



MEETING OF MARCH 21, 2023

TO: Mayor Jordan and City Council

THRU: Susan Norton, Chief of Staff
Jonathan Curth, Development Services Director
Jessica Masters, Development Review Manager

FROM: Donna Wonsower, Planner

DATE:

SUBJECT: **RZN-2023-0004: Rezoning (2910 N. OLD WIRE RD. / VAN SCYOC, 255): Submitted by JORGENSEN AND ASSOCIATES for property located at 2910 N Old Wire Rd in WARD 3 . The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and R-A, RESIDENTIAL AGRICULTURE, contains approximately 14.70 acres. The request is to rezone the property to R-A, RESIDENTIAL AGRICULTURE on 5.75 acres and NC, NEIGHBORHOOD CONSERVATION on 9.54 acres.**

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 is located in east Fayetteville, roughly 700 feet west of the intersection of N Crossover Rd. and N Old Wire Rd. The property's zoning is currently split between RSF-4, Residential Single-Family, Four (4) Units per Acre on the western half and R-A, Residential Agriculture on the eastern half. Except for a one single family house, the three parcels (cumulatively 14.7 acres) are undeveloped. The entire property is covered with extensive tree canopy. The eastern half is part of the streamside protection zone / floodplain & floodway of Niokaska Creek and is largely designated as part of the Enduring Green Network.

Request: The request is to shift the alignment of the existing R-A, Residential Agriculture zoning district to follow the boundary of the 100-year flood line, and to rezone the remainder of the property to NC, Neighborhood Conservation.

Public Comment: Five (5) members of the public offered comments in opposition of the item via email. Among their concerns were the potential increase in traffic, environmental concerns, negative impact on home values and neighborhood character, and lacking existing infrastructure including schools. One (1) member of the public emailed in support of the project. Additional members of the public spoke in person at the meeting, a summary of which is included below.

Land Use Compatibility: Staff finds the request to be compatible with the surrounding context. Residential uses and densities located near the subject property vary substantially. Neighboring properties are of a variety of sizes but generally follow a cul-de-sac development pattern. The existing and proposed zoning districts have

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similar allowable uses, but the NC includes urban form setbacks rather than traditional setbacks. When compared to RSF-4, rezoning to NC will decrease the lot area minimum for single and two-family uses from 8,000 and 12,000 square feet respectively to 4,000 sf. In addition, NC would have a build-to zone of 25 feet rather than a front setback of 15 feet, and a rear setback of 5 feet rather than 15 feet. NC requires a 40-foot lot width minimum while RSF-4 requires a 70-foot lot width minimum for single-family dwellings and an 80-foot lot width minimum for two-family dwellings. Conversely, both NC and RSF-4 include up to a three-story height limit.

Since the subject property contains roughly 8.14 acres of RSF-4, a maximum of thirty-two (32) units are permitted under current entitlements, where the proposed rezoning to 9.54 acres of NC would increase the density cap to ninety-five (95) units. That said, any future development would be subject to, and limited by, minimum parking requirements, tree preservation, drainage, and access management standards.

Land Use Plan Analysis: Staff finds the proposal is consistent with the goals in City Plan 2040 and the future land use designation for this location. Rezoning from RSF-4 to NC serves to contribute towards City Plan 2040 Goal #1– Appropriate Infill; #4– Growing a Livable Transportation Network, #5– We Will Assemble an Enduring Green Network, and #6– Create Opportunities for Attainable Housing. The site scores moderately on the Infill Scoring Matrix due to water/sewer access, public parks and trails, and the proximity of fire station #5. The RSF-4 and NC have similar allowed uses. However, because of the flexible zoning regulations associated with the NC district, rezoning may allow for redevelopment or added density while maintaining more tree canopy and natural areas than would be possible under the more Euclidean RSF-4 zoning district.

CITY PLAN 2040 INFILL MATRIX: City Plan 2040's Infill Matrix indicates 5 attributes for this site that may contribute to appropriate infill. The following elements of the matrix contribute to the score:

- Adequate Fire Response (Station #5, 2979 N Old Wire Rd.)
- Near Sewer Main (8" sewer main, N Old Wire Rd.)
- Near Water Main (6" water main, N Old Wire Rd.)
- Near City Park (Gulley Park)
- Near Paved Trail (Niokaska Creek Trail)

DISCUSSION:

At the February 27, 2023 Planning Commission meeting, a vote of 5-2-1 forwarded the request to City Council with a recommendation of approval. Commissioner Brink made the motion and Commissioner McGetrick seconded. Commissioner Holcomb recused himself for this item. Commissioners in favor of the rezoning found the intent of Neighborhood Conservation to be compatible with RSF-4, allowing for more flexible, walkable development. They also noted that although the property is not directly located in an urban growth center on the 2040 plan's growth concept map (designated on a scale of 1-3 depending on intensity), it is between a tier 2 and a tier 3 center on a high-activity corridor. Per the plan, the tier centers identify key growth nodes and major areas that should be conserved for natural resources and open space (City Plan 2040, pg. 12). The commissioners voting in favor of the rezoning also cited the logical re-alignment of the R-A zoning with the floodplain. Commissioners Garlock and Madden voted no citing a low infill score, limited possibility for connectivity to surrounding properties, and the property not falling within the bounds of the tier 2 center, and misalignment with the future land use map and master street plan regional link.

Seven (7) members of the public spoke during the meeting. Discussion from the public focused primarily on compatibility with the existing neighborhood, drainage and flooding, density, increased traffic, environmental impact, insufficient schools, and the public hearing process.

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BUDGET/STAFF IMPACT:

NA

ATTACHMENTS: SRF, Exhibit A, Exhibit B, Planning Commission Staff Report

Mailing address:

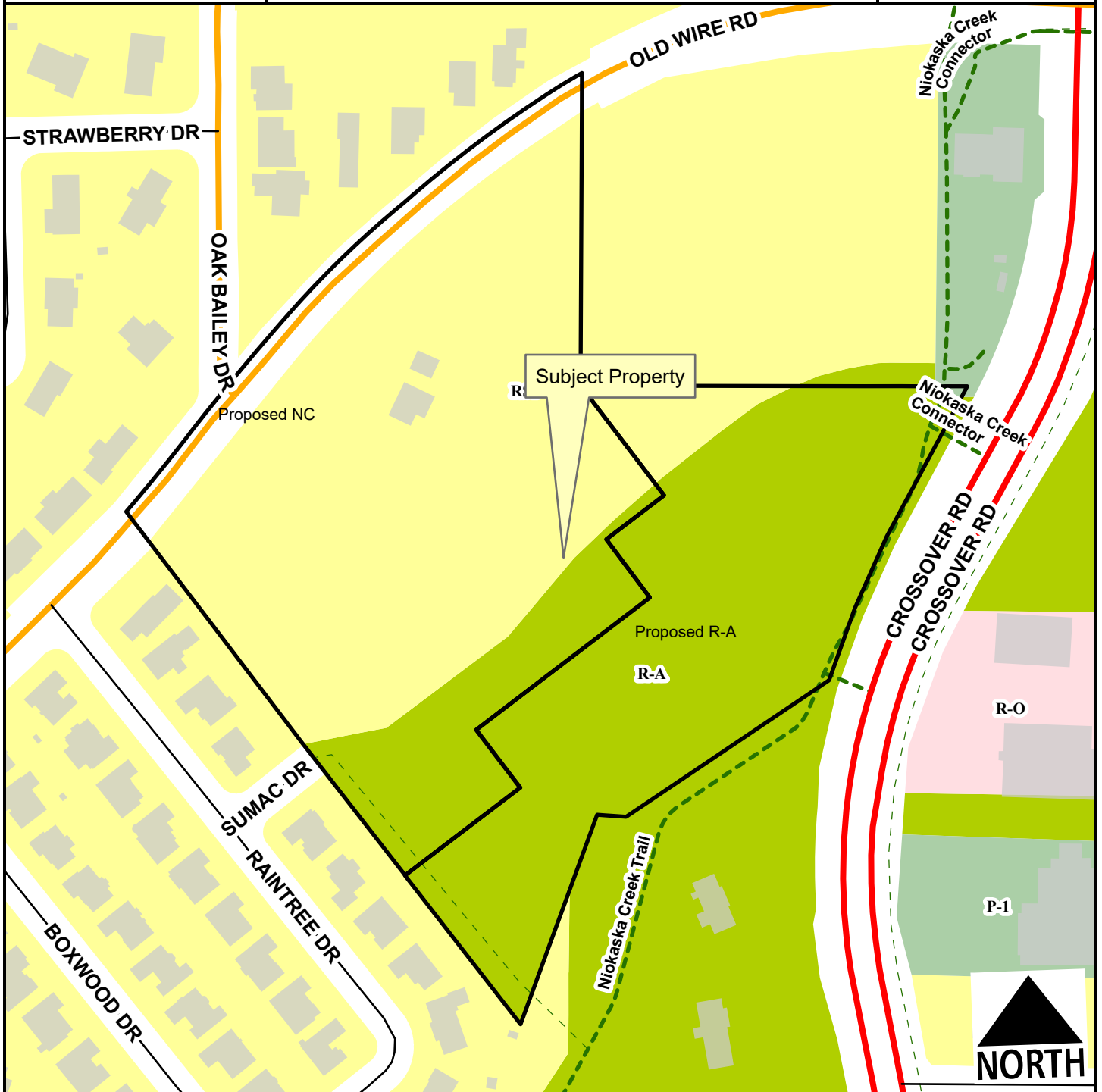
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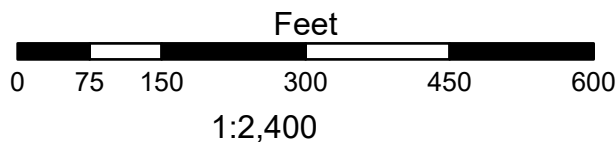
RZN-2023-0004

2910 N OLD WIRE RD

Close Up View

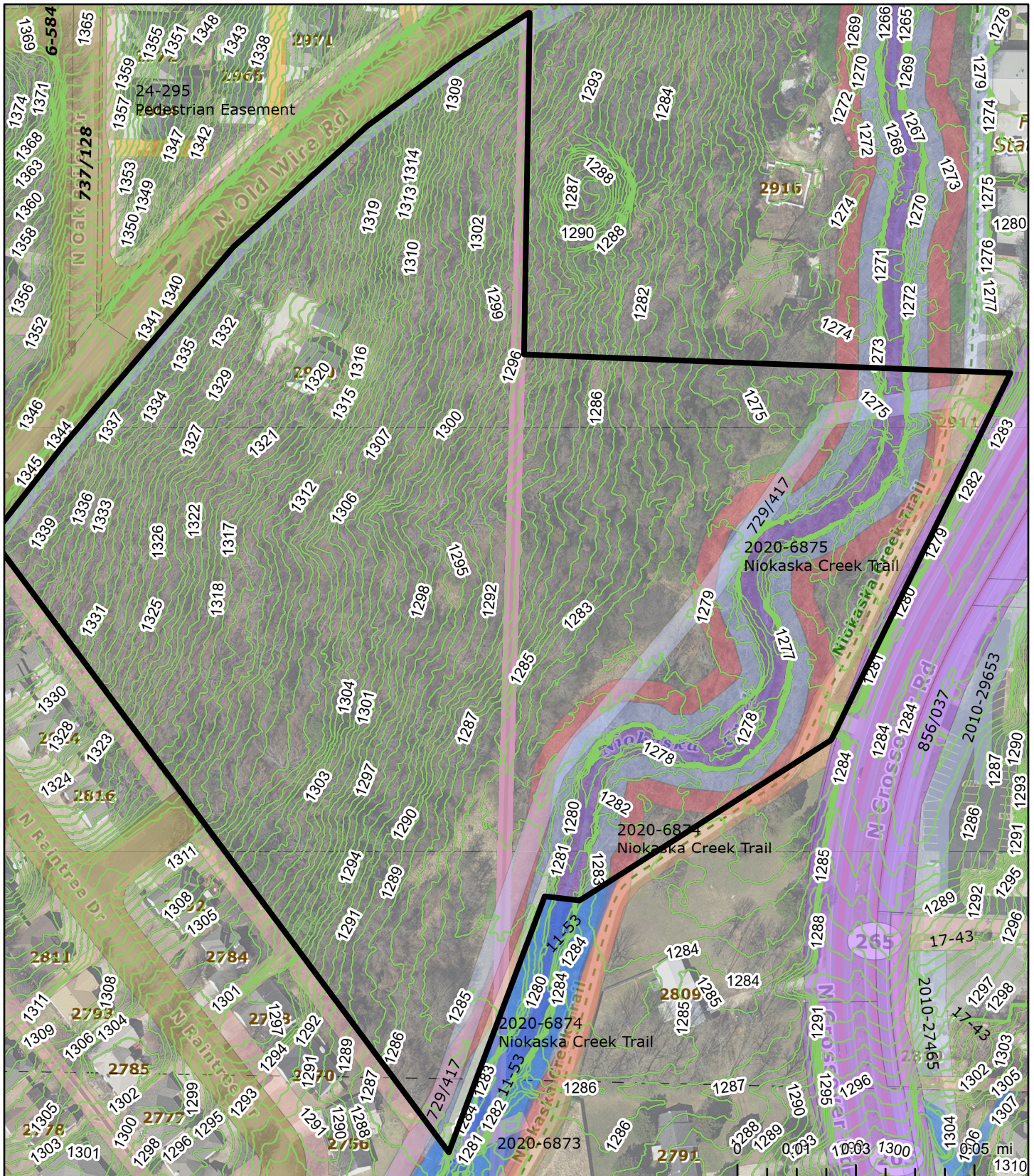


- Regional Link
- Neighborhood Link
- Residential Link
- Trail (Proposed)
- Planning Area
- Fayetteville City Limits



Zone	Current	Proposed
NC	0.0	9.5
P-1	0.0	0.0
R-A	6.8	5.7
RSF-4	7.5	0.0

Total 15.2 ac



	Override 1		Other Easement		AHTD
	Contour 1'		Water/Sewer Easement		Fayetteville
	Section		Trail Easement		Additional
	Quarter Section		Drainage Easement		Bankfull
	Section		Access Easement		Management
	Township		General Utility Easement		Waterside

Contours and Streamside

Fayetteville, AR

The data contained herein was compiled from various sources for the sole use and benefit of the City of Fayetteville Geographic Information System and the public agencies it serves. Any use of the data by anyone other than the City of Fayetteville is at the sole risk of the user; and by acceptance of this data, the user does hereby agree to indemnify the City of Fayetteville and hold the City of Fayetteville harmless from and without liability for any claims, actions, cost for damages of any nature, including the city's cost of defense, asserted by user or by another arising from the use of this data. The City of Fayetteville makes no express or implied warranties with reference to the data. No word, phrase, or clause found herein shall be construed to waive that tort immunity set forth under Arkansas law.

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Map Author:

Paxton, Kara

From: Batker, Jodi
Sent: Wednesday, April 5, 2023 10:29 AM
To: Jordan, Lioneld; Berna, Scott; Bunch, Sarah; D'Andre Jones; Harvey, Sonia; Hertzberg, Holly; Jones, D'Andre; Moore, Sarah; Turk, Teresa; Wiederkehr, Mike
Cc: Paxton, Kara; Norton, Susan; Curth, Jonathan; Williams, Kit; Pennington, Blake
Subject: Ordinance to rezone about 15 acres at 2910 Old Wire Road
Attachments: 0289_001.pdf

Good morning, please find attached a memo from Kit regarding the Ordinance to rezone about 15 acres at 2910 Old Wire Road.

Thank you.

Jodi Batker

Paralegal
113 W. Mountain St., Suite 302
Fayetteville, Arkansas 72701
Telephone: (479) 575-8313
jbatker@fayetteville-ar.gov



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From: City Hall 3rd Floor Color Copier Shared
Sent: Wednesday, April 05, 2023 11:21 AM
To: Batker, Jodi <jbatker@fayetteville-ar.gov>; Williams, Kit <kwilliams@fayetteville-ar.gov>
Subject: Attached Image



OFFICE OF THE
CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE



Kit Williams
City Attorney

Blake Pennington
Assistant City Attorney

Jodi Batker
Paralegal

TO: Mayor Jordan
City Council
City Clerk Treasurer Kara Paxton

CC: Susan Norton, Chief of Staff
Jonathan Curth, Development Services Director

FROM: Kit Williams, City Attorney

DATE: April 5, 2023

RE: Ordinance to rezone about 15 acres at 2910 Old Wire Road

I would like to further explain and document my response to Council Member Scott Burna's question about comments attacking the procedure used to present this rezoning request for your consideration. As you remember, I opined that the complaints of the lawyer/residents concerning the rezoning application were insufficient to prevent the City Council from deciding this rezoning request.

The *Unified Development Code* in §154.03 **Private Parties Zoning Amendment (A)(3)** states that the following information should be presented in the rezoning application:

"A statement explaining the compatibility of this proposed rezoning with neighboring property and explaining why the proposed rezoning will not unreasonably adversely affect or conflict with surrounding land uses."

Civil Engineers Jorgensen & Associates on behalf of the owner and their representatives furnished the Statement of Compatibility of rezoning most of the current Residential-Single Family- four units per acre (RSF-4) to Neighborhood Conservation (NC). This letter attached to this memo was addressed to and provided to the Development Services Staff which certainly know that the allowed uses of RSF-4 and NC are virtually identical and so inherently

compatible to the adjoining RSF-4 neighborhood. Staff also knows that Neighborhood Conservation allows slightly smaller lots and thus increased density and also uses build-to zones rather than wider setbacks for RSF-4. The City Planner who reviewed this letter and its Statement of Compatibility stamped it "Approved." The City Attorney is the official interpreter of the **Amendments Chapter**, and I find this letter satisfies the application requirements.

Some of the residents also questioned whether proper notice was provided to the residents concerning the proposed rezoning. Attached is the Adjacent Property Owner Map as well as the two page listing of first class mailings on February 7, 2023 to the owners of these parcels. I have also attached a photograph of the required Public Hearing Notice sign on Old Wire Road next to the property to be considered for rezoning. These documents establish that the rezoning applicant fulfilled proper notice requirements.

As the City Council's appointed interpreter of both the **Amendments of Appeals Chapters**, my goal has always been to apply common sense to most requirements in these chapters so that citizens, land owners, and developers can reasonable be heard by the City Council rather than applying overly strict requirements which could prevent the City Council from deciding a substantially proper rezoning request or appeal. The specified time limit for an appeal is the one requirement that must be strictly enforced for fairness to all concerned.

CONCLUSION

I stand by my statements to the City Council that the Planning Department's approval of the rezoning application was proper and supported with required documentation. The three public hearings during which numerous residents were allowed to address the Planning Commission and then the City Council prove that notice of this rezoning did occur, and any due process rights have certainly be afforded to everyone.

I do not support or oppose this rezoning request. However, I do opine that the City Council has full authority to decide this rezoning request as it determines what would be in the best interests of Fayetteville.



**JORGENSEN
+ASSOCIATES**
Civil Engineering • Surveying

124 W Sunbridge Drive, Suite 5
Fayetteville, AR 72703
Office: 479.442.9127
www.jorgensenassoc.com
Established 1985

February 3, 2023

City of Fayetteville

Development Services
113 West Mountain Street
Fayetteville, AR 72701

Re: Rezoning at 2910 N Old Wire Road

Dear City Staff;

On Behalf of the Owner and their representatives, we are submitting a rezoning request for property located along 2910 N Old Wire, Fayetteville, AR 72703.

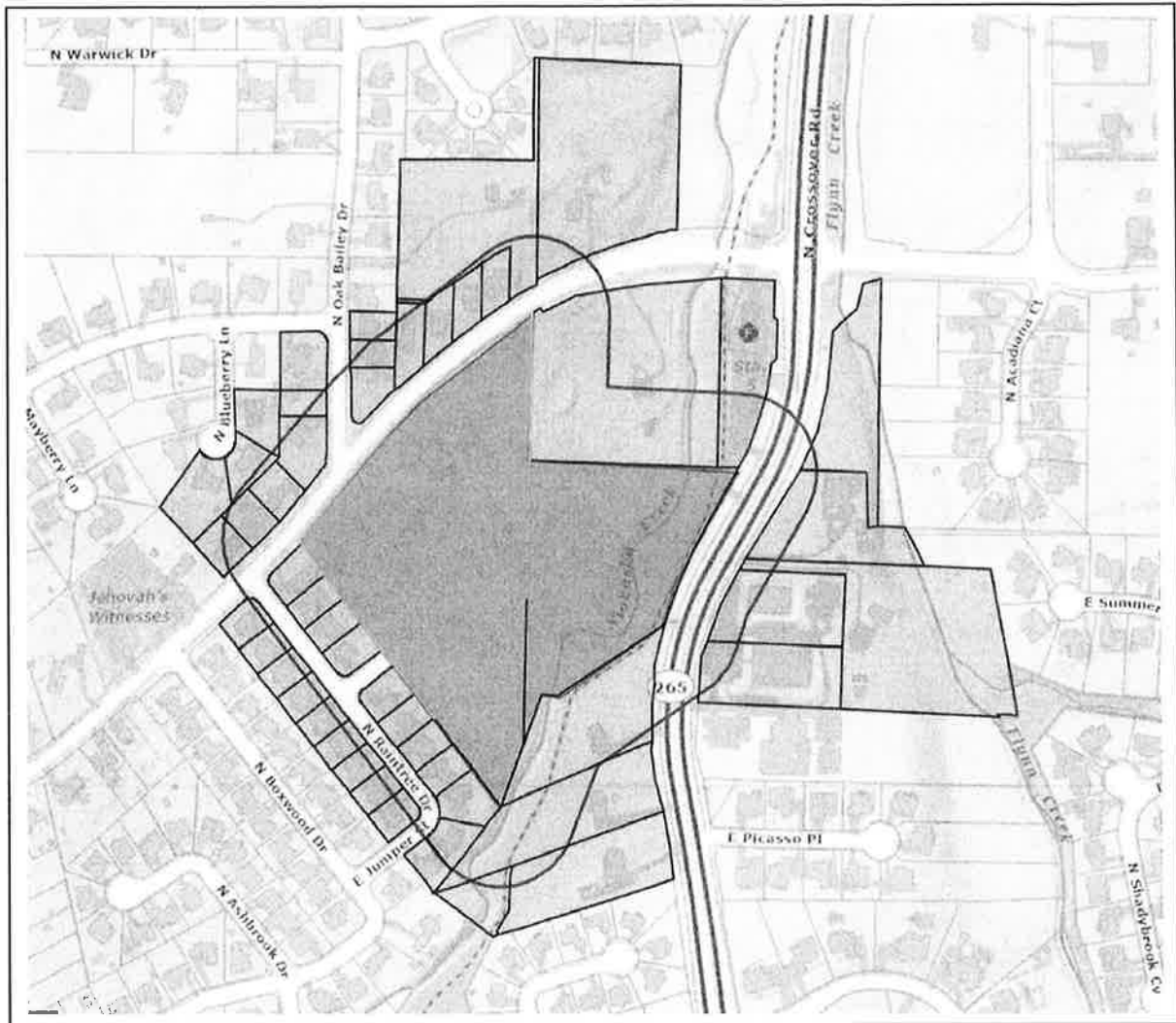
- A. The current owner of this site is as follows: Nola VanScyoc Revocable Trust (Parcel Numbers 765-16047-000, 765-13287-000. 765-16043-000.
- B. Currently this property is zoned RSF-4 and R-A.
- C. This property is surrounded by RSF-4 on the north and west, a portion of P-1 to the south and north, and section of R-O to the east.
- D. Existing adequate water and sewer are already at this site.
- E. We feel the requested rezoning is in line with the goals of the City Plan 2040 where the future land use calls for a portion of Residential Neighborhood and Natural.

Statement of Compatibility:

This request to rezone a portion of the RSF-4 to Neighborhood Conservation and adjust the R-A zoning line to match the 100-year floodplain is compatible with neighboring property and will not unreasonably adversely affect or conflict with surrounding land uses. Within reasonable proximity, rezoning of the property south of Butterfield Elementary to NC, sets a precedence for similar development patterns that serve to promote and protect neighborhood character. The zoning line has been adjusted to follow the 100-year flood plain and this zoning line makes more sense than the current zoning line and will ensure that the floodplain would be of minimal impact. Given the proximity to the Fire Station, Crossover (Regional Link), and the Niokaska Trail, we feel that this rezoning is supported in a multitude of ways and will not adversely impact vehicular patterns.

Reviewed by Donna Wonsower
Planner, Development Services
APPROVED

ADJACENT PROPERTY OWNER MAP



CERTIFICATE OF MAILING

I HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE ATTACHED WRITTEN NOTICE WAS PLACED IN THE U.S. MAIL, FIRST-CLASS, POSTAGE PREPAID THIS 7TH DAY OF FEBRUARY, 2023, AND

ADDRESSED AS FOLLOWS:

TOUNZEN, MARIVEL	2743 E JUNIPER ST	FAYETTEVILLE	AR	72703
HEWITT, KATHY CARPENTER	9205 DOVE MEADOW DR	DALLAS	TX	75243
HUGHES, JOHN THOMAS & ELEANOR JANE	2756 N RAINTREE DR	FAYETTEVILLE	AR	72703
BROWN, GINGER TRUST	2777 N RAINTREE DR	FAYETTEVILLE	AR	72703
PINTER, BENJAMIN K & CASEY C	2770 N RAINTREE DR	FAYETTEVILLE	AR	72703
KBRB LLC	PO BOX 9046	FAYETTEVILLE	AR	72703
TAKIGIKU, SUSAN K LIVING TRUST	2778 N RAINTREE DR	FAYETTEVILLE	AR	72703
CASTILLO-REYES, FERNANDO	2793 N RAINTREE DR	FAYETTEVILLE	AR	72703
MOTE, NICK A; STEVENS, ALEXIS E	2811 N RAINTREE DR	FAYETTEVILLE	AR	72703
SHAW, CONNOR B	2784 N RAINTREE DR	FAYETTEVILLE	AR	72703
MARTINEZ, JORGE & LIGIA	2819 N RAINTREE DR	FAYETTEVILLE	AR	72703
KEYS, ROBERT H & JULIE	2792 N RAINTREE DR	FAYETTEVILLE	AR	72703
WASHABAUGH, J WESLEY & ROXANNE	2825 N RAINTREE DR	FAYETTEVILLE	AR	72703
CROUCH, ROBERT E & MICHELE L	2816 N RAINTREE DR	FAYETTEVILLE	AR	72703
FREEMAN, NICOLE M & MICHAEL S	2839 N RAINTREE DR	FAYETTEVILLE	AR	72703
SILANO, MARK M; SILANO, BLYTHE JANE	2824 N RAINTREE DR E	FAYETTEVILLE	AR	72703
PARK, DEBBIE LEE	2851 N RAINTREE DR	FAYETTEVILLE	AR	72703
KULL, ANDREW DALLAS & MARY ANNE	2840 N RAINTREE DR	FAYETTEVILLE	AR	72703
TIFFANY, KALILA L	2830 N STAGECOACH DR	FAYETTEVILLE	AR	72703
EDENS, ERNEST E	5891 W WHEELER RD	FAYETTEVILLE	AR	72704
MELLOTT, JOSHUA L REVOCABLE TRUST	2905 N OLD WIRE RD	FAYETTEVILLE	AR	72703
DEITCHLER, MAX R	2924 N OLD WIRE RD	FAYETTEVILLE	AR	72703
BROWN, MATTHEW A & AMBER N	2916 N BLUEBERRY LN	FAYETTEVILLE	AR	72703
YATES, GEORGIA ANN	2940 N BLUEBERRY LN	FAYETTEVILLE	AR	72703
SPURLOCK, SHAWN D & STACEY L	3066 N STRAWBERRY DR	FAYETTEVILLE	AR	72703
CREED, SETH T	10652 FRAKER MOUNTAIN RD	WEST FORK	AR	72774
KIRBY FAMILY TRUST	448 N LIMESTONE DR	FAYETTEVILLE	AR	72701
WALKER, LARRY H & ANDREA	2809 N CROSSOVER RD	FAYETTEVILLE	AR	72703
VAN SCYOC, NOLA REVOCABLE TRUST	2910 N OLD WIRE RD	FAYETTEVILLE	AR	72703
SHORT, JIM & REBECCA	PO BOX 988	SALEM	AR	72576
CITY OF FAYETTEVILLE	113 W MOUNTAIN ST	FAYETTEVILLE	AR	72701
WALKER, LARRY H & ANDREA N	2809 N CROSSOVER RD	FAYETTEVILLE	AR	72703
WRIGHT FAMILY TRUST	2763 N CROSSOVER RD	FAYETTEVILLE	AR	72703
CARDEN, CHERYL PIEPER	2913 N OLD WIRE RD	FAYETTEVILLE	AR	72703

RADLER, DWIGHT D & LULONG	4546 JEAN LN	FAYETTEVILLE	AR	72704
HAMPTON, SHARON LYNN ADLER	2880 N CROSSOVER RD	FAYETTEVILLE	AR	72703
MEINECKE, JAMES I & DONNA M	2932 N BROOKBURY XING	FAYETTEVILLE	AR	72703
MEINECKE, JAMES I & DONNA M	2932 N BROOKBURY XING	FAYETTEVILLE	AR	72703
NELMS, DENNIS E & FREE, FRAN B	2870 N CROSSOVER RD	FAYETTEVILLE	AR	72703
JOHNSON, WINDSOR	4034 N OLD WIRE RD	FAYETTEVILLE	AR	72703
MARKER DEVELOPMENT LLC	PO BOX 8951	FAYETTEVILLE	AR	72703
PARKER INVESTMENTS LLC	P O BOX 8951	FAYETTEVILLE	AR	72703
PICKUS, KATHERINE	2964 N OAK BAILEY DR	FAYETTEVILLE	AR	72703
HYATT, DANA R	2972 N OAK BAILEY DR	FAYETTEVILLE	AR	72703
SAYRE, MARIBETH PREWITT	2983 N OLD WIRE RD	FAYETTEVILLE	AR	72703
WERNER, NICOLAS C; WOOD, CASEY DANIELLE	2979 N OLD WIRE RD	FAYETTEVILLE	AR	72703
ADAMS, REED & ANNA GRACE	2971 N OLD WIRE RD	FAYETTEVILLE	AR	72703
SOMERVELL, DONALD & HELINA	14633 LOCUSTWOOD LN	SILVER SPRING	MD	20905
CITY OF FAYETTEVILLE	113 W MOUNTAIN ST	FAYETTEVILLE	AR	72701
CURRENT RESIDENT	2769 N RAINTREE DR	FAYETTEVILLE	AR	72703
CURRENT RESIDENT	2785 N RAINTREE DR	FAYETTEVILLE	AR	72704
CURRENT RESIDENT	2850 N OLD WIRE RD	FAYETTEVILLE	AR	72705
CURRENT RESIDENT	2901 N OLD WIRE RD	FAYETTEVILLE	AR	72706
CURRENT RESIDENT	2923 N OLD WIRE RD	FAYETTEVILLE	AR	72707
CURRENT RESIDENT	2955 N OAK BAILEY DR	FAYETTEVILLE	AR	72708
CURRENT RESIDENT	2961 N OAK BAILEY DR	FAYETTEVILLE	AR	72709
CURRENT RESIDENT	2916 N OLD WIRE RD	FAYETTEVILLE	AR	72710
CURRENT RESIDENT	3014 N OAK BAILEY DR	FAYETTEVILLE	AR	72711


 BLAKE JORGENSEN

CITY FILE NO. /NAME: RZN-2023-0004

CERTIFICATE OF SIGN POSTING



I, Blake Jorgensen, attest that the above sign was posted on 2.6.23 adjacent to Old Wire Road.

[Signature]

(signature of person completing the sign posting)

City File No./Name: RZN-2023-0004