



City of Fayetteville

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

Meeting Agenda - Final Zoning Commission

Tuesday, September 10, 2024

6:00 PM

FAST Transit Center

1.0 CALL TO ORDER

2.0 APPROVAL OF AGENDA

3.0 CONSENT

3.01 A24-34. Order of Approval - Findings of Facts - Variance to reduce the minimum front yard setback at 1512 Paisley Avenue (REID 0406567253000) and being the property of Andre and Brianna Outlaw.

3.02 A24-35. Order of Approval - Findings of Fact: Variance to reduce the minimum required lot size, minimum lot width, rear setback, and side setback for a lot in the Single Family Residential 10 (SF-10) zoning district, located at 0 McRae Drive (REID # 0427432094000)

3.03 Approval of Minutes: August 13, 2024

4.0 EVIDENTIARY HEARINGS

4.01 A24-40. Variance request for a large multi-building development identification sign in the MR-5 Zoning District, located at 5649 Bragg Blvd (REID #: 0419117547000), owned by MACPHERSON LLC.

4.02 A24-41. Variance to reduce the minimum rear yard setback at 810 S Eastern Boulevard (REID #0436775716000), and being the property of 301B45K, LLC.

5.0 PUBLIC HEARINGS (Public & Legislative)

5.01 P24-36. Rezoning from Downtown 2 (DT-2) to Downtown 2 Conditional (DT-2/CZ) located at 450 W Russell St (0437443242000) totaling 0.47 acres ± and being the property of Franklin Russell, LLC.

5.02 P24-37. Rezoning from Residential 6 (R6A) to Heavy Industrial (HI) located at 3424 Cumberland Road (0426015026000) totaling 2.47 acres ± and being the property of Kodjo Sam Kouassi.

5.03 P24-38. Rezoning from Single Family Residential 10 (SF-10) to Mixed Residential 5 (MR-5) located at 770 Ocarina Cir (0530203374000) totaling 7.10 acres ± and being the property of James E & Jane L Wood.

5.04 P24-39. Rezoning from Single-Family Residential 10 (SF-10) to Mixed Residential 5 (MR-5) located at 411 Jefferson Dr(0406880746000) totaling 0.32 acres ± and being the property of Sophia Rickard .

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: 24-4197

Agenda Date: 9/10/2024

Version: 1

Status: Agenda Ready

In Control: Zoning Commission

File Type: Consent

Agenda Number: 3.01

TO: Mayor and Members of City Council

THRU: Zoning Commission

**FROM: Will Deaton, MPA, AICP, CFM, CZO - Planning & Zoning Division
Manager
Heather Eckhardt, CZO - Planner II**

DATE: September 10, 2024

RE:

A24-34. Order of Approval - Findings of Facts - Variance to reduce the minimum front yard setback at 1512 Paisley Avenue (REID 0406567253000) and being the property of Andre and Brianna Outlaw.

COUNCIL DISTRICT(S):

7 - Brenda McNair

Relationship To Strategic Plan:

Strategic Operating Plan FY 2022

Goals 2027

Goal 2: Responsive City Government Supporting a Diverse and Viable Economy

- Objective 2.1: To ensure a diverse City tax base

Goal 4: Highly Desirable Place to Live, Work, and Recreate

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

Executive Summary:

The applicant is requesting a variance to reduce the minimum front yard setback from 30 feet to 25 feet.

The Zoning Commission voted unanimously to approve the variance request at their August meeting.

30.2.C.14 Variance:

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

Variances are to be sparingly exercised and only in rare instances or under exceptional circumstances to relieve undue and unique hardships to the landowner. No change in permitted uses or applicable conditions of approval may be authorized by variance.

Background:

Owner/Applicant: Andre & Brianna Outlaw

Requested Action: Reduce minimum front yard setback from 30 feet to 25 feet

Zoning District: Single Family Residential 10 (SF-10)

Property Address: 1512 Paisley Avenue

Size: .28 acres ±

Existing Land Use: Drive through restaurant

Surrounding Zoning and Land Uses

- North: SF-10 - Single family residential
- South: SF-10 - Single family residential
- East: SF-10 - Single family residential
- West: SF-10 - Vacant woodlands - previously Arran Lake

Letters Mailed: 22

Issues/Analysis:

The subject property is located within the Arran Lakes subdivision. This section of the Arran Lakes subdivision was platted in 1965. The single-family house was constructed in 1972 per Cumberland County tax records. The current owners purchased the property in 2022.

In February 2024, the City of Fayetteville's Code Enforcement division contacted the property owner regarding the construction of a front porch without the required building permit. Subsequently, the owner reached out to the Planning division regarding the process of obtaining a variance and began the process of obtaining a survey.

Section 30-3.D.3 of the City of Fayetteville's Unified Development Ordinance requires a 30 foot front yard setback from the front of a single family house to the front property line.

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 front yard setback from 30 feet to 25 feet. The newly constructed front porch encroaches into the front yard setback by 4.57 feet. Without an approved variance, the owner will need to reduce the size of the front porch.

The new porch is 23.6 feet wide and 7.9 feet deep. Prior to the construction of the new front porch, the house had a front stoop that was roughly 10 feet wide and 3 feet deep (without the stairs).

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 prior existing porch was failing and needed to be replaced. I was never made aware of the need for a permit from any of the companies I spoke to about repairing the porch. Once I finished the repairs, received the citation and submitted the permit, which was denied, I spoke to a gentleman in the zoning department who informed me my old porch was also likely out of compliance. Had I not replaced the porch injury would've resulted by using the front door. The front of my house is unreasonably close to the set back line; virtually any porch installed will likely violate the limit. My spouse is a disabled veteran, so using the garage as a permanent entry is not possible for her due to the difficulties associated with climbing the stairs from the basement to the main floor."

- 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 "There is a 45 degree decline walking down the driveway heading to the garage. Due to my spouse's disability walking down that hill then back up the stairs to access the main floor causes immense stress and discomfort. Not using the front door due to the existing home being non compliant even without a front porch is unrealistic."

- 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 "Previous front porch was 26 feet from setback line. current porch is approximately 23 feet from setback line. requesting a two feet exemption due to not having access to the front door without a front porch."

- 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 "Current front porch increases neighborhood average home value and regularly receives compliments."

- 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 extended porch and roof offers protection from the elements preventing mold buildup in the basement."

Budget Impact:

None

Options:

1. Approval of Findings of Fact as drafted
2. Remand draft to staff for revisions

Recommended Action:

Staff recommends option 1.

Attachments:

1. Application
2. Site Plan
3. Order of Findings of Fact

Project Overview
#1394841

Project Title: 1512 paisley ave
Application Type: 5.4) Variance
Workflow: Staff Review

Jurisdiction: City of Fayetteville
State: NC
County: Cumberland

Project Location

Project Address or PIN: 1512 PAISLEY AVE
 (0406567253000)

Zip Code: 28304

Is it in Fayetteville? [Click this link to the Cumberland County Tax Office GIS system](#)

GIS Verified Data

Business Name:
Downtown Historic District:

Project Address: 1512 PAISLEY AVE
Haymount Historic District:

Variance Request Information

Requested Variances: Minimum yard/setback

Section of the City Code from which the variance is being requested.: 30-3.D.3. Single-Family Residential 10 (SF-10) District

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

repaired a failing front porch to prevent injury. Portion of my porch are not within setback limits

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

SF-10 and residential in nature.

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 prior existing porch was failing and needed to be replaced. I was never made aware of the need for a permit from any of the companies I spoke to about repairing the porch. Once I finished the repairs, received the citation and submitted the permit, which was denied, I spoke to a gentleman in the zoning department who informed me my old porch was also likely out of compliance. Had I not replaced the porch injury would've resulted by using the front door. The front of my house is unreasonably close to the set back line; virtually any porch installed will likely violate the limit. My spouse is a disabled veteran, so using the garage as a permanent entry is not possible for her due to the difficulties associated with climbing the stairs from the basement to the main floor.

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.:

There is a 45 degree decline walking down the driveway heading to the garage. Due to my spouses disability walking down that hill then back up the stairs to access the main floor causes immense stress and discomfort. Not using the front door due to the existing home being non compliant even without a front porch is unrealistic.

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

Previous front porch was 26 feet from setback line. current porch is approximately 23 feet from setback line. requesting a two foot exemption due to not having access to the front door without a front porch.

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

Current front porch increases neighborhood average home value and regularly receives compliments.

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

The extended porch and roof offers protection from the elements preventing mold buildup in the basement.

Height of Sign Face : 10

Height of Sign Face: 10

Square Footage of Sign Face: 25

Height of Sign Face: 10

Square Footage of Sign Face : 25

Square Footage of Sign Face: 25

Primary Contact Information

Contractor's NC ID#:

Project Owner

andre outlaw

1512 PAISLEY AVE

FAYETTEVILLE, NC 28304

P:8562301796

dreoutlaw85@gmail.com

Project Contact - Agent/Representative

andre outlaw

1512 PAISLEY AVE
FAYETTEVILLE, NC 28304
P:8562301796
dreoutlaw85@gmail.com

**Project Contact - Primary Point of Contact for the
Unlicensed Contractor (under \$40,000 of total construction
cost)**

andre outlaw

1512 PAISLEY AVE
FAYETTEVILLE, NC 28304
P:8562301796
dreoutlaw85@gmail.com

**As an unlicensed contractor, I am aware that I cannot enter
into a contract that the total amount of the project exceeds
\$40,000. : Yes**

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

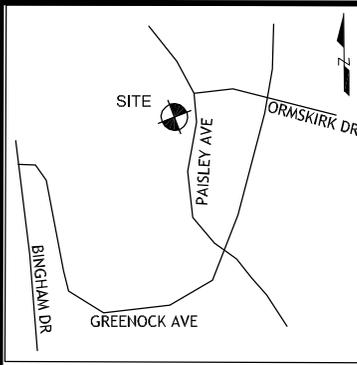
NC State Mechanical Contractor's #2 License Number:

NC State Mechanical Contractor:

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: Unlicensed Contractor**



Vicinity Map
(Not to Scale)

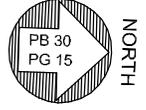
LEGEND

- R/W-RIGHT OF WAY
- DB-DEED BOOK
- PG-PAGE
- EIR-EXISTING IRON REBAR
- SF-SQUARE FEET
- AC-ACRE(S)
- PB-PLAT BOOK
- AG-ABOVE GROUND
- BG-BELOW GROUND
- EIP-EXISTING IRON PIPE
- EIPPT-EXISTING IRON PIPE (PINCH TOP)
- EIS-EXISTING IRON STAKE

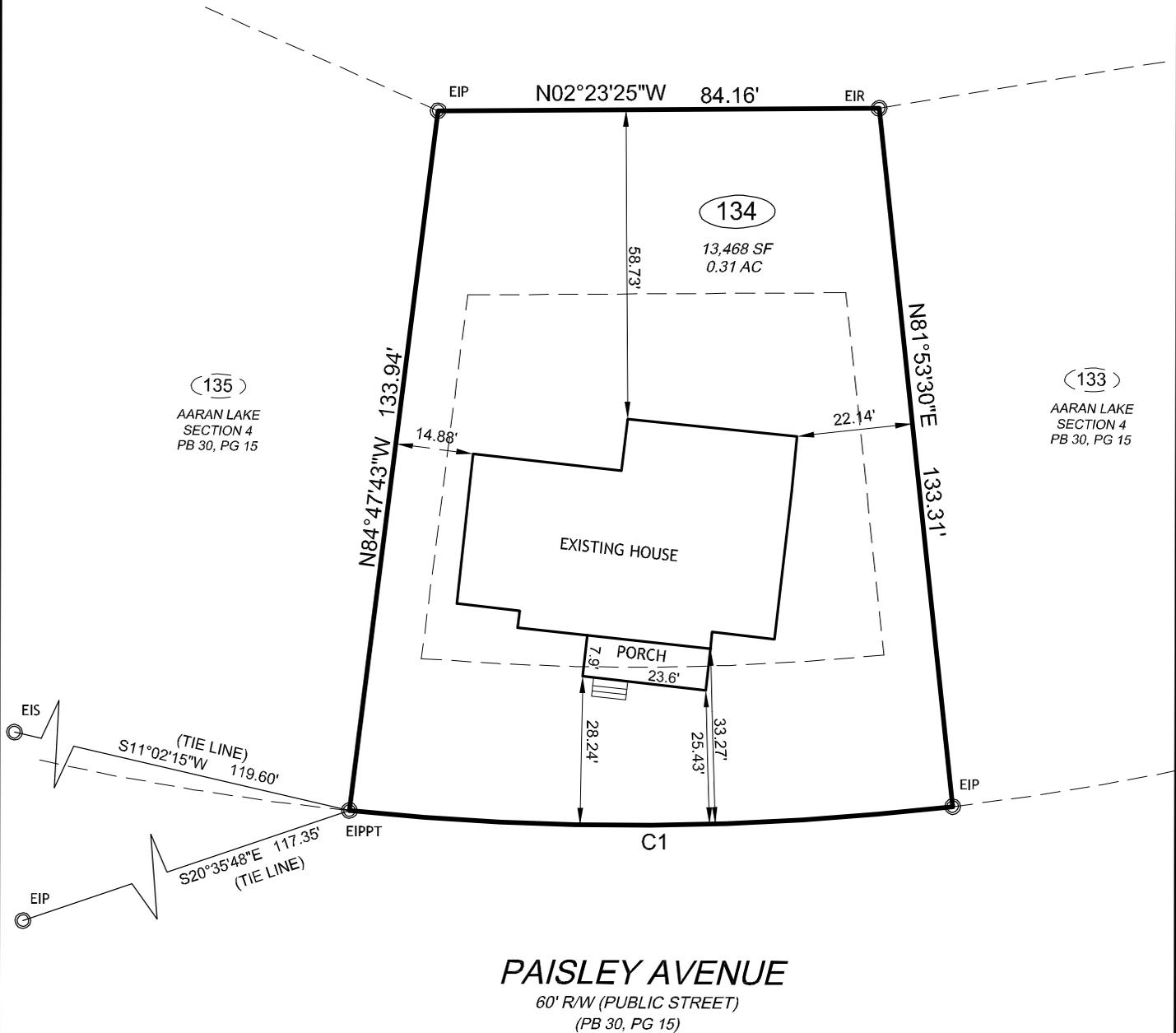
- SURVEYED LINE
- - - - - EASEMENT LINE
- LINE NOT SURVEYED

CURVE TABLE

CURVE	RADIUS	LENGTH	CH. BEARING	CHORD
C1	624.54'	115.38'	S02°27'03"E	115.15'



ARRAN LAKES HOMEOWNERS ASSOC INC
0406561745000
DB 6825, PG 695



PAISLEY AVENUE
60' R/W (PUBLIC STREET)
(PB 30, PG 15)

PHYSICAL SURVEY

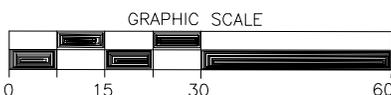
PROPERTY OF: ANDRE & BRIANNA OUTLAW
ADDRESS: 1512 PAISLEY AVE
CITY: FAYETTEVILLE, NC
COUNTY: CUMBERLAND
TAX PIN: 0406567253000



DocuSigned by:
Michael Adams
92592CBA7070458...
MICHAEL J. ADAMS

TOWNSHIP: SEVENTY-FIRST
DATE: APRIL 8, 2024
SCALE: 1" = 30'
REFERENCE: LOT 134
 ARRAN LAKE
 SECTION 4
 PB 30, PG 15

MINIMUM SETBACKS: (ZERO LOT LINE)
 30'-FRONT
 10'-SIDE
 35'-REAR



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

I CERTIFY THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION, DEED DESCRIPTION RECORDED IN PB 30, PG 15, THAT THE BOUNDARIES NOT SURVEYED ARE INDICATED AS DRAWN FROM INFORMATION IN PB 30, PG 15; THAT THE RATIO OF PRECISION OR POSITIONAL ACCURACY IS GREATER THAN 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). THIS MAP IS NOT DRAWN IN ACCORDANCE WITH GS 47-30, THIS 7TH DAY OF APRIL, 2024

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

To reduce the minimum front yard setback at 1512 Paisley Ave (REID 0406567253000)

VARIANCE A24-34

Property Address: 1512 Paisley Avenue
REID Numbers: 0406567253000
Property Owner: Andre & Brianna Outlaw

The Zoning Commission for the City of Fayetteville, NC, held an evidentiary hearing on August 12, 2024, to consider a Variance request filed by Andre Outlaw (“Applicant”) on behalf of Andre & Brianna Outlaw (“Owner”) to reduce the front yard setback in the Single Family Residential 10 (SF-10) zoning district, located at 1512 Paisley Avenue (REID # 0406567253000) (“Subject Property”).

On August 1, 2024, a notice of public hearing was mailed to the Property Owner and all the owners of property within 300 feet of the Subject Property. On July 30, 2024, a notice of public hearing sign was placed on the Subject Property. On August 1 and August 9, 2024, a notice of public hearing advertisement was placed in the legal section of *The Fayetteville Observer*.

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

Findings of Fact

1. Chapter 30, Article 3, Section D.3 of the City of Fayetteville’s Code of Ordinances establishes the minimum front yard setback in the Single Family Residential 10 (SF-10) zoning district.
2. Andre & Brianna Outlaw are the owners of a residentially zoned property located at 1512 Paisley Avenue (REID # 0406567253000), which contains approximately .28 acres in the City of Fayetteville.
3. The Applicant filed an application for a Variance on June 28, 2024.
4. The Subject Property is zoned Single Family Residential 10 (SF-10).
5. The Applicant is requesting to reduce the minimum front yard setback in the Single Family Residential 10 (SF-10) zoning district.
6. The Applicant has the burden of proof to show that the Variance meets the following statutory requirements:
 - a. Strict application of the Ordinance requirements results in practical difficulties and unnecessary hardship.

- b. Any practical difficulties or unnecessary hardships result from unique circumstances related to the land and are not the result of the actions of the landowner as shown.
 - c. The Variance is the minimum action that will make possible a reasonable use of land or structures.
 - d. The Variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit.
 - e. In granting of the Variance, the public safety and welfare have been assured and substantial justice has been done.
7. The Subject Property is zoned as Single Family Residential 10 (SF-10) and is situated among other residentially zoned properties.
8. The Subject Property is approximately .28 acres located east of Bingham Drive.
9. The Subject Property is developed as a single-family house.
10. This Variance addresses the Ordinance requirement that structures in the SF-10 zoning district meet a minimum front yard setback of 30 feet.
11. The reduction of the front yard setback from 30 feet to 25 feet will allow for the owner to keep a covered front porch that was constructed without a permit and does not meet the minimum setback required by the Unified Development Ordinance.
12. Strict application of the Ordinance requirements results in practical difficulties and unnecessary hardship because, as per the evidence provided by the applicant, the house was not built straight along Paisley Avenue and the front property line is not straight.
13. 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 based on the evidence above: the house was not built straight along Paisley Avenue and the front property line is not straight.
14. The Variance is the minimum action that will make possible a reasonable use of land or structures because the evidence provided by the applicant shows that this is the minimum action within reason to let the property owner achieve what he is trying to accomplish.
15. The Variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit because the structure is aesthetically pleasing and in keeping with the existing structure.
16. There is no evidence that the granting of this Variance would harm public safety and welfare, and substantial justice would be ensured.

Conclusions of Law

1. The City of Fayetteville adopted the Unified Development Ordinance (UDO), codified under Chapter 30 of the City Code, to establish that “This Ordinance consolidates the City’s zoning and subdivision regulatory authority as authorized by the North Carolina General Statutes”.
2. The Applicant submitted a timely application in compliance with the UDO.
3. Notice was properly given, and an evidentiary public hearing was held by the City of Fayetteville’s Zoning Commission in compliance with the laws of North Carolina.
4. The City Development Services Department is responsible for the coordination and enforcement of the UDO.
5. All of the general and specific conditions precedent to the issuance of the requested Variance HAVE been satisfied as:
 - a. The strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships.
 - b. Any practical difficulties or unnecessary hardships result from unique circumstances related to the land and are not the result of the actions of the landowner.
 - c. The Variance is the minimum action that will make possible a reasonable use of land or structures.
 - d. The Variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit.
 - e. The granting of the Variance assures the public safety and welfare, and that substantial justice has been done.

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

VOTE: 5 to 0

This the 10th day of September 2024.

PAVAN PATEL
Zoning Commission Chair



City of Fayetteville

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

City Council Action Memo

File Number: 24-4218

Agenda Date: 9/10/2024

Version: 1

Status: Agenda Ready

In Control: Zoning Commission

File Type: Consent

Agenda Number: 3.02

TO: Mayor and Members of City Council

THRU: Zoning Commission

FROM: Demetrios Moutos - Planner I

DATE: September 10, 2024

RE:

A24-35. Order of Approval - Findings of Fact: Variance to reduce the minimum required lot size, minimum lot width, rear setback, and side setback for a lot in the Single Family Residential 10 (SF-10) zoning district, located at 0 McRae Drive (REID # 0427432094000)

COUNCIL DISTRICT(S):

5 - Lynne Greene

Relationship To Strategic Plan:

Strategic Operating Plan FY 2022

Goals 2027

Goal 2: Responsive City Government Supporting a Diverse and Viable Economy

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

Executive Summary:

Thomas Michael Lecka, owner of a residential property at 0 McRae Drive in Fayetteville, has applied for a variance to reduce the minimum lot size, lot width, and setbacks for his undeveloped, Single Family Residential 10 (SF-10) zoned property. The requested variances include reducing the lot size from 10,000 to 7,793 square feet, the lot width from 75 to 40 feet, the rear setback from 35 to 31 feet, and the side setback from 10 to 5 feet.

On August 13, 2024, the Zoning Commission held an Evidentiary Hearing regarding this case. After receiving all evidence and testimony, the Commission voted 5-0 to approve the Variance application.

30.2.C.14 Variance:

The purpose of a variance is to allow certain deviations from the dimensional standards of this Ordinance (such as height, yard setback, lot coverage, or similar numeric standards) when the landowner demonstrates that, owing to special circumstances or conditions beyond the landowner's control (such as exceptional topographical conditions,

narrowness, shallowness, or the shape of a specific parcel of land), the literal application of the standards would result in undue and unique hardship to the landowner and the deviation would not be contrary to the public interest.

Variances are to be sparingly exercised and only in rare instances or under exceptional circumstances to relieve undue and unique hardships to the landowner. No change in permitted uses or applicable condition of approval may be authorized by variance.

Background:

Applicant: Michael Lecka

Owner: Michael Lecka

Requested Action: Reduce lot size, lot width, and setbacks in SF-10

Zoning District: Single Family Residential 10 (SF-10)

Property Address: 0 McRae Drive (0427432094000)

Size: 0.21 acres ±

Existing Land Use: Vacant/Wooded

Surrounding Zoning and Land Uses

- North: SF-10 - Single Family Residence
- South: SF-6 - Single Family Residence
- East: SF-10 - Single Family Residence
- West: SF-6 - Single Family Residence

Postcards Mailed: 34

Issues/Analysis:

Property History and Request:

Thomas Michael Lecka acquired the subject property from Sanjay Khazanchi on June 5, 2023. The last plat for the property was recorded in January 1953. The applicant proposes to recombine two existing lots, one of which is non-compliant, to create two buildable lots. While one lot meets the minimum size requirement, the second does not, prompting the need for a variance to allow development on the undersized lot.

Additionally, a property line adjustment reducing the lot width further requires a variance from the minimum width standard. To accommodate a future residence on the smaller lot, the applicant is also requesting variances for side and rear setbacks.

Zoning Standards and Variance Requests:

The SF-10 zoning district's dimensional standards, per Section 30-3.D.3 of the Unified Development Ordinance, require a minimum lot area of 10,000 square feet, lot width of 75 feet, side setbacks of 10 feet, and rear setbacks of 35 feet. The applicant seeks to reduce the lot area to 7,793 square feet, the lot width to 40 feet, the rear setback to 31 feet, and the side setback to 5 feet, as shown on the site plan.

Insufficient Justification for Variance:

A variance cannot be justified by the presence of other nonconforming or conforming land uses, requests for prohibited uses, or claims of economic hardship or potential

profitability.

Subsequent Development:

The applicant plans to build a house on the property in the future.

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 “Reducing the 10 feet from 75 to 65 which gives both neighbors symmetrical distance in their backyards, which makes it fair to their property. And the extra five feet in the new backyard request so that the future home can be five feet deeper into the lot.”

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 “I want to keep each lot fair and symmetrical to each adjacent property.”

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 “Referring back to the initial variance, this must be done to ensure all three lots are symmetrical, buildable, and aesthetically pleasing.”

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 “This variance would increase the symmetry and beauty of the properties on this portion of McRae.”

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

The applicant states “This variance will ensure that everybody’s yard will be symmetrical and aesthetically pleasing.”

Budget Impact:

There are no anticipated budgetary implications at this time.

Options:

1. Approve Findings as submitted by staff.
2. Approve Findings with specific changes.

Recommended Action:

Staff recommends option 1 above.

Attachments:

1. Order of Approval - Findings of Fact
2. Application
3. Aerial Notification Map
4. Zoning Map
5. Land Use Map
6. Subject Property Photos
7. Surrounding Property Photos
8. Site Survey

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

To reduce the minimum required lot size, minimum lot width, rear setback, and side setback for a lot in the Single Family Residential 10 (SF-10) zoning district, located at 0 McRae Drive (REID # 0427432094000)

VARIANCE A24-35

Property Address: 0 McRae Drive
REID Numbers: 0427432094000
Property Owner: Thomas Michael Lecka

The Zoning Commission for the City of Fayetteville, NC, held an evidentiary hearing on August 13, 2024, to consider a Variance request filed by Thomas Michael Lecka (“Applicant/Owner”) to reduce the minimum required lot size, minimum lot width, rear setback, and side setback for a lot in the Single Family Residential 10 (SF-10) zoning district, located at 0 McRae Drive (REID # 0427432094000) (“Subject Property”).

On August 1, 2024, a notice of public hearing was mailed to the Property Owner and all the owners of property within 300 feet of the Subject Property. On August 2, 2024, a notice of public hearing sign was placed on the Subject Property. On August 9, 2024, and August 16, 2024, a notice of public hearing advertisement was placed in the legal section of *The Fayetteville Observer*.

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

Findings of Fact

1. Chapter 30, Article 3, Section D.3 of the City of Fayetteville’s Code of Ordinances establishes the dimensional standards for various dwelling types in the Single Family Residential 10 (SF-10) zoning district.
2. Thomas Michael Lecka is the owner of a residentially zoned property located at 0 McRae Drive (REID # 0427432094000), which contains approximately 0.07 acres in the City of Fayetteville.
3. The Applicant filed an application for a Variance on July 10, 2024.
4. The Applicant is requesting to reduce the minimum required lot size for the subject property from 10,000 square feet to 7,793 square feet, as shown on the site plan.
5. The Applicant is requesting to reduce the minimum required lot width for the subject property from 75 feet to 40 feet, as shown on the site plan.

6. The Applicant is requesting to reduce the rear setback minimum from 35 feet to 31 feet, as shown on the site plan.

7. The Applicant is requesting to reduce the side setback minimum from 10 feet to 5 feet, as shown on the site plan.

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

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

9. The Subject Property is Single Family Residential 10 (SF-10) zoned property surrounded by Single Family Residential 10 (SF-10) zoned properties to the North and East, and Single Family Residential 6 (SF-6) zoned properties to the South and West.

10. The Subject Property is approximately 0.07 acres located north of McRae Drive, between McPhee Drive and McBain Drive.

11. The Subject Property is undeveloped.

12. This Variance addresses the Ordinance requirement that lots for single-family detached homes in the Single Family Residential 10 (SF-10) zoning district have a minimum lot area per unit of 10,000 square feet, a minimum lot width of 75 feet, a minimum rear setback of 35 feet, and a minimum side setback of 10 feet.

13. Strict application of the Ordinance requirements creates practical difficulties and unnecessary hardships, as granting the variance would alleviate these challenges by allowing the future home to meet the SF-10 envelope requirements while gaining an additional 5 feet of depth into the lot.

14. Any practical difficulties or unnecessary hardships arise from unique circumstances specific to the land and are not due to the actions of the landowner, as the applicant is working to maintain symmetrical and equitable lot sizes for each property.

15. The Variance represents the minimum action necessary to enable a reasonable use of the land or structures, as the applicant has requested the minimal lot size, lot width, and setbacks necessary to maintain the lot's symmetry, buildability, and aesthetic appeal.

16. The Variance is in harmony with the general purpose and intent of the Ordinance and upholds its spirit, as it ensures the lot remains consistent with the neighborhood's character and supports the construction of an attractive home with appropriate lot size, width, and setbacks.

17. There is sufficient evidence that in granting the variance public safety and welfare have been assured and substantial justice has been done, as the five-foot setback into the lot mitigates potential traffic safety concerns, and there is no other evidence that would raise questions about public safety.

Conclusions of Law

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

2. The Applicant submitted a timely application in full compliance with the Unified Development Ordinance (UDO).

3. Proper notice was given, and an evidentiary public hearing was conducted by the City of Fayetteville's Zoning Commission in full compliance with North Carolina law.

4. The City Development Services Department is responsible for coordinating and enforcing the Unified Development Ordinance (UDO).

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

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

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

VOTE: 5 to 0

This the 10th day of September 2024.

PAVAN PATEL
Zoning Commission Chair

Project Overview

#1405847

Project Title: 0427432094000 Lecka - McRae Drive

Jurisdiction: City of Fayetteville

Application Type: 5.4) Variance

State: NC

Workflow: Zoning Commission Hearing

County: Cumberland

Project Location

Project Address or PIN: 0 MCRAE DR (0427432094000)

Zip Code: 28305

Is it in Fayetteville? [Click this link to the Cumberland County Tax Office GIS system](#)

GIS Verified Data

Business Name:

Project Address: 0 MCRAE DR

Downtown Historic District:

Haymount Historic District:

Variance Request Information

Requested Variances: Lot area, Lot width, Minimum yard/setback

Section of the City Code from which the variance is being requested.: 30-3.D.3. Single-Family Residential 10 (SF-10) District

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

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

Adjustment to side property line from previous Variance. Requires variance from minimum lot size, rear yard setback, side yard setback, and lot width.

Single-Family Residential 10 (SF-10); Vacant

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.:

Reducing the 10 feet from 75 to 65 which gives both neighbors symmetrical distance in their backyards, which makes it fair to their property. And the extra five feet in the new backyard request so that the future home can be five feet deeper into the lot.

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.:

I want to keep each lot fair and symmetrical to each adjacent property.

Please describe how the Variance is the minimum action that will make possible a reasonable use of land or structures.:
Referring back to the initial variance, this must be done to ensure all three lots are symmetrical, buildable, and aesthetically pleasing.

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

This variance would increase the symmetry and beauty of the properties on this portion of McRae.

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

This variance will ensure that everybody's yard will be symmetrical and aesthetically pleasing.

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#: N/A

Project Owner

Mike Lecka

N/A

449 McPhee, N/A

Fayetteville, NC 28305

P:9106003210

F:9106003210

mike@velotilt.com

Project Contact - Agent/Representative

Mike Lecka

N/A

449 McPhee, N/A

Fayetteville, NC 28305

P:9106003210
F:9106003210
mike@velotilt.com

As an unlicensed contractor, I am aware that I cannot enter into a contract that the total amount of the project exceeds \$40,000. :

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

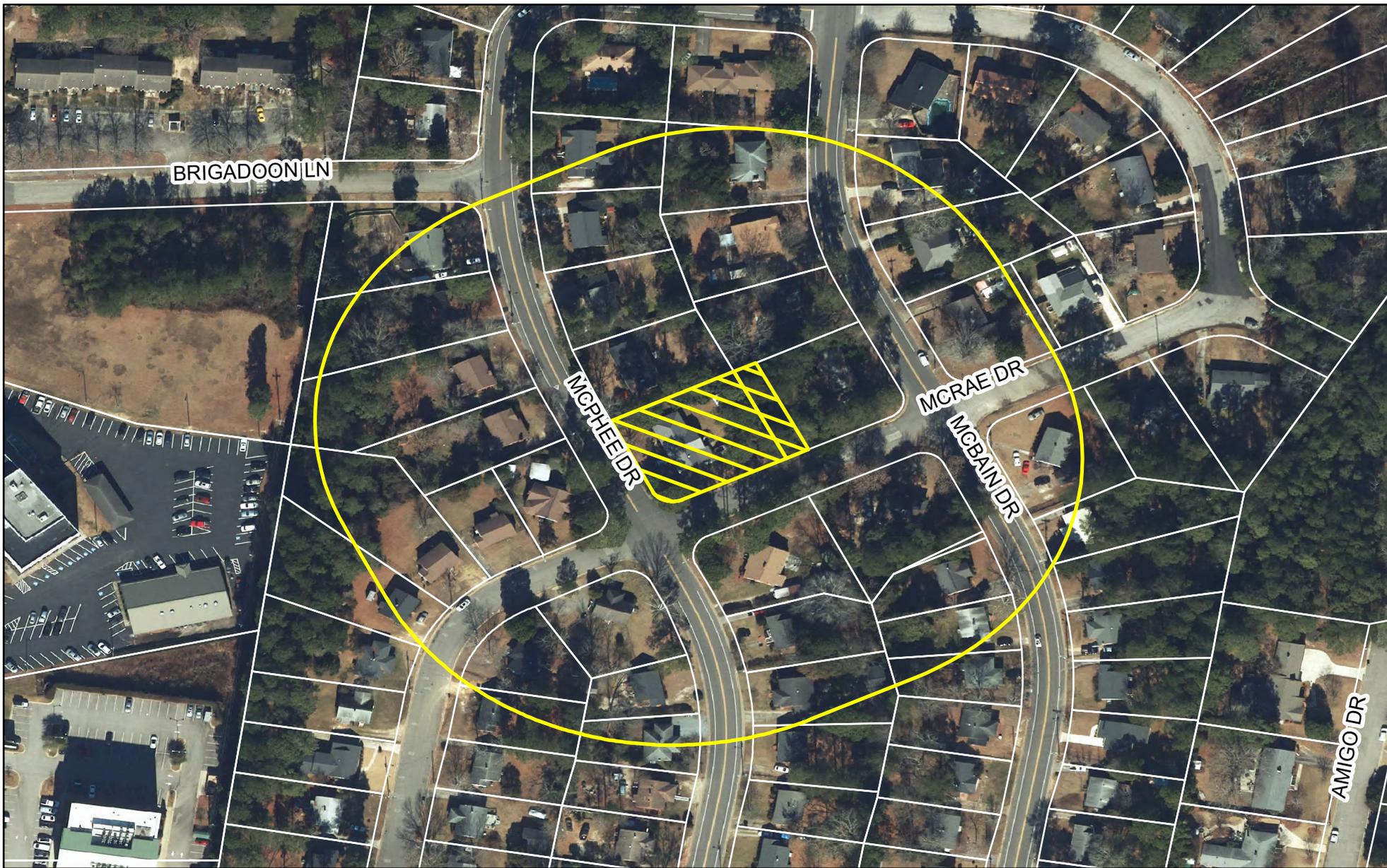
NC State Mechanical Contractor's #2 License Number:

NC State Mechanical Contractor:

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:



Aerial Notification Map

Case #: A24-35

Request: Variance

Location: 0 McRae Drive

Legend



A24-35 Buffer

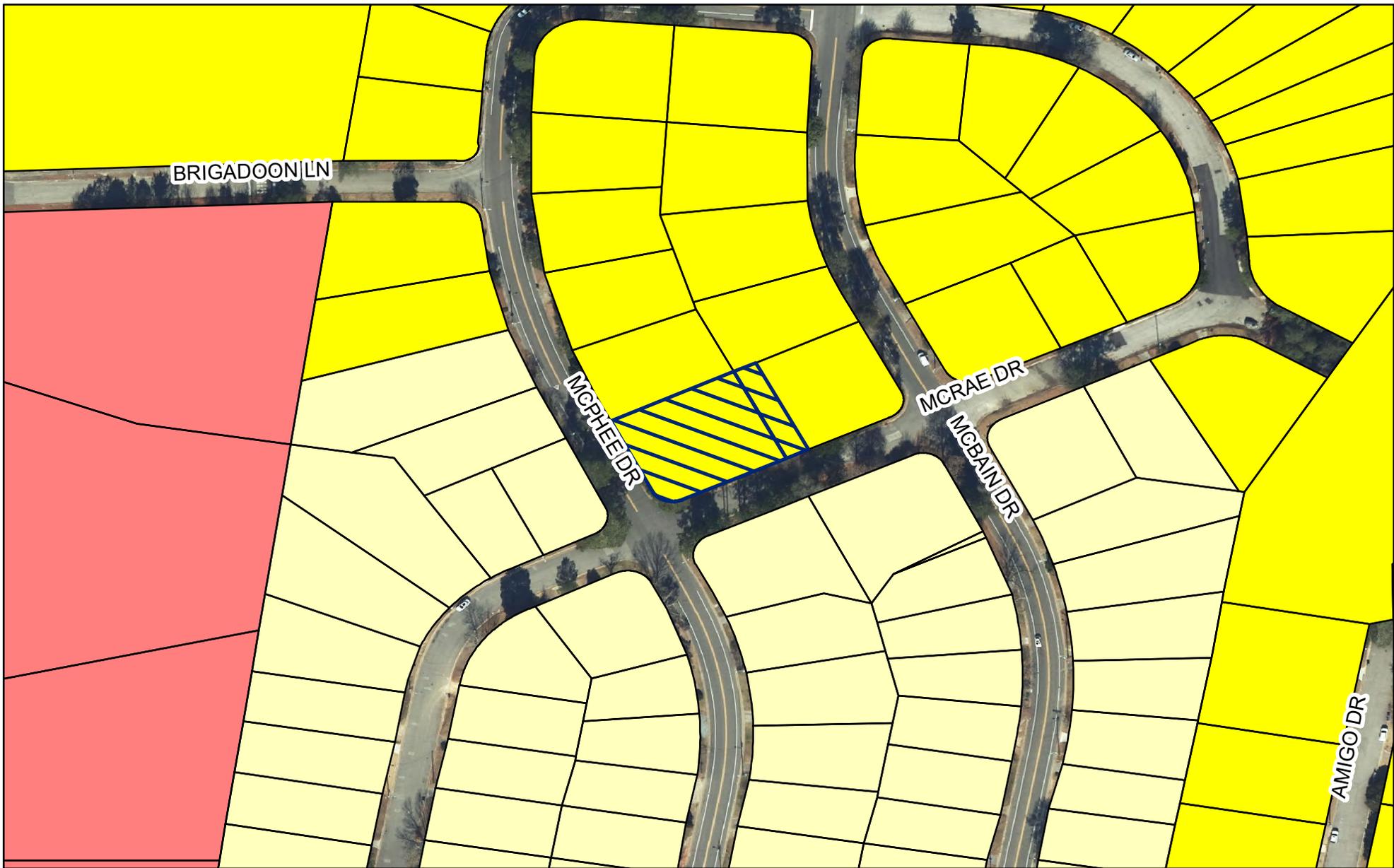


A24-35



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





Zoning Map

Case #: A24-35

Request: Variance

Location: 0 McRae Drive

Legend



A24-35



LC - Limited Commercial



SF-6 - Single-Family Residential 6

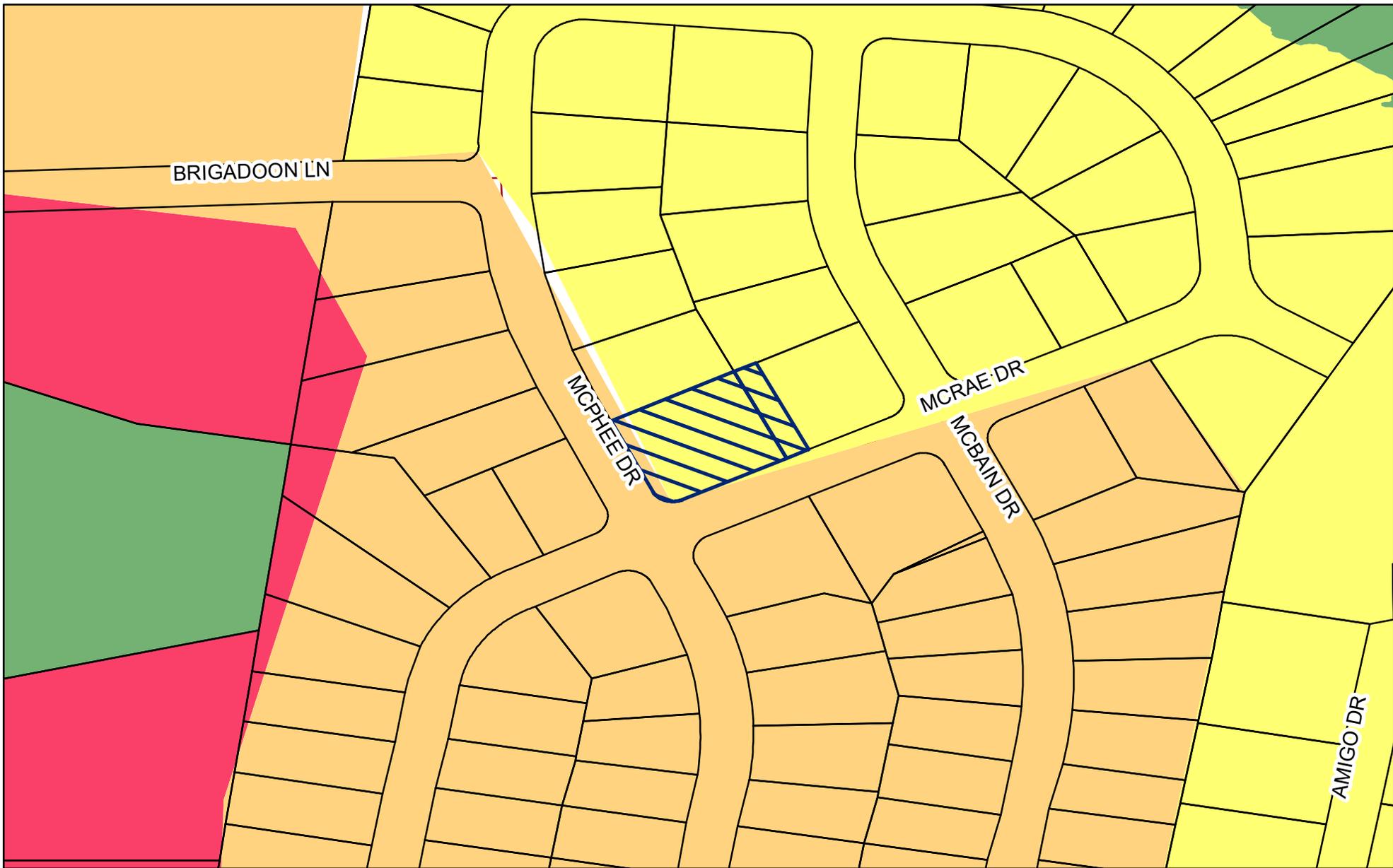


SF-10 - Single-Family Residential 10



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





Future Land Use Map

Case #: A24-35

Request: Variance

Location: 0 McRae Drive

Legend

 A24-35

Land Use Plan 2040

Character Areas

-  PARKOS - PARK / OPEN SPACE
-  LDR - LOW DENSITY
-  MDR - MEDIUM DENSITY
-  CC - COMMUNITY CENTER



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





Surrounding Properties





City of Fayetteville

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

City Council Action Memo

File Number: 24-4198

Agenda Date: 9/10/2024

Version: 1

Status: Agenda Ready

In Control: Zoning Commission

File Type: Consent

Agenda Number: 3.03

TO: Zoning Commission
THRU: Will Deaton, AICP - Planning & Zoning Manager
FROM: Catina Evans - Office Assistant II
DATE: September 10, 2024
RE: Approval of Meeting Minutes: August 13, 2024

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: August 13, 2024

**MINUTES
CITY OF FAYETTEVILLE
ZONING COMMISSION MEETING
FAST TRANSIT CENTER COMMUNITY ROOM
AUGUST 13, 2024 @ 6:00 P.M.**

STAFF PRESENT

Pavan Patel, Chair
Stephen McCorquodale
Tyrone Simon
Kevin Hight
Justine Herbe

Clayton Deaton, Planning and Zoning Division Manager
Craig Harmon, Senior Planner
Heather Eckhardt, Planner II
Demetrios Moutos, Planner I
La-Deidre Matthews, Attorney at Law, Fox Rothchild
Catina Evans, Office Assistant II

MEMBERS ABSENT

Alex Keith, Vice-Chair

The Zoning Commission Meeting on Tuesday, August 13, 2024, was called to order by Chair Pavan Patel at 6 p.m. The members introduced themselves.

I. APPROVAL OF THE AGENDA

MOTION: Justine Herbe made a motion to approve the agenda for the meeting.

SECOND: Tyrone Simon

VOTE: Unanimous (5-0)

II. APPROVAL OF THE CONSENT AGENDA TO INCLUDE THE MINUTES FROM THE JULY 9, 2024, MEETING

MOTION: Stephen McCorquodale made a motion to approve the minutes from the June 11, 2024, meeting.

SECOND: Justin Herbe

VOTE: Unanimous (5-0)

III. EVIDENTIARY HEARING

Mr. Patel discussed the aspects of the evidentiary hearing. Legal counsel, Ms. Matthews, swore in all Staff and witnesses who were participating in the hearings. Mr. Patel inquired if any board members had conflicts of interest related to the evening's agenda items, and none were reported.

A24-34. Variance to reduce the minimum front yard setback at 1512 Paisley Avenue (REID #0406567253000), and being the property of Andre and Brianna Outlaw.

Heather Eckhardt presented case A24-34. She said it is a variance request to reduce the minimum front yard setback at the property located on Paisley Drive. The land is zoned Single-Family Residential 10 (SF-10). Ms. Eckhardt showed the Board pictures of the property before and after construction, which includes a front porch that was built without a permit and does not meet the required 30-foot setback (the structure stands at approximately 25 ft.) ergo the request for the variance. Ms. Eckhardt provided the Board with the site plan of

the current porch and noted that the applicant is looking for a 5-foot reduction in the front yard setback. Ms. Eckhardt concluded her presentation by informing the Board of their voting options.

Mr. Patel opened the hearing for case A24-34.

Speakers in favor:

Andre Outlaw, 1512 Paisley Avenue, Fayetteville, NC 28304

- Mr. Outlaw was told the porch was outside of the 30 ft setback.
- The old porch was failing so he remodeled the porch and the new porch does not meet the required setback.
- He said there was a previous porch that did not stick out as far although it was past the permitted 30-foot setback. Mr. Outlaw said the width of the porch is noticeable.

Mr. Hight noted that he had no objections to the variance request. Mr. Patel inquired if there were any further questions for the applicant. Mr. Patel asked Mr. Outlaw if he had hired someone to complete the work. Mr. Outlaw replied yes to Mr. Patel's inquiry, adding that he was unaware that he needed a permit when he and the contractor completed the work. He was only made aware of the infraction after a neighbor called the City to complain about the debris at the curb, prompting the arrival of a code enforcement inspector who informed him of the violation and cited him for the construction of the porch without a permit. Mr. Patel asked if this was the minimum that could be done to ensure that he could retain the porch. Mr. Outlaw said his wife wanted a covered porch, but he was not sure how they could have constructed the porch without the covering.

Andrew Bridgeman, 1517 Paisley Avenue, Fayetteville, NC 28304

- Mr. Bridgeman was aware that Mr. Outlaw had built the porch, and he thought it would be a shame for Mr. Outlaw to have to tear it down.

Mr. Patel closed the hearing for case A24-34.

Mr. McCorquodale stated that the survey shows the house is positioned so that Mr. Outlaw has angles to contend with in regard to the way the home is built. Mr. Patel asked the Board for a motion.

MOTION: McCorquodale made a motion to approve the variance in case A24-34 to reduce the minimum front setback on Paisley Avenue to allow for the setback reduction from 30 ft to 25 ft to accommodate the porch section that was added on to the house based on the following five findings of fact:

1. Strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships as shown by the following evidence: Based on the presentation, if you look at the physical survey the house is not built straight on Paisley Avenue and the front property line is not straight, so a setback is needed for the front porch.
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: Number two coincides with number one. They are basically the same.
3. The Variance is the minimum action that will make possible a reasonable use of land or structures as shown by the following evidence: Based on the photos the structure is aesthetic based on the improvements they (the applicant) did to the home.

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: This is the minimum allowable action within reason to let the property owner achieve what he is trying to accomplish. He (Mr. Outlaw) has done everything to come forward before the Board based on the evidence that he has brought before the Board.
5. In the granting of the Variance, public safety and welfare have been assured and substantial justice has been done as shown by the following evidence: There is no evidence in contrary that this would be the exact opposite to the public safety and welfare of the public.

SECOND: Kevin Hight

VOTE: Unanimous (5-0)

A24-35. Variance request for a 0.21-acre ± property in the Single-Family Residential 10 (SF-10) Zoning District, located at 0 McRae Drive (REID #0427432094000), owned by Thomas Michael Lecka.

Demetrios Moutos presented Case A24-35 to the Board, informing them that the applicant had previously brought this case before the Zoning Commission in March. The property in question is located behind the Harris Teeter at the intersection of Robeson Street and Raeford Road. Mr. Moutos highlighted that the applicant is seeking a variance for the smaller portion of the property, which is situated behind his home to the east. The surrounding area is zoned for single-family residential use. The applicant, Mr. Lecka, is requesting a variance to reduce the minimum lot width to 40 feet, the rear setback to 31 feet, and the side setback to 5 feet, in order to create a buildable lot. Mr. Moutos concluded by outlining the Board's voting options on the matter.

Mr. Patel opened the hearing for case A24-35.

Speaker in favor:

Mike Lecka, 449 McPhee, Fayetteville, NC 28305

- Mr. Lecka is asking to keep the yard symmetrical.
- He noted that there is a fence and added 5 ft for the sidewalk.
- Mr. Lecka talked about metal buildings before when he came before the board.
- He wants a 5 feet minimum side yard setback on the property and the sideline moved over so that the yard would be more symmetrical.

Mr. McCorquodale inquired whether the variance would enable Mr. Lecka to build the structure while maintaining an aesthetically pleasing appearance for the property. Mr. Lecka confirmed this and added that the landscaping would be symmetrical. Mr. Hight then asked Mr. Lecka about the size of the proposed structure. Mr. Lecka turned to Mr. Moutos for assistance in responding, and Mr. Moutos explained that the structure would be 30 by 57.95 feet, based on the requested setbacks. Mr. Lecka is seeking variances that would accommodate the property's density. Mr. Moutos further clarified that the size of the proposed house, based on the requested setbacks, is well below the maximum lot coverage percentage allowed by the code.

Mr. Moutos explained that the code requires a minimum rear setback of 35 feet. The current lot width is 40 feet, which is significantly less than the required minimum width of 75 feet. Mr. Herbe asked for clarification on how the house's square footage relates to Mr. Lecka's variance request. Mr. Moutos clarified that, with the requested setbacks, the house dimensions would still measure below the maximum lot coverage percentage allowed by the code. However, Mr. Moutos also noted that the applicant is requesting a lot size smaller than what is typically

allowed by code. The requested setbacks would provide adequate space while still meeting the maximum requirements for house size.

Mr. McCorquodale asked whether Mr. Lecka would be able to build a garage within the requested variance, to which Mr. Lecka responded that a three-car garage could be accommodated on the property. Mr. Hight inquired if Mr. Lecka had any drawings of the proposed house. Mr. Lecka described the color scheme of the metal structure, stating that it would complement the surrounding color arrangement. He also mentioned Renegade Buildings as his preferred company to construct the structure. Mr. McCorquodale then asked about the necessary ingress and egress for the area, and Mr. Lecka assured the Board that there would be sufficient parking and access to the property.

Mr. Patel closed the hearing for case A24-35.

MOTION: Patel made a motion to approve the variance for case P24-35 based on the following Findings of Fact:

1. Strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships as shown by the following evidence: The variance would allow for the future home to meet the SF-10 envelope requirements and allow for 5 feet deeper into the lot.

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: The applicant is trying to maintain symmetrical and fair lot sizes for each property.

3. The Variance is the minimum action that will make possible a reasonable use of land or structures as shown by the following evidence: This (the variance) must be done to ensure that the lot is symmetrical, buildable, and aesthetically pleasing.

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: The lot would be in character with the neighborhood and allow for a nice home.

5. In the granting of the Variance, public safety and welfare have been assured and substantial justice has been done as shown by the following evidence: With the symmetry and setback of five feet into the lot, the owner would be able to avert some safety concerns.

SECOND: Justin Herbe

VOTE: Unanimous (5-0)

IV. OTHER BUSINESS

Mr. Harmon said there are no other items on the agenda, and he said next month there are two or three items on the agenda. Mr. Harmon noted that the today was the deadline to submit items for the meeting on Tuesday, September 10, 2024. [OBJ]

V. ADJOURNMENT

MOTION: Tyrone Simon made a motion to adjourn the July 9, 2024, meeting.

SECOND: Stephen McCorquodale

VOTE: Unanimous (5-0)

The meeting adjourned at 6:37 p.m.
Respectfully submitted by Catina Evans

DRAFT



City of Fayetteville

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

City Council Action Memo

File Number: 24-4196

Agenda Date: 9/10/2024

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: Demetrios Moutos - Planner I

DATE: September 10, 2024

RE:

A24-40. Variance request for a large multi-building development identification sign in the MR-5 Zoning District, located at 5649 Bragg Blvd (REID #: 0419117547000), owned by MACPHERSON LLC.

COUNCIL DISTRICT(S):

4 - D.J. Haire

Relationship To Strategic Plan:

Strategic Operating Plan FY 2022

Goals 2027

Goal 2: The City of Fayetteville will have a Responsive City Government supporting a diverse and viable economy.

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

Goal 3: The City of Fayetteville will be a City invested in Today and Tomorrow.

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

Goal 4: The City of Fayetteville will be a highly desirable place to live, work, and recreate.

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

Executive Summary:

The applicant is requesting a variance to increase the maximum allowable size for a large multi-building development identification sign. A variance is a special exception to zoning regulations, granted only when unique property conditions create extreme hardship. The property owner must demonstrate that this hardship exists and that granting the variance will not negatively impact the neighborhood. Importantly, variances do not alter what can be built on the property; they only affect the size and placement of structures.

Background:

Applicant: Mark Gardner

Owner: MACPHERSON LLC

Requested Action: Increase the maximum size of an identification sign

Zoning District: Mixed Residential 5 (MR-5)

Property Address: 5649 Bragg Blvd (0419117547000)

Size: 30.38 acres ±

Existing Land Use: Largely vacant/wooded with commercial use lining Bragg Blvd

Surrounding Zoning and Land Uses

- North: CC and MR-5 - Strip Commercial
- South: SF-6 and CC - Residential with commercial lining Bragg Blvd
- East: CC - Circle K and EPCO
- West: SF-6 and CC - Single Family and American Flag Storage

Postcards Mailed: 43

Issues/Analysis:

Property History

North Carolina General Warranty Deed dated June 25, 2010, records the transfer of a 51.07-acre tract of land located in Fayetteville, North Carolina, from several members of the Shaw family to MacPherson, LLC, a North Carolina limited liability company. The grantors include Marie Shaw Dee, John G. Shaw, Frank S. Shaw and his wife, Rollin W. Shaw, Sally Shaw Frankenburg and her husband Eben Frankenburg, Gilbert W. Shaw and his wife Mirjam Shaw, Phoebe Winship Dee and her husband Brent Blunden, and Alexander MacPherson Shaw. The property in question lies on the west side of Fort Bragg Boulevard and is divided by Santa Fe Drive and Bragg Boulevard. The deed conveys the land to the grantee in fee simple, with the grantors guaranteeing that the title is marketable and free of all encumbrances except for 2010 Cumberland County ad valorem taxes and any easements or restrictions of record. The document was duly signed by all the grantors and notarized by Cynthia W. Burris, a Notary Public in Cumberland County, North Carolina, before being filed and recorded with the Cumberland County Register of Deeds.

The deed references a plat entitled "Lot 1, Headstart-Bridges Fairlane Project" prepared by Harvey H. Allen, RLS L-3717. This plat is recorded in Plat Book 95, Page 167 in the Cumberland County, North Carolina, Public Registry. The purpose of the deed is to convey all of Lot 1 as shown on this plat.

Zoning Standards and Variance Requests

Section 30-5.L.7.b.1 of the Unified Development Ordinance outlines specific standards for identification signs in Residential and Large Multi-building Developments. The relevant portion of this section states: "On-premises ground signs identifying a single-family residential subdivision; apartment, townhouse, condominium, or other multifamily residential complexes; recreational facility or mobile home park, must not exceed 32 square feet in area, with a maximum overall height of 6 feet." The applicant is requesting a modification to increase the maximum allowable sign area from 32 square feet to 41.25 square feet.

Insufficient Justification for Variance

The following reasons do not qualify as valid grounds for granting a variance:

1. The presence of other nonconforming or conforming land uses or structures within the same or different zoning districts.

2. A request for a land use that is explicitly or implicitly prohibited by the zoning district regulations.
3. Economic hardship or the prospect of increased property value or profitability resulting from the variance.

Subsequent Development

The applicant intends to construct an apartment complex on the subject property in the future.

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 “This sign is consistent with all other ordinance requirements other than size. This sign is intended to be large enough to allow for folks to easily identify the apartment community and not inhibit the security of public safety. This requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.”

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 “This is a large multi-family apartment community and the sign needs to be seen by folks driving down Santa Fe Drive. This larger size would help negotiate and locate the community.”

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 “This is a minimal variation from 32sf to 41.25 sf., a reasonable increase to assist the public navigating Santa Fe Drive and looking for an apartment community.”

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 “This community architecture and sign package is designed by professionals. A great deal of time and money was spent to develop a brand and incorporate this into the sign package and the design of the signs and entry monument.”

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

The applicant states “With this variance the citizens of Fayetteville can be proud to have a Class “A” community to be proud of.”

Budget Impact:

There are no anticipated budgetary implications at this time.

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 the variance as requested

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, public safety and welfare have been assured and substantial justice has been done as shown by the following evidence:

—
Motion to approve the variance 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, 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 have been assured and substantial justice has been done as shown by the following evidence:

Recommended Action:

N/A

Attachments:

1. Application
2. Aerial Notification Map
3. Zoning Map
4. Land Use Map
5. Subject Property Photos
6. Surrounding Property Photos

Project Overview

#1437056

Project Title: Annondale on Santa Fe

Jurisdiction: City of Fayetteville

Application Type: 5.4) Variance

State: NC

Workflow: Staff Review

County: Cumberland

Project Location

Project Address or PIN: 994 SANTA FE DR (0419132000000) **Zip Code:** 28303

Is it in Fayetteville? If you're not sure, click this link: [Cumberland County Tax Office GIS system](#)

GIS Verified Data

Business Name:

Project Address: 994 SANTA FE DR

Variance Request Information

Requested Variances: Signage

Section of the City Code from which the variance is being requested.: 30-5.L.7.b

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

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

In your response to our original sign permit application, requesting re-submittal to reduce the sign to 32sf.,

MR5

Annondale on Santa Fe is a new class A apartment community and would like to install a sign in front of the community.

We understand the current size requirement is 32 sf. and we would like to increase to 41.25sf.

b.

Specific Standards

1.

Residential and Large Multi-building Developments - Identification Sign

On-premises ground signs identifying a single-family residential subdivision; apartment, town house, condominium or other multifamily residential complex; recreational facility or mobile home park, and not exceeding 32 square feet in area, with a maximum overall height of 6 feet.

Justification for Variance Request - Use this and the following pages to answer the questions (upload additional

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.:

This sign is consistent with all ordinance requirements other than the size.

This sign is intended to be large enough to allow for folks to easily identify the apartment community and not inhibit the security of public safety.

This requested variance is consistent with the spirit, purpose and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

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.:

This is a large multi-family apartment community and the sign needs to be seen by folks

driving down Santa Fe Drive. This larger size would be helpful negotiating and locating the community.

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

This is a minimal variation from 32sf to 41.25 sf. A reasonable increase to assist the public navigating Santa Fe Drive and looking for an apartment community.

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

This community architecture and sign package is designed by professionals. A great deal of time and money was spent to develop a brand and and incorporate this into the sign package and the design of the signs and entry monument.

All this in complete accordance with the spirit of Fayetteville planners.

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

With this variance the citizens of Fayetteville can be proud to have a Class "A" community to be proud of.

Height of Sign Face: 5

Height of Sign Face: 5

Square Footage of Sign Face: 45.25
Square Footage of Sign Face: 45.25

Square Footage of Sign Face : 45.25
Square Footage of Sign Face: 45.25

Primary Contact Information

Contractor's NC ID#:

Project Owner

Chad Pittman
Element Consturction, LLC.
333 North Greene St.
Greensboro, NC 27401
P:704-239-4914
cpittman@element-nc.com

Project Contact - Agent/Representative

Mark Gardner
Gardner Creative Group
PO Box 1889
Huntersville, NC 28070
P:704-400-2265
mgardner@gardnercreativegroup.com

As an unlicensed contractor, I am aware that I cannot enter into a contract that the total amount of the project exceeds \$40,000. :

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

NC State Mechanical Contractor's #2 License Number:

NC State Mechanical Contractor #3 License Number:

NC State Plumbing Contractor #1 License Number:

NC State Plumbing Contractor #2 License Number:

Project Contact: Primary Point of Contact for the Sign Contractor

Mark Gardner
Gardner Creative Group
PO Box 1889
Huntersville, NC 28070
P:704-400-2265
mgardner@gardnercreativegroup.com

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



Building Permit Application
 Development Services | Permitting & Inspections
 433 Hay Street Fayetteville, NC 28301
 Phone (910) 433-1707 Fax (910) 433-1588

<https://fayetteville.idtplans.com/secure/>

Failure to completely fill out this form may cause non-issuance or increased fees. Work not specified on permit and done is subject to increased penalty fees.

1. All required performance guarantees must be approved by the City prior to issuance of a building permit.
2. Building Permits shall not be issued unless the proposed development complies with all requirements of the City Code
3. All commercial projects must have an approved plan review before a permit is issued. (NC Administrative Code, Section 106)

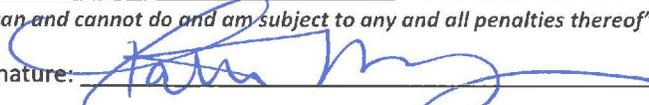
Street Address: <u>Annondale on Sante Fe LLC + 1019 Hay LLC</u>	
City/State/Zip Code: <u>Fayetteville, NC 28303</u>	
PIN/REID number: <u>0419120666000</u>	PIN <u>0419-12-0666</u>
E-Development Project Number:	
Zoning: <u>M25</u>	

Check one:

North Carolina Licensed General Contractor Unlicensed Contractor

Contractor Name: <u>Gardner Creative Group</u>		Telephone #: <u>704-400-2265</u>
Street Address: <u>Po Box 1889</u>	E-mail Address: <u>mgardner@gardnercreativegroup.com</u>	
City/State/Zip Code: <u>Huntersville, NC 28078</u>		
NC Contractors License #:		
Qualifier's Name:		

Unlicensed Contractors are limited to \$40,000 of TOTAL construction costs (N.C. General Statute 87-1) and will have to submit an itemized construction cost list in accordance to N.C. General Statute 87-14. "As an unlicensed contractor, I am recognizing and aware of all State and local laws concerning what I can and cannot do and am subject to any and all penalties thereof":

Acknowledgement Signature: 

Property owners who are applying for a building permit must submit the OWNER'S AFFIDAVIT with this application if the total cost of the project is \$40,000 or more; or applying for a mechanical, electrical, and/or plumbing permit.

Property Owner Information

Name: <u>Annondale on Sante Fe, LLC</u>		Telephone #: <u>336-698-6750</u>
Street Address: <u>1130 Annondale Way</u>	E-mail Address: <u>bwise@falllineinvest.com</u>	
City/State: <u>Fayetteville, NC 28303</u>		
Zip Code: <u>28303</u>		

Total Construction Cost	\$ <u>20,000.00</u>
Total Square Footage of Building(s)	
*Building Valuation	\$

*See Sheet 4 for calculating valuation

CONTRACTOR / APPLICANT INFORMATION

Gardner Creative Group
 Name of Applicant or Sign Contractor

Po Box 1889 Huntersville, NC 28078
 Mailing Address

mgardner@gardnercreativegroup.com
 Email Address

704-987-8228
 Telephone Number

 Fax Number

PROJECT LOCATION

Annondale Way | Annondale on Santa Fe, LLC | _____ | _____
 Number & Street Name | Business Name | Lot # | Parcel ID#

Annondale on Santa Fe, LLC | _____ | 336-698-6750 | _____
 Property Owner/Lessee | Telephone - Owner/Lessee

1130 Annondale Way Fayetteville, NC 28303 | _____ | bwise@fallingivest.com | _____
 Address (if different from 'Project Location') | Email -

Owner/Lessee

SIGN DESCRIPTION

<input type="checkbox"/> Reface <input type="checkbox"/> Wall <input checked="" type="checkbox"/> Ground <input type="checkbox"/> Pole <input type="checkbox"/> Projection <input type="checkbox"/> Canopy/Awning <input type="checkbox"/> Other: _____	Surface area of sign (Total sq. ft.):	41.25sf	<input type="checkbox"/> Non-Illuminated
	Type of facing/surface material:	Fabricated Aluminum	
	Type of support:	Steel Post	<input checked="" type="checkbox"/> Illuminated <input checked="" type="checkbox"/> Internal <input type="checkbox"/> External <i>Please list the Electrical Contractor obtaining the Electrical permit:</i> <u>Current Technologies Electrical LLC</u>
	Overall height of sign if freestanding:	5ft	
	Pole Sign: Space from the bottom of the sign and the ground:	_____	
	Distance (ft.) from edge of sign & right-of-way 5ft. min for pole and 10 ft. min for ground:	25ft	
	How was right-of -way determined:	GC Survey	
ALL THIRD PARTY LISTING LABELS: Must be recognized by the State Of North Carolina and Clearly Visible on Signs at the Time of Inspection.		ALL FREESTANDING SIGNS: Shall be Constructed to Withstand Wind Pressure of 120 MPH as Required by the North Carolina State Building Code.	

Linear Building frontage for wall signs:	Lot frontage for Freestanding Sign:	Lot/parcel size:	Total Existing signage (sq ft):	Corner Lot Yes/No:	ZONE
_____	_____	24.36 acres	0	Yes	MR5

Cost of Sign Construction: \$ 20,000.00

Permit Fee: \$ _____

I hereby certify that all information in this application is correct and all work will comply with the North Carolina State Building Code and all other applicable state and local laws and ordinances and regulations. The Building, Plan Review & Inspection Division will be notified of any changes in the approved plans and specifications for the project permitted herein. I certify that all ground and pole signs meet the 120 mph wind load.

Patti Meyer
 Applicant Signature

Patti Meyer
 Print Name

7-30-24
 Date

 Approved By

 Date

Describe work to be performed: Install Main Entry Monument sign - 2 sided
Aluminum fabricated Cabinet, 4 Halo-lit Reversed illuminated
letters. Routed + push through graphic logo.

Permit Expiration: The permit will expire if no inspection occurs within the first six (6) months, for each trade, from the date the permit was issued. If an inspection has been done, the permit will expire 12 months from the date of the inspection.
I hereby certify that under penalty of perjury, that all information in this application is correct and all work will comply with the NC State Technical Building Codes and all other applicable state and local laws, ordinances, and regulations. I acknowledge that I must notify the City of Fayetteville's Permitting & Inspections Division of any changes in the approved plans and specification for the project permitted herein.


Signature of Contractor/ Owner

Patti Meyer
Printed Name

7-30-24
Date

Process:

This application is for use with the E-Development Portal only. When your plans/ application is approved in the portal, the post-approval upload function becomes available. Use this function to upload permit applications. If other contractors are part of your project, you must use the invite contacts function on the project page to allow them access to the project using the e-mail they made the account with. The City of Fayetteville cannot grant access to anyone for your project. The contractor must have an account with the E-Development portal to upload applications and request inspections. E-mails are sent when the application is ready for payment and can be made through the portal.

Information is sent via e-mail so ensure that "City of Fayetteville. noreply@idtplans.com" is white-listed for your e-mail provider. Please check if e-mails are in spam or junk folders. Any e-mail that is non-deliverable automatically deactivates your account.

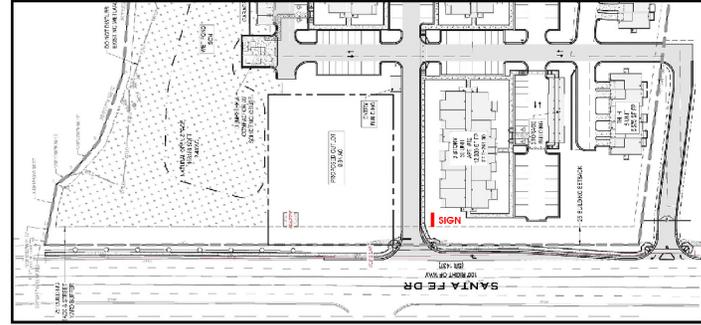
When the permit is issued, you can request an inspection through the project page using the inspections function.

All permits, inspection results, Certificate of Occupancy/ Compliance, payment receipts, etc. are found on the project page for you to print for your records if you so choose.

To view the user guide and other information, please visit: <https://www.fayettevillenc.gov/city-services/development-services/permitting-inspections>

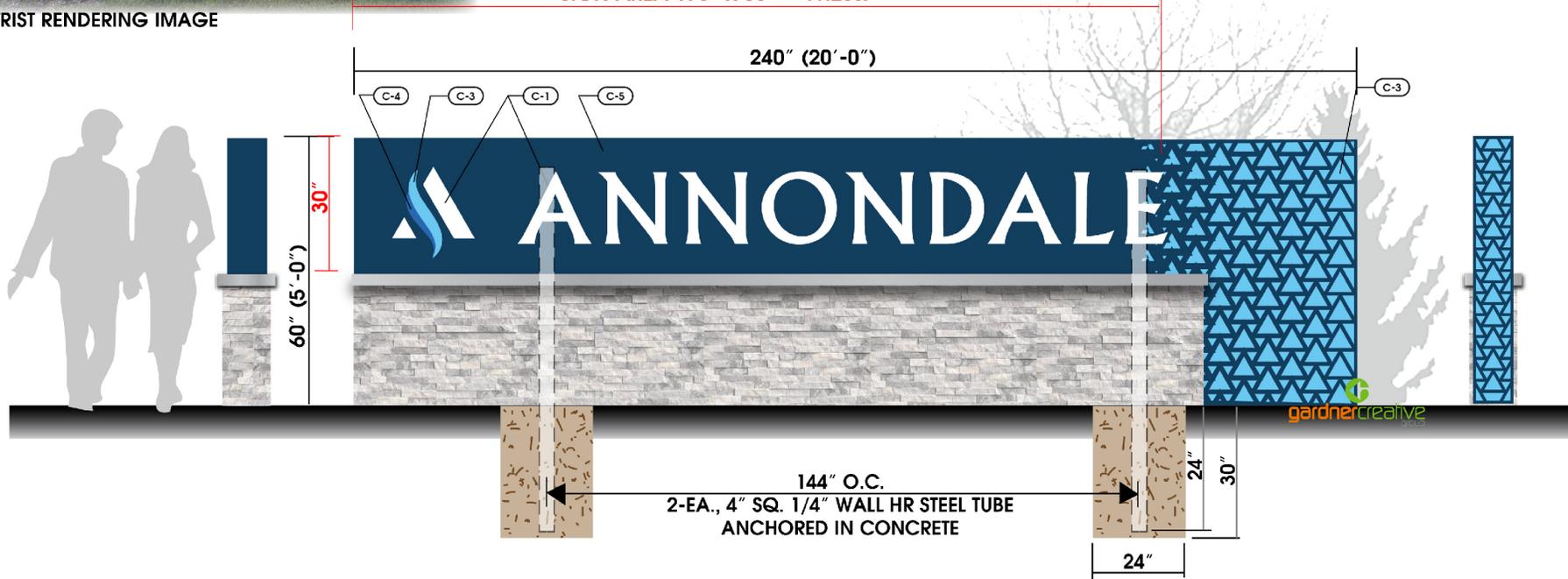


ARTIST RENDERING IMAGE



SITE MAP: 994 SANTA FE DR., FAYETTEVILLE, N.C. 28303

SIGN AREA 198" x 30" = 41.25sf



COLORS:

- C-1 WHITE
- C-2 BLACK
- C-3 RGB-107, 200, 241
- C-4 RGB-40, 104, 177
- C-5 RGB-18, 62, 94

ANNONDALE MAIN ENTRY MONUMENT ID SIGN

2-SIDED, ALUMINUM FABRICATED CABINET, W/HALO-LIT REVERSED ILLUMINATED LETTERS, ROUNDED AND BACKLIT GRAPHIC TRIANGULAR PATTERN. BASE TO BE TEXTURE PLUS FAUX STONE ATTACHED TO ALUMINUM FABRICATED. (OWNER TO PROVIDE 15AMP ELECTRICAL SERVICE WITH DEDICATED TIMER.) (OWNER TO PROVIDE FINAL ELECTRICAL HOOK-UP.)



NOT TO SCALE

Copyright © 2014 by Gardner Creative Group. All rights reserved. No part of this design may be reproduced or used in any form, by any means: graphic, electronic, mechanical, photocopy, screen shot, storage, and retrieval systems. Come on... let's get go there. There's

* Increased necessitates separate required fabric production bags.

YES, APPROVED. Please proceed with production as detailed

YES, APPROVED. Please proceed with production including changes indicated.

NO. Please make the changes indicated and send new proof prior to production.

Signature: _____ Date: ____/____/____

po box 1889, hunttersville, nc 28070 704.987.8228

gardnercreative group.com

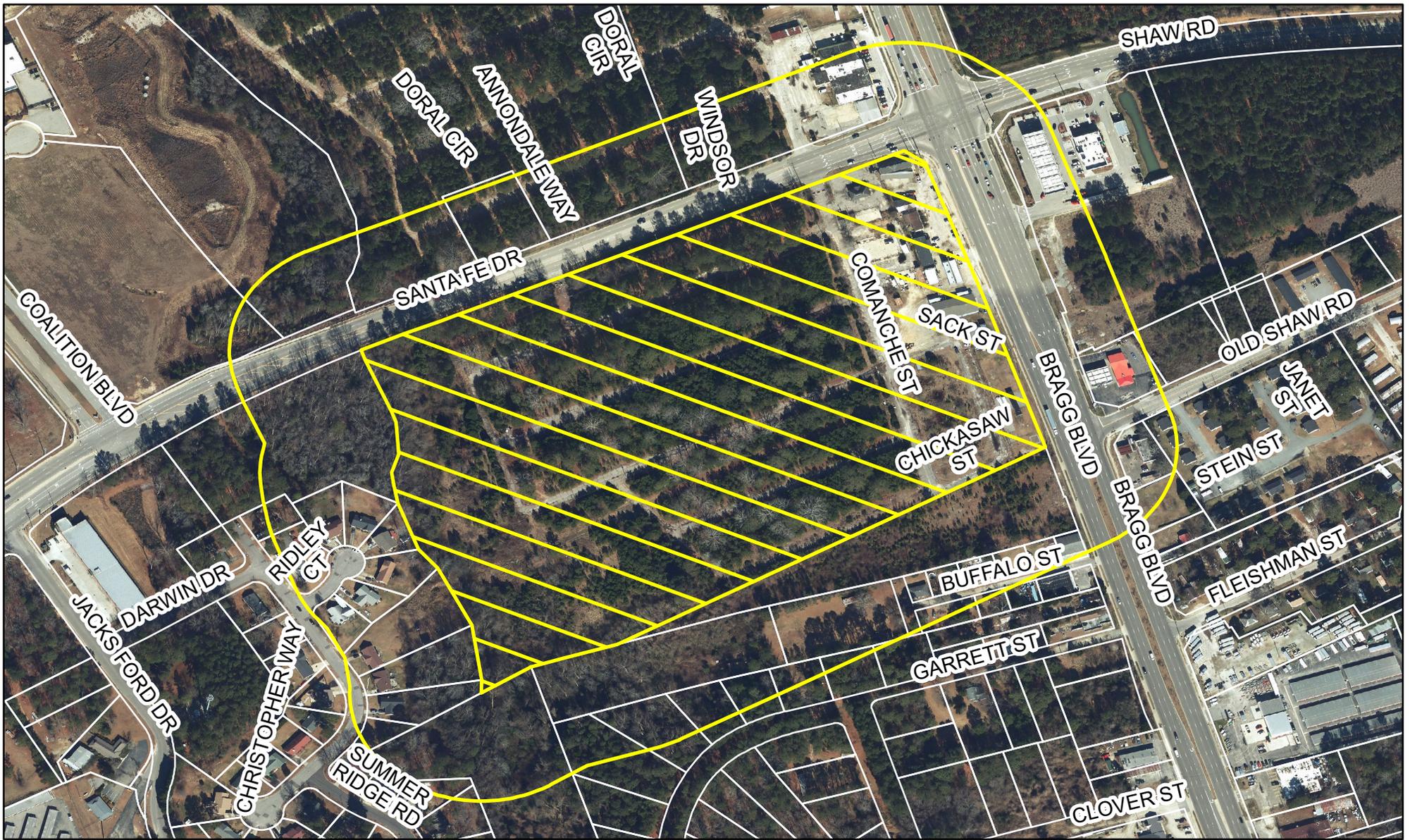
client name: Element Construction LLC

community: ANNONDALE

description: Signs

date: May 15, 2024

revision: August 7, 2024



Aerial Notification Map

Case #: A24-40

Request: Variance for Sign Size

Location: 5649 BRAGG BLVD
 REID: 0419117547000



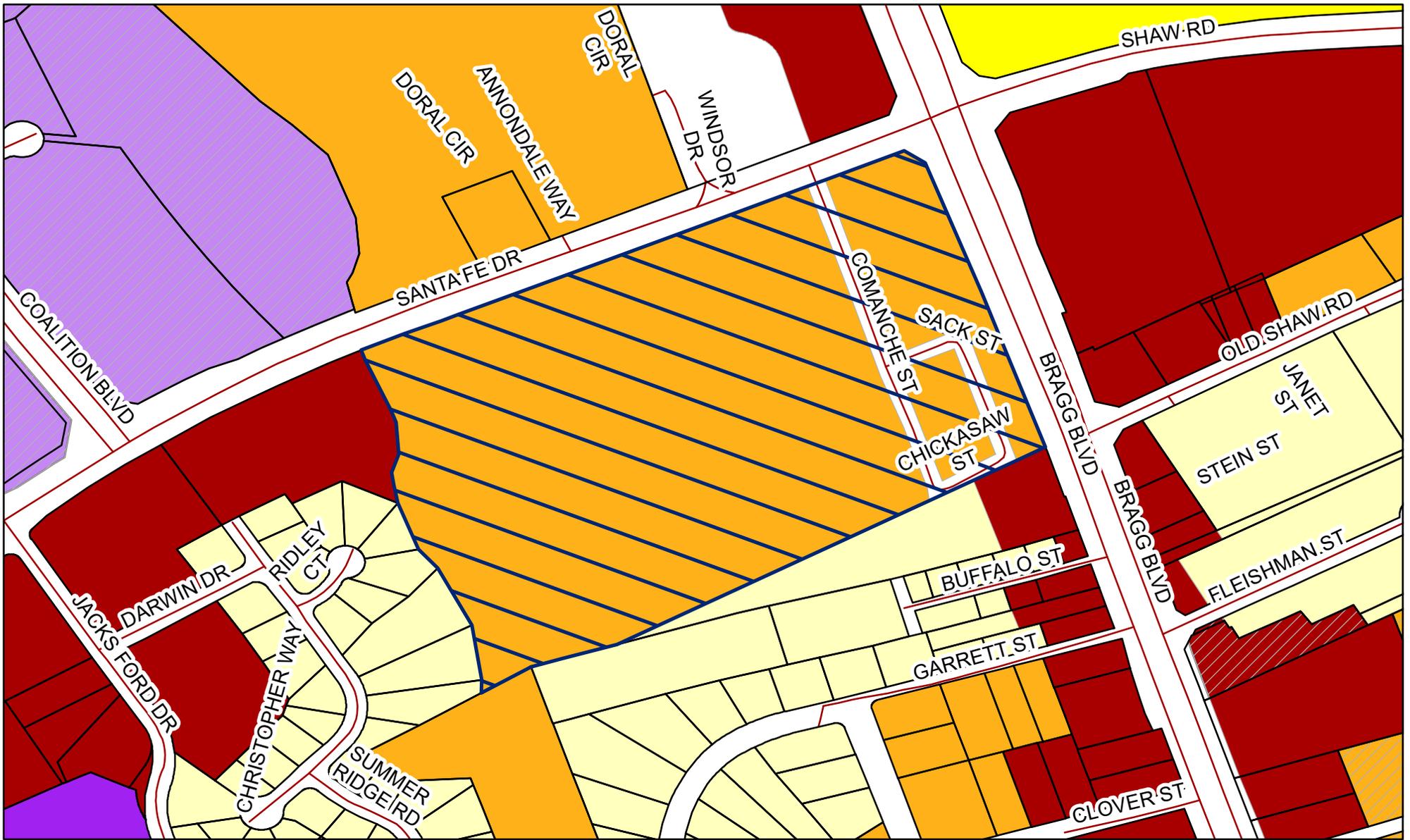
A24-40 Buffer



A24-40



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



Zoning

Case #: A24-40

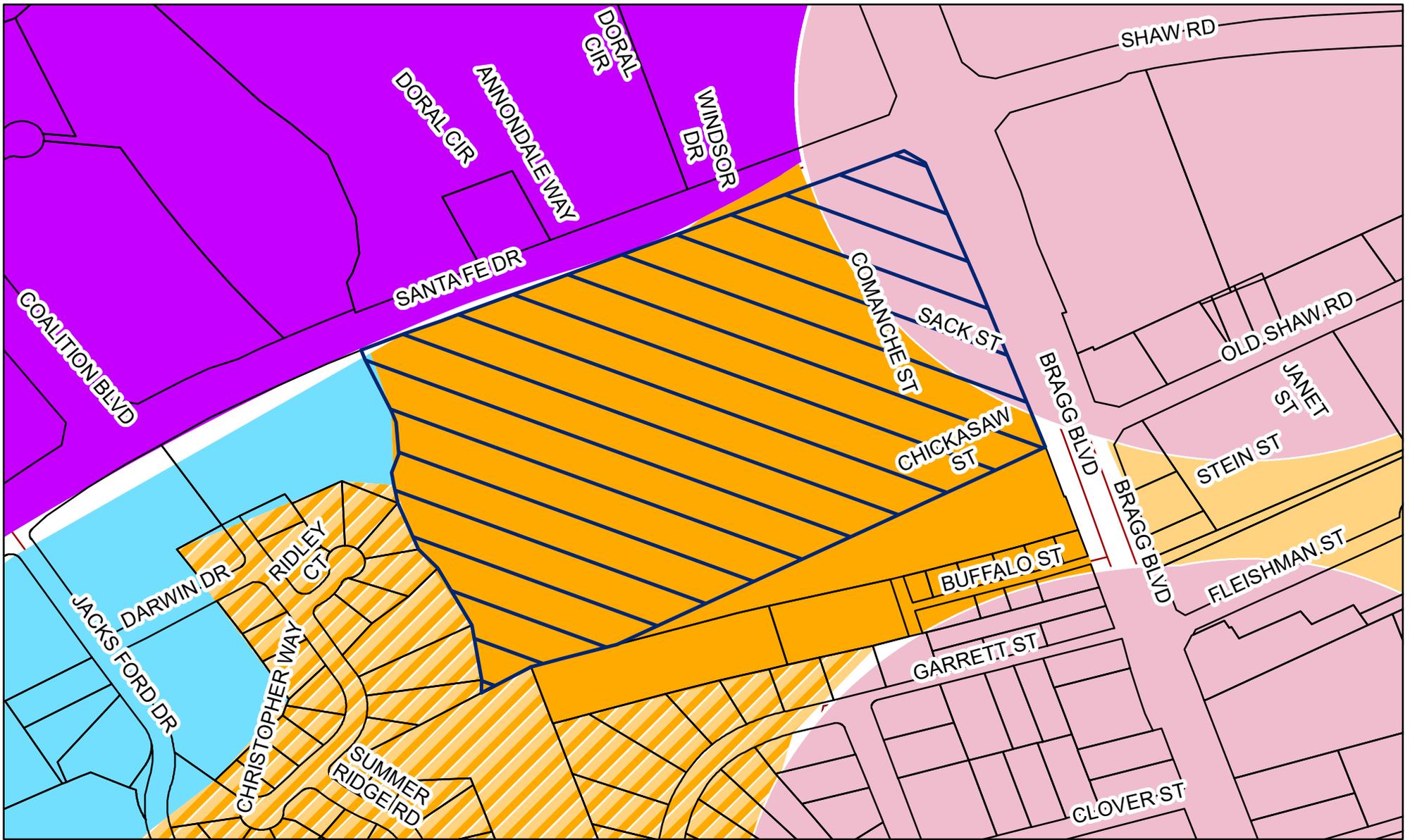
Request: Variance for Sign Size

Location: 5649 BRAGG BLVD
REID: 0419117547000

-  A24-40
-  BP/CZ - Conditional Business Park
-  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 300' buffer. Subject property is shown in the hatched pattern.





Future Land Use

Case #: A24-40

Request: Variance for Sign Size

Location: 5649 BRAGG BLVD
REID: 0419117547000

 A24-40

Land Use Plan 2040

Character Areas

-  MDR - MEDIUM DENSITY
-  NIR - NEIGHBORHOOD IMPROVEMENT
-  HDR - HIGH DENSITY RESIDENTIAL
-  NMU - NEIGHBORHOOD MIXED USE
-  OI - OFFICE / INSTITUTIONAL
-  EC - EMPLOYMENT CENTER

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





West



North



East



South





City of Fayetteville

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

City Council Action Memo

File Number: 24-4194

Agenda Date: 9/10/2024

Version: 1

Status: Agenda Ready

In Control: Zoning Commission

File Type: Evidentiary Hearing

Agenda Number: 4.02

TO: Mayor and Members of City Council

THRU: Zoning Commission

**FROM: Will Deaton, MPA, AICP, CFM, CZO - Planning & Zoning Division
Manager
Heather Eckhardt, CZO - Planner II**

DATE: September 10, 2024

RE:

A24-41. Variance to reduce the minimum rear yard setback at 810 S Eastern Boulevard (REID #0436775716000), and being the property of 301B45K, LLC.

COUNCIL DISTRICT(S):

2 - Malik Davis

Relationship To Strategic Plan:

Strategic Operating Plan FY 2022

Goals 2027

Goal 2: Responsive City Government Supporting a Diverse and Viable Economy

- Objective 2.1: To ensure a diverse City tax base

Goal 4: Highly Desirable Place to Live, Work, and Recreate

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

Executive Summary:

The applicant is requesting a variance to reduce the minimum rear yard setback from 50 feet to 15 feet. This variance will address non-conforming structures on an adjacent property under different ownership.

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: 301B45K LLC

Applicant: Mike Adams, MAPS

Requested Action: Reduce minimum rear yard setback from 50 feet to 15 feet

Zoning District: Heavy Industrial (HI)

Property Address: 801 S Eastern Blvd

Size: 3.04 acres ±

Existing Land Use: Wholesale distributor for HVAC equipment

Surrounding Zoning and Land Uses

- North: MR-5 - Single family residential
- South: HI - Storage facility
- East: HI - Religious institution
- West: HI - Vacant commercial building

Letters Mailed: 20

Issues/Analysis:

The subject property is located on S Eastern Blvd just east of the Martin Luther King Jr Freeway. According to the Cumberland County Tax office, the structure on the subject property was built in 1998 as the location of Johnstone Supply, a wholesale distributor of HVAC equipment.

The subject property was developed long before the adoption of the Unified Development Ordinance. Under the prior ordinance, the subject property was required to meet a 20-foot rear yard setback. The structure met the required setback at the time of construction. The Unified Development Ordinance now requires a 50-foot rear yard setback when abutting a residential zoning district.

Over the years, multiple accessory structures from the neighboring property at 408 Buxton Boulevard have begun encroaching on the subject property. The owner of the subject property would like to deed the affected property to the owner of 408 Buxton Blvd to clear up those encroachments. The subject property is currently non-conforming due to the adoption of the UDO and deeding the affected property to the owner of 408 Buxton Blvd would increase the non-conformity.

To address the non-conformity and encroachments, the owner has requested a variance to the required rear yard setback. This variance would allow for the rear property line to be moved and address the encroachments. The UDO requires a 50-foot rear yard setback, and the owner has requested a rear yard setback of 15.88 feet.

Insufficient Justification for Variance

The following does not constitute grounds for a Variance:

1. The siting of other nonconforming or conforming uses of land or structures in the

- same or other districts;
- 2. The request for a particular use expressly, or by inference, prohibited in the district;
or
- 3. Economic hardship or the fact that property may be utilized more profitably with a Variance.

Subsequent Development:

The applicant is requesting to reduce the minimum rear yard setback from 50 feet to 15.88 feet. This variance is not tied to any future development on the subject property. However, the variance does address an encroachment created by development taking place on an adjacent property.

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 “Current building does not rear yard setbacks already. The building predates the UDO zoning setbacks.”

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 “Adjoining property owner has building encroachments across property line. The subject property owner is trying to deed him a portion of the land to cover those encroachments. In doing so it reduces the rear yard setback even more. The variance is for a rear yard setback after deeding the adjoining property owner enough property to make his buildings compliant.

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 “The variance will allow the adjoining property owner to be compliant with accessory building setbacks. The subject property's building is already non-compliant and cannot be brought into compliance.”

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

The applicant states “The building was existing prior to the zoning and its requirements being put in place. The request is for the building to remain with the rear setbacks as shown. All other setbacks are met.”

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 “In granting the variance, the adjoining property owner will become compliant with encroaching accessory buildings.”

Budget Impact:

There is no immediate budget 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 required rear yard setback to 15 feet.

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

#1441822

Project Title: Johnstone Supply
Application Type: 5.4) Variance
Workflow: Staff Review

Jurisdiction: City of Fayetteville
State: NC
County: Cumberland

Project Location

Project Address or PIN: 810 S EASTERN BLVD
(0436775716000)

Zip Code: 28301

Is it in Fayetteville? If you're not sure, click this link: [Cumberland County Tax Office GIS system](#)

GIS Verified Data

Business Name:

Project Address: 810 S EASTERN BLVD

Variance Request Information

Requested Variances: Minimum yard/setback

Section of the City Code from which the variance is being requested.: 30-3-E-9

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

Variance is for a rear yard setback of 15.88 feet when 50' is required.

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

HI

MR5

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.:

Current building does not rear yard setbacks already. The building predates the UDO zoning setbacks.

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.:

Adjoining property owner has building encroachments across property line. The subject property owner is trying to deed him a portion of the land to cover those encroachments. In doing so it reduces the rear yard setback even more. The variance is for a rear yard setback after deeding the adjoining property owner enough property to make his buildings compliant.

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

The variance will allow the adjoining property owner to be compliant with accessory building setbacks. The subject property's building is already non-compliant and cannot be brought into compliance.

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

The building was existing prior to the zoning and its requirements being put in place. The request is for the building to remain with the rear setbacks as shown.

All other setbacks are met.

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

In granting the variance, the adjoining property owner will become compliant with encroaching accessory buildings.

Height of Sign Face : 0

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

Brent Morehouse
Johnstone Supply
1181 Middle Rd
Fayetteville, NC 28312
P:704-787-4850
brent@johnstone50.com

Project Contact - Agent/Representative

Michael Adams

MAPS Surveying Inc.
1306 Fort Bragg Road
Fayetteville, NC 28305
P:910-484-6432
maps@mapssurveying.com

As an unlicensed contractor, I am aware that I cannot enter into a contract that the total amount of the project exceeds \$40,000. :

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

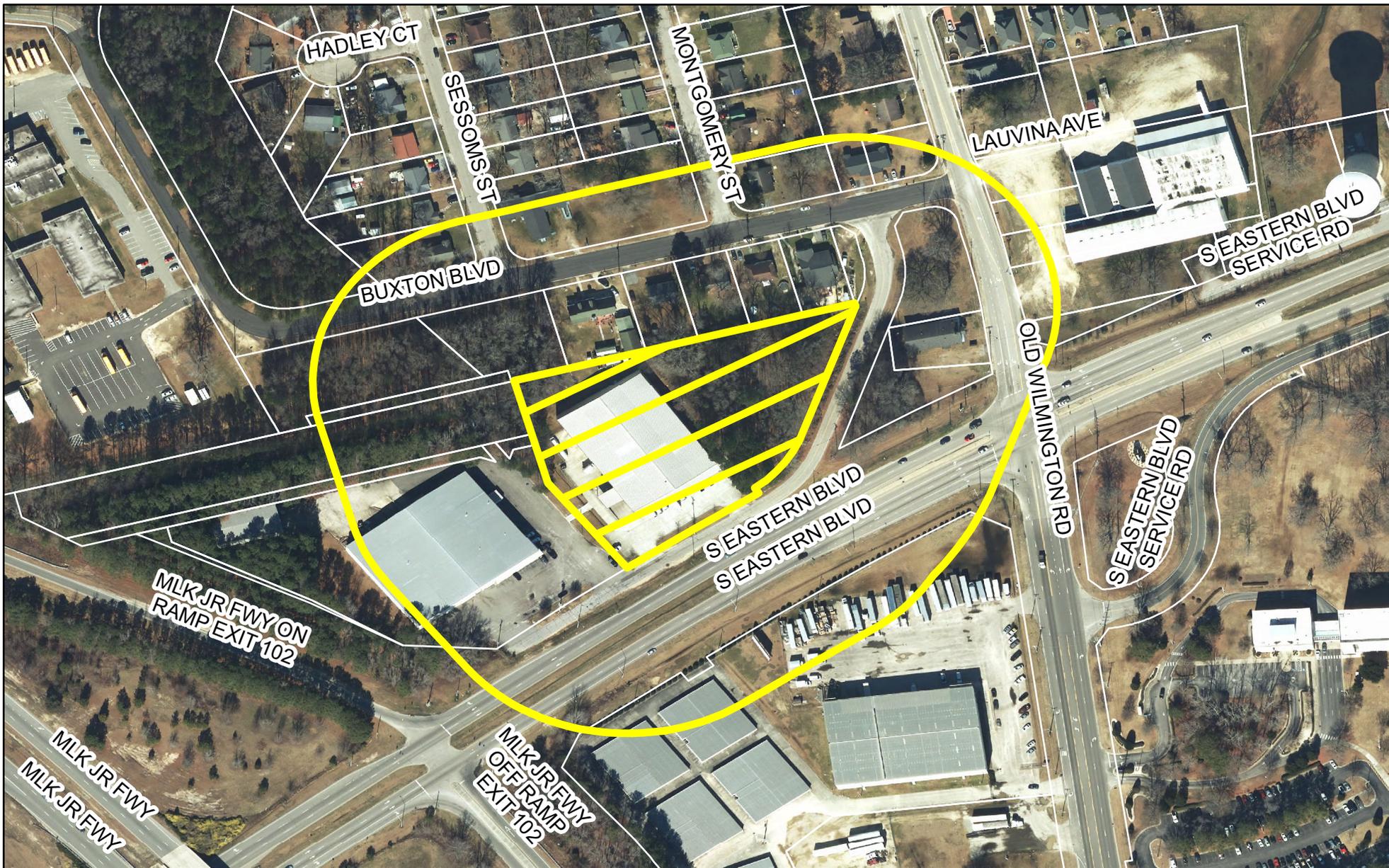
NC State Mechanical Contractor's #2 License Number:

NC State Mechanical 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:



Aerial Notification Map

Case #: A24-41

Request: Variance

Location: 810 S Eastern Blvd

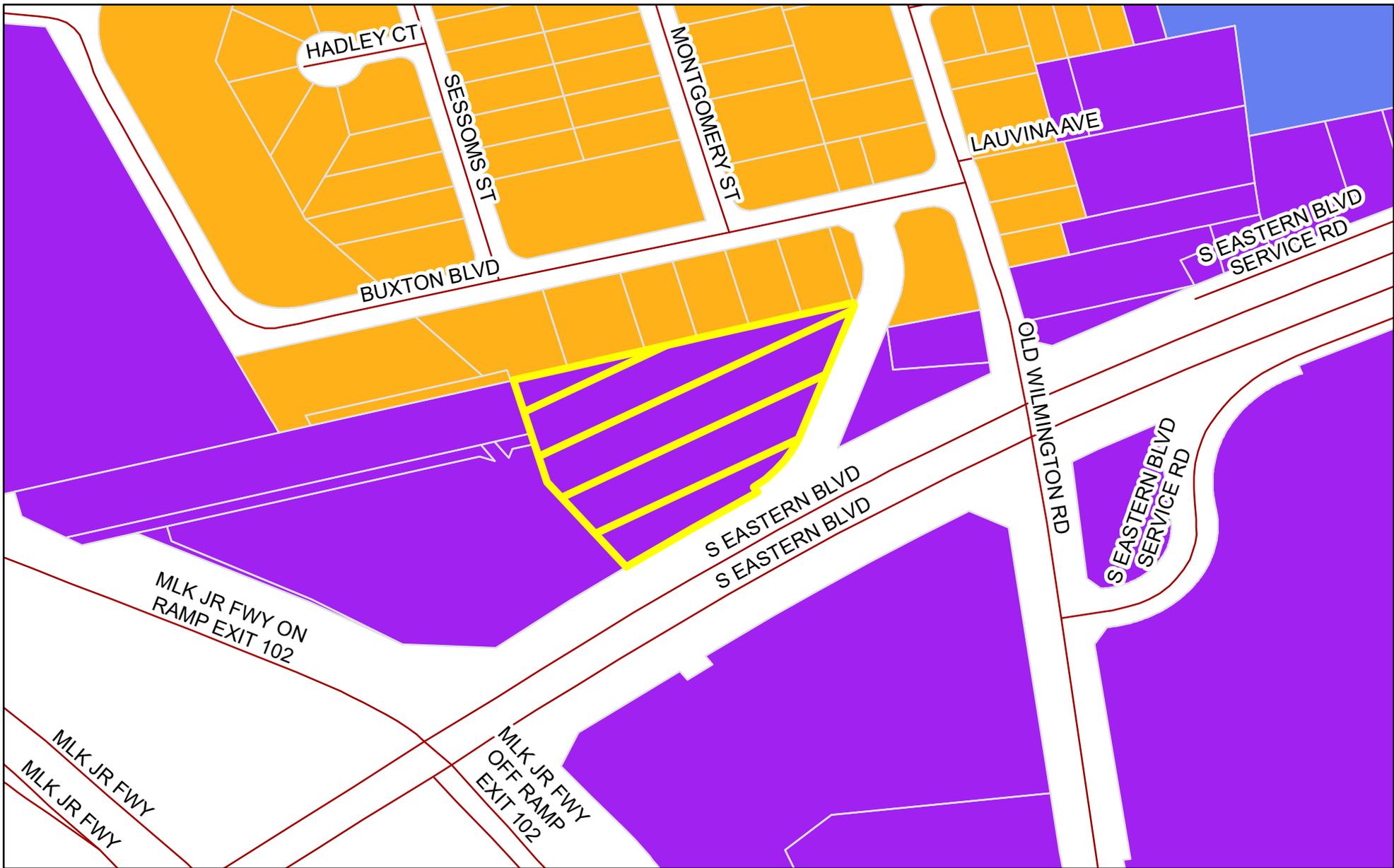
Legend

- A24-41
- A24 41 Buffer



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





Zoning Map

Case #: A24-41

Request: Variance

Location: 810 S Eastern Blvd

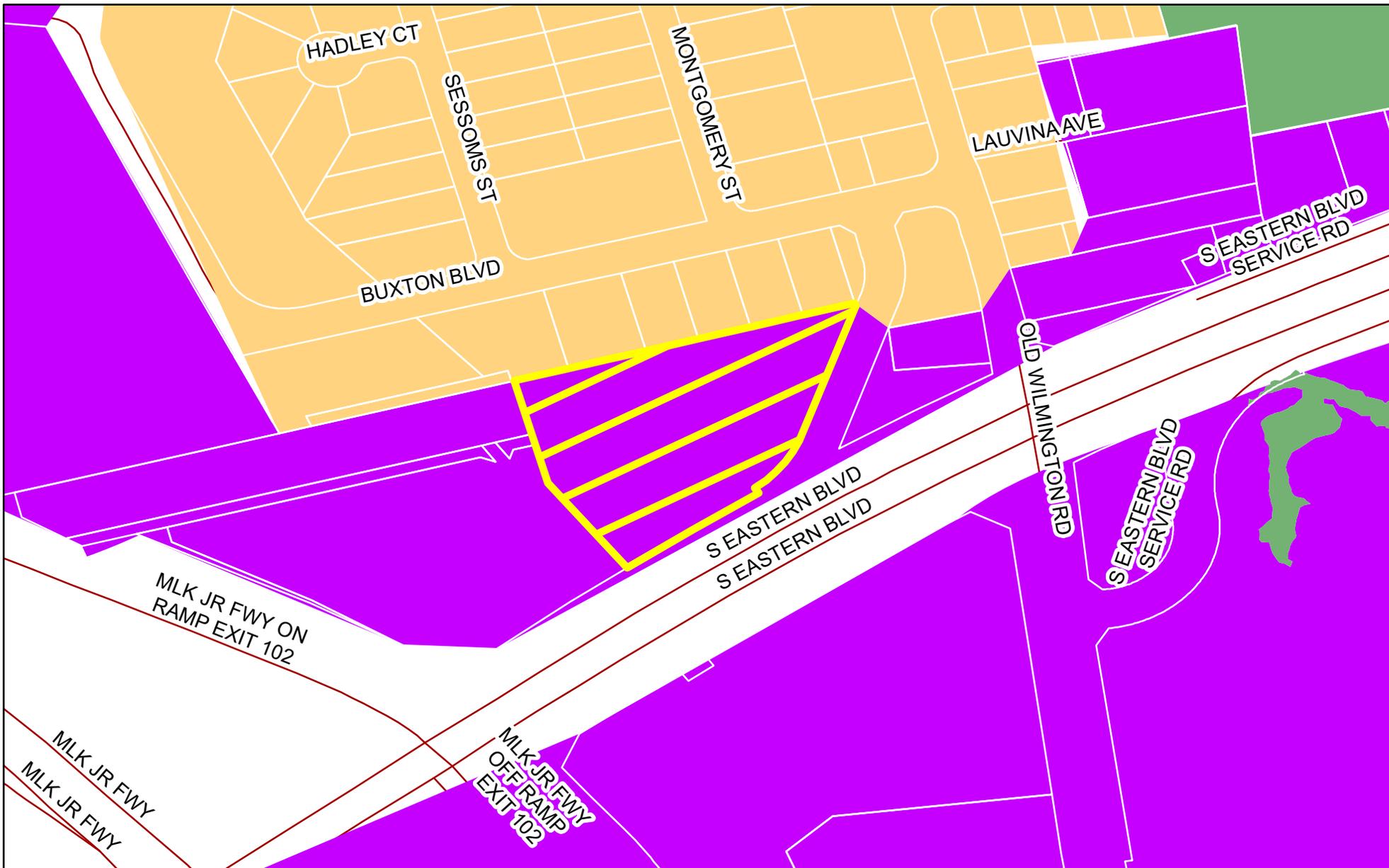
Legend

- HI - Heavy Industrial
- MR-5 - Mixed Residential 5
- OI - Office & Institutional



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





Land Use Map

Case #: A24-41

Request: Variance

Location: 810 S Eastern Blvd

Legend

Land Use Plan 2040

Character Areas

- PARKOS - PARK / OPEN SPACE
- MDR - MEDIUM DENSITY
- EC - EMPLOYMENT CENTER



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









City of Fayetteville

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

City Council Action Memo

File Number: 24-4215

Agenda Date: 9/10/2024

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: Craig Harmon, CZO - Senior Planner

DATE: September 10, 2024

RE:

P24-36. Rezoning from Downtown 2 (DT-2) to Downtown 2 Conditional (DT-2/CZ) located at 450 W Russell St (0437443242000) totaling 0.47 acres ± and being the property of Franklin Russell, LLC.

COUNCIL DISTRICT(S):

2 - Davis

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 a property on Russel Street from Downtown 2 (DT-2) to Downtown 2 Conditional Zoning (DT-2/CZ). The only proposed condition is to allow for the additional uses of a car wash and auto detailing.

Background:

Applicant: Jefferey Perez, Cerberus

Owner: Franklin Russell LLC

Requested Action: Conditional rezoning to DT-2/CZ

REID #: 0437443242000

Council District: 2 - Davis

Status of Property: Multi-tenant commercial building

Size: 0.24 acres

Adjoining Land Use & Zoning:

- North: DT-1 - Commercial building and parking lot
- South: DT-2 - Russell Street, parking lot and commercial

- East: DT-2 - Commercial buildings
- West: DT-2 - City parking lot

Annual Average Daily Traffic: Russell Street: 9,100 (2018)

Letters Mailed: 107

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 services. Many 5+ story buildings (especially in the core). Dense residential uses, stacked vertically and urban neighborhoods on the edges.

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 property has been developed in some form since before 1968. Surrounding Area:

The surrounding properties are a mix of different styles of commercial buildings and surface parking lots.

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 conditions are to allow additional the following additional uses;

1 Car wash

2 Auto Detailing.

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 services. Many 5+ story buildings (especially in the core). Dense residential uses, stacked vertically and urban neighborhoods on the edges.

According to the 2040 Future Land Use Plan, this proposed development falls within Goal #1: Focus value and investment around infrastructure and strategic nodes and Goal #4: Foster safe, stable, and attractive neighborhoods.

Under the plan's Land Use Policies and Strategic section, subsection Strategic Compatible Growth, this proposed rezoning falls under the following sections:

LUP 1: Encourage growth in areas well-served by infrastructure and urban services, including roads, utilities, parks, schools, police, fire, and emergency services.

- 1.6: Require adequate infrastructure to be in place prior to or in tandem with new development
- 1.7: Encourage a logical progression of housing development and discourage "leapfrog" development.

LUP 3: Encourage redevelopment along underutilized commercial strip corridors and reinvestment in distressed residential neighborhoods.

- 3.1: Examine and identify targeted redevelopment and infill areas throughout the city.

LUP 4: Create well-designed and walkable commercial and mixed-use districts

- 4.1: Ensure new development meets basic site design standards
- 4.2: Encourage context-sensitive site design

LUP 6: Encourage development standards that result in quality neighborhoods

- 6.1: Encourage quality neighborhood design through maintaining and improving standards for streets, sidewalks, stormwater, and open space.

LUP 7: Encourage a mix of housing types for all ages and incomes

- 7.2: Allow a mix of smaller scale detached and attached housing in Medium Density Residential and Neighborhood Improvement areas (as identified on the Future Land Use Map).

Summary:

According to the applicant, a tenant in this commercial strip center wishes to operate an indoor auto detailing business that would include car washing as part of its operation. The proposed use and rezoning seem to fit with the character of the surrounding area.

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. Consistency and Reasonableness Statement

Project Overview

#1336188

Project Title: 450 Russell St Suite 102

Jurisdiction: City of Fayetteville

Application Type: 5.2) Conditional Rezoning

State: NC

Workflow: Staff Review

County: Cumberland

Project Location

Project Address or PIN: 450 W RUSSELL ST
(0437443242000)

Zip Code: 28301

Is it in Fayetteville? [Click this link to the Cumberland County Tax Office GIS system](#)

GIS Verified Data

Business Name:

Project Address: 450 W RUSSELL ST

Downtown Historic District: Downtown Historic District

Haymount Historic District:

- 450 W RUSSELL ST: Downtown Historic District

General Project Information

Proposed Conditional Zoning District: LI/CZ - Conditional
Light Industrial

Lot or Site Acreage to be rezoned: .24

Was a neighborhood meeting conducted?: No

Date of Neighborhood Meeting:

Number of Residential Units: 0

Nonresidential Square Footage:

Landowner Information

Landowner Name: Franklin Russell LLC

Deed Book and Page Number: NA

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.:

We would like to continue using the site in order to do light detailing for vehicles. From 8:00 Am - 6:00 PM

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

There is a warehouse building. I believe it was a prosthetics business and also an empty lot.

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

No New conditions should apply. We have already been through the TRC Review.

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.:

We are consistent with all long range plans.

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

We do not believe so.

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

The shop is in constant use. With the shutting down of Huske Hardware, Lumber Bank, The selling o the old hotel downtown, loss of Southern Alternative. We are trying o remain healthy block in the downtown area. Combined with Bright light Brewery, The detail shop, two gyms, we feel this adds a healthy addition to our block.

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.:

We area. creative group of individuals int he downtown area. we are all craftsman by trade and business owners. We only see it adding value to our city lock. It brings people downtown.

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

We only detail high end cars. To include city workers and some that work in City Hall. We have ben accepted y the people on the immediate area.

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

It brings people to our city block, it brings people downtown.

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

Not understood.

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.:

not understood

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

it not not impact property values of the surrounding area.

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

it doe not impact negatively on the environment.

Primary Contact Information

Contractor's NC ID#:

Project Owner

Jefferey Perez
Cerberus
450 W Russell St , 102
fayetteville, NC 28301
P:9104945066
jperez0946@gmail.com

Project Contact - Agent/Representative

Jefferey Perez
Cerberus
450 W Russell St , 102
fayetteville, NC 28301

P:9104945066

jperez0946@gmail.com

As an unlicensed contractor, I am aware that I cannot enter into a contract that the total amount of the project exceeds \$40,000. :

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

NC State Mechanical Contractor's #2 License Number:

NC State Mechanical Contractor:

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:



Aerial Notification Map

Case #: P24-36

Request: Re zoning to DT-2/CZ

Location: 450 W Russell St

Legend

 1,000' 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 #: P24-36

Request: Re zoning to DT-2/CZ

Location: 450 W Russel St

Legend
DT Zoning
 Zoning
 DT-1
 DT-2



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





Land Use Map

Case #: P24-36

Request: Rezonng to DT-2/CZ

Location: 450 W Russel St

Legend

Land Use Plan 2040

Character Areas

 DTMXU - DOWNTOWN

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







Consistency and Reasonableness Statement

Map Amendments

Pursuant N.C.G.S. Sections 160D-604 and -605, the Zoning Commission finds that the proposed zoning map amendment in case P24-36 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 investment around infrastructure and strategic nodes	X	
Goal # 4: Foster safe, stable, and attractive neighborhoods	X	

2. LAND USE POLICIES AND STRATEGIES:

LAND USE POLICIES AND STRATEGIES	CONSISTENT	INCONSISTENT
LUP 1: Encourage growth in areas well-served by infrastructure and urban services, including roads, utilities, parks, schools, police, fire, and emergency services.	X	
1.4: Annexation and adherence to development standards are required for any development proposal within the city’s Municipal Influence Area (MIA) if city services are to be provided.	X	
1.6: Require adequate infrastructure to be in place before or in tandem with new development	X	
LUP 3: Encourage redevelopment along underutilized commercial strip corridors and reinvestment in distressed residential neighborhoods.	X	
3.1: Examine and identify targeted redevelopment and infill areas throughout the city.	X	
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, stormwater, and open space.	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 amendment is also in the public interest because it: [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.

- 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):

September 10, 2024
Date

Chair Signature

Print



City of Fayetteville

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

City Council Action Memo

File Number: 24-4207

Agenda Date: 9/10/2024

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: Will Deaton, AICP - Planning & Zoning Division Manager
Demetrios Moutos - Planner I

DATE: September 10, 2024

RE:

P24-37. Rezoning from Residential 6 (R6A) to Heavy Industrial (HI) located at 3424 Cumberland Road (0426015026000) totaling 2.47 acres ± and being the property of Kodjo Sam Kouassi.

COUNCIL DISTRICT(S):

5 - Lynne Greene

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

Executive Summary:

The applicant seeks to rezone the property at 3424 Cumberland Road from Residential 6 (R6A) to Heavy Industrial (HI). This site is situated on the north side of Cumberland Road, between Hopedale Street and Boone Trail/Upchurch Drive. This is an initial zoning in conjunction with an annexation petition.

Background:

Owner: Kodjo Sam Kouassi

Applicant: Kodjo Kouassi

Requested Action: R6A to HI

REID #: 0426015026000

Council District: 5 - Lynne Greene

Status of Property: The principle structure appears to be a single-family residence, featuring a large metal sunshade directly behind it and a chain-link

fence with plastic inserts surrounding the property.

Size: 2.47 ± acres

Adjoining Land Use & Zoning:

- North: SF-10 - Single family residences
- South: R6A - Single family residences
- East: CC - Sam's Towing
- West: HI - Mixed Use Auto Storage/Tire Sales

Annual Average Daily Traffic: Cumberland Road - 3,500

Letters Mailed: 211

Land Use Plans:

Following 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 those in the Municipal Influence Area (MIA), are subject to its guidelines. The Plan recommends that this part of the city be developed as Medium Density Residential, which primarily includes single-family neighborhoods on small lots, with duplexes and townhomes interspersed. Low-rise apartments are also permissible.

Issues/Analysis:

History:

The conveyance documented in the deed pertains to the transfer of real property from Carrie Lynn McBride Moody and Timothy Brandon Holst, serving as Co-Trustees of the Charles La-Fate McBride Trust established on August 17, 2018, to Kodjo Sam Kouassi. The subject property is specifically identified as Lot 10 in Ellington Pines, situated in Cumberland County, North Carolina, with detailed boundary descriptions and references to prior deeds and recordings. This transfer is effectuated through a General Warranty Deed, a legal instrument whereby the grantors affirm that they possess unencumbered title to the property, have the authority to convey it, and warrant that the property is free from any encumbrances except those expressly stated in the deed. The deed also contains customary legal covenants obliging the grantors to defend the title against legitimate claims. Furthermore, an exception is articulated in the deed, specifically pertaining to a parcel previously conveyed to the Department of Transportation. The grantors have executed the deed, which has been duly notarized by authorized notaries in North Carolina, thus affirming the validity of the document.

Surrounding Area:

The surrounding area primarily consists of single-family residences, with some more intense commercial uses. To the west of the subject property is a mixed-use site that includes auto storage, tire sales, and an auto mechanic. The subject property extends 1,163.6 feet in depth, with its rear boundary adjoining the Pine Acres single-family residential subdivision. Adjacent to the mixed-use auto property, at the corner of Cumberland Road and Ladyslipper Drive, is B's All About Children Childcare Center. Directly across from the childcare center are an antique thrift store and the Boys and Girls Clubs of Cumberland County.

The property at 3404 Cumberland Road, also owned by Mr. Kouassi, was the subject of a rezoning request in early 2022. This property serves as the primary location for Sam's

Towing. It was rezoned to Community Commercial (CC) to align with existing County zoning, support strategic development goals, and ensure compatibility with surrounding land uses as part of the annexation process.

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.

Straight Zoning:

The request is for a rezoning from Residential 6 in Cumberland County to Heavy Industrial (HI) in the City of Fayetteville.

The Heavy Industrial (HI) District is designed to accommodate heavy manufacturing, assembly, fabrication, processing, distribution, storage, research and development, and other industrial activities that may involve large-scale operations, significant exterior movement of vehicles, materials, and goods, and a higher potential for environmental and visual impacts.

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

Land Use Plan Analysis:

According to the Future Land Use Map & Plan, this area is recommended for development as Medium Density Residential and Employment Center. Medium Density Residential primarily consists of single-family neighborhoods with small lots, interspersed with duplexes or townhomes, and possibly low-rise apartments. The Employment Center designation is intended for high-intensity non-residential uses that may have significant impacts or nuisance potential, and for regional employment hubs that could include larger industrial facilities or business parks.

According to the 2040 Future Land Use Plan, this proposed development falls within Goal #1: Focus value and investment around infrastructure and strategic nodes and Goal #4: Foster safe, stable, and attractive neighborhoods.

Under the plan's Land Use Policies and Strategic section, subsection Strategic Compatible Growth, this proposed rezoning falls under the following sections:

LUP 1: Encourage growth in areas well-served by infrastructure and urban services, including roads, utilities, parks, schools, police, fire, and emergency services.

- 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.
- 1.6: Require adequate infrastructure to be in place prior to or in tandem with new development.

LUP 3: Encourage redevelopment along underutilized commercial strip corridors and reinvestment in distressed residential neighborhoods.

- 3.1: Examine and identify targeted redevelopment and infill areas throughout the city.

LUP 4: Create well-designed and walkable commercial and mixed-use districts

- 4.1: Ensure new development meets basic site design standards
- 4.2: Encourage context-sensitive site design

LUP 6: Encourage development standards that result in quality neighborhoods

- 6.1: Encourage quality neighborhood design through maintaining and improving standards for streets, sidewalks, stormwater, and open space.

Consistency and Reasonableness Statements:

The Future Land Use Plan outlines specific goals, policies, and strategies. This application aligns with the City's strategic growth objectives and meets the goals outlined in the Land Use Plan, as detailed in the attached Consistency and Reasonableness form.

Conclusion:

The request to rezone the 2.47-acre parcel at 3424 Cumberland Road from Residential 6 (R6A) to Heavy Industrial (HI) is reasonable and aligns with the City of Fayetteville's strategic growth objectives. While the Future Land Use Map recommends this property for Medium Density Residential and Employment Center uses, the proposed rezoning to HI is consistent with the surrounding area's existing commercial and industrial character. The proximity to existing heavy industrial and commercial uses, including auto storage, tire sales, and the Sam's Towing facility, makes this rezoning a logical extension of the existing land use pattern.

Moreover, this rezoning supports the City's goals to ensure a diverse tax base, manage future growth strategically, and sustain a favorable development climate. The HI zoning district will allow for large-scale industrial operations that can contribute to the regional economy, aligning with the Employment Center designation in the Future Land Use Plan. Given the property's location within an area already accommodating similar uses, the rezoning to HI is compatible with surrounding land uses and is unlikely to introduce significant adverse impacts. The proposal also meets the objectives outlined in the City's Land Use Plan, particularly in fostering redevelopment and encouraging investment in areas well-served by infrastructure.

The rezoning of this parcel to Heavy Industrial is both consistent with the City's long-term planning goals and reasonable considering the existing and planned uses in the surrounding area.

Budget Impact:

There is no immediate budgetary impact; however, the rezoning and annexation are expected to generate an economic impact through future tax revenue.

Options:

1. Recommends approval of the map amendment to HI 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 HI based on the following:

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

Attachments:

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

Project Overview

#681931

Project Title: 3424 cumberland rd/towing

Jurisdiction: City of Fayetteville

Application Type: 5.1) Rezoning (Map Amendment)

State: NC

Workflow: Staff Review

County: Cumberland

Project Location

Project Address or PIN: 3424 CUMBERLAND RD
(0426015026000)

Zip Code: 28306

Is it in Fayetteville? [Click this link to the Cumberland County Tax Office GIS system](#)

GIS Verified Data

Business Name:

Project Address: 3424 CUMBERLAND RD

Downtown Historic District:

Haymount Historic District:

General Project Information

Has the land been the subject of a map amendment application in the last five years?: No

Previous Amendment Approval Date:

Previous Amendment Case #:

Proposed Zoning District: HI

Acreage to be Rezoned: 2.47

Is this application related to an annexation?: Yes

Water Service: Public

Sewer Service: Public

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

will be used for towing, prefab building

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

R6A commercial and 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 proposal is adjacent with additional properties

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

No

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

To help the growing demand for towing services

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 already commercial business in the area

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

see previous answer

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

it wont

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 does not

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

it isn't expected to decrease property value

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

it will not have effect the natural environment

Primary Contact Information

Contractor's NC ID#:

Project Owner

kodjo kouassi
sams towing
3404 cumberland rd, no
fayetteville, NC 28306
P:9107471119
samsgarage392@gmail.com

Project Contact - Agent/Representative

David Holmes
Sams Towing
3404 Cumberland rd
Fayetteville, NC 28306
P:910-682-8001
samsgarage392@gmail.com

As an unlicensed contractor, I am aware that I cannot enter into a contract that the total amount of the project exceeds \$40,000. :

NC State General Contractor's License Number:

NC State Electrical Contractor #1 License Number:

NC State Electrical Contractor #2 License Number:

NC State Electrical Contractor #3 License Number: NA

NC State Mechanical Contractor's #1 License Number:

NC State Mechanical Contractor's #2 License Number:

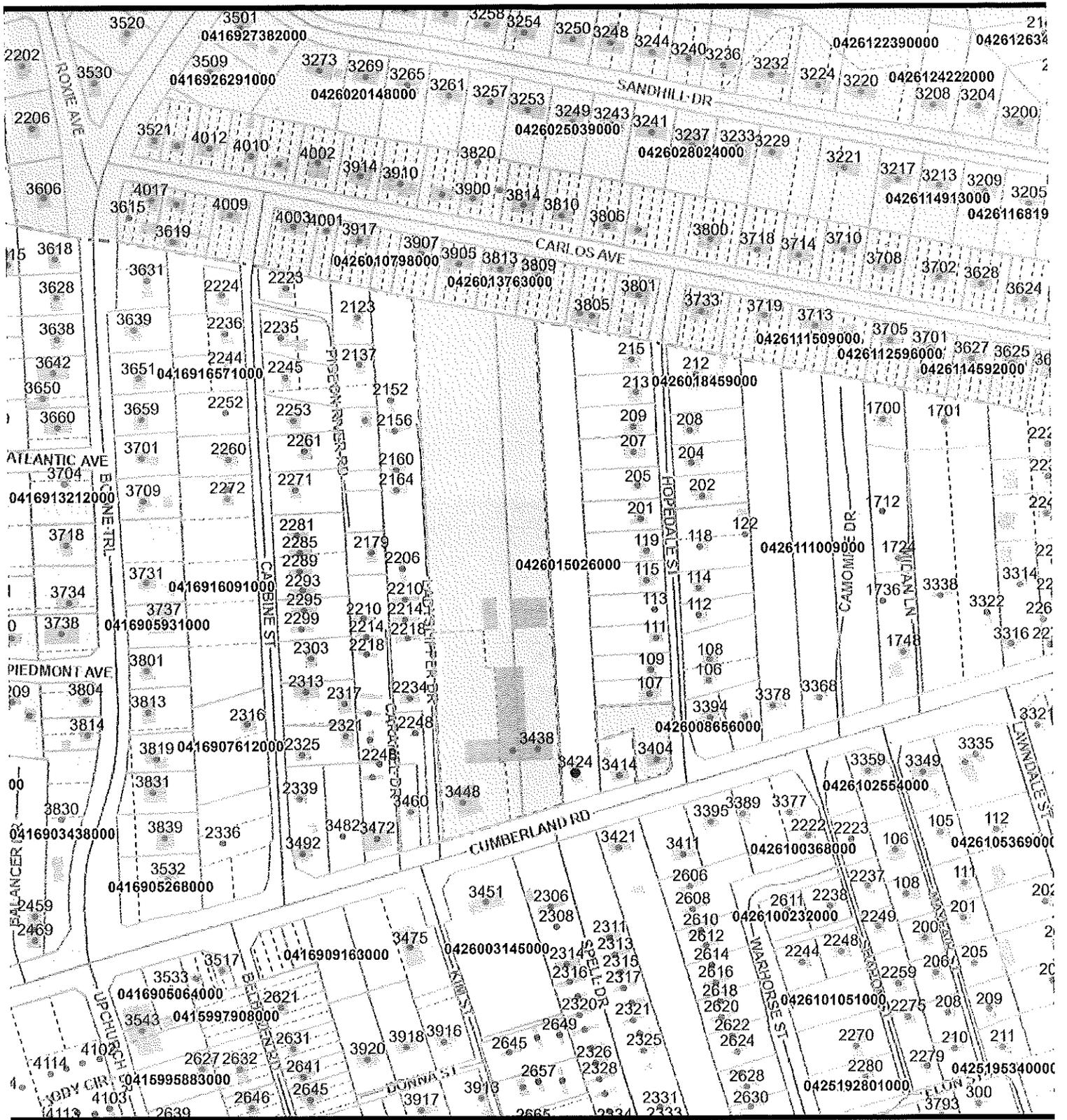
NC State Mechanical Contractor: NA

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:

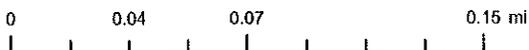


Current Time: 8/2/2024 1:49 PM



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.

• Addresses	Parcel Lines	City Limits
▭ Parcels	▬ Parcel Line	▬ Fayetteville
	▬ Lot Line	▬ Streets



NORTH CAROLINA GENERAL WARRANTY DEED

Excise Tax:	\$230.00
Parcel ID:	
Mail/Box to:	The Zara Law Firm, PLLC, 501-A Executive Place, Fayetteville, NC 28305
Prepared by:	The Zara Law Firm, PLLC, 501-A Executive Place, Fayetteville, NC 28305
Brief description for the index:	Lot 10 Ellington Pines County of Cumberland State of North Carolina

THIS GENERAL WARRANTY DEED ("Deed") is made on the 18 day of July, 20 24, by and between:

GRANTOR	GRANTEE
Carrie Lynn McBride Moody and Timothy Brandon Holst, Co-Trustees of The Charles La-Fate McBride Trust created on August 17, 2018 670 Hollow Bridge Road Autryville, NC 28318	Kodjo Sam Kouassi 3424 Cumberland Road Fayetteville, NC 28306

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, Cumberland County, North Carolina and more particularly described as follows (the "Property"):

Delinquent taxes, if any, to be paid by the closing attorney to the county tax collector upon disbursement of closing proceeds.

BEGINNING at a stake in the Northern margin of the public road leading from Fayetteville to Cumberland Mills, at a point 900 feet Easterly from John Sandrock's corner, the Southeast corner of Lot Number 9, and running thence North 1163.6 feet to a stake in the middle of the fire lane, the Northeast corner of Lot Number 9; thence with the middle of the fire lane South 76 degrees 19 minutes East 100 feet to a stake; thence South 1116 feet to a stake in the Northern margin of the aforesaid public road; thence with the Northern margin of said road South 76 degrees 31 minutes West 100 feet to the beginning, being Lot Number 10 in the Plat of ELLINGTON PINES, as recorded in Book of Maps No. 11, Page 15 in the Office of the Register of Deeds for Cumberland County, North Carolina known as and described in a Deed dated April 9, 1948, from C. G. Strickland and wife, Nevada Greene Strickland, of record in Book 519, Page 255, Cumberland County Registry, North Carolina.

BEING THE SAME PREMISES (Parcel 9) conveyed unto Carrie Lynn McBride Moody, Trustee of the Charles La-Fate McBride Trust created on August 17, 2018 recorded August 21, 2018 in the Office of the Register of Deeds for Cumberland County, North

Carolina in Book 10364 at Page 758.

WITH THE EXCEPTION of that certain parcel of land conveyed to the Department of Transportation, an agency of the State of North Carolina, by Deed recorded in Book 5368, Page 0734 of the Cumberland County North Carolina Registry and particularly described as follows:

BEGINNING at the Southeastern property corner of the former Grantor; thence Westerly along the Southern property line of the former Grantor to the Southwestern property corner of the prior Grantor; thence Northerly along the Western property line of the former Grantor to a point 41.34 feet Northerly of and normal to Survey Line-L; thence Easterly in a straight line to a point 41.34 feet Northerly of and normal to Survey Line-L, on the Eastern property line of the former Grantor; thence Southerly along the Eastern property line of the former Grantor to the point of BEGINNING; Along with a temporary Construction Easement contained in Deed.

All or a portion of the Property was acquired by Grantor by instrument recorded in Book 10364 Page 0758.

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:

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

Carrie Lynn McBride Moody, Co-Trustee of The Charles La-Fate McBride Trust created on August 17, 2018

BY: Carrie Lynn McBride Moody

STATE OF Alabama NORTH CAROLINA
COUNTY OF Lauderdale

I, a Notary Public, do hereby certify that Carrie Lynn McBride Moody, Co-Trustee of The Charles La-Fate McBride Trust created on August 17, 2018 personally appeared before me this day and acknowledged the due execution of the foregoing instrument. Witness my hand and (where an official seal is required by law) official seal.

This the 18th day of July, 2024.

Denise McBehee

Printed Name: Denise McBehee

My Commission Expires: 1-21-25



Timothy Brandon Holst, Co-Trustee of The Charles La-Fate McBride Trust created on August 17, 2018

BY: Timothy Brandon Holst

STATE OF NORTH CAROLINA

COUNTY OF Cumberland

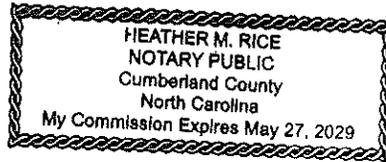
I, a Notary Public, do hereby certify that Timothy Brandon Holst, Co-Trustee of The Charles La-Fate McBride Trust created on August 17, 2018 personally appeared before me this day and acknowledged the due execution of the foregoing instrument. Witness my hand and (where an official seal is required by law) official seal.

This the 22 day of July, 2021.

Heather M. Rice

Printed Name: Heather M. Rice

My Commission Expires: 5/27/29





**Petition Requesting Annexation
(Contiguous)**

Date Received: _____ Received by: _____
 Action by City Council: _____
 Date Approved or Denied: _____

This form is based on the North Carolina General Statutes governing contiguous voluntary annexations [G.S. 160A-31(a) and (b)].

Who should use this form?

A property owner who is requesting annexation of a contiguous property into the City of Fayetteville should use this form.

Statement of the Request:

To the Mayor and City Council of the City of Fayetteville, North Carolina:

1. We the undersigned owners of real property respectfully request that the area described in the attached metes and bounds legal description be annexed to the City of Fayetteville.
2. The area to be annexed is contiguous to the City of Fayetteville and the boundaries of such territory are shown in the attached metes and bounds legal description and in the attached map.

Project Location:

Street Address: <u>3424 Cumberland Rd</u>
PIN/REID: <u>0426015026</u>
Lot Area/Acreage: <u>2.47</u>
Requested zoning district for property after annexation: <u>City of Fayetteville</u>
Have you obtained a vested right certificate from the Cumberland County Planning Department for any proposed development at this location? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, please attach evidence.

Submittal Requirement Checklist:

<input type="checkbox"/>	A metes and bounds legal description of the proposed annexation area is attached.
<input type="checkbox"/>	A deed of the property is attached indicating the deed book and page number.
<input type="checkbox"/>	A map showing the proposed annexation area in relation to the existing city limits is attached.
<input type="checkbox"/>	Evidence of vested rights obtained from County Planning Department (if applicable).
<input type="checkbox"/>	The area to be annexed is contiguous to the city limits and a map indicating the boundaries of such territory is attached.

Primary Contact Information & Signatures:

If the property is owned by an individual (or individuals), please fill in the individual section below. If the property is owned by a Corporation, Limited Liability Corporation (LLC), or Partnership, please fill in the appropriate section below. Be sure to provide names, signatures, and titles for each applicant.

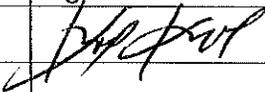
Individuals:

Print Name	Mailing Address	Phone Number	Signature

Corporation:

Name of Corporation:			
Print Name & Title	Mailing Address	Phone Number	Signature

Limited Liability Corporation (LLC):

Name of LLC: Sam's LLC			
Print Name & Title	Mailing Address	Phone Number	Signature
Kodjo Kouassi owner	3163 Legoin Rd Fayetteville, NC	910-229-1110	

Partnership:

Name of Partnership:			
Print Name & Title	Mailing Address	Phone Number	Signature

Property Summary

Tax Year: 2024

REID	0426015026000	PIN	0426-01-5026	Property Owner	MOODY, CARRIE LYNN MCBRIDE TRUSTEE
Location Address	3424 CUMBERLAND RD	Property Description	ELLINGTON PINES SE:01 PL:0011-0015	Owner's Mailing Address	670 HOLLOW BRIDGE RD AUTRYVILLE NC 28318

Administrative Data	
Plat Book & Page	0011-0015
Old Map #	
Market Area	2451
Township	NONE
Planning Jurisdiction	COUNTY
City	
Fire District	0021-FIRE-SERV-DIST
Spec District	RECREATION
Land Class	R101-RES
History REID 1	
History REID 2	
Acreage	2.47
Permit Date	
Permit #	

Transfer Information	
Deed Date	8/21/2018
Deed Book	010364
Deed Page	00758
Revenue Stamps	
Package Sale Date	8/21/2018
Package Sale Price	
Land Sale Date	
Land Sale Price	

Improvement Summary	
Total Buildings	1
Total Units	0
Total Living Area	1,332
Total Gross Leasable Area	0

Property Value	
Total Appraised Land Value	\$47,400
Total Appraised Building Value	\$73,630
Total Appraised Misc Improvements Value	\$5,626
Total Cost Value	\$126,656
Total Sales Comp Value	\$92,500
Total Appraised Value - Valued By Sales Comparison	\$92,500
Other Exemptions	
Exemption Desc	
Use Value Deferred	
Historic Value Deferred	
Total Deferred Value	
Total Taxable Value	\$92,500

Building Summary

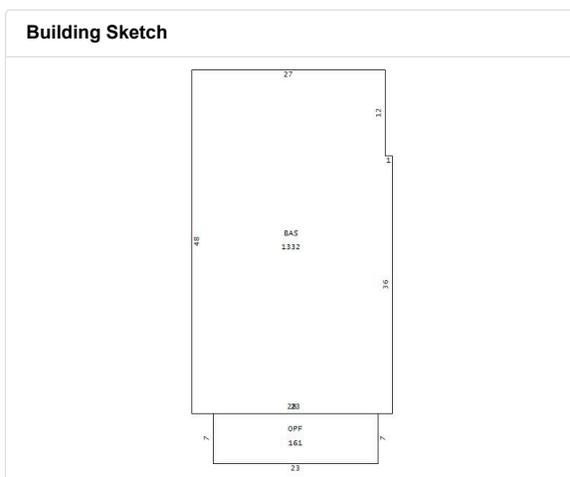
Card 1 3424 CUMBERLAND RD

Building Details	
Bldg Type	R1-SINGLE-FAMILY-RES
Units	0
Living Area (SQFT)	1332
Number of Stories	1.00
Style	000001-STYLE
Foundation	G-PIERS-W/CNTFWL
Frame	CONSTANT
Exterior	09-CONCRT-BLK/STUCCO
Const Type	
Heating	M-07&S-01
Air Cond	AC-Y
Baths (Full)	0
Baths (Half)	1
Extra Fixtures	0
Total Plumbing Fixtures	2
Bedrooms	0
Floor	08-PINE-SOFT-WOOD
Roof Cover	03-COMP SHINGLE
Roof Type	02-GABLE
Main Body (SQFT)	1332

Building Description			
Year Built	1945	Effective Year	1980
Additions	1	Remodeled	2003
Interior Adj	FIREPLACES (1.00)		
Other Features			

Building Total & Improvement Details	
Grade	335 92%
Percent Complete	100
Total Adjusted Replacement Cost New	\$76,718
Physical Depreciation (% Bad)	A 26%
Depreciated Value	\$56,771
Economic Depreciation (% Bad)	0
Functional Depreciation (% Bad)	0
Total Depreciated Value	\$56,771
Market Area Factor	1
Building Value	\$73,630
Misc Improvements Value	\$5,626
Total Improvement Value	\$79,256
Assessed Land Value	
Assessed Total Value	

Addition Summary			
Story	Type	Code	Area
1.00	OPEN PORCH FIN	OPF	161



Photograph

No Photo Found

Misc Improvements Summary

Card #	Unit Quantity	Measure	Type	Base Price	Size Adj Factor	Eff Year	Phys Depr (% Bad)	Econ Depr (% Bad)	Funct Depr (% Bad)	Common Interest (% Good)	Value
1	35x40	DIMENSIONS	SHELTER	\$6.44		2013	20	0	0		\$5,626
Total Misc Improvements Value Assessed: \$5,626											

Land Summary

Land Class: R101-RES		Deeded Acres: 2.47		Calculated Acres: 2.32			
Zoning	Soil Class	Description	Size	Rate	Size Adj. Factor	Land Adjustment	Land Value
R6A		0100-RESIDENTIAL-LOT	2.00 BY THE UNIT PRICE	\$12,000			\$18,000
R6A		2096-RURAL-ACREAGE	1.47 BY THE ACRE PRICE	\$20,000			\$29,400
Total Land Value Assessed: \$47,400							

Ownership History

	Owner Name	Deed Type	% Ownership	Stamps	Sale Price	Book	Page	Deed Date
Current	MOODY, CARRIE LYNN MCBRIDE TRUSTEE	WD-WARRANTY DEED	100	0		010364	00758	8/21/2018
1 Back	MCBRIDE, CHARLES LAFATE/ MCBRIDE, VIRGINIA	WD-WARRANTY DEED	100	100	\$50,000	006777	00240	1/28/2005
2 Back	N C DEPT OF TRANSPORTATION	RW-RIGHT OF WAY DEED	100	0		005368	00734	11/28/2000
3 Back	HALL, CLYDE E	WD-WARRANTY DEED	100	0		004898	00667	7/15/1998
4 Back	HALL, CLYDE EDWARD	WD-WARRANTY DEED	100	150	\$75,000	004431	00634	1/19/1996
5 Back	ANDERSON, JANICE TAYLOR	WD-WARRANTY DEED	100	0		003958	00555	5/20/1993
6 Back	TAYLOR, CLARA	DE-DEED	100	0		000537	00136	7/1/1984

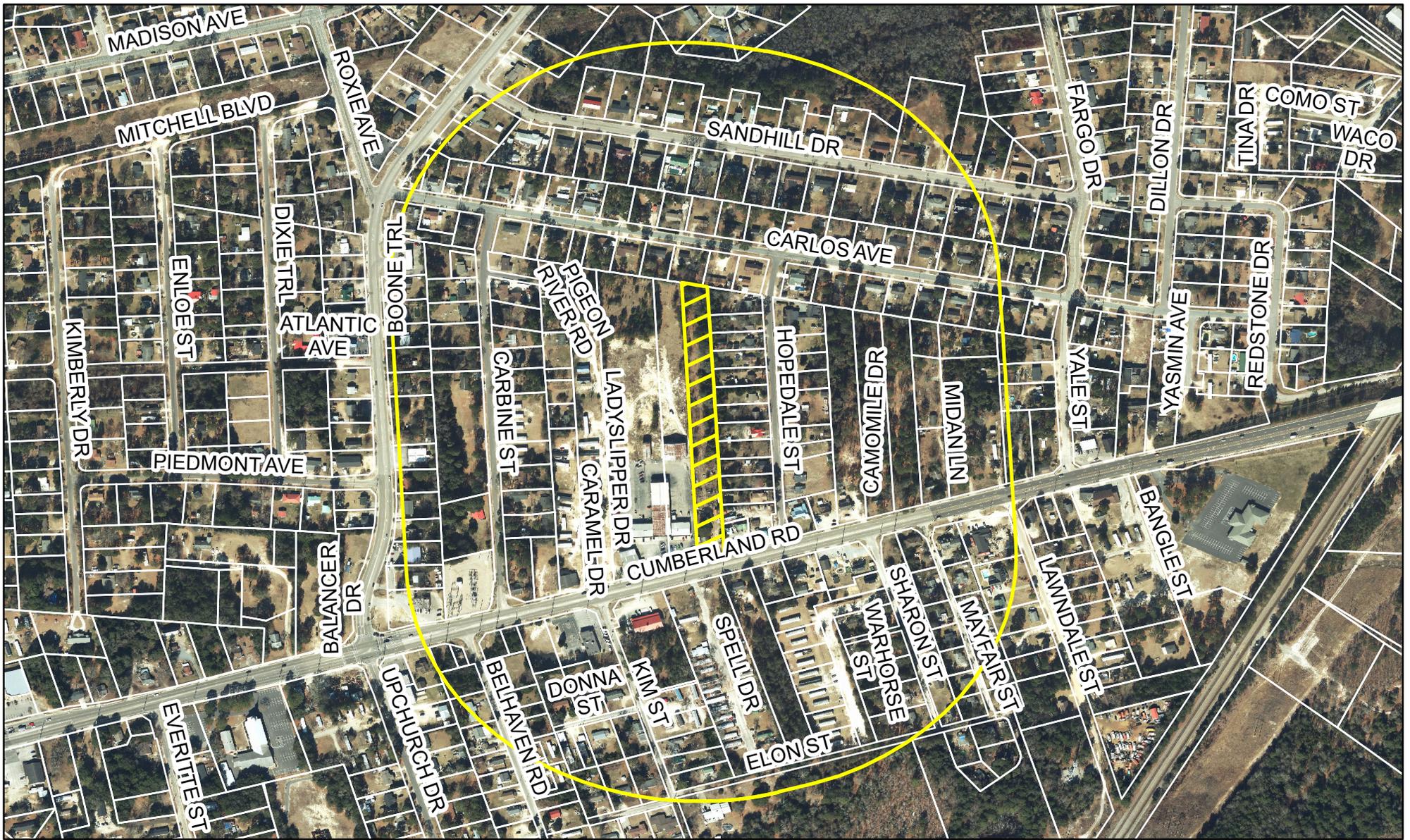
Notes Summary

Building Card	Date	Line	Notes
No Data			

Sales of Comparable Properties

Feature	Subject	Comparable 1	Comparable 2	Comparable 3	Comparable 4	Comp				
REID	0426015026000	0426119424000	0426112596000	0416918580000	0426213578000	04151:				
PIN	0426-01-5026	0426-11-9424	0426-11-2596	0416-91-8580	0426-21-3578	0415-1				
Address	3424 CUMBERLAND	3517 CARLOS	3705 CARLOS	2245 CARBINE	2160 REDSTONE	2247 V				
Proximity	N/A	0	0	0	0	0				
Market Area	2451	2451	2451	2451	2451	2429				
Sales Price	N/A	\$53,000	\$54,500	\$51,500	\$55,000	\$83,00				
Price/SFLA										
Price Source		Revenue Stamp	Revenue Stamp	Revenue Stamp	Revenue Stamp	Reven				
Book/Page		09940/00027	09660/00657	08868/00547	09458/00561	09423.				
	Description	Description	+(-) \$ Adj	Description	+(-) \$ Adj	Description	+(-) \$ Adj	Description	+(-) \$ Adj	
Sale Date		9/7/2016	0	6/3/2015	0	4/3/2012	0	6/27/2014	0	5/2/20
Market Area Type	RES-SF	RES-SF	0	RES-SF	0	RES-SF	0	RES-SF	0	RES-S
Fee Simple	Fee Simple	Fee Simple		Fee Simple		Fee Simple		Fee Simple		Fee Si
Land Value	\$47,400	\$12,000	0	\$12,000	0	\$12,000	0	\$12,000	0	\$14,00
Style	000001-STYLE	000002-STYLE	0	000002-STYLE	0	000002-STYLE	0	000002-STYLE	0	00000: STYLE
Building Type	R1-SINGLE-FAMILY-RES	R1-SINGLE-FAMILY-RES		R1-SINGLE-FAMILY-RES		R1-SINGLE-FAMILY-RES		R1-SINGLE-FAMILY-RES		R1-SINGL FAMIL RES
No. of Stories	1	1	0	1	0	1	0	1	0	1
Grade	335-C-	335-C-	0	265-D+	0	335-C-	0	350-C	0	350-C
Exterior Wall	09-CONCRT-BLK/STUCCO	11-BRICK-VENEER	0	05-DELUX-WOOD-SIDING	0	11-BRICK-VENEER	0	11-BRICK-VENEER	0	11-BRI VENEI
Frame	CONSTANT	CONSTANT	0	CONSTANT	0	CONSTANT	0	CONSTANT	0	CONS
Effective Year	1980	1975		1967		1968		1962		1980
Year Built/ Remod.	-- / 2003	-- / 2000		-- / 2015		1968 / --		1962 / --		1980 /
Depreciation		INFERIOR	0	INFERIOR	0	INFERIOR	0	INFERIOR	0	SUPEI
Bedroom	0	3		4		3		2		3
Bathroom	F - 0, H - 1, EF - 0	F - 2, H - 0, EF - 0	0	F - 2, H - 0, EF - 0	0	F - 1, H - 1, EF - 1	0	F - 1, H - 1, EF - 0	0	F - 1, H EF - 0
SFLA	1332	1200	0	1207	0	1350	0	1107	0	1348
Basement			0		0		0		0	
Econ/Funct Utility	0		0		0		0		0	
Heating/Cooling	M-07&S-01,AC-Y	M-07&S-02,AC-Y	0	M-07&S-02,AC-Y	0	M-07&S-01,AC-Y	0	M-07&S-01,AC-Y	0	M-07&S-01,A
Garage/Carport Attached			0		0		0	GRF(324)	0	
Porch	OPF(161)		0		0		0		0	
Additions		CPF(267), UTU(45)	0		0		0		0	EAC(2 UTU(5
Fireplace	1 01-FIREPLACES		0		0		0		0	1 01-F LACE
Misc Impr Value	\$5,626SHL:1400	\$1,286PTC:160 SHL:180 STP:20 UTF:150	0	\$1,527PTC:144 STP:16 UTF:96 UTF:80	0	\$103STP:24	0	\$4,614STP:328 STP:24 UTF:320	0	
Built-ins			0		0		0		0	
Net Adj. (total)			0		0		0		0	
Gross %			70		88		92		112	
Net %			0%		0%		0%		0%	
Adj Sales Price			53000		54500		51500		55000	
Net Adj (total) Override			0		0		0		0	

Feature	Subject	Comparable 1		Comparable 2		Comparable 3		Comparable 4		Comp
Weight Factor		0.3	0	0.25	0	0.2	0	0.15	0	0.1
Indicated Value	\$92,500									
Indicated Value Override	0									
Note	Subject MRA: 91921, Weighted Estimate: 94341, Adjusted Sale Prices: (0426112596000, 06/03/2015) 102276, (0426213578000, 06/27/2014) 88026, (0416918580000, 04/03/2012) 90343, (0426119409/07/2016) 91256, (0415181916000, 05/02/2014) 96925. Values used for Indicated Value calculation: 90343, 91256, 91921.									



Aerial Notification

Case #: P24-37

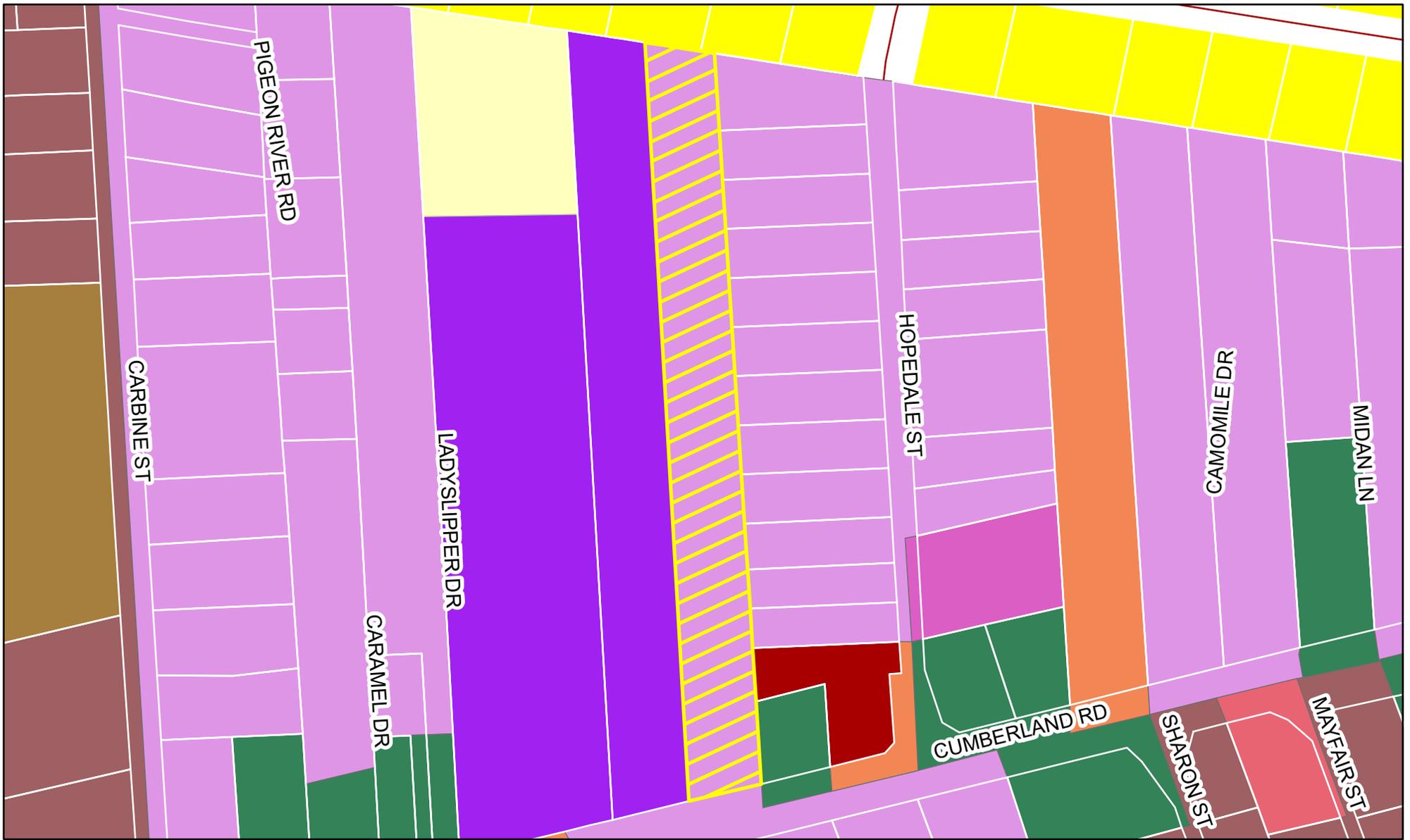
Request: Rezoning from R6A to HI

Location: 3424 CUMBERLAND RD
REID: 0426015026000

-  P24-37 Buffer
-  P24-37



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



Zoning

Case #: P24-37

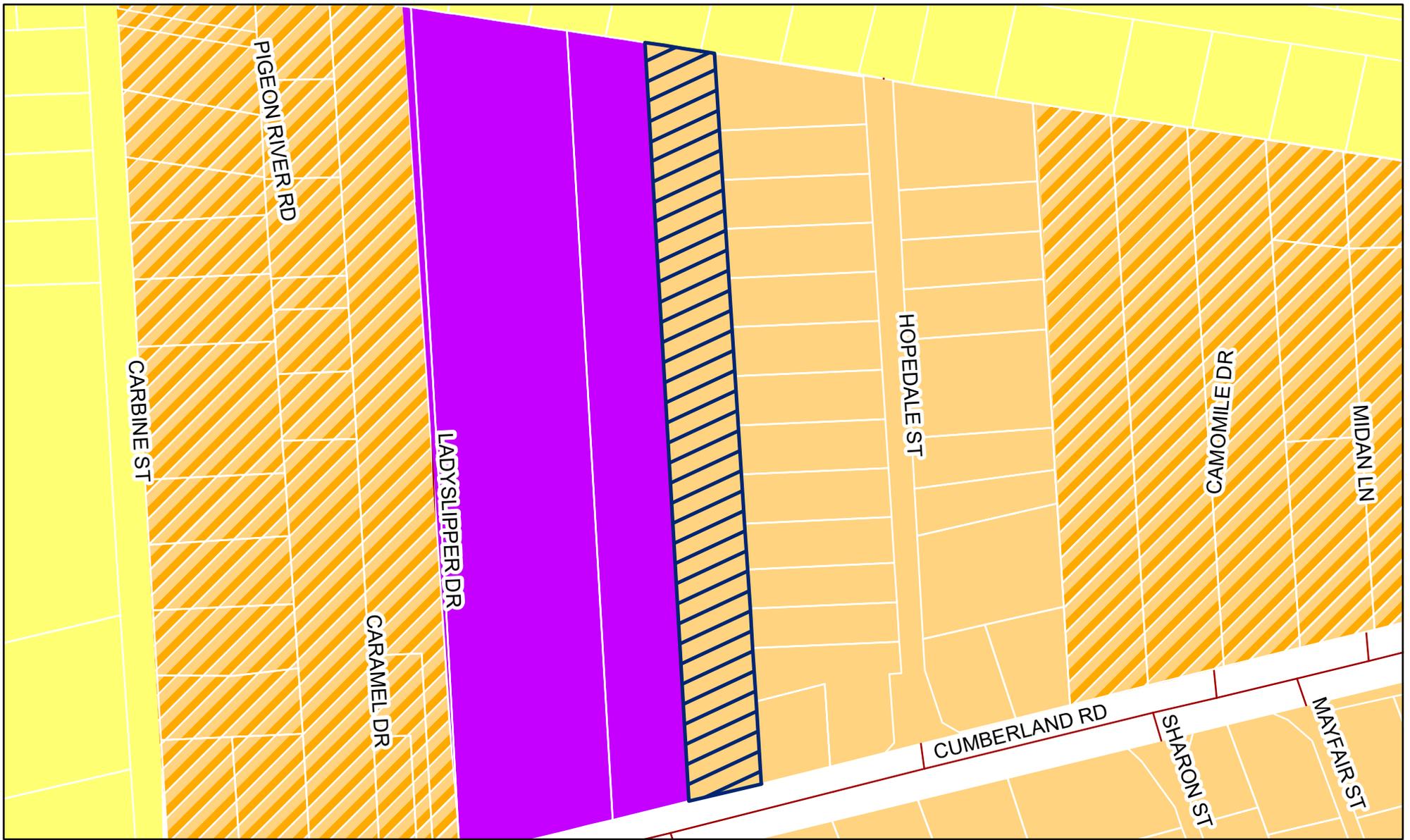
Request: Rezoning from R6A to HI

Location: 3424 CUMBERLAND RD
REID: 0426015026000

- | | | |
|---|--|---|
|  P24-37 |  SF-6 - Single-Family Residential 6 |  R10 |
|  CC - Community Commercial |  SF-10 - Single-Family Residential 10 |  R6 |
|  HI - Heavy Industrial |  C2P |  R6A |
| |  C3 |  R6ACU |
| |  CP | |

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





Future Land Use

Case #: P24-37

Request: Rezoning from R6A to HI

Location: 3424 CUMBERLAND RD
 REID: 0426015026000



P24-37



LDR - LOW DENSITY



MDR - MEDIUM DENSITY



NIR - NEIGHBORHOOD IMPROVEMENT



EC - EMPLOYMENT CENTER

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





Surrounding Properties



North



East



South



West



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 P24-37 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 investment around infrastructure and strategic nodes	X	
Goal # 4: Foster safe, stable, and attractive neighborhoods	X	

2. LAND USE POLICIES AND STRATEGIES:

LAND USE POLICIES AND STRATEGIES	CONSISTENT	INCONSISTENT
LUP 1: Encourage growth in areas well-served by infrastructure and urban services, including roads, utilities, parks, schools, police, fire, and emergency services.	X	
1.4: Annexation and adherence to development standards are required for any development proposal within the city’s Municipal Influence Area (MIA) if city services are to be provided.	X	
1.6: Require adequate infrastructure to be in place before or in tandem with new development	X	
LUP 3: Encourage redevelopment along underutilized commercial strip corridors and reinvestment in distressed residential neighborhoods.	X	
3.1: Examine and identify targeted redevelopment and infill areas throughout the city.	X	
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, stormwater, and open space.	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 amendment is also in the public interest because it: [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.

- 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):

September 10, 2024
Date

Chair Signature

Print



City of Fayetteville

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

City Council Action Memo

File Number: 24-4195

Agenda Date: 9/10/2024

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: Will Deaton, AICP - Planning & Zoning Division Manager
Heather Eckhardt, CZO - Planner II**

DATE: September 10, 2024

RE:

P24-38. Rezoning from Single Family Residential 10 (SF-10) to Mixed Residential 5 (MR-5) located at 770 Ocarina Cir (0530203374000) totaling 7.10 acres ± and being the property of James E & Jane L Wood.

COUNCIL DISTRICT(S):

3 - Mario Benavente

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

Executive Summary:

The applicant has requested to rezone 770 Ocarina Circle from Single Family Residential 10 (SF-10) to Mixed Residential 5 (MR-5). The property is located south of McArthur Road between Rosehill Road and Ramsey Street.

Background:

Owner: Jane L. & James E. Wood

Applicant: George Rose, P.E.

Requested Action: SF-10 to MR-5

REID #: 0530203374000

Council District: 3 - Mario Benavente

Status of Property: Vacant and undeveloped

Size: 7.10 acres

Adjoining Land Use & Zoning:

- North: SF-10 - Single family houses
- South: SF-10 - Single family houses and vacant land
- East: MR-5 - Apartment complex (Crystal Lake Apartments)
- West: SF-10 - Single family houses and two quadplexes

Annual Average Daily Traffic: McArthur Road: 10,500

Letters Mailed: 82

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 Medium Density Residential. Medium Density Residential calls for primarily single-family residential neighborhoods with small lots and duplexes or townhomes interspersed. Low-rise apartments are possible.

Issues/Analysis:

History:

The subject property was annexed into the city in 2001. From the early 1980s until the early 2000s, there were multiple mobile homes and a single-family house on the subject property. The mobile homes were removed from the subject property by 2005. The single-family house was demolished between 2015 and 2017. The subject property has remained undeveloped and mostly wooded once all the structures were removed.

Surrounding Area:

The surrounding area has a variety of residential uses including single family houses, quadplexes, and apartments. Single family houses are located to the north and south of the subject property. These houses were built between the 1950s and the 1990s. Crystal Lake Apartments were built to the east of the subject property in 2013. To the west of the subject property are two quadplexes that were built in the early 2000s.

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.

Straight Zoning:

The request is for a rezoning from Single Family Residential 10 (SF-10) to Mixed Residential 5 (MR-5).

The Mixed Residential 5 (MR-5) zoning 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.

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

Land Use Plan Analysis:

According to the Future Land Use Map & Plan, this general area is recommended to be developed as Medium Density Residential. Medium Density Residential calls for primarily single-family residential neighborhoods with small lots and duplexes or townhomes interspersed. Low-rise apartments are possible.

According to the 2040 Future Land Use Plan, this proposed development falls within Goal #1: Focus value and investment around infrastructure and strategic nodes and Goal #4: Foster safe, stable, and attractive neighborhoods.

Under the plan's Land Use Policies and Strategic section, subsection Strategic Compatible Growth, this proposed rezoning falls under the following sections:

LUP 1: Encourage growth in areas well-served by infrastructure and urban services, including roads, utilities, parks, schools, police, fire, and emergency services.

- 1.6: Require adequate infrastructure to be in place prior to or in tandem with new development
- 1.7: Encourage a logical progression of housing development and discourage "leapfrog" development.

LUP 3: Encourage redevelopment along underutilized commercial strip corridors and reinvestment in distressed residential neighborhoods.

- 3.1: Examine and identify targeted redevelopment and infill areas throughout the city.

LUP 4: Create well-designed and walkable commercial and mixed-use districts

- 4.1: Ensure new development meets basic site design standards
- 4.2: Encourage context-sensitive site design

LUP 6: Encourage development standards that result in quality neighborhoods

- 6.1: Encourage quality neighborhood design through maintaining and improving standards for streets, sidewalks, stormwater, and open space.

LUP 7: Encourage a mix of housing types for all ages and incomes

- 7.2: Allow a mix of smaller scale detached and attached housing in Medium Density Residential and Neighborhood Improvement areas (as identified on the Future Land Use Map).

Consistency and Reasonableness Statements:

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:

The request to rezone the property to Mixed Residential 5 would allow for a variety of residential dwellings on the subject property. The permitted uses would range from single family houses to multi-family dwellings (apartments). A potential multi-family residential development is in keeping with the existing development to the east - Crystal Lake Apartments and McArthur Park Apartments to the north of McArthur Road. It is also in keeping with the surrounding area which is residential in nature.

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 does implement 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. Consistency and Reasonableness Statement

Project Overview

#1439307

Project Title: Deadwyler Drive Apartments

Jurisdiction: City of Fayetteville

Application Type: 5.1) Rezoning (Map Amendment)

State: NC

Workflow: Staff Review

County: Cumberland

Project Location

Project Address or PIN: 770 OCARINA CIR (0530203374000) **Zip Code:** 28311

Is it in Fayetteville? If you're not sure, click this link: [Cumberland County Tax Office GIS system](#)

GIS Verified Data

Business Name:

Project Address: 770 OCARINA CIR

General Project Information

Has the land been the subject of a map amendment application in the last five years?: No

Previous Amendment Approval Date:

Previous Amendment Case #:

Proposed Zoning District: MR5

Acreage to be Rezoned: 6.75

Is this application related to an annexation?: No

Water Service: Public

Sewer Service: Public

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

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

Site is wooded and vacant. There are no existing structures on the site.

Current zoning designation of the subject property and all properties along both sides of Deadywler Drive in the vicinity of the property is SF10. Uses along Deadwyler Drive include two quadrplex residential units, small single-family homes and mobile homes. The property to the east and south of the subject property is zoned MR5 and is developed with the Crystal Lake Apartment complex.

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.:

Long range plans for the area include multi-family and higher-density uses. With the large tract zoned MR5 to the south and east being developed with apartments and the existence of multi-family units along Deadwyler, the proposed rezoning would be consistent with other uses in the general area. Other apartments and MR5 zoning in the general vicinity include the McArthur Landing Apartments on McArthur Road at Rosehill Road.

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

No changed conditions other than an increasing demand for affordable housing in the general area of the subject property.

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

Affordable housing continues to be a community need and focus of City Council. The availability of public water and sewer at the subject property allows for higher density development.

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

As previously stated, the proposed MR5 zoning is consistent with the adjacent Crystal Lake Apartments to the south and east. Two residential quadraplex units exist on Deadwyler Drive across from the subject property, so the proposed zoning would be consistent with surrounding uses. Additional MR5 zoning exists in the general vicinity with the McArthur Landing Apartments.

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

The proposed amendment and subsequent development of additional multi-family units is a logical transition for the currently vacant property in that additional affordable housing units would be located adjacent to or nearby existing large apartment complexes.

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

Other multi-family developments have been constructed in recent years in the vicinity and the location of the subject property is ideal for the stated need of additional affordable housing. Development of this property into multi-family uses does not represent premature development.

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

Access to the property is residential in character with no commercial zones existing in the general vicinity. Proposed amendment does not allow for or promote 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.:

Existing MR5 zoning exists adjacent to the subject property to the south and east. An isolated zoning district would not be created with the proposed amendment.

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

The overall pattern of new development in the general area of the subject property is muti-family. Existing residential uses along Deadwyler Drive include some older, less than well-maintained rental properties. New construction of apartments leased at upper market rents would not have adverse affects on surrounding property values.

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

The natural environment would not be adversely affected given local requirements for stormwater management, buffering and landscaping.

Primary Contact Information

Contractor's NC ID#:

Project Owner

Jane Wood

305 Shawcroft Road
Fayetteville, NC 28311
P:910-482-3047

richard@grantmurrayre.com

Project Contact - Agent/Representative

George Rose
George M. Rose, P.E.
P.O. Box 53441
Fayetteville, NC 28305

P:910-977-5822

george@gmrpe.com

As an unlicensed contractor, I am aware that I cannot enter into a contract that the total amount of the project exceeds \$40,000. :

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

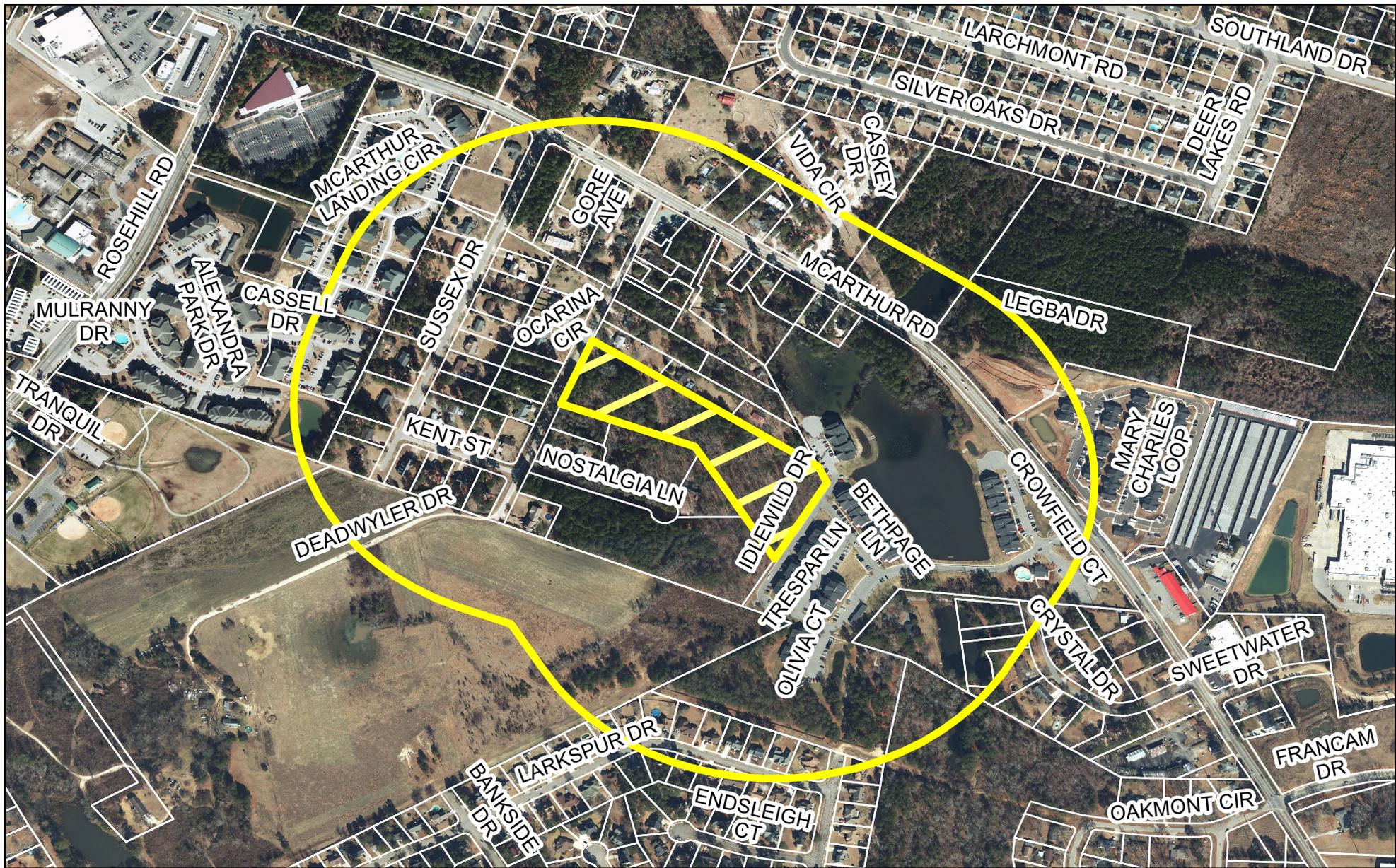
NC State Mechanical Contractor's #2 License Number:

NC State Mechanical 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 #: P24-38

Request: Rezoning
 Single Family Residential 10 (SF-10) to
 Mixed Residential 5 (MR-5)

Location: 770 Ocarina Cir

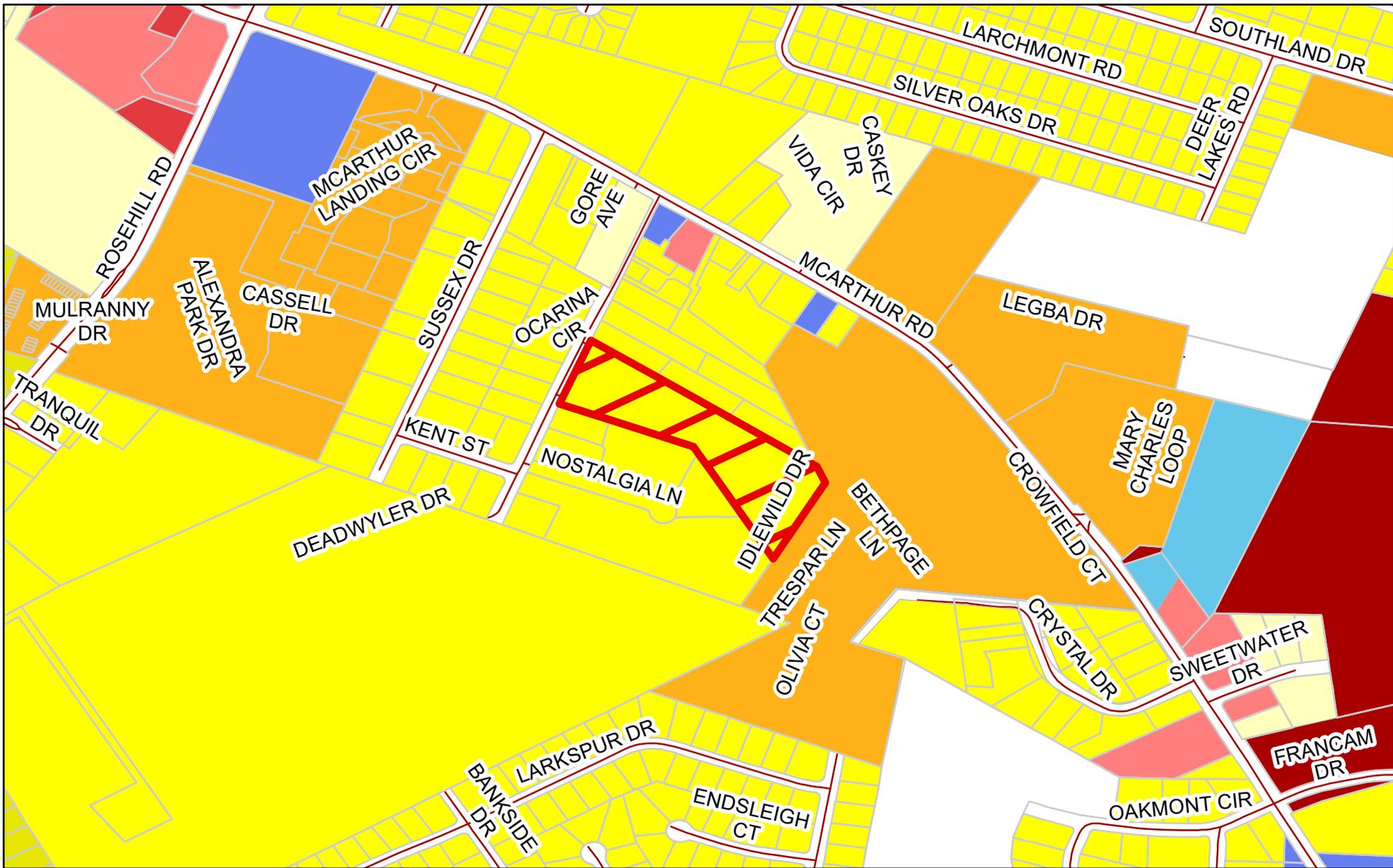
Legend

 P24-38  P24-38 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 #: P24-38

Request: Rezoning
 Single Family Residential 10 (SF-10)
 to Mixed Residential 5 (MR-5)

Location: 770 Ocarina Cir

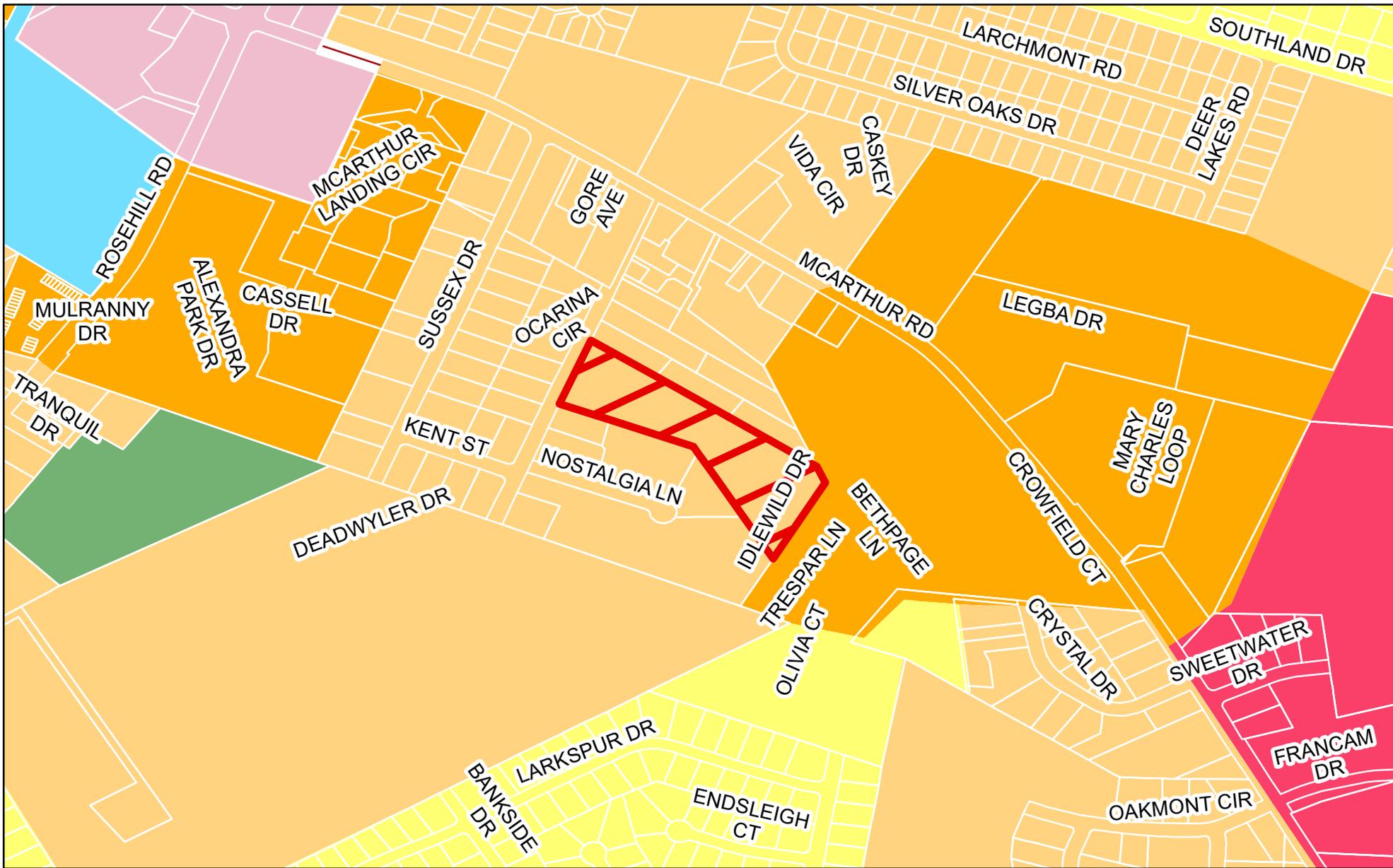
Legend

- | | |
|--|--|
|  P24-38 |  NC - Neighborhood Commercial |
|  CC - Community Commercial |  OI - Office & Institutional |
|  LC - Limited Commercial |  SF-6 - Single-Family Residential 6 |
|  LI - Light Industrial |  SF-10 - Single-Family Residential 10 |
|  MR-5 - Mixed Residential 5 |  SF-15 - Single-Family Residential 15 |



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 #: P24-38

Request: Rezoning
Single Family Residential 10 (SF-10)
to Mixed Residential 5 (MR-5)

Location: 770 Ocarina Cir

Legend

 P24-38

Land Use Plan 2040

Character Areas

 PARKOS - PARK / OPEN SPACE

 LDR - LOW DENSITY

 MDR - MEDIUM DENSITY

 HDR - HIGH DENSITY RESIDENTIAL

 NMU - NEIGHBORHOOD MIXED USE

 CC - COMMUNITY CENTER

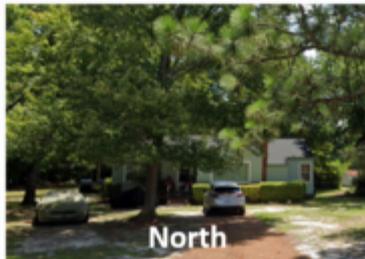
 OI - OFFICE / INSTITUTIONAL



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 P24-38 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 investment around infrastructure and strategic nodes	X	
Goal # 4: Foster safe, stable, and attractive neighborhoods	X	

2. LAND USE POLICIES AND STRATEGIES:

LAND USE POLICIES AND STRATEGIES	CONSISTENT	INCONSISTENT
LUP 1: Encourage growth in areas well-served by infrastructure and urban services, including roads, utilities, parks, schools, police, fire, and emergency services.	X	
1.6: Require adequate infrastructure to be in place prior to or in tandem with new development	X	
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	
3.1: Examine and identify targeted redevelopment and infill areas throughout the city.	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, stormwater, and open space.	X	
LUP 7: Encourage a mix of housing types for all ages and incomes.	X	
7.2: Allow a mix of smaller scale detached and attached housing in Medium Density Residential and Neighborhood Improvement areas (as identified on the Future Land Use Map).	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 amendment is also in the public interest because it: [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.

- 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):

September 10, 2024

Date

Chair Signature

Print



City of Fayetteville

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

City Council Action Memo

File Number: 24-4217

Agenda Date: 9/10/2024

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: September 10, 2024

RE:

P24-39. Rezoning from Single-Family Residential 10 (SF-10) to Mixed Residential 5 (MR-5) located at 411 Jefferson Dr (0406880746000) totaling 0.32 acres ± and being the property of Sophia Rickard.

COUNCIL DISTRICT(S):

5 - Greene

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

Executive Summary:

The applicant has requested to rezone 411 Jefferson Drive from Single Family Residential 10 (SF-10) to Mixed Residential 5 (MR-5). The property is located in the back of Gallup Acres, a large single family subdivision that was platted in 1955.

Background:

Owner: Sophia Rickard

Applicant: Sophia Rickard

Requested Action: SF-10 to MR-5

REID #: 0406880746000

Council District: 5 - Green

Status of Property: Vacant (house burned between 1995 and 2001)

Size: 0.32 acres

Adjoining Land Use & Zoning:

- North: SF-10 - Single family houses

- South: SF-10 - Single family houses
- East: SF-10 - Single family houses
- West: SF-10 - Single family houses

Annual Average Daily Traffic: No traffic counts on Jefferson Dr
Letters Mailed: 121

Land Use Plans:

With the adoption of the 2040 Comprehensive Plan: Future Land Use Map & Plan on May 26, 2020, all properties within the city limits as well as properties identified as being in the Municipal Influence Area (MIA) are subject to this plan. According to the Plan, it is recommended that this portion of the city should be developed as Low Density Residential. Low Density Residential calls for mainly single family residential with some accessory dwellings: occasionally with duplexes (if isolated) or townhomes. Lots are typically 1-4 dwellings per acre. Suburban, auto-oriented character with utility services.

Issues/Analysis:

History:

The subject property is part of Gallup Acres which was platted in 1955 and appears to have mostly built out by 1968.

Surrounding Area:

The surrounding area has similar single family ranch style houses. There are apartments at the far end of this development, closer to Raeford Road. There are no visible duplexes in the surrounding neighborhood. Under the SF-10 zoning only one unit would be allowed. Two units could be allow with a Special Use Permit (SUP) in an SF-6 zone. Three units would be allowed by right (no SUP) if rezoned to MR-5.

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.

Straight Zoning:

The request is for a rezoning from Single Family Residential 10 (SF-10) to Mixed Residential 5 (MR-5).

The Mixed Residential 5 (MR-5) zoning 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.

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

Land Use Plan Analysis:

According to the Future Land Use Map & Plan, this general area is recommended to be developed as Low Density Residential calls for mainly single family residential with some accessory dwellings: occasionally with duplexes (if isolated) or townhomes. Lots are typically 1-4 dwellings per acre. Suburban, auto-oriented character with utility services.

According to the 2040 Future Land Use Plan, this proposed development falls within Goal #1: Focus value and investment around infrastructure and strategic nodes and Goal #4: Foster safe, stable, and attractive neighborhoods.

Under the plan's Land Use Policies and Strategic section, subsection Strategic Compatible Growth, this proposed rezoning falls under the following sections:

LUP 1: Encourage growth in areas well-served by infrastructure and urban services, including roads, utilities, parks, schools, police, fire, and emergency services.

- 1.6: Require adequate infrastructure to be in place prior to or in tandem with new development
- 1.7: Encourage a logical progression of housing development and discourage "leapfrog" development.

LUP 3: Encourage redevelopment along underutilized commercial strip corridors and reinvestment in distressed residential neighborhoods.

- 3.1: Examine and identify targeted redevelopment and infill areas throughout the city.

LUP 4: Create well-designed and walkable commercial and mixed-use districts

- 4.1: Ensure new development meets basic site design standards
- 4.2: Encourage context-sensitive site design

LUP 6: Encourage development standards that result in quality neighborhoods

- 6.1: Encourage quality neighborhood design through maintaining and improving standards for streets, sidewalks, stormwater, and open space.

LUP 7: Encourage a mix of housing types for all ages and incomes

- 7.2: Allow a mix of smaller scale detached and attached housing in Medium Density Residential and Neighborhood Improvement areas (as identified on the Future Land Use Map).

Consistency and Reasonableness Statements:

The Future Land Use Plan also sets forth written goals, policies, and strategies. This application does not meet the goals of the Land Use Plan found on the attached Consistency and Reasonableness form.

Conclusion:

The request to rezone the property to Mixed Residential 5 would not be in keeping with the surrounding zoning or the proposed use according to the City's Land Use Plan. Prior to submitting the application, a representative for this project spoke to two members of the Planning staff separately. Both staff members advised the applicant that rezoning to

MR-5 would probably be difficult and that staff would not recommend approval.

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.
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. Recommends denial of the map amendment request based on the evidence submitted and finds that the map amendment is inconsistent with the Future Land Use Plan. (recommended)

Recommended Action:

The Professional Planning Staff recommends that the Zoning Commission move to DENY the map amendment to MR-5 based on the following:

- The proposed zoning map amendment does not implement the policies adopted in the Future Land Use Plan (FLUP), and those policies found in the Unified Development Ordinance (UDO).
- The uses permitted by the proposed change in zoning district classification and standards apply to such uses are not appropriate in the immediate area of the land to be reclassified due to the existing zoning and uses surrounding this property; and
- There are no other factors that will substantially affect public health, safety, morals, or general welfare.

Attachments:

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

Project Overview

#1433328

Project Title: 411 Jefferson Drive

Jurisdiction: City of Fayetteville

Application Type: 5.1) Rezoning (Map Amendment)

State: NC

Workflow: Staff Review

County: Cumberland

Project Location

Project Address or PIN: 411 JEFFERSON DR
(0406880746000)

Zip Code: 28304

Is it in Fayetteville? If you're not sure, click this link: [Cumberland County Tax Office GIS system](#)

GIS Verified Data

Business Name:

Project Address: 411 JEFFERSON DR

General Project Information

Has the land been the subject of a map amendment application in the last five years?: No

Previous Amendment Approval Date:

Previous Amendment Case #:

Proposed Zoning District: MR5

Acreage to be Rezoned: .32

Is this application related to an annexation?: No

Water Service: Public

Sewer Service: Public

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

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

No structures on site at the property address. The land is for residential purposes.

The land is zoned SF10 for residential purposes. The lots adjacent and across the street from the subject property are also zoned SF10.

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.:

Consistency With Comprehensive Plan - Rezoning the parcel of land in Gallup Acres from SF10 to MR5 to build a duplex aligns with the municipality's comprehensive plan, which envisions a balanced mix of housing types to accommodate diverse community needs. The comprehensive plan supports increased housing density in this particular area to promote sustainable growth and efficient land use.

Compatibility with Intended Use - The proposed MR5 zoning for a duplex does not significantly deviate from the intended use of the area. While SF10 zoning is designed for single-family homes, the transition to MR5 allows for slightly higher density to build in a duplex in a growing community, while remaining residential in nature. This change maintains the residential character of the neighborhood while offering increased housing.

Public Benefit and Increased Housing Units - Rezoning to MR5 is beneficial to the public as it addresses the demand for additional housing units in a rapidly growing zip code. The increased density supports the municipality's goals of accommodating population growth and providing affordable housing options. By

allowing the construction of a duplex, the municipality can better meet the needs of its residents and support a more vibrant and diverse community.

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 - Fayetteville is one many U.S. metro areas experiencing rapid population growth with an annual average of 9%+ each year. According to Census.gov, Cumberland County grew 37.9% population growth in the last five years, Fayetteville specifically maintains a current population count of 337,890 (+30K increase in just the last year) . As the primary market for Cumberland Count, Fayetteville experienced population growth as a result of migration and natural change. Considering that Fayetteville maintains just over 144K housing units, the average occupancy is 2.5 persons per which means that there are more people then there are available housing units. This generates a considerable need for more housing units, and zoned density to support demand growth.

Moreover, Gallup Acres is a high demand subdivision located just south of Raeford road and 10 minutes from the All American gate at Ft. Liberty. It's proximity to the Ft. Liberty/Pope installation makes it location highly desirable to those Service members and family members seeking housing accommodations. Additionally, Ft. Liberty (Dept of Defense) continues to be the #1 employer of Cumberland County with just over 40,000 employees. New housing units and proximity serves the overall interest of the community.

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 rezoning from SF10 (Single Family Residential 10) to MR5 (Mixed Residential 5) for a lot in Gallup Acres, Fayetteville, NC, is well-aligned with the existing and proposed uses of the neighborhood. The MR5 zoning designation will allow for the addition of a duplex, which represents a modest increase in density on an underutilized parcel of land.

This rezoning proposal ensures the following:

1. **Neighborhood Flow and Character:** The transition to MR5 will not disrupt the flow or character of Gallup Acres. The planned duplex will be designed to blend seamlessly with the surrounding single-family homes, maintaining aesthetic harmony and neighborhood cohesion. The introduction of a duplex on this lot is a balanced approach to increasing density. It respects the proximity between neighbors and avoids excessive crowding, offering a considerate enhancement to the area.
2. **Future Usage and Community Needs:** The intended duplex will cater to families and military personnel, aligning with the demographic makeup of the neighborhood. This ensures that the new residences will integrate well with the communitys existing social fabric. Rezoning to MR5 allows for better utilization of currently underutilized land, contributing to the citys goals of efficient land use and sustainable development.

The proposal of MR5 zoning is appropriate for this project, as it supports future community needs while preserving the neighborhoods character and ensuring thoughtful development.

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

By permitting MR5 zoning, new development can take place which supports a gradual and orderly expansion of the neighborhood. The proposed project of a duplex prevents haphazard development, ensuring that new construction design is thoughtfully integrated into the community fabric. Rezoning to MR5 is a logical step to meet the rising housing demands while maintaining the neighborhoods integrity and ensuring sustainable growth patterns. The average home in Gallup Acres, Fayetteville was built in the 1950s. Rezoning to MR5 presents an opportunity to:

1. Leverage sustainable and efficient land use. The move to MR5 promotes effective use of underutilized land, contributing to sustainable development practices. This change supports the citys broader goals of maximizing land use efficiency and fostering long-term community growth.
2. The proposed rezoning to MR5 is a way sensible way to introduce a two-family unit home to the lot. This change reflects a strategic approach to land use which is both efficient and harmonious with the existing neighborhood structure, without compromising the integrity of the subdivision.

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

Since MR-5 accommodates a wide variety of residential housing types at moderate to high densities, its imperative to recognize that any structure built within the lot dimensions must still adhere to the Municipal Code, Part II *Code of Ordinances*. This would prevent structures out of tolerance or premature for the intended lot.

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.:

The proposed amendment to this parcel would result in the lot being the only MR5 parcel within a half mile radius. The current subdivision is zoned SF10, however the amendment would allow for the development of related housing to address a specific need that cannot be accommodated within the existing zoning regulation.

The amendment would provide flexibility in land use development since the parcel isn't large enough to build the intended project, by right.

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

The development of new construction in Gallup Acres will increase the value of surrounding homes. New construction units in a well sought out zip code means more commerce and circulation of revenue. The proposed structure supports the same intended use of residential housing.

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

New units in the community will mean more people resulting in slightly more noise, and more traffic. This is part of economic growth which the local government takes into account when assessing increased infrastructure to support an increasing population.

Primary Contact Information

Contractor's NC ID#:

Project Owner

SOPHIA RICKARD

24311 Leachwood Dr

Katy, TX 77493

P:9102576866

sangela.rickard@gmail.com

Project Contact - Agent/Representative

SOPHIA RICKARD

24311 Leachwood Dr

Katy, TX 77493

P:9102576866

sangela.rickard@gmail.com

As an unlicensed contractor, I am aware that I cannot enter into a contract that the total amount of the project exceeds \$40,000. :

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

NC State Mechanical Contractor's #2 License Number:

NC State Mechanical 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:

FILED Jun 28, 2024
AT 04:40:19 PM
BOOK 12006
START PAGE 0042
END PAGE 0043
INSTRUMENT # 19353
RECORDING \$26.00
EXCISE TAX \$36.00

**NORTH CAROLINA GENERAL WARRANTY DEED
DELINQUENT TAXES, IF ANY, TO BE PAID BY THE CLOSING ATTORNEY TO THE COUNTY TAX COLLECTOR
UPON DISBURSEMENT OF CLOSING PROCEEDS**

File No.: AL-56460-24-K1

Excise Tax: \$36.00

Parcel Identifier No. 0406-88-0746.000 Verified by _____ County on the ____ day of _____, 20____
By: _____

Mail/Box to: Single Source Real Estate Services, Inc., 639 Executive Place, Suite 107, Fayetteville, NC 28305

This instrument was prepared by: Lakhiani Law, PLLC, 2919 Breezewood Avenue, Suite 300, Fayetteville, NC 28303

Brief description for the Index: GALLUP ACRES L027 SE01 BLB PL0017-0030

THIS DEED made this 26th of June, 2024, by and between

GRANTOR	GRANTEE
Donald Lowrie and wife, Tichina Lowrie 67 Bandana Way Cameron, NC 28326	Sophia A. Rickard, unmarried 24311 Leachwood Dr Katy, TX 77493

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

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

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

BEING all of Lot 27, Block B, Gallup Acres Subdivision as shown on a plat duly recorded in Book of Plats 17, Page 30, Cumberland County Registry, North Carolina.

Parcel ID: 0406-88-0746.000

Property Address: 411 Jefferson Drive, Fayetteville, NC 28304

The property hereinabove described was acquired by Grantor by instrument recorded in Book 11827 page 144.

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

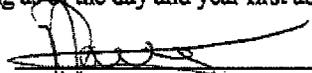
A map showing the above described property is recorded in Plat Book 17 page 30.

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

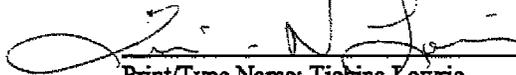
And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons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

Subject to restrictive covenants, easements and rights-of-way as they may appear of public record.
Subject to ad valorem taxes which are a lien but not yet due and payable.

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



Print/Type Name: Donald Lowrie (SEAL)

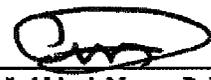


Print/Type Name: Tichina Lowrie (SEAL)

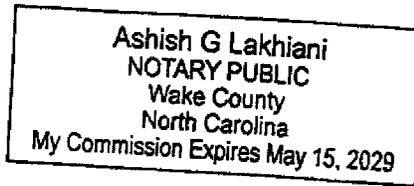
State of North Carolina – County of Cumberland

I, the undersigned Notary Public of Wake County and State aforesaid, certify that Donald Lowrie and Tichina Lowrie personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed. Witness my hand and Notarial stamp or seal this 26th of June, 2024.

My Commission Expires: May 15, 2029

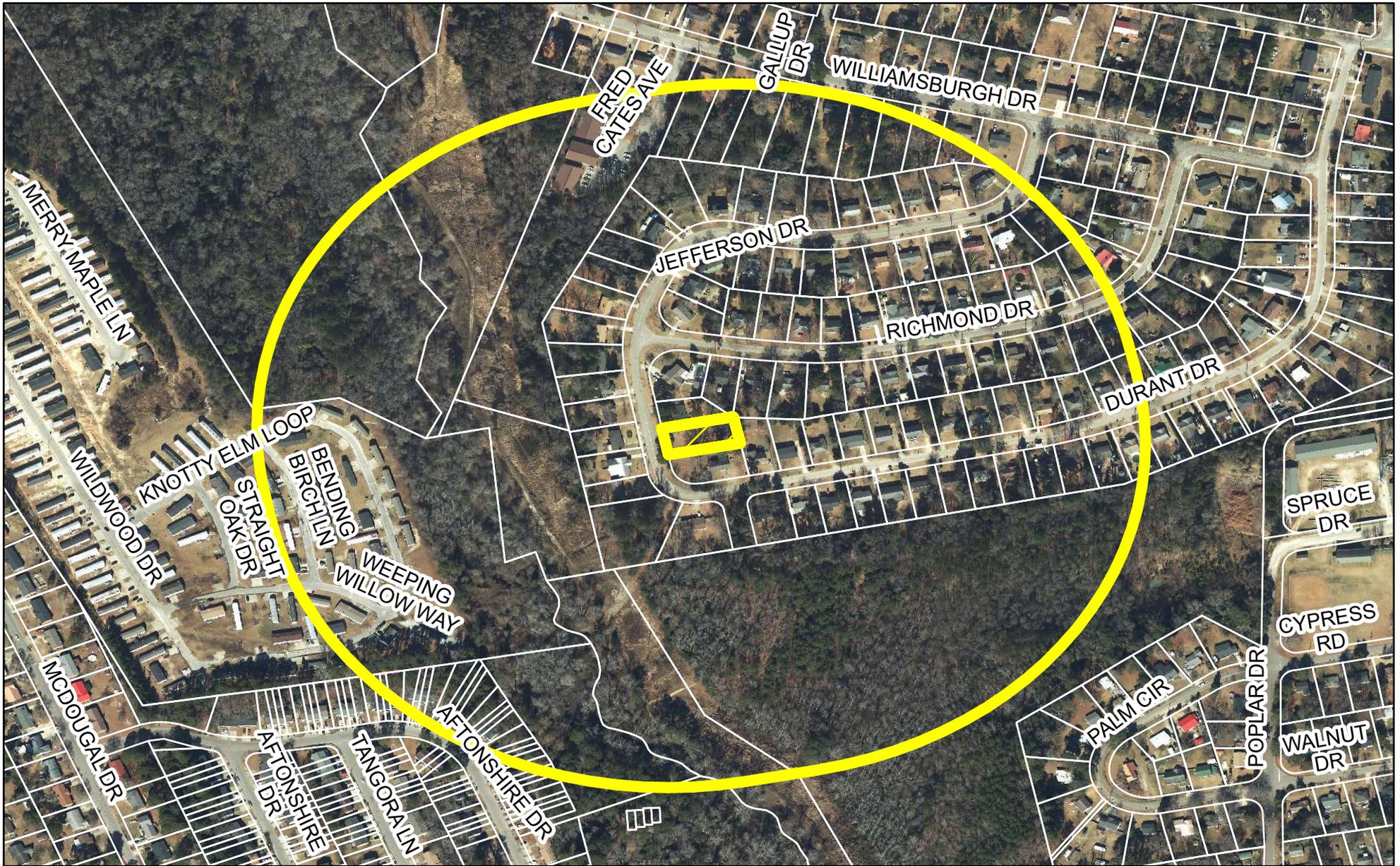


Ashish G. Lakhiani, Notary Public



The foregoing Certificate(s) of _____
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.

Register of Deeds for _____ County
By: _____ Deputy/Assistant –Register of Deeds



Aerial Notification Map

Case #: P24-39

Request: Rezoning SF-10 to MR-5

Location: 411 Jefferson Dr

Legend

 1,000' 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 #: P24-39

Request: Rezonng SF-10 to MR-5

Location: 411 Jefferson Dr

Legend

- 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.

 **FAYETTEVILLE**
AMERICA'S CAN DO CITY



Land Use Map

Case #: P24-39

Request: Rezonning SF-10 to MR-5

Location: 411 Jefferson Dr

Legend

Land Use Plan 2040

Character Areas

-  PARKS - PARK / OPEN SPACE
-  LDR - LOW DENSITY



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



NORTH



South



West



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 P24-39 is 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 # 4: Foster safe, stable, and attractive neighborhoods		X

2. LAND USE POLICIES AND STRATEGIES:

LAND USE POLICIES AND STRATEGIES	CONSISTENT	INCONSISTENT
LUP 1: Encourage growth in areas well-served by infrastructure and urban services, including roads, utilities, parks, schools, police, fire, and emergency services.	X	
1.4: Annexation and adherence to development standards are required for any development proposal within the city’s Municipal Influence Area (MIA) if city services are to be provided.	X	
1.6: Require adequate infrastructure to be in place before or in tandem with new development		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, stormwater, and open space.		X

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

	The proposed land use is consistent and aligns with the area's designation on the FLU Map.	OR	X	The proposed land use is inconsistent and does not align with the area's designation on the FLU Map.
--	--	-----------	---	--

<input type="checkbox"/> The proposed designation, as requested, would permit uses that are complimentary to those existing on adjacent tracts.	OR	<input checked="" type="checkbox"/> The proposed designation, as requested, would permit uses that are incongruous to those existing on adjacent tracts.
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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 amendment is also in the public interest because it: [select all that apply]

- The size, physical conditions, and other attributes of the proposed use(s) will benefit the surrounding community.
- The amendment improves the tax base.
- The amendment improves consistency with the long-range plan.
- The amendment preserves environmental and/or cultural resources.
- The amendment includes conditions that limit potential negative impacts on neighboring uses.
- The amendment facilitates a desired kind of development.
- The proposed uses address the needs of the area and/or city.
- The proposed uses provide needed housing/commercial area.
- The proposal adapts the zoning code to reflect modern land-use trends and patterns.

Additional comments, if any (write-in):

September 10, 2024

Date

Chair Signature

Print