## City of Fayetteville Staff Review Form

2021-0216

Legistar File ID

4/6/2021

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

Jonathan Curth		3/19/2021	CITY PLANNII	NG (630)
Submitted By		Submitted Date	Division / Dep	partment
	Actio	on Recommendation:		
RZN-2021-000033: Rezone (797 S. CH property located at 797 W. CHERRY L and contains approximately 1.02 acre INTERMEDIATE-URBAN.	N The pro	perty is zoned RSF-4, RESIDENTI	IAL SINGLE FAMII	LY, 4 UNITS PER ACRE
		Budget Impact:		
Account Numbe	er		Fund	
Project Numbe	r		Project Title	
Budgeted Item?	Budgeted Item? NA		\$ \$	-
		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 o	or Resolution #	V20180321
Change Order Number:		Approval Date:	_	
Original Contract Number:				

**Comments:** 



#### CITY COUNCIL MEMO

### **MEETING OF APRIL 6, 2021**

TO: Mayor; Fayetteville City Council

**THRU:** Susan Norton, Chief of Staff

Jonathan Curth, Development Services Director

FROM: Jessie Masters, Development Review Manager

**DATE:** March 19, 2021

SUBJECT: RZN-2021-000033: Rezone (797 S. CHERRY LN./A&B ENTERPRISES, INC.,

**565):** Submitted by MICHAEL ANDREWS for property located at 797 W. CHERRY LN.. The property is zoned RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE and contains approximately 1.02 acres. The request is to rezone the

property to RI-U, RESIDENTIAL INTERMEDIATE-URBAN.

#### **RECOMMENDATION:**

City Planning staff and the Planning Commission recommend approval of a request to rezone the subject property as described and shown in the attached Exhibits 'A' and 'B'.

#### **BACKGROUND:**

The subject property, addressed at 797 S. Cherry Lane, is in South Fayetteville, just north of E. Huntsville Road, and consists of two parcels, 765-15206-000 and 765-15209-000. Containing 1.02 acres and one single-family dwelling, which county records indicate was built in 1936, the property is currently zoned RSF-4, Residential Single-Family, 4 Units per Acre.

*Request:* The request is to rezone the property to RI-U, Residential Intermediate – Urban. No development plans have been submitted by the applicant.

Public Comment: Staff has received public comment on the item in support of the request, with concerns regarding the quality of S. Cherry Lane and any associated street improvements. Staff also received comment in opposition to the rezoning, both during the Planning Commission meeting and following the meeting.

Land Use Compatibility: The surrounding property is characterized by single-family residential, though a mix of zoning districts currently govern the surrounding area, including RMF-24, Residential Multi-Family, 24 Units per Acre, and RI-12, Residential Intermediate, 12 Units per Acre. Staff finds that the current street infrastructure along S. Cherry Lane is narrow and lacks sidewalks, but required street improvements would be assessed at the time of a specific development proposal. A request to rezone the property to RI-U, Residential Intermediate – Urban, allows for an increase in density for additional housing on the site that would be classified as "missing middle." This would include duplexes and 3-4 family dwellings which would be compatible with single-family dwellings. The requested zoning designation would not permit

apartment buildings with 5 units or more that may be out of scale given the property's location away from Cherry Lane's intersection with E. Huntsville Road. Staff finds that the RI-U zoning district and the minimum lot width of 18 feet would allow for infill development at this site, and would help maximize the use of the land since there is greater land area behind the street's frontage. Given the mix of zoning districts in the area, staff finds that RI-U would also work as a transition for S. Cherry Lane from the RMF-24 zoning that is directly to the west of the property, should that land ever redevelop. Staff also finds that the site is within walking distance to available services at Huntsville and Crossover, and within walking distance to transit lines.

Land Use Plan Analysis: Staff finds that the request is consistent with adopted land use policies, the Future Land Use Map designation, and goals of City Plan 2040. The property has a moderate infill score of 6, which indicates that the area can likely support additional housing, but a rezoning to a multi-family district may be too much too soon for the area. The request also meets goals 1 and 6 of City Plan 2040, by providing infill development, as well as by providing a potential for a variety of housing types, which could help fulfill a goal towards the provision of more attainable housing.

CITY PLAN 2040 INFILL MATRIX: City Plan 2040's Infill Matrix indicates a score of 6 for this site, with a weighted score of 7. The following elements of the matrix contribute to the score:

- Adequate Fire Response (Station 3, 1050 S. Happy Hollow Road)
- Near Sewer Main (S. Cherry Lane)
- Near Water Main (S. Cherry Lane)
- Near Public School (Happy Hollow Elementary School)
- Near City Park (Mt. Sequoyah Woods)
- Near ORT Bus Stop (Route 20)

#### DISCUSSION:

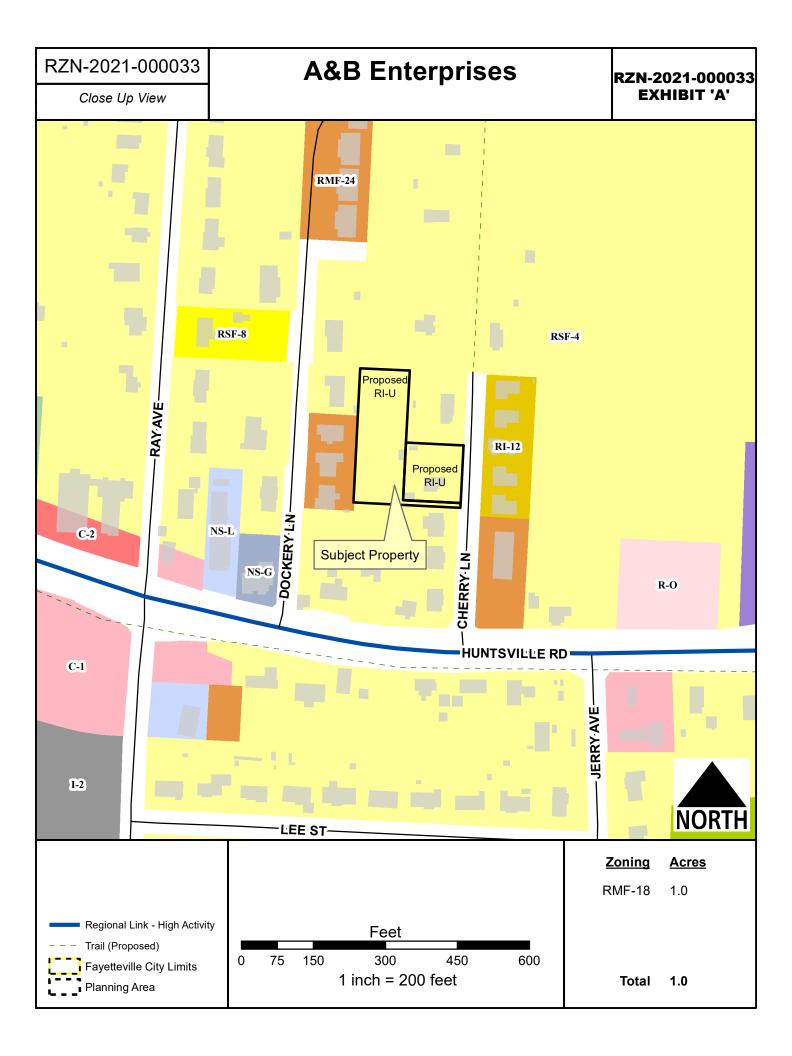
At the March 8, 2021 Planning Commission meeting, a vote of 7-0-0 forwarded the request to the City Council with a recommendation of approval. Commissioner Canada made the motion and Commissioner Brown seconded. Commissioners agreed that the uses permitted in RI-U allowed for a moderate increase in density that was compatible for the surrounding neighborhood, given its location between a Tier 2 center and a Tier 3 center. A member of the public spoke in opposition to the request citing concerns about the rear of her property being developed, and concerns about the streets and lack of sidewalks in the neighborhood.

#### **BUDGET/STAFF IMPACT:**

N/A

#### **Attachments:**

- Exhibit A
- Exhibit B
- Planning Commission Staff Report



# **EXHIBIT 'B'** RZN-2021-000033

Parcel: 765-15206-000 - 0.33 Acres

A part of the NE ¼ of the NW ¼ of Section 23, in Township 16 North, of Range 30 West, Washington County, Arkansas, described as follows: Beginning at a point which is 150 feet South of the NE corner of said forty-acre tract, and running, thence West 120 feet; thence South 120 feet; thence East 120 feet; thence North 120 feet to the point of beginning.

Parcel: 765-15209-000 - 0.69 Acres

Part of the NE ¼ of the NW ¼ of section 23, Township 16 North, Range 30 West of the Fifth Principal Meridian, Washington County, Arkansas, being more particularly described as follows, to-wit: Commencing at the NE corner of said NE ¼ of the NW ¼; thence West 120.00 feet to the point of the beginning; thence South 270.00 feet; thence East 120.00 feet; thence South 10.00 feet; thence West 223.00 feet; thence North 280.00 feet; thence East 103.00 feet to the point of beginning, containing 0.69 acres, more or less. Subject to easements and rights-of-way of record, if any.



## **PLANNING COMMISSION MEMO**

**TO:** Fayetteville Planning Commission

FROM: Jessie Masters, Development Review Manager

MEETING DATE: March 8, 2021 Updated with PC hearing results from 3/8/2021

SUBJECT: RZN 2021-000033: Rezone (797 S. CHERRY LN./A&B ENTERPRISES,

**565):** Submitted by MICHAEL ANDREWS for property located at 797 S. CHERRY LN. The property is zoned RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE and contains approximately 1.02 acres. The request is to rezone the property to RI-U, RESIDENTIAL INTERMEDIATE-

URBAN.

#### **RECOMMENDATION:**

Staff recommends forwarding RZN-2021-000033 to City Council with a recommendation of approval.

#### **RECOMMENDED MOTION:**

"I move to forward RZN-2021-000033 to City Council with a recommendation of approval."

#### **BACKGROUND:**

The subject property, addressed at 797 S. Cherry Lane, is in South Fayetteville, just north of E. Huntsville Road, and consists of two parcels, 765-15206-000 and 765-15209-000. Containing 1.02 acres and one single-family dwelling, which county records indicate was built in 1936, the property is currently zoned RSF-4, Residential Single-Family, 4 Units per Acre. 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	RSF-4, Residential Single-Family, 4 Units per Acre
South	Single-Family Residential	RSF-4, Residential Single-Family, 4 Units per Acre
East	Mixed-Density Residential	RI-12, Residential Intermediate, 12 Units per Acre
West	Single-Family Residential	RMF-24, Residential Multi-Family, 24 Units per Acre

**Request:** The request is to rezone the property to RI-U, Residential Intermediate – Urban. No development plans have been submitted by the applicant.

*Public Comment:* Staff has received public comment on the item in support of the request, with concerns regarding the quality of S. Cherry Lane and any associated street improvements.

#### **INFRASTRUCTURE:**

**Streets:** The subject area has frontage along S. Cherry Lane. S. Cherry Lane is a minimally

improved Residential Link Street with asphalt paving and open ditches. Any street

improvements required in these areas would be determined at the time of development proposal as well as any additional improvements or requirements for drainage.

Water: Public water is available to the subject area. An existing 6-inch water main is

present on the west side of S. Cherry Lane.

**Sewer:** Sanitary sewer is available to the subject area. An existing 6-inch sanitary sewer

main is present on the east side of S. Cherry Lane.

**Drainage:** Any additional improvements or requirements for drainage will be determined at

time of development. No portion of the property is within the Hillside-Hilltop Overlay District, and no hydric soils appear to be present on the property. The property does not lie within a FEMA floodplain, nor is there a protected stream in the 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 3, located at 1050 S. Happy Hollow Rd., protects this site. The property is located approximately .4 miles from the fire station with an anticipated drive time of approximately 1 minute using existing streets. The anticipated response time would be approximately 3.2 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.

CITY PLAN 2040 INFILL MATRIX: City Plan 2040's Infill Matrix indicates a score of 6 for this site, with a weighted score of 7. The following elements of the matrix contribute to the score:

- Adequate Fire Response (Station 3, 1050 S. Happy Hollow Road)
- Near Sewer Main (S. Cherry Lane)
- Near Water Main (S. Cherry Lane)
- Near Public School (Happy Hollow Elementary School)
- Near City Park (Mt. Sequoyah Woods)
- Near ORT Bus Stop (Route 20)

#### 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: The surrounding property is characterized by single-family residential, though a mix of zoning districts currently govern the surrounding area, including RMF-24, Residential Multi-Family, 24 Units per Acre, and RI-12, Residential Intermediate, 12 Units per Acre. Staff finds that the current street infrastructure along S. Cherry Lane is underdeveloped, but required street improvements would be assessed at the time of a specific development proposal. A request to rezone the property to RI-U, Residential Intermediate - Urban, allows for an increase in density that would allow for additional housing on the site that would be classified as "missing middle," including duplexes, and 3-4 family dwellings which would be compatible with single-family dwellings, but would not permit larger apartment buildings with 5 units or more that may be out of scale given the property's location away from Cherry Lane's intersection with E. Huntsville Road. Staff finds that the RI-U zoning district and the minimum lot width of 18 feet would allow for infill development at this site, and would help maximize the use of the land since there is greater land area behind the street's frontage. Given the mix of zoning districts in the area, staff finds that RI-U would also work as a transition for S. Cherry Lane from the RMF-24 zoning that is directly to the west of the property, should that land ever redevelop. Staff also finds that the site is within walking distance to available services at Huntsville and Crossover, and within walking distance to transit lines.

Land Use Plan Analysis: Staff finds that the request is consistent with adopted land use policies, the Future Land Use Map designation, or goals of City Plan 2040. The property has a moderate infill score of 6, which indicates that the area can likely support additional housing, but a rezoning to a multifamily district may be too much too soon for the area. The request also meets goals 1 and 6 of City Plan 2040, by providing infill development, as well as by providing a potential for a variety of housing types, which could help fulfill a goal towards the provision of more attainable housing.

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

Finding:

A rezone to a higher density than RSF-4 is justified at this area, given the proximity to available amenities and alignment with the City's goals for the area.

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

Finding:

Rezoning the property to RI-U at this site would increase traffic to the site, and given the minimally improved quality of S. Cherry Lane, staff finds that street improvements would very likely be required by the developer with any

associated development. Staff does find that the site is within 1300 feet of the intersection with N. Crossover and E. Huntsville Roads, and that the site is also close to available transit, so availability for alternative transportation at the site somewhat alleviates these concerns.

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 RI-U would certainly have the potential to increase population density in this area. That said, staff finds that this incremental increase in zoning, with the available water and sewer to the site and proximity to a school leads staff to find that the area can support the increase.

- 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-2021-000033 to City Council with a recommendation of approval.

PLANNING COMMISSION	ON ACTION:	Required	YES		
Date: <u>March 8, 2021</u>	☐ Tabled			☐ Denied	
Motion: Canada		with a r	ecomme	endation of approval	
Second: Brown					
Vote: 7-0-0					

#### **BUDGET/STAFF IMPACT:**

None

#### Attachments:

- Unified Development Code:
  - §161.07 District RSF-4, Residential Single-Family Four (4) Units Per Acre §161.12 - District RI-U, Residential Intermediate – Urban
- Applicant Request Letter

- Public Comment
- 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.

		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. 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.  $\underline{5921}$ , §1, 11-1-16; Ord. No.  $\underline{5945}$ , §8, 1-17-17; Ord. No.  $\underline{6015}$ , §1(Exh. A), 11-21-17;  $\underline{\text{Ord. No. 6245}}$ , §2, 10-15-19)

## 161.12 - District RI-U, Residential Intermediate - Urban

(A) Purpose. The RI-U Residential District is designed to permit and encourage the development of detached and attached dwellings in suitable environments, to provide a range of housing types compatible in scale with singlefamily homes and to encourage a diversity of housing types to meet demand for walkable urban living.

#### (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 41	Accessory dwellings
Unit 44	Cluster housing development

#### (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 12a	Limited business
Unit 24	Home occupations
Unit 26	Multi-family dwellings
Unit 36	Wireless communications facilities

#### (C) Density. None.

## (D) Bulk and Area Regulations.

	Dwelling (all types)
Lot width minimum	18 feet
Lot area minimum	None

## (E) Setback Requirements.

Front	Side Other Uses	Side Single & Two (2) Family	Rear Other Uses	Rear, from centerline of an alley
A build-to zone that is located between the front property, line and a line 25 feet from the front property line.	None	5 feet	5 feet	12 feet

(F) Building Height Regulations.

_ aagg	Building height maximum	2 stories/3 stories*
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- \* A building or a portion of a building that is located between 0 and 10 feet from the front property line or any master street plan right-of-way line shall have a maximum height of two (2) stories. Buildings or portions of the building set back greater than 10 feet from the master street plan right-of-way shall have a maximum height of three (3) stories.
- (G) Building Area. 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.
- (H) Minimum Buildable Street Frontage. 50% of the lot width.

(Ord. No. 5945, §5(Exh. A), 1-17-17; Ord. No. 6015, §1(Exh. A), 11-21-17; Ord. No. 6245, §2, 10-15-19)

## A & B Enterprises, LLC

2914 N College Ave STE 1 & 2 • Fayetteville, AR 72703 • 479.530.3606

Michael Andrews, President Russell Brockman, Managing Member

January 29, 2021

RE: 797 S Cherry Lane Rezoning Request

Dear Fayetteville Planning and Development Service Divisions,

We have purchased two parcels located at 797 S Cherry Lane with at total acreage 1.02 acres. We are simultaneously applying for a Lot Line Adjustment to combine these two parcels into one. This property faces east fronting on the west side of Cherry Lane.

We are proposing the subject property be considered for rezoning RSF-4 to RI-U. We believe this would be the highest and best use of this property, while taking into consideration that there are three RMF-24 properties contiguous to the subject property, one RMF-24 parcel less that 50 feet to the Southeast across Cherry street from subject property, and less than 325 feet to the Northwest on the same boundary line that the rear of our property touches a 1.4 acre RMF-24 parcel containing six duplexes. There are also five RI-12 parcels due East, directly across the street from the subject property.

Since we have adjoining parcels and properties in very close proximity, it does not appear that it would cause any adverse conditions to any neighbors.

We believe that Cherry Lane easily support the increased vehicle traffic that an RI-U density would bring.

New development on this property would obviously require LSD or PZD approval, which would give adjoining property owners ample opportunity for input on how the property is ultimately developed.

Sincerely,

Michael Andrews Russell Brockman

## Masters, Jessica

From: Jenny Harenza < jennyharenza@gmail.com>

Sent: Friday, February 12, 2021 9:04 AM

**To:** Masters, Jessica **Subject:** RZN-2021-000033

**Follow Up Flag:** Follow up **Flag Status:** Flagged

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.

Hello Jessie,

My name is Jenny Harenza and I live at 691 S. Cherry Lane. We moved here recently from the rural outskirts of Washington County and are so excited to actually live in the city now, after commuting to spend so much of our time here the last four years.

I noticed the rezoning proposal for 797 S. Cherry Ln. (RZN-2021-000033) and we believe this can be an improvement to our street. I believe in increasing density and up zoning where appropriate so more people like me can afford to live in Fayetteville.

However, I was very surprised to read that Mr. Andrews felt that "Cherry Lane can easily support the increased vehicle traffic..." I have serious concerns about the increased traffic this would bring.

At any point in the road, if there are two vehicles, one must pull off. Residents often use the parking lot or grass of 810 Cherry Lane to pull off and make room. Additionally, there are young children living all down this street, I see them running back and forth a lot and the road is so narrow that the lack of visibility is concerning.

Lastly, If you look on the map, we are at the end of Cherry lane and we daily deal with drivers pulling into our private yard (not even using the gravel road) to turn around, killing our grass and unaware that our three year old is running around. It's not that we even blame the drivers as much because the road really is just too narrow to turn around. Although, we did have somebody drive around our entire house, no more than 6 feet from the house itself over Christmas (we blame him). Someone broke into our house last spring and we've had multiple things stolen from our garage, and while not directly related, the fact that an increased number of people are forced to trespass on our property due to the poor road just decreases our sense of security.

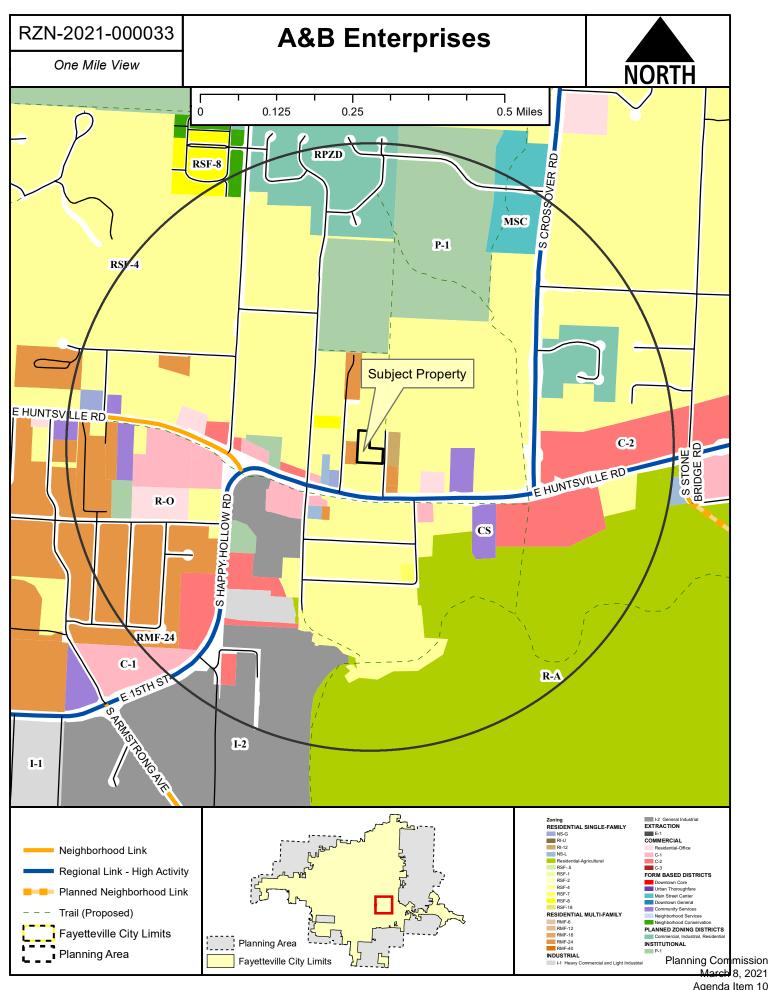
I want to end with reiterating my support for an appropriately scaled up-zoning of 797 S. Cherry Ln., simply contingent on the very overdue task of widening Cherry Ln. first.

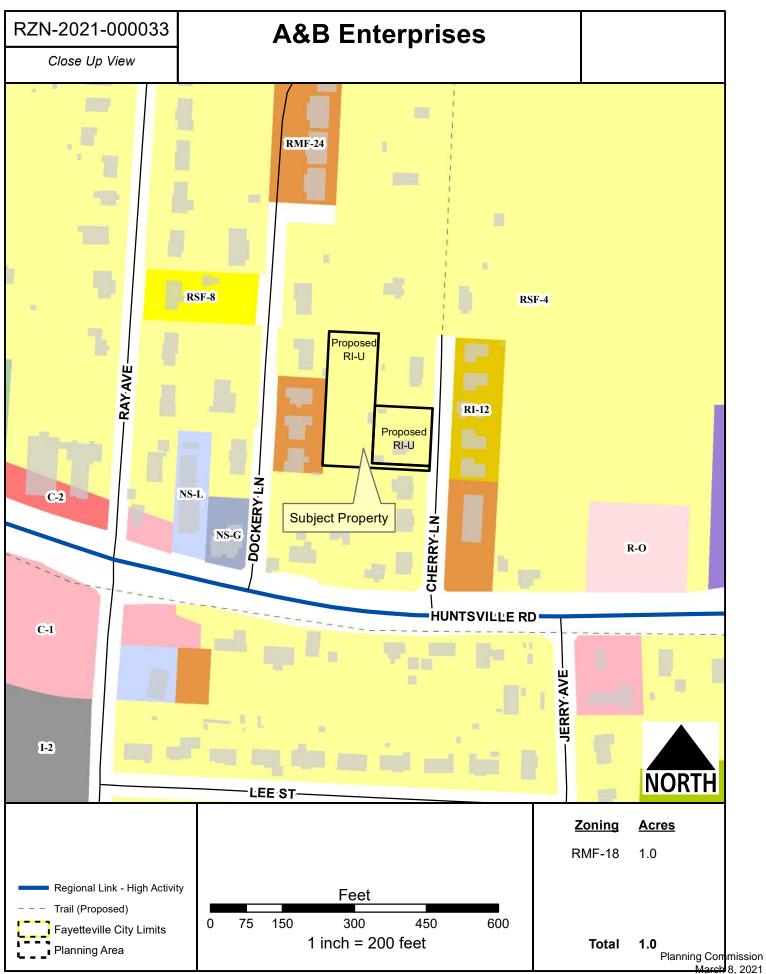
Thank you so much for your time and for reading, and please share any thoughts you have on this.

Have a great weekend,

Jenny Harenza 817-307-2032

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RZN-2021-000033

# **A&B Enterprises**

Current Land Use



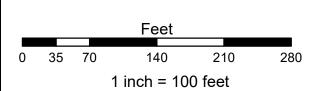


Regional Link - High Activity

- - - · Trail (Proposed)

Fayetteville City Limits

Planning Area



# FEMA Flood Hazard Data



Planning Commission March 8, 2021

