

City of Fayetteville, Arkansas

113 West Mountain Street Fayetteville, AR 72701 (479) 575-8323

Legislation Text

File #: 2023-1434

RZN-2023-0027: Rezoning (1272 N. 59TH AVE./DICKSON STREET CAPITAL, LLC., 397): Submitted by REED LYNCH for property located at 1272 N. 59TH AVE in WARD 4. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 0.80 acres. The request is to rezone the property to RMF-6, RESIDENTIAL MULTI-FAMILY, SIX UNITS PER ACRE.

AN ORDINANCE TO REZONE THE PROPERTY DESCRIBED IN REZONING PETITION RZN 2023-027 FOR APPROXIMATELY 0.80 ACRES LOCATED AT 1272 NORTH 59TH AVENUE IN WARD 4 FROM R-A, RESIDENTIAL-AGRICULTURAL TO RMF-6, RESIDENTIAL MULTIFAMILY, SIX UNITS PER ACRE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

<u>Section 1</u>: That the City Council of the City of Fayetteville, Arkansas hereby changes the zone classification of the property shown on the map (Exhibit A) and the legal description (Exhibit B) both attached to the Planning Department's Agenda Memo from R-A, Residential-Agricultural to RMF-6, Residential Multi-Family, Six Units per Acre.

<u>Section 2</u>: That the City Council of the City of Fayetteville, Arkansas hereby amends the official zoning map of the City of Fayetteville to reflect the zoning change provided in Section 1.



CITY COUNCIL MEMO

2023-1434

MEETING OF DECEMBER 19, 2023

TO: Mayor Jordan and City Council

THRU: Susan Norton, Chief of Staff

Jonathan Curth, Development Services Director Jessica Masters, Development Review Manager

FROM: Donna Wonsower, Planner

DATE:

SUBJECT: RZN-2023-0027: Rezoning (1272 N. 59TH AVE./DICKSON STREET CAPITAL, LLC.,

397): Submitted by REED LYNCH for property located at 1272 N. 59TH AVE in WARD

4. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 0.80 acres. The request is to rezone the property to RMF-6,

RESIDENTIAL MULTI-FAMILY, SIX UNITS PER ACRE.

RECOMMENDATION:

The Planning Commission recommends approval of a request to rezone the subject property to RMF-6, Residential Multi-Family, Six Units per Acre, as described and shown in the attached Exhibits 'A' and 'B'.

Staff reviewed and recommended approval of the applicant's initial request to rezone the property to RI-12, Residential Intermediate, 12 Units Per Acre, but had not prepared a recommendation for a revised request to RMF-6, Residential Multi-Family, Six Units per Acre. Staff has since made and evaluation, which is included below, and recommends in favor.

BACKGROUND:

The subject property is located in west Fayetteville on the east side of N. 59th Ave., about an eighth of a mile north of the street's intersection with W. Wedington Dr. The property also has direct frontage onto W. Luna St. to the east and totals 0.80 acres. The parcel is developed with a 1,576 square foot single-family structure built in 1961 per Washington County records. Following annexation in to Fayetteville in 2006, the property received its zoning designation of R-A, Residential-Agricultural.

Request: The request is to rezone the subject property from R-A, Residential-Agricultural to RMF-6, Residential Multi-family, Six Units per Acre.

Public Comment: Prior to the November 13, 2023 Planning Commission meeting, staff received one phone call from a neighbor inquiring about potential development but no comments specifically in support or opposition to the request. At the first public hearing, two neighbors spoke in opposition to the project, citing concerns about compatibility with the rural nature of the neighborhood, narrow streets and increased traffic, parking, potential building heights, and impact on existing trees. After being tabled, no public comment was offered at the November 27, 2023 meeting.

Mailing address:

Land Use Compatibility: On the balance of considerations, staff found the proposed rezoning from R-A to RI-12 to be somewhat compatible with the surrounding area. With the requested change to RMF-6, staff finds the request is similarly compatible for the following reasons. The intent of the RMF-6 zoning district is "designed to permit and encourage the development of multi-family residences at a low density that is appropriate to the area and can serve as a transition between higher densities and single-family residential areas." The subject property is located between large, agricultural properties to the south and west and smaller residential properties to the east and north. The parcel currently has a non-conforming lot width and area within the R-A zoning as this district requires lot widths of 200 feet with lot areas of 2 acres. RMF-6 parcels are required to maintain a variable minimum width of 50, 90, or 100 feet with lot area requirements ranging from 2,500 square feet to 3 acres dependent on use. Single-, two-, three-, and four-family dwellings are permitted by right in the RMF-6 zoning district.

While multifamily dwellings are also permitted by right in RMF-6, staff notes that based on the subject property's size, the maximum number of permitted dwellings on the parcel would be four. Staff finds that the requested rezoning is not likely to result in development that is incompatible with the immediate surroundings since the RMF-6 district limits building heights to the same three stories as adjacent RSF-4 properties and the subject property's size makes it unlikely to be developed to the full density permitted by ordinance. Staff additionally finds that rezoning to an urban form-based district could allow for the development of additional housing while potentially providing increased connectivity given the parcel's street frontage to both the east and west. Further, staff finds the requested rezoning to be compatible since the size and location of the subject parcel appear to be aligned with the spirit and intent of the RMF-6 zoning district, and will allow a nonconforming lot to be brought into conformity.

Land Use Plan Analysis: Staff found the proposed rezoning to be somewhat consistent with the City's adopted land use plans, including its Future Land Use Map designation as Residential Neighborhood area. With the requested change to RMF-6, staff finds the request is similarly compatible for the following reasons. A rezoning to RMF-6 could allow for the creation, or maintenance, of residential properties with reduced lot sizes and form-based requirements while encouraging increased east to west connectivity. Though the property has a relatively low infill score of 5, staff finds the proposed rezoning's low entitlements to be appropriate given its context, the potential to bring the property in to zoning conformance, and limiting development that may be out of scale with the surrounding neighborhood. While a similar rezoning on a larger property could potentially allow development that is inconsistent with the surrounding neighborhood, staff finds that the requested rezoning could allow for the creation of missing middle housing that compliments City Plan 2040 Goal 1: We Will Make Appropriate Infill and Revitalization our Highest Priority, Goal 4: We Will Grow a Livable Transportation Network, and Goal 6: We Will Create Opportunities for Attainable Housing.

CITY PLAN 2040 INFILL MATRIX: City Plan 2040's Infill Matrix indicates a score of <u>5</u> for this site. The following elements of the matrix contribute to the score:

- Adequate Fire Response
- Near Sewer Main (8-inch main, Luna St.)
- Near Water Main (8-inch main, Luna St.)
- Near City Park (Bundrick Park, Harmony Pointe Park)
- Near Paved Trail (Wedington Side Path Trail)

DISCUSSION:

At the November 27, 2023, Planning Commission meeting, a vote of 7-1-0 forwarded the request to City Council with a recommendation of approval for RMF-6, Residential Multifamily, Six Units per Acre. The item was previously heard at the November 13, 2023 Planning Commission meeting before being tabled to the

November 27, 2023 meeting. The applicant verbally requested that the Commission consider a zoning designation of RMF-6, Residential Multifamily, Six Units per Acre rather than RI-12, Residential Intermediate, Twelve Units per Acre, as noted in the report. At the meeting, staff verbally compared allowable uses and noted that although Use Unit 26: Multifamily Dwellings is permitted by right within RMF-6, the property does not have sufficient lot area, being approximately 34,000-square feet, to permit this use, which requires a minimum of 35,000-square feet. Staff further described development standards between the RMF-6 and RI-12 districts.

Commissioner Payne made the motion to forward and Commissioner Brink seconded. Commissioners voting in favor cited the reduced density, a needed transition area between high- and low-density areas, the likelihood of compatible development due to the small size of the parcel, and lack of public comment on the revised request as reasons for their approval. Commissioner Garlock cited the low infill score and minimal support for City 2040 goals as a reason for his denial vote. No members of the public spoke during the meeting.

BUDGET/STAFF IMPACT:

N/A

ATTACHMENTS: SRF (#3), Exhibit A (#4), Exhibit B (#5), Planning Commission Staff Report (#6)



PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: November 27, 2023 Updated with results from 11/27/2023 PC Meeting

SUBJECT: RZN-2023-0027: Rezoning (1272 N. 59TH AVE./DICKSON STREET

CAPITAL, LLC., 397): Submitted by REED LYNCH for property located at 1272 N. 59TH AVE. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 0.80 acres. The request is to rezone the property to RI-12, RESIDENTIAL INTERMEDIATE, TWELVE

UNITS PER ACRE.

RECOMMENDATION:

Staff recommends forwarding **RZN-2023-0027** to City Council with a recommendation of approval.

RECOMMENDED MOTION:

"I move to forward RZN-2023-0027 to City Council with a recommendation of approval."

NOVEMBER 13, 2023 PLANNING COMMISSION MEETING

This item was tabled at the November 13, 2023 Planning commission meeting on the applicant's request. No change has been made to the requested rezoning in the interim.

BACKGROUND:

The subject property is located in west Fayetteville on the east side of N. 59th Ave about an eighth of a mile north of the street's intersection with W. Wedington Dr. The property also has direct frontage onto W. Luna St. to the east and totals 0.80 acres. The parcel is developed with a 1,576 square foot single-family structure built in 1961 per Washington County records. The parcel is zoned R-A, Residential-Agricultural, which it received as a result of its annexation into the City of Fayetteville in 2006. Surrounding land uses and zoning are listed in *Table 1*.

Table 1: Surrounding Land Uses and Zoning

Direction	Land Use	Zoning			
North	Single-Family Residential	RSF-4, Residential Single-Family, Four Units per Acre			
South	Single-Family Residential	R-A, Residential-Agricultural			
East	Single-Family Residential	Public Right-of-Way (W. Luna St.)			
Easi		RSF-4, Residential Single-Family, Four Units per Acre			
West	Agricultural / Single-Family Residential	R-A, Residential-Agricultural			

Request: The request is to rezone the subject property from R-A, Residential-Agricultural to RI-12, Residential Intermediate, Twelve Units per Acre.

Public Comment: Prior to the November 13 planning commission meeting, staff received one phone call from a neighbor inquiring about potential development but no comments specifically in support or opposition to the request. At the public hearing, two neighbors spoke in opposition to the project, citing concerns about compatibility with the rural nature of the neighborhood, narrow streets and increased traffic, parking, potential building heights, and impact on existing trees.

INFRASTRUCTURE:

The subject property has frontage along N. 59th Ave, a partially improved Streets:

Residential Link street with asphalt paving and open ditches, and it has frontage along W. Luna St., a fully improved Residential Link street with asphalt paving, curb, gutter, and sidewalk. Any street improvements required in this area would be

determined at the time of development proposal.

Water: Public water is available to the subject property. An existing eight-inch water main

is present on the east side of the subject property.

Sewer: Public sanitary sewer is available to the subject property. An existing eight-inch

sewer main is present on the east side of the subject property.

No portion of the subject property lies within the Hillside/Hilltop Overlay District or Drainage:

> a FEMA-designated floodplain and no protected streams or hydric soils are present. Any improvements or requirements for drainage would be determined at

the time of development submittal.

Fire: Station 7, located at 835 N. Rupple Rd., protects this site. The property is located

> approximately 1.9 miles from the fire station with an anticipated drive time of approximately four minutes using existing streets. The anticipated response time would be approximately 6.2 minutes. Fire Department response time is calculated based on the drive time plus 1 minute for dispatch and 1.2 minutes for turn-out time. Within the city limits, the Fayetteville Fire Department has a response time goal of six minutes for an engine and eight minutes for a ladder truck. Fire apparatus access and fire protection water supplies will be reviewed for compliance with the Arkansas Fire Prevention Code at the time of development.

The Police Department did not comment on this request.

Tree Preservation:

Police:

The proposed zoning district of RI-12, Residential Intermediate, Twelve Units per Acre requires 20% minimum canopy preservation. The current zoning district of R-A, Residential-Agricultural requires 25% minimum canopy preservation.

CITY PLAN 2040 FUTURE LAND USE PLAN: City Plan 2040 Future Land Use Plan designates the property within the proposed rezone as **Residential Neighborhood**.

Residential Neighborhood areas are primarily residential in nature and support a wide variety of housing types of appropriate scale and context. Residential Neighborhood encourages highly connected, compact blocks with gridded street patterns and reduced building setbacks. It also encourages traditional neighborhood development that incorporates low-intensity non-residential uses intended to serve the surrounding neighborhoods. This designation recognizes the existing

conventional subdivision developments that may have large blocks with conventional setbacks and development patterns that respond to features of the natural environment.

CITY PLAN 2040 INFILL MATRIX: City Plan 2040's Infill Matrix indicates a score range of <u>5</u> for this site with a weighted score of <u>4.5</u>. The following elements of the matrix contribute to the score:

- Adequate Fire Response
- Near Sewer Main (8-inch main, Luna St.)
- Near Water Main (8-inch main, Luna St.)
- Near City Park (Bundrick Park, Harmony Pointe Park)
- Near Paved Trail (Wedington Side Path Trail)

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding:

Land Use Compatibility: On the balance of considerations, staff finds the proposed rezoning from R-A to RI-12 to be somewhat compatible with the surrounding area. The intent of the RI-12 zoning district is to provide development potential between low density and medium density with less impact than medium density development, and to encourage the development of areas with existing public facilities with a greater variety of housing values. The parcel in question currently has non-conforming lot width and area within the R-A zoning district, and is located between large, agricultural properties to the south and west, and smaller residential properties to the east and north. Single-, two-, three-, and four-family dwellings are permitted by right in the RI-12 zoning district. All lots are required to maintain a variable minimum width of 50 or 90 feet with variable lot area requirements ranging from 5,000 square feet to 10,890 square feet dependent on use. The R-A district requires lot widths of 200 feet with lot areas of 2 acres. While rezoning a single parcel to RI-12 seems like a significant upzoning inconsistent with the lot widths and areas of the immediately surrounding zoning districts, a large neighborhood of RI-12 has been developed less than 1/8 of a mile to the east and staff finds that rezoning to an urban form based district could allow for the development of additional housing while potentially providing increased connectivity given the parcel's street connectivity to both the east and west. Staff finds the requested rezoning to be compatible since the size and location of the subject parcel appear to be better aligned with the spirit and intent of the RI-12 zoning district, and since the rezoning would allow a nonconforming lot to be brought into conformity. Further, staff finds that the requested rezoning is not likely to result in development that is incompatible with the surrounding area since the subject property is small and unlikely to be able to be developed to the full density permitted by ordinance.

Land Use Plan Analysis: Staff finds the proposed rezoning to be somewhat consistent with the City's adopted land use plans, including its Future Land Use Map designation as Residential Neighborhood area. A rezoning to RI-12 could allow for the creation, or maintenance, of residential properties with reduced lot sizes and form-based requirements while encouraging increased connectivity by promoting sufficient density to allow for the connection of

W. Luna St. to N. 59th Ave. While a similar rezoning on a larger property could potentially allow development that is out of sync with the surrounding neighborhood, staff finds that the requested rezoning could allow for the creation of missing middle housing that meets City Goals 1: We Will Make Appropriate Infill and Revitalization our Highest Priority, 4: We Will Grow a Livable Transportation Network, and 6: We Will Create Opportunities for Attainable Housing. Though the property has a relatively low infill score of 5, staff finds the requested rezoning to be relatively appropriate since it would bring the parcel into conformity while not allowing for development that is out of scale with the surrounding neighborhood.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: Staff finds that rezoning the subject property to RI-12 is somewhat justified since it contains one parcel that does not currently comply with the bulk and area regulations of the underlying R-A zoning district.

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: A rezoning from R-A to RI-12 has the potential to increase traffic at this location when considering that RI-12 would allow for residential development at a greater density than the existing R-A zoning. However, staff finds that a rezoning is not likely to create or appreciably increase traffic danger or congestion given the relatively small size of the lot and the potential connection to two streets.

 A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: The proposed rezoning has the potential to alter the population density since it would allow for increased residential development. However, staff finds that the proposed rezoning would not undesirably increase the load on public services. Fayetteville Public Schools did not comment on this request.

- 5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:
 - a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
 - b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A

RECOMMENDATION: Planning staff recommends forwarding RZN-2023-0027 to City

Council with a recommendation of approval.

PLANNING COMMISSION ACTION: Required		YES		
Date: November 27, 2023	☐ Tabled	□ Forwarded	□ Denied	
Motion: Payne		with a recommendation of approval for RMF-6		
Second: Brink		zoning.		
Vote: 7-1-0 (Garlock opposed)				

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Unified Development Code
 - o §161.03 District R-A, Residential-Agricultural
 - o §161.11 District RI-12, Residential Intermediate Twelve (12) Units Per Acre
- Request Letter
- One Mile Map
- Close-Up Map
- Current Land Use Map
- Future Land Use Map

161.03 District R-A, Residential-Agricultural

(A) Purposes. The regulations of the agricultural district are designed to protect agricultural land until an orderly transition to urban development has been accomplished; prevent wasteful scattering of development in rural areas; obtain economy of public funds in the providing of public improvements and services of orderly growth; conserve the tax base; provide opportunity for affordable housing, increase scenic attractiveness; and conserve open space.

(B) Uses.

(1) Permitted Uses.

Unit 1	City-wide uses by right
Unit 3	Public protection and utility facilities
Unit 6	Agriculture
Unit 7	Animal husbandry
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 37	Manufactured homes
Unit 41	Accessory dwellings
Unit 43	Animal boarding and training
Unit 46	Short-term rentals

(2) Conditional Uses.

Unit 2	City-wide uses by conditional use permit
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 20	Commercial recreation, large sites
Unit 24	Home occupations
Unit 35	Outdoor Music Establishments
Unit 36	Wireless communications facilities
Unit 42	Clean technologies

(C) Density.

Units per acre	One-half (½)

(D) Bulk and Area Regulations.

Lot width minimum	200 feet
Lot Area Minimum:	
Residential:	2 acres
Nonresidential:	2 acres
Lot area per dwelling unit	2 acres

(E) Setback Requirements.

Front	Side	Rear
35 feet	20 feet	35 feet

(F) Height Requirements. There shall be no maximum height limits in the R-A District, provided, however, if a building exceeds the height of one (1) story, the portion of the building over one (1) story shall have an additional setback from any boundary line of an adjacent residential district. The amount of additional setback for the portion of the building over one (1) story shall be equal to the difference between the total height of that portion of the building and one (1) story.

(G) Building area. None.

(Code 1965, App. A., Art. 5(1); Ord. No. 1747, 6-29-70; Code 1991, §160.030; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 5028, 6-19-07; Ord. No. 5128, 4-15-08; Ord. No. 5195, 11-6-08; Ord. No. 5238, 5-5-09; Ord. No. 5479, 2-7-12; Ord. No. 5945, §3, 1-17-17; Ord. No. 6015, §1(Exh. A), 11-21-17; Ord. No. 6427, §§1(Exh. C), 2, 4-20-21)

161.11 District RI-12, Residential Intermediate, Twelve (12) Units Per Acre

(A) Purpose. The RI-12 Residential District is designed to permit and encourage the development of detached and attached dwellings in suitable environments, to provide a development potential between low density and medium density with less impact than medium density development, to encourage the development of areas with existing public facilities and to encourage the development of a greater variety of housing values.

(B) Uses.

(1) Permitted Uses.

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two (2) family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 41	Accessory dwellings
Unit 44	Cluster Housing Development
Unit 46	Short-term rentals

(2) Conditional Uses.

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 12a	Limited business
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) Density.

Units per acre	12

(D) Bulk and Area Regulations.

	Single- family	Two (2) family	Three (3) and four (4) family
Lot width minimum	50 feet	50 feet	90 feet
Lot area minimum	5,000 square feet	7,260 square feet	10,890 square feet.

(E) Setback Requirements.

Front	Side Other Uses	Side Single & Two (2) family	Rear Other Uses	Rear Single Family
A build-to zone that is located between the front property line and a line 25 feet from the front property line.	8 feet	5 feet	20 feet	5 feet

(F) Building Height Regulations.

1	
Building height maximum	2 stories/3 stories*
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- * A building or a portion of a building that is located between 0 and 10 feet from the front property line or any master street plan right-of-way line shall have a maximum height of two (2) stories. Buildings or portions of the building set back greater than 10 feet from the master street plan right-of-way shall have a maximum height of three (3) stories.
- (G) Building Area. The area occupied by all buildings shall not exceed 50% of the total lot area. Accessory ground mounted solar energy systems shall not be considered buildings.
- (H) Minimum Buildable Street Frontage. 50% of the lot width.

(Code 1965, App. A., Art. 5(IIA); Ord. No. 3128, 10-1-85; Code 1991, $\S160.032$; Ord. No. 4100, $\S2$ (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 5028, 6-19-07; Ord. No. 5224, 3-3-09; Ord. No. 5262, 8-4-09; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; Ord. No. 5592, 06-18-13; Ord. No. 5664, 2-18-14; Ord. No. 5800, $\S1$ (Exh. A), 10-6-15; Ord. No. 5921, $\S1$, 11-1-16; Ord. No. 5945, $\S3$, 8, 9, 1-17-17; Ord. No. 6015, $\S1$ (Exh. A), 11-21-17; Ord. No. 6245, $\S2$, 10-15-19; Ord. No. 6427, $\S3$ (Exh. C), 2, 4-20-21; Ord. No. 6658, $\S2$ (Exh. A), 5-2-23)

Editor's note(s)—Ord. No. 6625, §1 adopted December 6, 2022, "determines that Section 2 of Ordinance 6427 (Sunset Clause) be amended so that Ordinance 6427 and all amendments to Code Sections ordained or enacted by Ordinance 6427 shall automatically sunset, be repealed and become void on December 31, 2023, unless prior to that date the City Council amends this ordinance to repeal or further amend this sunset, repeal and termination section."

Scion Investments, LLC 522 Goose Creek Rd Farmington, AR 72730

November 8, 2023

Dear Tenant,

This letter is regarding the zoning change for 1272 59th Avenue. I plan on developing a couple of multifamily properties that will look very similar to the surrounding homes. I do not plan on developing properties that take away from the aesthetics of the neighborhood or that will negatively impact the value of the homes.

Sincerely,

Reed Lynch

870-584-7908







