

2025 Green Acres Road  
Fayetteville, Arkansas 72703  
Phone (479) 521-7777  
Fax (479) 251-8701



NORTHWEST ARKANSAS ORAL SURGERY  
J.B. HAYS, D.D.S. ~~ORAL AND MAXILLOFACIAL SURGERY~~

RECEIVED

DEC 19 2018

CITY OF FAYETTEVILLE  
CITY CLERK'S OFFICE

Appeal

5305 Village Parkway  
Suite 1  
Rogers, Arkansas 72758  
Phone (479) 273-0111  
Fax (479) 254-0444

479 236 0111  
Mobile

City of Fayetteville  
To whom it May Concern: Rezoning  
Starr Rd.  
1760

I would like to have the  
Property rezoned. This  
Property was originally a dental  
office for approximately 18 to 20  
years. A legal office was in  
the building. Subsequent to the dental  
office for approximately eight years  
This property should have come  
into the city as an R-O zoning at  
the time of annexation. I have  
owned the property since 2004.  
I would appreciate the rezoning  
of this property. Thank you.

Sincerely,  
J.B. Hays



## CITY COUNCIL AGENDA MEMO

### MEETING OF JANUARY 15, 2019

**TO:** Mayor; Fayetteville City Council

**THRU:** Garner Stoll, Development Services Director

**FROM:** Andrew Garner, City Planning Director

**DATE:** December 20, 2018

**SUBJECT:** **RZN 18-6380: Rezone (1882 STARR RD./JB HAYS, 373):** Submitted by J.B. HAYS for property located at 1882 STARR RD. The property is zoned RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE and contains approximately 1.20 acres. The request is to rezone the parcel to NS-L, NEIGHBORHOOD SERVICES-LIMITED.

---

#### RECOMMENDATION:

The Planning Commission denied the applicant's request to rezone the subject property from RSF-4, Residential Single Family Four Units per Acre to NS-L, Neighborhood Services-Limited. The property owner has appealed the Planning Commission's decision to the City Council. Staff recommends in favor of the request.

#### BACKGROUND:

The subject property is located at 1882 Starr Road and contains 1.20 acres. The property is developed with an approximately 1,820 square foot office building and small gravel parking lot that was constructed in 1992 according to County records. The property was developed for an office when it was in unincorporated county. The property was included in a larger annexation in 2004 and brought into the city as a residential zoning district (Ordinance 4588). The property is currently zoned RSF-4, Residential Single-family, 4 Units per Acre. The building and property has consistently been used for commercial purposes ever since it was developed.

*Request:* The request is to rezone the property from RSF-4, Residential Single Family Four Units per Acre to NS-L, Neighborhood Services-Limited as shown in the attached Exhibits 'A' and 'B'.

*Land Use Plan Compatibility:* The subject property is surrounded by residential dwellings to the north and west, and undeveloped land that is planned for a subdivision to the east and south. The immediately adjacent dwellings were generally constructed in the late 1990's to early 2000's. The subject property's non-residential structure and parking area, having been built in 1992 was developed prior to the surrounding neighborhoods. It is scaled appropriately with the approximately 1,820 square foot building size acting as a limitation in and of itself on the potential impacts to adjacent homes. Furthermore, the NS-L, Neighborhood Services-Limited zoning district would not offer the opportunity to develop significantly larger structures that would be out

of scale with surrounding homes. This district includes floor area maximums of 3,000 square feet depending on the use; any business will be inherently restricted in scale and intensity.

*Land Use Plan Analysis:* The Future Land Use Map designates the property as a Residential Neighborhood Area. These areas are primarily residential, but low-intensity, non-residential uses can be appropriate. The subject property is adjacent to Starr Drive, a 2-lane Minor Arterial. Rezoning the property to NS-L is consistent with land use planning objective and zoning plans as it limits non-residential uses to a maximum size of 3,000 square feet, thereby providing an appropriate scale and location to offer goods and services to the adjacent community and wider area. This rezoning recognizes the historic non-residential nature of this property as a part of the neighborhood, consistent with City land use policies to recognize existing neighborhood patterns.

**DISCUSSION:**

On December 10, 2018, a motion to deny the rezoning passed by a vote of 5-3-0 (Commissioners Niederman, Johnson, and Hoffman voted 'no'; Autry was not present). At the public meeting, two residents in the area spoke against the rezoning citing concerns with non-residential uses in this location.

**BUDGET/STAFF IMPACT:**

N/A

**Attachments:**

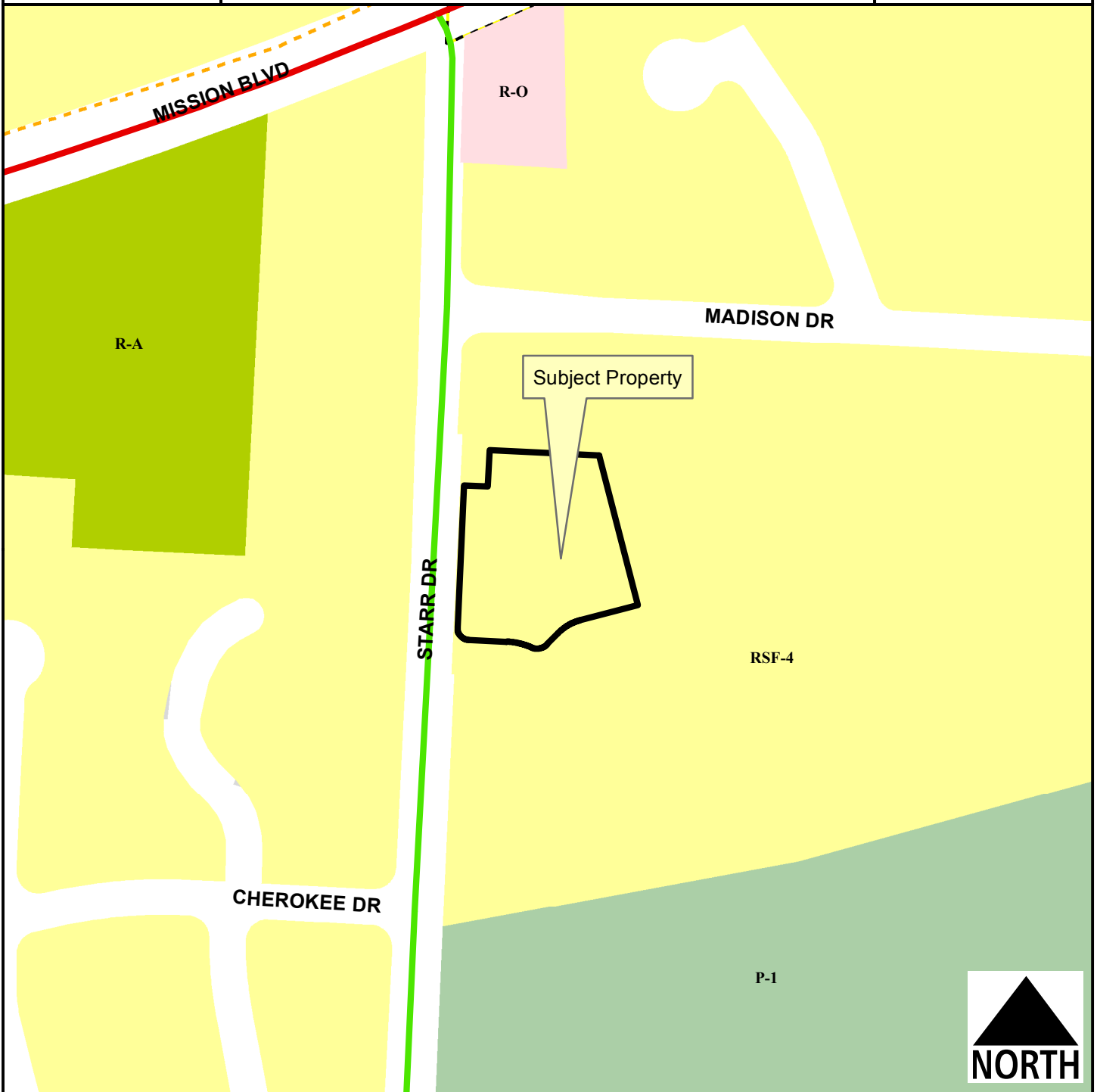
- Exhibit A
- Exhibit B
- Planning Commission Staff Report

RZN 18-6380

# JB HAYS

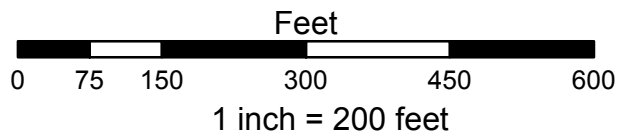
EXHIBIT 'A'

Close Up View



## Legend

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



- Residential-Agricultural
- RSF-4
- Residential-Office
- P-1

**RZN 18-6380**  
**EXHIBIT 'B'**



**Bates &**  
**Associates, Inc.**

**Civil Engineering - Land Surveying - Landscape Architecture**

7230 S. Pleasant Ridge Dr. Fayetteville, AR 72704  
PH: 479-442-9350 \* FAX: 479-521-9350  
[www.nwabatesinc.com](http://www.nwabatesinc.com)

September 10, 2018

RE: Legal Description for proposed lot 22, Starr Lake subdivision, for a rezoning request.

**LOT 22 LEGAL DESCRIPTION:**

A PART OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 1, TOWNSHIP 16 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: COMMENCING AT THE SOUTHWEST CORNER OF SAID FORTY ACRE TRACT AND RUNNING THENCE N03°07'25"E 613.54', THENCE S87°20'07"E 58.32', THENCE N02°34'05"E 618.15' TO THE TRUE POINT OF BEGINNING AND RUNNING THENCE N02°34'05"E 194.98', THENCE S87°26'18"E 32.84', THENCE N02°33'39"E 49.85', THENCE S87°11'01"E 151.37', THENCE S14°32'24"E 212.75', THENCE S75°27'36"W 82.56', THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 65.00' FOR A CHORD BEARING AND DISTANCE OF S59°47'04"W 35.12', THENCE S44°06'33"W 20.74', THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 20.33' FOR A CHORD BEARING AND DISTANCE OF S75°57'50"W 21.28', THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 96.50' FOR A CHORD BEARING AND DISTANCE OF N76°27'06"W 35.94', THENCE N87°11'01"W 51.99', THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 17.00' FOR A CHORD BEARING AND DISTANCE OF N42°18'28"W 23.99', TO THE POINT OF BEGINNING, CONTAINING 1.20 ACRES, MORE OR LESS. SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD.



CITY OF  
**FAYETTEVILLE**  
ARKANSAS

## PLANNING COMMISSION MEMO

**TO:** City of Fayetteville Planning Commission

**FROM:** Andrew Garner, City Planning Director

**MEETING DATE:** December 10, 2018 *(Updated with Planning Commission results)*

**SUBJECT:** **RZN 18-6380: Rezone (1882 STARR RD./JB HAYS, 373):** Submitted by J.B. HAYS for property located at 1882 STARR RD. The property is zoned RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE and contains approximately 1.20 acres. The request is to rezone the parcel to NS-L, NEIGHBORHOOD SERVICES-LIMITED.

**RECOMMENDATION:**  
Staff recommends approval of **RZN 18-6380**.

**RECOMMENDED MOTION:** *“I move to forward RZN 18-6380 with a recommendation for approval.”*

**BACKGROUND:**  
The subject property is located at 1882 Starr Road and contains 1.20 acres. The property is developed with an approximately 1,820 square foot office building and small gravel parking lot that was constructed in 1992 according to County records. The property was developed for an office when it was in unincorporated county. The property was included in a larger annexation in 2004 and brought into the city as a residential zoning district (Ordinance 4588). The property is currently zoned RSF-4, Residential Single-family, 4 Units per Acre. The building and property has consistently been used for commercial purposes ever since it was developed. The surrounding zoning and land uses are depicted in *Table 1*.

**Table 1 - Surrounding Zoning and Land Use**

Direction from Site	Land Use	Zoning
North	Single-family Residential	RSF-4, Residential Single-family
South	Undeveloped/St. Joseph’s Church and School	RSF-4; P-1, Institutional
East	Undeveloped	RSF-4, Residential Single-family
West	Multi-family Residential	RSF-4, Residential Single-family

*Request:* The request is to rezone the subject property from RSF-4, Single-family Residential, 4 Units per Acre to NS-L, Neighborhood Services-Limited to recognize the longstanding office use of the property.

*Public Comment:* No public comment has been received.

**INFRASTRUCTURE:**

**Streets:** The subject parcel has frontage access to North Starr Drive, a partially improved Minor Arterial with asphalt paving and an open ditch along the east side of North Starr Drive. There is a portion of sidewalk along the west side of North Starr Drive.

Any street improvements required in these areas would be determined at the time of development proposal.

**Water:** Public water is available to the site. There is an existing 8-inch water main in the along North Starr Drive.

**Sewer:** Sanitary sewer is available to the site. There is an existing 8-inch sanitary main along North Starr Drive.

**Drainage:** Any additional improvements or requirements for drainage will be determined at time of development. No portion of this property is identified as FEMA regulated floodplains. There are no protected streams present in the subject parcel. No portion of this parcel lies within the Hillside-Hilltop Overlay District. There are no Hydric Soils present in the subject parcel.

**Fire:** This site is protected by Ladder 5, located at 2979 N. Crossover Road. The property is located approximately 1.4 miles from the fire station with an anticipated response time of approximately 6 minutes using existing streets. The Fire Department has no concerns with this request.

**Police:** The Police Department did not express any concerns with this request.

**CITY PLAN 2030 FUTURE LAND USE PLAN:** *City Plan 2030 Future Land Use Map* designates the property as a **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. The 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.

#### **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 Plan Compatibility:*** The subject property is surrounded by residential structures to the north and west, and undeveloped land that is planned for a residential subdivision to the east and south. The immediately adjacent dwellings were generally constructed in the late 1990's to early 2000's. The subject property's non-residential structure and parking area, having been built in 1992 was developed prior to the surrounding neighborhoods. It is scaled appropriately with the approximately 1,820 square foot building size acting as a limitation in and of itself on the potential impacts to adjacent homes. Furthermore, the NS-L, Neighborhood Services-Limited zoning district would not offer the opportunity to develop significantly larger structures that would be out of scale with surrounding

homes. With floor area maximums of 3,000 square feet depending on the use, any business will be inherently restricted in scale and intensity.

**Land Use Plan Analysis:** The Future Land Use Map designates the property as a Residential Neighborhood Area. These areas are primarily residential, but low-intensity, non-residential uses can be appropriate. The subject property is adjacent to Starr Drive, a 2-lane Minor Arterial. Rezoning the property to NS-L is consistent with land use planning objective and zoning plans as it limits non-residential uses to a maximum size of 3,000 square feet, thereby providing an appropriate scale and location to offer goods and services to the adjacent community and wider area.

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

**Finding:** The rezoning to NS-L is justified for the zoning map to be consistent with the existing, long-standing non-residential use on this property. If the property is not rezoned, the property owner is limited in the amount of improvements and expansion allowed on the property. While it may be appropriate to allow an existing, non-conforming use to continue in certain sensitive land use settings and zoning districts, because of the historic use of this small non-residential property, staff agrees with the applicant that a rezoning is justified at this time.

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

**Finding:** The property has been used for multiple non-residential uses for approximately 26 years and it does not appear to have created traffic danger or congestion to any noticeable degree. Rezoning the property to NS-L will allow a greater variety of both residential and non-residential uses, some of which could generate more traffic. However, the square footage limitation required by the NS-L district will prevent the property from being developed with a large commercial structure or more than a few residential dwellings, neither of which would appreciably increase traffic and congestion.

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:** Staff finds that the proposed rezoning would not create undesirable impacts to public services. This finding is based on review of infrastructure, existing land uses, and the development potential of the property. The property has been used historically for non-residential uses. Increased load on public services were taken into consideration and recommendations from the Engineering, Police, and Fire Department are included in this report.

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: Not applicable. Staff recommends in favor of the requested zoning.**

**RECOMMENDATION: Planning staff recommends forwarding RZN 18-6380 to the City Council with a recommendation for approval.**

<b>PLANNING COMMISSION ACTION:</b>	<b>Required</b>	<b><u>YES</u></b>	
Date: <u>December 10, 2018</u>	<input type="checkbox"/> Tabled	<input type="checkbox"/> Forwarded	<input checked="" type="checkbox"/> Denied
Motion: <u>Niederman</u>			
Second: <u>Johnson</u>			
Vote: <u>5-3-0</u>			
Note: <u>Motion to deny passed</u>			
<u>(Commissioners Niederman, Johnson, &amp; Hoffman voted 'no')</u>			

**BUDGET/STAFF IMPACT:**

None

**Attachments:**

- Unified Development Code sections 161.07 and 161.18
- Fire Department memo
- Request letter
- One Mile Map
- Close-Up Map
- Current Land Use Map
- Future Land Use Map

**Fayetteville Unified Development Code**

**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 .*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 41	Accessory dwellings

(2) *Conditional Uses .*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 9	Two-family dwellings
Unit 12a	Limited business
Unit 24	Home occupations
Unit 36	Wireless communications facilities
Unit 44	Cluster Housing Development

(C) *Density.*

	Single-family dwellings	Two (2) family dwellings
Units per acre	4 or less	7 or less

(D) *Bulk and Area Regulations.*

	Single-family dwellings	Two (2) family dwellings
Lot minimum width	70 feet	80 feet
Lot area minimum	8,000 square feet	12,000 square feet
Land area per dwelling unit	8,000 square feet	6,000 square feet
Hillside Overlay District Lot minimum width	60 feet	70 feet
Hillside Overlay District Lot area minimum	8,000 square feet	12,000 square feet
Land area per dwelling unit	8,000 square feet	6,000 square feet

(E) *Setback Requirements.*

Front	Side	Rear
15 feet	5 feet	15 feet

(F) *Building Height Regulations .*

Building Height Maximum	3 stories
-------------------------	-----------

(G) *Building Area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.

(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)

**161.18 - NS-L, Neighborhood Services - Limited**

(A) *Purpose.* The NS-L Neighborhood Services - Limited district is designed to serve as a mixed use area of low intensity. Neighborhood Services promotes a walkable, pedestrian-oriented neighborhood development form with sustainable and complementary neighborhood businesses that are compatible in scale, aesthetics, and use with surrounding land uses. For the purpose of Chapter 96: Noise Control, the Neighborhood Services district is a residential zone.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two (2) family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 12a	Limited Business
Unit 24	Home occupations
Unit 41	Accessory dwelling units
Unit 44	Cluster housing development

Note: Any combination of above uses is permitted upon any lot within this zone. Conditional uses shall need approval when combined with pre-approved uses.

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 13	Eating places
Unit 15	Neighborhood shopping goods
Unit 19	Commercial recreation, small sites
Unit 25	Offices, studios and related services
Unit 26	Multi-family dwellings
Unit 36	Wireless communication facilities*

Unit 40	Sidewalk cafes
Unit 45	Small scale production

(C) *Density.*

Units per acre	Ten (10) or less
----------------	------------------

(D) *Bulk and Area.*

(1) *Lot Width Minimum.*

Single-family	35 feet
Two (2)family	35 feet
Three or more	35 feet
All other uses	None

(2) *Lot Area Minimum.*

Single-family	4,000 square feet
Two (2) family or more	3,000 square feet of lot area per dwelling unit
All other permitted and conditional uses	None

(E) *Setback Regulations.*

Front:	A build-to zone that is located between 10 and 25 feet from the front property line.
Side	5 feet
Rear	15 feet

(F) *Building Height Regulations.*

Building Height Maximum	3 stories
-------------------------	-----------

(G) *Building area.* On any lot, the area occupied by all buildings shall not exceed 60% of the total area of the lot.

(Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; Ord. No. 5592, 6-18-13; Ord. No. 5664, 2-18-14; Ord. No. 5735, 1-20-15; Ord. No. 5800 , § 1(Exh. A), 10-6-15; Ord. No. 5921 , §1, 11-1-16; Ord. No. 5945 , §§ 5, 6, 8, 1-17-17; Ord. No. 6015 , §1(Ex



**TO:** Andrew Garner, Planner  
**CC:** Battalion Chief Brian Sloat, Fire Marshal  
**FROM:** Rodney Colson, Fire Protection Engineer  
**DATE:** December 3, 2018  
**SUBJECT:** RZN 18-6380: Rezone (1882 N. Starr Dr./Hays, 373)

---

The Fire Department has no comments regarding the rezoning request. Fire apparatus access and fire protection water supplies will be reviewed for compliance with the Arkansas Fire Prevention Code at the time of development.

The site will be protected by Ladder 5, located at 2979 N. Crossover Road. The property is located approximately 1.4 miles from the fire station with an anticipated drive time of approximately 4 minutes using existing streets. The anticipated response time would be approximately 6.2 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.

0-521-7777

2025 Green Acres Rd J.B. HAYS, D.D.S.

ORAL SURGERY

72703

2411 FAYETTEVILLE RD. STE C  
VAN BUREN, AR 72956  
479.262.6811 • FAX: 479.262.6884

9-6-2018

Re: Rezoning  
1882 Starr Rd.

City of Fayetteville

To whom it may concern:

I would like to have the  
property 1882 Starr Rd. rezoned.

This property was originally a  
dental office for 18-20 years before  
annexation. A legal office was in  
it for 8-10 years. This property  
probably should have been annexed  
as R.O. at the time the city annexed it.  
I have owned the property since 2004.

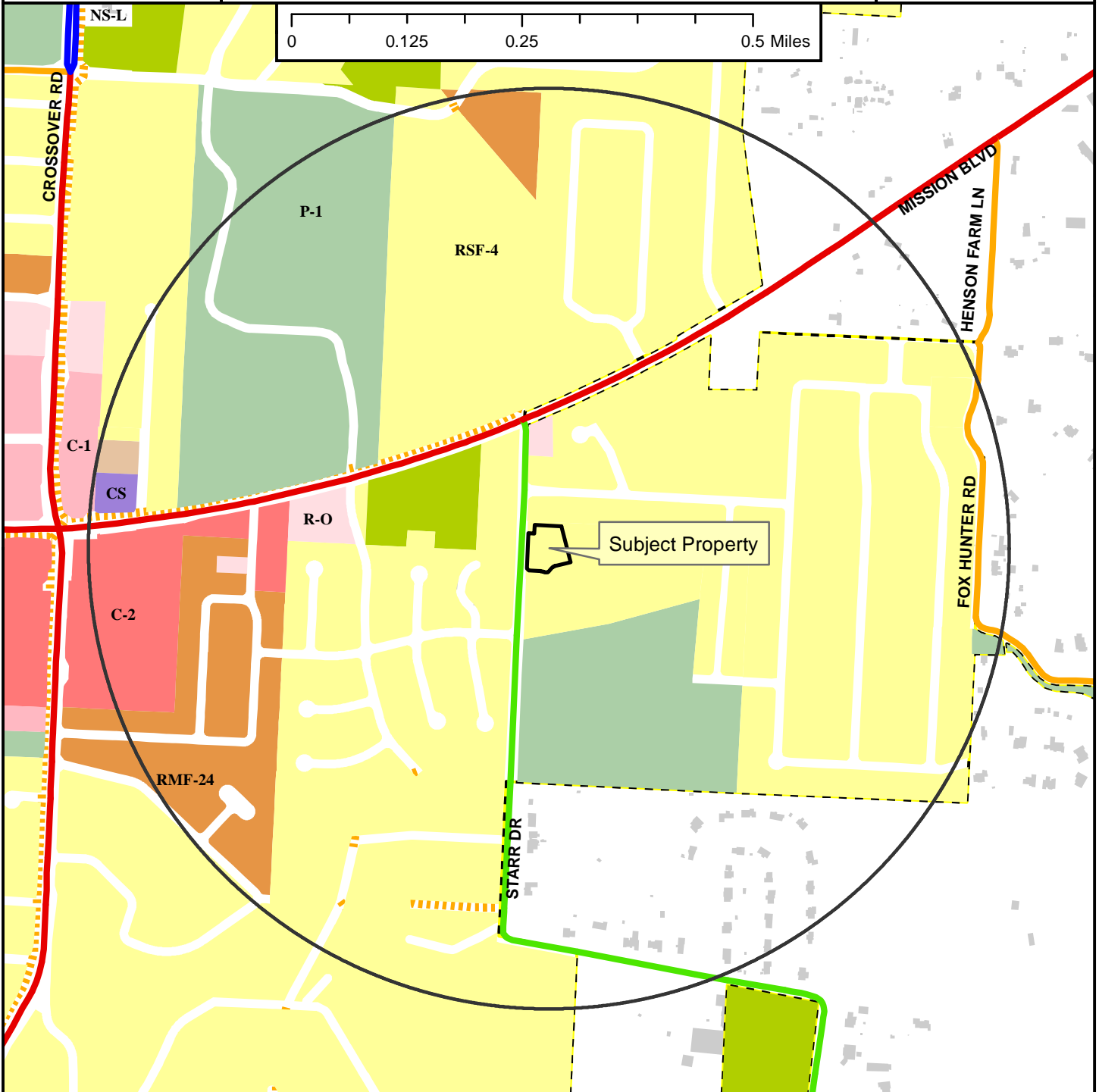
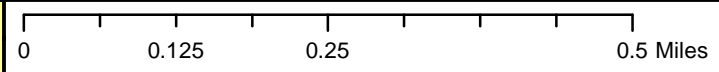
I would appreciate the  
rezoning of this property.  
Thank you -

Sincerely,  
J.B. Hays

RZN18-6380

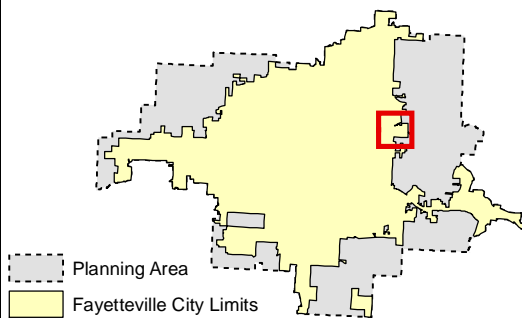
# JB HAYS

One Mile View



## Legend

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

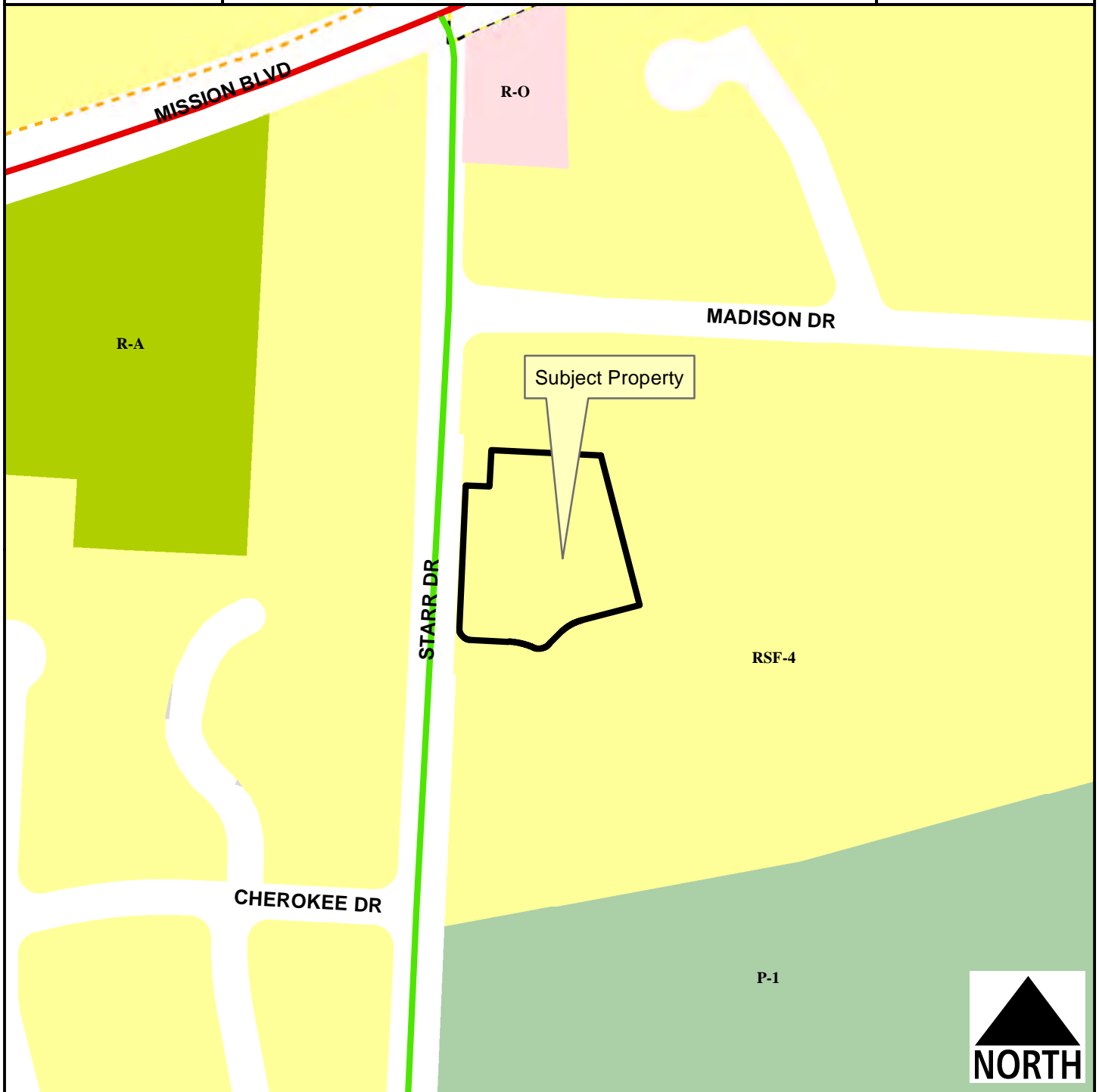


- Zoning**
- RESIDENTIAL SINGLE-FAMILY**
  - RSF-Agricultural
  - RSF-5
  - RSF-1
  - RSF-2
  - RSF-4
  - RSF-7
  - RSF-8
  - RSF-18
- RESIDENTIAL MULTI-FAMILY**
  - RT-12 Residential Two and Three-family
  - RMF-6
  - RMF-12
  - RMF-18
  - RMF-24
  - RMF-40
- INDUSTRIAL**
  - I-1 Heavy Commercial and Light Industrial
  - I-2 General Industrial
- EXTRACTION**
  - E-1
- COMMERCIAL**
  - Residential-Office
  - C-1
  - C-2
  - C-3
- FORM BASED DISTRICTS**
  - Downtown Core
  - Urban Thoroughfare
  - Main Street Center
  - Downtown General
  - Community Services
  - Neighborhood Services
  - Neighborhood Conservation
- PLANNED ZONING DISTRICTS**
  - Commercial, Industrial, Residential
- INSTITUTIONAL**
  - P-1

RZN 18-6380

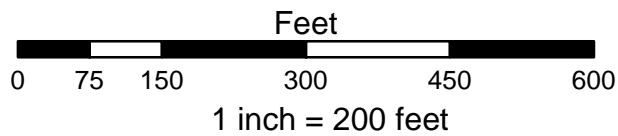
# JB HAYS

Close Up View



### Legend

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



- Residential-Agricultural
- RSF-4
- Residential-Office
- P-1

RZN18-6380

# JB HAYS

Current Land Use



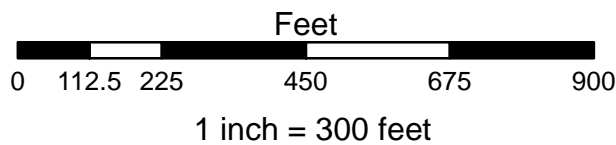
### Streets Existing

#### MSP Class

- MINOR ARTERIAL
- PRINCIPAL ARTERIAL
- - - Trail (Proposed)
- Planning Area
- Fayetteville City Limits

### FEMA Flood Hazard Data

- 100-Year Floodplain
- ▨ Floodway



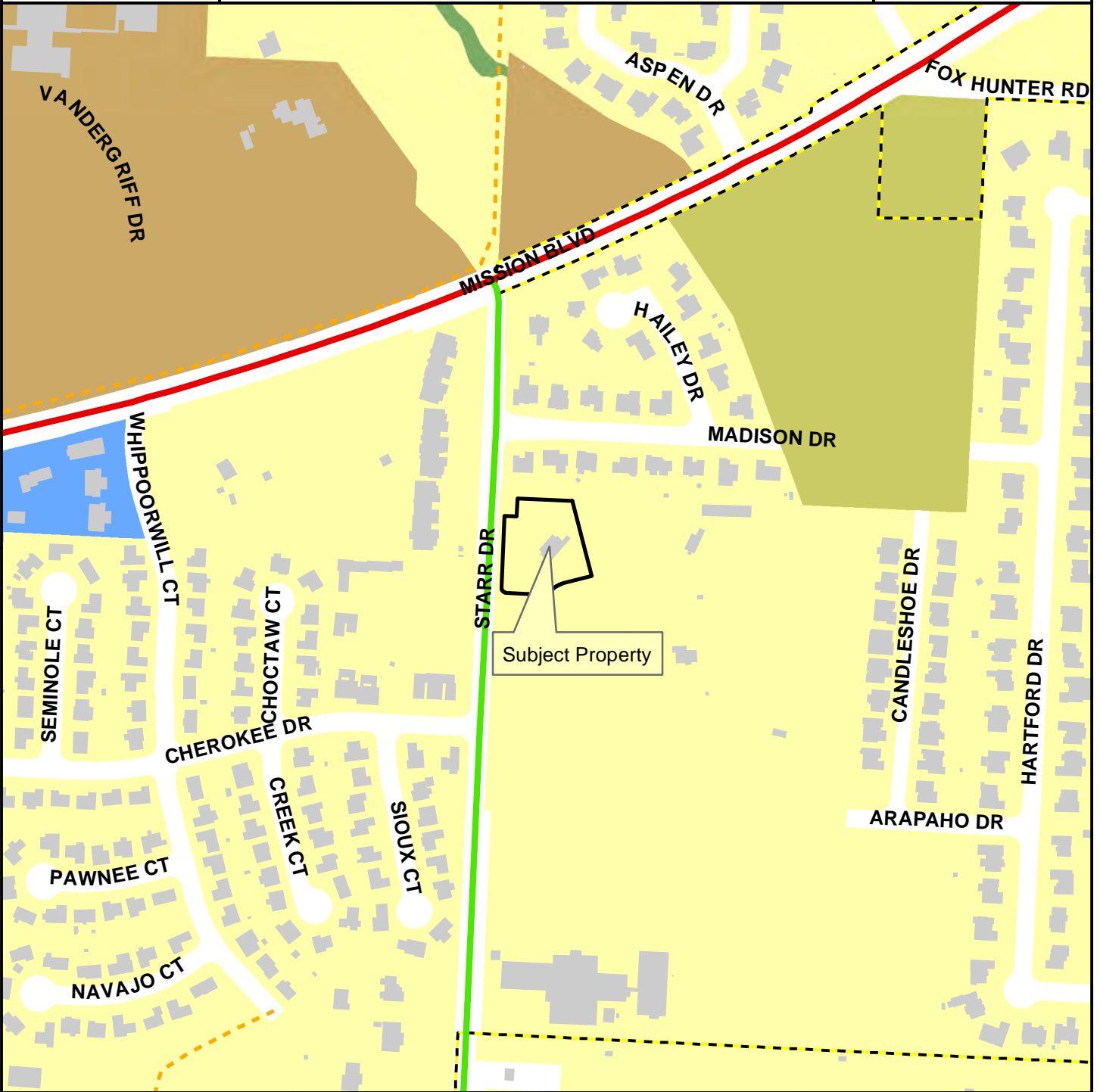


RZN18-6380

# JB HAYS

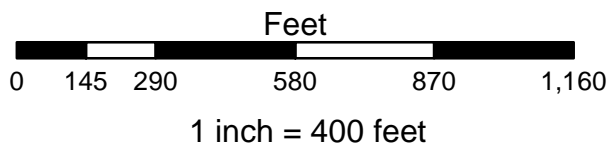


Future Land Use



### Legend

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



### FUTURE LAND USE 2030

- Natural Area
- Residential Neighborhood Area
- City Neighborhood Area
- Civic and Private Open Space/Parks
- Civic Institutional