



Legislation Text

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File #: 21-2432, Version: 1

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

**THRU: Telly C. Whitfield, Ph.D. - Assistant City Manager  
Dr. Gerald Newton, AICP - Development Services Director**

**FROM: Craig M. Harmon, CZO - Planner II**

**DATE: January 24, 2021**

**RE:**  
**P21-62.** Rezoning from Single-Family 15 (SF-15) to Limited Commercial (LC), located at 1660 Cedar Creek Road, (REID #0446802798000) containing 0.84 acres ± and being the property of Daniel H. and Alice S. Devane.

**COUNCIL DISTRICT(S):**  
2 - Shakeyla Ingram

**Relationship To Strategic Plan:**  
Strategic Operating Plan FY 2022  
Goals 2026

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.
- Objective 3.3 - To sustain a favorable development and business climate through timely and accurate construction review and building inspection services

Goal IV: Desirable Place to Live, Work and Recreate

- Objective 4.3 - To improve mobility and connectivity through sidewalk, trail, and bike lane investments
- Objective 4.4 - To provide a clean and beautiful community with increased green spaces
- Objective 4.5 - To ensure a place for people to live in great neighborhoods

**Executive Summary:**

The applicant is seeking to rezone the portion in the City limits of one lot (0.84 acres ±) from Single

Family Residential 15 (SF-15) to Limited Commercial (LC). The property in question is total 1.91 acres ±. The remaining portion of the lot is located within Cumberland County's jurisdiction.

On December 14, the Zoning Commission held a legislative hearing regarding this case. The applicant spoke in favor and no one spoke in opposition. The Commission voted 5-0 to recommend approval of this map amendment.

**Background:**

The property is located at the northwest corner of Cedar Creek Road and Water Oaks Drive. This property currently has one single family home on it and associated out buildings.

Applicant: Daniel H. Devane

Owner: Daniel H. and Alice S. Devane

Requested Action: SF-15 to LC

Property Address: 1660 Cedar Creek Rd

Council District: 2

Status of Property: Single Family Detached House

Size: 0.84 acres ±

Adjoining Land Use & Zoning:

- North: LC - Commercial
- South: SF-15 - Water Oaks Dr & Single Family Housing
- East: CC - Commercial Storage
- West: A1 - County

Traffic Count: No traffic count available on Cumberland Street.

Letters Mailed: 21

Land Use Plans:

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

According to the Plan, it is recommended that this portion of the city should be developed as Office / Institutional (OI).

Office / Institutional (OI) is best described as medium intensity nonresidential uses including light industrial, office, flexspaces, warehousing, large schools/institutions. Businesses or buildings grouped sometimes in business parks. This area also includes utilities and city services.

**Issues/Analysis:**

History:

According to the County tax records, this parcel was recombined with an adjoining property in July of 2021. Hence, a portion of the property as platted is in the City of Fayetteville's City Limit and the other portion is in the unincorporated area of Cumberland County.

**Surrounding Area:**

The site is bordered by a mix of zoning districts, including; SF-15, LC, CC and Cumberland County A1 zoning district.

**Rezoning Request:**

The applicant is requesting to rezone an area currently zoned SF-15 to LC which would allow either the development of commercial uses or residential type uses.

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 straight zoning from SF-15 to LC. The parcel directly to the north of this property is zoned as LC. Hence, this rezoning request is an extension of an existing zoning district.

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

The proposed zoning district is compatible with the existing surrounding area. This district allows many of the same uses called for in the OI designation of the City's Future Land Use Plan. The request may require a modification to the Future Land Use Plan if approved. This rezoning would not present the issue of spot-zoning.

The reclassification of land to a straight zoning district allows all of the uses that are shown on the attached Use Table taken from the UDO. The City Council 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 Future Land Use Map & Plan, this area is recommended to be developed as Office / Institutional (OI). This district is best described as medium intensity nonresidential uses with light industrial, office, flexspaces, warehousing, large schools/institutions. Businesses or buildings grouped sometimes in business parks. This area also includes utilities and city services. The request to rezone to LC varies slightly from what is recommended in the Future Land Use Plan (FLUP). However, many of the same uses are encouraged in both FLUP and the LC zoning district. The LC district also matches other zoning districts and use currently adjacent to this site.

**Consistency and Reasonableness Statements:**

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

**Budget Impact:**

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

**Options:**

1. Approve map amendment to LC (recommended);
2. Approve map amendment to a more restrictive zoning district; or
3. Deny map amendment request.

**Recommended Action:**

The Zoning Commission and Professional Planning Staff recommend APPROVAL of the map amendment to LC 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). While the request is not a one to one match with the Future Land Use Plan many of the same uses are allowed in both districts.
- The uses permitted by the proposed change in zoning district classification and standards apply to such use and will be appropriate in the immediate area of the land to be reclassified due to the existing zoning and uses surrounding this property. Many of the surrounding properties are currently zoned same or a more intense commercial district than what is being requested; and
- There are no other factors that will substantially affect public health, safety, morals, or general welfare.

Note: Approval of this rezoning may constitute an amendment to the FLUP as well.

**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 Statements