



Legislation Text

File #: 2018-0220, Version: 1

REMOVE BILL OF ASSURANCE E. 15TH ST & CURTIS AVE.:

AN ORDINANCE TO DISCHARGE AND REMOVE THE BILL OF ASSURANCE RELATED TO THE PROPERTY DESCRIBED IN EXHIBIT A BECAUSE SUCH PROTECTIVE LANGUAGE IS NO LONGER NEEDED

WHEREAS, on April 6, 1982, the Fayetteville Board of Directors approved a rezoning of about two acres on city property on the corner of East 15th Street and Curtis Avenue subject to a Bill of Assurance that “said property shall be limited to a convenience grocery store with gasoline pumps and a car wash”; and

WHEREAS, immediately thereafter the Board of Directors approved “the sale of an Industrial Park tract of 1.94 acres to Greenwood Food Stores, Inc. for \$8,000.00 per acre”; and

WHEREAS, the City of Fayetteville conveyed about 2.24 acres to Greenwood Food Stores, Incorporated by Warranty Deed signed by Mayor Paul Noland on May 28, 1982, but not filed for record at the Circuit Clerk’s Office until December 27, 1984; and

WHEREAS, a quarter of a century later the current owner would like the City to remove the Bill of Assurance from the rezoning ordinance so this property could be used for any C-1.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby agrees to remove and discharge the Bill of Assurance or any other use limitation (except for the underlying C-1, Neighborhood Commercial zoning district requirements) from about two acres of former city-owned property on the corner of East 15th Street and Curtis Avenue more particularly described by Exhibit A and authorizes Mayor Jordan to sign any documents needed to accomplish this removal and discharge.

Legistar ID No.: 2018-0220

AGENDA REQUEST FORM

FOR: Council Meeting of April 17, 2018

FROM: City Council Member Adella Gray

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:


AN ORDINANCE TO DISCHARGE AND REMOVE THE BILL OF ASSURANCE
RELATED TO THE PROPERTY DESCRIBED IN EXHIBIT A BECAUSE SUCH
PROTECTIVE LANGUAGE IS NO LONGER NEEDED

APPROVED FOR AGENDA:


ADELLA GRAY

April 10, 2018
Date

Approved as to form:


City Attorney Kit Williams

April 10, 2018
Date

Mayor Noland stated he felt his responsibility was to continue the success of the CEC. He agreed with Dean Mills that the performing arts center was still in the view of this Board, but the primary responsibility was the CEC. He felt that it was his job to insure that the people using the facility were happy with the surrounding facilities.

Upon roll call the motion passed 5 to 2, with Directors Todd and Sharp voting in the minority. 59.2

RESOLUTION NO. 46-82 APPEARS ON PAGE 202 OF ORD. AND RES. BOOK XIV

CITY HALL RENOVATION

Mayor Noland introduced a report from the City Hall Committee regarding bids for the construction of an interim City Hall. 59.3

Director Sharp stated the City Hall Committee had met and agreed that the original path should be continued. Due to the private investment in the area and the concern regarding the overall appearance of the downtown area, the recommendation was to build a building that would enhance the area. The recommendation is for the \$215,000 alternative which would include brick, south glass, and berms. This was the low bid out of 6 bids for the desired structure to be awarded to McMurtrey Cullers Construction Company. 59.4

Director Henry, seconded by Noland, moved to approve the City Hall Committee recommendations. 59.5

Upon roll call the motion passed unanimously. 59.6

RESOLUTION NO. 47-82 APPEARS ON PAGE 203 OF ORDINANCE & RESOLUTION BOOK XIV

REZONING/CORNER OF E. 15TH ST. & CURTIS AVENUE

Mayor Noland introduced an ordinance rezoning property as requested in petition R82-5. (Additional information may be found on page "F" of the attached agenda.) 59.7

City Attorney McCord read the ordinance for the first time. Director Osborne, seconded by Noland, moved that the rules be suspended and the ordinance be placed on second reading. Upon roll call the motion passed 6 to 0, with Director Henry absent at roll call. City Attorney McCord read the ordinance for the second time. 59.8

Director Osborne, seconded by Noland, moved that the rules be further suspended and the ordinance be placed on third and final reading. Upon roll call the motion passed 6 to 0, with Director Henry absent at roll call, and the City Attorney read the ordinance for the final time. 59.9

Director Bumpass asked if the \$8,000 per acre price was based on any appraisal or upon the city cost in the project. 59.10

Mr. Dale Christy stated that the price was based on what the Industrial Park Committee felt was a fair appraisal of the property taking into consideration its limitations. Mr. Christy stated the parcel was very limited in its scope of use. It was a triangular piece of property with street setbacks from both Highway 16 and Curtis Avenue and a utility easement on the other side. 59.11

Mayor Noland asked if there could be a provision that if the property was not used for the intended purpose, then the property would be resold to the City. Mr. Christy stated this almost had to be included because there was a bill of assurances that it would be used for the purpose for which it was sold, and it could be included in the contract. 59.12

Upon roll call the motion passed unanimously. 59.13

ORDINANCE NO. 2804 APPEARS ON PAGE 132 OF ORDINANCE & RESOLUTION BOOK XII

INDUSTRIAL PARK SALE TO GREENWOOD FOOD STORES, INC.

- 60.1 Mayor Noland introduced a resolution approving the sale of an Industrial
60.2 Park tract of 1.94 acres to Greenwood Food Stores, Inc., for \$8,000 per
60.3 Director Todd, seconded by Osborne, moved to adopt the resolution.
Upon roll call the motion passed unanimously.

RESOLUTION NO. 48-82 APPEARS ON PAGE 210 OF ORDINANCE & RESOLUTION BOOK

SIGN APPEAL/RICHARDSON OIL COMPANY

- 60.4 Mayor Noland introduced a sign appeal by the Richardson Oil Company
two of its locations of Texaco stations. (Additional information is on
"G" of the attached agenda.)
60.5 Mr. Richard Hipp addressed the Board and spoke in favor of the appeal.
The request is for two roof signs like the roof sign on their 1501 N. C
location. The big signs had been removed as well as the smaller signs
there is presently no advertising. There was no way to practically comply
with the ordinance because if attempted, the signs would be too far back
the motoring public could not see them. The proposal was to install roof
signs at these locations. He confirmed that this roof sign would be in
of any other signs.
60.6 Director Henry, seconded by Osborne, moved to grant the appeal.
60.7 Upon roll call the motion passed unanimously.

STREET RECOMMENDATIONS

- 60.8 Mayor Noland introduced a series of recommendations from the Board
Committee. (Additional information on each item may be found on pages "I"
and "H" of the attached agenda.)
60.9 Item 11.1 - Willoughby Road - Director Sharp stated that this area
part of a small subdivision about 1 mile from Highway 71 South. There is
bill of assurance that the sidewalks would be installed at the call of the
City. Director Henry, seconded by Osborne, moved to grant the postponement.
Upon roll call the motion passed unanimously.
60.10 Item 11.2 - Holly Street - Director Sharp stated a waiver of the recom-
ments along with a bill of assurances at the call of the City was recommended.
Director Osborne, seconded by Bumpass, moved to grant the waiver. Upon
call the motion passed unanimously.
60.11 Item 11.3 - One Mile Road and Highway 62 West - Director Sharp stated
was a 2-part development. The first part was contingent to Highway 62 West
and the second part was farther north on One Mile Road. The Planning
Commission recommended that the street be built at the same time as the
second phase. Until the street is built, the Street Superintendent sent
stating the sidewalk would be destroyed when the street was constructed.
60.12 Director Osborne, seconded by Henry, moved to waive the sidewalks on
One Mile Road until the call of the City. Upon roll call the motion passed
unanimously.
60.13 Director Sharp stated the committee had requested a board decision on
the development of the rest of the area. A four-foot paved shoulder on the
right-of-way was to be built by the Highway Department. This would not meet
city requirements for a sidewalk, but it was much better than trying to
on the road. He stated the question was whether the City would consider
the four-foot wide paved shoulder as an adequate sidewalk along a paved
60.14 Director Bumpass asked if it would be a four-laned highway and what
speed limit would be. Director Sharp stated the plan was for a five-lane
road, and the speed limit was currently 50 m.p.h. but could change after
completion.

ORDINANCE NO. 2804

FILED FOR RECORD
1982 APR 12 AM 11:10
WASHINGTON COUNTY, ARK.
ALMA KOLLMAYER
CIRCUIT CLERK

AN ORDINANCE REZONING THE PROPERTY IN THE CITY OF FAYETTEVILLE, ARKANSAS, DESCRIBED IN REZONING PETITION NO. R82-5 FOR A PARCEL CONTAINING 1.94 ACRES LOCATED AT THE NORTHWEST CORNER OF EAST 15TH STREET AND CURTIS AVENUE.

BE IT ORDAINED BY THE BOARD OF DIRECTORS OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That the zone classification of the following described property is hereby changed as follows:

R82-5 described as set out in Exhibit "A" attached hereto and made a part hereof.

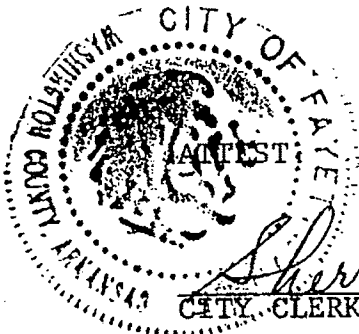
From R-0 residential office district to C-1 neighborhood commercial district.

Section 2. That the official zoning map of the City of Fayetteville, Arkansas, is hereby amended to reflect the zoning change provided in Section 1 above.

PASSED AND APPROVED this 6th day of April, 1982.

APPROVED:

Paul R. Noland
MAYOR



Sherry Rowe
CITY CLERK

1980

14

Long - City Clerk



EXHIBIT "A"

Part of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 23, T 16 N, R 30 W, being more particularly described as: beginning at a point N 1° 03' E 3288.11 feet of the Southwest corner of said Section 23 and running thence S 1° 03' W 592.80 feet to a point on the North Right of Way line of State Highway No. 16; thence along a curve with a radius of 676.20 feet a distance of 227.98 feet in a northeasterly direction with the North Right of Way line of State Highway No. 16; thence N 65° 47' E 87.20 feet to a point that is the intersection of the North Right of Way line of State Highway No. 16 and the West Right of Way line of an access road; thence N 24° 13' W 119.37 feet with the West Right of Way line of said access road; thence along a curve with a radius of 427.50 feet a distance of 56.60 feet in a Northwesterly direction with said Right of Way line; thence N 31° 48' 10" W 412.24 feet to the point of beginning containing 1.94 acres more or less.

CERTIFICATE OF RECORD

STATE OF ARKANSAS)
Washington County) SS.
I, Alma L. Kollmeyer, Circuit Clerk and Ex-Officio Recorder for Washington County, do hereby certify that the annexed or foregoing instrument was filed for record in my office on the 12 day of April 1982 at 11 o'clock AM, and the same is duly recorded in Book record 1060 at page 14.
Witness my hand and seal this 13 day of April 1982.
Alma L. Kollmeyer
Circuit Clerk and
Ex-Officio Recorder
By Joyce Cooksey
Deputy Clerk

CERTIFICATE OF RECORD

State of Arkansas ()
City of Fayetteville () SS.
I, Sherry Rowe, City Clerk and Ex-Officio recorder for the City of Fayetteville, do hereby certify that the annexed or foregoing is of record in my office and the same appears in Ordinance & Resolution book XII at page 132. Witness my hand and seal this 16th day of April 1982.
Sherry Rowe
City Clerk and Ex-Officio Recorder

1060

15

WASHINGTON COUNTY, ARK.
CLERK KOLLMEYER
CIRCUIT CLERK
AM 10:09

This declaration of a Bill of Assurance made 28th day of May, 1982, by the City of Fayetteville, Arkansas, owner of the following described real estate located in the City of Fayetteville, Washington County, Arkansas, and more particularly described as follows, to-wit:

A part of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 23, T16N, R30W, being more particularly described as beginning at a point N 0° 52' 51" E 3288.11 feet of the Southwest corner of said Section 23, said point being on the West Right-of-Way line of an access road; thence running S 32° 12' 13" E 427.85 feet with said access road Right-of-Way; thence along a curve to the right with a radius of 396.1 feet a distance of 55.03 feet in a Southeasterly direction with said access road Right-of-Way; thence S 24° 14' 35" E 71.98 feet with said access road Right-of-Way; thence along a curve to the right with a radius of 30 feet a distance of 47.16 feet in a Southwesterly direction with said access road Right-of-Way to a point that is the intersection of said access road Right-of-Way Line and the North Right-of-Way Line of State Highway No. 16; thence S 65° 49' 03" W 56.99 feet with the Right-of-Way Line of State Highway No. 16; thence along a curve to the right with a radius of 676.2 feet a distance of 234.04 feet in a Southwesterly direction with said Right-of-Way Line of State Highway No. 16; thence leaving said Right-of-Way Line of State Highway No. 16 and running N 0° 52' 51" E 596.61 feet to the point of beginning and containing 2.24 acres more or less.

WHEREAS, the Fayetteville City Board of Directors has amended the Fayetteville zoning map and rezoned the above described property from R-0, Residential Office District, to C-1, Neighborhood Commercial District; and

WHEREAS, the owner has agreed to sell said property and to subject the development of said real estate pursuant to certain covenants and restrictions pertaining to same; and

WHEREAS, the owner is desirous of making a declaration of the same in the form of this Bill of Assurance with the intention of guaranteeing the preservation of certain values and amenities in the community and to bind itself, its successors and assigns and the aforescribed real estate and its subsequent owners with the obligations and restrictions hereinafter set forth for all present and future development and use of said property.

NOW THEREFORE, the owner declares that the above described real property shall be held, developed, transferred, sold, conveyed, and occupied subject to the covenants and restrictions herein set forth:

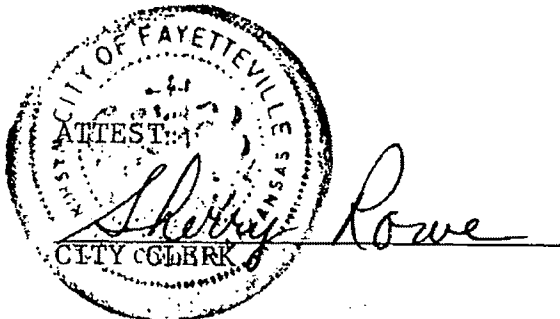
I.

Development of said property shall be limited to a convenience grocery store with gasoline pumps and a car wash.

WITNESS my hand and seal on this 28th day of May 1982.

CITY OF FAYETTEVILLE, ARKANSAS

By Paul R. Noland
MAYOR

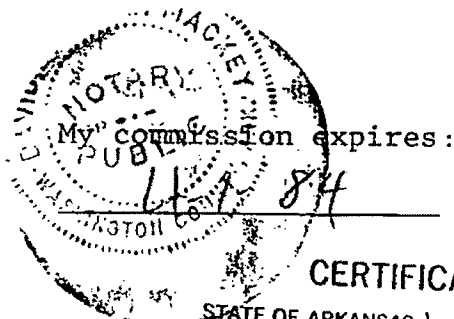


STATE OF ARKANSAS)
COUNTY OF WASHINGTON) ss:

ACKNOWLEDGMENT

BE IT REMEMBERED that on this day came before the undersigned, a Notary Public, within and for the County aforesaid, duly commissioned and acting, Paul Noland and Sherry Rowe, Mayor and City Clerk, to me well known, who acknowledged that they were authorized in their capacity to execute the foregoing Bill of Assurance on behalf of said City of Fayetteville, Arkansas, and had executed same for the consideration and purposes therein mentioned and set forth.

WITNESS my hand and seal as such Notary Public, this 28th day of May, 1982.



David Sturman Mackey
Notary Public

CERTIFICATE OF RECORD

STATE OF ARKANSAS)
Washington County) ss.
I, Alma L. Kollmeyer, Circuit Clerk and Ex-Officio Recorder for Washington County, do hereby certify that the annexed or foregoing instrument was filed for record in my office on the 9 day of June, 1982.

RESOLUTION NO.

48-82

A RESOLUTION AUTHORIZING THE SALE OF 1.94 ACRES IN
THE INDUSTRIAL PARK TO GREENWOOD FOOD STORES, INC.
AT A PRICE OF \$8,000.00 PER ACRE.

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CITY OF
FAYETTEVILLE, ARKANSAS:

That the Board of Directors hereby authorizes the
sale of a 1.94 acre tract in the industrial park to Greenwood
Food Stores, Inc. at a price of \$8,000.00 per acre. The
legal description of the property authorized for sale hereby
is attached hereto, marked Exhibit "A", and made a part hereof.

PASSED AND APPROVED this 6th day of April, 1982.

APPROVED:

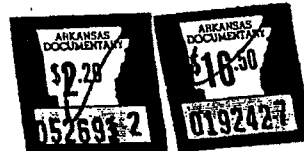
Paul R. Noland
MAYOR

ATTEST:

Sherry Rome
CITY CLERK



FILED
FOR RECORD
84 DEC 27 PM 12 26



WASHINGTON COUNTY AR
ALMA KOLLMEYER
CIRCUIT CLERK

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS:

That the CITY OF FAYETTEVILLE, ARKANSAS, a municipal corporation, for an in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration to it in hand paid by Greenwood Food Stores, Inc., does hereby grant, bargain and sell unto the said Greenwood Food Stores, Inc. and unto its heirs and assigns, the following described lands, situate in Washington County, Arkansas, to-wit:

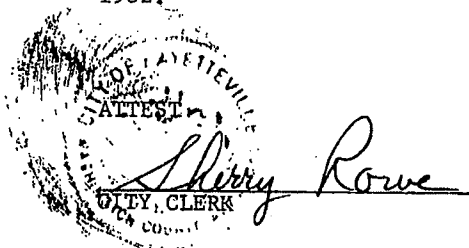
A part of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 23, T16N, R30W, being more particularly described as beginning at a point N 0° 52' 51" E 3288.11 feet of the Southwest corner of said Section 23, said point being on the West Right-of-Way line of an access road; thence running S 32° 12' 13" E 427.85 feet with said access road Right-of-Way; thence along a curve to the right with a radius of 396.1 feet a distance of 55.03 feet in a Southeasterly direction with said access road Right-of-Way; thence S 24° 14' 35" E 71.98 feet with said access road Right-of-Way; thence along a curve to the right with a radius of 30 feet a distance of 47.16 feet in a Southwesterly direction with said access road Right-of-Way to a point that is the intersection of said access road Right-of-Way Line and the North Right-of-Way Line of State Highway No. 16; thence S 65° 49' 03" W 56.99 feet with the Right-of-Way Line of State Highway No. 16; thence along a curve to the right with a radius of 676.2 feet a distance of 234.04 feet in a Southwesterly direction with said Right-of-Way Line of State Highway No. 16; thence leaving said Right-of-Way Line of State Highway No. 16 and running N 0° 52' 51" E 596.61 feet to the point of beginning and containing 2.24 acres more or less.

TO HAVE AND TO HOLD the said lands and appurtenances thereunto belonging unto the said Greenwood Food Stores, Inc., and unto its heirs and assigns forever. And the said City of Fayetteville, Arkansas, does hereby covenant that it is lawfully seized of said land and premises; that same is unencumbered, and it will forever warrant and defend title to said lands against all claims whatsoever.

WITNESS the hand and seal of the City of Fayetteville, Arkansas, a municipal corporation, this 28th day of May, 1982.

CITY OF FAYETTEVILLE, ARKANSAS
A Municipal Corporation

By Paul G. Noland
MAYOR



BOOK 1127 PAGE 710

EXHIBIT "A"

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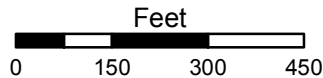


ADM 18-6166

**Remove Bill of
Assurance**

Legend

 Fayetteville City Limits



ADM 18-6166

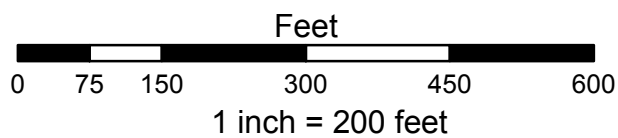
EZ MART #434

Close Up View



Legend

- Planning Area
- Fayetteville City Limits
- Building Footprint

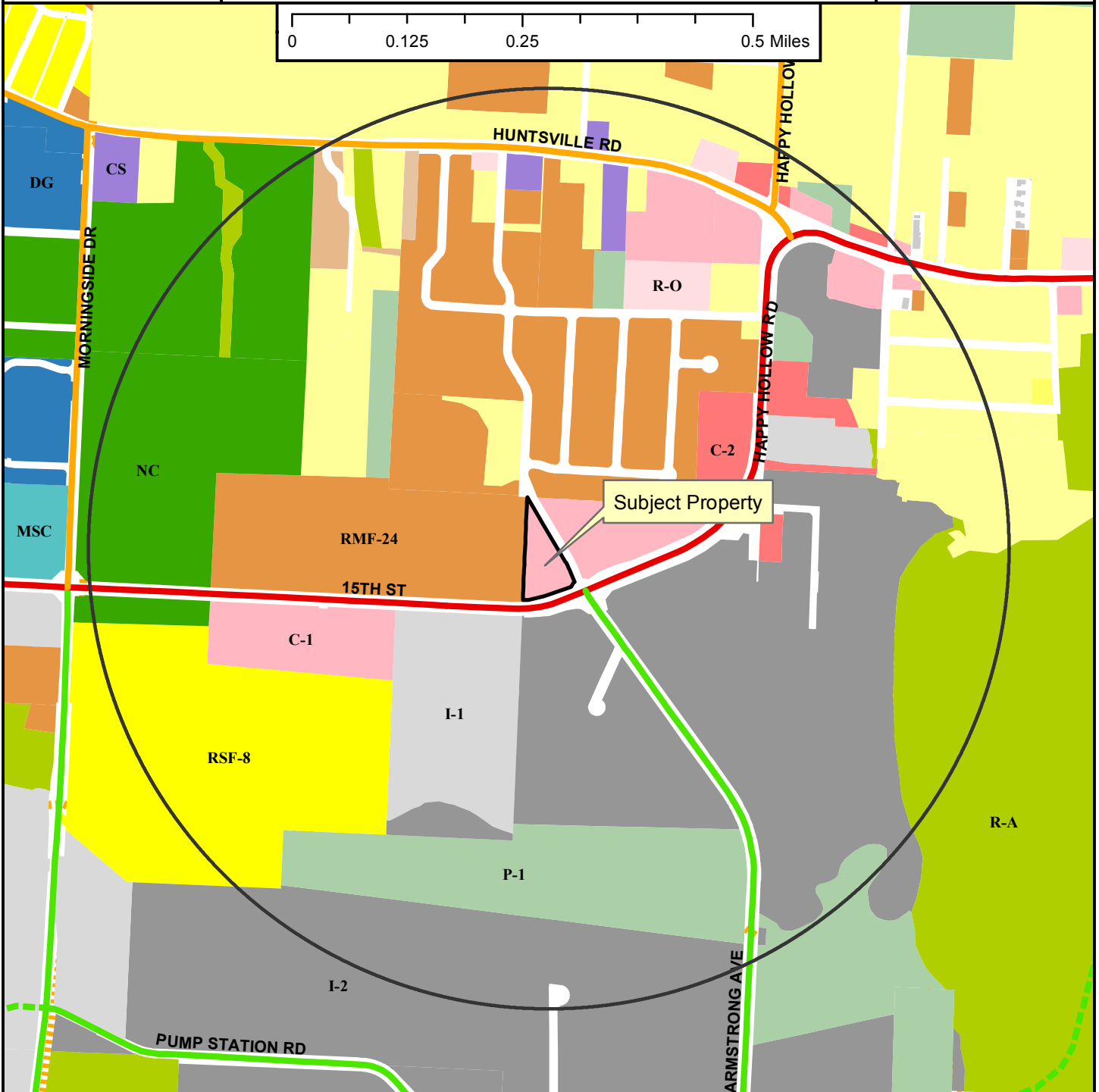
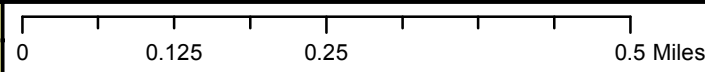


- RSF-4
- RMF-24
- I-1 Heavy Commercial and Light Industrial
- I-2 General Industrial
- C-1

ADM 18-6166

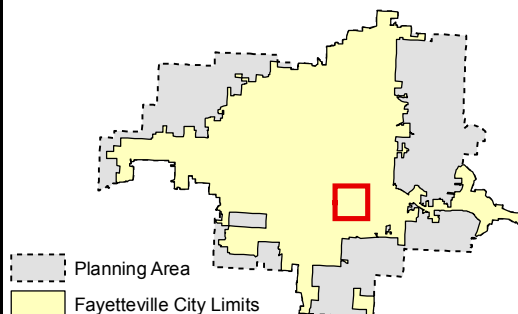
EZ MART #434

One Mile View



Legend

- Planning Area
- Fayetteville City Limits
- Shared Use Paved Trail
- Trail (Proposed)
- Building Footprint



- | | |
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| <p>Zoning</p> <p>RESIDENTIAL SINGLE-FAMILY</p> <ul style="list-style-type: none"> RSF-5 RSF-1 RSF-2 RSF-4 RSF-7 RSF-8 RSF-18 <p>RESIDENTIAL MULTI-FAMILY</p> <ul style="list-style-type: none"> RT-12 Residential Two and Three-family RMF-6 RMF-12 RMF-18 RMF-24 RMF-40 <p>INDUSTRIAL</p> <ul style="list-style-type: none"> I-1 Heavy Commercial and Light Industrial I-2 General Industrial | <p>EXTRACTION</p> <ul style="list-style-type: none"> E-1 <p>COMMERCIAL</p> <ul style="list-style-type: none"> Residential-Office C-1 C-2 C-3 <p>FORM BASED DISTRICTS</p> <ul style="list-style-type: none"> Downtown Core Urban Thoroughfare Main Street Center Downtown General Community Services Neighborhood Services Neighborhood Conservation <p>PLANNED ZONING DISTRICTS</p> <ul style="list-style-type: none"> Commercial, Industrial, Residential <p>INSTITUTIONAL</p> <ul style="list-style-type: none"> P-1 |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

ADM 18-6166

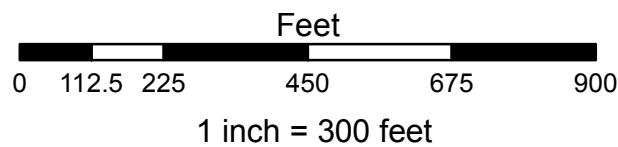
EZ MART #434

Current Land Use



Streets Existing MSP Class

- MINOR ARTERIAL
- PRINCIPAL ARTERIAL
- Planning Area
- Fayetteville City Limits



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway