

5. PLG-RZ-005262-2024:

Amendment to rezone nine parcels on Eddie Howard Road pursuant to North Carolina General Assembly House Bill 909 / Session Law 2024-20

Presentation by staff: Adam Cook, Planner II

Mr. Cook explained to the Board that his presentation was a request to add Wake County residential R-30 zoning to 9 parcels that consisted of approximately 27.85 acres, located on the north side of Eddie Howard Road, between Kennebec Road and Walter Myatt Road. He presented a slide of the parcels, which were removed from the town of Fuquay-Varina's corporate limits by North Carolina General Assembly House Bill 909 / Session Law 2024-20 on June 28th, 2024, with an effective date of June 30th. The parcels were formerly zone Fuquay-Varina Residential Agricultural, and the rezoning request was to propose adding Wake County zoning of R-30.

Mr. Cook provided background for the parcels: in 1973, County zoning was established for the area, and in 2017, the properties were annexed by the Town of Fuquay-Varina and zone Residential Agricultural (RA). In 2024, the properties were removed from Fuquay-Varina's corporate limits by State Law, requiring the need for Wake County zoning to be added to the parcels. The properties are in the Community Area on the Wake County Development Framework Map. Mr. Cook noted that the requested R-30 district allows for a residential density and limited range of nonresidential uses that are consistent with the Comprehensive Plan. Public Hearings signs were placed on the property and the owners of all 9 parcels, as well as adjacent owners, were notified by mail on July 26th. Mr. Cook explained that he received two phone calls and one email as a result of notification letters, all inquiring more information about the rezoning request. The subject properties either already have individual well and septic disposal systems or would likely be developed with individual well and septic systems.

Mr. Cook informed the Board the North Carolina General Statute 160D-604 and Section 19-20-6 (E) of the UDO require that the Planning Board provide the Board of Commissioners with a statement indicating whether or not the request is consistent with the Comprehensive Plan, reasonable, and otherwise advances the public health, safety, and general welfare. In making a determination whether or not to approve the rezoning petition, the Board of Commissioners must adopt a statement describing whether its action is consistent with the Comprehensive Plan, or explaining why their decision is reasonable and in the public interest. He noted that Planning staff had drafted a statement of consistency and public interest for consideration by the Board.

He indicated that Planning staff had reached the following findings:

- 1) The proposed Residential-30 rezoning and the permissible density and range of uses are consistent with the Comprehensive Plan's designation and are reasonable and appropriate for the area.
- 2) The proposed rezoning complies with the Comprehensive Plan's Development Framework Map classification of Community in that development of the Community areas should provide for predominantly residential uses that offer the scenic views and pastoral amenities of suburban living, while retaining close access to the benefits and cultural opportunities of the adjacent urban centers.
- 3) A detailed site plan must be approved by the appropriate Wake County entity prior to future redevelopment.

- 4) The properties were removed from the corporate limits of the Town of Fuquay-Varina by House Bill 909 / Session Law 2024-20 on June 28, 2024, with an effective date of June 30, 2024.

Mr. Cook explained that staff recommendation was that they recommend approval of the requested zoning map amendment, PLG-RZ-005262-2024, as presented, and finds that the amendment is consistent with the Comprehensive Plan, is reasonable, and otherwise advances the public health, safety, and general welfare, as required by UDO Section 19-21-6 (C) and state law. The suggested recommendation is that the Planning Board 1) adopts the drafted statement of consistency and 2) recommends approval of the rezoning petition, PLG-RZ-005262-2024 as presented. He offered to answer any questions the Board might have.

Mr. Adams asked if the property owners requested the secession from Fuquay-Varina, and what were the responses and communication he received, and Mr. Cook responded that he was uncertain how the State Law came about, but when the land was annexed by the Town of Fuquay-Varina in 2017, it was a voluntary annexation. He explained that two calls were from the parcel owners, and they were asking what the sign was regarding. Once he explained the purpose of the sign, they indicated they were aware of the request to rezone. The email was in relation to the sign and what purpose of the hearing. Mr. Adams asked if there was any opposition, and Mr. Cook responded that he heard none. Mr. Maloney added a bit more information on the State Law, explaining that the legislation was introduced in 2023 and sponsored by Erin Pare, who represents the area. He added they could only assume that the residents were behind initiating the law, but the County had no involvement in the legislation.

Mr. Wells asked where the parcels were relative to Fuquay-Varina's ETJ, and Mr. Cook responded it was on the eastern edge of their corporate limits. The adjacent properties were zoned R-30 for Wake County properties and Residential Agricultural for Fuquay-Varina, which are similar in lot size, setbacks, and allowable use. Mr. Van Dyk noted that there was likely more to the story that they were aware of, but that it had taken place and it was now Wake County's responsibility to add zoning. Mr. Maloney added that staff had spoken to the Tax Administrator because there were now tax implications after being removed from the Town's corporate limits.

Public Hearing

Mr. Wells opened the floor to public comment at 1:44p.m. Hearing none, he closed public discussion.

Board Motion for Consistency

Mr. Van Dyk made a motion in the matter of PLG-RZ-005262-2024, that the Board find that the requested zoning to R-30 is consistent with the Wake County Comprehensive Plan and Wake County Unified Development Ordinance because the rezoning is:

- a) Consistent with the permissible range of uses that are allowed throughout the Community Area of the Comprehensive Plan's Development Framework Map, especially considering that most nonresidential uses would require a separate public hearing process for a Special Use Permit to ensure that their location and design is appropriate and will protect the public health, safety, and general welfare;
- b) Consistent with the Comprehensive Plan's Development Framework Map classification of Community in that development of the Community areas should provide for predominantly residential uses that offer the scenic views and pastoral amenities of suburban living, while

retaining close access to the benefits and cultural opportunities of the adjacent urban centers;

- c) Reasonable because it would allow for the same residential density and range of uses as would be permissible on all surrounding properties in this area;
- d) In the public interest because the future residential development of the site may meet a market need for additional housing opportunities;
- e) Reasonable and in the public interest because various provisions of the Wake County UDO and the established development review process with outside agencies such as the North Carolina Department of Transportation and other county departments will ensure that there are no significant adverse impacts on the public health, safety, and general welfare. For example, the subsequent developments will comply with county requirements regarding buffering, stormwater and erosion control, and protection of environmentally sensitive areas.

The motion was seconded by Mr. Adams and was approved unanimously.

Board Motion for Approval

Mr. Adams made a motion in the matter of PLG-RZ-005262-2024, the Board find that the requested rezoning to R-30 is consistent with the Wake County Comprehensive Plan and Wake County Unified Development Ordinance and is reasonable and in the public interest and hereby make a motion to recommend approval of the proposed rezoning to R-30 to the Wake County Board of Commissioners.

The motion was seconded by Ms. Rice and was approved unanimously.