

City of Fayetteville Staff Review Form

2019-0173

Legistar File ID

4/16/2019

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Garner Stoll

3/29/2019

CITY PLANNING (630)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

RZN 19-6553: Rezone (510 S. COLLEGE AVE./COODY, 524): Submitted by ZARA NIEDERMAN for property located at 510 S. COLLEGE AVE. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 0.22 acres. The request is to rezone the property to NS-L, NEIGHBORHOOD SERVICES-LIMITED.

Budget Impact:

Account Number

Fund

Project Number

Project Title

Budgeted Item? NA

Current Budget \$ -

Funds Obligated \$ -

Current Balance \$ -

Does item have a cost? No

Item Cost

Budget Adjustment Attached? NA

Budget Adjustment

Remaining Budget \$ -

Purchase Order Number:

Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

Original Contract Number:

Comments:



CITY COUNCIL AGENDA MEMO

MEETING OF APRIL 16, 2019

TO: Mayor and Fayetteville City Council

THRU: Don Marr, Chief of Staff
Garner Stoll, Development Services Director
Andrew Garner, City Planning Director

FROM: Harry Davis, Planner

DATE: March 29, 2019

SUBJECT: **RZN 19-6553: Rezone (510 S. COLLEGE AVE./COODY, 524):** Submitted by ZARA NIEDERMAN for property located at 510 S. COLLEGE AVE. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 0.22 acres. The request is to rezone the property to NS-L, NEIGHBORHOOD SERVICES-LIMITED.

RECOMMENDATION:

The Planning Commission recommends approval of an ordinance to rezone the subject property to NS-L, Neighborhood Services, Limited, as shown in the attached Exhibits 'A' and 'B'. Staff recommends denial of the request.

BACKGROUND:

The subject property is located on the east side of College Avenue between 5th Street and MLK Boulevard. The property totals approximately 0.22 acres, is zoned NC, Neighborhood Conservation, and is currently undeveloped.

Request: The request is to rezone the parcel from NC to NS-L. The applicant stated the rezoning will allow businesses, home occupations, and two, three, or four-family dwellings by-right.

Land Use Plan Analysis: The proposed zoning is generally incompatible with the Walker Park Neighborhood Master Plan, which illustrates preservation for this particular area of Walker Park. Allowing businesses to be located by-right in the middle of this residential block, could result in compromising the integrity of the Walker Park Neighborhood Plan goals. The plan particularly notes Southgate Commercial Center, the intersection of School & 15th, Jefferson Square, and along Huntsville Road as places to grow commercial nodes and streets. The rest of the neighborhood was primarily rezoned and intended to encourage a range and mix of housing types. Additionally, City Plan 2030 states that "appropriate infill" is a priority. The City's comprehensive plan acknowledges the value of increasing density in locations where City services and utilities already exist, but only where it "reflects the existing community character." The potential build-out of NS-L zoning does not reflect the existing community character of the surrounding neighborhood that is fully built out with primarily small single-family buildings. Infill

can be more appropriately accomplished on this property using existing tools in the NC district such as accessory dwelling units or a conditional use permit for limited business. A conditional use permit under the existing zoning district could accomplish all the applicant's goals, while ensuring the development would meet the city's land use goals and the vision for the Walker Park Neighborhood Plan. A conditional use permit would allow the staff and planning commission opportunity to review the scale, mass, size, building placement, and overall development details for compliance with the plan. A rezoning would allow a broad spectrum of uses, building and parking configurations that may not be appropriate in this context.

Land Use Compatibility: The proposed zoning is compatible with the surrounding NC zoning district in terms of a front build-to zone; and is compatible with existing buildings that are located fairly close the street. However, as discussed above, the NS-L zoning would allow commercial buildings, 2, 3, and 4-family dwellings and parking lots that may not be appropriate in this context. A conditional use permit is the preferred zoning tool in this situation to ensure that these types of uses will be compatible. Non-residential uses and more intense development patterns within a predominantly single-family neighborhood should generally be encouraged in corner locations and edges of the neighborhood. Proposing to insert a commercial use mid-block and surrounded by single-family homes on three sides introduces the potential for land use conflicts due to noise, light, traffic, and solid waste disposal that are more intense than the abutting properties.

Furthermore, staff believes that there is insufficient justification for rezoning the property to NS-L as the lot is currently developable under the existing zoning.

DISCUSSION:

On March 11, 2019, the Planning Commission forwarded the proposal to City Council with a recommendation for approval by a vote of 7-1-1. Commissioner Niederman recused, while Commissioner Brown voted against the proposal citing staff's arguments in the report.

BUDGET/STAFF IMPACT:

N/A

Attachments:

- Exhibit A
- Exhibit B
- Planning Commission Staff Report

RZN 19-6553 - EXHIBIT 'A'

510 S College Ave Legal Description

Lot 7, Block 3 Combs Addition, City of Fayetteville, Washington County, Arkansas





TO: Fayetteville Planning Commission

THRU: Andrew Garner, City Planning Director

FROM: Harry Davis, Planner

MEETING DATE: March 11, 2019 **UPDATED W PC RESULTS**

SUBJECT: **RZN 19-6553: Rezone (510 S. COLLEGE AVE./COODY, 524):** Submitted by ZARA NIEDERMAN for property located at 510 S. COLLEGE AVE. The property is zoned NC, NEIGHBORHOOD SERVICES and contains approximately 0.22 acres. The request is to rezone the property to NS-L, NEIGHBORHOOD SERVICES-LIMITED.

RECOMMENDATION:

Staff recommends denial of **RZN 19-6553**, based on the findings contained in this report.

RECOMMENDED MOTION:

"I move to deny RZN 19-6553."

BACKGROUND:

The subject property is located on the west side of College Avenue between 5th Street and MLK Boulevard. The property totals approximately 0.22 acres, is zoned NC, Neighborhood Conservation, and is currently undeveloped. Surrounding land uses and zoning is depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Single-family Residential	NC, Neighborhood Conservation
South	Single-family Residential	NC, Neighborhood Conservation; DG, Downtown General
East	Single-family Residential	NC, Neighborhood Conservation
West	Single-family Residential	NC, Neighborhood Conservation

Request: The request is to rezone the parcel from NC to NS-L. The applicant stated the rezoning will allow businesses, home occupations, and two, three, or four-family dwellings by-right.

Public Comment: Staff has received public comment in support of the rezone, highlighting that the proposal will provide the ability to do low-intensity commercial and mixed-use opportunities.

INFRASTRUCTURE:

Streets: The subject property has frontage access to South College Avenue, a fully improved, asphalt collector. Any street improvements required in these areas would be determined at the time of development proposal. Any additional

improvements or requirements for drainage will be determined at time of development.

Water: Public water is available to the subject property. There is an existing 6-inch water main that runs along South College Avenue.

Sewer: Sanitary Sewer is not available to the subject property. The closest sewer main is located approximately 100 feet north of the subject property. An offsite extension of the sewer main would be necessary to provide sewer service.

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: The Fire Department expressed no concerns with this request.

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

CITY PLAN 2030 FUTURE LAND USE PLAN: *City Plan 2030 Future Land Use Plan designates this site as a **Complete Neighborhood Plan: Walker Park Neighborhood**. A central goal of the plan was to preserve single-family neighborhoods while encouraging additional housing types and a mix of uses.* The illustrative plan shows preservation of the existing buildings in this portion of the neighborhood. The property was rezoned from RMF-24 to NC in 2008 to facilitate Walker Park Neighborhood Plan goals.

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 Analysis:*** City Plan 2030 states that “appropriate infill” is a priority. The City’s comprehensive plan acknowledges the value of increasing density in locations where City services and utilities already exist, but only where it “reflects the existing community character.” The potential build-out of NS-L zoning does not reflect the existing community character of the surrounding neighborhood that is fully built out with primarily small single-family buildings. Infill can be more appropriately accomplished on this property using existing tools in the NC district such as accessory dwelling units or a conditional use permit for limited business. A conditional use permit under the existing zoning district could accomplish all the applicant’s goals, while ensuring the development would meet the city’s land use goals and the vision for the Walker Park Neighborhood Plan. A conditional use permit would allow the staff and planning commission opportunity to review the scale, mass, size, building placement, and overall development details for compliance with the plan. A rezoning would allow a broad spectrum of uses, building and parking configurations that may not be appropriate in this context.

The proposed zoning is generally incompatible with the Walker Park Neighborhood Master Plan, which illustrates preservation for this particular

area of Walker Park. Allowing businesses to be located by-right in the middle of this residential block, could result in compromising the integrity of the Walker Park Neighborhood Plan goals. The plan particularly notes Southgate Commercial Center, the intersection of School & 15th, Jefferson Square, and along Huntsville Road as places to grow commercial nodes and streets. The rest of the neighborhood was primarily rezoned and intended to encourage a range and mix of housing types.

Land Use Compatibility: The proposed zoning is compatible with the surrounding NC zoning district in terms of a front build-to zone; and is compatible with existing buildings that are located fairly close the street. However, as discussed above, the NS-L zoning would allow commercial buildings, 2, 3, and 4-family dwellings and parking lots that may not be appropriate in this context. A conditional use permit is the preferred zoning tool in this situation to ensure that these types of uses will be compatible. Non-residential uses and more intense development patterns within a predominantly single-family neighborhood should generally be encouraged in corner locations and edges of the neighborhood. Proposing to insert a commercial use mid-block and surrounded by single-family homes on three sides introduces the potential for land use conflicts due to noise, light, traffic, and solid waste disposal that are more intense than the abutting properties.

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

Finding: Staff believes that there is insufficient justification for rezoning the property to NS-L as the lot is currently developable under the existing zoning.

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

Finding: The site has access to South College Avenue, so retail, commercial, or offices would increase traffic and congestion along South College. However, the impact is not expected to be significant given the surrounding road network.

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 from NC to NS-L would not increase the load on public services as the property is too small to have a significant-enough impact.

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 denial of RZN 19-6553.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>March 11, 2019</u>	<input type="checkbox"/> Tabled	<input checked="" type="checkbox"/> Forwarded	<input type="checkbox"/> Denied
Motion: Belden	Motion to forward to CC as requested by applicant with a recommendation of approval		
Second: Hoffman	Motion passes; Commissioner Brown dissenting,		
Vote: 5-1-1	Commissioner Niederman recused		

BUDGET/STAFF IMPACT:

None

Attachments:

- Unified Development Code:
 - §161.29 - Neighborhood Conservation
 - §161.18 - NS-L, Neighborhood Services - Limited
- Walker Park Illustrative Plan
- Request letter
- Public Comment
- One Mile Map
- Close-up Map
- Current Land Use Map
- Future Land Use Map

161.29 - Neighborhood Conservation

(A) *Purpose.* The Neighborhood Conservation zone has the least activity and a lower density than the other zones. Although Neighborhood Conservation is the most purely residential zone, it can have some mix of uses, such as civic buildings. Neighborhood Conservation serves to promote and protect neighborhood character. For the purposes of Chapter 96: Noise Control, the Neighborhood Conservation district is a residential zone.

(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 9	Two (2) family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 12a	Limited business*
Unit 24	Home occupations
Unit 25	Offices, studios, and related services
Unit 28	Center for collecting recyclable materials
Unit 36	Wireless communication facilities
Unit 44	Cluster Housing Development

(C) *Density* . Ten (10) Units Per Acre.

(D) *Bulk and Area Regulations* .

(1) *Lot Width Minimum.*

Single Family	40 feet
Two Family	80 feet
Three Family	90 feet

(2) *Lot Area Minimum* . 4,000 square feet

(E) *Setback Regulations* .

Front	A build-to zone that is located between the front property line
-------	---

	and a line 25 feet from the front property line.
Side	5 feet
Rear	5 feet
Rear, from center line of an alley	12 feet

(F) *Building Height Regulations* .

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

(Ord. No. 5128, 4-15-08; 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. [5800](#), § 1(Exh. A), 10-6-15>; Ord. No. [5921](#), §1, 11-1-16; Ord. No. [5945](#), §§ 5, 7—9, 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

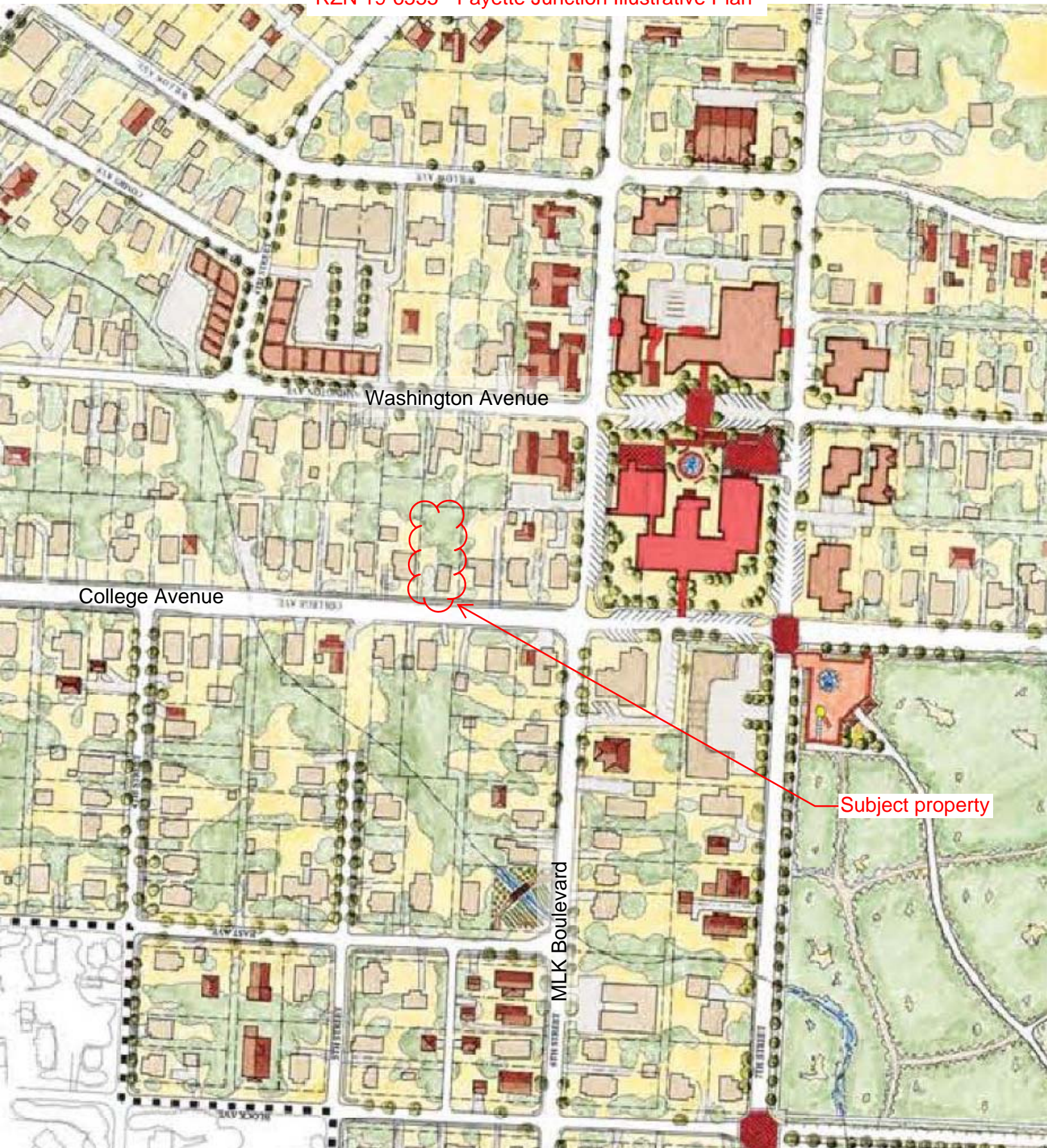
(F) *Building Height Regulations.*

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(Exh. A), 11-21-17)

RZN 19-6555 - Fayette Junction Illustrative Plan



Zara Niederman
3VOLVE Community Ecosystem Development
849 S Washington Ave.
Fayetteville, AR 72701

January 23, 2019

To: Planning Staff, Planning Commission and City Council,

RE: 510 S College Rezoning to NS-L

We are requesting to rezone the lot at 510 S College from Neighborhood Conservation to Neighborhood Services-L. This rezoning will help us meet the goals of City Plan 2030 of appropriate infill development, and the Walker Park Neighborhood Master Plan, which sees the area around the Jefferson School as a neighborhood hub. By rezoning this to NS-L, it will allow for limited business, home occupations, and allow for two to four family dwellings by right.

Our goal is to build a flexible Live/Work style building. This building would allow for a person or family to live upstairs and have an office or limited business on the first floor. Alternatively, if the market demanded, the first floor could be used as a separate residential rental unit. This is not possible under the current NC zoning, which only allows single family by right, and current zoning would not allow a two-family home on this lot because it is not wide enough, although it is large enough. The property is 66' wide by 145' wide. Similar to NC zoning, there are 5' side setbacks, and height is limited to 3 stories, so the scale of the building potential would not be altered much.

Traditional neighborhoods had a mix of uses in one building, and spread out throughout the neighborhood, as can be evidenced by the cinderblock building across the street currently used for a real estate office, as well as several other small commercial buildings sprinkled throughout the neighborhood. We believe this type of development is appropriate, desired, and needed to maintain Fayetteville's unique character.

Kind Regards,
Zara Niederman
Zara Niederman

Davis, Harry

From: Alan Ostner <alan.72701@gmail.com>
Sent: Wednesday, March 06, 2019 10:33 AM
To: Davis, Harry
Subject: Re: 510 S. College

Harry,

I am a neighbor to the 510 S. College property. My family and I live 3 blocks away. We've lived here in SoFay 23 years. Mark me down as supporting this zoning request. Upon my inspection of the local zoning codes, I think NSL looks to be a gentle, flexible zoning district that can offer a property owner a wide variety of uses on the property, both residential and "very light" mom-and-pop style commercial. I especially like the limits on noise control and the fact that NSL has noise limits equal to residential neighborhoods. I am a big supporter of making neighborhoods attractive to investors, property owners, and residents (and maybe even shopkeepers) to keep staying in Fayetteville and keep South Fayetteville vibrant, changing with the modern needs of housing, and adapting to the modern economy of "leave the property and business options open because everything will change tomorrow."

Best,

Alan Ostner, PLA, ASLA
Landscape Architect
Ark. LA License #5204
Ark. Contractor's Lic. #0330990619
Board Member: Fayetteville Urban Forestry Advisory Board
Board Member: Keep Fayetteville Beautiful Commission
C: 479.387.7900
E: alan.72701@gmail.com

On Wed, Mar 6, 2019 at 10:12 AM Davis, Harry <hdavis@fayetteville-ar.gov> wrote:

Alan,

Sure- the requested zoning is NS-L:

https://library.municode.com/ar/fayetteville/codes/code_of_ordinances?nodeId=CD_ORD_TITXVUNDECO_CH161ZORE_161.18NESEIM

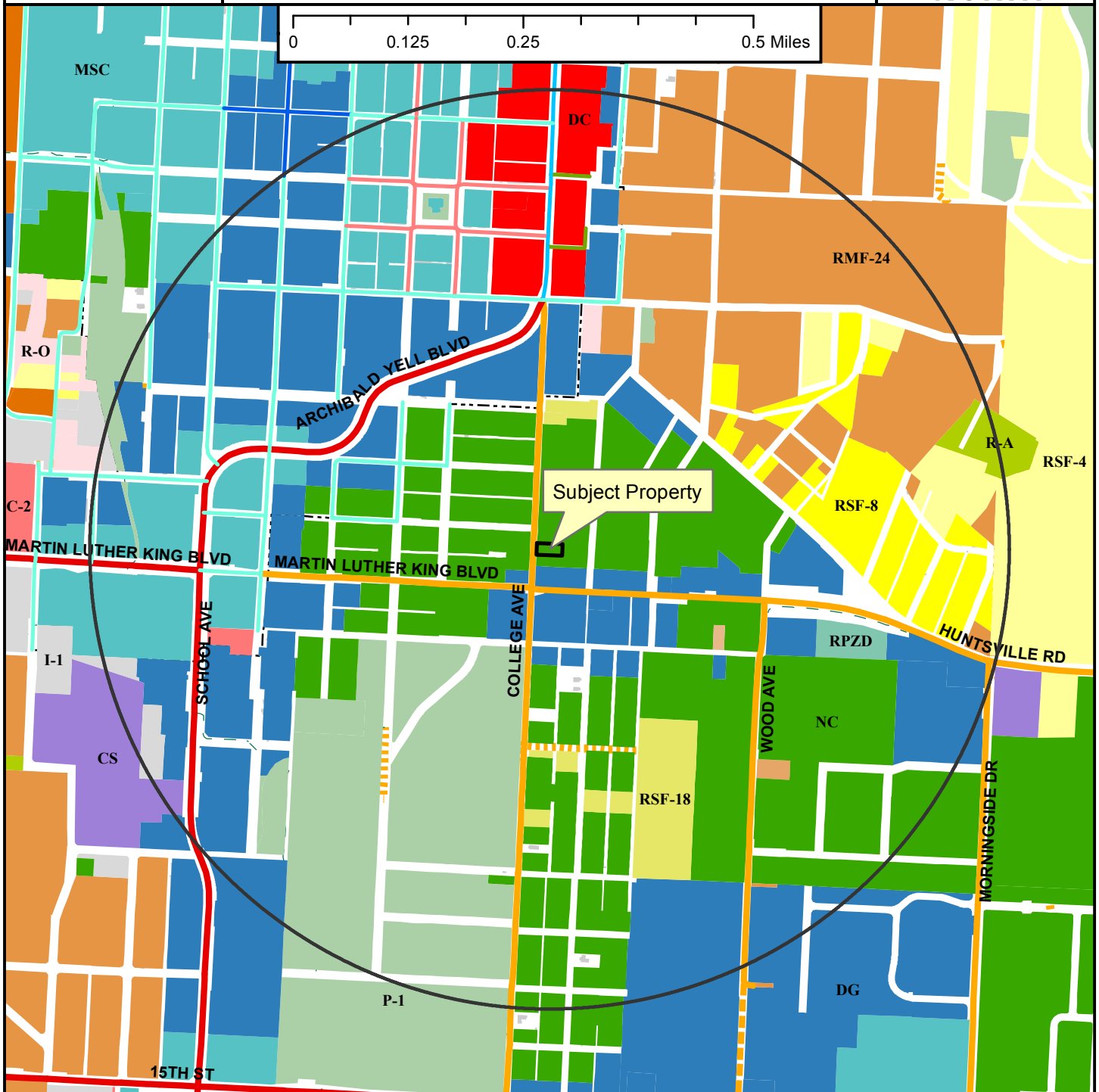
RZN19-6553

One Mile View

COODY

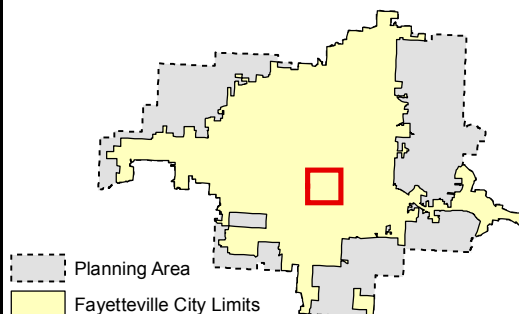


0 0.125 0.25 0.5 Miles



Legend

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



- Zoning**
- RESIDENTIAL SINGLE-FAMILY**
 - RSF-5 Residential-Agricultural
 - RSF-1
 - RSF-2
 - RSF-4
 - RSF-7
 - RSF-8
 - RSF-18
 - RESIDENTIAL MULTI-FAMILY**
 - RMF-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






RZN19-6553

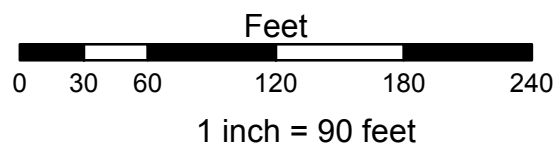
Current Land Use

COODY





Streets Existing MSP Class

-  COLLECTOR
-  Planning Area
-  Fayetteville City Limits



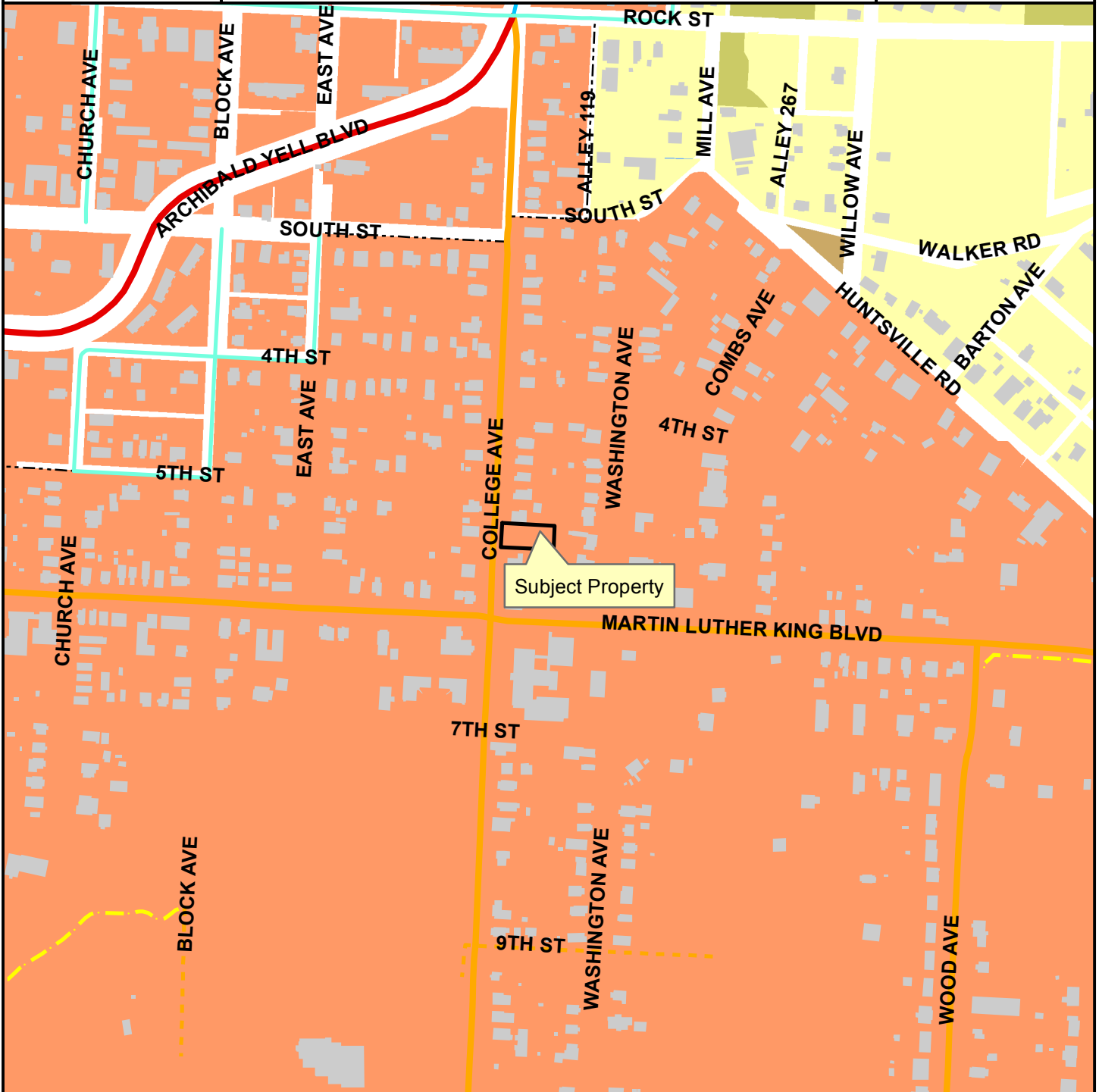
FEMA Flood Hazard Data

-  100-Year Floodplain
-  Floodway

RZN19-6553

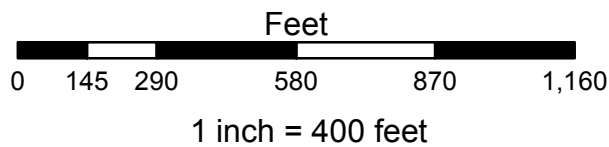
Future Land Use

COODY



Legend

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



FUTURE LAND USE 2030

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

CityClerk

From: CityClerk
Sent: Wednesday, April 03, 2019 10:19 AM
To: Batker, Jodi; Bolinger, Bonnie; Pennington, Blake; Bunch, Sarah; CityClerk; citycouncil@matthewpetty.org; Marr, Don; Eads, Gail; Roberts, Gina; Gutierrez, Sonia; Henson, Pam; Kinion, Mark; Johnson, Kimberly; Williams, Kit; Branson, Lisa; Jordan, Lioneld; Marsh, Sarah; Mulford, Patti; Norton, Susan; Scroggin, Sloan; Smith, Kyle; Smith, Sondra; Turk, Teresa
Cc: Stoll, Garner
Subject: FW: 510 S College rezoning request

This requests relates to RZN 19-6553 Rezone from NC- Neighborhood Conservation to NS-L Neighborhood Services Limited (510 S. College/Coody, 524).

Can you forward the applicant's email to City Council?

Mr. Niederman understands that his application has already been submitted for Council's April 16th Agenda and his requested change would take City Council action.

Thanks

Garner Stoll
Director of Development Services
City of Fayetteville, AR 72701
Gstoll@fayetteville-ar.gov
T 479.575.8265

From: Z Niederman [<mailto:zniederman@gmail.com>]
Sent: Tuesday, April 2, 2019 11:20 PM
To: Stoll, Garner <gstoll@fayetteville-ar.gov>
Subject: 510 S College rezoning request

Hi Garner

I would like to let you know that we would like to revise our rezoning request to RIU instead of NS-L.

Thank you.

Z Niederman