July 16, 2020

To: City of Fayetteville
From: Vicky Wood representing Gordon and Linda Houston
Re: Denial of rezoning request RZN 20-7133

We would like to appeal the decision of the City Planning Council to deny the rezoning request RZN 20-7133. We believe that the Growth Map Concept in the City Plan 2040 supports the density requested for this location. The council supported and approved the plan that includes this growth concept, and should therefore support any zoning requests that fall within that concept. The city planning staff supported our request and we do not feel that the council members that voted against the request, are supporting the plan.

Please accept our appeal to the council’s decision and grant our request for rezoning. Thank you for your time.

Sincerely,

Gordon Houston

Vicky Wood
MEETING OF AUGUST 18, 2020

TO: Mayor; Fayetteville City Council

THRU: Garner Stoll, Development Services Director
       Susan Norton, Chief of Staff

FROM: Jonathan Curth, Development Review Manager

DATE: July 31, 2020

Submitted by VICKY WOOD for properties located at 6040 & 6074 W. WEDINGTON DR. The properties are zoned R-A, RESIDENTIAL AGRICULTURAL & RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE and contain 4 lots with approximately 3.05 acres. The request is to rezone the lots to RI-12, RESIDENTIAL INTERMEDIATE, 12 UNITS PER ACRE.

RECOMMENDATION:
City Planning staff recommend approval of a request to rezone the subject property as described and shown in the attached Exhibits ‘A’ and ‘B’. The Planning Commission denied the proposal and the applicant has appealed the decision to City Council.

BACKGROUND:
The subject property includes approximately 3.05 acres on the north side of the intersection between Brook Drive and Wedington Drive. The property is currently zoned mostly R-A, Residential Agricultural with a small strip of RSF-4, Residential Single-family, 4 Units per Acre on the far east side. The property is currently developed with a single-family home and a few accessory structures.

Request: The request is to rezone the property from R-A and RSF-4 to RI-12, Residential Multi-family, 12 Units per Acre. The applicant has indicated that they wish to develop the property at a higher density for more affordable housing.

Public Comment: Staff has received public comment in opposition to the requested rezoning. Attached to the report presented to the Planning Commission is a detailed petition organized by one of the adjoining landowners and signed by many of their neighbors. The concerns of neighbors who signed this petition include traffic, drainage, water and sewage system impacts, reduced property values, negative impacts on adjoining agriculture and livestock, loss of significant trees, noise and trash nuisances, and past instances where the neighbors had negative interactions with the applicant. The petition requests, if the Planning Commission does find in favor of the proposal, that a traffic and water/sewer study be conducted for the area. One of the neighbors has provided a letter detailing some history between them and the applicant, which leads the neighbor to believe the applicant would not be a good neighbor regarding future developments.
development on the subject property. This neighbor has also provided some pictures showing the required public notice sign laying on the ground. Prior to the Planning Commission hearing staff contacted the applicant’s representative to put the sign back up in accordance with public notice requirements.

Land Use Compatibility: In staff’s opinion, the uses permitted within the RI-12 zoning district are compatible with the surrounding residential uses. Although the immediately adjacent properties are lower in density, RI-12 will allow for a mix of residential types and with a maximum cap to the number of units set at 12 per acre. Staff anticipates a slightly higher density of potential duplexes or 4-plexes, similar to development immediately to the south. This area along Wedington Drive is likely to see increasing development pressure for redevelopment and to provide a greater range of residential types beyond the predominantly single-family neighborhoods nearby can compliment the commercial node at Double Springs Road and Wedington.

Land Use Plan Analysis: Staff finds the proposed rezoning to be consistent with City Plan 2040. Although the subject property is close to Fayetteville’s city limits and is near the Future Land Use Map’s edge of anticipated development, the subject property is designated as a Residential Neighborhood Area. This designation encourages a mix of residential uses and densities where appropriate. Rezoning the property to RI-12 at this location acknowledges the Future Land Use Map’s allowance for a range of residential types and the higher densities of development generally encouraged along Wedington Drive, a major east-west thoroughfare. In terms of City Plan 2040 goals, this proposal represents infill in its potential use of existing infrastructure and proximity to amenities at the Double Springs Road intersection. Additionally, development under the proposed rezoning encourages a livable transportation network by placing more housing along an existing trail and within a logical future service area for transit. Lastly, as the applicant points out, a greater range of dwelling types does provide more housing at different price points for residents, which may lead to a more attainable or affordable housing stock.

CITY PLAN 2040 INFILL MATRIX: City Plan 2040’s Infill Matrix indicates a varying score between 2 and 5 for the subject property. The following elements of the matrix contribute to the score:

- Within a Fire Department 4 Minute Response Time (Station 7)
- Near Park (Harmony Pointe Park/Bundrick Park)
- Near Trail (Wedington Drive)
- Near Water Main (Wedington Drive)
- Near Sewer Main (Wedington Drive)

DISCUSSION:
On July 13, 2020, the Planning Commission denied the rezoning request by a vote of 7-2-0. Commissioners Paxton and Brown dissented. Commissioners expressed concern about compatibility with adjacent land uses, increased traffic and accidents along Wedington Drive, speculation about implementing housing affordability in this location, and allowed development under current codes. Commissioners also suggested that due to its location, the proposed zoning would lead to “dense sprawl,” which would contribute to higher levels of automobile traffic in the area. There was general consensus amongst Commissioners that this rezoning was “too much, too early”. The dissenting commissioners agreed with staff’s recommendation, citing nearby
commercial services within walking distance and the asserted alignment with City Plan 2040 goals. Public comment during the meeting was generally in opposition citing concerns about incompatible land uses, building height and massing, traffic and accidents, and interactions with the property owner.

**BUDGET/STAFF IMPACT:**
N/A

**Attachments:**
- Exhibit A
- Exhibit B
- Planning Commission Staff Report
Subject Property

Legend

Planning Area
Fayetteville City Limits
Building Footprint

Zoning	Acres
RI-12	3.2

Total	3.2

1 inch = 150 feet
Parcel 765-16186-000
PT SW NW   1.9  A.
FURTHER DESCRIBED FROM 495-328 AS: A
PART OF THE SOUTHWEST QUARTER OF THE
NORTHWEST QUARTER OF SECTION 11,
TOWNSHIP 16 NORTH, RANGE 31 WEST,
DESCRIBED AS FOLLOWS: BEGINNING AT THE
SOUTHWEST CORNER OF THE SAID 40 ACRE
TRACT, AND THENCE RUNNING NORTH 417.50
FEET, THENCE EAST 208.75 FEET, THENCE
SOUTH 417.50 FEET TO THE SOUTH LINE OF
SAID 40 ACRE TRACT, THENCE WEST 208.75
FEET TO THE POINT OF BEGINNING,
CONTAINING 2 ACRES, M/L.
LESS & EXCEPT:
Part of the Southwest Quarter of the
Northwest Quarter of Section 11,
Township 16 North, Range 31 West,
Washington County, Arkansas, more
particularly described as follows:
Starting at a 4 x 8 inch Stone being
used as the common corner of sections
2, 3, 10 and 11; thence South 02°23'37"
West along the West line of the
Northwest Quarter of Section 11 a
distance of 2,574.88 feet to a point on
the Northerly right of way line of
Arkansas State Highway 16 as
established by AHTD Job 040423 for the
point of beginning; thence South
86°17'26" East along said right of way
line a distance of 176.48 feet to a
point; thence North 54°46'21" East
along said right of way line a distance
of 41.21 feet to a point; thence South
02°56'23" West a distance of 41.14 feet
to a point on the Northerly
prescriptive right of way line of
Arkansas State Highway 16 as
established by AHTD Affidavit dated
November 16, 2004; thence North 87°59'46" West along said right of way line a distance of 208.69 feet to a point on the West line of the Southwest Quarter of the Northwest Quarter of Section 11; thence North 02°23'37" East along said West line a distance of 21.45 feet to the point of beginning and containing 0.10 acres more or less.

Parcel 765-16184-000
PT SW NW 0.87A (100 X 4171/2)
FURTHER DESCRIBED FROM 2011-32714 AS:
Part of the SW 1/4 of the NW 1/4 of Section 11 in Township 16 North of Range 31 West, described as follows, to-wit: Beginning at a point 208.75 feet East of the Southwest corner of said 40 acre tract, and running thence North 417.50 feet, thence East 100 feet, thence South 417.50 feet to the South line of said forty acre tract, thence West 100 feet to the point of beginning.

Parcel 765-16187-001
PT SW NW .18 AC
FURTHER DESCRIBED FROM 2017-10923 AS:
PART OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 11, TOWNSHIP 16 NORTH, RANGE 31 WEST, WASHINGTON COUNTY, ARKANSAS, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID FORTY ACRE TRACT; THENCE NORTH 417.5 FEET TO THE POINT OF BEGINNING; THENCE NORTH 35.5 FEET; THENCE EAST 208.75 FEET; THENCE SOUTH 35.5 FEET; THENCE WEST 208.75 FEET TO THE POINT OF BEGINNING.
Parcel 765-16185-000
PT SW NW .10A (40.6 X 100)
FURTHER DESCRIBED FROM 2011-32714 AS:
Part of the SW 1/4 of the NW 1/4 of
Section 11, in Township 16 North of
Range 31 West of the 5th
P.M., County of Washington, State of
Arkansas, and being more particularly
described as
follows, to-wit: Beginning at a point
which is 208.75 feet East and 417.50
feet North of the
Southwest corner of said 40 acre tract,
and running thence North 40.6 feet;
then 100.0
feet; thence South 40.6 feet; thence
West 100.0 feet to the point of
beginning, and containing
0.10 acres, more or less.
TO: Fayetteville Planning Commission
THRU: Jonathan Curth, Development Review Manager
FROM: Harry Davis, Planner
MEETING DATE: July 13, 2020

SUBJECT: RZN 20-7133: Rezone (6040 & 6074 W. WEDINGTON DR./HOUSTON, 397): Submitted by VICKY WOOD for properties located at 6040 & 6074 W. WEDINGTON DR. The properties are zoned R-A, RESIDENTIAL AGRICULTURAL & RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE and contain 4 lots with approximately 3.05 acres. The request is to rezone the lots to RI-12, RESIDENTIAL INTERMEDIATE, 12 UNITS PER ACRE.

RECOMMENDATION:
Staff recommends forwarding RZN 20-7133 to City Council with a recommendation for approval.

RECOMMENDED MOTION:
“I move to forward RZN 20-7133 to City Council with a recommendation for approval.”

BACKGROUND:
The subject property includes approximately 3.05 acres on the north side of the intersection between Brook Drive and Wedington Drive. The property is currently zoned mostly R-A, Residential Agricultural with a small strip of RSF-4, Residential Single-family, 4 Units per Acre on the far east side. The property is currently developed with a single-family home and a few accessory structures. Surrounding land uses and zoning is depicted in Table 1.

<table>
<thead>
<tr>
<th>Direction</th>
<th>Land Use</th>
<th>Zoning</th>
</tr>
</thead>
<tbody>
<tr>
<td>North</td>
<td>Large Lot Residential</td>
<td>R-A, Residential Agricultural; RSF-4,</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Residential Single-family, 4 Units per Acre</td>
</tr>
<tr>
<td>South</td>
<td>Duplexes</td>
<td>RMF-6, Residential Multi-Family, 6 Units per Acre</td>
</tr>
<tr>
<td>East</td>
<td>Single-family Residential</td>
<td>RSF-4, Residential Single-family, 4 Units per Acre</td>
</tr>
<tr>
<td>West</td>
<td>Large Lot Residential</td>
<td>R-A, Residential Agricultural</td>
</tr>
</tbody>
</table>

Request: The request is to rezone the property from R-A and RSF-4 to RI-12, Residential Multi-family, 12 Units per Acre. The applicant has indicated that they wish to develop the property at a higher density for more affordable housing.

Public Comment: Staff has received public comment in opposition to the requested rezoning. Attached to this report is a detailed petition organized by one of the adjoining landowners and signed by many of their neighbors. The concerns of neighbors who signed this petition include traffic, drainage, water and sewage system impacts, reduced property values, negative impacts.
on adjoining agriculture and livestock, loss of significant trees, noise and trash nuisances, and past instances where the neighbors did not have a pleasant interaction with the applicant. The petition requests, if the Planning Commission does find in favor of the proposal, that a traffic and water/sewer study be conducted for the area. One of the neighbors has provided a letter detailing some history between them and the applicant, which leads the neighbor to believe the applicant would not be a good neighbor regarding future development on the subject property. This neighbor has also provided some pictures showing the required public notice sign laying on the ground. Staff has called the applicant’s representative to put the sign back up in accordance with public notice requirements.

INFRASTRUCTURE:

Streets: The subject area has frontage to West Wedington Drive. West Wedington Drive is a fully improved Regional Link with asphalt paving, curb and gutter, and sidewalk along the subject area’s frontage. Any street improvements required in these areas would be determined at the time of development proposal.

Water: Public water is available to the overall subject area. Parcels 765-16184-000 and 765-16186 have access to an existing 2-inch water main along West Wedington Drive. Parcels 765-16185-000 and 765-16187-001 do not have direct access to water.

Sewer: Sanitary Sewer is available to the overall subject area. Parcels 765-16184-000 and 765-16186 have access to an existing 6-inch sanitary sewer main along West Wedington Drive. Parcels 765-16185-000 and 765-16187-001 do not have direct access to sanitary sewer.

Drainage: No portion of the property is within the Hillside-Hilltop Overlay District or FEMA floodplain. There are no protected streams on the property and no hydric soils are present. Any additional improvements or requirements for drainage will be determined at time of development.

Fire: The property is located approximately 1.8 miles from Station 7 with an anticipated drive time of approximately 3 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 6 minutes for an engine and 8 minutes for a ladder truck.

Police: The Police Department expressed no concerns with this request.

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

Residential Neighborhood Areas are primarily residential in nature and support a variety of housing types of appropriate scale and context, including single family, multifamily and rowhouses. Residential Neighborhood encourages highly connected, compact blocks with gridded street patterns and reduced setbacks. It also encourages traditional neighborhood development that incorporates low-intensity non-residential uses intended to serve the surrounding neighborhood, such as retail and offices, on corners and along connecting corridors.
This designation recognizes existing conventional subdivision developments which may have large blocks with conventional setbacks and development patterns that respond to features in the natural environment.

CITY PLAN 2040 INFILL MATRIX: City Plan 2040’s Infill Matrix indicates a varying score between 2 and 5 for the subject property. Per the Planning Commission’s Infill Matrix weighting, this represents a score of 4.5. The following elements of the matrix contribute to the score:

- Within a Fire Department 4 Minute Response Time (Station 7)
- Near Park (Harmony Pointe Park/Bundrick Park)
- Near Trail (Wedington Drive)
- Near Water Main (Wedington Drive)
- Near Sewer Main (Wedington Drive)

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:** In staff’s opinion, the uses permitted within the RI-12 zoning district are compatible with the surrounding residential uses. Although the immediately adjacent properties are lower in density, RI-12 will allow for a mix of residential types and with a maximum cap to the number of units set at 12 per acre. Staff anticipates a slightly higher density of potential duplexes or 4-plexes similar to the density and footprint of duplexes to the south. This area along Wedington Drive is likely to see increasing development pressure for redevelopment and to provide a greater range of residential types beyond the predominantly single-family neighborhoods nearby.

**Land Use Plan Analysis:** Staff finds the proposed rezoning to be consistent with City Plan 2040. Although the subject property is close to city limits and is near the edge between Residential Neighborhood and Rural Residences Areas, the subject property is designated as a Residential Neighborhood Area on our Future Land Use Map, which does allow for a mix of residential uses and densities where appropriate. Rezoning the property to RI-12 at this location acknowledges the Future Land Use Map’s allowance for other residential types (duplex, 3-plex, 4-plex) and the higher densities of development generally encouraged along Wedington Drive, a major east-west arterial. In terms of City Plan 2040 goals, this proposal represents appropriate infill through use of existing infrastructure and proximity to existing amenities at the Double Springs Road intersection. At the same time, development under the proposed rezoning encourages a livable transportation network by placing more housing along an existing trail. Lastly, as the applicant points out, a greater range of housing types does provide more housing at different price points for residents, which may lead to a more attainable or affordable housing stock.

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

Finding: The applicant’s request letter describes the proposal as necessary for...
development of the property with affordable housing. Staff finds the proposed zoning is justified.

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

Finding: Rezoning the property to RI-12 from R-A and RSF-4 may appreciably increase traffic to this location due to the number of vehicle trips associated with higher-density, residential uses. With due consideration for this potential, the site has direct access to Wedington Drive, a Regional Link street. This direct access and the improved infrastructure along Wedington Drive ensure that an increased number of vehicle trips can be accommodated and distributed with little to no increase in congestion. Staff’s finding is further validated by local accident and traffic data, with only four or five non-injury accidents reported near the intersection of Brook Drive and Wedington between 2015 and 2018, and a 2019 Average Daily Traffic count of 11,000 along this particular stretch of road. As a Regional Link, Wedington Drive is intended to support volumes of up to 17,600 a day.

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: Rezoning the property to RI-12 will lead to an increased density over the current R-A and RSF-4. However, there are existing and adequate water and sanitary sewer services to support development. Additionally, neither the Police or Fire Departments, nor the Fayetteville Public School District expressed concerns with the rezoning.

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 20-7133 to the City Council with a recommendation for approval.
**PLANNING COMMISSION ACTION:** Required **YES**

**Date:** July 13, 2020  
☐ Tabled  
☐ Forwarded  
☐ Denied

**Motion:** Belden  
Motion to deny

**Second:** Hoffman  
Motion passes; Commissioners Paxton and Brown dissenting

**Vote:** 7-2-0

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**BUDGET/STAFF IMPACT:**

None

**Attachments:**

- Unified Development Code:
  - §161.03 - District R-A, Residential-Agricultural
  - §161.07 - District RSF-4, Residential Single-Family - Four (4) Units Per Acre
  - §161.11 - District RI-12, Residential Intermediate, Twelve (12) Units Per Acre
- Request letter
- Public Comment
  - Petition
  - Aday, Diane
    - Phone
    - Letter
    - Pictures
- 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.**

<table>
<thead>
<tr>
<th>Unit</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unit 1</td>
<td>City-wide uses by right</td>
</tr>
<tr>
<td>Unit 3</td>
<td>Public protection and utility facilities</td>
</tr>
<tr>
<td>Unit 6</td>
<td>Agriculture</td>
</tr>
<tr>
<td>Unit 7</td>
<td>Animal husbandry</td>
</tr>
<tr>
<td>Unit 8</td>
<td>Single-family dwellings</td>
</tr>
<tr>
<td>Unit 9</td>
<td>Two-family dwellings</td>
</tr>
<tr>
<td>Unit 37</td>
<td>Manufactured homes</td>
</tr>
<tr>
<td>Unit 41</td>
<td>Accessory dwellings</td>
</tr>
<tr>
<td>Unit 43</td>
<td>Animal boarding and training</td>
</tr>
</tbody>
</table>

2) **Conditional Uses.**

<table>
<thead>
<tr>
<th>Unit 2</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unit 4</td>
<td>Cultural and recreational facilities</td>
</tr>
<tr>
<td>Unit 5</td>
<td>Government facilities</td>
</tr>
<tr>
<td>Unit 20</td>
<td>Commercial recreation, large sites</td>
</tr>
</tbody>
</table>
### (C) Density.

<table>
<thead>
<tr>
<th>Units per acre</th>
<th>One-half (½)</th>
</tr>
</thead>
</table>

### (D) Bulk and Area Regulations.

<table>
<thead>
<tr>
<th>Lot width minimum</th>
<th>200 feet</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Lot Area Minimum:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential:</td>
</tr>
<tr>
<td>Nonresidential:</td>
</tr>
</tbody>
</table>

| Lot area per dwelling unit | 2 acres |

### (E) Setback Requirements.
(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)
161.07 - District RSF-4, Residential Single-Family - Four (4) Units Per Acre

(A) **Purpose.** The RSF-4 Residential District is designed to permit and encourage the development of low density detached dwellings in suitable environments, as well as to protect existing development of these types.

(B) **Uses.**

(1) *Permitted Uses.*

<table>
<thead>
<tr>
<th>Unit 1</th>
<th>City-wide uses by right</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unit 8</td>
<td>Single-family dwellings</td>
</tr>
<tr>
<td>Unit 41</td>
<td>Accessory dwellings</td>
</tr>
</tbody>
</table>

(2) *Conditional Uses.*

<table>
<thead>
<tr>
<th>Unit 2</th>
<th>City-wide uses by conditional use permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unit 3</td>
<td>Public protection and utility facilities</td>
</tr>
<tr>
<td>Unit 4</td>
<td>Cultural and recreational facilities</td>
</tr>
<tr>
<td>Unit 5</td>
<td>Government facilities</td>
</tr>
<tr>
<td>Unit 9</td>
<td>Two-family dwellings</td>
</tr>
<tr>
<td>Unit 12a</td>
<td>Limited business</td>
</tr>
<tr>
<td>Unit 24</td>
<td>Home occupations</td>
</tr>
<tr>
<td>Unit 36</td>
<td>Wireless communications facilities</td>
</tr>
<tr>
<td>Unit 44</td>
<td>Cluster Housing Development</td>
</tr>
</tbody>
</table>
(C) **Density.**

<table>
<thead>
<tr>
<th></th>
<th>Single-family dwellings</th>
<th>Two (2) family dwellings</th>
</tr>
</thead>
<tbody>
<tr>
<td>Units per acre</td>
<td>4 or less</td>
<td>7 or less</td>
</tr>
</tbody>
</table>

(D) **Bulk and Area Regulations.**

<table>
<thead>
<tr>
<th></th>
<th>Single-family dwellings</th>
<th>Two (2) family dwellings</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot minimum width</td>
<td>70 feet</td>
<td>80 feet</td>
</tr>
<tr>
<td>Lot area minimum</td>
<td>8,000 square feet</td>
<td>12,000 square feet</td>
</tr>
<tr>
<td>Land area per dwelling unit</td>
<td>8,000 square feet</td>
<td>6,000 square feet</td>
</tr>
<tr>
<td>Hillside Overlay District Lot minimum width</td>
<td>60 feet</td>
<td>70 feet</td>
</tr>
<tr>
<td>Hillside Overlay District Lot area minimum</td>
<td>8,000 square feet</td>
<td>12,000 square feet</td>
</tr>
<tr>
<td>Land area per dwelling unit</td>
<td>8,000 square feet</td>
<td>6,000 square feet</td>
</tr>
</tbody>
</table>
(E) **Setback Requirements.**

<table>
<thead>
<tr>
<th></th>
<th>Front</th>
<th>Side</th>
<th>Rear</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>15 feet</td>
<td>5 feet</td>
<td>15 feet</td>
</tr>
</tbody>
</table>

(F) **Building Height Regulations.**

<table>
<thead>
<tr>
<th>Building Height Maximum</th>
<th>3 stories</th>
</tr>
</thead>
</table>

(G) **Building Area.** On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot. Accessory ground mounted solar energy systems shall not be considered buildings.

(Code 1991, §160.031; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 4858, 4-18-06; Ord. No. 5028, 6-19-07; Ord. No. 5128, 4-15-08; Ord. No. 5224, 3-3-09; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; Ord. No. 5921, §1, 11-1-16; Ord. No. 5945, §8, 1-17-17; Ord. No. 6015, §1(Exh. A), 11-21-17; **Ord. No. 6245, §2, 10-15-19**
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.**

<table>
<thead>
<tr>
<th>Unit</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>City-wide uses by right</td>
</tr>
<tr>
<td>8</td>
<td>Single-family dwellings</td>
</tr>
<tr>
<td>9</td>
<td>Two (2) family dwellings</td>
</tr>
<tr>
<td>10</td>
<td>Three (3) and four (4) family dwellings</td>
</tr>
<tr>
<td>41</td>
<td>Accessory dwellings</td>
</tr>
<tr>
<td>44</td>
<td>Cluster Housing Development</td>
</tr>
</tbody>
</table>

2. **Conditional Uses.**

<table>
<thead>
<tr>
<th>Unit</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>City-wide uses by conditional use permit</td>
</tr>
<tr>
<td>3</td>
<td>Public protection and utility facilities</td>
</tr>
<tr>
<td>4</td>
<td>Cultural and recreational facilities</td>
</tr>
<tr>
<td>5</td>
<td>Government facilities</td>
</tr>
<tr>
<td>12a</td>
<td>Limited business</td>
</tr>
<tr>
<td>24</td>
<td>Home occupations</td>
</tr>
<tr>
<td>36</td>
<td>Wireless communications facilities</td>
</tr>
</tbody>
</table>
(C) **Density.**

| Units per acre | 12 |

---

(D) **Bulk and Area Regulations.**

<table>
<thead>
<tr>
<th></th>
<th>Single-family</th>
<th>Two (2) family</th>
<th>Three (3) family</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot width minimum</td>
<td>50 feet</td>
<td>50 feet</td>
<td>90 feet</td>
</tr>
<tr>
<td>Lot area minimum</td>
<td>5,000 square feet</td>
<td>7,260 square feet</td>
<td>10,890 square feet</td>
</tr>
</tbody>
</table>

---

(E) **Setback Requirements.**

<table>
<thead>
<tr>
<th></th>
<th>Side Other Uses</th>
<th>Side Single &amp; Two (2) family</th>
<th>Rear Other Uses</th>
<th>Rear Single Family</th>
</tr>
</thead>
<tbody>
<tr>
<td>Front</td>
<td>8 feet</td>
<td>5 feet</td>
<td>20 feet</td>
<td>5 feet</td>
</tr>
<tr>
<td>Other Uses</td>
<td>5 feet</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A build-to zone that is located between the front property line and a line 25 feet from the front property line.</td>
<td>8 feet</td>
<td>5 feet</td>
<td>20 feet</td>
<td>5 feet</td>
</tr>
</tbody>
</table>

(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 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.

Request for re-zoning of 4 contiguous parcels owned by Gordon R and Linda J Houston.

Washington County Arkansas Parcel 765-16186-000, PT SW NW 1.9 A
Washington County Arkansas Parcel 765-16184-000, PT SW NW .87A
Washington County Arkansas Parcel 765-16187-001, PT SW NW .18A
Washington County Arkansas Parcel 765-16185-000, PT SW NW .10A

These parcels are currently zoned R-1. Owners would like to apply to have them rezoned RI-12. The rezoning would allow for more affordable housing in the area. Directly south across W Wedington Dr are currently 12 duplex units. Homes nearby on Heritage Avenue are on lots typically only .17 acres each. There are also many homes on Pershing St nearby that have .19 acres lots.

We believe the need for affordable housing is high. Rezoning this property would allow for that, while not conflicting with the surrounding area.

Thank you for your consideration.

Vicky L Wobd
Representative for Gordon and Linda Houston
479/530-2288
Vicky1nwa@gmail.com

7-6-20
Petition Opposing Rezone Request for 6074 and 6040 W. Wedington Dr.

The undersigned are all City of Fayetteville residents and respectfully oppose a rezone request for 6074 and 6040 West Wedington Drive, Fayetteville, AR, made by Gordon and Linda Houston of Springdale, AR. All signatures on this petition are of property owners who either adjoin these properties in consideration for rezone, or who live in close proximity, and all of us would be negatively affected for such a ‘high density’ development right on a heavily traveled 5 lane highway. This rezone request is to be considered at the Planning Commission meeting on July 13, 2020 at 5:30 pm.

We oppose rezone of 6074 and 6040 W. Wedington Dr. to RMF18 or RL12 for the following reasons:

1. Negative impact and safety concerns for car, pedestrian, and bike traffic.
2. Drainage problems onto Wedington Drive and that would impact nearby area properties.
3. Increase of problems with the water and sewage system which is already inefficient for residents with the recent growth and construction in this area.
4. Possibility of reduced adjoining and area property values.
5. Negative impact and safety concerns for domestic animals and livestock on adjoining agricultural properties.
6. Potential loss of all remaining trees on these properties only two years after the ‘wide scale’ logging and tree removal at these properties soon after purchase by the Houstons.
7. Increase the possibility for excessive noise and trash.
8. History of Fayetteville Fire Department having to visit the Houstons’ properties on Wedington Drive on at least 2 occasions in 2018 to put out fires which were left unattended and burning after dark, thereby showing disregard for the City’s burning regulations and the safety of neighbors and their properties.
9. History of and disregard for property and trespass laws by Mr. Houston.

We petition the Planning Commission to carefully consider our opposition and the supporting documents provided. We also hope the Commission will appreciate the limitations to communicate because of Covid 19.

Please be aware that not all residents who have signed this petition have internet access to join the meeting in Zoom format. If our signature is on this petition, we state that our absence from the 7/13/20 meeting does not signify a lack of interest or lack of strong opposition to this rezone request.
If the Commission is inclined to approve the rezone, we urge that the City of Fayetteville conduct a traffic study as well as a water and sewer study for this area.

We, the undersigned, oppose the rezone request at 6074 and 6040 W. Wedington Drive.

Diane Aday, 5920 W. Wedington Dr., 479.220.8282
Norma Dickerson, 1272 N. Double Springs, 479.422.2046
Lynda Brumley, 6164 W. Wedington Dr., 479.841.7045
Teresa Dutton, 6136 W. Wedington Dr., 479.466.2657
James Spears, 6236 W. Wedington Dr., 479.530.5667
Mike Paul, 5901 Michael Cole Dr., 479.409.4754
Holly Paul, 5901 Michael Cole Dr., 479.409.4754
Katie Chapman, 5925 Michael Cole Dr.
Jerry McGruder, 6255 W. Wedington Dr.
Diana McGruder, 6255 W. Wedington Dr.
Grady Jones, 5916 W. Wedington Dr., 479.799.7346
Ray Lovell, 6250 W. Wedington Dr.
Stephanie Lovell, 6250 W. Wedington Dr.
David L. Sparks, 5900 West Michael Cole Dr.
Kerriann Sparks, 5900 W. Michael Cole
April Prosser, 1130 N 59th, Fayetteville
Mitch Luman, 1130 N 59th
We, the undersigned, oppose the rezone request at 6074 and 6040 W. Wedington Drive.

Karen Crawford 1162 N. 59th Ave. (479)-445-9580
Sara Wagner 1340 N 59th Ave (501)253-2965
Ty Wagner 1340 N. 59th Ave (479) 790-9715
Tristan Carpenter 1234 N 59th Ave 770-6010-607
Daniel Soukop 5866 W Michael Cole Dr (479) 422-9337
Virginia Smith 5870 W Michael Cole Dr 479-424-3288
Ryan Bromley 13822 N.Michigan Fayetteville 72704 248.978.9356
John Bromley " " 706.410.4657
Susan Cassell 6310 W Wedington Fayetteville AR 72704 479-414-4187
Forrest Cassell 6310 W Wedington Fayetteville AR 72704 479-414-4187
Addison Cassell 6310 W Wedington " " 479-409-8466
Diane Aday - 479-220-8282 - Phone Call - 3:50 PM

Opposed to the request
Will provide a letter from her and all neighbors opposed to the request
July 9, 2020

City of Fayetteville Planning Commission Committee

Dear Planning Commission,

This letter is to make you aware of past situations that I have had with Mr. Gordon Houston, if in your opinion is pertinent to his rezone request and my opposition to the rezone which adjoins my property. Thank you for your time and consideration.

Mr. Houston approached me soon after purchasing the Wedington properties. He wanted to buy some of my property, but I declined. He then informed me that he was going to use the easement on my property which is my very long driveway, with the possibility of also taking down some of my fence (which holds in my livestock) for his trucks to clear the acreage. I told him he did not have my permission to use my driveway and followed up with a lawyer letter dated 9/14/2017. Mr. Houston proceeded to begin logging his 3 acres. I had to ask drivers of big trucks to move multiple times so that I could use my driveway, informing them they were on my private land, and assuming they pulled into my driveway on accident. Then, I followed up with a second lawyer letter on 7/10/2018 after one driver, Mr. Issac, told me Mr. Houston had directed him explicitly to use my driveway anyway. These lawyer letters are attached.

On at least two occasions in 2018, I called the fire department to put out fires on Mr. Houston’s property which were left burning and unattended after dark and due south from my house. The burning was from the leftover tree debris of logging the property. The wind had picked up in both situations, and I felt my house could be in danger of fire as the embers were blowing directly onto my house from the large fire. These fires were too big for me to put out on my own and too far away for me to run a hose from my house. Other neighbors mentioned to me their concerns for careless burning following the logging of that property, but I am not aware if others ever called the fire department or not. I have requested records of responses to those properties and any burn fines imposed from FPD, but I have not yet received those to share with this opposition to the rezone request. To be fair, I am not aware if Mr. Houston set and left those fires, or directed others to do so, yet I did see him present on the property prior to those fires.

I try to be a good neighbor and do respect Mr. Houston’s use of his property in any way he chooses, under the law. Based on this past history, I have doubts and concerns about his ability or intent to be a good neighbor to others and to follow regulations, such as not trespassing and burn permit protocol, without careful oversight by the City of Fayetteville.

Respectfully,

Diane Aday
Diane Aday, 5920 West Wedington Dr., Fayetteville, AR 72704

attachments
MILTON COPELAND
Attorney at Law

479-582-1076  1600 E. Shadowridge
479-790-7019  Fayetteville, AR 72701

September 14, 2017

Mr. Gordon R. Houston
2683 N. Pump Station Road
Springdale, AR 72762

Re: Notice regarding trespass

Dear Mr. Houston:

Diane Aday, who owns land adjacent to your recently-acquired parcel on W. Wedington Drive in Fayetteville, is my client.

She has told me that you are adamant in your belief that you can use her property which is next to yours on the east. You are hereby given notice that such use will be trespass by you. Among other remedies available to Ms. Aday will be a suit for damages for all injury caused to her and her property, including any damage to her trees and bushes. If after receipt of this notice you willfully violate her rights, such reckless behavior will allow her to sue you for punitive damages in addition to actual damages.

It is my understanding that you tried to justify your threatened use of Ms. Aday's property by saying you have the right to use her easement. Let me clarify the important law about easements that you either do not understand or choose to ignore.

Ms. Aday's property is in two adjoining parcels, one to the north and the other to the south; the southern parcel is just to the east of your property. The easement to which you refer is described in her deed as "an easement or right of way for ingress and egress" serving the northern parcel. That easement was important when the owner of the northern parcel did not own the southern parcel and needed access to Wedington Drive. If the parcels were ever again to have different owners, such an easement would again protect the northern owner's access.

What you need to realize is that only the owner of the easement has the right of ingress and egress provided by the easement. The grant of Ms. Aday's easement is in the same deed as the grant of the northern parcel. The deed has only one grantee, and that is Ms. Aday. So, only Ms. Aday owns the northern parcel, and only she owns the easement. The easement was created in the first place so that the northern parcel's owner would have access to Wedington Drive, and that is still its reason for existence.
The technical term for that northern parcel is "the dominant tenement," and the term for the southern parcel is "the servient tenement." Of course, since Ms. Aday owns the southern parcel as well as the northern one, there's no reason to try to distinguish between the rights of the owner of the dominant tenement and those of the owner of the servient tenement. She owns both tenements; she has the absolute right to use her property (including the easement) as she chooses.

You don't need to take my word for it that you will be liable for trespass if you use her property as you threaten. Please consult your own attorney, and discover for yourself that I have stated the law accurately. And please be assured — and let your attorney know — that I'll be happy to hear suggestions about how you and Ms. Aday can become good neighbors.

Ms. Aday does want to be a good neighbor to you, and that includes respecting your right to use your property as you choose. In turn, she wants you to respect her right to do the same with her property.

Very truly yours,

Milton Copeland
MILTON COPELAND
Attorney at Law

479-582-1076
479-790-7019
1600 E. Shadowridge
Fayetteville, AR 72701

July 10, 2018

Mr. Gordon R. Houston
2683 N. Pump Station Road
Springdale, AR 72762

Re: Second Notice regarding trespass

Dear Mr. Houston:

As you know, Diane Aday, is my client. As you also know, you received a letter from me last September (a copy of which is enclosed) advising you that Ms. Aday's driveway is on her property, and is not to be used by you.

What I have just found out is incredible to me. Today a truck was parked in Ms. Aday's driveway. When questioned, Mr. Virgil Isaac, the driver of the truck, told Ms. Aday that you ("Gordon") had told him to use her driveway for work connected with cutting trees on your property. And this has occurred after you were very expressly informed that any such use by you would be trespass!

My September letter clearly described the consequences of trespassing on Ms. Aday's property. Here's how it reads:

"Among other remedies available to Ms. Aday will be a suit for damages for all injury caused to her and her property, including any damage to her trees and bushes. If after receipt of this notice you willfully violate her rights, such reckless behavior will allow her to sue you for punitive damages in addition to actual damages."

After you received notice of Ms. Aday's property rights, you have instructed Mr. Isaac to trespass on her property in violation of those rights!

In my September letter, I encouraged you to consult your own attorney about the law I was explaining to you. It still looks like you need to do that; and be sure to get a good explanation of how risky it is to become liable for punitive damages. In fact, it would be to your advantage for me to hear from him/her before I file suit.

Very truly yours,
Milton Copeland
Mr. Davis,

As you can see from these pictures I took this morning, the rezoning sign is still not visible. I think it was only up for a few days. Most of our neighbors were unaware as they never saw it. I thought it had been removed and am just glad I found out it was still an issue before it was too late to oppose.

Thank you, Dave
PUBLIC HEARING

**REZONING**

RZN 20-7133
4006 & 4074 W. WEDINGTON DR.

PUBLIC HEARING
DATE
PLANNING
5/20/2020
5:30 PM

CITY PLANNING
575-8267

[Sign image]

https://mail.google.com/mail/u/0/
Planning Area
Fayetteville City Limits

WEDINGTON DR

MICHAELE DR

BROOK DR

59TH AVE

HOUSTON

Single-Family Residential/Agricultural

Subject Property

Single-Family Residential/Agricultural

Duplexes

Single-Family Residential/Agricultural

Undeveloped

Current Land Use

FEMA Flood Hazard Data

100-Year Floodplain
Floodway

1 inch = 150 feet