

City of Fayetteville Staff Review Form

2019-0241

Legistar File ID

5/3/2019

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

Garner Stoll

4/19/2019

CITY PLANNING (630)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

RZN 19-6589: Rezone (238 W. MOORE LN./ARKHOLA, LLC, 286): Submitted by WILLY BERCHTOLD for property located at 238 W. MOORE LN. The property is zoned R-A, RESIDENTIAL AGRICULTURAL and contains approximately 4.323 acres. The request is to rezone the property to NS-G, NEIGHBORHOOD SERVICES-GENERAL.

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

\$ -

V20180321

Purchase Order Number:

Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

Original Contract Number:

Comments:



## CITY COUNCIL AGENDA MEMO

### MEETING OF MAY 7, 2019

**TO:** Mayor, Fayetteville City Council

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

**FROM:** Harry Davis, Planner

**DATE:** April 19, 2019

**SUBJECT:** **RZN 19-6589: Rezone (238 W. MOORE LN./ARKHOLA, LLC, 286):** Submitted by WILLY BERCHTOLD for property located at 238 W. MOORE LN. The property is zoned R-A, RESIDENTIAL AGRICULTURAL and contains approximately 4.323 acres. The request is to rezone the property to NS-G, NEIGHBORHOOD SERVICES-GENERAL.

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### RECOMMENDATION:

The Planning Commission and staff recommend approval of an ordinance to rezone the subject property to NS-G, Neighborhood Services, General, as shown in the attached Exhibits 'A' and 'B'.

### BACKGROUND:

The subject property is approximately 4.30 acres at the northeast corner of Deane Solomon Road and Moore Lane. The subject property is zoned R-A, Residential Agricultural and currently developed with a single-family home and accessory agricultural buildings.

*Request:* The request is to rezone the parcel from R-A, Residential Agricultural to NS-G, Neighborhood Services, General. The applicant stated the rezoning would be compatible with the neighborhood and small-scale commercial would be appropriate on the corner.

*Land Use Compatibility:* Staff find the proposal for NS-G to be compatible with nearby properties, as NS-G is considerably limited in the size of commercial area and the most intense uses would be compatible in size and activity to adjacent properties.

*Land Use Plan Analysis:* Staff find the proposal to be compatible with CityPlan 2030, as this would provide a mixed-use property within a designated City Neighborhood Area. Since this property is on the edge of the City Neighborhood Area, it is appropriate that the property is limited in the size of building and commercial area that would be found at a transitional area between residential and commercial or mixed-use properties. Additionally, this project meets CityPlan goals for traditional town form and discouraging suburban sprawl.

**DISCUSSION:**

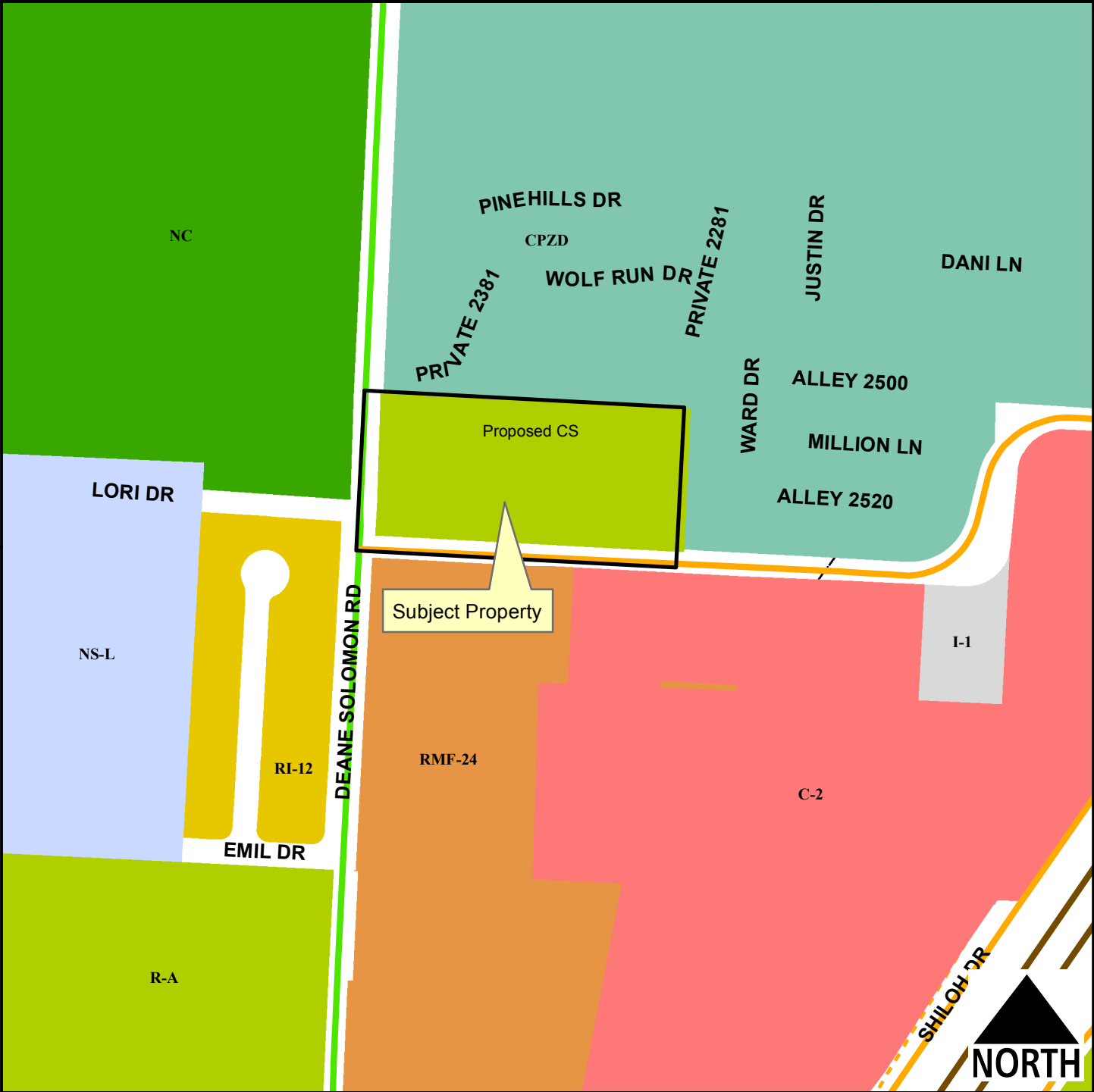
On April 8, 2019, the Planning Commission heard the original proposal for CS, Community Services. The applicant amended their request at the meeting to NS-G and Planning Commission forwarded the proposal to City Council with a recommendation for approval by a vote of 8-0-0. Public comment was heard at the meeting in opposition to the original CS request.

**BUDGET/STAFF IMPACT:**

N/A

**Attachments:**

- Exhibit A
- Exhibit B
- Planning Commission Staff Report



<b>Legend</b> <div style="margin-top: 5px;"> <div style="border: 1px dashed black; width: 20px; height: 10px; display: inline-block; margin-right: 5px;"></div> Planning Area </div> <div style="margin-top: 5px;"> <div style="border: 2px dashed yellow; width: 20px; height: 10px; display: inline-block; margin-right: 5px;"></div> Fayetteville City Limits </div> <div style="margin-top: 5px;"> <div style="border-bottom: 2px dashed orange; width: 20px; display: inline-block; margin-right: 5px;"></div> Trail (Proposed) </div> <div style="margin-top: 5px;"> <div style="border: 1px dashed black; width: 20px; height: 10px; display: inline-block; margin-right: 5px;"></div> Design Overlay District </div> <div style="margin-top: 5px;"> <div style="width: 10px; height: 10px; background-color: grey; display: inline-block; margin-right: 5px;"></div> Building Footprint </div>	<div style="margin-bottom: 10px;"> <b>Feet</b>  <div style="border: 1px solid black; width: 300px; height: 10px; margin: 0 auto; position: relative;"> <div style="background: linear-gradient(to right, black 25%, white 25% 50%, black 50% 75%, white 75% 100%); position: absolute; top: -5px; left: 0; right: 0; height: 10px;"></div> <div style="position: absolute; left: 0; right: 0; height: 10px;"></div> </div> <div style="display: flex; justify-content: space-between; width: 300px; margin: 0 auto;"> <span>0</span><span>112.5</span><span>225</span><span>450</span><span>675</span><span>900</span> </div> </div> <p>1 inch = 300 feet</p>	<table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left; border-bottom: 1px solid black;">Zoning</th> <th style="text-align: left; border-bottom: 1px solid black;">Acres</th> </tr> </thead> <tbody> <tr> <td>CS</td> <td>5.0</td> </tr> <tr> <td><b>Total</b></td> <td><b>5.0</b></td> </tr> </tbody> </table>	Zoning	Acres	CS	5.0	<b>Total</b>	<b>5.0</b>
Zoning	Acres							
CS	5.0							
<b>Total</b>	<b>5.0</b>							

**19-6589**  
**EXHIBIT 'B'**

PT SW SW 5.00 AC. FURTHER DESCRIBED FROM 2015-34861 AS: PART OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION THIRTY-THREE (33), TOWNSHIP SEVENTEEN (17) NORTH OF RANGE THIRTY (30) WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT WHICH IS 330 FEET EAST AND 330 FEET SOUTH OF THE NORTHWEST CORNER OF SAID SW 1/4 OF THE SW 1/4, THENCE EAST 660 FEET; THENCE SOUTH 330 FEET; THENCE WEST 660 FEET; THENCE NORTH 330 FEET TO THE POINT OF BEGINNING, CONTAINING 5 ACRES, MORE OR LESS.



## PLANNING COMMISSION MEMO

**TO:** City of Fayetteville Planning Commission

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

**FROM:** Harry Davis, Planner

**MEETING DATE:** April 8, 2019 **UPDATED W PC RESULTS**

**SUBJECT:** **RZN 19-6589: Rezone (238 W. MOORE LN./ARKHOLA, LLC, 286):**  
Submitted by WILLY BERCHTOLD for property located at 238 W. MOORE LN. The property is zoned R-A, RESIDENTIAL AGRICULURAL and contains approximately 4.323 acres. The request is to rezone the property to CS, COMMUNITY SERVICES.

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**RECOMMENDATION:**

Staff recommends denial of **RZN 19-6589** based upon the findings herein.

**RECOMMENDED MOTION: "I move to deny RZN 19-6589."**

**BACKGROUND:**

The subject property is approximately 4.30 acres at the northeast corner of Deane Solomon Road and Moore Lane. The subject property is zoned R-A, Residential Agricultural and currently developed with a single-family home and accessory agricultural buildings.

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

Direction from Site	Land Use	Zoning
North	Pines at Springwoods Residential Neighborhood	C-PZD, Commercial Planned Zoning District
South	Williams Tractor; Undeveloped	RMF-24, Residential Multi-family, 24 Units per Acre; C-2, Commercial Thoroughfare
East	Future Timber Ridge Subdivision	C-PZD, Commercial Planned Zoning District
West	Former Razorback Golfcourse; Coyote Trail Subdivision	R-A, Residential Agricultural

*Request:* The request is to rezone the parcel from R-A, Residential Agricultural to CS, Community Services. The applicant stated the rezoning would be compatible with the neighborhood and small-scale commercial would be appropriate on the corner.

*Public Comment:* Staff has not received any public comment as of writing this report.

## INFRASTRUCTURE:

- Streets:** The subject property has frontage along West Moore Lane and North Deane Solomon Road, both substandard streets. West Moore Lane is an unimproved, approximately 20-foot wide asphalt collector with open ditches on either side. North Deane Solomon Road is an unimproved, approximately 20-foot wide asphalt minor arterial with open ditches on either side. Major street improvements would likely be required for any development larger than a single-family home, but appropriate improvements would be determined at the time of development proposal.
- Water:** Public water is available to the subject property. There is an existing 36-inch transmission main that runs along North Deane Solomon Road.
- Sewer:** Sanitary Sewer is available to the subject property. There is an existing 8-inch sanitary sewer main along the property's eastern edge. However, connection to this sanitary sewer main may or may not be feasible based on topography.
- 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. No protected streams are located onsite. There are no hydric soils present in the subject area. No portion of this parcel lies within the Hillside-Hilltop Overlay District.
- Fire:** The property is located approximately 2.8 miles from Fire Station 2 with an anticipated drive time of approximately 6 minutes using existing streets. The anticipated response time would be approximately 8.2 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. The response time would take 2 minutes longer than the city emergency response goal.
- 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 **City Neighborhood Area**.*

**City Neighborhood Areas** are more densely developed than residential neighborhood areas and provide a varying mix of nonresidential and residential uses. This designation supports the widest spectrum of uses and encourages density in all housing types.

## 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:*** The property is designated as City Neighborhood Area and staff finds the proposal to be marginally consistent with this designation. Staff acknowledges the CS zoning district permitting the wide array of uses that are encouraged in City Neighborhood Areas and the

location of the property at the intersection of two streets designated by the Master Street Plan for higher amounts of traffic volume. However, this area also represents the western edge of City Neighborhood Area in northwest Fayetteville. Given this, a lower-intensity zoning district may be more appropriate. The proposed rezoning does align with many of the City's comprehensive plan goals, including the allowance for mixed-uses in order to create compact, complete development patterns and the encouragement of development closer to the City's interior. However, this intensity of zoning could burden the substandard street system and emergency response time. This conflicts with the City's goals for orderly and planned growth.

**Land Use Compatibility:** Staff finds that the proposed rezoning is generally incompatible with adjacent land uses. The properties located along this portion of Deane Solomon Road are either developed with low-density and intensity uses or not developed at all. This includes fourplex and duplex residential, an abandoned golf course, a church, and an undeveloped property. Much of the existing development is not compatible with the scale or activity of many uses permitted with the CS zoning district. The primary concern is that this district allows higher intensity commercial and high-density, multi-family residential that is not compatible with the surrounding substandard street system.

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

**Finding:** In staff's opinion, a rezoning to a high density zoning district on the subject property is not appropriate at this time, given the substandard infrastructure.

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

**Finding:** Rezoning the property to CS may appreciably increase traffic to this location above the potential of the current R-A zoning district. Both adjacent streets are narrow and unimproved and may require substantial improvement at the time of development. The amount of on- and off-site improvements may be too much of a burden for this one parcel to absorb.

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 R-A to CS will increase the potential population density and may undesirably increase the load on facilities and services. As noted above, this property has access to existing water, but potentially infeasible access to sanitary sewer and fails to meet the fire department's response time goal. Development with the wide array of residential and nonresidential uses permitted under the CS zoning district will necessitate a possible public main extension, a straining of fire service, and substantial burden to the street system.

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:**       **There are no extenuating circumstances that justify this rezoning.**

**RECOMMENDATION:** Planning staff recommends denial of RZN 19-6589.

<b>PLANNING COMMISSION ACTION:</b>		<b>Required</b>	<b><u>YES</u></b>
<b>Date:</b> <u>April 8, 2019</u>	<input type="checkbox"/> Tabled	<input checked="" type="checkbox"/> Forwarded	<input type="checkbox"/> Denied
<b>Motion:</b> Johnson	Motion to forward NS-G to CC, as requested by applicant at the meeting		
<b>Second:</b> Niederman			
<b>Vote:</b> 8-0-0	Motion passed		

**BUDGET/STAFF IMPACT:**

None

**Attachments:**

- Unified Development Code:
  - §161.03 – District R-A, Residential-Agricultural
  - §161.22 – District Community Services
- Request letter
- Rezone exhibit
- One Mile Map
- Close-Up Map
- Current Land Use Map
- Future Land Use Map

- **161.03 - District R-A, Residential-Agricultural**

(A) *Purposes* . The regulations of the agricultural district are designed to protect agricultural land until an orderly transition to urban development has been accomplished; prevent wasteful scattering of development in rural areas; obtain economy of public funds in the providing of public improvements and services of orderly growth; conserve the tax base; provide opportunity for affordable housing, increase scenic attractiveness; and conserve open space.

(B) *Uses* .

(1) *Permitted Uses*.

Unit 1	City-wide uses by right
Unit 3	Public protection and utility facilities
Unit 6	Agriculture
Unit 7	Animal husbandry
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 37	Manufactured homes
Unit 41	Accessory dwellings
Unit 43	Animal boarding and training

(2) *Conditional Uses* .

Unit 2	City-wide uses by conditional use permit
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 20	Commercial recreation, large sites
Unit 24	Home occupations
Unit 35	Outdoor Music Establishments
Unit 36	Wireless communications facilities
Unit 42	Clean technologies

(C) *Density*.

Units per acre	One-half (1/2)
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(D) *Bulk and Area Regulations*.

Lot width minimum	200 feet
Lot Area Minimum:	
Residential:	2 acres
Nonresidential:	2 acres
Lot area per dwelling unit	2 acres

(E) *Setback Requirements.*

Front	Side	Rear
35 feet	20 feet	35 feet

(F) *Height Requirements.* There shall be no maximum height limits in the R-A District, provided, however, if a building exceeds the height of one (1) story, the portion of the building over one (1) story shall have an additional setback from any boundary line of an adjacent residential district. The amount of additional setback for the portion of the building over one (1) story shall be equal to the difference between the total height of that portion of the building and one (1) story.

(G) *Building area.* None.

(Code 1965, App. A., Art. 5(1); Ord. No. 1747, 6-29-70; Code 1991, §160.030; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 5028, 6-19-07; Ord. No. 5128, 4-15-08; Ord. No. 5195, 11-6-08; Ord. No. 5238, 5-5-09; Ord. No. 5479, 2-7-12; Ord. No. [5945](#), §3, 1-17-17; Ord. No. [6015](#), §1(Exh. A), 11-21-17)

- **161.22 - Community Services**

(A) *Purpose.* The Community Services District is designed primarily to provide convenience goods and personal services for persons living in the surrounding residential areas and is intended to provide for adaptable mixed use centers located along commercial corridors that connect denser development nodes. There is a mixture of residential and commercial uses in a traditional urban form with buildings addressing the street. For the purposes of Chapter 96: Noise Control, the Community Services district is a commercial zone. The intent of this zoning district is to provide standards that enable development to be approved administratively.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 13	Eating places
Unit 15	Neighborhood Shopping goods
Unit 18	Gasoline service stations and drive-in/drive through restaurants
Unit 24	Home occupations
Unit 25	Offices, studios and related services
Unit 26	Multi-family dwellings
Unit 41	Accessory dwellings
Unit 44	Cluster Housing Development
Unit 45	Small scale production

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 permit
Unit 3	Public protection and utility facilities
Unit 14	Hotel, motel and amusement services
Unit 16	Shopping goods
Unit 17	Transportation, trades and services
Unit 19	Commercial recreation, small sites
Unit 28	Center for collecting recyclable materials
Unit 34	Liquor stores
Unit 35	Outdoor music establishments
Unit 36	Wireless communication facilities*
Unit 40	Sidewalk Cafes
Unit 42	Clean technologies

(C) *Density* . None.

(D) *Bulk and Area Regulations* .

(1) *Lot Width Minimum.*

Dwelling	18 feet
All others	None

(2) *Lot Area Minimum.* None.

(E) *Setback regulations* .

Front:	A build-to zone that is located between 10 feet and a line 25 feet from the front property line.
Side and rear:	None

Side or rear, when contiguous to a single-family residential district:	15 feet
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(F) *Building Height Regulations.*

Building Height Maximum	5 stories
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(G) *Minimum Buildable Street Frontage.* 50% of the lot width.

(Ord. No. 5312, 4-20-10; Ord. No. 5339, 8-3-10; 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, 7—9, 1-17-17; Ord. No. [6015](#), §1(Exh. A), 11-21-17)

**Concerning: Rezoning of 2378 Moore Lane Parcel: 765-15880-000**

February 26, 2019

The rezoning for this property would be a good compatible fit to the neighborhood. Three sides are bordering medium to high density residential and one side to C2 commercial. The CS zoning would make a good transition on this corner lot of a minor arterial and a collector street. With mostly residential development and possibly a smaller commercial development near the southwest corner it would not unreasonably adversely affect or conflict with surrounding land uses. It is located within the City Neighborhood Area which calls for mixed use development.

Best Regards

A handwritten signature in black ink, appearing to read 'W. Berchtold', with a long, sweeping horizontal line extending to the right.

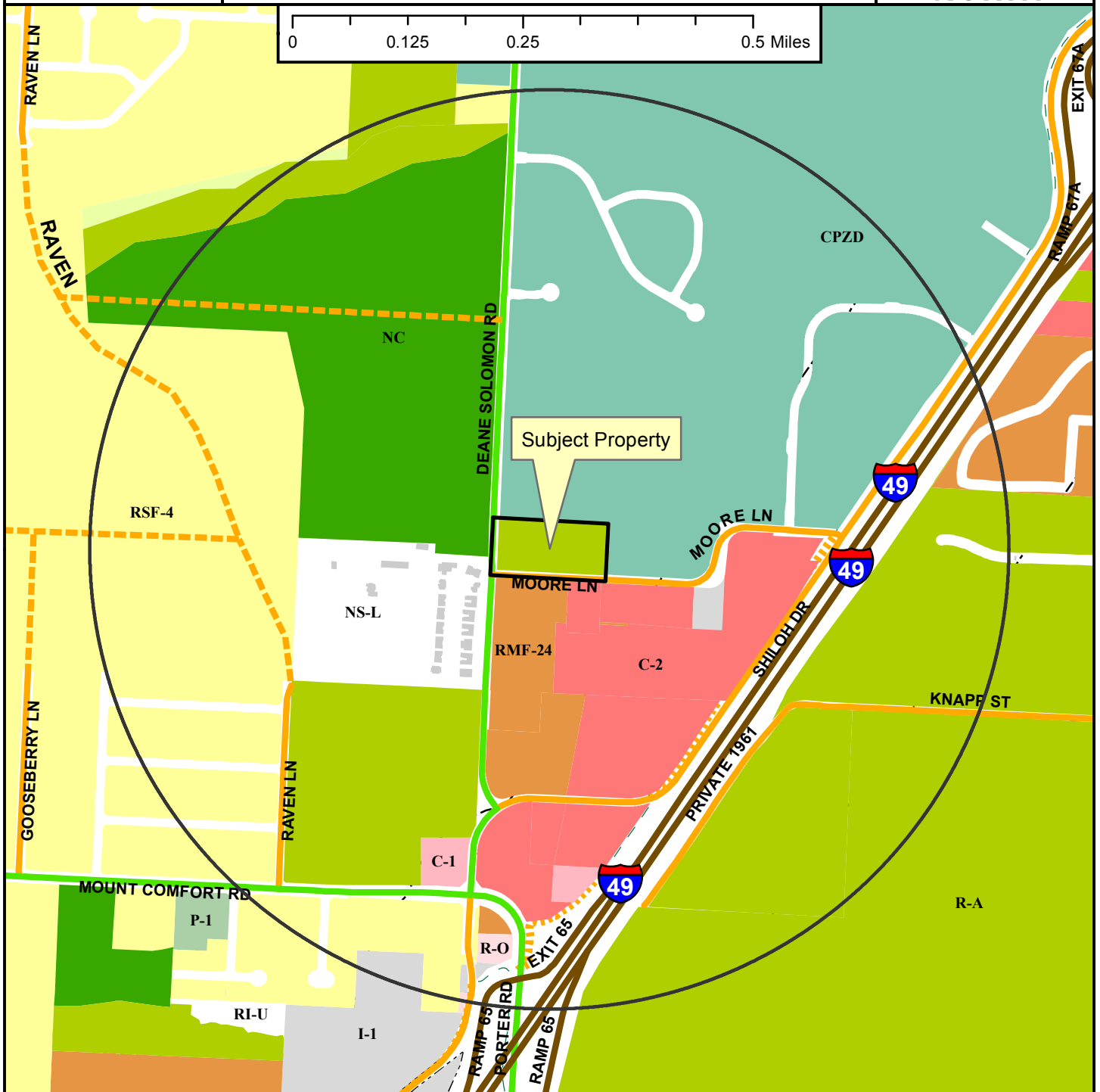
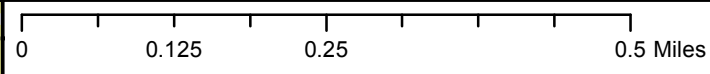
Willy Berchtold

Arkhol LLC  
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+1 479 521 0056  
[info@swissarmyvehicles.com](mailto:info@swissarmyvehicles.com)  
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RZN19-6589

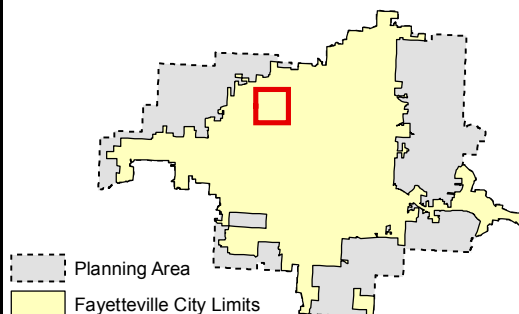
# ARKHOLA, LLC.

One Mile View

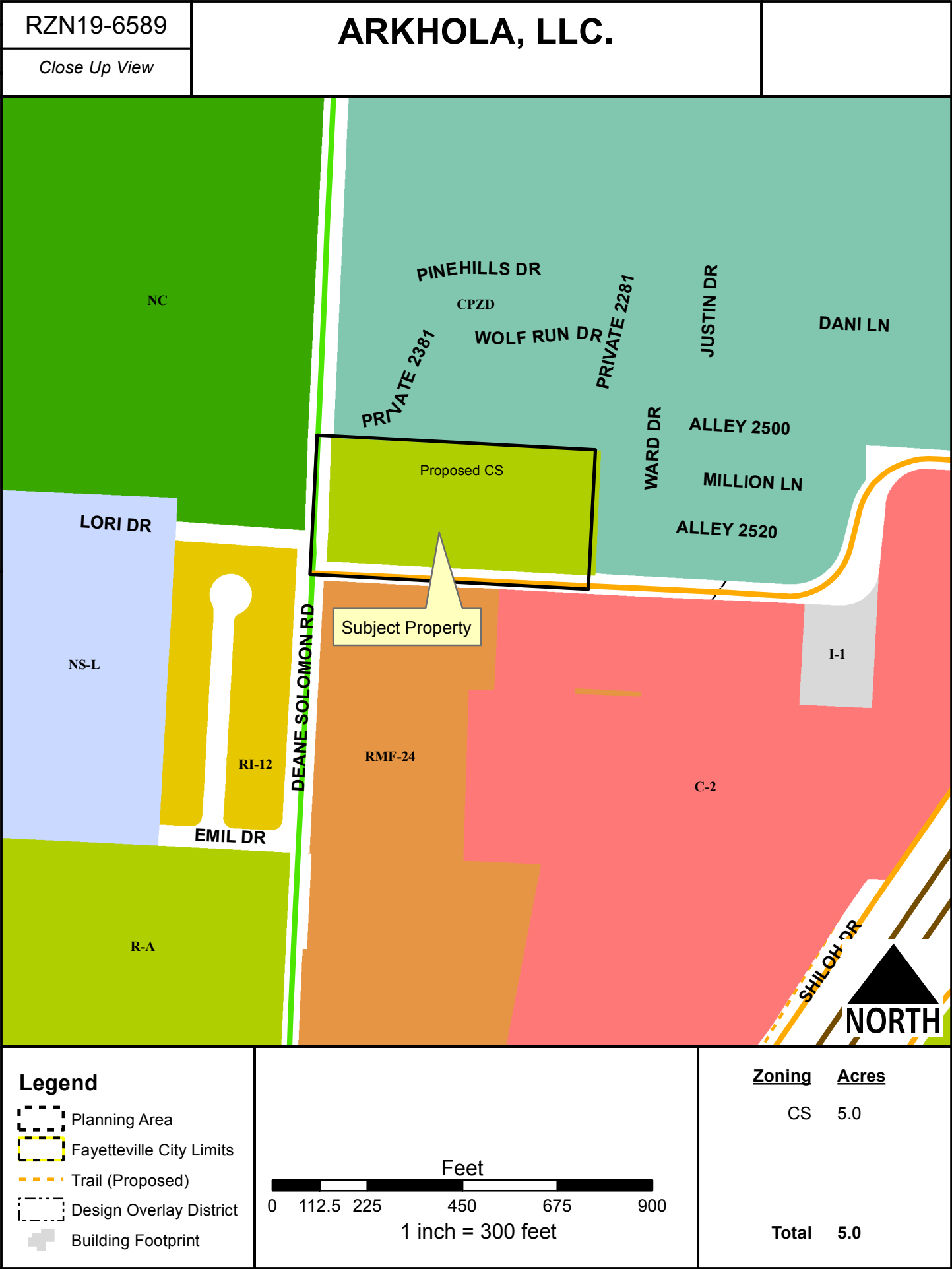


## Legend

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



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



RZN19-6589

Current Land Use




ARKHOLA, LLC.



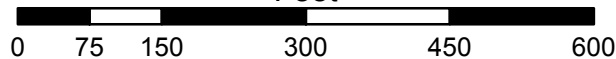
**Streets Existing**

**MSP Class**

-  COLLECTOR
-  MINOR ARTERIAL



-  Planning Area
-  Fayetteville City Limits
-  Design Overlay District

Feet



1 inch = 200 feet

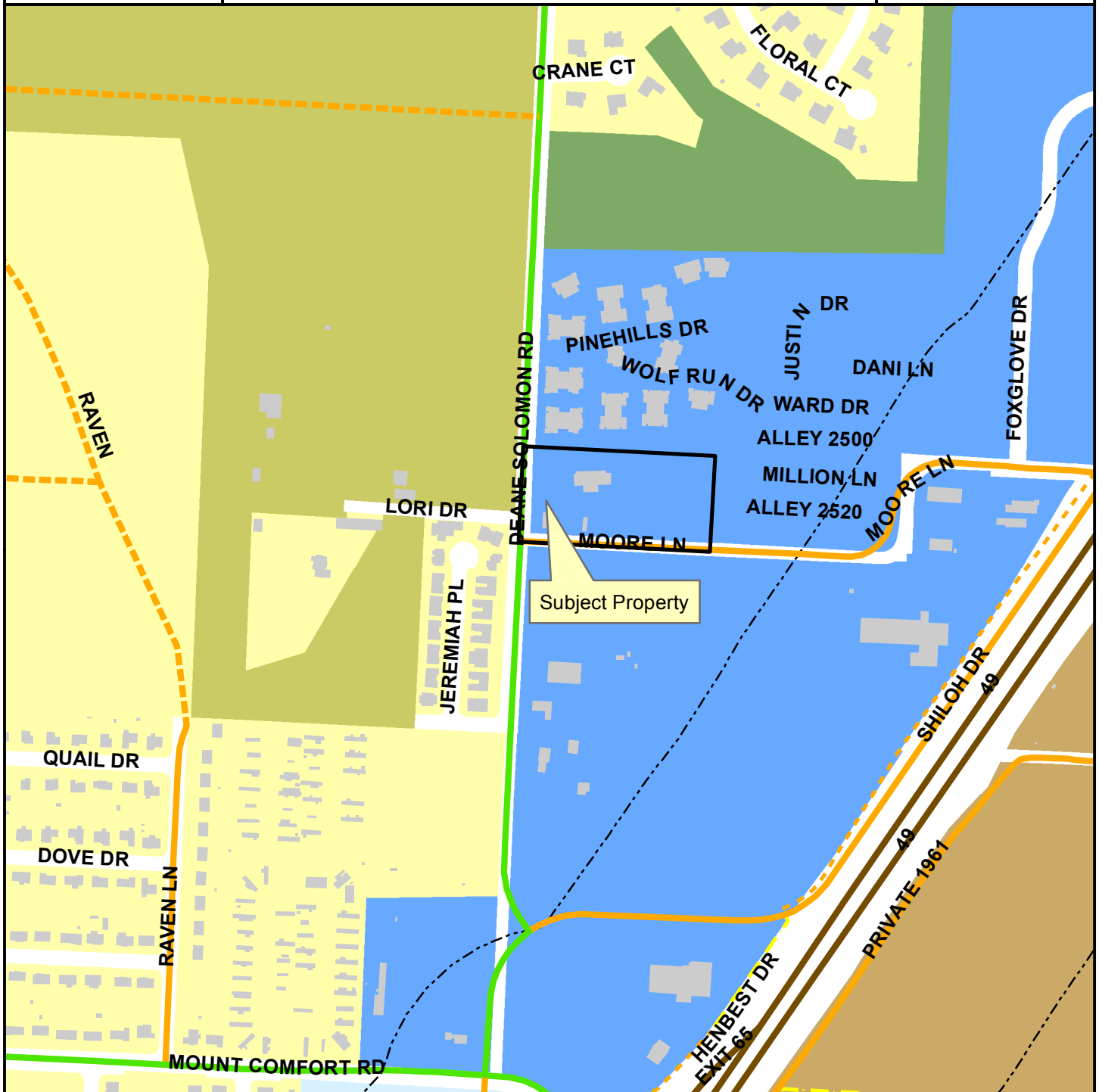
**FEMA Flood Hazard Data**

-  100-Year Floodplain
-  Floodway

RZN19-6589

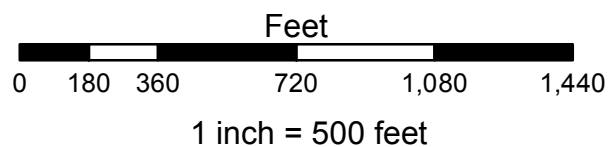
Future Land Use

# ARKHOLA, LLC.



## Legend

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



## FUTURE LAND USE 2030

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