



Village of Marvin

DATE: September 17, 2024

TO: Planning Board

FROM: Hunter Nestor, Planner and Zoning Director

SUBJECT: Discussion and Recommendation of Conditional Rezoning Application CZ 2024-1 (Zepa Capital, LLC)

Background

Zepa Capital, LLC was approved in August of 2023 for a conditional zoning map amendment to rezone the 1.518 acres located at 9908 New Town Rd., from R-Marvin Residential to the Marvin Heritage District (Commercial Only) ([CZ-2023-1](#)). The subject property is further identified by parcel numbers 06-225009A. The approved rezoning allowed for development of the site as a Commercial “Village” to include light commercial uses such as retail, restaurant, and professional office uses per the Marvin Heritage District Form-Based Code.

Zepa Capital, LLC has now applied to amend their conditional zoning map amendment to rezone the 2.005 acres located at 9904 New Town Rd., from Single Family Residential-1 (SFR-1) to the Marvin Heritage District (Commercial Only). The subject property is further identified by parcel numbers 06-225009B. The proposed map amendment would combine both 9904 and 9908 New Town Road into one single development (still two separate parcels).

The Village Council adopted the Marvin Development Ordinance in May of 2024 ([OR-2024-05-06](#)). This incorporated the old regulations of the Form-Based Code into the new Development Ordinance and established the Marvin Heritage Conditional Zoning District and the regulations for the district. The applicant submitted this rezoning application in April of 2023 and amended their application submittal in July of 2024.

Analysis

	Existing Land Use	Zoning Designations
Subject Properties	Vacant, Residential	HD-CO and SFR-1
North	Residential/Common Open Space (Preserve at Marvin)	SFR-2
South	Vacant/Agriculture (Fincher Property)	Rural-Residential
East	Civic (Village/Future Village Park)	Civic
West	Civic (Weddington United Methodist Church)	Civic



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General: The proposed rezoning amendment is broken into 2 phases. On the site plan included in the agenda packets, ‘Marvin Grove Tract 1A’ is the original property that was approved apart of CZ-2023-1 (Phase 1). ‘Marvin Grove Tract 2’ and ‘Marvin Grove Tract 1B are currently one property (9904 New Town Road/06-225009B) (Phase 2).

The rezoning application is to rezone the property located at 9904 New Town Road (Tract 1B and Tract 2) from Single Family Residential-1 (SFR-1) to the Marvin Heritage District (Commercial Only) for light commercial uses such as retail, restaurant, and professional office uses. Tract 1B would be combined with Tract 1A to make one property and the existing Crane Store would remain on Tract 2.

The purpose of the rezoning request is to develop the total site to those commercial uses that are in accordance with the vision created by the Village of Marvin community through its approved Heritage District Small Area Plan. Rezoning the Site to HD-CO enables the applicant to use the site for those uses allowed in Table 8.1.

Tract 1A currently consists of approximately 1.518 acres, with an existing 100-year-old farmhouse, carport, and shed. The applicant has been approved to demolish the carport/shed structures and renovate the existing house with the intention to preserve the overall exterior appearance of the existing farmhouse. Tract 1A was also approved to convert the interior of the existing farmhouse to commercial use such as a restaurant. A 1,545 SQFT commercial kitchen addition was approved to the existing structure. Additionally, the previously approved CZ-23-1 includes two 5,000 SQFT two-story buildings (10,000 SQFT total for each) for retail and office uses, totaling 21,550 SQFT of new gross building area. Development of the project will be phased, with completion not anticipated to exceed 10 years.

Tract 1B and Tract 2 of the development consists of 2.005 acres, and its tax parcel identification number is 06-225009B. The applicant is proposing extending the parking lot while preserving the larger canopy trees present in the lot currently. The proposed plan also includes two new 5,000 SQFT two-story buildings (10,000 SQFT total for each) for retail and office uses, and a large wet pond with a walkable path surrounding the water feature. This totals an additional 20,000 SQFT of new gross building area. The proposed development would maintain the existing Old Crane Store located on Tract 2, renovating the interior space.

The area of the property designated as ‘New Tract 2’ on the Site Plan is included in the Conditional Rezoning to avoid non-compliance with the MDO’s dimensional requirements for residential lots. Actual improvements and permitted uses (other than convenience store without gas pumps) on New Tract 2 shall be determined at a later date following the process outlined in article 5.4 of the MDO for conditional zoning and in accordance with the Development Agreement. The future determination of actual improvements and permitted uses on shall be applicable only to New Tract 2 and shall in no way affect the improvements and permitted uses contemplated herein or by the development standards set forth as part of this rezoning for the areas of the Property designated as Tract 1A and Tract 1B on the Rezoning Site Plan.



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Permitted Uses: The intended uses include specialty commercial and retail space offering goods and services such as ice cream, coffee, specialty foods and wines, gifts, clothing boutique, art gallery, etc. on the first floor, with office type uses on the second floor of the new commercial buildings. The existing farmhouse and proposed addition thereto are currently planned for a restaurant with commercial kitchen.

Except as otherwise set forth as part of this conditional rezoning, the property may be devoted to all listed uses, special uses, and uses listed with additional standards in the Heritage District Overlay column of Table 8.1 of the MDO, a copy of which is attached into the agenda packets and incorporated herein by reference. All special uses allowed in the HD-CO District shall require a Special Use Permit. Proposed uses within the proposed development are subject to change based on market demand, but once rezoned, uses are limited to those allowed in HD-CO zoning.

Architectural Uniformity and Consistency with the Master Plan: In addition to the requirements set forth in the Article 8.5-6 of MDO, the proposed development shall be substantially consistent with the design themes, architectural themes, architectural elements, building materials, and color palettes shown on the architectural renderings submitted and approved as part of the conditional rezoning (the “elevations”) and attached in the agenda packets. Said elevations are conceptual in nature and minor modifications may occur during design, engineering and construction of the buildings provided, however that the overall design intent is maintained.

Tree Preservation: The applicant plans to save as many trees on the site as it can and has designed the site plan with special attention to preserving mature canopy trees. For example, an existing mature magnolia was preserved as the centerpiece of the development entry, and the applicant has shifted the footprints of the proposed buildings to accommodate other mature trees.

The Tree Preservation and Mitigation Plan is required to be included with the preliminary plat and construction documents phase. During the rezoning process, the Applicant would prepare a tree survey of all trees over 12 inches in diameter and would be required to mitigate for any trees lost during development. The Village prefers for developers to save trees when they can. If trees cannot be saved, developers must replant at a 1:1 rate or pay a fee-in-lieu of replanting if replanting is not possible.

Buffers: The applicant is proposing to continue the buffer previously approved for Tract 1A of Marvin Grove through the development area included in Tract 1B and Tract 2. This buffer consists of 20 FT of vegetative buffer, evergreen plantings along with a 7 FT high solid opaque fence along the rear property line. This is to accompany the 30 FT COS Buffer from the Preserve at Marvin. Additionally, a 5 FT Landscape Buffer on the side property line (of Weddington United Methodist) and a 7 FT high solid opaque fence. If existing trees do not provide a fully opaque buffer, vegetative screening must be installed and maintained to enhance the buffer



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within the 20-foot buffer width. **The specifics opaqueness will need to be added to the construction and preliminary plans and development agreement.**

Open space: Tract 1A consists of 25.12% of landscaping and buffering, and 16.81% of pedestrian oriented sidewalk and outdoor amenity space. This totals 41.93% of reserved open space on Tract 1A.

The applicant is proposing 49.74% of landscaping and buffering (Grassed Area), and 10.67% pedestrian-oriented sidewalk and outdoor amenity space for Tract 1B and Tract 2 consist of. This totals 58.88% of reserved open space for Tract 1B and Tract 2.

This totals 38.43 % of landscape buffer, tree preservation and 13.27% of pedestrian oriented sidewalk and outdoor amenity space for the total development.

Greenway and Trials: Applicant proposes to construct an eight (8) foot asphalt sidewalk within the existing right of way along the Property's New Town Road frontage in the location as generally shown on the Site Plan, or, upon the election of the Developer, make a payment to the Village (in an amount equal to the direct linear foot cost of the asphalt material for the proposed 8 foot asphalt sidewalk) in lieu of such construction, and the Village shall construct the sidewalk in accordance with the Marvin Loop project (NCDOT Project No. BL-0012).

The applicant also proposes to construct an 8-foot-wide connection between the Project and the adjacent Preserve Internal Trail in the location as generally shown on the Site Plan.

Parking: The proposed development has 65 additional parking spots and 2 additional ADA Accessible Parking Spots, bringing the total number of proposed parking spots to 112 (47 Tract 1A). Off-street parking will be provided based on market but connections to existing trails and the proposed Loop will be provided to afford area residents the opportunity to walk or ride bikes to the development. Applicant is looking at additional parking options.

The overall development will have more parking per commercial square foot despite the addition of two proposed buildings (Tract 1B). Applicant's design team also paid special attention during the initial design phase to creating a closeness in the development that was authentic to a "village" feel for patrons of the site. Additionally, the applicant is working on developing additional public parking on the adjacent Village Parcel. This would add an additional 30-36 parking spaces.

Water and Sewer: This development will utilize Union County Water and Sewer. The applicant will have to secure the required easements and Right-of-Way Encroachments to extend the main water line from the Roundabout at Waxhaw-Marvin and New Town Road to the front of the subject property. The applicant will need to secure the required easement to extend the main Sewer Line from the rear of the Crane Store and Preserve Common Open Space properties. The Site's sewer and water needs have been calculated as set forth in the attached chart and Applicant



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has confirmed with Union Public Works that sufficient capacity exists to service the Site. The full details of the utility plan will be submitted during the preliminary plat and construction document phase if the rezoning is approved.

Stormwater: The new site plan also includes a Wet Pond for storm water retention as well as natural features and buffer. Additionally, a walkway has been identified surrounding the pond to increase the amount of open space of the lot.

Other agency notes (not fully required at this step):

- NCDOT: Applicant has already consulted with NCDOT, and the development now will only have one Primary Entrance and one Fire/Emergency access entrance. NCDOT may require additional road improvements to New Town Road. Peak hour trip counts calculated based on proposed uses are shown on the attached chart and did not reach the threshold requiring a traffic impact study as part of the rezoning process. Another roundabout is proposed for construction this summer to move traffic more effectively through the area. DOT will also review anticipated trip counts generated from the Site as part of its driveway permit process.

Neighborhood Meeting: The Applicant held their Neighborhood Meeting for the amended site plan on Thursday, June 27 at 6:00 pm at Marvin Village Hall. The Neighborhood Meetings minutes and sign-in sheets are attached in the Planning Board Packets.

Development Agreement

The applicant has started to draft the development agreement in compliance with the Conditional Zoning Application Procedure and Requirements. This agreement is a draft, and the applicant will need to make any necessary revisions once reviewed by the Planning Board and Village Staff.

The development agreement shall be drafted in a format as directed by the Planning and Zoning Director. The development agreement shall then be presented to the Planning Board for a formal recommendation at a regularly scheduled meeting. Said meeting shall be held prior to notification for a legislative hearing by the Village Council. The development agreement and the Planning Board recommendation shall be published for public inspection and notifications shall be made in accordance with the provisions of G.S. 160D-601.



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Consistency with Land Use Plan and Other Adopted Plans

State Statute requires that all zoning regulations shall be made in accordance with an adopted comprehensive plan. When adopting or rejecting any zoning amendment, the Council shall approve a statement describing whether its action is consistent or inconsistent with our 2020 Land Use Plan or any other officially adopted plan that is applicable, and briefly explain why the Council considers the action taken to be reasonable and in the public interest. A Planning Board/Village Council can adopt a rezoning that is inconsistent, as long as it's acknowledged in writing and there is rationale for the decision.

The Village of Marvin Land Use Plan and the Marvin Heritage District Small Area Plan designates this area as the Marvin Heritage District. It designated the subject property as Commercial Only within the Marvin Heritage District. The scale of the development is consistent with these adopted plans. Furthermore, this development is consistent with the goals and purpose of the plan by providing conservation land or fee-in-lieu for future greenway connections, maintaining rural aesthetics, transportation improvements, and economic development to the area.

Conclusion and Next Steps

The Planning Board has reviewed this application over the last two regular scheduled meetings. Staff request the Board to make a recommendation to the Village Council. Once a recommendation is made the Village council will Call for a Public Hearing and a date and time will for the Hearing will be set. After the Public Hearing the Council will vote on the rezoning application submittal. At any time, the applicant can amend the proposal, if they choose, from comments, feedback, and recommendations made by the Planning Board during this review or can agree to make changes as part of Planning Boards Recommendations. Planning Board can also recommend specific conditions of this approval for Council to consider. All conditions will be a part of the applicant's development agreement that is presented to Council when they are considering the application.

Once the public hearing has been held, the Village Council shall take action on the rezoning petition. The Village Council shall have the authority to: Approve the application, deny approval of the application, and approve the application with modifications that are agreed to by the applicant; or send the application to the Planning Board for further study. The Village Council may hold additional public hearings on an application at any time before it takes a final vote to approve or deny that application.



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If the rezoning sketch plan is approved by the Village Council the applicant can move forward with the following required steps:

- a) ***Preliminary site & civil design plans:*** The approval of a rezoning site plan confers approval upon land uses, preliminary site plans, setbacks, buffers, general arrangement of improvements upon the lot, deviation list, and development standards governing development upon the Property and shall be considered equal to the approval of a site specific vesting development plan for purposes of plan approval, described in the Subdivision Article, pursuant to Article 16.1-4 of the MDO. Within one year of the approval, preliminary site and civil design plans (i.e. construction documents) for at least Tract 1A shall be prepared to meet the requirements of Article 7.7-1(G) and in accord with the Development schedule set forth herein.
- b) ***Specific Site and Design Plans Required:*** Approval of specific Site and Design Plans for roadway design, drainage, landscaping, and final lot layout shall be conferred during Design Review and Approval. The preliminary and civil design plans and specific site and design plan approval process phases may run concurrently.
- c) ***Design Review and Approval:*** Construction documents for the Project shall receive review and approval pursuant to the process outlined in Article 7 of the MDO.
- d) ***Building Codes and Laws Other Than Land Use Regulations:*** shall comply with any building, housing, electrical, mechanical, plumbing and gas codes subsequently adopted by the Village or other governmental entity.
- e) ***Local Development Permits and Other Permits Needed:*** The applicant will have to obtain all Development Permits and other regulatory permits will be needed to complete the Development of the Project: Zoning permits, land development permits, street, water, sewer and stormwater construction drawing approval, building permits, certificates of compliance, Union County water and sewer permits, and stormwater control measure agreements.

Staff Recommendation

Staff recommends the approval of the rezoning submission. Staff would like the Board to discuss potential conditions to be discussed and considered to be incorporated into the rezoning.