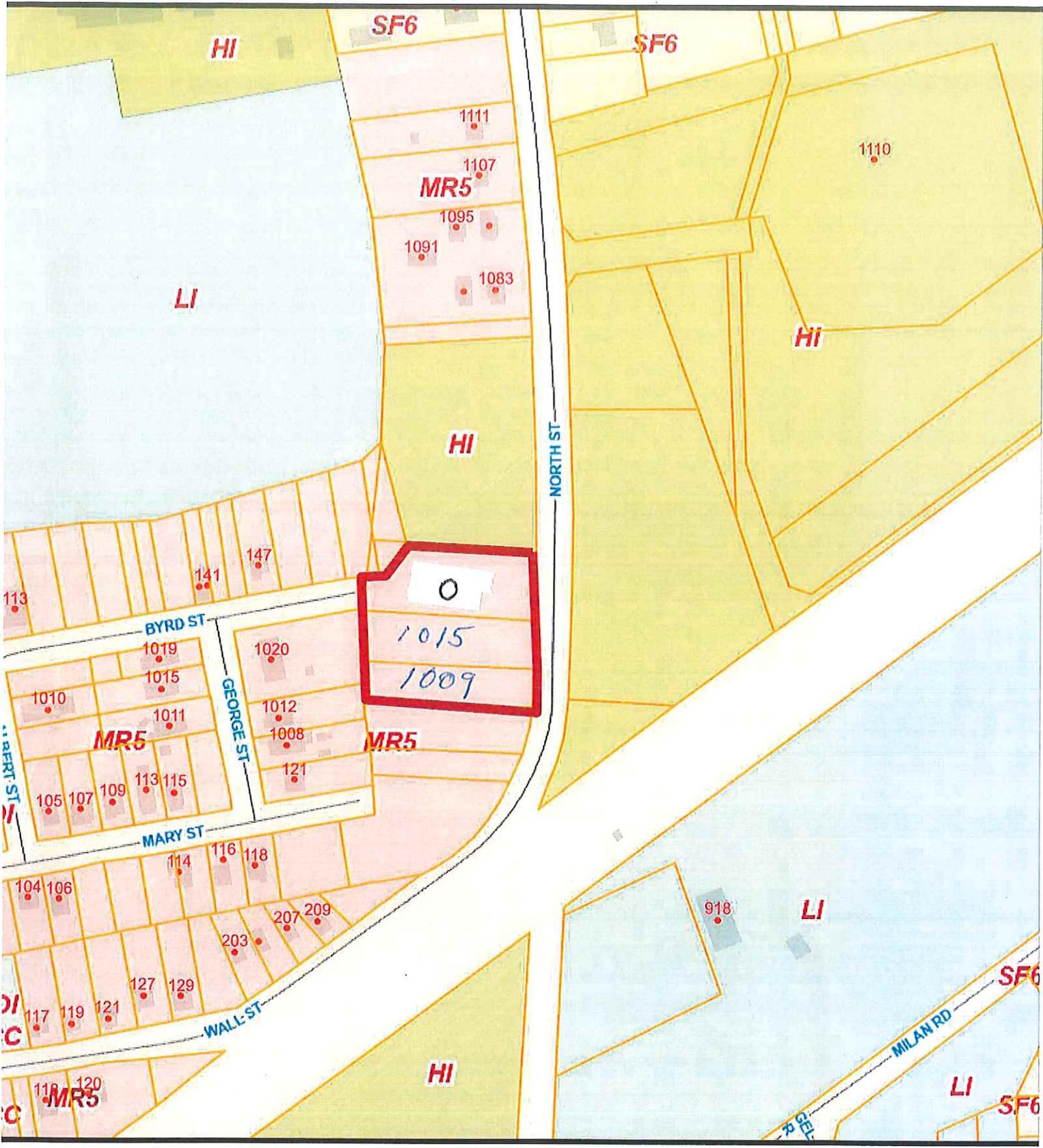


Current Time: 8/13/2023 2:21 PM

THE COUNTY OF CUMBERLAND AND ITS GIS DEPARTMENT DISCLAIMS ACCOUNTABILITY FOR THIS PRODUCT AND MAKES NO WARRANTY EXPRESSED OR IMPLIED CONCERNING THE ACCURACY THEREOF. RESPONSIBILITY FOR INTERPRETATION OF THIS PRODUCT LIES WITH THE USER.

- Parcels
- Addresses
- Streets

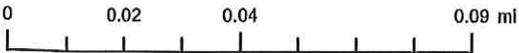


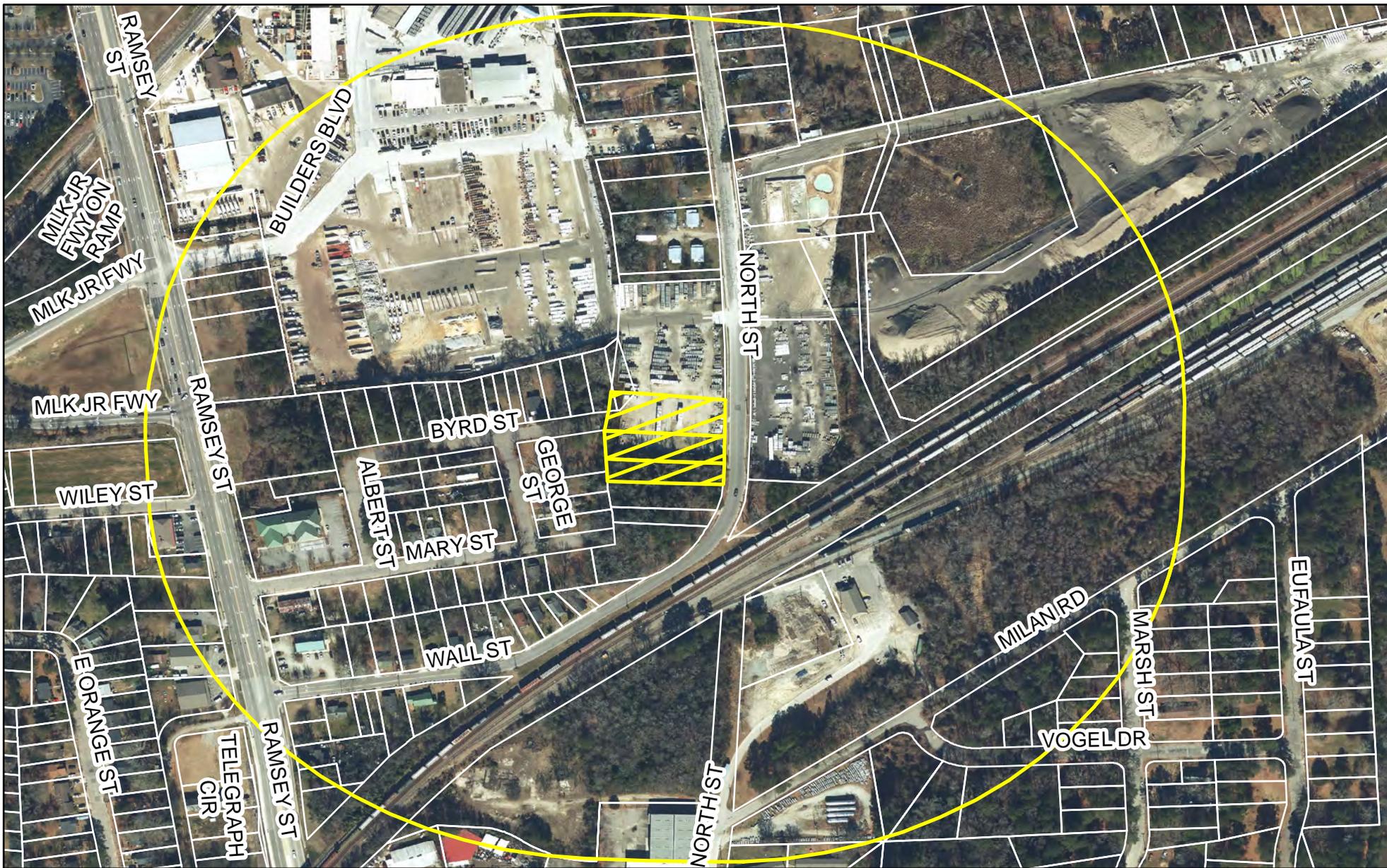


Current Time: 8/13/2023 2:22 PM

THE COUNTY OF CUMBERLAND AND ITS GIS DEPARTMENT DISCLAIMS ACCOUNTABILITY FOR THIS PRODUCT AND MAKES NO WARRANTY EXPRESSED OR IMPLIED CONCERNING THE ACCURACY THEREOF. RESPONSIBILITY FOR INTERPRETATION OF THIS PRODUCT LIES WITH THE USER.

Fayetteville Zoning	
Parcels	LI LI
Addresses	MR5 MR5
CC CC	OI OI
HI HI	SF6 SF6
	Streets





Aerial Notification Map

Case #: P23-39

Request: Rezoning Mixed Residential 5 (MR-5) to Heavy Industrial (HI)

Location: 1009, 1015, & 0 North St.

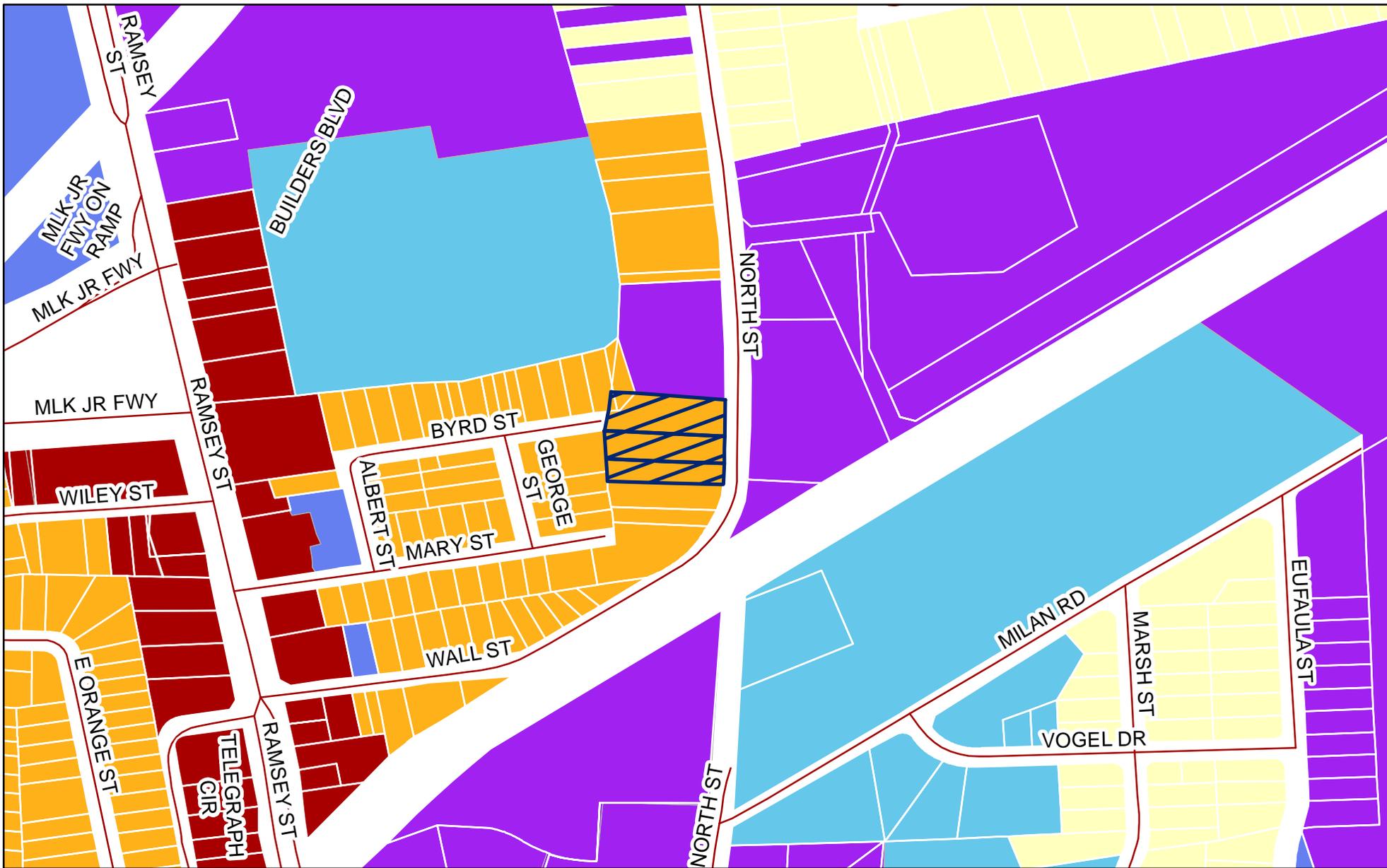
Legend

-  P23-39 Buffer
-  P23-39



Letters are being sent to all property owners within the 1,000' buffer. Subject property is shown in the hatched pattern.





Zoning Map

Case #: P23-39

Request: Rezoning Mixed Residential 5 (MR-5) to Heavy Industrial (HI)

Location: 1009, 1015, & 0 North St.

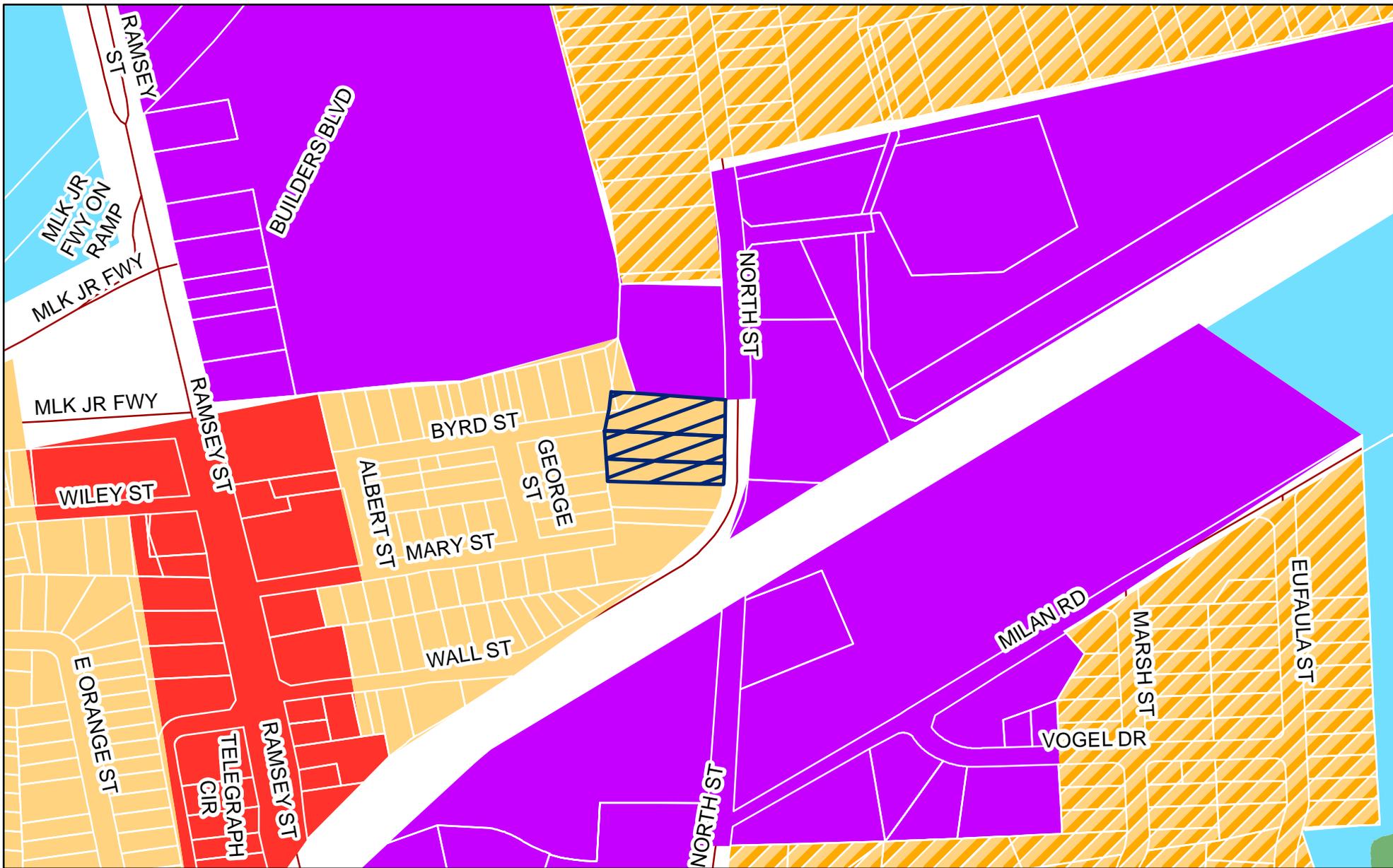
Legend

-  P23-39
-  CC - Community Commercial
-  HI - Heavy Industrial
-  LI - Light Industrial
-  MR-5 - Mixed Residential 5
-  OI - Office & Institutional
-  SF-6 - Single-Family Residential 6



Letters are being sent to all property owners within the 1,000' buffer. Subject property is shown in the hatched pattern.





Future Land Use Map

Case #: P23-39

Request: Rezoning Mixed Residential 5 (MR-5) to Heavy Industrial (HI)

Location: 1009, 1015, & 0 North St.

Legend



P23-39

Land Use Plan 2040

Character Areas

PARKOS - PARK / OPEN SPACE

MDR - MEDIUM DENSITY

NIR - NEIGHBORHOOD IMPROVEMENT

HC - HIGHWAY COMMERCIAL

OI - OFFICE / INSTITUTIONAL

EC - EMPLOYMENT CENTER

Letters are being sent to all property owners within the 1,000' buffer. Subject property is shown in the hatched pattern.





Surrounding Properties



PART II - CODE OF ORDINANCES

CHAPTER 30 – UNIFIED DEVELOPMENT ORDINANCE

Article 30-3: Zoning Districts

30-3.E. Business Base Zoning Districts

30-3.E.9. Heavy Industrial (HI) District

HI HEAVY INDUSTRIAL DISTRICT	PURPOSE	
	The Heavy Industrial (HI) District is established and intended to accommodate heavy manufacturing, assembly, fabrication, processing, distribution, storage, research and development, and other industrial uses that may be large-scale or otherwise have extensive exterior movement of vehicle, materials, and goods, and greater potential for adverse environmental and visual impacts.	
DIMENSIONAL STANDARDS		
DIMENSIONAL STANDARD	PRINCIPAL USES	ACCESSORY STRUCTURES
Lot area, min. (sq. ft.)	40,000	n/a
Lot width, min. (ft.)	100	n/a
Lot coverage, max. (% of lot area)	75	[1]
Height, max. (ft.)	90; 50 when abutting a single-family residential district	
Front and corner setback, min. (ft.)	The lesser of: 50 feet or 75 feet from street centerline of private streets	Not allowed in front, side, or corner side yard areas
Side setback, min. (ft.)	15; 100 where abutting a residential zoning district	
Rear setback, min. (ft.)	20; none where abutting a railroad right- of-way; 50 where abutting a residential zoning district	5; 75 where abutting a residential zoning district
Spacing between buildings, min. (ft.)	20	5
NOTES:		
[1] Accessory structures/use areas shall not exceed the lesser of: 5,000 square feet in size or 30 percent of the allowable lot coverage.		

Figure 30-3.E.9.a:
HI Typical Lot Pattern

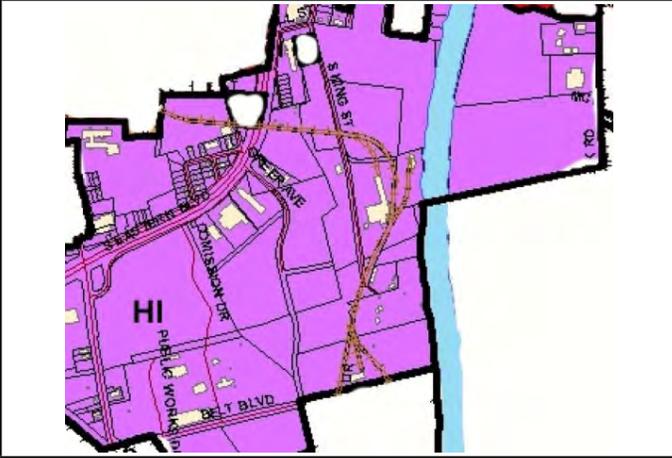
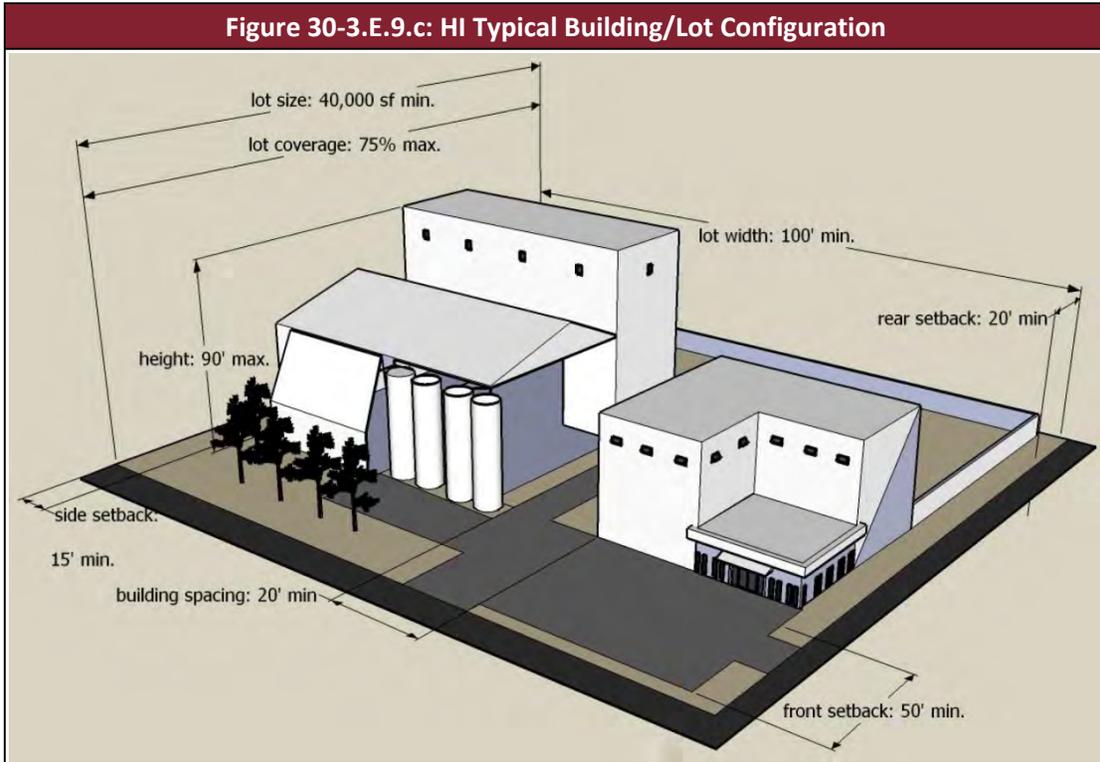


Figure 30-3.E.9.b:
HI Typical Building Form



Figure 30-3.E.9.c: HI Typical Building/Lot Configuration



(Ord. No. S2011-014, § 1.3, 11-28-2011; Ord. No. S2012-001, Pt. 3, § 3.2, 1-23-2012)

Effective on: 11/18/2013

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 P23-49 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 investments 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	
1.7: Encourage a logical progression of housing development and discourage “leapfrog” development.	X	
LUP 3: Encourage redevelopment along underutilized commercial strip corridors and reinvestment in distressed residential neighborhoods.	X	
3.2: Identify potential barriers for redevelopment and reinvestment and provide flexibility through modification to development regulations while maintaining high standards.	X	
LUP 4: Create well-designed and walkable commercial and mixed-use districts	X	
4.2: Encourage context-sensitive 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		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.

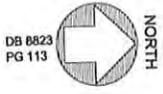
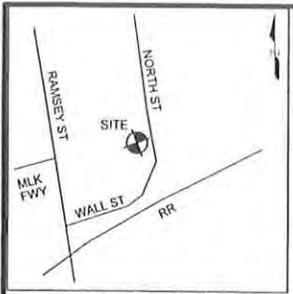
Additional comments, if any (write-in):

November 14, 2023

Date

Chair Signature

Print



Vicinity Map
(Not to Scale)

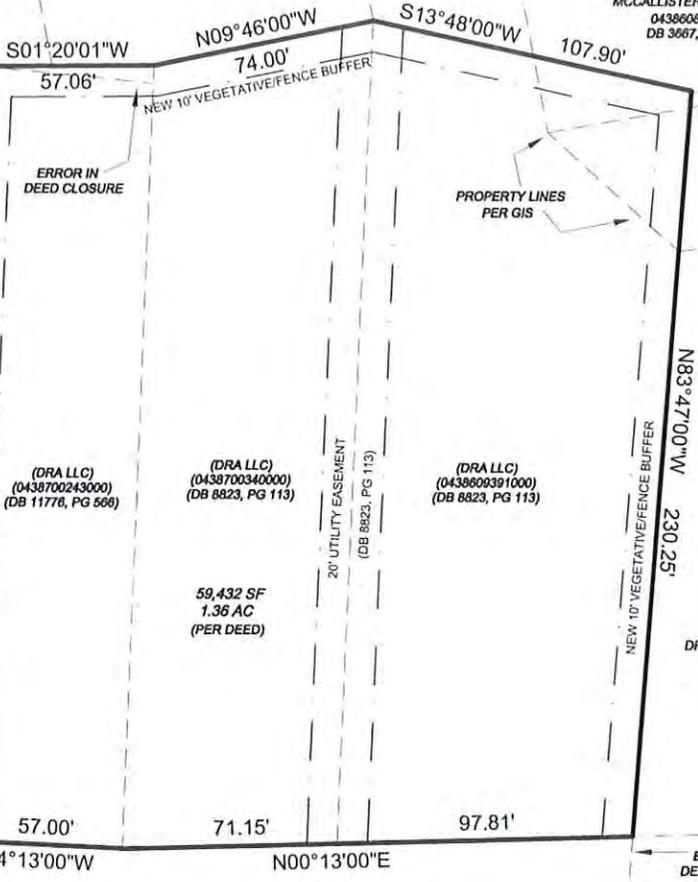
FREDDIE & KANICE
MCLEAN
0438608138000
DB 4532, PG 116

BRYANT, LEWIS
& MONTAGUE
0438608227000
FILE # 19E-452

BRYANT, LEWIS
& MONTAGUE
0438608339000
FILE # 19E-452

MCCALLISTER, DIXON ETAL
0438609461000
DB 3667, PG 447

CLARA JOHNSON
LIFE ESTATE
0438700147000
DB 5190, PG 820

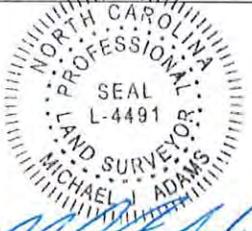


NORTH STREET
PUBLIC RW VARIES

BOUNDARY PLOT

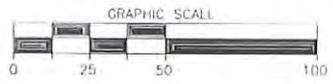
PROPERTY OF: DRA LLC
ADDRESS: NORTH ST
CITY: FAYETTEVILLE, NC
COUNTY: CUMBERLAND
TAX PIN: SEE MAP

TOWNSHIP: CROSS CREEK
DATE: OCTOBER 25, 2023
SCALE: 1" = 50'
REFERENCE: DB 8823, PG 113
DB 11776, PG 566



MICHAEL J. ADAMS
PLS-L-4491
CFS NC-075

M.A.P.S SURVEYING, INC.
C-2589
216 MASON ST
FAYETTEVILLE, NC 28301
PHN: (910)484-6432
MAPS@MAPSSURVEYING.COM
DRAWN BY: MJA



THIS MAP HAS BEEN DRAWN FROM DEEDS/PLATS OF RECORD. NO PHYSICAL SURVEY HAS BEEN PERFORMED AT THIS TIME. THE SURVEYOR MAKES NO ASSUMPTION OR CLAIM TO DEED ERRORS, PHYSICAL CONDITIONS, OR OTHER MATTERS THAT WOULD BE REVEALED BY AN ACCURATE AND CURRENT SURVEY.