



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Legislation Text

File #: 2024-26

RZN-2024-0011: Rezone (VARIOUS EXPIRED PZD LOCATIONS/ EXPIRED PZDS, PP VARIES): Submitted by CITY PLANNING STAFF for VARIOUS PROPERTIES LOCATED WITHIN THE CITY LIMITS OF FAYETTEVILLE in WARDS 1, 2, AND 4. The properties are zoned as PLANNED ZONING DISTRICTS and contain approximately 90.65 acres. The request is to rezone the properties to various standard zoning districts.

AN ORDINANCE TO REZONE THE PROPERTIES DESCRIBED IN REZONING PETITION RZN 2024-0011 FOR APPROXIMATELY 90.65 ACRES LOCATED IN WARDS 1, 2, AND 4 FROM PLANNED ZONING DISTRICTS TO VARIOUS STANDARD ZONING DISTRICTS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby changes the zone classification of the properties shown on the maps (Exhibit A) and the legal descriptions (Exhibit B) both attached to the Planning Department's Agenda Memo from Planned Zoning Districts to UT, Urban Thoroughfare; CS, Community Services; RI-U, Residential Intermediate Urban; NC, Neighborhood Conservation; and R-A, Residential Agricultural.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby amends the official zoning map of the City of Fayetteville to reflect the zoning changes provided in Section 1.



MEETING OF MAY 7, 2024

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

SUBJECT: **RZN-2024-0011: Rezone (VARIOUS EXPIRED PZD LOCATIONS/ EXPIRED PZDS, PP VARIES): Submitted by CITY PLANNING STAFF for VARIOUS PROPERTIES LOCATED WITHIN THE CITY LIMITS OF FAYETTEVILLE in WARDS 1, 2, AND 4. The properties are zoned as PLANNED ZONING DISTRICTS and contain approximately 90.65 acres. The request is to rezone the properties to various standard zoning districts.**

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 properties consist of five Planned Zoning Districts (PZDs) that are located throughout the City limits of Fayetteville. Properties are a mix of fully undeveloped properties, partially developed neighborhoods and/or commercial blocks with sections of undeveloped lots, or part of a larger PZD that has been almost entirely rezoned. The original zoning of these properties, before they became PZDs, ranged from R-A, Residential-Agricultural to I-1, Heavy Commercial and Light Industrial. Prior to 2014, Fayetteville's PZD standards required all construction permits to be secured within a specific time frame. If permits were not obtained, then the development rights became null and void. As a result, many of these properties have PZDs which have expired.

Additionally, because planned zoning districts are customized, they are inherently more complicated than the City's standard zoning districts. Many were established before many of the city's current development regulations, such as the landscape and tree preservation code, were passed, leading to complex zoning regulations that are hundreds of pages long and which are generally outdated. As such, staff propose to rezone the properties to various zoning districts as shown in *Table 1* in attached exhibits.

Request: City Planning staff requests to rezone the properties from the expired PZD designation to one or more zoning districts as shown in the attached exhibits. Proposed zoning districts include UT, Urban Thoroughfare; CS, Community Services; RI-U, Residential Intermediate Urban; NC, Neighborhood Conservation; and R-A, Residential Agricultural.

Public Comment: Staff sent letters in late February to notify all affected property owners of the staff-initiated rezoning and provide opportunities for initial feedback. A second round of letters was sent with full public notice

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in March. Over this time frame, staff have received numerous inquiries and comments which are summarized in a table in the staff report.

Land Use Compatibility: The proposed zoning districts are compatible with the surrounding land uses. When determining proposed zoning districts, staff evaluated three primary factors. First was consideration for permitted and conditional uses within the expired PZDs to determine the nature and intensity of the previous entitlements. Second, where developed or platted, staff prioritized the minimization of nonconformances. Lastly, staff identified zoning districts which are compatible with surrounding land uses to the greatest extent possible. The resulting proposals and findings are as follows:

Park West: Staff recommends rezoning the remaining Park West PZD to a combination of UT and CS. Staff finds the rezoning is consistent with the existing development patterns and recent proposals. All other parcels of the original Park West PZD have been rezoned since the PZD's expiration, with entitlement including, most recently, multifamily residential development. Other developments originally included within the PZD boundaries include an existing retirement community known as Grand Village at Clear Creek directly west and the Fellowship Baptist Church directly north. Other portions of the Park West PZD to the north and northwest have been rezoned to a mix of CS, UT, and Neighborhood Services-General (NS-G) but have not yet been developed. Further, there is existing UT zoning located across Hwy 112 at the previous 112 Drive-In-Theatre, which was recently approved for a mixed-use development titled "The Aronson." Staff finds that a split rezoning of CS and UT would be compatible in this area given the existing and planned developments. As proposed, limiting UT to a smaller portion of the property abutting Hwy 112 can restrict more intensive uses to the areas adjacent to the major thoroughfare, with more limited uses permitted adjacent to residential developments.

Cliffside: Staff recommends rezoning the Cliffside PZD to a combination of RI-U and R-A. The approved PZD included approval for 15 single-family homes and 48 two-family homes. All residential lots were approved with front and rear setbacks of 20 feet. Single-family dwellings were approved with side setbacks of 8 feet on all side property lines, and two-family dwellings were approved to utilize a zero-lot line along a shared common wall. Lot sizes range from approximately 3,500 square feet to 10,600 square feet, with only three parcels meeting minimum lot standards for the RSF-4 zoning that predated the PZD. Six of the eight parcels that remain undeveloped have street frontage of approximately 16 feet to 22 feet, with the remaining corner lots having street frontages of nearly 200 feet. Because RI-U has a minimum lot width of 18 feet for residential uses, it is one of the few districts that would allow the platted lots to conform with existing zoning requirements. RI-U would remain primarily residential in nature with limited conditional non-residential uses. While RI-U has no density limitations, staff finds that the zoning is unlikely to result in development that is out of scale with the surroundings as most parcels are small and do not have sufficient width to permit additional subdivision of land. While RI-U permits up to three and four family dwellings by right, staff finds this is not likely due to the existing platting and infrastructure. Further, most parcels are encumbered by utility or drainage easements. Staff proposes to rezone the entire Cliffside development rather than solely the undeveloped parcels in order to create consistent zoning entitlements and reduce administrative difficulty for staff and current/future property owners. Staff proposes to rezone the areas designated as common areas and tree preservation lots by the approved PZD as Residential Agricultural, R-A, in order to maintain these areas as communal green space. Staff also proposes to rezone parcel 765-26323-000 (Lot 119) as R-A, as this lot is owned by the City of Fayetteville. R-A allows Use Unit 3: Public Protection and Utility Facilities by right, which would facilitate the lot's intended purpose.

Springwoods: Staff recommends rezoning the undeveloped portions of the Springwoods PZD to a

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combination of UT, CS, and RI-U. Due to the overall scale of the PZD acreage, staff is not recommending a full rezoning of the Springwoods PZD at this time, choosing instead to focus on those properties that are either undeveloped or currently under development. Undeveloped lots are spread throughout the PZD in three primary sections further described below. Lot 1 of the Springwoods CPZD was replatted as the Meadow Field Commercial Subdivision in 2006. Lots 1-2, 5-9 & 12 of Meadow Field remain undeveloped and zoning entitlement for these parcels has since expired. Lot 6A of the original Springwoods CPZD and a portion of PID 765-26552-000 (The Pines at Springwoods Horizontal Property Regime) also remain undeveloped.

Given the proximity of these parcels to the Wilson Springs Creek Preserve, staff finds that the original zoning of I-1 would be incompatible. However, staff notes the remaining parcels within the Meadow Field Commercial Subdivision and Lot 6A abut an I-49 entrance and exit and have the capacity to serve residents throughout the City with large commercial uses. As such, staff evaluated a mix of CS and UT to restore commercial and development rights. Both CS and UT allow a wide mix of residential and commercial uses, creating the opportunity for mixed-use developments rather than solely commercial uses. Staff initially recommended CS on parcels 765-23604-000, 765-25746-000, and 765-25745-000 as these parcels are adjacent to residential uses and could provide a transition to the higher intensity uses permitted by the UT district. Since the initial recommendation of CS, staff has consulted extensively with the property owner of parcels 765-25746-000 and 765-25745-000, who requested the City propose UT, a zoning district that would permit Use Unit 17: Transportation Trades and Services by right rather than CS. Staff analyzed the request and finds that since that the original PZD included this use unit by right and surrounding parcels have been extensively developed with auto-oriented developments, the inclusion of a district which permits Use Unit 17 by right is likely to be compatible in these locations. Staff finds UT, Urban Thoroughfare would be consistent for the requested parcels.

The Pines at Springwoods has been almost entirely developed with four-family dwellings in a form-based style. A single buildable portion of the parcel remains and staff finds that RI-U would best facilitate similar development given the limited development area and the consistent development of four-family dwellings.

Westbrook Village Phase 2: Staff recommends rezoning the Westbrook Village Phase 2 PZD to RI-U. The property was originally platted as part of the Salem Village Planned Unit Development (PUD) in 1997, most of which has since been rezoned to RSF-4. The original PUD designated these parcels as mixed-use village centers. A revised PZD was approved in 2006 that revised the permitted uses to either strictly single-family residential or green space. All but one parcel designated for development have since been constructed with single-family homes, and staff recommends rezoning to RI-U to bring these parcels to a standard zoning district. RI-U has a minimum lot width of 18 feet for residential uses, which would allow the existing lots to conform with existing zoning requirements. Internal parcels here have approximately 20 feet of street frontage. Given existing development patterns and lot sizes, staff finds the uses permitted in RI-U are not likely to create development that is out of sync on the remaining undeveloped parcel.

Paddock Road Subdivision: Staff recommends rezoning the Paddock Road Subdivision PZD to NC. This parcel has been developed and has not expired; however, all other parcels within the original PZD have been rezoned in the years since its passage. As a result of this and the complexity of the Paddock Road Subdivision PZD, staff recommends this parcel be rezoned to NC. The parcels to the immediate west and south were successfully rezoned to NC, Neighborhood Conservation in 2014 and the rezoning of the

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remaining parcel would fully eliminate the remaining RPZD, creating consistent zoning entitlements and reducing administrative difficulty for staff and current/future property owners. The existing parcel meets bulk and area as well as the minimum buildable street frontage required by the NC zoning. As the parcel is already constructed with a residence, staff finds a rezoning is unlikely to result in development that is inconsistent with the surrounding parcels.

Land Use Plan Analysis: The proposed zoning districts are compatible with the Future Land Use Map, which vary from property to property (see Table 2). Staff finds that the recommended zoning districts are generally compatible with goals to encourage infill and discourage suburban sprawl, create compact, complete and connected development, provide opportunities for attainable housing, and grow a livable transportation network. Additionally, rezoning the remaining parcels will eliminate many planned zoning districts, simplifying the zoning regulations and bringing these areas into conformance with current zoning standards.

Park West: Staff finds that rezoning the remaining Park West PZD to a combination of UT and CS is consistent with long-range planning goals. The CS and UT zoning districts will restore development rights and could allow for a mixed-use development in close proximity to a Tier 2 Center, as defined in City Plan 2040's Growth Concept Map. Similarly, the property's Future Land Use Map designation of City Neighborhood Area encourages "complete, compact and connected neighborhoods... intended to serve the residents of Fayetteville, rather than a regional population", which is complemented by both the CS and UT zoning districts. The expired PZD included a mixed-use district, commercial, condominiums, and a preserve/botanical/detention area. Staff finds that the reduced uses permitted by the CS district would be compatible adjacent to existing and proposed residential developments to the west with UT abutting the highway. Staff further finds that the additional pedestrian-oriented requirements of the form-based CS and UT zoning districts generally align the City's 2040 Growth Plan, which calls for all centers to be "mixed-use nodes that are pedestrian friendly areas served by current or future transit."

Cliffside: Staff finds that the split zoning of RI-U and R-A will bring the overall neighborhood into standard zoning districts that will simplify future city reviews, allow for infill, protect existing open space, and permit the city-owned parcel to be utilized for Use Unit 3: Public Protection and Utility Facilities. These units have a moderate infill score of 6-7, though staff notes that only eight parcels within the neighborhood remain undeveloped. The affected parcels are between $\frac{1}{2}$ and $\frac{3}{4}$ of a mile from three Tier Centers: a Tier 2 Center located at the S. Crossover Rd. and E. Huntsville Rd. intersection, a Tier 3 Center located at the S. Crossover Rd. and E. Peppervine Dr. intersection, and a Tier 3 Center located at the E. Huntsville Rd. and S. Happy Hollow Rd. intersection.

Springwoods: Staff finds that rezoning the undeveloped lots in the Springwoods PZD to a combination of UT, CS, and RI-U will restore development rights and could allow for a mixed-use development in proximity to a Tier 2 Center, and that the proposed zoning districts generally align with previously permitted uses. Lot 6A is designated as Urban Center on the Future Land Use Map, which includes "the most intense and dense development patterns within Fayetteville and allows for the tallest and greatest variety of buildings." Undeveloped parcels within the Meadow Field Commercial Subdivision (lots 1-2, 5-9 & 12) and parcel 765-26552-000 (The Pines at Springwoods Horizontal Property Regime) are designated as City Neighborhood Areas, which encourage "complete, compact and connected neighborhoods and are intended to serve the residents of Fayetteville, rather than a regional population." The affected parcels are between $\frac{1}{4}$ to $\frac{3}{4}$ of a mile from a Tier 2 Center located adjacent to the N. Hwy 112 and W. Truckers Dr. intersection. Staff finds that the additional pedestrian-oriented requirements of the form-based CS and UT zoning districts generally align with the City's 2040 Growth Plan, which calls for all centers to be "mixed-use nodes that are pedestrian-friendly areas served by current or future transit," a development style that would be facilitated by the proposed zoning districts.

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Staff initially recommended CS on parcels 765-23604-000, 765-25746-000, and 765-25745-000 as these parcels are abutting residential uses and could provide a transition to the higher intensity uses permitted by the UT district. Since the initial recommendation of CS, staff has consulted extensively with the property owner of parcels 765-25746-000 and 765-25745-000, who requested that staff propose UT, a zoning district that would permit Use Unit 17: Transportation Trades and Services by right rather than CS. Staff analyzed the request and finds that given that the original PZD included this use unit by right and that surrounding parcels have been extensively developed with automobile-oriented uses, auto-oriented uses are likely to be compatible in these locations. Additionally, given the presence of the Wilson Springs Preserve and limited access from N. Shiloh Dr., staff finds that the only residential areas with easy access to potential future commercial developments are likely the neighborhood abutting W. Moore Ln. As such, staff finds most of the commercial developments will likely serve Fayetteville as a whole and that UT would be compatible in this case.

The Pines at Springwoods have been almost entirely developed with four-family dwellings in a form-based style. A single buildable portion of the parcel remains, and staff finds that RI-U would best facilitate similar development given the limited development area and consistent development of four-family dwellings.

Westbrook Village Phase 2: Staff finds that the RI-U zoning district substantially aligns with previously permitted bulk and area requirements as well as land uses of the previously approved PZD. Many parcels are less than 30 feet in width, and RI-U would allow these narrower parcels to remain conforming while restoring development rights on the undeveloped parcel. The affected parcels are approximately ½ of a mile south of a Tier 3 Center located north of the N. Ruppel Rd. and W. Country Meadows St. intersection, and approximately ¾ of a mile north of a Tier 2 Center located at the N. Ruppel Rd. and W. Mount Comfort Rd. intersection.

Paddock Rd. Subdivision: Staff finds that rezoning this sole remaining parcel of the Paddock Road Subdivision to NC will eliminate complex requirements that may run counter to existing tree preservation and landscape requirements. While this PZD has not expired, it was approved during the adoption of the original HHOD and included several self-imposed tree preservation requirements. Today, site development standards are sufficiently addressed within current tree preservation codes and grading ordinances. The NC zoning district will permit development of a medium density similar to the expired PZD, allowing effective use of the existing infrastructure if the site is ever redeveloped. The affected parcel is between ½ and ¾ of a mile from three Tier Centers: a Tier 2 Center located at the S. Crossover Rd. and E. Huntsville Rd. intersection, a Tier 3 Center located at the S. Crossover Rd. and E. Peppervine Dr. intersection, and a Tier 3 Center located at the E. Huntsville Rd. and S. Happy Hollow Rd. intersection.

CITY PLAN 2040 INFILL MATRIX: City Plan 2040's Infill Matrix score is summarized in Table 2 in Exhibit C.

DISCUSSION:

The rezoning was originally heard at the March 25, 2024, Planning Commission meeting, where a vote of 4-3-0 tabled the item to the April 8, 2024, meeting. Several commissioners cited the size of the request and the fact that it is a City-initiated project as reasoning for tabling the item for additional Commissioner and resident time to review the proposal. There was limited discussion regarding the need for rezoning the properties and what options were available. Commissioners Garlock, Gulley, and Holcomb voted against tabling the item, citing the straightforward nature of the request, staff recommendations, and the need for the properties to be rezoned. One member of the public spoke, requesting confirmation of the proposed zoning for Lot 6A in Springwoods and expressing support for the proposed CS zoning. Staff confirmed the proposed CS zoning for this parcel at the meeting.

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At the April 8, 2024, Planning Commission meeting, all portions of the request were ultimately forwarded to City Council with a recommendation of approval as recommended by staff. At the beginning of the item discussion, Commissioner Payne motioned to divide the question and to consider the Springwoods PZD separately. Commissioner Werner seconded, and the question was divided by a unanimous vote. Commissioner Payne expressed hesitation regarding allowing housing in Meadow Field Commercial Subdivision Lots 5-9 & 12 (previously part of Springwoods Lot 1) considering the intensity of adjacent uses. Commissioner Brink cited an adjacent rezoning that included a Bill of Assurance limiting permitting uses in UT as a concern. There was discussion regarding potential alternative zoning districts and clarification requested on staff's reasoning. Staff noted that UT permits a wide range of uses, including use unit 17, which would permit developments similar to the large number of adjacent auto lots while requiring additional design standards and pedestrian-oriented uses, whereas I-1, Heavy Commercial and Light Industrial, would allow even more intensive uses which are generally not subject to heightened design standards. There was also discussion about the process for future development plans and what the Commission should consider regarding connectivity and compact neighborhoods.

Commissioner Payne motioned to amend the proposed zoning for Meadow Field Commercial Subdivision Lots 5-9 & 12 to revert to I-1, the previous zoning district. Commissioner Brink seconded the motion, which failed on a vote of 2-6-0 with only Commissioners Payne and Brink voting in favor. Commissioner Garlock, McGetrick and Madden cited compatibility with long range plans, higher design standards, increased flexibility, lack of public comment opposed to the request, staff recommendations, and the uses permitted in UT versus I-1 as reasons for their vote to deny the revision to I-1. After the motion failed, Commissioner Werner made a motion to reconsider the zoning for Springwoods, which passed on a vote of 6-2-0. There was then some discussion regarding staff's recommendations for Meadow Field Commercial Subdivision Lots 1 & 2, which staff noted had been initially recommended for CS but revised to UT at the property owner's request. Staff noted that an evaluation of UT found this zoning was also compatible with the adjacent properties. A subsequent motion to forward the Springwoods rezoning to City Council as recommended by staff with a recommendation of approval was made by Commissioner Garlock and seconded by Commissioner Gulley, which passed 7-1-0, with Commissioner Payne voting against.

Commissioner Garlock then motioned to forward the remainder of the rezone to City Council as proposed by staff with a recommendation of approval. Commissioner Castin seconded. There was no additional discussion, and the motion was unanimously approved.

BUDGET/STAFF IMPACT:

NA

ATTACHMENTS: SRF (#3), Exhibit A (#4), Exhibit B (#5), Exhibit C (#6), Planning Commission Staff Report (#7)

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TO: City of Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: April 8, 2024 (UPDATED WITH MEETING RESULTS)

SUBJECT: **RZN 2024-0011: Rezone (VARIOUS EXPIRED PZD LOCATIONS/ EXPIRED PZDS, PP VARIES):** Submitted by CITY PLANNING STAFF for VARIOUS PROPERTIES LOCATED WITHIN THE CITY LIMITS OF FAYETTEVILLE. The properties are zoned as PLANNED ZONING DISTRICTS and contain approximately 90.65 acres. The request is to rezone the properties to various standard zoning districts.

RECOMMENDATION:

Staff recommends **RZN 2024-0011** be forwarded to the City Council with a recommendation of approval.

MARCH 25, 2024, PLANNING COMMISSION MEETING:

At the March 25, 2024, Planning Commission meeting, the item was tabled to provide additional time for the Planning Commission to review staff’s proposal more fully. No changes have been made to the proposal in the interim.

BACKGROUND:

The subject properties consist of five Planned Zoning Districts (PZDs) that are located throughout the City limits of Fayetteville. Properties are a mix of fully undeveloped properties, partially developed neighborhoods and/or commercial blocks with sections of undeveloped lots, or part of a larger PZD that has been almost entirely rezoned. The original zoning of these properties, before they became PZDs, range from R-A, Residential-Agricultural to I-1, Heavy Commercial and Light Industrial. Prior to 2014, Fayetteville’s PZD standards required all construction permits to be secured within a specific timeframe. If permits were not obtained, then the development rights were null and void. As a result, many of these properties are zoned PZD but since construction was not fully completed within a specific allotted timeframe, the planned zoning district has expired.

Additionally, because planned zoning districts are customized, they are inherently more complicated than the city’s standard zoning districts. Many were established before many of the city’s current development regulations such as the landscape and tree preservation code were passed, leading to complex zoning regulations that are hundreds of pages long and which are generally outdated. As such, staff propose to rezone the properties to various zoning districts as shown in *Table 1*.

Request: City Planning staff requests to rezone the properties from the expired PZD designation to one or more zoning districts as shown in Table 1.

Public Comment: Staff sent letters in late February to notify all affected property owners of the staff-initiated rezoning and provide opportunities for initial feedback. A second round of letters was sent with full public notice in March. Over this timeframe, staff have received numerous inquiries and comments which are summarized in a table in the attachments.

**TABLE 1
EXPIRED PZDs TO BE REZONED**

PZD Name	Ward	Location	PZD Approval Year	Prior Zoning District	Proposed Zoning	Acreage
Park West	2	N. Hwy 112	2006	R-A & RSF4	UT CS	23.70 (UT) 15.71 (CS)
Cliffside (AKA Timber Trails)	1	S. Pinyon Pt., S. Ray Ave., S. Woodsprings Dr., & E. Peppervine Dr.	2004	RSF-4	RI-U R-A	18.67 (RI-U) 7.44 (R-A)
Springwoods	2	W. Truckers Dr., W. Chicory Pl., W. Foxglove Dr., and W. Pinehills Dr.	2003	I-1	UT CS RI-U	17.05 (UT) 6.09 (CS) 0.37 (RI-U)
Westbrook Village Phase 2	4	W. Clabber Creek Blvd. and N. Salem Rd.	2007	RSF-4	RI-U	1.42
Paddock Road Subdivision	1	27 S. Happy Hollow Rd.	2005	RSF-4	NC	0.20

CITY PLAN 2040 FUTURE LAND USE PLAN: City Plan 2040 Future Land Use Plan varies by property. Please see Table 2 below.

**TABLE 2
FUTURE LAND USE/ZONING COMPARISON**

PZD Name	Future Land Use Designation	Proposed Zoning	Infill Score	Overlay Districts
Park West	City Neighborhood	CS & UT	2-5 Weighted 6	Enduring Green Network
Cliffside (AKA Timber Trails)	Residential Neighborhood	RI-U & R-A	6-7 Weighted 8	Enduring Green Network
Springwoods	Urban Center & City Neighborhood	CS & UT	3-7 Weighted 8	Enduring Green Network, I-540 Overlay District
Westbrook Village Phase 2	Residential Neighborhood	RI-U	4-5 Weighted 5.5	Enduring Green Network
Paddock Road Subdivision	Residential Neighborhood	NC	6-7 Weighted 6	Enduring Green Network

**TABLE 3
INFRASTRUCTURE AND ENVIRONMENTAL REVIEW**

PZD Name	Water	Sewer	Drainage	Fire and Police* Response Goal in Minutes: Engine: 6 / Ladder: 8	Tree Preservation+ (Proposed Zonings)
Park West	8" (N. Truckers Dr.) 6" (N. Hwy. 112) 36" (N. Hwy. 112 & South Property Line)	8" (N. Hwy. 112) 48" (South Property Line)	Floodplain, Protected Stream Hydric Soils	Station #8 3 Minute Response	15% (UT) 20% (CS)
Cliffside (AKA Timber Trails)	8" (S. Happy Hollow Rd.) 6" & 8" (Throughout Neighborhood)	8" (S. Happy Hollow Rd.) 8" (Throughout Neighborhood)	Floodplain, Protected Stream, Hydric Soils	Station #3 2 Minute Response	15% (RI-U) 25% (R-A)
Springwoods	8" (W. Truckers Dr.) 8" (W. Foxglove Dr.) 12" (N. Shiloh Dr.) 8" (W. Moore Ln.) 8" (W. Pinehills Dr.)	8" (W. Truckers Dr.) 8" (Lot 1) 8" (W. Pinehills Dr.) 48" (Lot 6A)	Hydric Soils	Station #8 3 Minute Response	15% (UT) 20% (CS) 15% (RI-U)
Westbrook Village Phase 2	8" (N. Salem Rd.) 8" (Alley) 2" & 6" (W. Clabber Creek Blvd.)	15" (N. Salem Rd.) 10" (N. Westminster Dr.) 8" (Alley)	Floodplain	Station #8 4 Minute Response	15% (RI-U)
Paddock Road Sub.	8" (E. Paddock Loop) 8" (Alley 49) 8" (S. Happy Hollow Rd.)	8" (S. Happy Hollow Rd.)	NA	Station #3 2 Minute Response	20% (NC)

*Police did not comment on the proposed rezonings
+ All PZDs have a required tree preservation of 25%.

FINDINGS OF THE STAFF

RECOMMENDATION: Staff recommends RZN 2024-0011 be forwarded to City Council with a recommendation of approval.

PLANNING COMMISSION ACTION: Required <u>YES</u> Date: <u>April 8, 2024</u> <input type="checkbox"/> Tabled <input checked="" type="checkbox"/> Forwarded <input type="checkbox"/> Denied Motion: <p align="center">SEE FOLLOWING PAGE</p> Second: Vote:
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PLANNING COMMISSION ACTION: Required YES

	MOTION #1	MOTION #2	MOTION #3	MOTION #4	MOTION #5
	Motion to divide the question to consider Springwoods separately	Motion to forward Springwoods with a recommendation of approval, revising Meadowfield Commercial Subdivision lots 5-9 & 12 to I-1, Light Industrial	Motion to reconsider	Motion to forward Springwoods rezoning to City Council as recommended by staff with a recommendation of approval	Motion to forward remainder to City Council as recommended by staff with a recommendation of approval
FIRST	PAYNE	PAYNE	WERNER	GARLOCK	GARLOCK
SECOND	WERNER	BRINK	GARLOCK	GULLEY	CASTIN
VOTE	8-0-0	2-6-0	6-2-0	7-1-0	8-0-0
RECORD	All commissioners voted in favor	*The following commissioners voted against the motion: 1. CASTIN 2. GARLOCK 3. WERNER 4. GULLEY 5. MADDEN 6. MCGETRICK	*The following commissioners voted against the motion: 1. PAYNE 2. BRINK	*The following commissioners voted against the motion: 1. PAYNE	All commissioners voted in favor

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 proposed zoning districts are compatible with the surrounding land uses. Staff evaluated permitted and conditional uses within the expired PZDs to determine the nature and intensity of the previously approved PZDs. Where developed or platted, staff evaluated the properties and proposed zoning districts that avoid or minimize nonconformance. For others, staff proposes zoning districts which are compatible with surrounding land uses to the greatest extents possible. See below for specific evaluations.

- **Park West:** Staff recommends rezoning the remaining Park West PZD to a combination of UT and CS. Staff finds the rezoning is consistent with the existing development patterns, including those currently in the development pipeline. All other parcels of the original Park West PZD have since been rezoned with a wide mix of uses, including the most recent rezoning for parcel 765-15830-007 to RMF-18 directly west, proposed to be developed with a multi-family residential development. Other developments originally included within the PZD boundaries include an existing retirement community known as Grand Village at Clear Creek directly west and the Fellowship Baptist Church directly north. Other portions of the Park West PZD to the north and northwest have been rezoned to a mix of CS, UT, and Neighborhood Services-General (NS-G) but have not yet been developed. Further, existing UT is located across Hwy 112 at the 112 Drive-In-Theatre location, which was recently approved for a mixed-use development titled “The Aronson.”

Staff finds that a split rezoning of CS and UT would be compatible in this area given the existing and planned multifamily developments and existing commercial uses. Limiting UT to a smaller portion of the property abutting Hwy 112 would restrict more intensive uses to the areas adjacent to the major thoroughfare, with more limited uses permitted adjacent to residential developments.

- **Cliffside:** Staff recommends rezoning the Cliffside PZD to a combination of RI-U and R-A. The approved PZD included approval for 15 single-family homes and 48 two-family homes. All residential lots were approved with front and rear setbacks of 20 feet. Single-family dwellings were approved with side setbacks of 8 feet on all side property lines, and two-family dwellings were approved to utilize a zero-lot line along a shared common wall. Lot sizes range from approximately 3,500 square feet to 10,600 square feet, with only three parcels meeting lot minimum requirements for the previous RSF-4 zoning. Six of the eight parcels that remain unbuilt have street frontage of approximately 16 feet to 22 feet, with the remaining corner lots having street frontages of nearly 200 feet. Because RI-U has a minimum lot width of 18 feet for residential uses, it is one of the few districts that would allow the existing lots to conform with existing

zoning requirements. RI-U would remain primarily residential in nature with a small number of conditional non-residential uses. While RI-U has no density limitations, staff finds that the zoning is unlikely to result in development that is out of scale with the surroundings as most parcels are small and do not have sufficient width to permit additional subdivision of land. Additionally, while RI-U permits up to three and four family dwellings by right, staff finds this is not likely to lead to development that is incompatible given the existing development patterns of the neighborhood. Further, most parcels are encumbered by utility or drainage easements. Staff proposes to rezone the entire Cliffside development rather than solely the undeveloped parcels in order to create consistent zoning entitlements and reduce administrative difficulty for staff and current/future property owners. Additionally, staff proposes to rezone the areas designated as common areas and tree preservation lots by the approved PZD as Residential Agricultural, R-A, in order to maintain these areas as communal green space. Staff also proposes to rezone PID 765-26323-000 (Lot 119) as R-A, as this lot is owned by the City of Fayetteville. R-A allows Use Unit 3: Public Protection and Utility Facilities by right, which would facilitate the lot's intended purpose.

- **Springwoods:** Staff recommends rezoning the undeveloped portions of the Springwoods PZD to a combination of UT, CS, and RI-U. Due to the overall scale of the PZD acreage, staff is not recommending a full rezoning of the Springwoods PZD at this time, choosing instead to focus on those properties that are either undeveloped or currently under development. Undeveloped lots are spread throughout the PZD in three primary sections further described below. Lot 1 of the Springwoods CPZD was replatted as the Meadow Field Commercial Subdivision in 2006. Lots 1-2, 5-9 & 12 of Meadow Field remain undeveloped and zoning entitlement for these parcels has since expired. Lot 6A of the original Springwoods CPZD and a portion of PID 765-26552-000 (The Pines at Springwoods Horizontal Property Regime) also remain undeveloped.

Given the proximity of these parcels to the Wilson Springs Creek Preserve, staff finds that the original zoning of I-1 would be incompatible. However, staff notes the remaining parcels within the Meadow Field Commercial Subdivision and Lot 6A abut an I-49 entrance and exit and have the capacity to serve residents throughout the city with large commercial uses. As such, staff evaluated a mix of CS and UT to restore commercial and development rights. Both CS and UT allow a wide mix of residential and commercial uses, creating the opportunity for mixed-use developments rather than solely commercial uses.

Staff initially recommended CS on parcels 765-23604-000, 765-25746-000 and 765-25745-000 as these parcels are abutting residential uses and could provide a transition to the higher intensity uses permitted by the UT district. Since the initial recommendation of CS, staff has

consulted extensively with the property owner of PID 765-25746-000 and 765-25745-000, who requested the city propose UT, a zoning district that would permit Use Unit 17: Transportation Trades and Services by right rather than CS. Staff analyzed the request and finds that since that the original PZD included this use unit by right and surrounding parcels have been extensively developed with auto-oriented developments, the inclusion of a district which permits Use Unit 17 by right is likely to be compatible in these locations. Staff finds UT, Urban Thoroughfare would be consistent for the requested parcels.

The Pines at Springwoods has been almost entirely developed with four-family dwellings in a form-based style. A single buildable portion of the parcel remains and staff finds that RI-U would best facilitate development in a similar style given limited development area and the consistent development of four-family dwellings.

- **Westbrook Village Phase 2:** Staff recommends rezoning the Westbrook Village Phase 2 PZD to RI-U. The property was originally platted as part of the Salem Village Planned Unit Development (PUD) in 1997, most of which has since been rezoned to RSF-4. The original PUD designated these parcels as mixed-use village centers. A revised PZD was approved in 2006 that revised the permitted uses to either strictly single-family residential or greenspace. All but one parcel designated for development have since been constructed with single-family homes, and staff recommends rezoning to RI-U to bring these parcels to a standard zoning district. RI-U has a minimum lot width of 18 feet for residential uses, which would allow the existing lots to conform with existing zoning requirements. Internal parcels here have approximately 20 feet of street frontage. Given existing development patterns and existing lot sizes, staff finds the uses permitted in RI-U are not likely to create development that is out of sync on the remaining undeveloped parcel.
- **Paddock Road Subdivision:** Staff recommends rezoning the Paddock Road Subdivision PZD to NC. This parcel has been developed and has not expired; however, all other parcels within the original PZD have been rezoned in the years since its passage. Because of this and the complexity of the Paddock Road Subdivision PZD, staff recommends this parcel be rezoned to NC, Neighborhood Conservation. The parcels to the immediate west and south were successfully rezoned to NC, Neighborhood Conservation in 2014 and the rezoning of the remaining parcel would fully eliminate the remaining RPZD, creating consistent zoning entitlements and reducing administrative difficulty for staff and current/future property owners. The existing parcel meets bulk and area as well as minimum buildable street frontages required by the NC zoning. As the parcel is already constructed with a residence, staff finds a rezoning is unlikely to result in development that is inconsistent with the surrounding parcels.

Land Use Plan Analysis: The proposed zonings are compatible with the Future Land Use Map, which vary from property to property (see Table 2). Staff finds that the recommended zoning districts are generally compatible with goals to encourage infill and discourage suburban sprawl, create compact, complete and connected development, provide opportunities for attainable housing, and grow a livable transportation networks. Additionally, rezoning the remaining parcels will eliminate many planned zoning districts, simplifying the zoning regulations and bringing these areas into conformance with current zoning standards.

- **Park West:** Staff finds that rezoning the remaining Park West PZD to a combination of UT and CS will restore development rights and could allow for a mixed-use development in close proximity to a Tier 2 Center, and that the proposed zoning districts generally align with previously permitted uses. City Neighborhood Areas, encourage “complete, compact and connected neighborhoods and are intended to serve the residents of Fayetteville, rather than a regional population.” The expired PZD included a mixed-use district, commercial, condominiums, and a preserve/botanical/detention area. Staff finds that the reduced uses permitted by the CS district would be compatible adjacent to existing and proposed residential developments to the west with UT abutting the highway. Staff further finds that the additional pedestrian-oriented requirements of the form-based CS / UT zoning districts generally align the city 2040 Growth Plan, which calls for all centers to be “mixed-use nodes that are pedestrian friendly areas served by current or future transit.” The parcel is approximately 800 feet north of a Tier 2 Center located adjacent to the N. Hwy 112 and W. Truckers Dr. intersection.
- **Cliffside:** Staff finds that the split zoning of RI-U and R-A will bring the overall neighborhood into standard zoning districts that will simplify future city reviews, allow for infill, protect existing open space, and permit the city-owned parcel to be utilized for Use Unit 3: Public Protection and Utility Facilities. These units have a moderate infill score of 6-7, though staff notes that only eight parcels within the neighborhood remain undeveloped. The affected parcels are between $\frac{1}{2}$ and $\frac{3}{4}$ of a mile from three Tier Centers: a Tier 2 Center located at the S. Crossover Rd. and E. Huntsville Rd. intersection, a Tier 3 Center located at the S. Crossover Rd. and E. Peppervine Dr. intersection, and a Tier 3 Center located at the E. Huntsville Rd. and S. Happy Hollow Rd. intersection.
- **Springwoods:** Staff finds that rezoning the undeveloped lots in the Springwoods PZD to a combination of UT, CS, and RI-U will restore development rights and could allow for a mixed-use development in close proximity to a Tier 2 Center, and that the proposed zoning districts generally align with previously permitted uses. Lot 6A is designated as Urban Center on the Future Land Use Map, which includes “the most intense and dense development patterns within the city and allow for the tallest and greatest variety of buildings.” Undeveloped parcels within the Meadow Field Commercial

Subdivision (lots 1-2, 5-9 & 12) and PID 765-26552-000 (The Pines at Springwoods Horizontal Property Regime) are designated as City Neighborhood Areas, which encourage “complete, compact and connected neighborhoods and are intended to serve the residents of Fayetteville, rather than a regional population.” The affected parcels are between approximately $\frac{1}{4}$ to $\frac{3}{4}$ of a mile from a Tier 2 Center located adjacent to the N. Hwy 112 and W. Truckers Dr. intersection. Staff finds that the additional pedestrian-oriented requirements of the form-based CS / UT zoning districts generally align with the City 2040 Growth Plan, which calls for all centers to be “mixed-use nodes that are pedestrian friendly areas served by current or future transit,” a development style that would be facilitated by the proposed zoning districts.

Staff initially recommended CS on parcels 765-23604-000, 765-25746-000 and 765-25745-000 as these parcels are abutting residential uses and could provide a transition to the higher intensity uses permitted by the UT district, which could be located on the remaining lots near or abutting I-49. Since the initial recommendation of CS, staff has consulted extensively with the property owner of PID 765-25746-000 and 765-25745-000, who requested the city propose UT, a zoning district that would permit Use Unit 17: Transportation Trades and Services by right rather than CS. Staff analyzed the request and finds that given that the original PZD included this use unit by right and that surrounding parcels have been extensively developed with automobile-oriented uses, auto-oriented uses are likely to be compatible in these locations. Additionally, given the presence of the Wilson Springs Preserve and limited access off N. Shiloh Dr., an existing one-way access road, staff finds that the only residential areas with easy access to future developments commercial developments are likely the neighborhood abutting W. Moore Ln. As such, staff finds most of the commercial developments will likely serve the city as a whole and that UT would be compatible in this case.

The Pines at Springwoods has been almost entirely developed with four-family dwellings in a form-based style. A single buildable portion of the parcel remains, and staff finds that RI-U would best facilitate development in a similar style given the limited development area and consistent development of four-family dwellings.

- **Westbrook Village Phase 2:** Staff finds that the RI-U zoning district substantially aligns with previously permitted bulk and area requirements as well as land uses of the previously approved PZD. Many parcels are less than 30 feet in width, and RI-U would allow these narrower parcels to remain conforming while restoring development rights on the undeveloped parcel. The affected parcels are approximately $\frac{1}{2}$ of a mile south from a Tier 3 Center located north of the N. Ruppel Rd. and W. Country Meadows St. intersection, and approximately $\frac{3}{4}$ of a mile north of a Tier 2 Center located at the N. Ruppel Rd. and W. Mount Comfort Rd. intersection.

- **Paddock Rd. Subdivision:** Staff finds that rezoning this sole remaining parcel of the Paddock Road Subdivision to NC will eliminate complex requirements that may run counter to existing tree preservation and landscape requirements. While this PZD has not expired, it was approved during the adoption of the original HHOD and included several self-imposed tree preservation requirements. Today, site development standards are sufficiently addressed within current tree preservation codes and grading ordinances. The NC zoning district will permit development of a median density similar to the expired PZD, allowing an effective use of the existing infrastructure if the site is ever redeveloped. The affected parcel is between $\frac{1}{2}$ and $\frac{3}{4}$ of a mile from three Tier Centers: a Tier 2 Center located at the S. Crossover Rd. and E. Huntsville Rd. intersection, a Tier 3 Center located at the S. Crossover Rd. and E. Peppervine Dr. intersection, and a Tier 3 Center located at the E. Huntsville Rd. and S. Happy Hollow Rd. intersection.

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, the recommended zoning districts are justified at this time as the properties are currently within either an expired PZD with no development rights or a PZD with outdated and complex requirements. This is a necessary measure to ensure and protect the rights of the existing property owners. Further, staff's recommendations are in line with the current surrounding land uses and the Future Land Use Map.

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

Finding: Rezoning the properties will not likely increase traffic danger or congestion. The proposed rezoning districts are substantially compatible with existing development patterns and/or previously approved entitlements. Staff finds that the grounds for these entitlements, including no appreciable increase in traffic congestion or danger, still stand.

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 properties will not substantially increase the potential population density or load on public services. The proposed rezoning districts are substantially compatible with the existing development patterns and uses permitted under the expired PZDs, and existing utility and street infrastructure is present for all properties in this report. Police, Fire, and Fayetteville School District have expressed no objections to the 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

BUDGET/STAFF IMPACT:

None

Attachments:

- City Attorney Memo- Expired PZDs
- PZD Ordinances
 - ORD 4434 Excerpts (2002)
 - ORD 5675 Excerpts (2014)
- Request Letter
- Public Comment
 - Public Comment Summary Table
 - Written Public Comments
- Maps
 - Citywide Overall Map
 - Comparison Maps
 - Close-up Maps
 - Current Land Use Maps
 - Future Land Use Map



DEPARTMENTAL CORRESPONDENCE



OFFICE OF THE CITY ATTORNEY

TO: Jonathan Curth, Development Services Coordinator
Jessica Masters, Development Review Manager

Kit Williams
City Attorney

Blake Pennington
Assistant City Attorney

CC: Blake Pennington, Senior Assistant City Attorney
Hannah Hungate, Assistant City Attorney

Jodi Batker
Paralegal

FROM: Kit Williams, City Attorney

DATE: November 13, 2023

RE: Properties that have not yet been rezoned after their old PZDs with zoning/development rights have expired

Properties such as the Park West PZD which rezoned almost 140 acres, but was never developed and now has no development rights, should be rezoned by the City to its original zoning. This would mean that all un-zoned remnants of the 140 acre Park West PZD should be returned to R-A.

R-A has always been used when annexing in new, un-zoned property. It is a proper initial zoning. It is also quite proper when a rezoning away from R-A which occurred in the Park West PZD failed due to lack of timely development. I know Planning looked at many of these expired old PZD's with initial development rights and requested and received rezoning approvals by the City Council.

It is now time to finish the job so no expired PZD property remains in undevelopable limbo. A simple return to the previous zoning is logical. A property owner then may seek rezoning to another appropriate zoning which may be approved by the City Council upon the owner's application.

It is not appropriate to allow any property with old PZD expired zoning with no development rights to remain anywhere in Fayetteville.



DEPARTMENTAL CORRESPONDENCE



OFFICE OF THE
CITY ATTORNEY

TO: **Jonathan Curth**, Development Services Coordinator
Jessica Masters, Development Review Manager

Kit Williams
City Attorney

Blake Pennington
Assistant City Attorney

CC: **Blake Pennington**, Senior Assistant City Attorney
Hannah Hungate, Assistant City Attorney

Jodi Batker
Paralegal

FROM: **Kit Williams**, City Attorney

DATE: **November 13, 2023**

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DEPARTMENTAL CORRESPONDENCE



OFFICE OF THE CITY ATTORNEY

TO: Jonathan Curth, Development Services Coordinator
Jessica Masters, Development Review Manager

CC: Blake Pennington, Senior Assistant City Attorney
Hannah Hungate, Assistant City Attorney

FROM: Kit Williams, City Attorney

Handwritten signature of Kit Williams

DATE: November 15, 2023

RE: "Expired Planned Zoning District Exhibit"

Kit Williams
City Attorney

Blake Pennington
Assistant City Attorney

Jodi Batker
Paralegal

Thank you for providing me a copy of your "Expired Planned Zoning District Exhibit." However, one of these has not and will not "expire." When the PZD Ordinance was amended on April 1, 2014 by Ordinance No. 5675 to become a normal rezoning decision by severing the construction rights from the rezoning decision, PZD rezonings like all other zoning decisions became permanent.

Final Plats, Large Scale Developments, and other development authorizing decisions do have time limitations and can expire if not developed. The original PZD joined the rezoning with development rights which led to a time limitation for the entire PZD including its zoning component. This unification of a rezoning and development entitlement into a single decision caused a major problem when a PZD was challenged in Court. The Judge decided not to use rezoning's normal "arbitrary and capricious" test which grants great discretion to the City Council. (The City Council has never had one of its rezoning decisions reversed in Court this century.) The Court instead used the land development test in which gives the Judge or jury great discretion to decide for themselves the rezoning issue.

The U.D.C. was amended so that new PZDs would become pure rezoning issues which ensured the proper "arbitrary and capricious" test would protect the City Council's rezoning decision. That amendment also removed the time limited component of development rights so that PZDs like all other rezonings became permanent (at least until future City Council amendment).

The title of the 2014 Ordinance stated the amendment was "TO CLEARLY SEPARATE THE ZONING AND DEVELOPMENT APPROVALS FOR PLANNED ZONING DISTRICTS..." The Planning Department's Agenda Memo recommending the 2014 amendment to make a PZD exclusively a rezoning decision states: "One final change is to amend the modification requirements and remove PZD revocation...Revocation of a PZD is unnecessary in staff's opinion, because the zoning decision by the City Council should not expire. Once a property is rezoned the zoning remains until a zoning amendment is made by the City Council. This is the case for all other zoning amendments."

Any PZD approved after April 2014 should have been a purely rezoning issue without the construction rights of a development approval. Accordingly, any PZD so adopted will not expire which includes the Underwood (R-PZD-20-7093) erroneously listed on your exhibit as expired. Any future development on this property would have to comply with the current PZD requirements or seek rezoning from the City Council.

The remnants of the Park West PZD can be rezoned to its original R-A zoning district or whatever the City Council deems appropriate. The Springwoods PZD is an unusual situation. This land was purchased by the City in the 1980's and zoned I-1, Heavy Commercial and Light Industrial to encourage Texas Instruments to locate in Fayetteville. When that did not happen, the Administration and City Council around 2002-2003 sought to sell this land while preserving a substantial area around Wilson Springs for conservation. Some parcels have been developed and the conservation area dedicated. Remnant parcels should be rezoned to R-A or other compatible zoning rather than spot zoned back to the incompatible I-1. Again, the City Council needs to promptly make its legislative decision on what the preferred zoning should be.

All City Council rezoning decisions will be accorded great deference by the Courts if challenged. I also do not believe that these decisions to rezone remnants of expired PZDs could be successfully challenged as takings even under the Private Property Protection Act since none would actually be downzonings or zonings providing fewer or less valuable development rights as were in existence in April of 2014.

ORD 4434 Excerpts



ORDINANCE NO. 4434

AN ORDINANCE AMENDING TITLE XV: UNIFIED DEVELOPMENT ORDINANCE OF THE CODE OF FAYETTEVILLE TO ESTABLISH A PROCESS FOR THE EVALUATION AND APPROVAL OF PLANNED ZONING DISTRICTS.

WHEREAS, flexible guidelines for the review of specific development plans are desirable; and,

WHEREAS, informed land use decisions can guide development more effectively in the best interest of the health, safety and welfare of the city; and

WHEREAS, developments that are compatible with the surrounding area, harmonious with the character of the neighborhood, do not have a negative effect upon the future development of the area and create a stable environment are desirable; and

WHEREAS, the development and zoning review process shall be enhanced when review and approval of development and zoning are addressed simultaneously;

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That Chapter 161 Zoning Regulations is amended by inserting §161.22 District PZD Planned Zoning District, a copy of which marked Exhibit "A" is attached hereto and made a part hereof.

Section 2. That Chapter 166 Development is amended by inserting §166.18 Planned Zoning District Developments, a copy of which marked Exhibit "B" is attached hereto and made a part hereof.

Section 3. That Chapter 163 Use Conditions, Section §163.21 Limited Neighborhood Commercial Uses Within Residential Districts of the Code of Fayetteville is hereby repealed.

Section 4. That Chapter 159: Fees, Section §159.01 Fees/Schedule, subsection (B)(3) is amended by adding a fee for Planned Zoning District applications as follows:

§159.01 Fees/Schedule

- A. Fees
- B. Fee Schedule
 - 3. Development

Planned Zoning District

<i>Non-residential</i>	<i>\$1,125</i>
<i>Residential:</i>	
<i>10 units/lots or less</i>	<i>\$525</i>
<i>25 units/lots or less</i>	<i>\$725</i>
<i>25 units/lots or more</i>	<i>\$1,125</i>

Section 5. That Chapter 151: Definitions is amended by deleting the definition of **Planned Unit Development** and adding the following definitions:

Common Open Space. Land within or related to a development, not individually owned or dedicated for public use, which is reserved for the exclusive use or enjoyment of the residents or occupants of the development and their guests.

Planned Zoning District. A zoning district that allows for comprehensively planned developments for either single-use or mixed-use and permits development and zoning review as a simultaneous process.

Private Open Space. The outdoor living area directly adjoining a dwelling unit or building, intended for the private enjoyment of the residents or occupants of the dwelling unit or building and defined in such a manner that its boundaries are evident.

Public Open Space. Open space, including but not limited to, any park, lake, stream, playground or natural area, commonly open to the public.

Recreational Structures. Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground that has a primary use that is recreation in nature. Among other things, recreational structures include tennis courts, basketball courts, swimming pools and jogging trails.

Section 6. That §166.05 (A) Requirement is hereby repealed and replaced with the following:

§166.05 Large Scale Development

A. Requirement. The development of a lot or parcel larger than one acre or development of a Planned Zoning District must be processed in accordance with the requirements for a large-scale development.

Section 7. That §166.60 Planned Unit Development of the Unified Development Ordinance is hereby repealed.

PASSED and APPROVED this the 19th day of November, 2002.



By: 
HEATHER WOODRUFF, City Clerk

APPROVED

By: 
DAN COODY, Mayor

EXHIBIT "A"

To be inserted in Chapter 161 Zoning Regulations:

§161.22 District PZD Planned Zoning District.

A. Purpose. The intent of the Planned Zoning District is to permit and encourage comprehensively planned developments whose purpose is redevelopment, economic development, cultural enrichment or to provide a single-purpose or mixed-use planned development and to permit the combination of development and zoning review into a simultaneous process. The rezoning of property to the PZD may be deemed appropriate if the development proposed for the district can accomplish one or more of the following goals.

1. *Flexibility.* Providing for flexibility in the distribution of land uses, in the density of development and in other matters typically regulated in zoning districts.
2. *Compatibility.* Providing for compatibility with the surrounding land uses.
3. *Harmony.* Providing for an orderly and creative arrangement of land uses that are harmonious and beneficial to the community.
4. *Variety.* Providing for a variety of housing types, employment opportunities or commercial or industrial services, or any combination thereof, to achieve variety and integration of economic and redevelopment opportunities.
5. *No negative impact.* Does not have a negative effect upon the future development of the area;
6. *Coordination.* Permit coordination of the planning of the land surrounding the PZD and cooperation between the City and private developers in the urbanization of new lands and in the renewal of existing deteriorating areas.
7. *Open Space.* Provision of more usable and suitably located open space, recreation areas and other common facilities that would not otherwise be required under conventional land development regulations.
8. *Natural Features.* Maximum enhancement and minimal disruption of existing natural features and amenities.
9. *General Plan.* Comprehensive and innovative planning and design of mixed use yet harmonious developments consistent with the guiding policies of the General Plan.
10. *Special Features.* Better utilization of sites characterized by special features of geographic location, topography, size or shape.

B. Rezoning. Property may be rezoned to the Planned Zoning District by the City Council in accordance with the requirements of this chapter and Chapter 166 Development. Each rezoning parcel shall be described as a separate district, with distinct boundaries and specific design and development standards. Each district shall be assigned a project number or label, along with the designation "PZD". The rezoning shall include the adoption of a specific master development plan and development standards.

EXHIBIT "B"

To be inserted in Chapter 166: Development:

§166.18 Planned Zoning District Developments

- A. Applicability.** To be considered for a planned zoning district, the applicant shall meet all of the following criteria:
1. **Location.** Eligible properties include those located within the city limits.
 2. **Ownership.** Eligible applicants for preliminary plan review shall be a landowner of record or an authorized agent. The approved development plan shall be binding on all subsequent owners of the land until revised or modified.
 3. **Size.** There shall be no minimum tract size for a PZD application.
- B. Application.** The initial application for a PZD shall include the following items:
1. **Application.** Complete application form to request a PZD.
 2. **Copies.** Copies of a development plan in accordance with the submission requirements on the project application form. Copies of a preliminary plat if a subdivision of land is proposed in accordance with the preliminary plat application form.
 3. **Fee.** Applicant shall pay all required filing fees for a planned zoning district as set forth in Chapter 159 Fees of the UDO. If a subdivision of land is proposed, a fee for the preliminary plat shall also be paid.
- C. Review and Approval Procedures.**
1. **Pre-application meeting.** Before submitting an application the landowner or authorized agent shall confer with the Planning Division in order to become familiar with the development review process. The staff shall inform the applicant of any perceived problems that may arise. A further purpose of the pre-application meeting is to make sure the applicant has, or will be able to, submit the necessary information for filing the application. The intent of this conference is to provide guidance to the applicant prior to incurring substantial expense in the preparation of plans, surveys and other data required in a preliminary plan.
 2. **Planning Commission.** All planned zoning district applications shall follow the procedures for large scale development as set forth in §166.05 Large Scale Development. If a subdivision of land is proposed, the applicant shall obtain subdivision approval as set forth in 166.01 Subdivision Approval.
 3. **City Council.** If the development plan is approved by the Planning Commission, it shall be forwarded to the City Council for review. The City Council may grant or deny as submitted, or as they may so amend, defer for requested changes or more information, or return the application to the Planning Commission for further study. The applicant shall not modify to a design other than that reviewed by the Planning Commission prior to City Council review. The City Council may direct Planning Commission to reconsider specific aspects of the plan. If the development plan is approved, an ordinance shall be prepared which incorporates the plan and conditions.
 4. **Appeals.** Appeals from the action of the Planning Commission shall be in accordance with Chapter 155 Appeals of the UDO.

Paving Width
(No On-Street Parking)

Dwelling Units	One-Way	Two-Way
1 - 20	14'	22'
21+	14'	24'

***Note:** If on-street parking is desired, 6 feet must be added to each side where parking is intended.

- (9). All of the traffic laws prescribed by Title VII shall apply to traffic on private streets within a PZD.
 - (10.) There shall be no minimum building setback requirement from a private street.
 - (11). The developer shall erect at the entrance of each private street a rectangular sign, not exceeding 24 inches by 12 inches, designating the street a "private street" which shall be clearly visible to motor vehicular traffic.
12. **Construction of Nonresidential Facilities.** Prior to issuance of more than eight building permits for any residential PZD, all approved nonresidential facilities shall be constructed. In the event the developer proposed to develop the PZD in phases, and the nonresidential facilities are not proposed in the initial phase, the developer shall enter into a contract with the City to guarantee completion of the nonresidential facilities.
 13. **Tree Preservation.** All PZD developments shall comply with the requirements for tree preservation as set forth in Chapter 167 Tree Preservation and Protection. The location of trees shall be considered when planning the common open space, location of buildings, underground services, walks, paved areas, playgrounds, parking areas, and finished grade levels.
 14. **Commercial Design Standards.** All PZD developments that contain office or commercial structures shall comply with the commercial design standards as set forth in §166.14 Site Development Standards and Construction and Appearance Design Standards for Commercial Structures.
 15. **View Protection.** The Planning Commission shall have the right to establish special height and/or positioning restrictions where scenic views are involved and shall have the right to insure the perpetuation of those views through protective covenant restrictions.

E. Revocation.

1. **Causes for revocation as enforcement action.** The Planning Commission may recommend to the City Council that any PZD approval be revoked and all building or occupancy permits be voided under the following circumstances:
 - a. **Building permit.** If no building permit has been issued within the time allowed.
 - b. **Phased development schedule.** If the applicant does not adhere to the phased development schedule as stated in the approved development plan.
 - c. **Open space and recreational facilities.** If the construction and provision of all common open spaces and public and recreational facilities which are shown on the final plan are proceeding at a substantially slower rate than other project components.

Planning staff shall report the status of each ongoing PZD at the first regular meeting of each quarter, so that the Planning Commission is able to compare the actual development accomplished with the approved development schedule. If the Planning Commission finds that the rate of

construction of dwelling units or other commercial or industrial structures is substantially greater than the rate at which common open spaces and public recreational facilities have been constructed and provided, then the Planning Commission may initiate revocation action or cease to approve any additional final plans if preceding phases have not been finalized. The city may also issue a stop work order, or discontinue issuance of building or occupancy permits, or revoke those previously issued.

2. **Procedures.** Prior to a recommendation of revocation, notice by certified mail shall be sent to the landowner or authorized agent giving notice of the alleged default, setting a time to appear before the Planning Commission to show cause why steps should not be made to totally or partially revoke the PZD. The Planning Commission recommendation shall be forwarded to the City Council for disposition as in original approvals. In the event a PZD is revoked, the City Council shall take the appropriate action in the city clerk's office and the public zoning record duly noted.

3. **Effect.** In the event of revocation, any completed portions of the development or those portions for which building permits have been issued shall be treated to be a whole and effective development. After causes for revocation or enforcement have been corrected, the City Council shall expunge such record as established above and shall authorize continued issuance of building permits.


F. Covenants, trusts and homeowner associations.

1. **Legal entities.** The developer shall create such legal entities as appropriate to undertake and be responsible for the ownership, operation, construction, and maintenance of private roads, parking areas, common usable open space, community facilities, recreation areas, building, lighting, security measure and similar common elements in a development. The city encourages the creation of homeowner associations, funded community trusts or other nonprofit organizations implemented by agreements, private improvement district, contracts and covenants. All legal instruments setting forth a plan or manner of permanent care and maintenance of such open space, recreation areas and communally-owned facilities shall be approved by the City Attorney as to legal form and effect, and by the Planning Commission as to the suitability for the proposed use of the open areas. The aforementioned legal instruments shall be provided to the Planning Commission together with the filing of the final plan, except that the Guarantee shall be filed with the preliminary plan or at least in a preliminary form.

2. **Common areas.** If the common open space is deeded to a homeowner association, the developer shall file with the plat a declaration of covenants and restrictions in the Guarantee that will govern the association with the application for final plan approval. The provisions shall include, but not necessarily be limited to, the following:

1. The homeowner's association must be legally established before building permits are granted.
2. Membership and fees must be mandatory for each home buyer and successive buyer.
3. The open space restrictions must be permanent, rather than for a period of years.
4. The association must be responsible for the maintenance of recreational and other common facilities covered by the agreement and for all liability insurance, local taxes and other public assessments.
5. Homeowners must pay their pro rata share of the initial cost; the maintenance assessment levied by the association must be stipulated as a potential lien on the property.
6. The association must be able to adjust the assessment to meet changing needs.

ORD 5675 Excerpts


Doc ID: 015677290005 Type: REL
Kind: ORDINANCE
Recorded: 04/11/2014 at 09:07:54 AM
Fee Amt: \$35.00 Page 1 of 5
Washington County, AR
Kyle Sylvester Circuit Clerk
File **2014-00008557**

ORDINANCE NO. 5675

AN ORDINANCE TO AMEND § 161.32 **PLANNED ZONING DISTRICT** AND § 166.06 **PLANNED ZONING DISTRICT** OF THE UNIFIED DEVELOPMENT CODE TO CLEARLY SEPARATE THE ZONING AND DEVELOPMENT APPROVALS FOR PLANNED ZONING DISTRICTS AND TO SIMPLIFY AND REDUCE CURRENT REGULATIONS AND TO ENACT AN EMERGENCY CLAUSE

WHEREAS, the Planned Zoning District ordinance was established to allow concurrent processing of zoning and development plans; and

WHEREAS, the City of Fayetteville Planning Commission may grant approval of development applications; and

WHEREAS, the City of Fayetteville City Council may approve and enact zoning amendments; and

WHEREAS, the City of Fayetteville desires to establish clear boundaries in the development and zoning review process of a Planned Zoning District request; and

WHEREAS, the Unified Development Code's regulations should be clarified, simplified and shortened whenever possible and feasible.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby repeals § 161.32 **Planned Zoning District** in its entirety and enacts a replacement § 161.32 **Planned Zoning District** as shown in Exhibit "A."

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby repeals § 166.06 **Planned Zoning District** in its entirety and enacts a replacement § 166.06 **Planned Zoning District** as shown in Exhibit "B."



Section 3. EMERGENCY CLAUSE. That the City Council of the City of Fayetteville, Arkansas hereby determines that the need to immediately resolve the issue of how Planned Zoning Districts should be applied for and handled as a zoning issue is necessary for the public peace, health and safety. Therefore, the City Council of the City of Fayetteville, Arkansas hereby declares an emergency exists such that this ordinance shall be in full force and effect from the date of its passage.

PASSED and APPROVED this 1st day of April, 2014.

APPROVED:

ATTEST:

By: 
LIONEL JORDAN, Mayor

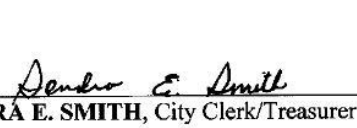
By: 
SONDRA E. SMITH, City Clerk/Treasurer



EXHIBIT "A"

161.32 Planned Zoning District

(A) *Applicability.* To be considered for a Planned Zoning District, the applicant shall meet all of the following criteria:

(1) *Location.* Any property located within the city limits is eligible for a Planned Zoning District. Upon City Council approval, an owner or developer of a specific piece of property located within the City's designated planning area may be authorized to submit a Planned Zoning District application in conjunction with an annexation request, but final approval of the PZD will not be effective until said property is annexed into the City of Fayetteville.

(2) *Size.* There shall be no minimum or maximum tract size for a PZD application.

(B) *Purpose.* The intent of the Planned Zoning District is to permit and encourage comprehensively planned zoning and developments whose purpose is redevelopment, economic development, cultural enrichment or to provide a single-purpose or mixed-use planned development and to permit the concurrent processing of zoning and development. The City Council may consider any of the following factors in review of a Planned Zoning District application.

(1) *Flexibility.* Providing for flexibility in the distribution of land uses, in the density of development and in other matters typically regulated in zoning districts.

(2) *Compatibility.* Providing for compatibility with the surrounding land uses.

(3) *Harmony.* Providing for an orderly and creative arrangement of land uses that are harmonious and beneficial to the community.

(4) *Variety.* Providing for a variety of housing types, employment opportunities or commercial or industrial services, or any combination thereof, to achieve variety and integration of economic and redevelopment opportunities.

(5) *No negative impact.* Does not have a negative effect upon the future development of the area;

(6) *Coordination.* Permit coordination and planning of the land surrounding the PZD

and cooperation between the city and private developers in the urbanization of new lands and in the renewal of existing deteriorating areas.

(7) *Open space.* Provision of more usable and suitably located open space, recreation areas and other common facilities that would not otherwise be required under conventional land development regulations.

(8) *Natural features.* Maximum enhancement and minimal disruption of existing natural features and amenities.

(9) *Future Land Use Plan.* Comprehensive and innovative planning and design of mixed use yet harmonious developments consistent with the guiding policies of the Future Land Use Plan.

(10) *Special Features.* Better utilization of sites characterized by special features of geographic location, topography, size or shape.

(11) *Recognized zoning consideration.* Whether any other recognized zoning consideration would be violated in this PZD.

(C) *Rezoning.* Property may be rezoned to the Planned Zoning District by the City Council in accordance with the requirements of this chapter and Chapter 154, Amendments.

(1) Each rezoning parcel shall be described as a separate district, with distinct boundaries and specific design and zoning standards. Each district shall be assigned a project number or label, along with the designation "PZD". The rezoning shall include the adoption of zoning standards and a specific master plan.

(2) All uses identified within §162 Use Units of the Unified Development Code may be allowed as permissible uses or conditional uses, unless otherwise specified, subject to City Council approval of the Planned Zoning District request.

(3) *Residential density.* Residential densities shall be determined on the basis of the following considerations:

(a) The densities of surrounding development;

CD161:1

- (b) the densities allowed under the current zoning;
 - (c) the urban development goals and other policies of the city's Future Land Use Plan;
 - (d) the topography and character of the natural environment; and
 - (e) the impact of a given density on the specific site and adjacent properties.
- (4) **Building setback.** There shall be no minimum building setback except as may be determined by the Planning Commission and City Council during review of the zoning plan based on the uses within the development and the proximity of the development to existing or prospective development on adjacent properties. Greater setbacks may be established by the Planning Commission or City Council when it is deemed necessary to provide adequate separation from adjacent properties.
- (5) **Building height.** There shall be no maximum building height except as may be determined by the Planning Commission and City Council during the review of the zoning plan based on the uses within the development and the proximity of the development to existing or prospective development on adjacent properties. A lesser height may be established by the Planning Commission or City Council when it is deemed necessary to provide adequate light and air to adjacent property and to protect the visual quality of the community.
- (6) **Building area.** The Planning Commission and City Council shall review specific proposed lot coverages which generally correspond to the guidelines for lot coverage in the respective residential, office, commercial or industrial district which most depicts said development scheme.

(Ord. No. 4434, §1 (Ex. A), 11-19-02; Ord. 4717, 7-5-05; Ord. 4764, 09-20-05; Ord. 4783, 10-18-05; Ord. 5312, 4-20-10)

161.33-161.99 Reserved

(Ord. 4930, 10-03-06 repealed and re-adopted the entire chapter

CD161:2

EXHIBIT "B"

166.06 Planned Zoning District (PZD)

(A) General Requirements.

- (1) A development application may be concurrently processed with a rezoning application through the PZD process and may be conditionally approved, subject to City Council approval of the Planned Zoning District zoning standards.
- (2) Development plans submitted with a PZD may include more restrictive development regulations than that which are included in other sections of the UDC, but standards shall not be established that fall below these minimum standards.

(B) Modifications to development plan.

- (1) *Minor Modifications.* Minor modifications to an approved PZD development plan shall follow the criteria established for the specific development category.
- (2) *Major Modifications.* Major modifications to an approved PZD development plan shall be submitted to the Planning Commission in a form which compares the approved submission with the desired changes.

(C) Construction of community amenities. Unless otherwise approved by the Planning Commission, community amenities offered as part of a PZD development plan shall be constructed with the first phase of development.

(Ord. 4717, 7-5-05; Ord. 4779, 10-18-05; Ord. 4919, 9-05-06; Ord. 5104, 1-15-08)

CD166:1



CITY COUNCIL AGENDA MEMO

To: Mayor Jordan, City Council

Thru: Don Marr, Chief of Staff

Jeremy Pate, Development Services Director

From: Jesse Fulcher, Senior Planner

Date: February 28, 2014

Subject: ADM 13-4602 (UDC Amendment: Chapter 161.32 Planned Zoning District and Chapter 166.06 Planned Zoning District)

RECOMMENDATION

The Planning Commission and staff recommend approval of an ordinance to amend the Planned Zoning District (PZD) regulations. The amendments are significant; however, it is staff's opinion that the PZD remains a valuable tool to retain the ability for the Council to see a zoning and development item processed concurrently. The Council makes important legislative decisions related to zoning: building height, setbacks from adjacent properties, permitted and conditional uses, etc. A PZD proposal is a unique custom zoning district, allowing the City Council to review and approve or deny the proposal with neighborhood, staff and applicant input.

BACKGROUND

The City of Fayetteville adopted the Planned Zoning District (PZD) ordinance in November 2002 by Ordinance No. 4434. The PZD ordinance replaced the Planned Unit Development (PUD) process that had been in place for several decades. Planned Zoning Districts and Planned Unit Developments are but two names used to identify master development plan processes, which are employed by municipalities across the nation.

The primary reasons that the PZD ordinance was adopted was to allow customized zoning districts for unique development, to allow concurrent processing of zoning and development plans, and to provide the City Council with an opportunity to make policy decisions related to land use. Under the PUD ordinance, these policy decisions were built into the ordinance and were approved by the Planning Commission. This was very different from a rezoning request where the Planning Commission makes only a recommendation on the zoning amendment and the City Council makes the final legislative zoning decision. The PZD process reestablished the Council's role in master development plan zoning decisions and provided a streamlined review process for the development community.

In 2012, after the approval of a Planned Zoning District, a lawsuit was filed challenging the City's PZD ordinance. In response to this action, the City Attorney requested Planning Staff amend portions of the Unified Development Code to clearly separate the zoning and development standards in the ordinance.

PROPOSAL

Staff's primary goal with these code amendments is to group all of the "zoning" standards in Chapter 161, Zoning Regulations, and all "development" standards in Chapter 166, Development. Currently, terminology associated with "zoning" and "development" crosses into both chapters, creating confusion in the code and in the decision making process. The end result should be a PZD process that includes a pure zoning decision by the City Council and a separate development plan decision by the Planning Commission. This process already exists for similar applications. Large scale developments and preliminary plats only require Planning Commission approval and zoning decisions are made by the City Council after a recommendation by the Planning Commission.

A second goal is to streamline Chapters 161.32 and 166.08. Currently, 161.32 outlines many of the findings for a PZD which is appropriate. However, it also includes categories and standards for residential, commercial, and industrial PZD's. These groups are all based on the primary land use, and ultimately provide only a name for the type of PZD, but little else. The remaining standards are related to compatibility with surrounding properties, which is a finding already under 161.32(B). Staff is proposing to remove all of 161.32(C), (D), and (E).

Chapter 166.06 Planned Zoning District is currently over nine pages long. The largest part of this code is dedicated to items found in the PZD application – essentially instructions. This includes instructions to submit copies of the PZD plan, to complete a PZD application and pay the required filing fees listed in Chapter 159. Similar requirements exist for all types of applications (large scale developments, lot splits, etc.), however, this is the only application type with instructions listed in the ordinance. Staff is proposing to eliminate all such items from Chapter 166.

Staff is also recommending that the allowance for private streets within PZD's be removed. Currently all private streets must be constructed to the same standards as public streets, so there is no cost savings to the developer. However, the long term maintenance responsibility is given to a limited number of property owners within the development, most of which don't realize that they are financially responsible for the street. This does not preclude the use of private drives such as those found within multi-family developments.

Staff is proposing to remove all references to covenants, trusts and homeowner associations. These terms and regulations all deal with private agreements between private property owners. The City does not enforce private party agreements.

One final change is to amend the modification requirements and remove PZD revocation. The Unified Development Code already provides regulations for modifications for both development plans and zoning regulations. Modifications to development plans may be minor or major and can be approved by planning staff or the Planning Commission respectively. A development plan that is part of a PZD action should not have different standards. A request to vary the zoning standards should be brought before the Board of Adjustment, which is the requirement for all zoning variances. Significant changes to a PZD zoning code would likely require a new zoning action by the City Council.

Revocation of a PZD is unnecessary in staff's opinion, because the zoning decision by the City Council should not expire. Once a property is rezoned the zoning remains until a zoning amendment is made by the City Council. This is the case for all other zoning amendments. However, the development approval should expire, as provided by Chapter 166.20. Should a development plan proposed as part of a PZD expire, then the applicant would have to resubmit the development plan through the appropriate process and receive a new approval. For a large property, the applicant can process the zoning request for the entire property and only submit a

development application for the first phase of development. Separate development applications would be submitted for each subsequent phase.

Changes to the Unified Development Code are shown in ~~strikeout~~ and highlight in the attached document.

DISCUSSION

On February 24, 2014 the Planning Commission forwarded this item to the City Council with a recommendation of approval with a vote of 6-0-1 with Commission Chesser voting 'no'.

BUDGET IMPACT

None.



CITY OF
FAYETTEVILLE
ARKANSAS

CITY-INITIATED REZONING (PZDS)

February 21, 2024

Re: City-Initiated Rezoning of Planned Zoning Districts

Dear Planning Commission and City Council,

City staff recently completed a review of existing Planned Zoning Districts throughout the city and identified properties that would benefit from a rezoning due to outdated/expired zoning entitlement, including properties in Cliffside Subdivision, Paddock Road Subdivision, Westbrook Village II, Springwoods, and Park West. City staff will be initiating a rezoning to confirm land use rights, clean up City records, and bring these properties into consistency with City Plan 2040, Fayetteville's comprehensive land use plan.

For background, these parcels are zoned under a "Planned Zoning District (PZD)." This designation established custom zoning and development standards for these properties to allow for more specific permitted uses, setbacks, lot sizes, and other requirements with the approval of the Planning Commission and City Council. However, prior to changes to this ordinance in 2014, this zoning approval was tied to a development plan and was set to expire if all needed permits were not received in a timely manner. Due to the outdated nature of the existing zoning entitlement, this could create difficulties for any future construction, major renovations, efforts to revise property lines, subdivide parcels, or request other permits that require review of City's zoning code. In order to avoid those issues, staff is recommending that the property be rezoned to one of the City's standard zoning districts.

Staff has analyzed each PZD to determine what types of land uses, lot sizes, setbacks, and building heights were originally permitted in each district, and compared that with current land uses on the property or in the immediate vicinity. Staff used this information as well as comparisons with the City's Future Land Use map to identify recommendations for which of the city's existing zoning districts would be the best fit for each parcel. Those recommendations will be first heard by the Planning Commission on March 25, 2024, and will ultimately go to the City Council for final consideration.

If you have any questions, or would like more information about staff's recommendations, please feel free to contact me directly at (479) 575-8239. You may also reach out to the main City of Fayetteville Planning office at (479) 575-8267.

Sincerely,

A handwritten signature in black ink, appearing to read "Jessie Masters".

Jessie Masters, AICP
Development Review Manager

**EXHIBIT
PUBLIC COMMENTS**

PZD Name	Public Comment
Cliffside (AKA Timber Trails)	One phone inquiry requesting additional information on the proposed zoning districts. One email inquiry requesting additional information.
Paddock Road Subdivision	No Comments Received
Westbrook Village Ph. 2	One inquiry regarding extent of proposal and expressing general support for proposed rezoning. One inquiry regarding proposed zoning / future plans and expressing general concerns about flooding and drainage within the neighborhood, particularly to the south of the proposed rezoning area.
Springwoods	PID 765-25746-000 & PID 765-25745-000 (Lots 1 & 2): Extensive email and phone conversations with staff regarding expiration of PZD, rezoning process, and staff request. The owner is opposed if rezoning is forwarded with a recommendation of CS. Owner preference in favor of request with change to UT. PID 765-23604-000 (Lot 6A): Email / phone conversation with ownership team. Owner in support of staff-proposed rezoning PID 765-25752-000& 765-25756-000 (Lots 8 & 12): Slight concern about CS and UT, but owner may be looking at doing some form of warehouse use. PID 765-26552-000 (Pines at Springwood): Phone Inquiry from the POA board president clarifying the scope of the request. Caller expressed general support for the rezoning, acknowledging that RI-U aligns with what has been constructed in the neighborhood already.
Park West	Phone Inquiry from property owners: Minimal concern about split zoning of UT and CS as potential development could work in both districts, general support of request. Owners are also working through other development issues such as easement and ROW acquisitions.

LEGEND

(See comments for details)

TEXT = Neither support nor opposition to request expressed

TEXT = Comment in support

TEXT = Comment in opposition

Wonsower, Donna

From: Masters, Jessica
Sent: Monday, March 18, 2024 1:22 PM
To: Don Nelms
Cc: David Nelms; Scott Price; Wonsower, Donna
Subject: RE: Proposed rezoning

Mr. Nelms,

Thank you for the follow up, and for taking the time to review the UT zoning district. We certainly appreciate the feedback, and we will get this accounted for in our forthcoming report.

Jessie

Jessie Masters, AICP

Development Review Manager
City of Fayetteville, Arkansas
(479) 575-8239

www.fayetteville-ar.gov

[Website](#) | [Facebook](#) | [Twitter](#) | [Instagram](#) | [YouTube](#)



From: Don Nelms <dnelms46@gmail.com>
Sent: Monday, March 18, 2024 11:52 AM
To: Masters, Jessica <jmasters@fayetteville-ar.gov>
Cc: David Nelms <daviddnelms@gmail.com>; Scott Price <gscottar@gmail.com>
Subject: Proposed rezoning

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.

Dear Jessie,

I really appreciate you taking the time to visit with me about zone district PZD and the rezoning of Springwood. I am satisfied that changing this to UT will accommodate all of our needs. Thank you very much for agreeing to do this for us. That will eliminate my concerns and make our lives much easier.

--

Don Nelms
Jasper 870-446-6477
Gallery 870-446-5477
Fayetteville 479-521-3963
Cell 479-841-2886
dnelms46@gmail.com
www.nelmsgallery.com

Wonsower, Donna

From: Masters, Jessica
Sent: Thursday, February 29, 2024 8:09 AM
To: Tim Brisiel; Wonsower, Donna
Subject: RE: Timber Trails

Tim,

Thank you for the inquiry, and for clarifying the location. Staff is going to be recommending RI-U for those lots, and R-A for the lots that are greenspace.

Let me know if you have any comments that you would like for the Commission to consider!

Jessie

Jessie Masters, AICP
Development Review Manager
City of Fayetteville, Arkansas
(479) 575-8239
www.fayetteville-ar.gov
[Website](#) | [Facebook](#) | [Twitter](#) | [Instagram](#) | [YouTube](#)



From: Tim Brisiel <Tim@Legacyventuresnwa.com>
Sent: Wednesday, February 28, 2024 5:17 PM
To: Wonsower, Donna <dwonsower@fayetteville-ar.gov>; Masters, Jessica <jmasters@fayetteville-ar.gov>; Tim Brisiel <Tim@Legacyventuresnwa.com>
Subject: Timber Trails

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.

The lots I own are all of them clouded in red. It is a total of eight lots. please disregard any verbiage as this is an old sheet but at least you could see the lots in question.

Thank you!

Tim Brisiel
Legacy Ventures | Legacy Asset Management
PO Box 8216
Fayetteville, AR 72703
479-790-3315

Currently mobile so please forgive spelling and grammar!

Below is a snapshot of the Timber Trails subdivision. We have (6) lots under contract and they are 39, 40, 41, 42, 68, and 69. They are clouded in red below.



These are the two that I do not have under contract....they are sloping but might be a good play to purchase and use this dirt for fill on 68 and 69....

Wonsower, Donna

From: Masters, Jessica
Sent: Thursday, February 29, 2024 3:43 PM
To: Wonsower, Donna
Subject: Expired PZD - Inquiries

Follow Up Flag: Follow up
Flag Status: Flagged

Donna,

I have so far received two phone calls about the staff-initiated rezoning.

Foxglove: Slightly concerned about CS and UT, but it sounds like they may be wanting to do some form of warehousing use anyway. They may be following up with an email regarding this.

HWY 112 (east of Truckers Drive): Not terribly concerned about the split of UT and CS, since they are trying to do residential and the use schedule in both of those zoning districts would allow for it. They are also working out other issues such as easement acquisitions and ROW acquisitions.

Thanks!

Jessie

Jessie Masters, AICP

Development Review Manager

City of Fayetteville, Arkansas

(479) 575-8239

www.fayetteville-ar.gov

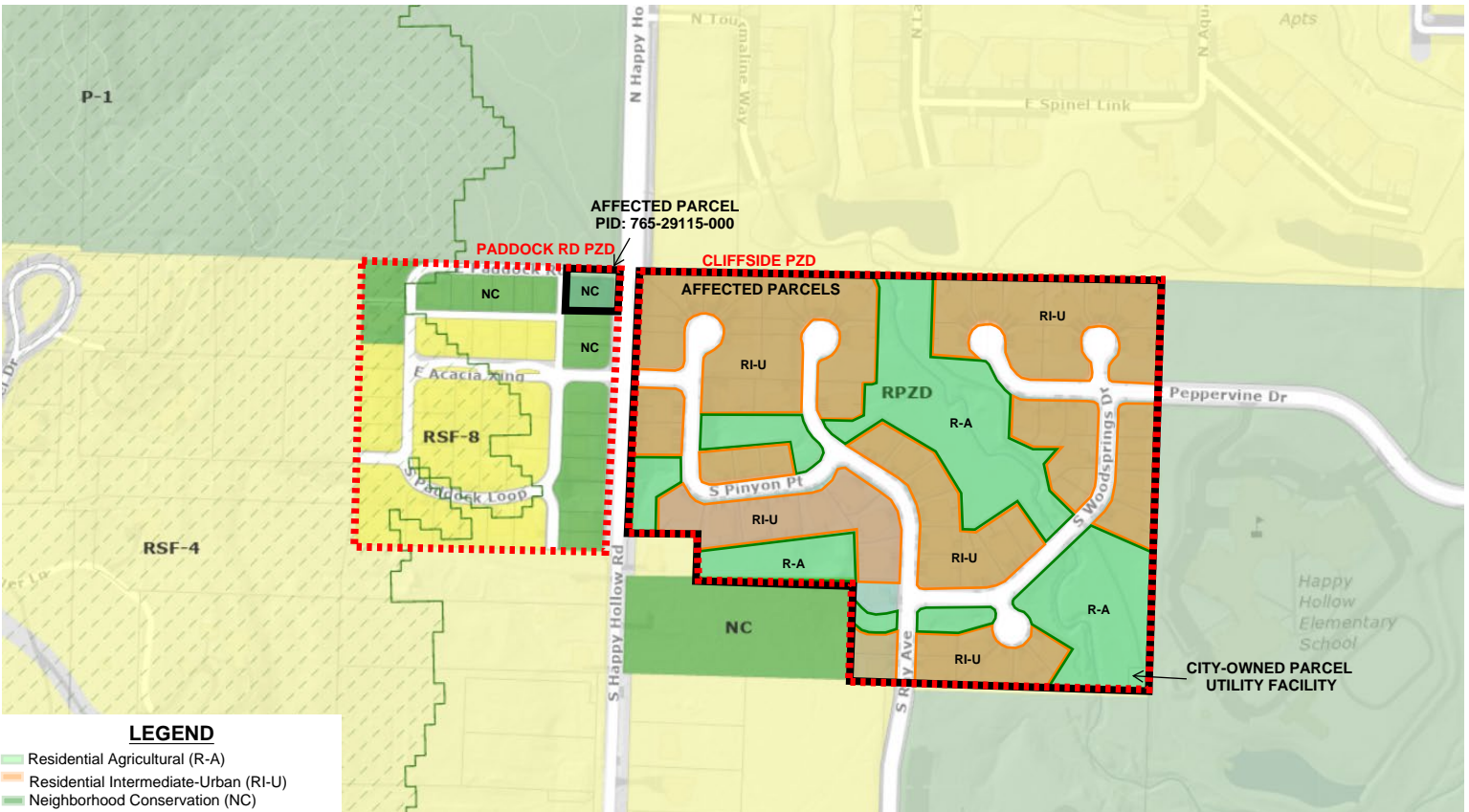
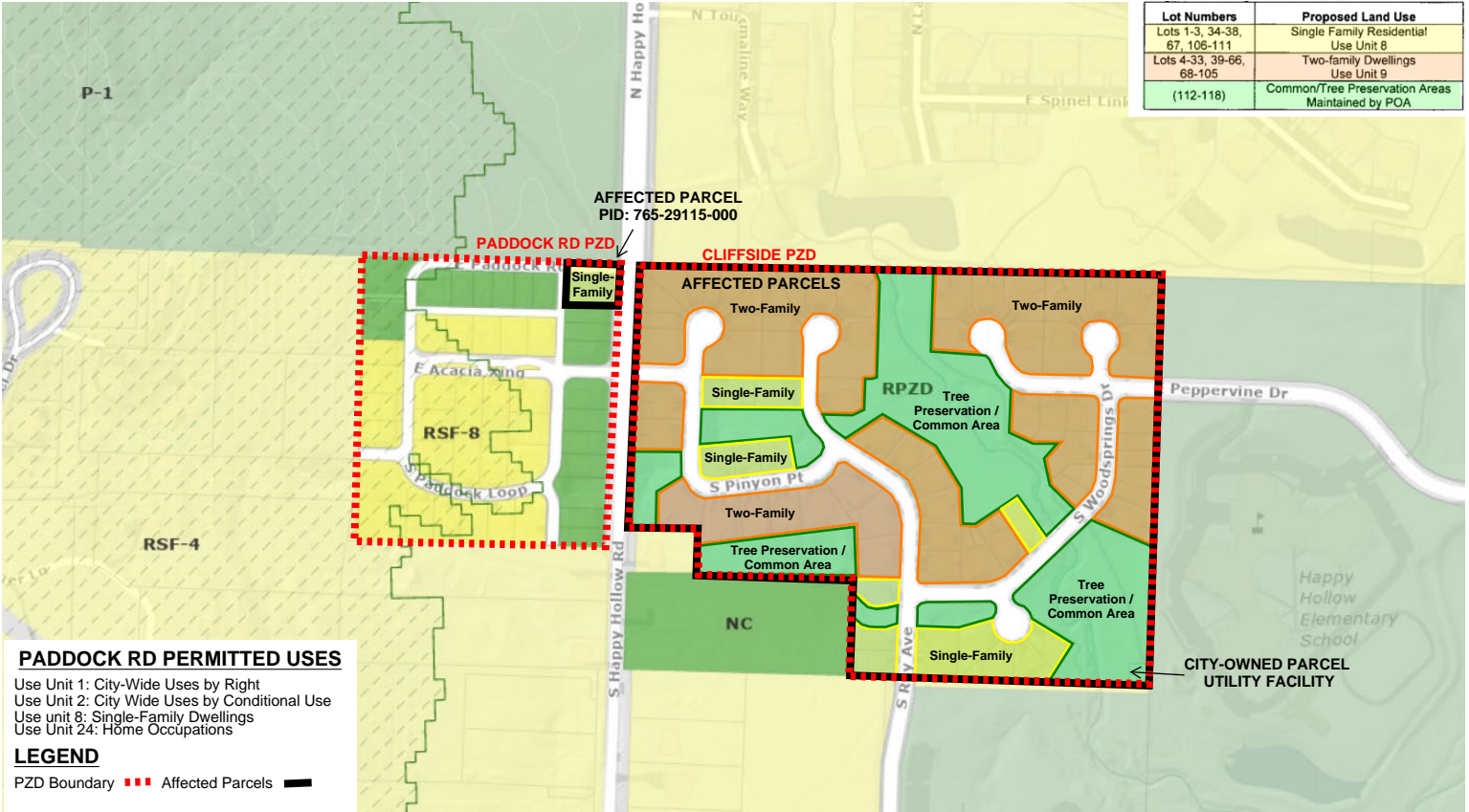
[Website](#) | [Facebook](#) | [Twitter](#) | [Instagram](#) | [YouTube](#)



PZD AND ZONING COMPARISON CLIFFSIDE AND PADDOCK RD SUBDIVISION

CLIFFSIDE PERMITTED USES

Lot Numbers	Proposed Land Use
Lots 1-3, 34-38, 67, 106-111	Single Family Residential Use Unit 8
Lots 4-33, 39-66, 68-105	Two-family Dwellings Use Unit 9
(112-118)	Common/Tree Preservation Areas Maintained by POA



PZD AND ZONING COMPARISON WESTBROOK VILLAGE II



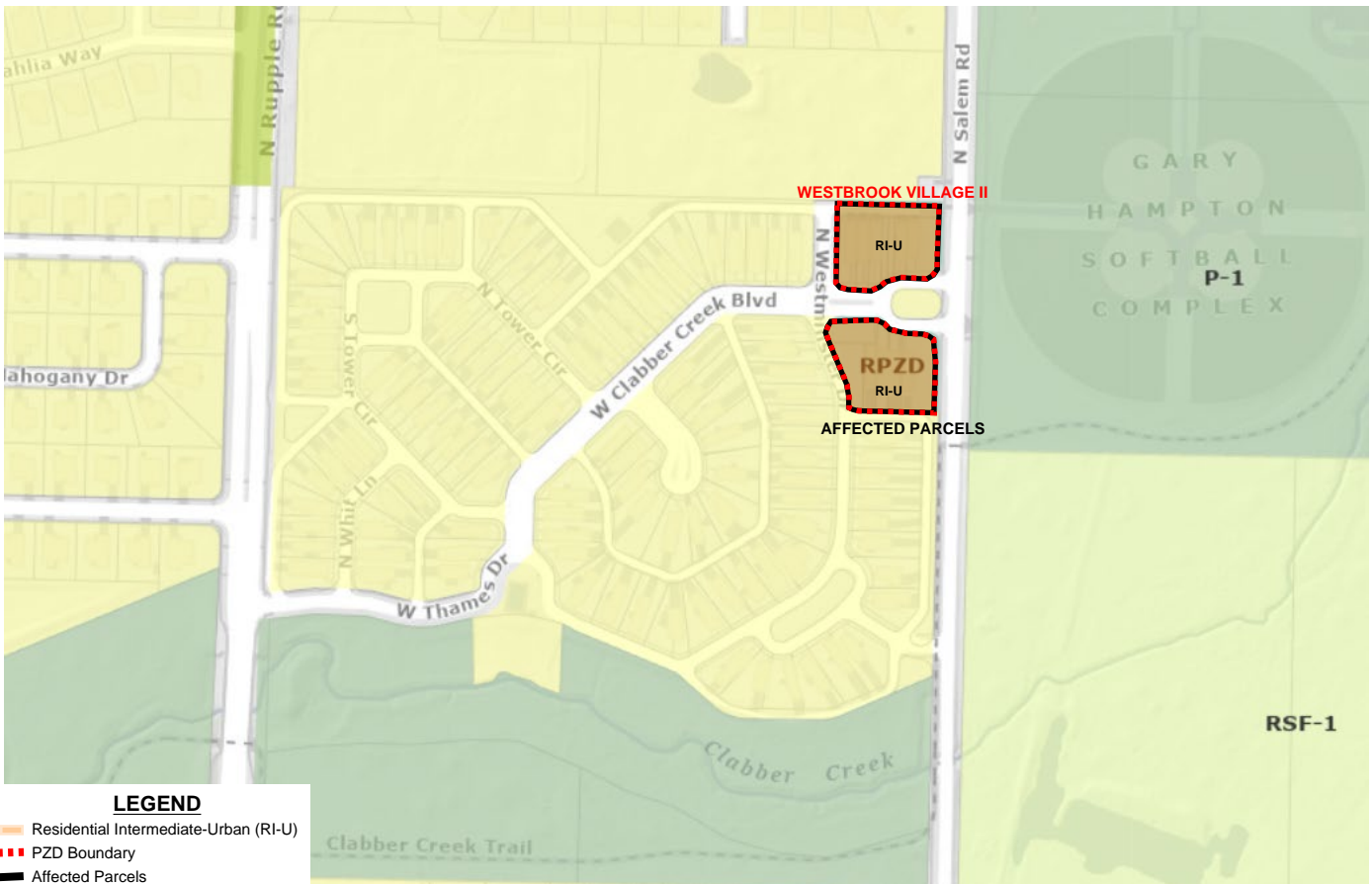
WESTBROOK VILLAGE II PLANNING AREAS

**PLANNED AREA 1 (PA-1)
SINGLE-FAMILY DWELLING**
(A) PURPOSE: AREA 1 IS DESIGNED TO ENCOURAGE SINGLE FAMILY HOMES AT A MODERATE DENSITY. REFER TO APPENDIX D FOR BUILDING ELEVATIONS.
(B) USES:
Permitted Uses
UNIT 1 | CITY WIDE USES BY RIGHT
UNIT 4 | SINGLE-FAMILY DWELLING
Conditional Uses
UNIT 2 | CITY WIDE USES BY CONDITIONAL USE PERMIT
UNIT 24 | HOME OCCUPATIONS

**PLANNED AREA 2 (PA-2)
SINGLE-FAMILY DWELLING**
(A) PURPOSE: AREA 2 IS DESIGNED TO ENCOURAGE SINGLE FAMILY HOMES AT A MODERATE DENSITY. REFER TO APPENDIX D FOR BUILDING ELEVATIONS.
(B) USES:
Permitted Uses
UNIT 1 | CITY WIDE USES BY RIGHT
UNIT 4 | SINGLE-FAMILY DWELLING
Conditional Uses
UNIT 2 | CITY WIDE USES BY CONDITIONAL USE PERMIT
UNIT 24 | HOME OCCUPATIONS

Proposed Zoning and Development Standards For:

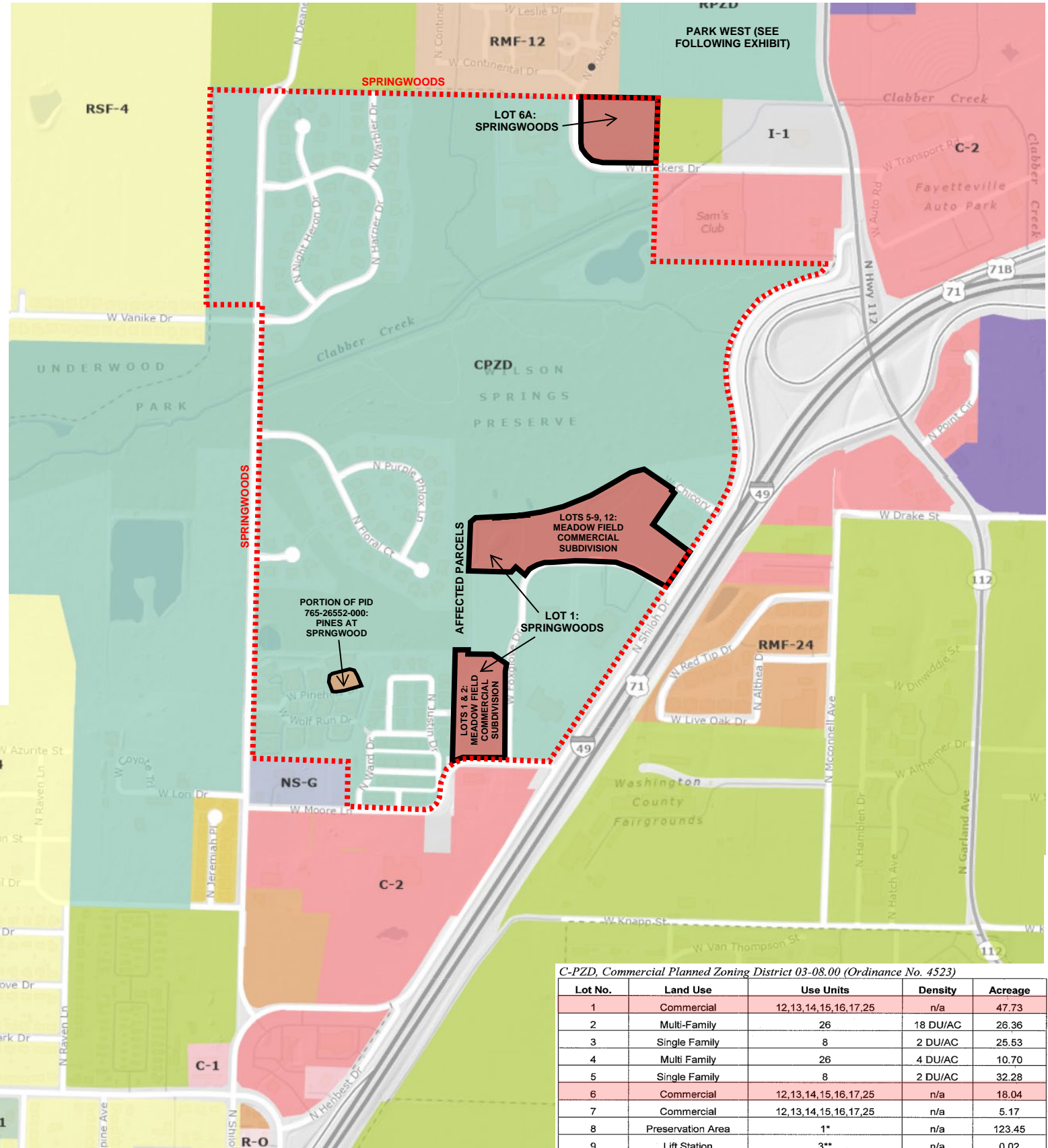
**PLANNED AREA 3 (PA-3)
GREENSPACE**
(A) PURPOSE: AREA 3 IS DESIGNED TO PROVIDE GREENSPACE FOR THE USE AND ENJOYMENT OF THE ENTIRE DEVELOPMENT



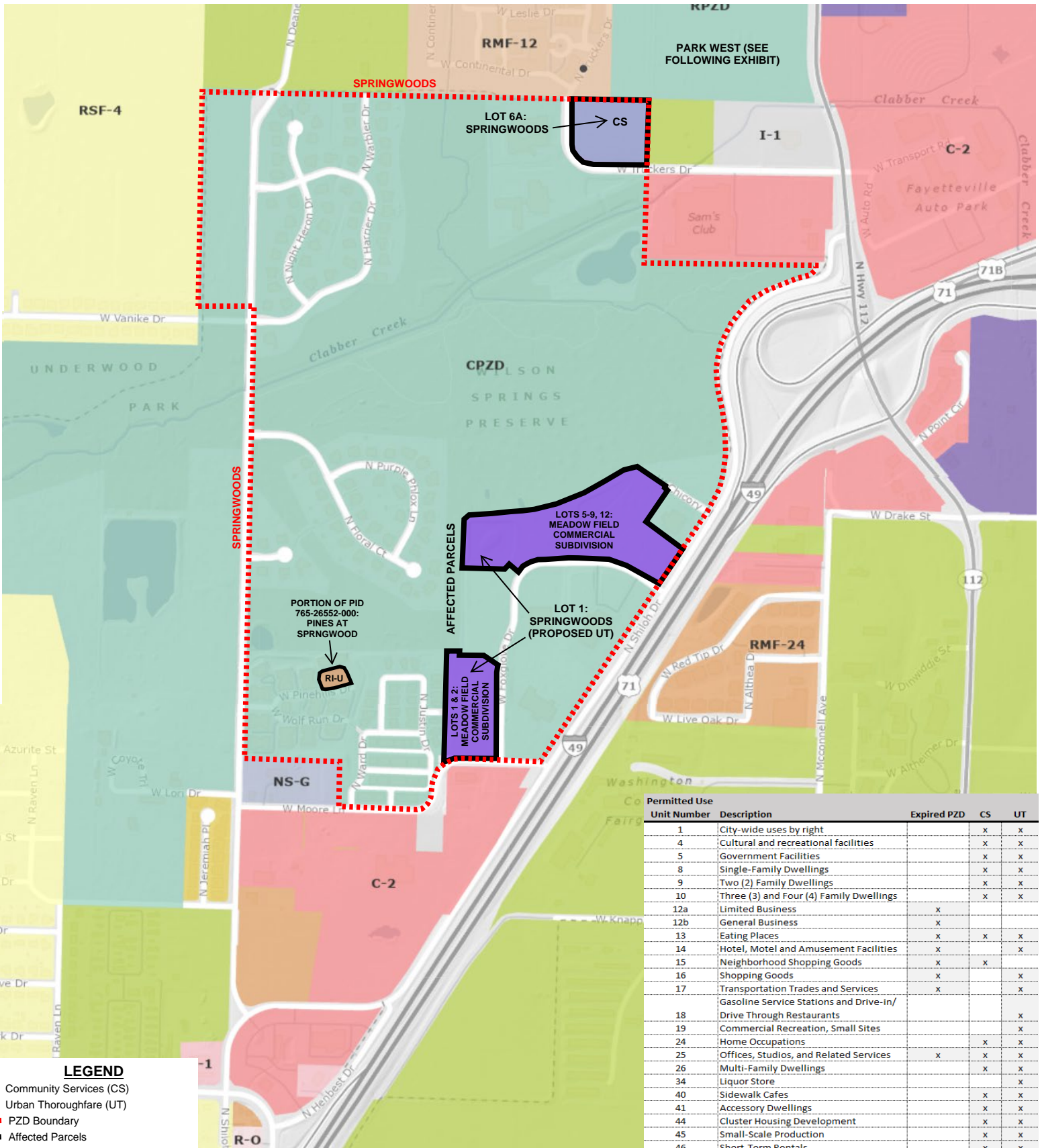
LEGEND

- Residential Intermediate-Urban (RI-U)
- PZD Boundary
- Affected Parcels

PZD AND ZONING COMPARISON SPRINGWOODS



PZD AND ZONING COMPARISON SPRINGWOODS

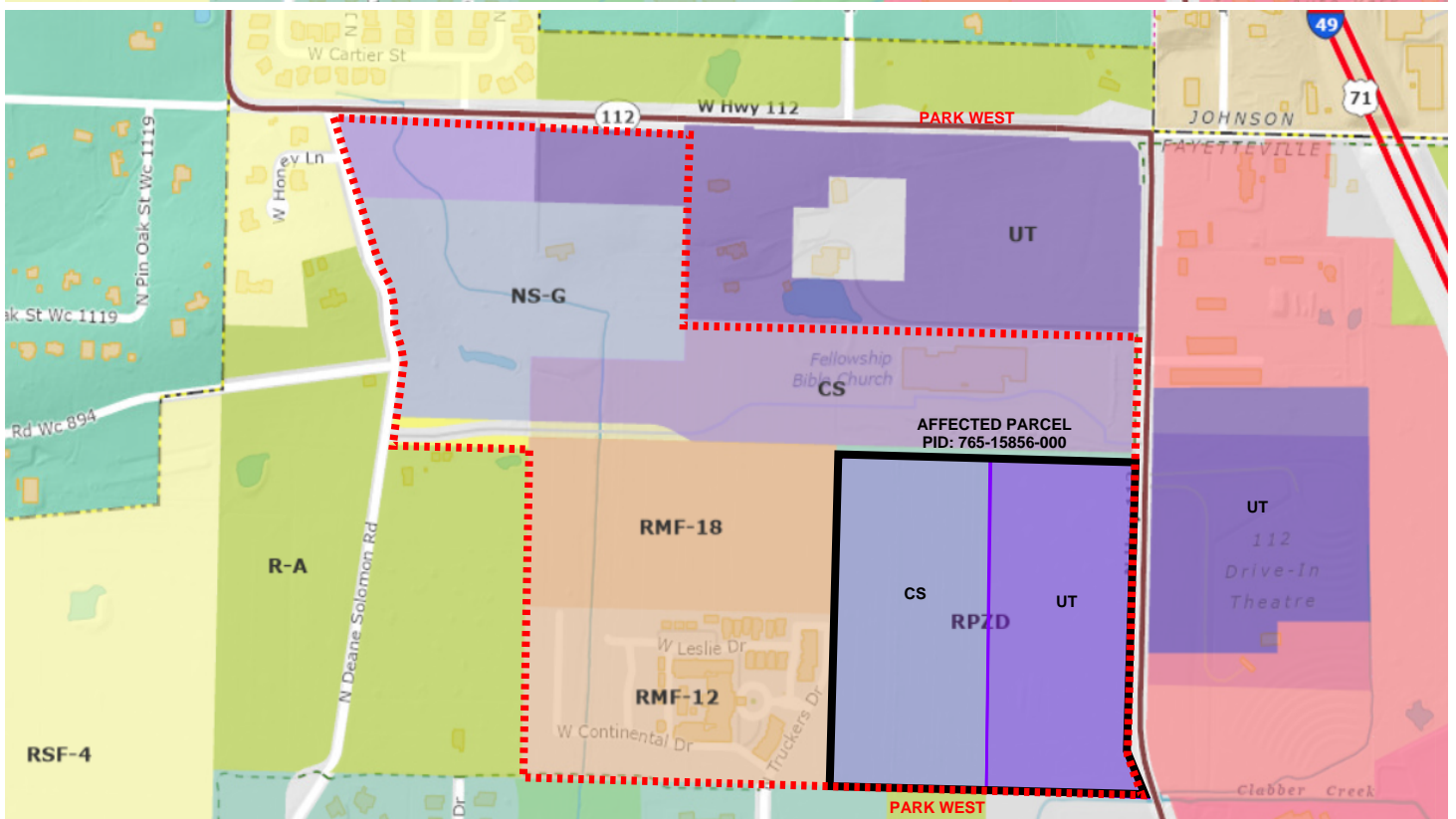
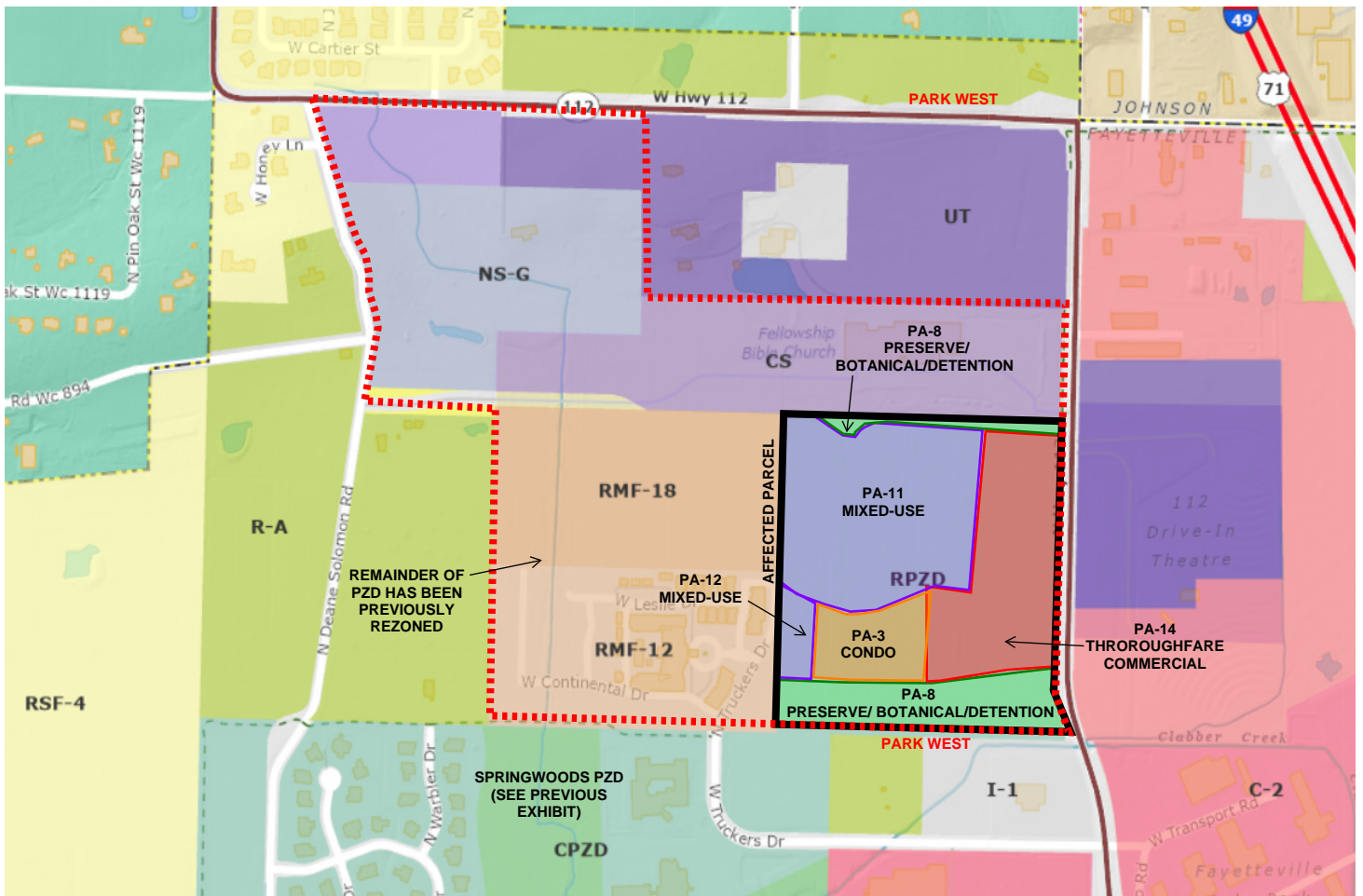


LEGEND

- Community Services (CS)
- Urban Thoroughfare (UT)
- PZD Boundary
- Affected Parcels

Unit Number	Description	Expired PZD	CS	UT
1	City-wide uses by right		x	x
4	Cultural and recreational facilities		x	x
5	Government Facilities		x	x
8	Single-Family Dwellings		x	x
9	Two (2) Family Dwellings		x	x
10	Three (3) and Four (4) Family Dwellings		x	x
12a	Limited Business	x		
12b	General Business	x		
13	Eating Places	x	x	x
14	Hotel, Motel and Amusement Facilities	x	x	x
15	Neighborhood Shopping Goods	x	x	
16	Shopping Goods	x		x
17	Transportation Trades and Services	x		x
18	Gasoline Service Stations and Drive-in/ Drive Through Restaurants			x
19	Commercial Recreation, Small Sites			x
24	Home Occupations		x	x
25	Offices, Studios, and Related Services	x	x	x
26	Multi-Family Dwellings		x	x
34	Liquor Store			x
40	Sidewalk Cafes		x	x
41	Accessory Dwellings		x	x
44	Cluster Housing Development		x	x
45	Small-Scale Production		x	x
46	Short-Term Rentals		x	x

PZD AND ZONING COMPARISON PARK WEST



LEGEND

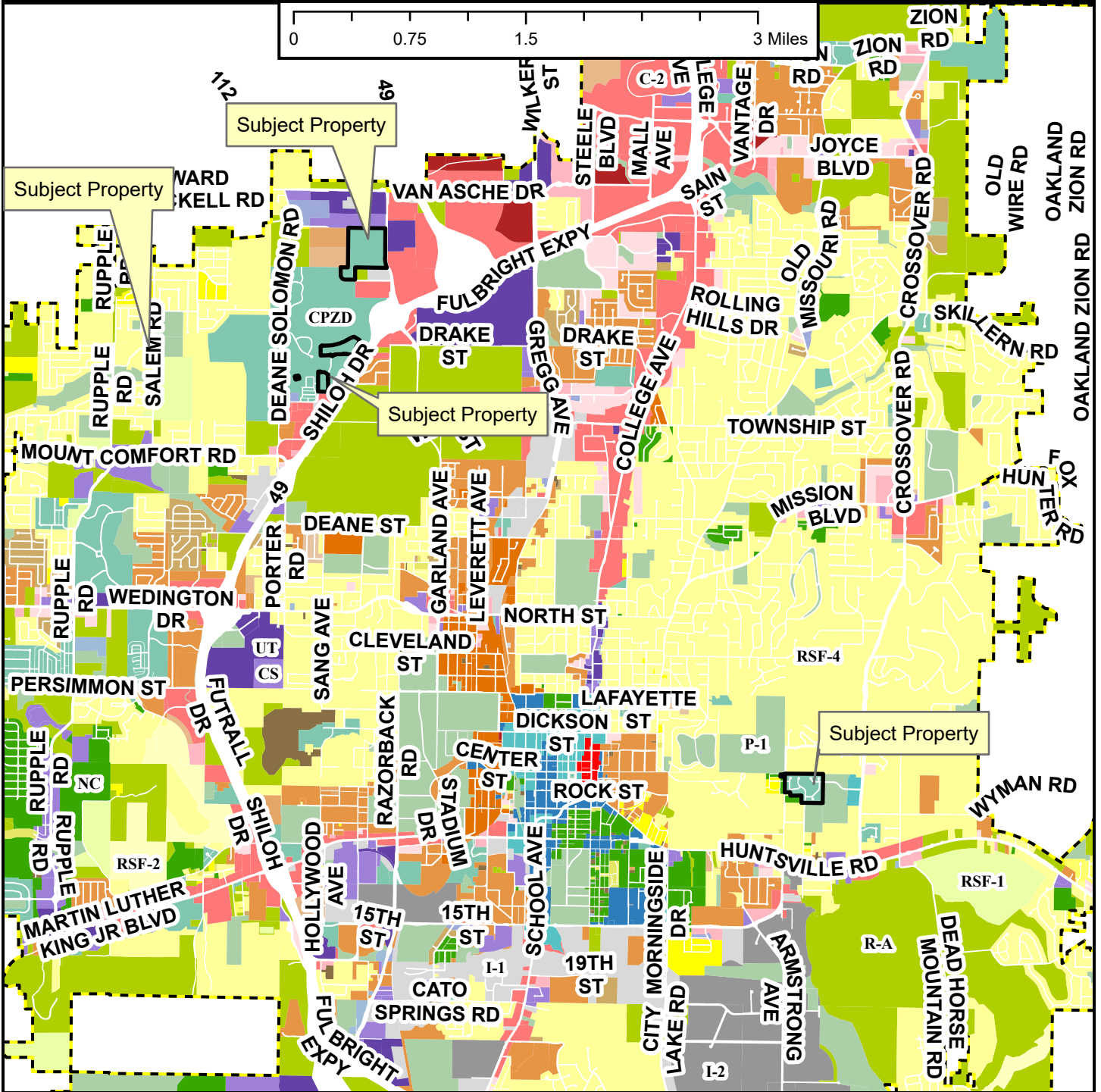
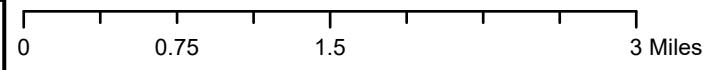
- Community Services (CS)
- Urban Thoroughfare (UT)
- PZD Boundary
- Affected Parcels

Planning Commission
April 8, 2024

RZN-2024-0011 (VARIOUS EXPIRED PZD'S)

**PZD AND ZONING COMPARISON
PARK WEST**

Permitted Use		Park West	Park West	Park West	Park West		
Unit Number	Description	PA-3	PA-8	PA-11 & 12	PA-14	CS	UT
1	City-wide uses by right	x	x	x	x	x	x
3	Public Protection and Utility Facilities			x			
4	Cultural and recreational facilities		x	x	x	x	x
5	Government Facilities				x	x	x
8	Single-Family Dwellings	x		x		x	x
9	Two (2) Family Dwellings	x		x		x	x
10	Three (3) and Four (4) Family Dwellings	x		x		x	x
12a	Limited Business	x		x	x		
12b	General Business	x		x	x		
13	Eating Places	x		x	x	x	x
14	Hotel, Motel and Amusement Facilities			x	x		x
15	Neighborhood Shopping Goods	x		x	x	x	
16	Shopping Goods	x		x	x		x
17	Transportation Trades and Services			x	x		x
18	Gasoline Service Stations and Drive-in/ Drive Through Restaurants				x		x
19	Commercial Recreation, Small Sites			x	x		x
24	Home Occupations			x		x	x
25	Offices, Studios, and Related Services	x		x	x	x	x
26	Multi-Family Dwellings	x		x		x	x
34	Liquor Store			x	x		x
40	Sidewalk Cafes					x	x
41	Accessory Dwellings					x	x
44	Cluster Housing Development					x	x
45	Small-Scale Production					x	x
46	Short-Term Rentals					x	x



Fayetteville City Limits

Planning Area
 Fayetteville City Limits



- Zoning**
- RESIDENTIAL SINGLE-FAMILY**

 - NS-G
 - RH-U
 - RI-12
 - NS-L
 - Residential-Agricultural
 - RSF-5
 - RSF-1
 - RSF-2
 - RSF-4
 - RSF-7
 - RSF-8
 - RSF-18

- RESIDENTIAL MULTI-FAMILY**

 - RMF-6
 - RMF-12
 - RMF-18
 - RMF-24
 - RMF-40

- INDUSTRIAL**

 - I-1 Heavy Commercial and Light Industrial
 - I-2 General Industrial

- EXTRACTION**

 - E-1

- COMMERCIAL**

 - Residential-Office
 - C-1
 - C-2
 - C-3

- FORM BASED DISTRICTS**

 - Downtown Core
 - Urban Thoroughfare
 - Main Street Center
 - Downtown General
 - Community Services
 - Neighborhood Services
 - Neighborhood Conservation

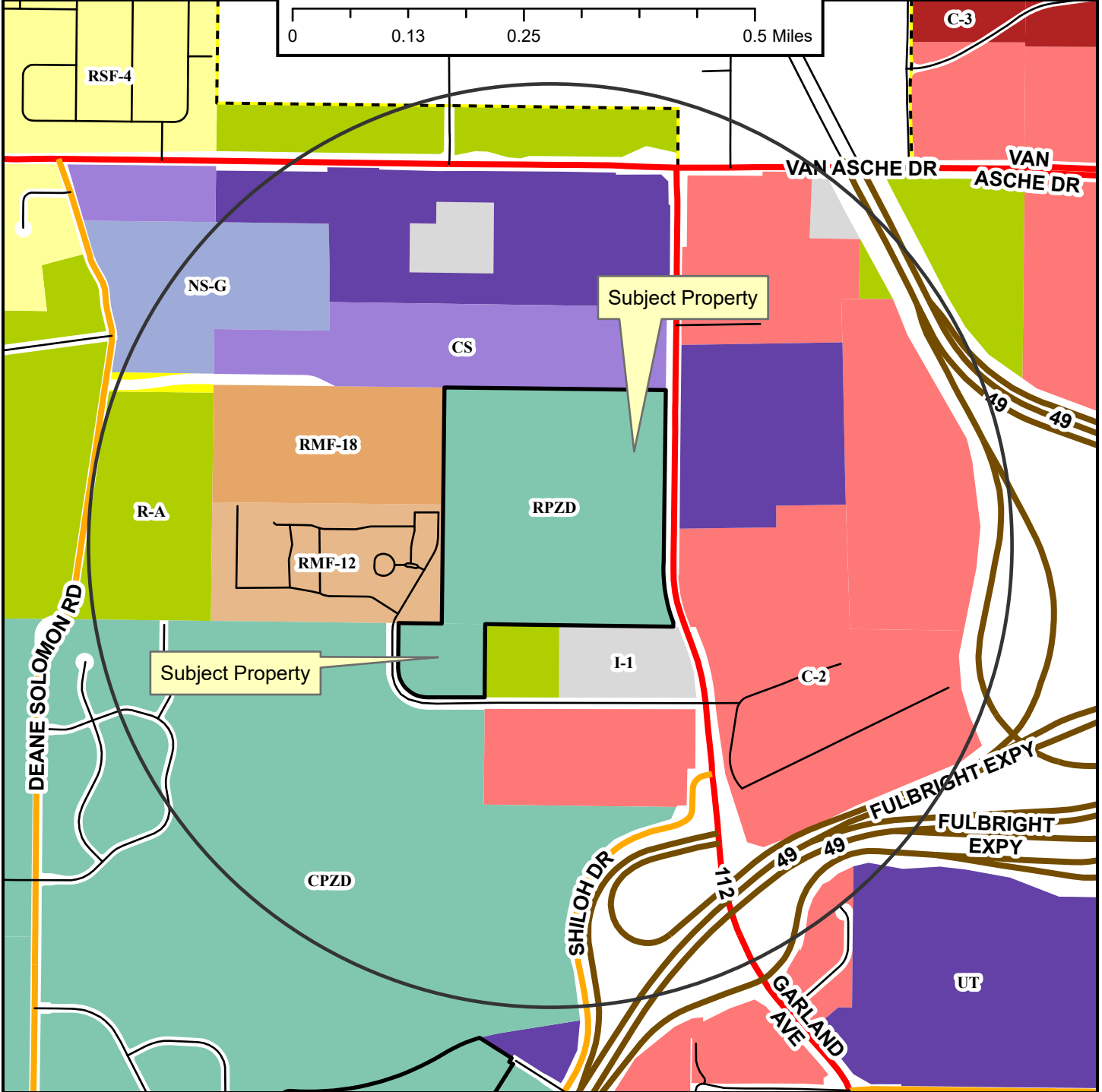
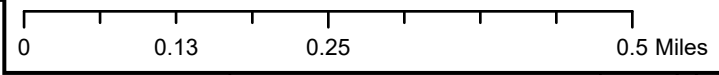
- PLANNED ZONING DISTRICTS**

 - Commercial, Industrial, Residential
 - INSTITUTIONAL
 - P-1

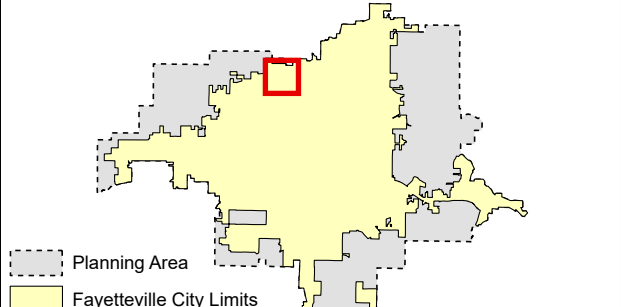
RZN-2024-0011

RZN 2024-0011

One Mile Map



- Regional Link
- Neighborhood Link
- Freeway/Expressway
- Unclassified
- Residential Link
- Fayetteville City Limits



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

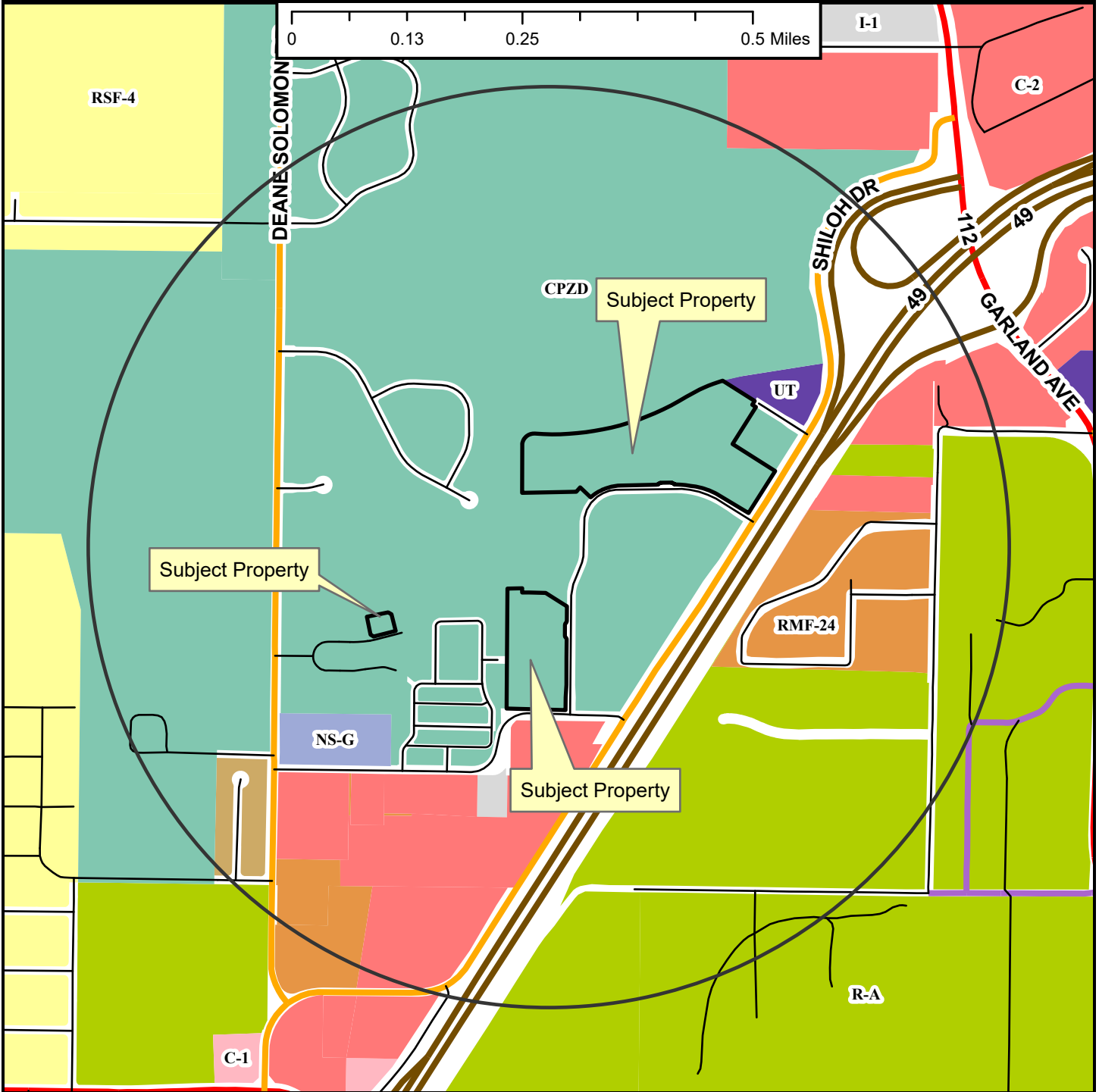
RZN-2024-0011

RZN 2024-0011

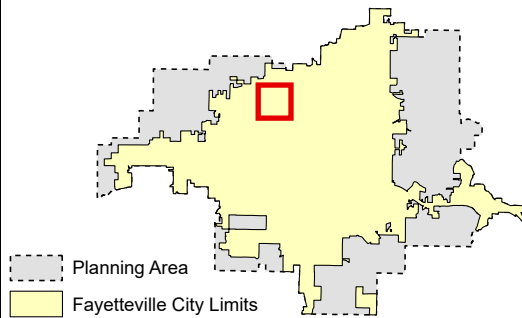
One Mile Map



0 0.13 0.25 0.5 Miles



- Regional Link
- Neighborhood Link
- Institutional Master Plan
- Freeway/Expressway
- Unclassified
- Alley
- Residential Link
- Fayetteville City Limits

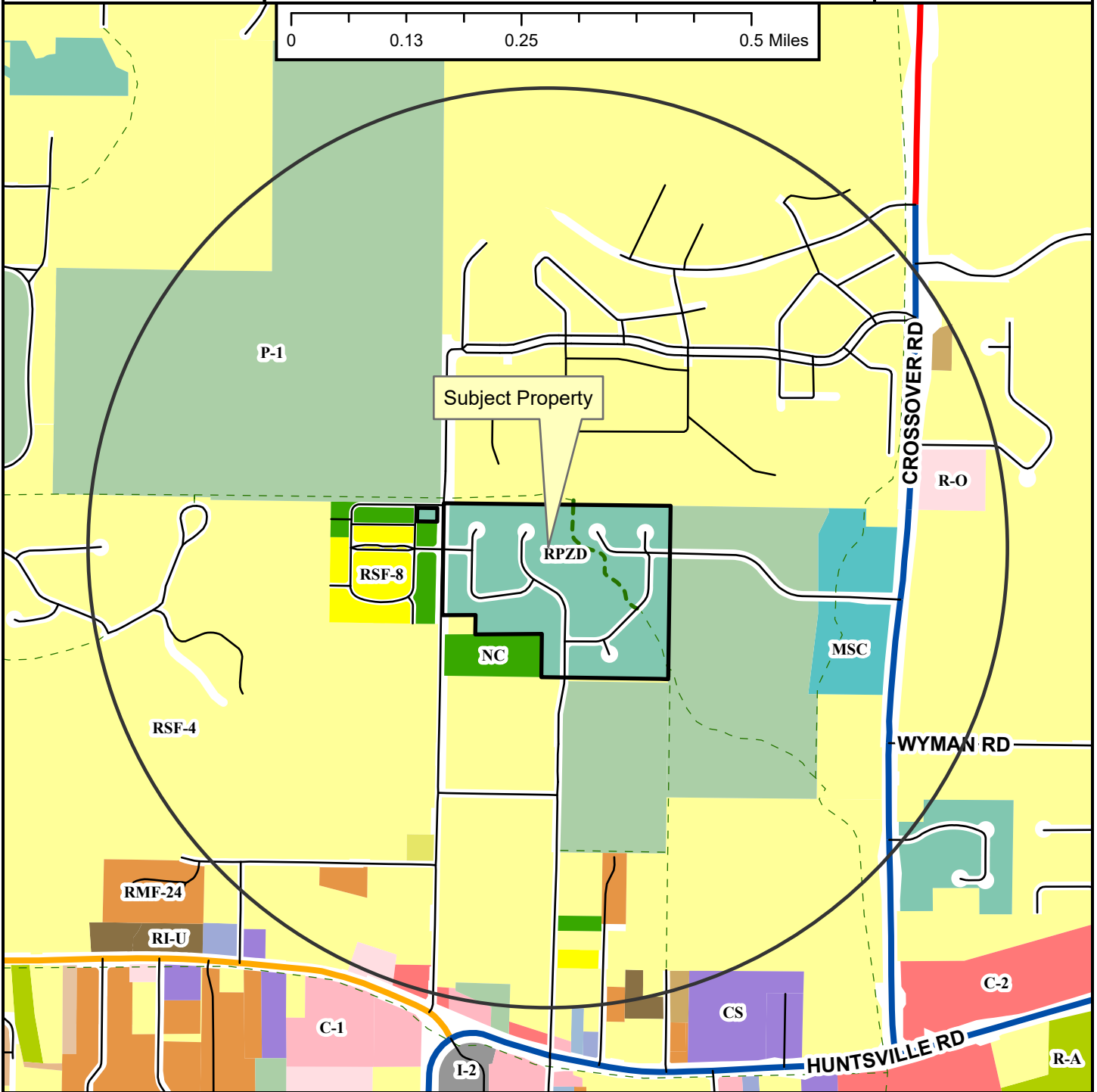
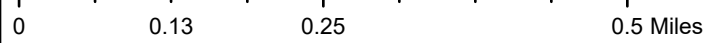


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| <p>Zoning</p> <p>RESIDENTIAL SINGLE-FAMILY</p> <ul style="list-style-type: none"> NS-G RH-U RI-12 NS-L Residential-Agricultural RSF-5 RSF-1 RSF-2 RSF-4 RSF-7 RSF-8 RSF-18 <p>RESIDENTIAL MULTI-FAMILY</p> <ul style="list-style-type: none"> RMF-6 RMF-12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

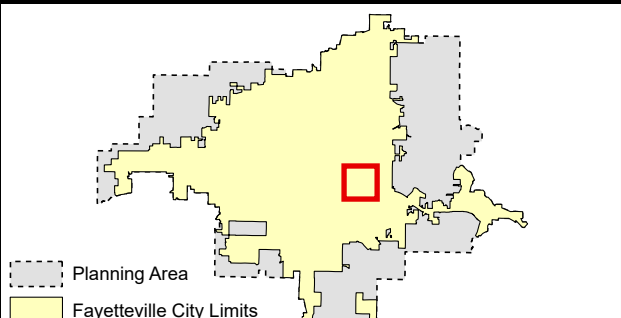
RZN-2024-0011

RZN 2024-0011

One Mile View



- Regional Link
- Neighborhood Link
- Regional Link - High Activity
- Unclassified
- Alley
- Residential Link
- Shared-Use Paved Trail
- Trail (Proposed)
- Fayetteville City Limits
- Planning Area

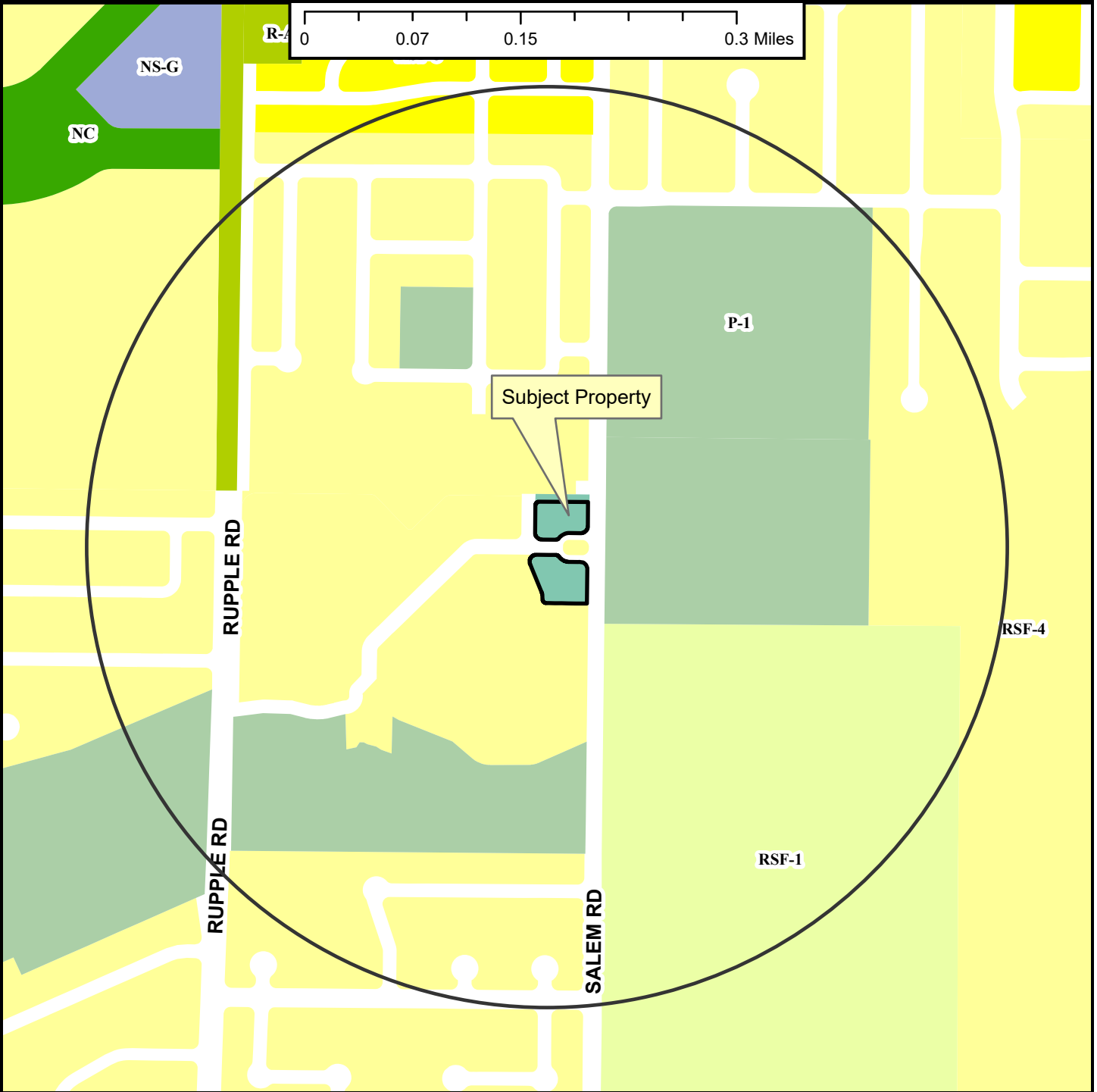
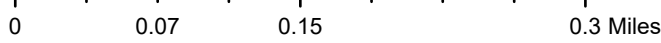


- Zoning**
- RESIDENTIAL SINGLE-FAMILY**
- NS-G
 - RH-U
 - RI-12
 - NS-L
 - Residential-Agricultural
 - RSF-5
 - RSF-1
 - RSF-2
 - RSF-4
 - RSF-7
 - RSF-8
 - RSF-18
- RESIDENTIAL MULTI-FAMILY**
- RMF-6
 - RMF-12
 - RMF-18
 - RMF-24
 - RMF-40
- INDUSTRIAL**
- I-1 Heavy Commercial and Light Industrial
 - I-2 General Industrial
- EXTRACTION**
- E-1
- COMMERCIAL**
- Residential-Office
 - C-1
 - C-2
 - C-3
- FORM BASED DISTRICTS**
- Downtown Core
 - Urban Thoroughfare
 - Main Street Center
 - Downtown General
 - Community Services
 - Neighborhood Services
 - Neighborhood Conservation
- PLANNED ZONING DISTRICTS**
- Commercial, Industrial, Residential
- INSTITUTIONAL**
- P-1

RZN-2024-0011

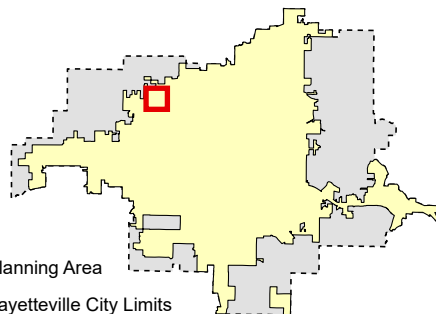
RZN 2024-0011

One Mile Map

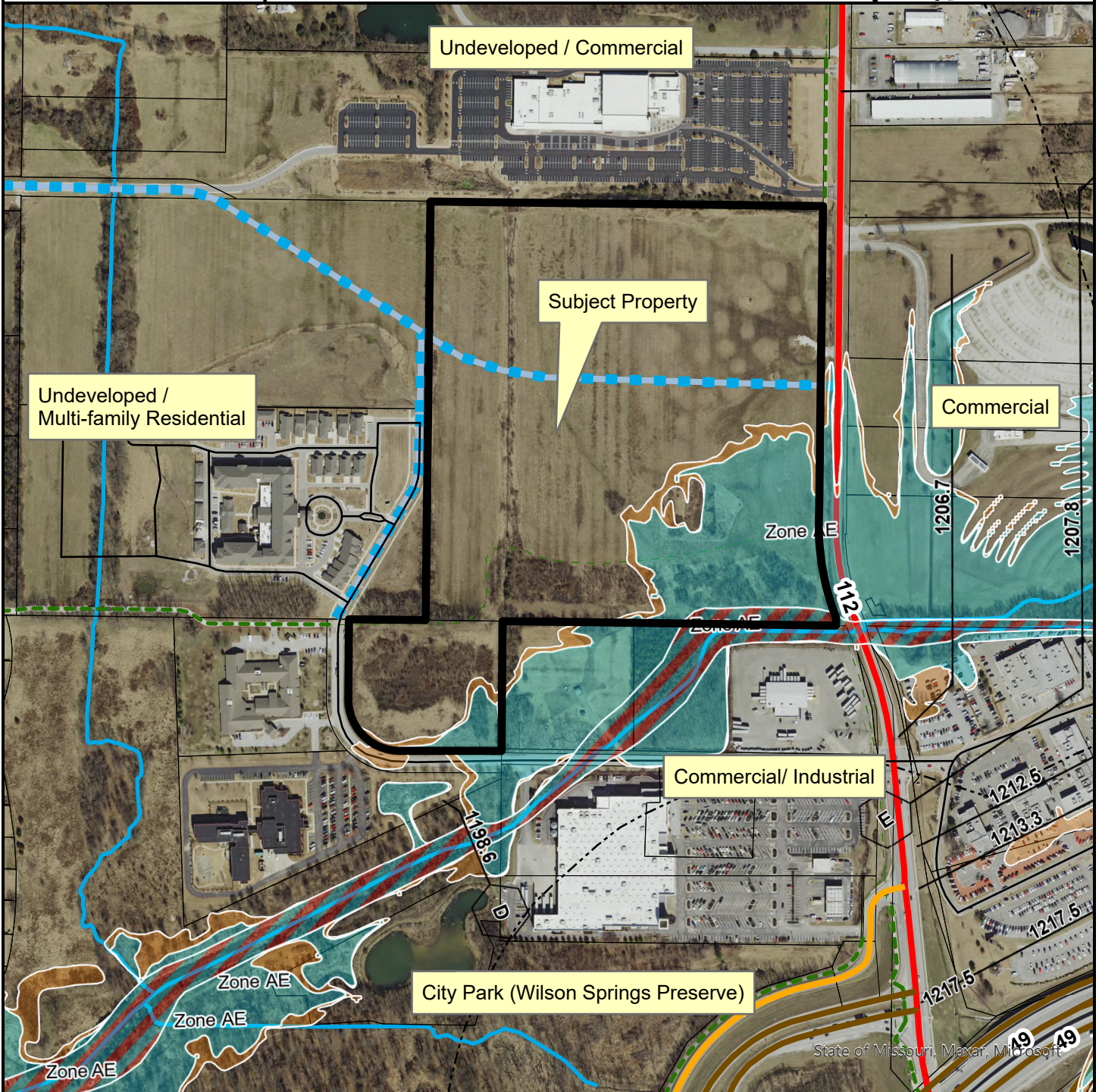


Fayetteville City Limits

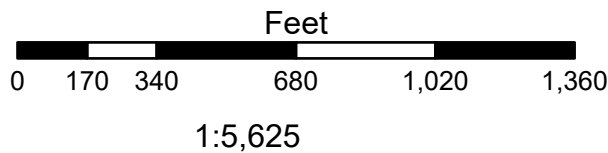
Planning Area
 Fayetteville City Limits



- Zoning**
- RESIDENTIAL SINGLE-FAMILY**
 - NS-G
 - RH-U
 - RI-12
 - NS-L
 - Residential-Agricultural
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 - Neighborhood Services
 - Neighborhood Conservation
 - PLANNED ZONING DISTRICTS**
 - Commercial, Industrial, Residential
 - INSTITUTIONAL**
 - P-1



- Regional Link
- Neighborhood Link
- Freeway/Expressway
- Unclassified
- Residential Link
- Planned Residential Link
- Trail (Proposed)
- Planning Area
- Fayetteville City Limits
- Design Overlay District

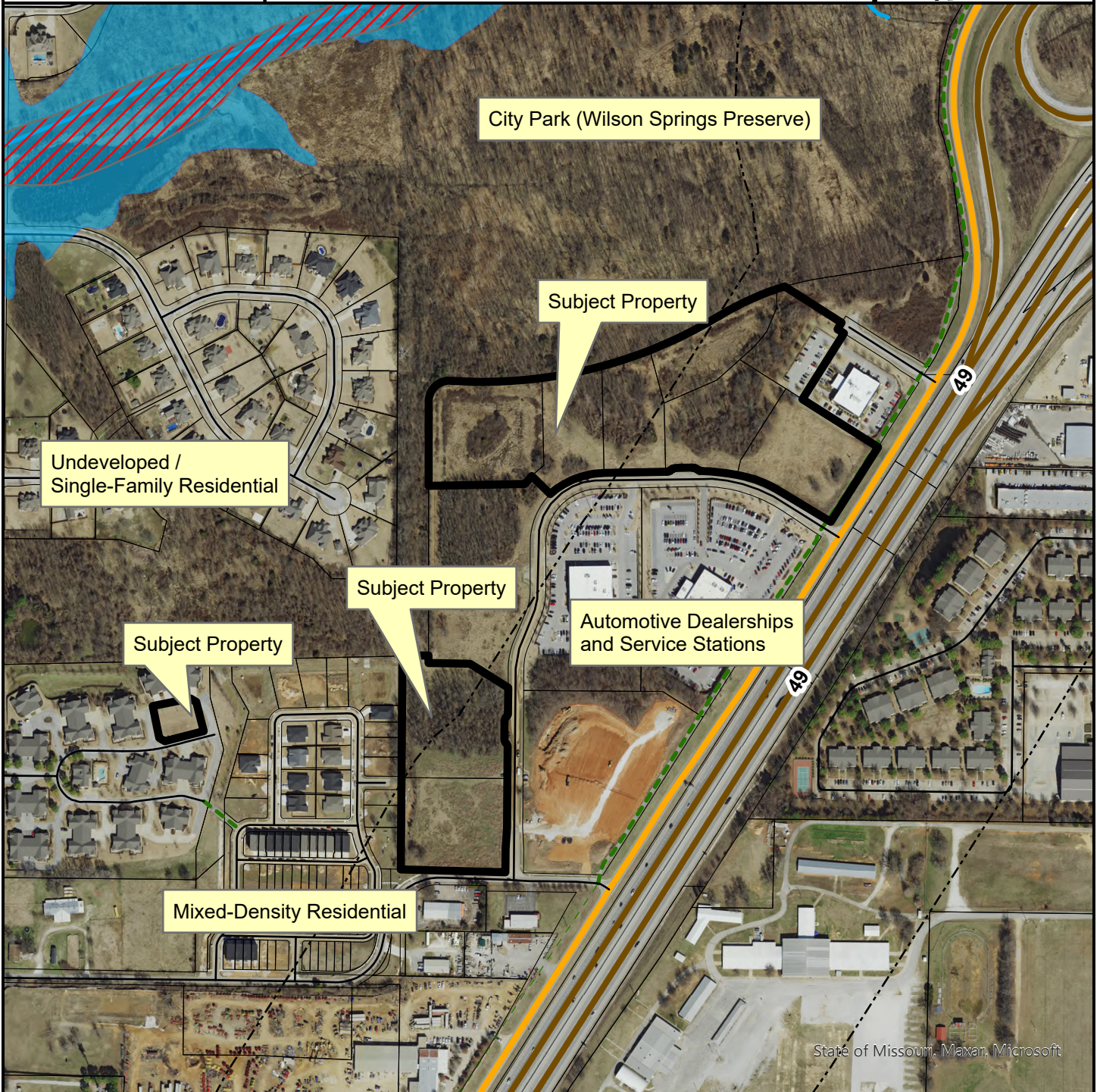


- FEMA Flood Hazard Data**
- 100-Year Floodplain
 - Floodway

RZN-2024-0011

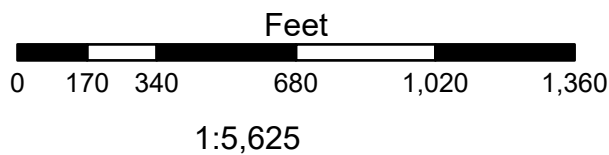
RZN 2024-0011

Current Land Use



State of Missouri, Maxar, Microsoft

- Neighborhood Link
- Freeway/Expressway
- Unclassified
- Alley
- Residential Link
- Trail (Proposed)
- Planning Area
- Fayetteville City Limits
- Design Overlay District



FEMA Flood Hazard Data

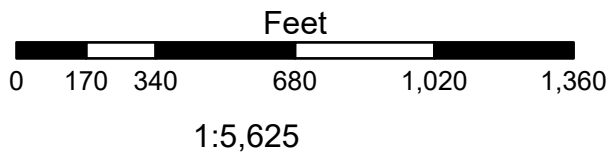
- 100-Year Floodplain
- Floodway



Current Land Use



- Unclassified
- Alley
- Residential Link
- - - Trail (Proposed)
- - - Planning Area
- ▭ Fayetteville City Limits

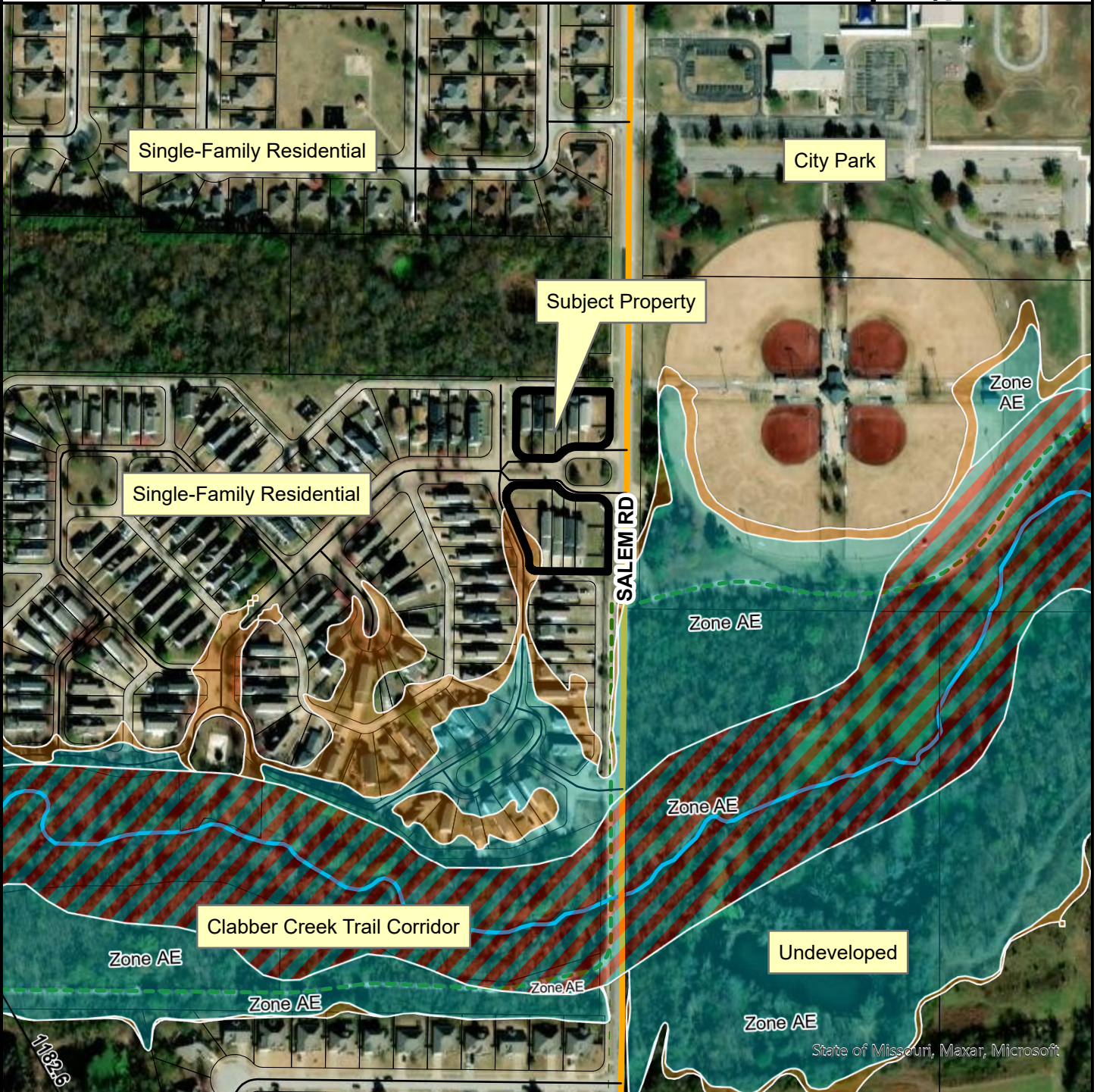


FEMA Flood Hazard Data

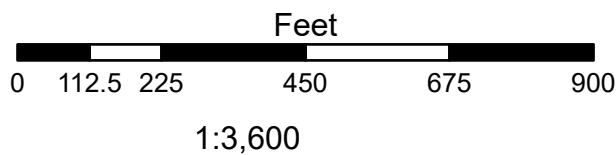
- 100-Year Floodplain
- Floodway



Current Land Use



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



FEMA Flood Hazard Data

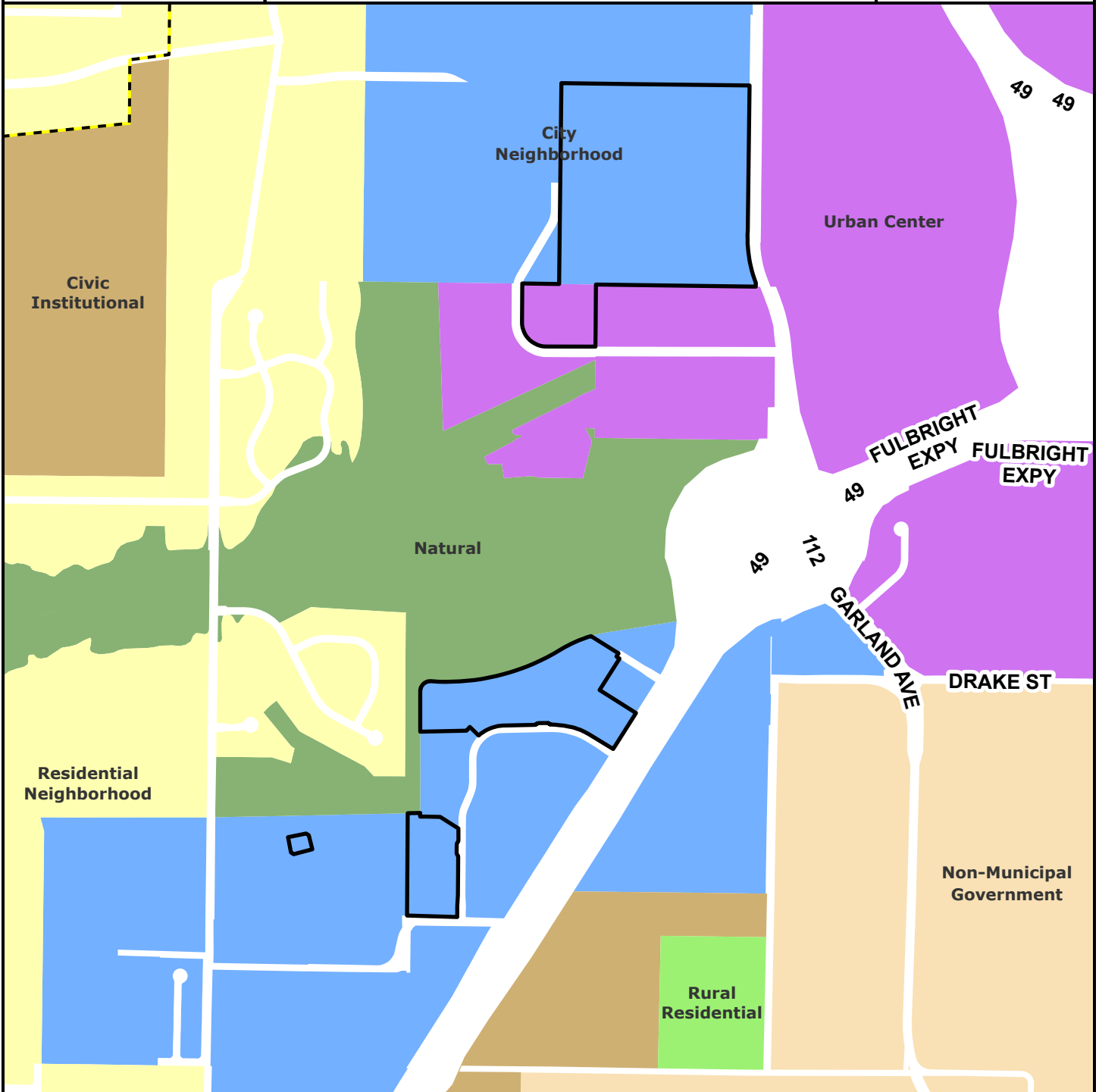
- 100-Year Floodplain
- Floodway

RZN-2024-0011

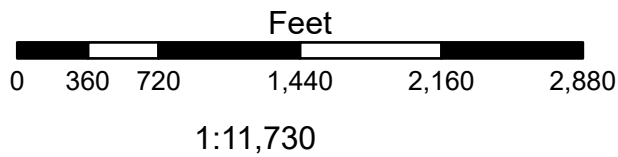
RZN 2024-0011



Future Land Use



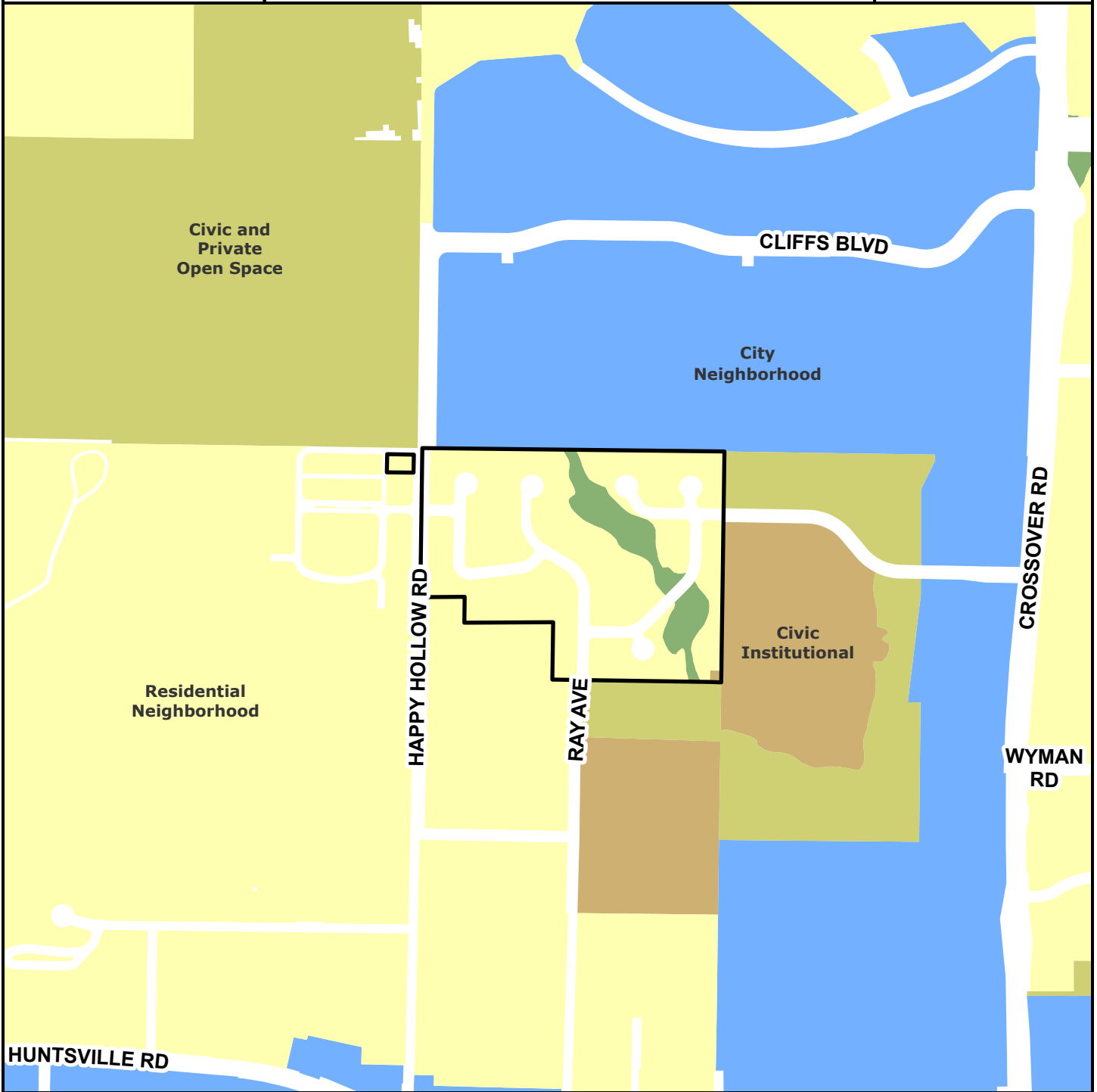
- Planning Area
- Fayetteville City Limits





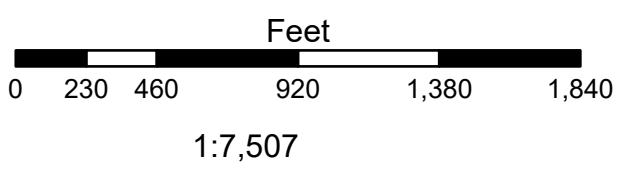
- City Neighborhood
- Civic Institutional
- Civic and Private Open Space
- Industrial
- Natural
- Non-Municipal Government
- Residential Neighborhood
- Rural Residential
- Urban Center






Future Land Use



-  Planning Area
-  Fayetteville City Limits



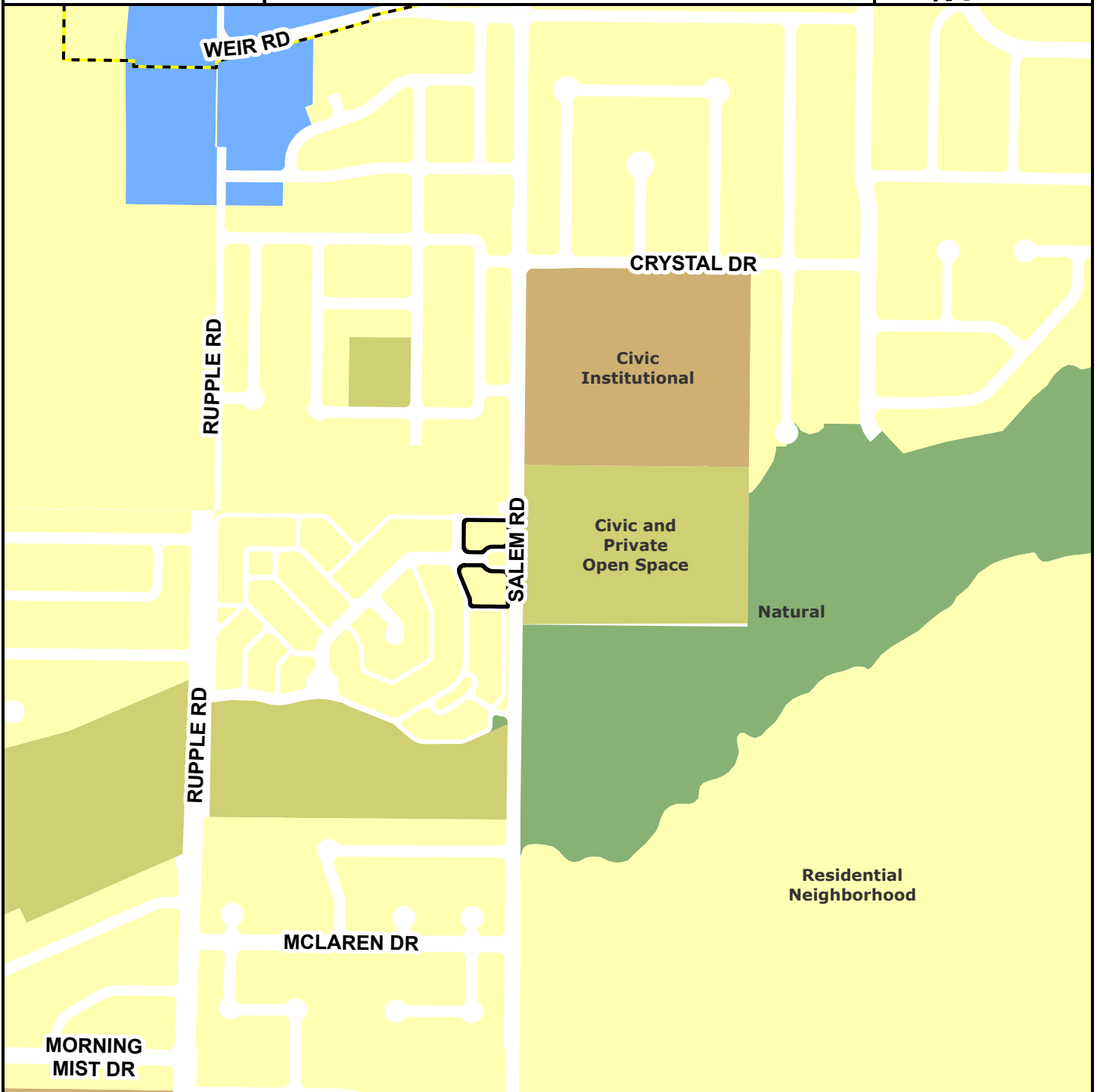
-  City Neighborhood
-  Civic Institutional
-  Civic and Private Open Space
-  Industrial
-  Natural
-  Non-Municipal Government
-  Residential Neighborhood
-  Rural Residential
-  Urban Center

RZN-2024-0011

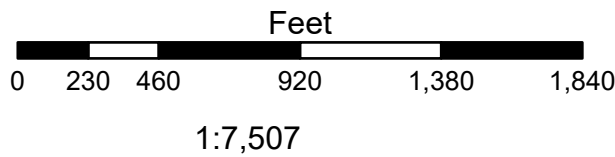
RZN 2024-0011



Future Land Use



- Planning Area
- Fayetteville City Limits



- City Neighborhood
- Civic Institutional
- Civic and Private Open Space
- Industrial
- Natural
- Non-Municipal Government
- Residential Neighborhood
- Rural Residential
- Urban Center