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Established 1985

April 28, 2020

Kara Paxton, City Clerk  
City of Fayetteville  
113 W Mountain Street, Room 308  
Fayetteville, AR 72701

Re: RZN 20-7067

Please accept this appeal of the decision of the Planning Commission on April 27<sup>th</sup>, 2020, to deny the rezoning request for RZN 20-7067.

This appeal is made pursuant to Section 155.05 of the Uniform Development Code. We understand that Planning Commission has to make a lot of tough decisions and we certainly appreciate their hard work and time. However, in this instance, we feel that the applicant has presented a reasonable zoning request that is in conformity with the surrounding properties. We are kindly asking that the City Council please place this item on the next agenda, so that we can further discuss this matter.

Sincerely;

Blake Jorgensen



**MEETING OF MAY 19, 2020**

**TO:** Mayor; Fayetteville City Council

**THRU:** Susan Norton, Chief of Staff  
Garner Stoll, Development Services Director  
Jonathan Curth, Development Review Manager

**FROM:** Jessie Masters, Senior Planner

**DATE:** May 1, 2020

**SUBJECT:** **RZN 20-7067: Rezone (523 N. GENEVIEVE AVE./DILLAHA, 436):** Submitted by JORGENSEN & ASSOCIATES, INC. for property located at 523 N. GENEVIEVE AVE. The property is zoned RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE and contains approximately 12.14 acres. The request is to rezone the property to RSF-8, RESIDENTIAL SINGLE FAMILY, 8 UNITS PER ACRE.

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**RECOMMENDATION:**

The City Planning staff recommend approval of a request to rezone the subject property as described and shown in the attached Exhibits 'A' and 'B'. The Planning Commission denied the proposal and the applicant has appealed the decision to City Council.

**BACKGROUND:**

The subject property is on the west side of Fayetteville, just west of N. 54th Avenue, south of Wedington Drive and north of Persimmon Street. Zoned RSF-4 in 2004 and consisting of 12.14 acres, the property currently has one single-family dwelling which was built in 1980. Though recently primarily agricultural, the surrounding land is developing and establishing itself as a residential single-family neighborhood through several subdivisions, including the Creekview Subdivision to the west and the Legacy Pointe Subdivision to the south.

*Request:* The request is to rezone the property from RSF-4, Residential Single-Family – Four Units per Acre to RSF-8, Residential Single-Family – Eight Units per Acre.

*Land Use Compatibility:* Land uses in general adjacency to the subject property consist primarily of single-family dwellings and undeveloped land. Two low-density zoning districts surround the subject property (R-A and RSF-4) and the proposed rezone would be the highest level of permitted density within its immediate surroundings. Because the rezone request is from one residential single-family zoning district to another residential single-family zoning district, the request does not introduce any new or incompatible uses other than what is currently permitted by-right. Given the surroundings, staff finds that the proposed rezoning is generally compatible with adjacent land uses, though recognizes this will increase density, and recognizes that appropriate infrastructure improvements will need to be made at the time of development.

*Land Use Plan Analysis:* Staff believes that the proposal is compatible with the goals in City Plan 2040, adopted land use policies, and the future land use designation for this location. This area is designated as a Residential Neighborhood Area, which is primarily residential in nature and supports a wide variety of housing types of appropriate scale and context. This request would align with the stated goals of City Plan 2040, both infilling an underdeveloped property, as well as increasing housing supply to provide more opportunities for attainable housing.

City Plan 2040's Infill Matrix indicates a varying score for the subject property, ranging from two along the western extents to five further east towards Genevieve Avenue. The following elements of the matrix contribute to the score:

- Near Park (Harmony Point Park)
- Near Trail (Wedington Drive Paved Trail)
- Near Water Main (N Genevieve Road)
- Near Sewer Main (N Genevieve Road)
- 4 Minute Fire Department Response time (Fire Station #7, 835 N. Ruppel)

**DISCUSSION:**

On April 27, 2020, the Planning Commission denied the rezoning request by a vote of 9-0-0. Commissioners indicated that the lack of available, walkable services from the proposed property made this request incompatible, and because of its location just outside the pedestrian shed of both a Tier 3 center and a Tier 2 center, the lower density was preferable. Commissioners also suggested that due to its location, the proposed zoning would lead to “dense sprawl,” which would contribute to higher levels of automobile traffic in the area. Two public comments were received – the first was via email and the neighbor expressed concern over lack of appropriate street infrastructure, a preference for the site to remain RSF-4, and a question regarding access to the future development. The second was a property owner to the east via phone call who expressed a concern regarding the capacity of the streets, specifically citing the underdevelopment of N. 54<sup>th</sup>.

**BUDGET/STAFF IMPACT:**

N/A

**Attachments:**

- Exhibit A
- Exhibit B
- Planning Commission Staff Report

RZN20-7067

## DILLAHA

20-7067

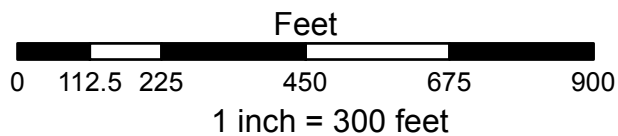
Close Up View

EXHIBIT 'A'



## Legend

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

Zoning    Acres

RSF-8    12.1

**Total    12.1**



**20-7067**  
**EXHIBIT 'B'**

LEGAL DESCRIPTION:

A part of the SE1/4 of the SW1/4 of Section 11, T16N, R31W in Washington County, Arkansas, and being described as follows: Commencing at the SE Corner of said SE1/4, SW1/4, thence N87°41'26"W 985.62 feet to the POINT OF BEGINNING, thence N87°36'59"W 664.33 feet, thence N02°17'55"E 819.44 feet, thence S87°46'47"E 333.79 feet, thence S01°29'43"W 47.92 feet, thence S87°16'39"E 329.86 feet, thence S02°17'51"W 770.53 feet to the POINT OF BEGINNING: Containing 12.14 acres more or less subject to easements and right of way of record.



**TO:** Fayetteville Planning Commission

**THRU:** Jonathan Curth, Development Review Manager

**FROM:** Jessie Masters, Senior Planner

**MEETING DATE:** April 27, 2020 **Updated to reflect April 27, 2020 PC Decision**

**SUBJECT:** **RZN 20-7067: Rezone (523 N. GENEVIEVE AVE./DILLAHA, 436):**  
Submitted by JORGENSEN & ASSOCIATES, INC. for property located at 523 N. GENEVIEVE AVE. The property is zoned RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE and contains approximately 12.14 acres. The request is to rezone the property to RSF-8, RESIDENTIAL SINGLE FAMILY, 8 UNITS PER ACRE.

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**RECOMMENDATION:**

Staff recommends forwarding **RZN 20-7067** to City Council with a recommendation for approval.

**RECOMMENDED MOTION:**

"I move to forward **RZN 20-7067** to City Council with a recommendation for approval."

**BACKGROUND:**

The subject property is on the west side of Fayetteville, just west of N. 54<sup>th</sup> Avenue, south of Wedington Drive and north of Persimmon Street. Zoned RSF-4 in 2004 and consisting of 12.14 acres, the property currently has one single-family dwelling which was built in 1980. Though recently primarily agricultural, the surrounding land is developing and establishing itself as a residential single-family neighborhood through several subdivisions, including the Creekview Subdivision to the west and the Legacy Pointe Subdivision to the south. Surrounding land uses and zoning are depicted in *Table 1*.

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

<b>Direction</b>	<b>Land Use</b>	<b>Zoning</b>
North	Single Family Residential and Duplexes	R-A, Residential-Agricultural
South	Single Family Residential	RSF-4, Residential Single-Family – Four Units Per Acre
East	Undeveloped and Single Family Residential	R-A, Residential Agricultural & RSF-4, Residential Single-Family
West	Single Family Residential	RSF-4, Residential Single-Family – Four Units Per Acre

**Request:** The request is to rezone the property from RSF-4, Residential Single-Family – Four Units per Acre to RSF-8, Residential Single-Family – Eight Units per Acre.

*Public Comment:* Staff has received one public comment via email from a neighbor residing at 5792 W Cane Hill Drive, just south of the proposed development. The citizen expressed concern regarding the available street infrastructure along Persimmon and W 54<sup>th</sup>, citing narrow roads and lack of lanes that would be unable to handle an increased density. The citizens also expressed preference that any proposed development should stay at 4 units per acre. Finally, the citizens expressed concerns about access to the future development. The full comment is attached as a memo to this report.

## **INFRASTRUCTURE:**

- Streets:** This property has frontage to four street stub-outs – North Genevieve Avenue from the north, West Greens Chapel Road from the east, North Drywood Creek Drive from the south, and West Bernal Street from the west. North Genevieve Avenue is an unimproved Residential Link that is an unpaved gravel road at the stub-out to this property. West Greens Chapel Road is a fully improved Residential Link with asphalt paving, storm drain, curb and gutter, and sidewalk. North Drywood Creek Drive is a fully improved Residential Link with asphalt paving, storm drain, curb and gutter, and sidewalk. West Bernal Street is a partially improved Residential Link with asphalt paving, storm drain, and curb and gutter, with sidewalks being constructed on both sides at time of home construction. 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 this parcel. An existing 2-inch watermain and an existing 8-inch watermain are present in the northeast side of parcel 765-16228-000. There are also two existing 8-inch watermain stub-outs to this property, one from the south and one from the west.
- Sewer:** Sanitary Sewer is available to this parcel. An existing 6-inch sanitary sewer main is present on this property.
- Drainage:** Any additional improvements or requirements for drainage will be determined at time of development. Hydric soils appear to be present within the entire subject area. No portion of the property is within the Hillside-Hilltop Overlay District, FEMA floodplain, nor is there a protected stream present in the subject area.
- Fire:** Fire apparatus access and fire protection water supplies will be reviewed for compliance with the Arkansas Fire Prevention Code at the time of development. Station 7, located at 835 N. Ruppel, protects this site. The property is located approximately 2 miles from the fire station with an anticipated drive time of approximately 5 minutes using existing streets. The anticipated response time would be approximately 7.2 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.
- Police:** The Police Department expressed no concerns with this request.

CITY PLAN 2040 FUTURE LAND USE PLAN: City Plan 2040 Future Land Use Plan designates the property within the proposed rezone as **Residential Neighborhood Area**.

**Residential Neighborhood Areas** are primarily residential in nature and support a wide variety of housing types of appropriate scale and context: single-family, duplexes, rowhouses, multifamily and accessory dwelling units. Residential Neighborhood encourages highly connected, compact blocks with gridded street patterns and reduced building setbacks. It also encourages traditional neighborhood development that incorporates low-intensity non-residential uses intended to serve the surrounding neighborhoods, such as retail and offices, on corners and along connecting corridors. This designation recognizes existing conventional subdivision developments which may have large blocks with conventional setbacks and development patterns that respond to features of the natural environment. Building setbacks may vary depending on the context of the existing neighborhood. The following guiding policies are designed to encourage future and existing residential neighborhoods to be or become more complete, compact and connected:

CITY PLAN 2040 INFILL MATRIX: City Plan 2040's Infill Matrix indicates a varying score for the subject property, ranging from two along the western extents to five further east towards Genevieve Avenue. The following elements of the matrix contribute to the score:

- Near Park (Harmony Point Park)
- Near Trail (Wedington Drive Paved Trail)
- Near Water Main (N Genevieve Road)
- Near Sewer Main (N Genevieve Road)
- 4 Minute Fire Department Response time (Fire Station #7, 835 N. Ruppel)

#### 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 Compatibility:*** Land uses in general adjacency to the subject property consist primarily of single-family dwellings and undeveloped land. Two low-density zoning districts surround the subject property (R-A and RSF-4) and the proposed rezone would be the highest level of permitted density within its immediate surroundings. Because the rezone request is from one residential single-family zoning district to another residential single-family zoning district, the request does not introduce any new or incompatible uses other than what is currently permitted by-right. Given the surroundings, staff finds that the proposed rezoning is generally compatible with adjacent land uses, though recognizes this will increase density, and recognizes that appropriate infrastructure improvements will need to be made at the time of development.

***Land Use Plan Analysis:*** Staff believes that the proposal is compatible with the goals in City Plan 2040, adopted land use policies, and the future land use designation for this location. This area is designated as a Residential Neighborhood Area, which is primarily residential in nature and supports a wide variety of housing types of appropriate scale and context. This request would align with the stated goals of City Plan 2040, both infilling an

**underdeveloped property, as well as increasing housing supply to provide more opportunities for attainable housing.**

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

**Finding:** The applicant can by-right build more single-family dwellings than are currently on the site given zoning of RSF-4. But based on the request letter, the requested rezoning will allow the applicant to bring diversity in lot size to the surrounding area. The request is justified given the applicant's intent.

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

**Finding:** Rezoning the property from RSF-4 to RSF-8 does have the potential to increase traffic on surrounding streets. Connections to higher classification streets such as Persimmon Street and Wedington Drive exist through four street stub-outs with surrounding subdivisions – North Genevieve Avenue from the north, West Greens Chapel Road from the east, North Drywood Creek Drive from the south, and West Bernal Street from the west. A potential congestion point could be through the W. 54<sup>th</sup> Street access to Wedington. Any necessary infrastructure and street improvements to mitigate congestion or traffic will be determined at the time of development proposal.

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 RSF-4 to RSF-8 will increase the potential population density and will likely increase the load on facilities and services. The 12.14-acre property has access to existing water, sewer, and other public services that eliminate the need for costly extensions or stretched fire or police service. Comment has not been received by Fayetteville Public Schools or by Fayetteville Police, which is typically indicative of acceptance. Any additional infrastructure improvements will be determined at the time of the development proposal.

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 forwarding RZN 20-7067 to the City Council with a recommendation for approval.

<b>PLANNING COMMISSION ACTION:</b> Required <u>YES</u>			
Date: <u>April 27, 2020</u>	<input type="checkbox"/> Tabled	<input type="checkbox"/> Forwarded	<input checked="" type="checkbox"/> Denied
Motion: <b>Canada</b>			
Second: <b>Hoffman</b>			
Vote: <b>9-0-0</b>			

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**BUDGET/STAFF IMPACT:**

None

**Attachments:**

- Unified Development Code:
  - §161.07 - District RSF-4, Residential Single-Family - Four (4) Units Per Acre
  - §161.09 - District RSF-8, Residential Single-Family - Eight (8) Units Per Acre
- Request letter
- Public Comment – Donna Endres
- One Mile Map
- Close-up Map
- Current Land Use Map
- Future Land Use Map

### 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
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(G) *Building Area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot. Accessory ground mounted solar energy systems shall not be considered buildings.

(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; [Ord. No. 6245](#), §2, 10-15-2019)



## 161.09 - District RSF-8, Residential Single-Family - Eight (8) Units Per Acre

(A) *Purpose.* The RSF-8 Residential District is designed to bring historic platted development into conformity and to allow for the development of new single family residential areas with similar lot size, density, and land use as the historical neighborhoods in the downtown area.

(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.*

	By Right
Single-family dwelling units per acre	8 or less

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

Single-family	50 feet
Two (2) family	50 feet
Townhouse, no more than two (2) attached	25 feet

(2) *Lot Area Minimum.*

Single-family	5,000 square feet
Two-family	5,000 square feet

(3) *Land Area Per Dwelling Unit .*

Single-family	5,000 square feet
Two-family	5,000 square feet
Townhouse, no more than two (2) attached	2,500 square feet

(E) *Setback Requirements.*

Front	Side	Rear
15 feet	5 feet	5 feet

(F) *Height Regulations.*

Building Height Maximum	3 stories
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(G) *Building Area.* The area occupied by all buildings shall not exceed 50% of the total lot area, except when a detached garage exists or is proposed; then the area occupied by all buildings shall not exceed 60% of the total lot area. Accessory ground mounted solar energy systems shall not be considered buildings.

(Ord. No. 4783, 10-18-05; 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; [Ord. No. 6245](#), §2, 10-15-2019)



**JORGENSEN**  
**+ASSOCIATES**  
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Established 1985

City of Fayetteville  
113 W. Mountain  
Fayetteville, AR 72701  
ATTN: Planning Department

RE: Rezoning for Nash Crossing

Attached please find information pertaining to a rezoning request for Riggins Construction & Development. This is for approximately 12 Acres on the west side of town. To the West is Creekview Subdivision (RSF-4) and to the South is Legacy Subdivision (RSF-4). To the East is undeveloped (R-A) and Sundance Meadows Subdivision (RSF-4) and to the North single family lots. Access to the property is to the West, South, and East off established streets. City water and City sewer are already available. The property is currently zoned RSF-4 and the request is to zone to RSF-8. This will give this area more diversity in lot size and take advantage of established public infrastructure and will be compatible with surrounding zonings and land use considering the diverse zonings and housing types currently surrounding the property.

Please review and contact us concerning any questions you may have.

Sincerely,

Blake E. Jorgensen, P.E.

**From:** [Donna Endres](#)  
**To:** [Planning Shared](#)  
**Subject:** Rezoning at 523 N Genevieve Ave.  
**Date:** Tuesday, April 21, 2020 3:07:19 PM

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**CAUTION:** This email originated from outside of the City of Fayetteville. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Currently the property is RSF-4 requesting RSF-8.

There are several reasons we feel this is not a good fit for the area.

1. The roads cannot handle the addition of 200 or so vehicles. Persimmion is not a two lane road, so if you are traveling on it someone is pulling off the road to allow the oncoming car to pass. There is no shoulder area.
2. When traveling from Wedington to access 54th Ave once again the road is not a two lane road. We travel this road every day, and if you have a truck oncoming you need to try to pull over and let it pass and hope you don't hit mirrors. This road does not have a shoulder area only ditches. We have chosen to lose a mirror as opposed to falling into the ditch to allow vehicles pass.
3. We have a single family home built by Riggins Construction. We knew that the property behind us would one day be developed. We would prefer to have a development similar to ours with four houses on an acre. If you put either duplexes or smaller houses in this area, it would reduce our property value. This 12 acres is in the middle of two different housing developments and is not a good fit for duplexes.
4. How are you going to access this future development? The surrounding roads are parking only on one side of the street. These roads are made to handle the current homeowners not the future development.

Please come out and survey the surrounding roads before you allow additional houses to be built.

Sincerely,  
Dexter and Donna Endres  
5792 W Cane Hill Dr.



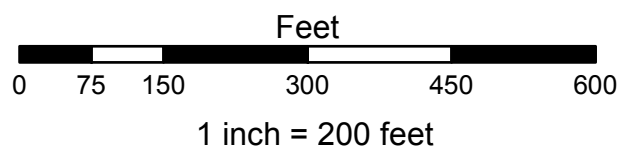
RZN20-7067

# DILLAHA

Current Land Use



- Planning Area
- Fayetteville City Limits



## FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway



RZN20-7067

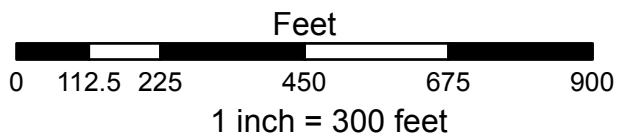
# DILLAHA

Close Up View



## Legend

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



## Zoning Acres

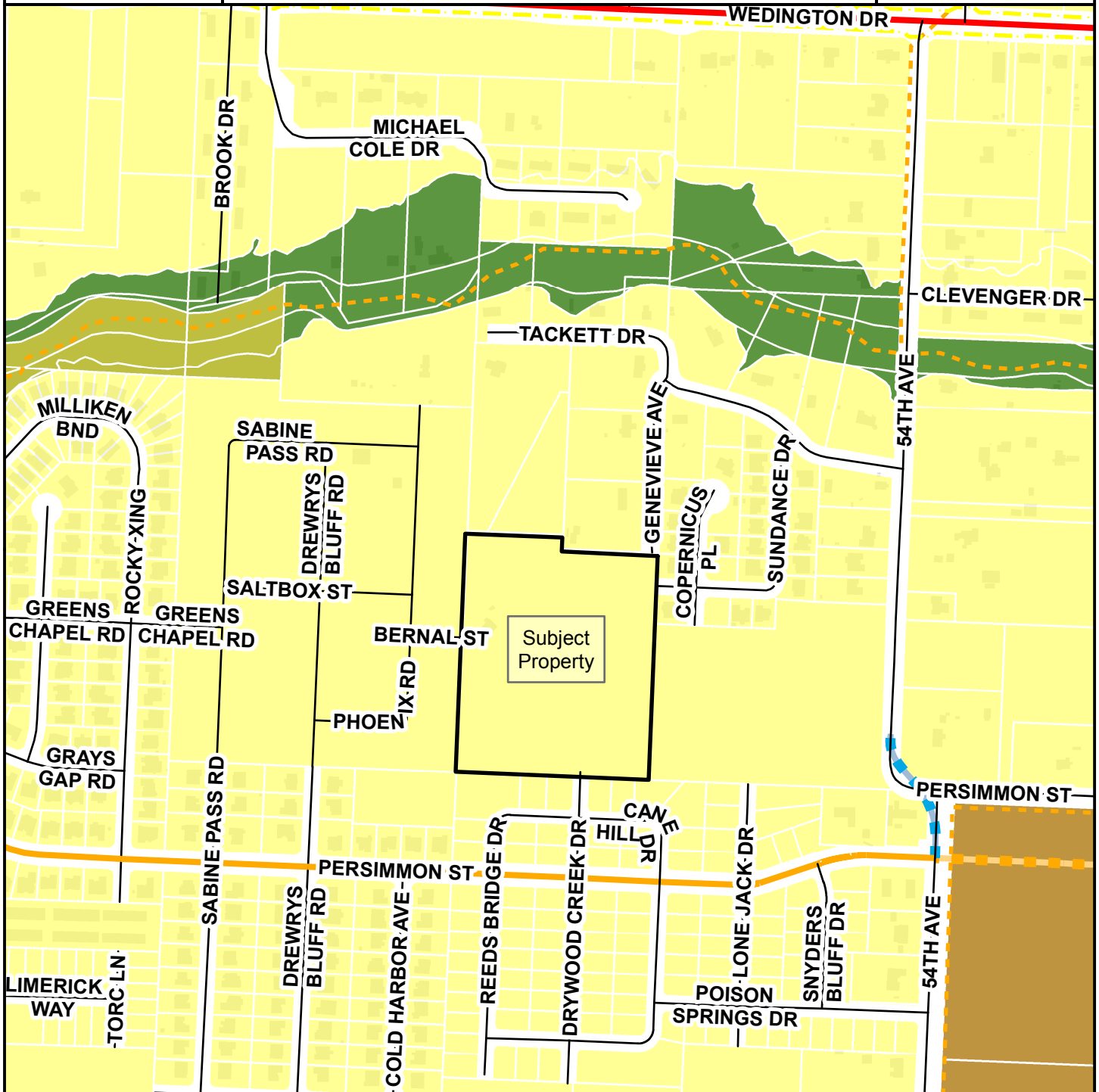
RSF-8 12.1

Total 12.1

RZN20-7067

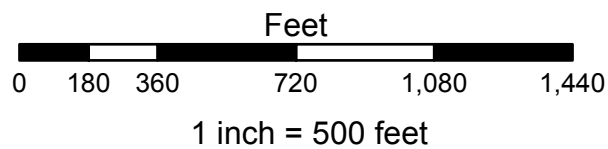
Future Land Use

# DILLAHA



## Legend

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



## Future Land Use

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

