

**Subject Matter: #0-27-15 - Zoning- Promenade
Parkway
Dates of Advertising in *Fayette
County News*: 11-25-15 & 12-02-15
Date First Presented by Council at
Public Meeting: 12-03-15
Date of Public Hearing Before
City Council: 12-03-15 & 12-17-15
Date of Adoption: 12-17-15**

**CITY OF FAYETTEVILLE
COUNTY OF FAYETTE
STATE OF GEORGIA**

ORDINANCE NUMBER 0-27-15

(as enacted)

CITY OF FAYETTEVILLE, GEORGIA

PREAMBLE AND FINDINGS OF FACT

The City of Fayetteville (the “City”) has received an application for rezoning by **Mark Wurster II** for property located at Promenade Parkway and described in **EXHIBIT "A"**. Said parcels of property are presently zoned as C-3 within the city limits of the City of Fayetteville. Applicant requests rezoning of the property to M-1 pursuant to the City of Fayetteville’s Comprehensive Zoning Ordinance. The City has given notice to the public of this proposed rezoning as required by law and public hearings have been conducted as required by law. The City complied with the requirements of O.C.G.A. § 36-36-4 and § 36-36-5 prior to the adoption of this Ordinance. The City Council finds that the requested rezoning is consistent with the City’s zoning standards at Sec. 94-42 of the City’s zoning ordinance.

ORDINANCE

IT IS HEREBY ADOPTED AND ORDAINED BY THE CITY OF FAYETTEVILLE AS FOLLOWS:

ARTICLE I

The zoning classification of the described property in Exhibit “A (the “Property”) attached hereto and incorporated herein, shall be, and is hereby rezoned from **C-3 to M-1**, pursuant to the City of Fayetteville’s Comprehensive Zoning Ordinance, subject to Article IV below.

ARTICLE II

Any ordinance or part of any ordinance in conflict herewith is hereby repealed.

ARTICLE III

If any section, subsection, sentence, clause, phrase, or other portion of this ordinance for any reason is held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed as a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portion hereof.

ARTICLE IV

This ordinance shall become immediately effective upon its adoption, subject to the following conditions:

1. Any condition or conditions imposed upon the petitioner by the City, and contained in the Council's minutes. Such condition(s) must be satisfied before the change in status will take permanent effect. Should the imposed condition(s) fail to be performed within the prescribed time period set forth by the City in either the Council minutes or in representations made by the applicant documented in the Council's minutes, the property at issue will automatically revert to the status or classification it occupied before the petitioner's application for rezoning was filed. If no prescribed time period is set, then the conditions must be met within the times set forth below at paragraph 2 of this Article IV.

2. The petitioner's substantial compliance, within twelve (12) months of the date of this ordinance (unless extended by the Council at the request of the Applicant), with the plans for the project proposed in the Plat submitted with the applicant's initial application for zoning, and as thereafter amended by the applicant and accepted by the City Council, is required. Substantial compliance means that the applicant must have initiated development of the project to the point that it is clearly in progress in accordance within the plan. The applicant's final representation of proposed use of the site, the final development plans presented to the Mayor and Council in support of the application, and the implementation of any conditions imposed upon the proposed use and/or development plans, shall be conditions to the continued existence of any zoning granted by this ordinance. If, within twelve (12) months of the classification granted by this ordinance, the applicant fails to initiate development of the subject site in conformity with said uses and development plans, including any conditions imposed by the Council, the zoning granted herein shall be automatically revoked of the reclassification granted, and reversion to the prior classification the land occupied before the application was submitted. If an annexation was granted, the site will revert to the zoning classification most compatible with that of the surrounding area, as determined by the City Council.

3. Conditions include those contained in the minutes of the City Council, which are part of this ordinance, and any representations submitted by the applicant to the City Council, and accepted by the City Council, and reflected in the minutes of the City Council, which representations shall be an amendment to the rezoning application and a part of this ordinance.

APPROVED BY THE MAYOR AND COUNCIL OF THE CITY OF FAYETTEVILLE at a regular meeting of the Mayor and Council on the 17th day of December, 2015, by the following voting for adoption:

ATTEST:

Gregory C. Clifton, Mayor

Edward Johnson, Mayor Pro Tem

Anne Barksdale, City Clerk

Mickey Edwards, Council Member

Paul C. Oddo, Jr, Council Member

Scott Stacy, Council Member

James B. Williams, Council Member

EXHIBIT "A"

Legal Description of Parcel

ALL THAT TRACT OR PARCEL OF LAND IN LAND LOTS 184 & 185 OF THE 5 TH DISTRICT OF FAYETTE COUNTY, GEORGIA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

TO FIND THE TRUE POINT OF BEGINING COMMENCING AT A POINT WHERE THE EASTERNLY RIGHT-OF-WAY OF GEORGIA STATE ROUTE NO. 85 (R/W VARIES) AND THE SOUTHERNLY RIGHT-OF-WAY OF PROMENADE PARKWAY (60' R/W) INTERSECTS, THENCE RUNNING N 77 24 17 E A DISTANCE OF 35.68' ALONG THE SOUTHERNLY RIGHT-OF-WAY OF PROMENADE PARKWAY TO A POINT; THENCE RUNNING S 70 01 37 E A DISTANCE OF 89.54' ALONG THE SOUTHERNLY RIGHT-OF-WAY OF PROMENADE PARKWAY TO A POINT; THENCE CURVING TO THE LEFT ALONG THE RIGHT-OF-WAY OF PROMENADE PARKWAY AN ARC DISTANCE OF 71.87' SUBTENDE BY A CHORD BEARING OF S 78 58 45 E A CHORD DISTANCE OF 71.58' AND HAVING A RADIUS OF 230.00' TO A POINT; THENCE CONTINUING ALONG THE SOUTHERNLY RIGHT-OF-WAY OF PROMENADE PARWAY AND RUNNING S 88 02 16 E A DISTANCE OF 212.51' TO A POINT; THENCE RUNNING S 88 05 07 E A DISTANCE OF 58.12' ALONG THE SOUTHERNLY RIGHT-OF-WAY OF PROMENADE PARKWAY TO A POINT AND THE TRUE POINT OF BEGINNING; THENCE RUNNING S 87 59 01 E A DISTANCE OF 74.42' ALONG THE SOUTHERNLY RIGHT-OF-WAY OF PROMENADE PARKWAY TO A POINT; THENCE CURVING TO THE LEFT ALONG THE RIGHT-OF-WAY OF PROMENADE PARKWAY AN ARC DISTANCE OF 111.34' SUBTENDE BY A CHORD BEARING OF S 85 37 20 W A CHORD DISTANCE OF 111.11' AND HAVING A RADIUS OF 498.82' TO A POINT; THENCE CURVING TO THE RIGHT ALONG THE RIGHT-OF-WAY OF PROMENADE PARKWAY AN ARC DISTANCE OF 107.25' SUBTENDE BY A CHORD BEARING OF N 82 00 33 E A CHORD DISTANCE OF 106.94' AND HAVING A RADIUS OF 411.78' TO A POINT; THENCE CONTINUING ALONG THE RIGHT-OF-WAY OF PROMENADE PARWAY AND RUNNING S 88 40 59 E A DISTANCE OF 1231.11' TO A POINT; THENCE CURVING TO THE LEFT ALONG THE RIGHT-OF-WAY OF PROMENADE PARKWAY AN ARC DISTANCE OF 156.24' SUBTENDE BY A CHORD BEARING OF N 76 17 16 E A CHORD DISTANCE OF 115.69' AND HAVING A RADIUS OF 60.00' TO A POINT; THENCE CURVING TO THE LEFT ALONG THE RIGHT-OF-WAY OF PROMENADE PARKWAY AN ARC DISTANCE OF 157.92' SUBTENDE BY A CHORD BEARING OF N 73 42 41 W A CHORD DISTANCE OF 116.12' AND HAVING A RADIUS OF 60.00' TO A POINT; THENCE CONTINUING ALONG THE RIGHT-OF-WAY OF PROMENADE PARWAY AND RUNNING N 88 40 59 W A DISTANCE OF 1128.57' TO A POINT; THENCE LEAVING SAID RIGHT-OF-WAY AND RUNNING N 01 19 47 E A DISTANCE OF 179.28' TO A POINT; THENCE RUNNING S 88 40 19 E A DISTANCE OF 1257.40' TO A POINT; THENCE RUNNING S 01 16 17 W A DISTANCE OF 611.51' TO A POINT; THENCE RUNNING N 88 21 55 W A DISTANCE OF 912.35' TO A POINT; THENCE RUNNING N 89 59 54 W A DISTANCE OF 333.73' TO A POINT; THENCE RUNNING N 88 09 11 W A DISTANCE OF 186.40' TO A POINT; THENCE RUNNING N 88 11 39 W A

DISTANCE OF 218.76' TO A POINT; THENCE RUNNING N 03 20 38 E A DISTANCE OF 27.82' TO A POINT; THENCE CURVING TO THE LEFT AN ARC DISTANCE OF 54.68' SUBTENDED BY A CHORD BEARING OF N 22 32 44 W A CHORD DISTANCE OF 52.83' AND HAVING A RADIUS OF 60.44' TO A POINT; THENCE CURVING TO THE LEFT AN ARC DISTANCE OF 77.89' SUBTENDED BY A CHORD BEARING OF N 16 48 23 E A CHORD DISTANCE OF 77.07' AND HAVING A RADIUS OF 154.58' TO A POINT; THENCE RUNNING N 01 26 07 E A DISTANCE OF 193.68' TO THE TRUE POINT OF BEGINNING;

TRACT CONTAINS 19.048 ACRES