

City of Fayetteville, Arkansas

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

Legislation Text

File #: 2024-1820

RZN-2024-0003: Rezoning (203-209; 239-245; 270-280; AND 283-289 272 E. 12TH ST./12TH ST. TOWNHOMES OF FAYETTEVILLE LLC., 563): Submitted by SWOPE CONSULTING for property located at 203-209; 239-245; 270-280; AND 283-289 272 E. 12TH ST. in WARD 1. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 1.10 acres. The request is to rezone the property to RI-U, RESIDENTIAL INTERMEDIATE-URBAN.

AN ORDINANCE TO REZONE THE PROPERTY DESCRIBED IN REZONING PETITION RZN 2024-0003 FOR APPROXIMATELY 1.10 ACRES LOCATED ON EAST 12TH STREET EAST OF SOUTH WASHINGTON AVENUE IN WARD 1 FROM NC, NEIGHBORHOOD CONSERVATION TO RI-U, RESIDENTIAL INTERMEDIATE-URBAN

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 NC, Neighborhood Conservation to RI-U, Residential Intermediate-Urban.

<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

2024-1820

MEETING OF APRIL 2, 2024

TO: Mayor Jordan and City Council

THRU: Susan Norton, Chief of Staff

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

FROM: Kylee Cole, Planner

SUBJECT: RZN-2024-0003: Rezoning (203-209; 239-245; 270-280; AND 283-289 272 E. 12TH

ST./12TH ST. TOWNHOMES OF FAYETTEVILLE LLC., 563): Submitted by SWOPE CONSULTING for property located at 203-209; 239-245; 270-280; AND 283-289 272 E. 12TH ST. in WARD 1. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 1.10 acres. The request is to rezone the property to RI-U,

RESIDENTIAL INTERMEDIATE-URBAN.

RECOMMENDATION:

City Planning staff and the Planning Commission recommend approval of a request to rezone the subject property as described and shown in the attached Exhibits 'A' and 'B'.

BACKGROUND:

The subject property is in south Fayetteville approximately 0.11 miles east of Walker Park. The property consists of two parcels. The northern parcel contains approximately 0.40 acres and is developed with two structures, each with three dwelling units and constructed around 1996 (parcel 765-03340-000). The southern parcel contains approximately 0.70 acres and is developed with three structures, each with four dwelling units constructed around 1996 (parcel 765-03342-000). Both parcels are zoned NC, Neighborhood Conservation, received as part of the 2008 staff-initiated rezoning of the Walker Park neighborhood.

Request: The request is to rezone the subject property from NC, Neighborhood Conservation to RI-U, Residential Intermediate – Urban.

Public Comment: To date, staff has received two inquiries including one with concerns about general property upkeep and one email in support of the request.

Land Use Compatibility: Staff finds the proposed rezoning from NC to RI-U to be compatible with the surrounding area. The intent of the RI-U zoning district is to provide a range of housing types compatible in scale with single-family homes and to encourage a diversity of housing types to meet demand for walkable urban living. The subject property is located between higher density multi-family developments to the north and east, and lower density single-family dwellings to the south and west. The parcels in question currently have developments that exceed the density limit for the NC zoning district (ten units per acre). The northern and southern lots have a density of 15 units and 17 units per acre, respectively. Further, these parcels have uses that are conditional in NC zoning, but a conditional use permit was never issued, thus the uses are non-

Mailing address:

Fayetteville, AR 72701

conforming. Single-, two-, three-, and four-family dwellings are permitted by right in the RI-U zoning district. In RI-U zoning, all lots with dwellings are required to maintain a minimum width of 18 feet with no minimum lot area requirement. The subject lots meet the minimum lot widths for RI-U zoning and are consistent with a range of lot widths in the vicinity, ranging from a minimum of 40 feet to the south, 140 feet to the north, and the large 9.6-acre Fayetteville Housing Authority parcel to the east. Staff recognizes that rezoning to RI-U would not bring the southern structure into conformance, as it would keep the build-to-zone that is also present in NC and the structures are set back from the street. However, staff finds the requested rezoning to be ultimately compatible since the subject parcels appear to be better aligned with the spirit and intent of the RI-U zoning district, and the rezoning would allow a nonconforming use to be brought into conformity.

Land Use Plan Analysis: Staff finds the proposed rezoning to be consistent with the City's adopted land use plans, including its Future Land Use Map designation as a Residential Neighborhood area. A rezoning to RI-U could permit residential properties with reduced lot sizes in traditional form while encouraging diversity of housing types. Staff finds that the requested rezoning could allow for the creation of missing middle housing meeting City Goals 1: We Will Make Appropriate Infill and Revitalization our Highest Priority and 6: We Will Create Opportunities for Attainable Housing. The property has a moderate infill score of 7, and staff finds the requested rezoning to be appropriate since it would bring the use and density of the parcels into conformity and provide a transition from lower density NC zoning at the west to higher density DG zoning at the east.

CITY PLAN 2040 INFILL MATRIX: City Plan 2040's Infill Matrix indicates a score of **7** for this site. The following elements of the matrix contribute to the score:

- Adequate Fire Response (Station 9, 2250 S. School Ave.)
- Near Sewer Main (2-inch main, E. 12th St.)
- Near Water Main (8-inch main, E. 12th St.)
- Near City Park (Walker Park)
- Near Paved Trail (S. Washington Ave. Marked Shared Roadway; Walker Park Trail; Walker Senior Trail)
- Near ORT Bus Stop (S. College Ave. and E. 13th St.)
- Within Master Plan Area (Walker Park Neighborhood)

DISCUSSION:

At the March 11, 2024 Planning Commission meeting, a vote of 9-0-0 forwarded the request to City Council with a recommendation of approval. The commissioners cited future land use compatibility, density, and staff recommendations as noted in the report as reasons for approval. There was no public comment at 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: Kylee Cole, Planner

MEETING DATE: March 11, 2024

SUBJECT: RZN-2024-0003: Rezoning (203-209; 239-245; 270-280; AND 283-289

272 E. 12TH ST./12TH ST. TOWNHOMES OF FAYETTEVILLE LLC., 563): Submitted by SWOPE CONSULTING for property located at 203-209; 239-245; 270-280; AND 283-289 272 E. 12TH ST. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 1.10 acres. The request is to rezone the property to RI-U, RESIDENTIAL

INTERMEDIATE-URBAN.

RECOMMENDATION:

Staff recommends forwarding **RZN-2024-0003** to City Council with a recommendation of approval.

RECOMMENDED MOTION:

"I move to forward RZN-2024-0003 to City Council with a recommendation of approval."

BACKGROUND:

The subject property is in south Fayetteville approximately 0.11 miles east of Walker Park. The property consists of two parcels. The northern parcel contains approximately 0.40 acres and is developed with two multi-family dwellings, each with three units constructed around 1996 (parcel 765-03340-000). The southern parcel contains approximately 0.70 acres and is developed with three multi-family dwellings, each with four units constructed around 1996 (parcel 765-03342-000). Both parcels are zoned NC, Neighborhood Conservation, which it received as part of the 2008 staff-initiated rezoning of the Walker Park neighborhood. 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; Multi-Family | NC, Neighborhood Conservation; RI-U, Residential |
| NOTH | Residential | Intermediate - Urban |
| South | Single-Family Residential; Multi-Family | NC, Neighborhood Conservation; RI-U, Residential |
| South | Residential | Intermediate - Urban |
| East | Morgan Manor (Fayetteville Housing Authority) | DG, Downtown General |
| West | Single-Family Residential | NC, Neighborhood Conservation |

Request: The request is to rezone the subject property from NC, Neighborhood Conservation to RI-U, Residential Intermediate – Urban.

Public Comment: To date, staff has received one inquiry and one public comment regarding the current state of the property and concerns about potential higher density development.

INFRASTRUCTURE:

Streets: The subject property has frontage along E. 12th St., a partially improved Residential

Link street with asphalt paving, curb, gutter, and sidewalk (sidewalk along the northern side). 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 two-inch water main

is present on the north side of E. 12th Street.

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

sewer main is present on the south side of E. 12th Street.

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

a FEMA-designated floodplain and no protected streams are present. Any improvements or requirements for drainage would be determined at the time of development submittal. Hydric soils are present, which is a known indicator of wetlands. However, for an area to be classified as wetlands, it may also need other characteristics such as hydrophytes (plants that grow in water), and shallow water during parts of the year. Hydric Soils can be found across many areas of Fayetteville, including valleys, floodplains, and open prairies. It's important to identify these natural resources during development, so when these soils are identified on a property, further environmental studies will be required at the time of development. Before permits are issued for the property a statement/report from an environmental professional must be provided summarizing the existence of wetlands on the property. If this statement/report indicates that wetlands may be present on site, a USACE Determination of Jurisdictional Wetlands will be required

at the time of development submittal.

Fire: Station 9, located at 2250 S. School Ave., protects this site. The property is located

approximately 1.2 miles from the fire station with an anticipated drive time of approximately three minutes using existing streets. The anticipated response time would be approximately 5.2 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.

compliance with the Arkansas Fire Prevention Code at the time of development

Police: The Police Department did not comment on this request.

Tree Preservation:

The proposed zoning district of RI-U, Residential Intermediate – Urban requires **15% minimum canopy preservation.** The current zoning district of NC, Neighborhood Conservation requires **20% 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 **7** for this site with a weighted score of **8**. The following elements of the matrix contribute to the score:

- Adequate Fire Response
- Near Sewer Main (2-inch main, E. 12th St.)
- Near Water Main (8-inch main, E. 12th St.)
- Near City Park (Walker Park)
- Near Paved Trail (S. Washington Ave. Marked Shared Roadway; Walker Park Trail; Walker Senior Trail)
- Near ORT Bus Stop (S. College Ave. and E. 13th St.)
- Within Master Plan Area (Walker Park Neighborhood)

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: Staff finds the proposed rezoning from NC to RI-U to be compatible with the surrounding area. The intent of the RI-U zoning district is to provide a range of housing types compatible in scale with single-family homes and to encourage a diversity of housing types to meet demand for walkable urban living. The subject property is located between higher density multi-family developments to the north and east, and lower density single-family dwellings to the south and west. The parcels in question currently have developments that exceed the density limit for the NC zoning district. NC zoning permits a density of ten units per acre. The northern and southern lots have a density of 15 units and 17 units per acre. respectively. Further, these parcels host uses that are conditional in NC zoning, but a conditional use permit was never issued, thus the uses are non-conforming. Single-, two-, three-, and four-family dwellings are permitted by right in the RI-U zoning district. All lots with dwellings are required to maintain a minimum width of 18 feet with no minimum lot area requirement. The NC district requires lot widths of 40 feet with lot areas 4,000 square feet minimum. The subject lots meet the minimum lot widths for RI-U zoning, and are consistent with a wide variety of lot widths in the vicinity ranging from a minimum of 40 feet to the south, 140 feet to the north, and the large 9.6-acre Fayetteville Housing Authority parcel to the east. Staff recognizes that a rezone to RI-U would keep the build-to-zone that is also present in NC, and the southern parcel would still be non-conforming with this requirement. However, staff finds the requested rezoning to be ultimately compatible since location of the subject parcel appear to be better

aligned with the spirit and intent of the RI-U zoning district, and since the rezoning would allow a nonconforming use to be brought into conformity. Land Use Plan Analysis: Staff finds the proposed rezoning to be consistent with the City's adopted land use plans, including its Future Land Use Map designation as Residential Neighborhood area. A rezoning to RI-U could allow for the creation, or maintenance, of residential properties with reduced lot sizes and form-based requirements while encouraging diversity of housing types. 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 and 6: We Will Create Opportunities for Attainable Housing. The property has a moderate low infill score of 7, and staff finds the requested rezoning to be appropriate since it would bring the use and density of the parcels into conformity and provide a transition from lower density NC zoning at the west to higher density DG zoning at the east.

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-U is justified since it contains both parcels that do not currently comply with the density regulations of the underlying NC zoning district.

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

Finding: A rezoning from NC to RI-U has the potential to increase traffic at this location when considering that RI-U would allow for residential development at a greater density than the existing NC zoning. However, staff finds that a rezoning is not likely to create or appreciably increase traffic danger or congestion given that the properties are already developed with three- and four-family units.

4. 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 |
|-------------|------|
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RECOMMENDATION: Planning staff recommends forwarding RZN-2024-0003 to City Council with a recommendation of approval.

| PLANNING COMMISSION | ACTION: | Required | <u>YES</u> | |
|-----------------------------|----------|----------|------------|----------|
| Date: <u>March 11, 2024</u> | □ Tabled | ☐ Fo | rwarded | ☐ Denied |
| Motion: | | | | |
| Second: | | | | |
| Vote: | | | | |

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Unified Development Code
 - o §161.12 District RI-U, Residential Intermediate Urban
 - §161.29 District NC, Neighborhood Conservation
- Request Letter
- Public Comment
- One Mile Map
- Close-Up Map
- Current Land Use Map
- Future Land Use Map

161.12 District RI-U, Residential Intermediate - Urban

- (A) Purpose. The RI-U Residential District is designed to permit and encourage the development of detached and attached dwellings in suitable environments, to provide a range of housing types compatible in scale with single-family homes and to encourage a diversity of housing types to meet demand for walkable urban living.
- (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 26 | Multi-family dwellings |
| Unit 36 | Wireless communications facilities |

- (C) Density. None.
- (D) Bulk and Area Regulations.

| | Dwelling (all types) |
|-------------------|----------------------|
| Lot width minimum | 18 feet |
| Lot area minimum | None |

(E) Setback Requirements.

| Front | Side Other Uses | Side Single & Two (2) Family | Rear Other Uses | Rear, from centerline of an alley |
|---|--------------------|------------------------------------|--------------------|-----------------------------------|
| A build-to zone that is located between the front property, line and a line 25 feet from the front property line. | None | 5 feet | 5 feet | 12 feet |

(F) Building Height Regulations.

| Building height maximum | 2 stories/3 stories* |
|-------------------------|----------------------|
|-------------------------|----------------------|

- * 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 60% 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.

161.29 Neighborhood Conservation

- (A) Purpose. The Neighborhood Conservation zone has the least activity and a lower density than the other zones. Although Neighborhood Conservation is the most purely residential zone, it can have some mix of uses, such as civic buildings. Neighborhood Conservation serves to promote and protect neighborhood character. For the purposes of Chapter 96: Noise Control, the Neighborhood Conservation district is a residential zone.
- (B) Uses.
 - (1) Permitted Uses.

| Unit 1 | City-wide uses by right |
|---------|-------------------------|
| Unit 8 | Single-family dwellings |
| Unit 41 | Accessory dwellings |
| 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 9 | Two (2) family dwellings |
| Unit 10 | Three (3) and four (4) family dwellings |
| Unit 12a | Limited business* |
| Unit 24 | Home occupations |
| Unit 25 | Offices, studios, and related services |
| Unit 28 | Center for collecting recyclable materials |
| Unit 36 | Wireless communication facilities |
| Unit 44 | Cluster Housing Development |

- (C) Density. Ten (10) Units Per Acre.
- (D) Bulk and Area Regulations.
 - (1) Lot Width Minimum.

| All dwelling types | 40 feet |
|--------------------|---------|

- (2) Lot Area Minimum. 4,000 square feet
- (E) Setback Regulations.

| Front | A build-to zone that is located between the front property line and a line 25 feet from the front property line. |
|------------------------------------|--|
| Side | 5 feet |
| Rear | 5 feet |
| Rear, from center line of an alley | 12 feet |

(F) Building Height Regulations.

| Building Height Maximum | 3 stories |
|-------------------------|-----------|
| | |



February 8th, 2024

Development Services Building Attn: Gretchen Harrison, Planner 125 West Mountain Street Fayetteville, AR 72701

Re: Rezone Neighborhood Conservation to RI-U Parcel #'s 765-03340-000 and 765-03342-000

Dear Ms. Harrison,

This rezoning will not adversely affect or conflict with surrounding land uses, because the same zoning exists all around both properties. These properties are bound by 12th Street, by RI-U north of the north parcel, and by both NC and RI-U to the south of the south parcel.

This rezone is requested because the owner would like to add floor area to the existing units, providing tenants more livable space.

Because this zoning designation encourages attached/detached dwellings in a range of housing types compatible in scale with single-family homes), the proposed development will meet the goals of the city's infill plans. This zoning also encourages a diversity of housing types for the walkable urban living demands that exist.

Please accept this application for your support of the referenced rezoning before the Planning Commission and City Council.

Sincerely,

Phil Swope, PE Project Engineer

RZN-2024-0003 Public Comment Summary

- Inquiry from Lisa Meeks No support or opposition.
- March 4, 2024 Call from Penny Carol (neighbor) who is concerned about the current state
 of the property (trash, dogs chained up outside, etc) and that it may get worse with rezoning
 that allows higher density development. I told her about the applicant's building permit to
 add a second floor, but no additional units and it seemed that they were generally trying to
 improve the property. She said she would be sending me photos (none received as of March
 6, 2024).

Cole, Kylee

From: Penny Carroll <pennecarroll@gmail.com>

Sent: Monday, March 11, 2024 2:51 PM

To: Cole, Kylee

Subject: Rezone 12th Street

Follow Up Flag: Follow up Flag Status: Follow up

CAUTION: This email originated from outside of the City of Fayetteville. Do not click links or open attachments unless you recognize the sender and know the content is safe.

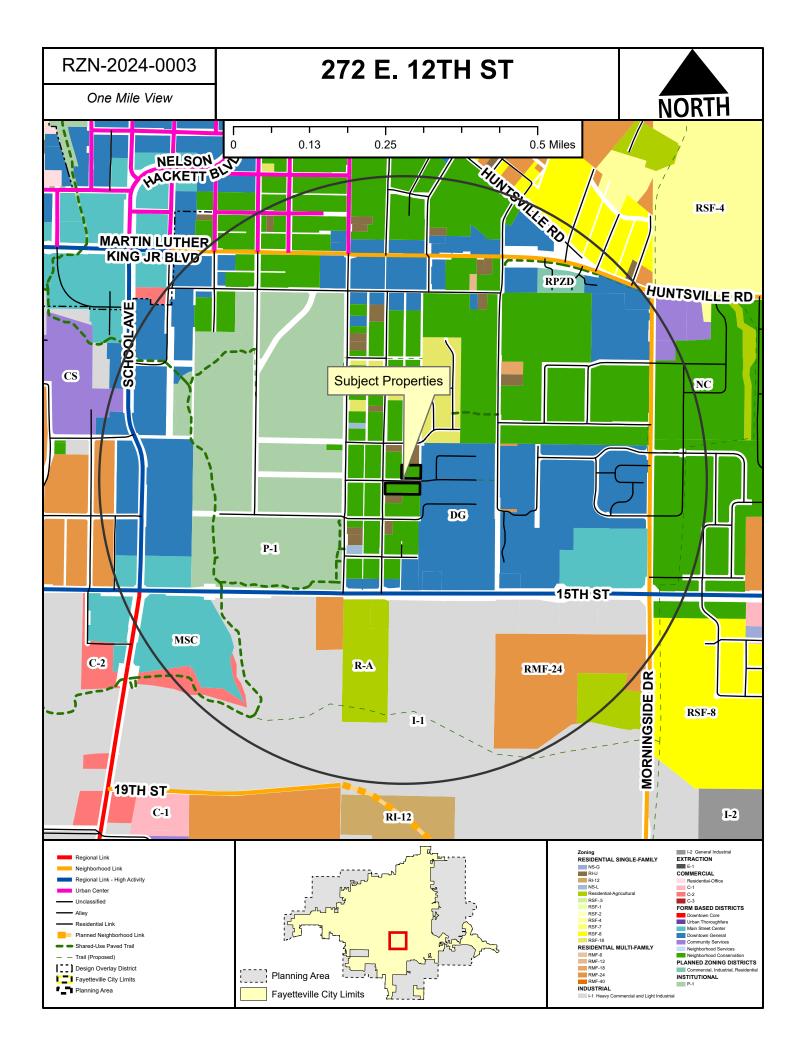
To: Planning Commission

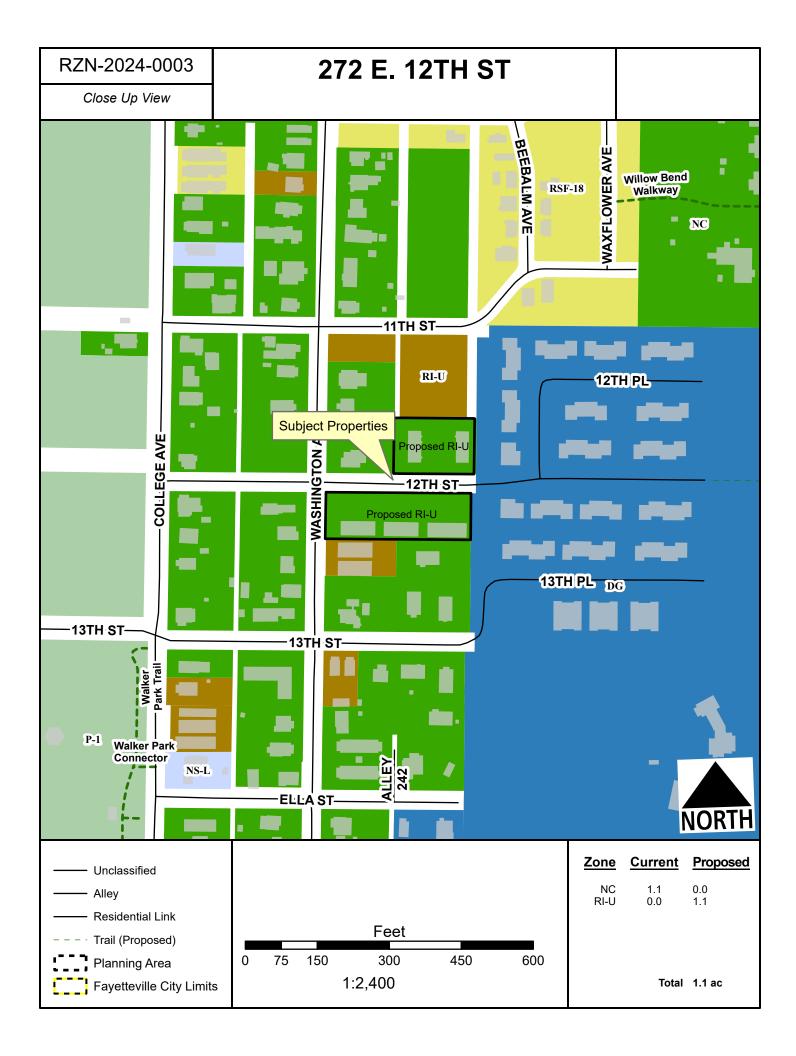
Re: Rezone 12th Street

This is Penny Carroll and I own the property directly to the west of this rezoning request, on Washington Ave As an immediate neighbor, I would like to highly encourage you to approve the request. This corner, actually the whole section for a couple of blocks, is greatly in need of improvement. Revitalizing it would be a boon to the neighborhood. It also adheres to several basic principles of establishing more affordable housing, because it adds greater density without taking up a larger footprint. Please approve the rezoning request.

Thank you for your consideration,

Penny Carroll





RZN-2024-0003

272 E. 12TH ST

Single-Family Residential

and Undeveloped

Multi-Family Residential, and Single-Family Residential

Subject Properties

Current Land Use

Single-Family Residential

and Walker Park

13TH ST





FEMA Flood Hazard Data

100-Year Floodplain
Floodway

900

