

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

MEMBERS PRESENT

Pavan Patel, Chair
Alex Keith, Vice-Chair
Kevin Hight
Justin Herbe, Alternate
Stephen McCorquodale

STAFF PRESENT

Clayton Deaton, Planning and Zoning Division Manager
Craig Harmon, Senior Planner
Heather Eckhardt, Planner II
Demetrios Moutos, Planner I
Lisa Harper, Assistant Attorney
Catina Evans, Office Assistant II

MEMBERS ABSENT

Tyrone Simon

The Zoning Commission Meeting on Tuesday, February 13, 2024, was called to order by Chair Pavan Patel at 6:00 p.m. The members introduced themselves.

I. APPROVAL OF THE AGENDA

MOTION: Stephen McCorquodale
SECOND: Kevin Hight
VOTE: Unanimous (5-0)

**II. APPROVAL OF THE CONSENT AGENDA TO INCLUDE THE MINUTES FROM THE
JANUARY 17, 2024, MEETING**

MOTION: Kevin Hight
SECOND: Justin Herbe
VOTE: Unanimous (5-0)

III. LEGISLATIVE HEARING

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

Mr. Patel opened the legislative hearing for case P24-08.

P24-08. Rezoning of 4.75 acres ± from Community Commercial (CC) and Single-Family Residential 6 (SF-6) to Mixed Residential 5 (MR-5), located at 5510 and 5414 Bragg Blvd. (REID #s 0419310372000 and 0419311002000), and being the property V Capital LLC, represented by Lori Epler of Larry King & Assoc.

Demetrios Moutos presented case P24-08. The rezoning request is a straight rezoning of 4.75 acres from CC and SF-6 to MR-5. To the south of the area is a U-Haul facility. A majority of the area is SF-6 in the front of the property. The Future Land Use Plan calls for the area to be designated medium residential and neighborhood mixed-use. Mr. Moutos showed the subject property photos to the Board. He showed the Board the surrounding properties with the U-Haul on the southern portion of the land. Mr. Moutos read the analysis for the case. He said the MR-5 zoning allows for a wide range of housing types, and MR-5 is aimed at enhancing the economic growth of the area. The staff recommends approval. Mr. Moutos provided the Board with their voting options.

Mr. Patel opened the hearing for case P24-08.

Speaker in favor:

Lori Epler, 1333 Morganton Road, Fayetteville, NC 28305

- Ms. Epler said the applicant desires to take dilapidated homes and upgrade them. The applicant wants to get rid of mobile homes and upgrade the property so veterans can live there and purchase their homes if desired.
- The area is currently nonconforming.

Mr. Patel closed the hearing for case P24-08.

MOTION: Kevin Hight made a motion to approve the request for rezoning for case P24-08 based on all the goals, policies, and strategies as well as the reasonableness statements and the Future Land Use Map information provided by staff.

SECOND: Stephen McCorquodale

VOTE: Unanimous (5-0)

Mr. Patel opened the legislative hearing for case P24-09.

P24-09. Rezoning of .42 acres \pm from Office and Institutional (OI) to Neighborhood Commercial (NC), located at 916 Hay Street (REID #s 0437150542000), and being the property Cardassi-Langley Investments LLC, represented by Casey Benander.

Demetrios Moutos presented case P24-09. The subject property is located on Hay Street. The property is currently zoned Office Institutional (OI) and there is MR-5 zoning in the area. The Future Land Use Plan calls for the area to be designated as neighborhood mixed-use. Mr. Moutos showed the Board a picture of the subject property. The house pictured was previously a drug rehab facility. To the west is Fleming and Consultants and to the east is a law firm. There are offices in the area. Mr. Moutos read the analysis for the rezoning. He said the rezoning enhances the area and it creates an economically dynamic area. Mr. Moutos said the Staff recommends approval of the rezoning. He provided the Board with their voting options.

Mr. Patel opened the hearing for case P24-09.

Speakers in favor:

Casey Benander, 214 Hillside Avenue, Fayetteville, NC 28301

- Ms. Benander is excited about having the historic site renovated and open to the public as a local retail store.

Mr. Patel closed the hearing for case P24-09.

MOTION: Justin Herbe made a motion to recommend approval of the Map amendment to NC as presented based on the evidence submitted and find that the rezoning is consistent with the Future Land Use Plan as demonstrated by the attached consistency and reasonableness statement.

SECOND: Kevin Hight

VOTE: Unanimous (5-0)

P24-10. Rezoning from Mixed Residential 5 Conditional Zoning (MR-5/CZ) to amended Mixed Residential 5 Conditional Zoning (MR-5/CZ) located at 0 Rock Creek Lane and 0 Mount Rainer Road (REID 0439300490000 & 0439302525000) totaling 17.61 acres ± and being the property of Northridge Park Developers LLC & Green Valley South LLC.

Heather Eckhardt presented case P24-10. The request is to modify the existing MR-5 zoning district located off of Rock Creek Lane and Mount Rainer Road. The subject property is located south of Country Club Drive between Rosehill Road and Ramsey Street. The Future Land Use Plan calls for the area to be designated low-density residential. The surrounding area consists of vacant land, a single-family subdivision, and a church. The only proposed condition is to limit the site to a maximum of 125 dwelling units. The zoning would allow the owners to utilize all of the uses allowed under the MR-5 zoning. The staff is recommending approval of the modifications to the property. Ms. Eckhardt presented the Board with their voting options.

Mr. Patel opened the hearing for case P24-10.

Speakers in favor:

Johnathan Charleston, 201 Hay Street, Fayetteville, NC 28302

- Mr. Charleston, the applicant's representative, stated the request was needed to allow for the development of townhouses on the site.

Mr. Patel closed the hearing for case P24-10.

MOTION: Alex Keith made a motion to approve the map amendment to the existing MR-5/CZ zoning district 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.

SECOND: Stephen McCorquodale

VOTE: Unanimous (5-0)

P24-11. Rezoning from Single-Family Residential 6 (SF-6) and Community Commercial (CC) to Community Commercial (CC) located at 5709 Bragg Blvd (REID 0419128627000) totaling 9.29 acres ± and being the property of Macpherson LLC.

Heather Eckhardt presented case P24-11. This is a rezoning request for a split rezoning from Single-Family Residential 6 (SF-6) and Community Commercial (CC) to Community Commercial (CC) at 5709 Bragg Blvd. The property is located at the corner of Bragg Boulevard and Santa Fe Drive. The Future Land Use Plan calls for

the area to develop as employment center. There is a combination of commercial uses and vacant land in the area. Staff recommends approval. Ms. Eckhardt provided the Board with their voting options.

Mr. Patel opened the hearing for case P24-11.

Speakers in favor:

Tracy Rye, 3090 Premiere Parkway, Duluth, GA 30097

- Ms. Rye, the applicant's representative, was available for questions.

Mr. Keith asked Ms. Rye what they would develop in the area. Ms. Rye said they will develop retail uses on the property. Mr. Hight asked if there was anything that they could only do with a switch to Community Commercial (CC) zoning. Ms. Rye said one of the existing driveways is in two different zoning districts, so they are requesting this rezoning. Mr. Patel asked about buffers around the area, and she said they would follow all City guidelines.

Mr. Patel closed the hearing for case P24-11.

Mr. McCorquodale noted that the split driveway was an important issue. Mr. Keith noted that the site map shows that the area is in two zoning districts.

MOTION: Stephen McCorquodale made a motion for case P24-11 to recommend approval of the map amendment to rezone the area from Single-Family Residential 6 (SF-6) and Community Commercial (CC) to Community Commercial (CC) located at 5709 Bragg Boulevard totaling 9.29 acres based on the presentation and within our reasonableness and consistency statements and based on the City's goals and objectives.

SECOND: Kevin Hight

VOTE: Unanimous (5-0)

Mr. Patel opened the hearing for case P24-12.

P24-12. Initial zoning from Rural Residential (RR) (County) and Single-Family Residential 15 (SF-15) to Mixed Residential 5 (MR-5) located at 0, 1666 & 1674 Cedar Creek Rd and 0 & 1678 Fields Rd (REID 0446803573000, 0446804658000, 0446709250000, 0445892478000, and 0445894268000) totaling 28.67 acres ± and being the property of Cedar Creek Road, LLC.

Heather Eckhardt presented case P24-12. Case P24-12 is a rezoning request entered by the Charleston Group and it is part of an annexation request for a large portion of this property. It is an initial zoning from Rural Residential (RR) to Mixed Residential 5 (MR-5) and a rezoning from Single Family Residential 15 (SF-15) to Mixed Residential 5 (MR-5) of one parcel that is already in the city limits of Fayetteville. The property is located on Cedar Creek Road just west of I-95 and across from Locks Creek Road. The property is currently zoned RR and the property at the corner of Cedar Creek Road and Water Oaks Drive is zoned SF-15. The Future Land Use Plan designates the area as low-density residential and Office Institutional (OI). The portion of the property is currently undeveloped. To the north is vacant land and on the other side of Cedar Creek Road, there is a stretch of commercial land. To the south is offices. Ms. Eckhardt stated this area along Cedar Creek Road has a variety of commercial district uses as well as residential uses, and the proposed Mixed Residential 5 zoning will allow for a range of residential uses from single-family to multi-family. Mr. Eckhardt stated that MR-5 zoning is a

compromise between the Land Use designation of low-density and office institutional districts. Staff is recommending approval of the request. She provided the Board with their voting options.

Mr. Patel reminded the speakers that they had 15 minutes to speak in total. He opened the hearing for case P24-12. Mr. Hight advised the speakers to avoid expressing repetitive ideas during their presentations.

Speakers in favor:

Johnathan Charleston, 201 Hay Street, Fayetteville, NC 28302

- Mr. Charleston spoke for owner Darren Collins and advocated for rezoning approval to develop the property for its best use. He pointed out that this aligns with the Comprehensive Plan and would create a buffer between commercial and residential zones. Charleston emphasized the county's housing shortage, citing low availability and rising rents. He provided articles backing the claim of a nationwide housing shortage, linking it to increasing rent costs.

Mr. Patel asked Mr. Charleston if they had reached out to the community to learn about their ideas on this matter. Mr. Charleston said he was only recently aware of any community concerns regarding the project after he received messages from residents. He said the subject property has been owned by a family for a long time and the owners clarified that this development would not consist of affordable housing. This is a market rate development designed to meet the demand in the city. The family had some say in the style and number of units because they reside on the land. The sellers have certain restrictions as to what could be developed on the site, and they have a say as to what is placed on the site. Mr. Hight asked if there were any conditions placed on the development and Mr. Charleston said yes based on deed restrictions. Mr. Keith asked if the conditions were recorded and Mr. Charleston said yes.

The Board informed Mr. Charleston he had nine minutes left to speak. Mr. Charleston chose to use his remaining time for rebuttal.

Julia Aber, 1937 Water Oaks Drive, Fayetteville, NC 28301

- Ms. Aber, who lives nearby, highlighted the importance of protecting a creek mentioned in the Homeowners Association Covenant. Aber suggested building a playground to keep children safe and away from negative activities. She also expressed worries about drugs in the neighborhood and stressed preserving local wildlife.

Speakers in Opposition:

Channing Perdue, 1531 Cedar Creek Road, Fayetteville, NC 28312

- Ms. Perdue, a local property owner, opposed the rezoning and annexation.
- She stressed wildlife preservation due to developers displacing animals, including endangered woodpeckers.
- She also discussed an issue with wet soil affecting Locks Creek. She questioned why drainage and flooding issues remain unresolved.
- She also cited concerns about traffic accidents and looting. Perdue also mentioned overcrowded schools and transportation issues for children. She urges the Board not to approve rezoning and mentions support from another resident.

Mr. Hight asked the Staff if the Board could change the allotted speaking time for each side. Ms. Harper said that they could extend the time for speakers.

Janene Ackles, 1684 Cedar Creek Road, Fayetteville, NC 28312

- Ms. Ackles expressed concerns about traffic issues if an apartment complex is built. She witnessed an accident last weekend, highlighting traffic as a major problem.
- Having moved into the neighborhood two years ago, she believes changing the area from rural would impact the community negatively.
- Ackles suggested developers improve community outreach. She stated she was not informed by the City about the zoning meeting and stressed the importance of developers understanding community desires. Ackles opposed the development, urging the Board not to approve it due to lack of community outreach.

MOTION: Kevin Hight made a motion to add 10 minutes for the speakers representing both sides.

SECOND: Stephen McCorquodale

VOTE: Unanimous (5-0)

Robert Naylor, 1997 Water Oaks Drive, Fayetteville, NC 28312

- Mr. Naylor said there was a storm where water entered the area. If the developers develop in the area there will be more flooding in the area.

Mr. Hight asked Mr. Naylor if they had contacted any County offices about the flooding issues. Mr. Naylor said it would be an issue that could be considered. Ms. Perdue stated she is part of an association and she noted she has seen the animals. She went to the City Council and spoke to them about the Locks Creek cleanup. The County knew about this, and they received money to fix the problem because of Hurricane Katrina, but the County did nothing. Ms. Perdue said her property was flooded because of Locks Creek. Mr. Hight wanted to know if it was a known flood area and Ms. Perdue said yes.

Mr. Naylor noted that he cleaned up the area.

Brandon Perdue, 1531 Cedar Creek Road, Fayetteville, NC 28312

- Mr. Perdue was surprised by flooding issues at Locks Creek which have prompted evacuations. He explained how removing soil exacerbates flooding risks.
- He argued that the development contradicts the 2040 Comprehensive Plan, citing definitions of low-density residential. Perdue emphasized that the area shouldn't allow duplexes or apartments based on Fayetteville 2040 and the Comprehensive Plan.
- He highlighted the lack of a school bus stop in their area, resulting in him dropping off his children. Perdue, with engineering experience, warned against adding more developments, stressing the importance of preserving land to prevent drainage problems.

Jeremy Stanley, 2313 Cleveland Avenue, Fayetteville, NC 28312

- Mr. Stanley, a Cedar Creek resident since 2021, warned of flooding risks in the area and expressed frustration at its neglect. He pointed out overcrowded schools and criticized plans for apartment development in a flood-prone area, ultimately advising against any further development there.

Nadia Minniti, 16721 NC Hwy 53, Fayetteville, NC 28312

- Ms. Minniti regularly drives Cedar Creek Road and worries about flooding hindering her commute to work. Drawing from her experience volunteering on Wilson County's planning board, she stresses the importance of impact studies for new developments. She urges the city to conduct environmental impact studies before approving developments.

Lester Lowe, 1025 Locks Creek Road, Fayetteville, NC 28312

- Mr. Lowe, a 30-year law enforcement veteran, faces daily crime challenges. He experienced the Locks Creek flooding post-hurricane and stressed the importance of communication with the City. He expressed opposition to the development.

Jonathan Charleston- Rebuttal

- Mr. Charleston stated there's no evidence of increased traffic or crime, overcrowded schools, or adverse effects on surrounding properties due to the development.
- He mentioned the City's public notification and the State's stormwater regulation.
- Charleston argued against waiting for school demand before development and emphasized shared burdens.
- He noted the absence of evidence for concerns like endangered woodpeckers or traffic issues.
- Charleston highlighted state and federal regulations addressing various concerns and mentioned the property's previous owners' input through restrictive covenants. He believes the development will benefit the area and offered to address residents' questions.

Mr. Hight inquired about what would occur if the Board did not approve the rezoning and what is the developer's plan. Mr. Charleston said the developer intends to construct multi-family dwellings. He stated there is not enough multi-family housing in the County.

Mr. Patel noted that he agreed that there is a need for multi-family housing as stated by Mr. Charleston. He asked about Department of Transportation studies and Mr. Charleston said that the Department of Transportation has not weighed in on it. Mr. Patel asked if there was a study done, and Mr. Charleston stated that Department of Transportation assessments were not conducted in the area.

A resident inquired about a stormwater survey in the area. Mr. Charleston responded that recommendations would be based on stated factors and wetlands considerations, to be addressed during the permitting process regulated by the State. He mentioned that the stormwater plan would need State approval and emphasized the importance of not obstructing the creek's water flow. When asked about the impervious area for the development, Mr. Charleston explained they don't have a finalized plan to specify this yet.

Mr. Keith noted that the Technical Review Committee would look at the plans and the developers need to work with the Technical Review Committee (TRC). Mr. Charleston said that TRC will be involved with this plan. Mr. Charleston said the risk is all on the developer. The issues will be dealt with by the City. The main issue is stormwater, and it will be mandated by the State. Mr. Charleston did not see the issue of wildlife being addressed in the Staff report. Mr. Charleston reiterated the issues noted by the community and the lack of evidence presented.

There was a question about traffic lights and Mr. Charleston said that when this development starts, the Department of Transportation will determine if a light is necessary based on traffic studies. It is not the City but the State that makes that determination.

Mr. Patel closed the hearing for case P24-12.

Mr. Herbe said he heard that the notifications were not done properly. Mr. Harmon said letters were sent out to residents and the legal ads were published as per State statutes. Residents noted that they did not receive postcards in the mail and Mr. Patel said the hearing is closed.

Mr. Herbe asked questions about the need for the Comprehensive Plan in the staff reports, and he asked what was included in MR-5. Ms. Eckhardt said that single and multi-family housing is included in MR-5. Ms. Harper said that Mr. Herbe could vote that the rezoning is not consistent with the Land Use Plan and show the evidence that supports this.

Mr. Patel said this is the Board's recommendation to the City Council and the applicant can appeal. Mr. Patel said that there are a lot of concerns. Mr. Keith stated that the property has not been entirely annexed into the City and Ms. Eckhardt agreed. Mr. Moutos said that the case would go to the City Council for an annexation hearing in March. Mr. Harmon said the annexation will be a public hearing. Mr. Hight said that if the Board said no to the rezoning then the owners could come back later and resubmit their request. Mr. Harmon said the developer would be informed about what zoning district they can come under when conducting their project, so they may choose to back out. A small portion of this land is in the City and if the land is annexed into the City the owner could come back to the Board with another request.

Ms. Harper said that the City normally requires the rezoning first, so the developer could back out of the annexation. She noted that this is a recommendation by the Board and the case will go to the City Council for a final vote. Mr. McCorquodale said that the developer could present plans to the City and receive restrictions. Mr. Hight asked the Staff about what could be built on the property now. Ms. Eckhardt said it would be single-family housing and it would need to meet the standards of the ordinance. Mr. McCorquodale was concerned that the new development would not complement what is currently located in the area. He noted the covenant that is in place to provide restrictions. Ms. Charleston said something would eventually come to the area.

MOTION: Justin Herbe made a motion to approve the map amendment to a more restrictive zoning district from RR and SF-15 to SF-15 based on evidence submitted and findings that the map amendment would be consistent with the Future Land Use Plan and an amended consistency statement. The amendment is not consistent with the Future Land Use Map in the sense that the Future Land Use Map called for low-density housing to be in the area and MR-5 is medium-density housing.

Mr. Hight stated for clarification that Mr. Herbe's proposal would leave the property at its current zoning. Mr. Herbe clarified that his understanding is that the area is currently RR and SF-15 and he is changing the zoning to SF-15. He is recommending that the properties be initially zoned SF-15.

**SECOND:
VOTE:**

The motion failed due to lack of a second.

MOTION: Kevin Hight made a motion to deny this map amendment request because it is inconsistent and does not align with the area designation on the Future Land Use Map, and it is also not complimentary and congruous to those properties already in that area.

SECOND: Pavan Patel

VOTE: (4-1) (Stephen McCorquodale opposed)

IV. OTHER BUSINESS

Mr. Harmon stated that a variance from February would be heard due to concerns regarding notification of the hearing. In an abundance of caution, the Legal department decided that the case would be reheard as the findings of fact had not yet been approved. Ms. Harper confirmed that the case would be re-noticed prior to the March meeting date.

V. ADJOURNMENT

MOTION: Alex Keith made a motion to adjourn the February 13, 2024, meeting.

SECOND: Stephen McCorquodale

VOTE: Unanimous (5-0)

The meeting adjourned at 8:23 p.m.
Respectfully submitted by Catina Evans