File #: 18-440, **Version:** 1

TO: **Mayor and Members of City Council**

THRU: **Jay Reinstein - Assistant City Manager**

FROM: **Gerald Newton, AICP - Development Services Director**
Taurus Freeman, Planning & Zoning Manager
Michael Martin, Development Services Assistant Director
Marsha Bryant, Development Liaison
Craig Harmon, AICP - Senior Planner
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DATE: **October 22, 2018**

RE:
P18-32F. Initial zoning of property from mixed conditional zoning Mix-Use Development/Conditional Zoning (MXD/CZ) County) to MU/CZ (Mixed-Use/Conditional Zoning), located at Elliot Bridge Road and US 401, containing approximately 253 +/- acres and being the property of BROADWELL LAND COMPANY.

COUNCIL DISTRICT(S):
North of District 1

Relationship To Strategic Plan:

- Goal III: Objective A - Manage the City future growth and support strategic land use policy by supporting quality development.
- Goal IV: Objective B - Provide for a clean and beautiful community with increased green spaces

Executive Summary:

The applicant, Broadwell Land Company, has submitted a request for nine (9) parcels to be annexed into the city of Fayetteville as one project. With the request, the applicant is proposing to develop the area for a mixed-use community consisting of single-family, multi-family, and commercial over the next decade.

This initial zoning is one of three steps in this process, along with the annexation petition and Development Agreement. In 2015, these properties were rezoned to a Mixed-Use/Conditional Zoning by the Cumberland County Commissioners.

Background:
This property is located north of the City on the western side of Ramsey Street and south of Elliot Bridge and Elliot Farm roads. The owner, Broadwell Land Company proposes a mixed-use development. The plan is a total of 253+/- acres that consist of approximately 350 single-family residential units, 350 multi-family residential units, and 24 acres of commercial. The remaining acreage of this development will be used for green space/open space areas.

Applicant: Dohn Broadwell
Owner: BROADWELL LAND COMPANY
Requested Action: MUD/C (County) to MU/CZ
Property Address: Southwest corner of Elliot Bridge Road and US 401
Council District: 1
Status of Property: Vacant Residential
Size: 253 acres +/-
Adjoining Land Use & Zoning:
North: R15 & C(P) County - Farm Land & Convenience Store
South: PND & RR County - Single Family Residential
West: PND County - Residential & Undeveloped
East: PND & C(P) County - Undeveloped
Letters Mailed: 92

2030 Growth Vision Plan: Urban Fringe

Issues/Analysis:
LAND USE
The property under consideration for voluntary annexation has already been through the process of creating an approved project that is captured and protected with a development agreement. As such, the land use discussion is not one of if the project belongs or should be zoned in at this location. The issue is if the development will be in the City of Fayetteville or remain in the unincorporated Cumberland County area that lies within the City's Municipal Influence Area (MIA).

One land use plan was put in place by Cumberland County. The plan is presented below. A second regional plan is also related to the project. Each are presented to share as background. The most significant point, however, is the zoning already exists and is being asked to match to the full equivalent within the city's regulations. Here is the summary of earlier plans that cover the project.

North Central Cumberland Area Detailed Land Use Plan 2011
The North Central Cumberland Area Detailed Land Use Plan 2011 was part of a continuing effort by the Cumberland County Joint Planning Board to provide detailed land use plans throughout the County. This Plan encompasses the northern portion of the County.

The I-295 Corridor, Base Realignment and Closure (BRAC), and general growth will create new opportunities for economic development in this area. It is imperative that these new economic opportunities be accommodated in harmony with and maintain the unique character of the area, preserve and protect natural resources, protect farming, provide adequate land and locations for commercial activities, and is developed in a manner that's economical and efficient for the provision

of public services.

North Central Cumberland Area Detailed Land Use Plan Analysis
This plan was developed prior to the County rezoning the properties in question. The Study Area for this plan was defined by Harnett County on the north, the Cape Fear River to the east, the Spring Lake Study Area and the Fort Bragg Reservation to the west; and Carvers Creek, Bethune Drive and Wolfpoint Drive (the northern boundary of the North Fayetteville Study) to the south. It contains approximately 3,677 parcels within 33,468 acres.

Most of the area is rural in nature with more dense development in the southern portion, as well as in the East Reeves Bridge Road - Palestine Road - Ramsey Street triangle. Most of the Area east of Ramsey Street and south of McBryde Street has a slope of less than 10% (relatively flat terrain); while the area north of Palestine Road, west of Ramsey Street, and along the Cape Fear River bluffs have a slope greater that 10-percent.

Future Growth Pattern
While the North Central Cumberland Area Land Use Plan recommends for these properties to be used for low-density residential and commercial, the more recent action (2015) by the County to rezone this area for a mixed use development that includes, single family, multi-family and commercial uses effectively amended this land use plan. Therefore, the land use plan for the area under consideration for review is the concept plan that was approved by through the County rezoning.

This change concurs with the recently released Joint Land Use Study from the Regional Land Use Advisory Commission (RLUAC), which indicates that this area of Cumberland County is suitable for urban development. The larger concept here is one of creating a node for development in this area. It is a sound planning and development practice. Since the area is also within the City's MIA, it becomes consistent with the intent of the MIA of the city.

Regional Land Use Advisory Commission
An examination of the specific development request was reviewed by the Regional Land Use Advisory Commission (RLUAC) staff and Board of Directors. Though their findings are non-binding for the Cumberland County or the City of Fayetteville, the RLUAC Board of Directors stated the following:

- This property falls within a mile of at least two active Red-Cockaded Woodpecker (RCW) clusters. (The bird is protected by the Endangered Species Act. A cavity study was performed by the applicant in 2015, which stated no colonies existed on the requested properties.)
- The request involves parcels that are largely identified as suitable for urban development on the Joint Land Use Study maps. However, there appears to be a stream or floodway extending through several of the lots that is identified as highest suitability for 'natural values' and high suitability for 'forests'.
- A small portion of the area is contained within a military aircraft noise zone (65 decibels) and most of it is included in a military aircraft 1,000-foot flight limit area. It is recommended to use construction measures to minimize the noise. Height restrictions also apply.

The conclusions offered from RLUAC are incorporated into the understanding and design of the project being considered for annexation.

MUNICIPAL SERVICES

Water & Sewer Requirement

City Policy 150.2 Public Works Commission, Provision of Water and Sewer to Municipal Influence Area (MIA) indicates that property must be annexed into the city limits before sewer service can be provided or expanded. Earlier actions of the City Council reaffirmed this city policy. Again, the issue then becomes one of approving the annexation and the provision of public water and sewer services by PWC or not approving the annexation (and related actions) which does not stop the project from developing. Instead, not annexing sets in place the other option of the developer to receive utilities from another available public source.

Sewer

According to the Fayetteville Public Works Commission (PWC) Master Plan, the utility provider intentions were to provide sanitary sewer north along Ramsey Street. Currently, the project is underway to extend approximately 13,800 linear-feet of 18-inch sanitary sewer main from the existing Carver's Creek outfall near Goodyear Tire & Rubber to a point south of Elliot Bridge Road.

It is estimated that construction of the portion of this sanitary sewer main extension that would serve this property will be completed by the end of summer 2019. The developer would then install necessary sewer extension(s)/lateral(s) within their development from this PWC sanitary sewer main extension to serve the property. A Letter of Intent has been submitted by PWC to the applicant on September 28, 2018. This letter of intent has been signed by the applicant.

Water

The Public Works Commission has a project underway to construct water system improvements along Highway 401 North to begin at a termination point of the existing 16-inch transmission main near the intersection of Ramsey Street (US Hwy 401 N) and Bienville Drive and extending north to the intersection and then west along Elliot Bridge Road.

The project will include 10,000-feet of water main improvements, a booster pump station, and an elevated tank. It is estimated that construction of the water main improvements and booster pump station will be completed by end of summer 2019.

The elevated tank will not be completed until there is sufficient development in the area to equate to a demand of 100,000 gallons per day (gpd). (This is approximately 500 dwelling units and no commercial or an equivalent mix.) This is needed to prevent stagnation of the water supply stored in the tank due to insufficient daily turnover.

The developer is responsible to install necessary water extension(s)/lateral(s) within the development from these PWC water system improvements to serve the property.

The available fire-flow at 20 pounds per square inch (psi) residual during the initial phases of construction for the water system improvements will be 500 gallons per minute (gpm). The elevated storage tank will not be operational until there is the required system demand to ensure the sufficient turnover of water in the new tank. The threshold for sufficient turnover is 100,000 gpd. Once the elevated tank is operational, the minimum required fire-flow of 1,000 gpm at 20 psi residual for residential or 1,500 gpm at 20 psi for commercial should be achieved. These fire flows will improve as the project is developing and growing.

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Electric
Electrical service to this area will not be provided by PWC. Electrical services it will be provided by Duke Power or South River Electric. Both have the ability to serve the project.

Solid Waste
Garbage collection within the annexed area will be provided by the City. If annexed, these services will be offered to the annexation area under the same rates and terms as the remainder of the City. The City does not provide service to multi-family residential nor commercial developments, which would be handled by private contractor haulers.

City Ordinance now requires the use of a City-approved cart. Currently, the cost for a single roll-out cart is $48.97 and $38.50 for recycling carts. Each single-family dwelling will be issued one 96-gallon green rollout cart for household debris and one 35-gallon blue rollout cart for recycling debris.

Police Services
This area is 3.1 miles outside of the current city limits. This distance could possibly result in delayed response times and a diminished capacity to provide police services to the new and current residents who/will reside in, or around, the Ramsey Street corridor. The future addition of 700 residential units will require routine patrols and overall increased call-for-service, response and investigations. All of this will result in additional fuel cost, vehicle costs, and manpower to meet this demand.

The Police Department requests FY 20 capital funding to initially hire two (2) additional police officers with a projected start date of January 2020 to meet the needs of the initial phases of development. The costs listed in the Annexation Evaluation Form is an estimate to hire, pay and equip the additional officers. The full development will be phased and may occur over a 20-year time period. Additional staffing will need to occur over the 20-year development projection and will be covered by the site derived revenue.

Fire Protection
The response times for existing FFD units will be outside of the Standards of Cover due to the distance of the site to the closest city fire station, as this extended distance could result in times exceeding the City's baseline for units responding to a structure fire.

If annexed, the City will ensure that adequate, effective, and efficient fire protection services are provided for this area. The City will enter into a contractual agreement with Westarea Fire Department that includes required performance expectations regarding response and operations. The contract will require that the same level of service be delivered to the annexed area as is provided by others within the City as demonstrated by the City's current ISO Class 1 rating.

In the event that the performance requirements included in the service contract between the City and Westarea Fire Department cannot be met and/or sustained, the City is prepared to request a contingency capital funding allocation to assist in the placement, staffing, and operation of a temporary station in or near the annexed area. These contingency capital items include siting and placement of a temporary station, a new engine that will have an approximately depreciated life-span of 20 years, and a crew of 4 personnel to staff the engine on three shifts. The addition of a new ladder company as well as personnel to support will be considered as the commercial development (which requires a ladder company response per ISO) begins to fully develop. There are multiple

funding options available to support these contingencies.

Emergency Services
The City's Fire Department would provide first responder-based emergency medical services to include basic life support (BLS) skills. Cape Fear Valley EMS will continue to provide advanced life support (ALS) skills and patient transportation to a fixed medical facility. If the City were to enter into a service contract with the Westarea Fire Department, the contracted agency will provide BLS-level emergency medical services to the area.

Right-of-Way Maintenance
Under North Carolina law, maintenance responsibilities for streets and rights-of way depend on ownership. Roadways in the county are maintained by the State; City owned roads are maintained by the City.

Post-Disaster Activities
Both the City and the County have contracts with private companies for disaster cleanup services. FEMA regulations do not allow the City to extend their cleanup efforts to properties outside of the city limits.

ENVIRONMENTAL
Area Natural and Physical Conditions
According to the North Central Cumberland Area Detailed Land Use Plan, farming has played a major role in this area over the years. Soil characteristics indicate there are some relatively good soils for farming in this area of Cumberland County. As of 2011, the property in question was enrolled in the Present Use Taxation Program as an active farm. Removal from this program requires payment of a fee by the property owner. It was not part of the County's Voluntary Agricultural District Program.

The City has not received updated Federal Emergency Management Agency (FEMA) Firm Maps but expects to receive the maps in the near future. There are environmentally sensitive areas (wetlands, hydraulic soils, floodplain, etc.) that may reduce the buildable acreage. The site has been designed to stay away from any of these potential environmentally sensitive areas.

There are no mapped flood hazard areas on these properties; however, there is a small creek that traverses the property. Hydric soils were found to be present on these properties during this study. Hydric soil is soil which is permanently or seasonally saturated by water, resulting in anaerobic conditions, as found in wetlands.

Soil
Soil types and conditions in the Study Area are generally not conducive for septic systems. Soils data showed that in the Study Area over 24,120 acres (72%) of the Area has severe limitations for septic tanks. As of 2008, there were 47 septic tank repairs in this area.

Wetlands
Wetlands are located within the property. The saturated lands are managed by the Army Corp of Engineers. The applicant has a survey delineating the wetlands. The study of the wetlands is valid for a period of five (5) years. The development regulations for the wetlands will remain the same whether the property is annex or not.

Watershed

The property is located within the Cumberland County/City of Fayetteville Watershed Supply Area. The development regulations for the watershed are the same regardless if the property is annexed or not. This watershed enters the Cape Fear River north of most of the city, as this property is on the northern-most portion of the watershed.

TRAFFIC IMPACT

The Traffic Impact Analysis (TIA) was prepared by Kimley-Horn and Associates, Inc. in 2014. A TIA is, typically, valid for five (5) years. This TIA was site specific and did not consider future growth between the City limits and the subject property.

Improvements to SR 401 (Ramsey Street) have been completed by the North Carolina Department of Transportation (NCDOT), which can support the additional traffic for the proposed development. There are no additional scheduled improvements along this section of SR 401 in the FAMPO Long Range Plan. Commercial and further developments along this corridor may require a new or modified TIA.

State Route 401 is designated as a *Strategic Transportation Corridor* (STC), which forms the State's core network or multimodal transportation corridors. Combined, they move a large network of people and freight across the region and key markets outside of the state. Together they enhance economic development, mobility, accessibility, and good decision-making.

There are numerous large acreage parcels between the proposed annexation and existing City limits. The properties directly to the North of the City contain approximately 2,400 acres of open space owned by the State or Nature Conservancy. Development on these parcels is unlikely to occur. There are approximately 800-acres between this open space and the parcels being considered for annexation. Along SR 401 (Ramsey Street) there are approximately 2,000-acres with frontage along and/or near the road. These properties could serve as a new commercial center, mixed use development, allow additional public facilities to be constructed and insure that the City maintains control of the gateway.

A factor that would impact development would be road improvements that may be required for future developments. At this point, it is unknown what would be required, or the associated cost.

Below is the 2016 Annual Average Daily Traffic (AADT) counts, as provided the NCDOT:

Roadway	Location	AADT
Ramsey Street	South of Elliot Bridge Road	15,000
Ramsey Street	North of Elliot Bridge Road	9,100
Elliot Bridge Road	West of Ramsey Street	5,600
Elliot Farm Road	West of Elliot Bridge Road	2,400

Interstate-295 Corridor

Interstate-295, also known as the Fayetteville Outer Loop, is an interstate-grade, 39-mile bypass around the western side of Fayetteville. Construction of all sections of the loop are scheduled to be

complete by 2022.

Fayetteville could start to see a shift in housing and commercial development patterns along the new interchanges at North Reilly and Cliffdale roads, and in a few years at Raeford Road. Like the Beltline in Raleigh and the Interstate-485 Loop around Charlotte, Fayetteville's future I-295 could tilt the city's center away from some of its traffic-clogged commercial corridors, and inject new life in aging or undeveloped areas.

Ramsey Street, Elliot Farm Road, and Elliot Bridge Road are all State roadways; therefore, if the property is annexed or not, the same road improvements will apply.
What is known from the roads and streets of the area is that the location is a prime location for not only increased development pressure but increased traffic tied to the interconnectedness of the city to the region and points north of the site.

SCHOOLS
A 20-acre tract in the northwest corner of this development has already been given by the property owner to the Cumberland County School System for the siting of a new elementary school. This proposed school is listed as a need in the School System's 2016 Five Year Critical Needs Assessment. Funding for the project has not been identified by the system as of yet. A date for construction has not been determined. The construction of a new school will take approximately two (2) years from the start of construction to complete.

The main entrance to the school would be directly from Elliott Bridge Road. A secondary entrance would be from the proposed development. The school would be an elementary school with a 600-core student capacity.

Currently, four (4) schools serve this general area, two elementary schools and one middle and one high school. Below are the current enrollments, school capacity and the average number of students in schools with similar grade ranges at the district and state levels, as shown on the Cumberland County School website for each school.

School (Grade Levels)	Current Enrollment	Functional Capacity	District Average	State Average
Raleigh Road Elementary (K-1)	232	220	460	490
Long Hill Elementary (2-5)	451	460	460	490
Pine Forest Middle (6-8)	812	820	594	629
Pine Forest High (9-12)	1528	1750	901	853

DEVELOPMENT PLAN
Cumberland County Planning Department indicated that they have not received any new development plans for this area, including the Hammond property. The aforementioned property is a large acreage that is located on the northern side of Elliot Bridge Road and is within Spring Lakes MIA area.

The density in the Mixed-Use District is controlled by the Conditional Zoning. The proposal is for 133-acres to be designated as 350 single-family units. If the property was zoned AR (Agricultural-Residential), the maximum is 266 units. If zoned SF-15 (Single-Family Residential), the maximum

units would be 386.

The proposed 37-acres is designated for 350 multi-family units. If zoned SF-6 with a Special Use Permit, the maximum units allowed is 322 multi-family residential. The maximum multi-family residential units allowed for MR-5 (Mixed-Residential) is 740.
The development plan presently exists on the site and remains with or without annexation. The City Council is not being asked to change the development plan other than adding some city standards for development within the jurisdiction. These improved standards are stormwater, open space, and sidewalks.

Stormwater
If the property is not annexed, State Department of Environmental Quality approval is required and has been obtained; however, the State only regulates the water quality not quantity. By annexing in, the developer is committing to a higher standard. The developers engineer has worked ways to make this happen on all of the project.
City stormwater approval is required if annexed. This approval regulates the water quality and quantity.

Open Space
The maximum requirement for residential development is 20-percent of the total acreage. This would result in 34 acres of open space being required. The applicant is proposing 58 to 60 acres, which is usable and non-usable open space areas, with some being wetlands. This is an additional standard accepted for the project by the developer in their overall design.

Sidewalks
If the property is not annexed, the developer proposes to put sidewalks on one side of all internal streets. If the property is annexed, the City requires sidewalks on both side of all internal streets and along State roadway, Ramsey Street, Elliot Farm and Elliot Bridge roads. The developer acknowledges this additional cost and agrees to the sidewalks.

IN-FILL ANNEXATIONS
The Broadwell request is a voluntary satellite annexation request. "Satellite" refers to a property that is not contiguous to the municipality. Satellite annexations are allowed in North Carolina law, and the City has numerous satellite areas.

If the Broadwell property is annexed as a voluntary satellite, the City could later try to annex the area between the city limits by using the city-initiated involuntary method or require annexation as the properties are developed/redeveloped and sewer is requested or required. There is no such plan or discussion to do so. This is noted as part of the assessment of the site. For purpose of sharing the information, here is additional material.

On the western side of Ramsey Street, between the current Fayetteville city limits and the Broadwell Property, there are basically four residential areas. From south to north, they are the Bullard Circle area, the Springfield subdivision area, the Currin Street/ Rachel Road area, and the Bienville Drive area.

Other major requirements for using the city-initiated annexation method are as follows:

1. The City would have to show that the area to be annexed is "developed for urban purposes." One way to show this is to verify that the area has a population density of 2.3 persons per acre. This was based on the philosophy underlying the North Carolina annexation law.

2. The City (i.e., PWC) would have to provide water and sewer within 3.5 years at no cost to the property owners.

3. A referendum would need to be held. Only registered voters in the proposed annexation area would be allowed to vote. If less than a majority of the votes cast in the referendum are for annexation, the City would not be able to proceed with the annexation. Also, the City would not be able to begin a new annexation process for at least 36-months after the date of the referendum. If a majority of the votes are for annexation, the City could proceed with the annexation.

SPRING LAKE MIA

The area on the northern side of Elliott Bridge Road, across from the Broadwell property, is in the Spring Lake MIA. It is unknown if Spring Lake can provide services to the vacant, Hammond or Broadwell properties. If so, and the Broadwell property is not annexed, the two municipalities may need to revise the current MIA, an action similar to the agreement between Fayetteville and Hope Mills.

Conditions:

Below are the recommended conditions of the rezoning, as agreed upon by the applicant:

1. All requirements and conditions set forth in the development agreement between the City and Broadwell Land Company.

2. All 49 conditions previously approved through the County's rezoning, unless those conditions are in conflict with the development agreement, in those cases the conditions stated in the development agreement will take precedence.

Zoning Commission Public Hearing:

On September 11 the Zoning Commission held a public hearing regarding this case. There were two speakers at the hearing, James Rose (the applicant) and Jimmy Jones, who spoke in opposition. Mr. Jones stated that he didn't feel the area should be annexed. That there is already too much retail development in the area and he is afraid that this new development will connect to the existing subdivision where he lives. At the close of the Public Hearing, the Commission voted 2-1 to recommend approval.

The Zoning Commission and City Planning staff recommend APPROVAL of the map amendment to MU/CZ based on the following:

- This proposed zoning map amendment implements the policies of the adopted 2030 Growth Vision Plan, including the land use classification of the property on the future land use map, as amended;
- The uses permitted by the proposed change in zoning district classification and the standards applicable to such uses will be appropriate in the immediate area of the land to be reclassified

due to the future land use plan for this area and the previous approval of a conditional rezoning by the County;

- The proposed change is in accordance with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other public services and utilities to the area. The owners and PWC will be providing these features to and in the project.

There are no other factors which will substantially adversely affect the public health, safety, morals, or general welfare when built in accordance with the conditions and development agreement.

Budget Impact:
Analyzing the budgetary impact of an annexation on the City involves comparing projected expenditures, provided by City operating departments, with projected revenues (see Cost and Revenue Projection Summary).

Options:

1. Approval of the map amendment/rezoning to MU/CZ as presented by the Planning staff, with the conditions listed above (recommended).
2. Approval of the map amendment/rezoning to MU/CZ with changes to the conditions listed above.
3. Deny the request.

Recommended Action:
The Zoning Commission and Planning Staff recommend that the City Council move to APPROVE the requested rezoning to MU/CZ (Mixed-Use/Conditional Zoning). The amendment is consistent with applicable plans as follows: 1) the County's existing North Central Cumberland Area Detailed Land Use Plan 2011 as amended in 2015 by the County's rezoning to mixed use calls for this area to be used for single family residential, multi-family and commercial; 2) that the uses surrounding this property will all be compatible with the proposed zoning since the new zoning will be the same as it was in the County's jurisdiction; and 3) the proposed zoning is reasonable and in the public interest because the proposed zoning does fit with the character of the development in this area.

Attachments:

- Aerial Map
- Zoning Map
- Land Use Plan Map
- Application
- Development Agreement
- Conditions Approved by Cumberland County
- Site Photos
- Cost and Revenue Projection Summary