



THE
MAZZANTI FIRM
◆ ATTORNEY AT LAW ◆
PLLC

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Partner
Allen Mazzanti

Of Counsel
Katy M. Sager

September 3, 2021

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

RE: RZN-2021-000043 (2828 N. Crossover Rd)

Please accept this as my formal appeal of the decision of the Planning Commission on August 23, 2021 to deny the rezoning request for RZN-2021-000043 contrary to UDC 154.03 as the request both reasonable and necessary given the properties current layout. Our rezoning request was to have the property located at 2828 N. Crossover Rd. rezoned from its current R-A (Residential Agricultural) classification to the more proper classification of P-1. The rezoning request went before the Fayetteville Planning Commission (FPC) on Monday, August 23, 2021. Myself and my wife (The Hill School's director) were both scheduled to be in attendance but vehicle issues prevented us from making the meeting on time, a regrettable circumstance because I am confident had we been able to be in attendance at the time the matter was discussed that we could have adequately addressed all of the FPC's questions. However, even without Petitioner's attendance the rezoning should have still been approved based on the report and presentation of representatives of the Fayetteville Planning office clearly demonstrating that the rezoning request should be approved and in fact recommending its approval.

To give a little back history of the rezoning petition, during this process we have worked with the Fayetteville Planning office which was consulted in determining the most appropriate zoning classification for the property layout, the property's surroundings, the historical uses of the building/premises, as well as the proposed current use by The Hill School.

In 2000 the FPC approved a large scale development and issued a conditional use permit to allow a 15,360 square foot church and child care facility to be constructed and operated on the property. Since the time of that approval by the FPC the property has consistently been used for those purposes. However, the property was sparsely utilized in the last few years due to COVID. Therefore the property quickly became over grown with brush and privet. In June The Hill School began operating in the facility and quickly proceeded to

clean out most of the brush and privet in order to build new playgrounds in the front and began prepping the back to make into a shaded park like atmosphere for its students to play. This “recreational” type use is specifically permitted under the P-1 Institutional zoning classification. The students of The Hill School currently vary in age from kindergarten to second grade with intentions of adding additional higher grades in the future.

After considering the density and compatibility with the surrounding properties the FPC approved the property to be utilized as a church and child care facility, which both density and compatibility factors are largely identical now as they were in 2000. Since that time the property has continuously in some form or fashion been utilized as a church, as a school or as a combination church and school (daycare). The previously approved use is consistent with bordering parcels as well, as the north property line is contiguous to the Williams Dance Center which is a dance school. In fact many of the current students of The Hill School literally walk less than 100 feet from school to dance class in the afternoons, relieving their parents from having to leave work to transport them to dance class after school.

The Hill School is currently using the property as a non-profit Christian school, a use that is identical to that previously considered and approved by the FPC. For the Counsel’s information the properties south boarder backs up to a well-established residential housing development which separates almost the entire south property line, with exception of areas in the flood plain, by wooden privacy fencing. The playground areas to the east and west of the building provide shaded partially wooded areas that offer its students shaded playgrounds that contain brand new commercial playground equipment.

There are currently (2) conditional use permits that allow the property, which was constructed for church and/or school purposes, to actually be utilized in that fashion. However, those uses are specifically carved out for a “Unit 4. Cultural and Recreational Facilities” use as the code specifically sets forth the included uses of Unit 4 as “church”, “child care center”, “elementary school”, “junior high school”, “senior high school” and “playground”. All of which align exactly with the previously approved building construction and FPC approved use of the property. Thus the property’s zoning should line up with the historical and current use which is clearly “Unit 4” which is included in a P1 zone.

Thus the Petitioner respectfully request the City Council to consider the previously approved uses, the historical use and the proposed current use of the property which clearly suggests that the proper zoning classification for the property should be zoned P1. A fact that is even more supported by the same findings and recommendations of the Fayetteville Planning Commission’s report to grant the property to be rezoned P1.

Sincerely,

A handwritten signature in black ink, appearing to read "Allen Mazzanti". The signature is fluid and cursive, with the first name "Allen" and last name "Mazzanti" clearly distinguishable.

Allen Mazzanti



MEETING OF OCTOBER 5, 2021

TO: Mayor; Fayetteville City Council

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

FROM: Ryan Umberger, Senior Planner

DATE: September 17, 2021

SUBJECT: **RZN-2021-000043: Rezone (2828 N. CROSSOVER RD./THE HILL SCHOOL, 255):** Submitted by MAZZANTI LAW FIRM, LLC. for property located at 2828 N. CROSSOVER RD. The property is zoned R-A, RESIDENTIAL AGRICULTURAL and contains approximately 3.58 acres. The request is to rezone the property to P-1, INSTITUTIONAL.

RECOMMENDATION:

Staff recommends approval of a request to rezone the subject property as described and shown in the attached Exhibits 'A' and 'B'. Planning Commission recommends denial of the request.

BACKGROUND:

The subject property is located on the east side of N. Crossover Road, approximately ½ mile north of the intersection of N. Crossover and E. Township Street. The property is zoned R-A, Residential Agricultural and the site of The Hill School. In 2000, the Fayetteville Planning Commission approved a large scale development (LSD 00-15.00) and conditional use request (CU 00-23.00) for the development of the 15,360 square foot church and child care center. In June of 2008 a subsequent conditional use permit (CUP 08-2995) was approved allowing the operation of a senior high charter school, Use Unit 4, in the existing building with 150 students and 20 faculty members. In October of 2009, the property and church were sold from the Lake Hills Baptist Church to Grace Church. Grace Church occupied the property until May of 2021 when it was sold to the current tenants, The Hill School. The conditional use permit appears to be valid for the current use of the site. The riparian corridor of Flynn Creek is present roughly following the east property line. Approximately 28,000 square feet of the property is within a FEMA floodplain Zone A.

Request: The request is to rezone the subject property from R-A to P-1, Institutional. The applicant stated the request would align the property's zoning designation with its usage. The use of the property will continue to be for church and private school purposes.

Public Comment: Staff received a call from a member of the public who expressed concern about programming that would occur in the undeveloped portion of the property east of the church. The caller suggested that a fence should be erected along the property's boundary to prevent activities

from spilling over onto the adjoining properties, particularly around Flynn Creek. A separate letter was submitted detailing concerns about apparent development activity that has been conducted on-site, clearing of vegetation, safety concerns for children attending the school, and privacy/harmony with the adjoining properties. The caller spoke at the Planning Commission meeting on August 23rd and reiterated comments about issues with the programming occurring at the site. The City has not received any permit applications for the subject property and the applicant suggests the cleared vegetation was limited to brush and privet.

Land Use Compatibility: Staff finds that the proposed rezoning is generally compatible with adjacent land uses. Current land uses in immediate proximity to the subject property are primarily residential with a dance and gymnastics studio to the north. Along the wider Crossover corridor to the south are residential subdivisions interspersed with institutional uses, like Free Will Baptist Church, St. John Lutheran Church, and Vandergriff Elementary. Staff finds the permitted uses in the P-1 district, ranging from daycares and schools to community centers and churches, to be complimentary of the existing and potential future uses in the area. Rezoning the property will align it's zoning with how the property has been used for nearly 20 years. There have been no recorded zoning complaints for the property for the duration that the conditional use permit has been in effect. Rezoning the property would relieve the necessity of the conditional use permit at the site as the use is allowed by-right in P-1 zoning.

Land Use Plan Analysis: Staff finds the proposal is somewhat consistent with the goals in City Plan 2040. The future land use map designations on the property, Residential Neighborhood Area and Natural Area, are intended to facilitate a diversity of housing and conservation of natural habitats, respectively. The P-1 zoning district on the other hand, is inherently restrictive, limiting permitted uses to those of an institutional nature. The single-use nature of the zoning district and the property's lack of connectivity make it unclear if the rezoning can contribute to aspects of City Plan 2040 and its associated goals. Due to its location along a major connecting corridor, topographical differences, and the presence of the Flynn Creek the site effectively requires vehicle access to the institutional use. The school is within close proximity of trail, though it is separated by a four-lane divided highway. Institutional activities, however, are generally compatible with the uses found in urban and suburban areas, and often at their most effective along major corridors.

CITY PLAN 2040 INFILL MATRIX: City Plan 2040's Infill Matrix indicates a mixed score of 4-5 for this site. The following elements of the matrix contribute to the score:

- Four Minute Fire Response (Station 5, 2979 N. Crossover Road)
- Near Sanitary Sewer Main (N. Crossover Road)
- Near Water Main (N. Crossover Road)
- Near City Park (Braden Park)
- Near Paved Trail (Niokaska Creek Trail)

DISCUSSION:

At the August 23, 2021 Planning Commission meeting, a vote of 7-1-0 denied the request. Commissioner Sharp made the motion and Commissioner Belden seconded. Commissioners opposed to the request found it unclear if the existing use of the property aligned with the approved conditional use permit. Apparent development activity occurring at the site and

comments from the neighbors led to concerns about the compatibility of the use. The applicant was not present at the meeting to offer clarification. Commissioner Sparkman, who opposed the denial, found the proposed zoning to be compatible with the adjoining land uses and consistent with the future land use plans for the area. Two members of the public spoke at the Planning Commission meeting; they identified issues with sound trespass, children's unmitigated access to adjoining properties, and privacy.

BUDGET/STAFF IMPACT:

N/A

Attachments:

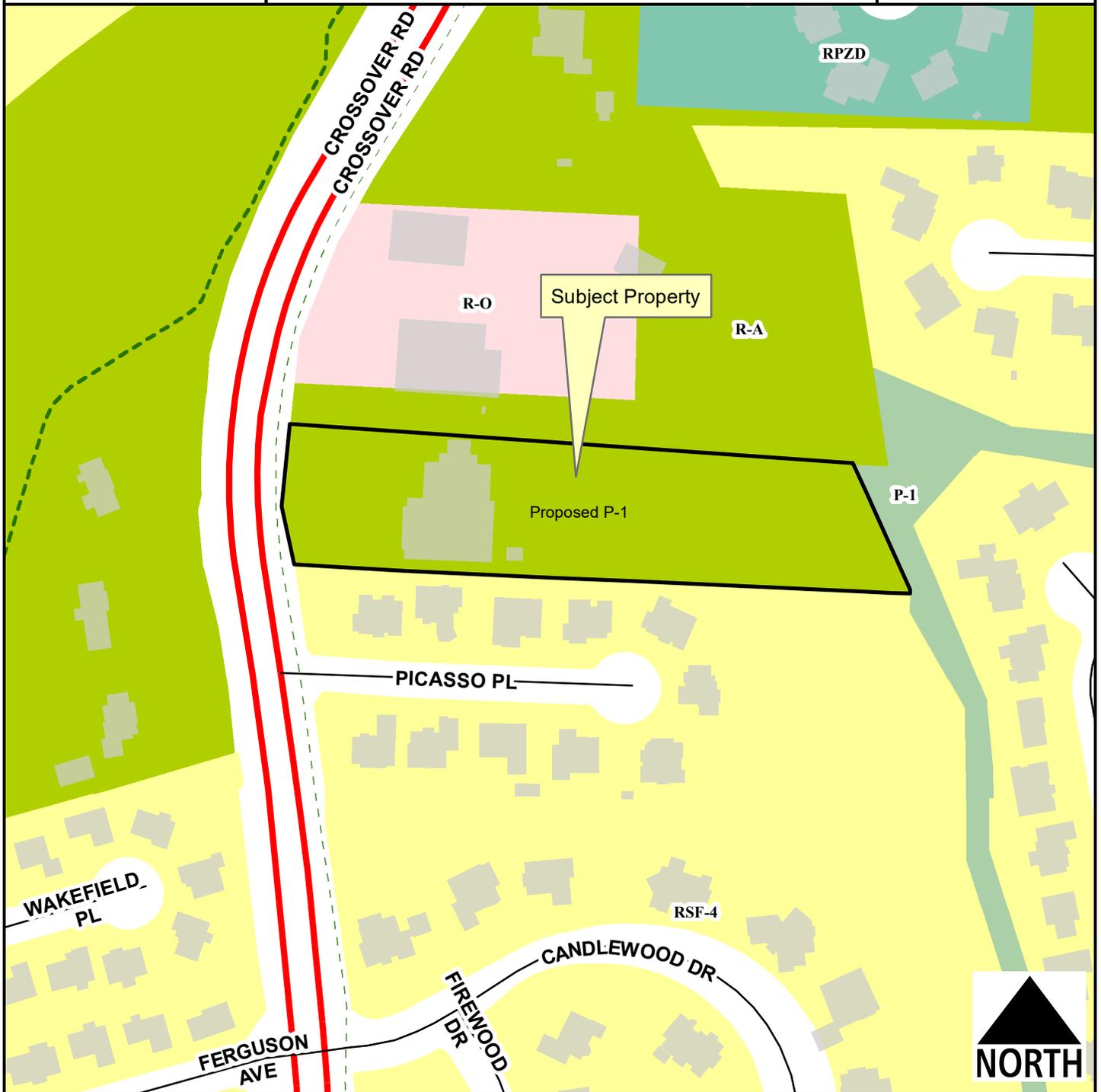
- Exhibit A
- Exhibit B
- Planning Commission Staff Report

RZN-2021-000043

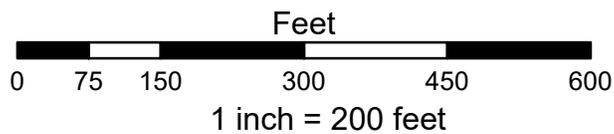
Grace Church

RZN-2021-000043
EXHIBIT 'A'

Close Up View



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



Zoning	Acres
P-1	3.5
Total	3.5

RZN-2021-000043
EXHIBIT 'B'

A PART OF THE SW 1/4 OF THE NW 1/4 OF SECTION 31, T-17-N, R-29-W, DESCRIBED AS COMMENCING AT A POINT SOUTH 87 DEGREES 29 MINUTES 23 SECONDS EAST 411.71 FEET FROM THE W 1/4 CORNER OF SAID SECTION 31, SAID POINT BEING THE INTERSECTION OF THE EASTERLY RIGHT-OF-WAY OF ARIGNSAS 265 HIGHWAY AND THE SOUTH BOUNDARY OF SAID 40-ACRE TRACT; THENCE ALONG SAID HIGHWAY RIGHT-OF-WAY ON A CURVE TO THE RIGHT WITH A RADIUS OF 768.93 FEET, A DELTA ANGLE OF 14 DEGREES 30 MINUTES 09 SECONDS AND AN ARC LENGTH OF 194.63 FEET TO AN IRON PIN; WITH A CHORD BEARING NORTH 01 DEGREE 59 MINUTES 17 SECONDS WEST 194.11 FEET; THENCE LEAVING SAID HIGHWAY RIGHT-OF-WAY SOUTH 86 DEGREES 01 MINUTES 44 SECONDS EAST 405.28 FEET TO AN IRON PIN; THENCE SOUTH 86 DEGREES 19 MINUTES 34 SECONDS EAST 406.39 FEET TO THE WEST BOUNDARY OF BROOKBERRY WOODS; THENCE ALONG SAID SUBDIVISION BOUNDARY SOUTH 24 DEGREES 54 MINUTES 59 SECONDS EAST 195.00 FEET TO AN IRON PIN; THENCE SOUTH 1.85 FEET TO A POINT ON THE SOUTH BOUNDARY OF SAID 40-ACRE TRACT; THENCE NORTH 87 DEGREES 29 MINUTES 23 SECONDS WEST 886.12 FEET TO THE POINT OF BEGINNING, CONTAINING 3.580 ACRES, MORE OR LESS, FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS.



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Ryan Umberger, Senior Planner

MEETING DATE: August 23, 2021 (Updated with Planning Commission Results)

SUBJECT: **RZN-2021-000043: Rezone (2828 N. CROSSOVER RD./GRACE CHURCH, 255):** Submitted by MAZZANTI LAW FIRM, LLC. for property located at 2828 N. CROSSOVER RD. The property is zoned R-A, RESIDENTIAL AGRICULTURAL and contains approximately 3.53 acres. The request is to rezone the property to P-1, INSTITUTIONAL.

RECOMMENDATION:

Staff recommends forwarding **RZN-2021-000043** to the City Council with a recommendation of approval.

RECOMMENDED MOTION:

"I move to forward **RZN-2021-000043** to the City Council with a recommendation of approval."

BACKGROUND:

The subject property is located on the east side of N. Crossover Road, approximately ½ mile north of the intersection of N. Crossover and E. Township Street. The property is zoned R-A, Residential Agricultural and the site of Grace Church of Northwest Arkansas. In 2000, the Fayetteville Planning Commission approved a large scale development (LSD 00-15.00) and conditional use request (CU 00-17.00) for the development of the 15,360 square foot church and child care center. In June of 2008 a subsequent conditional use permit (CUP 08-2995) was approved allowing the operation of a senior high charter school, Use Unit 4, in the existing building with 150 students and 20 faculty members. In October of 2009, the property and church were sold from the Lake Hills Baptist Church to the current occupant, Grace Church. The church continues to hold services on Sunday mornings. The riparian corridor of Flynn Creek is present roughly following the east property line. Approximately 28,000 square feet of the property is within a FEMA floodplain Zone A. Surrounding land use and zoning is depicted in *Table 1*.

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

Direction	Land Use	Zoning
North	Williams Dance and Gymnastics Center	R-A, Residential-Agricultural R-O, Residential Office
South	Single-family Residential	RSF-4, Residential Single-family, 4 Units per Acre
West	Single-family Residential	R-A, Residential-Agricultural
East	Single-family Residential	RSF-4, Residential Single-family, 4 Units per Acre

Request: The request is to rezone the subject property from R-A to P-1, Institutional. The applicant

stated the request would align the property's zoning designation with its usage. The use of the property will continue to be for private school purposes.

Public Comment: Staff has received a call from a member of the public who expressed concern about programming that would occur in the undeveloped portion of the property east of the church. The caller suggested that a fence should be erected along the property's boundary to prevent activities from spilling over onto the adjoining properties, particularly around Flynn Creek. A separate letter was submitted detailing concerns about recent activities that have been conducted on-site, safety concerns for children attending the school, and privacy/harmony with the adjoining properties.

INFRASTRUCTURE:

Streets: The subject area has frontage along N. Crossover Road. N. Crossover Road is a fully improved Regional Link street with asphalt paving, curb and gutter, and sidewalk. Any street or drainage improvements required in these areas would be determined at the time of development proposal.

Water: Public water is available to the subject area. An existing 36-inch water main is present on the east side of N. Crossover Road. An existing 2-inch water main is present on the east side of N. Crossover Road.

Sewer: Sanitary sewer is available to the subject area. An existing 18-inch sanitary sewer main is present in the southeast corner of the subject property.

Drainage: No part of the parcel lies within the Hillside Hilltop Overlay District (HHOD). A portion of the subject area is within a FEMA floodplain, has hydric soils, and a protected stream is present in the area. The portion of the subject area within the FEMA floodplain will necessitate the need for a floodplain development review at the time of permit or plan submittal. This will restrict the type of development and impact allowed in flood zones; and may require additional documentation such as flood studies or elevation certificates depending on the type of development. If a development impacts a floodplain, those impacts may require review and approval from FEMA. floodplain is present throughout the entirety of the subject property.

Hydric soils are also present on the subject property. They are a known indicator of wetlands. However, for an area to be classified as wetlands, it may also need other characteristics such as hydrophytes (plants that grow in water), and shallow water during parts of the year. Hydric Soils can be found across many areas of Fayetteville, including valleys, floodplains, and open prairies. It is important to identify these natural resources during development, so when these soils are identified on a property, further environmental studies will be required at the time of development. Before permits will be issued for the property a statement/report from an environmental professional must be provided summarizing the existence of wetlands on the property. If this statement/report indicates that wetlands may be present on site, a USACE Determination of Jurisdictional Wetlands will be required at the time of development submittal. Hydric soils are present throughout the entirety of the subject property.

A protected stream is present in the subject area. Streamside Protection Zones generally consist of a protected area on each side of a stream or creek. This

protected area is meant to preserve woody vegetation and natural areas along stream corridors to improve/protect stream health. At a minimum, the protected area will be 50 feet wide as measured from the top of bank but, depending on the shape and extent of the floodway, it could be substantially more. Certain construction activities such as trails and some utilities are allowed in these zones, but in general, improvements such as parking lots or buildings are prohibited. The streamside protection area is present on the east side of the subject property. Any additional improvements or requirements for drainage will be determined at time of development.

Fire: The Fire Department did not express any concerns with this request. The property will be protected by Station 5, located at 2979 N. Crossover Road. The property is located approximately 0.5 miles from the fire station with an anticipated response time of approximately 3.2 minutes. This is within the response time goal of six minutes for an engine and eight minutes for a ladder truck.

Police: The Police Department did not express any concerns with this request.

Tree Preservation:

The proposed zoning district of P-1, Institutional requires **25% minimum canopy preservation**. The current zoning district of R-A, Residential Agricultural requires **25% minimum canopy preservation**.

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

Residential Neighborhood Areas are primarily residential in nature and support a variety of housing types of appropriate scale and context, including single family, multifamily and rowhouses. Residential Neighborhood Areas encourage highly connected, compact blocks with gridded street patterns and reduced setbacks. It also encourages traditional neighborhood development that incorporates low-intensity non-residential uses intended to serve the surrounding neighborhood, such as retail and offices, on corners and along connecting corridors. This designation recognizes existing conventional subdivision developments which may have large blocks with conventional setbacks and development patterns that respond to features in the natural environment.

Natural Areas consist of lands approximating or reverting to a wilderness conditions, including those with limited development potential due to topography, hydrology, vegetation, or value as an environmental resource. These resources can include stream and wildlife corridors, as well as natural hubs and cores, many of which are identified in the generalized enduring green network. A Natural Area designation would encourage a development pattern that requires conservation and preservation, prevents degradation of these areas, and would utilize the principles of low impact development stormwater infrastructure for all developments. Natural Areas are prime candidates for conservation subdivision design and/or clustered development patterns.

CITY PLAN 2040 INFILL MATRIX: City Plan 2040's Infill Matrix indicates a mixed score of **4-5** for the subject property. Per the Planning Commission's Infill Matrix weighting, this represents a score of **4.5**. The following elements of the matrix contribute to the score:

- Four Minute Fire Response (Station 5, 2979 N. Crossover Road)
- Near Sanitary Sewer Main (N. Crossover Road)
- Near Water Main (N. Crossover Road)

- Near City Park (Braden Park)
- Near Paved Trail (Niokaska Creek Trail)

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: *Land Use Compatibility:* Staff finds that the proposed rezoning is generally compatible with adjacent land uses. Current land uses in immediate proximity to the subject property are primarily residential with a dance and gymnastics studio to the north. Along the wider Crossover corridor to the south are residential subdivisions interspersed with institutional uses, like Free Will Baptist Church, St. John Lutheran Church, and Vandergriff Elementary. Staff finds the permitted uses in the P-1 district, ranging from daycares and schools to community centers and churches, to be complimentary of the existing and potential future uses in the area.

Land Use Plan Analysis: Staff finds the proposal is somewhat consistent with the goals in City Plan 2040. The future land use map designations on the property, Residential Neighborhood Area and Natural Area, are intended to facilitate a diversity of housing and conservation of natural habitats, respectively. The P-1 zoning district on the other hand, is inherently restrictive, limiting permitted uses to those of an institutional nature. The single-use nature of the zoning district and the property's lack of connectivity make it unclear if the rezoning can contribute to aspects of City Plan 2040 and its associated goals. Due to its location along a major connecting corridor, topographical differences, and the presence of the Flynn Creek the site effectively requires vehicle access to the institutional use. The school is within close proximity of trail, though it is separated by a four-lane divided highway. Institutional activities, however, are generally compatible with the uses found in urban and suburban areas, and often at their most effective along major corridors.

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

Finding: Staff finds the proposed zoning to be warranted at this time. The current R-A zoning is no longer appropriate for the property given its location nearly ½ mile within the City's boundary and along a state highway that is well-developed north and south of the property. Under the property's current zoning, a school is allowed conditional use. The applicant has requested the zoning change to align the zoning with its use as a private school. The existing zoning represents a challenge in day-to-day use and the flexibility needed to operate and master plan a school campus.

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

Finding: Rezoning the property to P-1 is likely to increase traffic volume on N. Crossover Road. The applicant states the use of the property would remain

the same. Rezoning, though, would alleviate requirements limiting the number of students and faculty. P-1 would certainly increase the developable potential of the property above what is permitted by the underlying R-A zoning and conditional use permit which requires any expansion to be approved by the Planning Commission. That said, N. Crossover Road is a fully developed Regional Link which can support the likely increase in vehicle volumes associated with the by-right allowances of P-1 zoning. The subject property has been utilized for non-residential uses since its development over 20 years ago. Further, the additional traffic generated by the school will likely occur, routinely, during specific time periods with the remainder of operating hours producing low volumes. Staff finds the rezoning is unlikely to negatively impact safety or traffic flow on N. Crossover.

- 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: The P-1 zoning district does not permit by-right residential uses. Accordingly, rezoning the property from R-A to P-1 will not increase the potential population density. The subject property has access to city water and sanitary sewer. The Fayetteville Public Schools did not comment on the request.

- 5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:
 - a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
 - b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A

RECOMMENDATION: Planning staff recommends forwarding RZN-2021-000043 to the City Council with a recommendation of approval.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>August 23, 2021</u>	<input type="checkbox"/> Tabled	<input type="checkbox"/> Forwarded	<input checked="" type="checkbox"/> Denied
Motion: Sharp	Motion to table made by Winston failed for lack of a second		
Second: Belden			
Vote: 7-1-0			

BUDGET/STAFF IMPACT:

None

Attachments:

- Unified Development Code:
 - §161.22 – R-A, Residential-Agricultural
 - §161.32 – P-1, Institutional
- Request letter
- Public Comment
- One Mile Map
- Close-up Map
- Current Land Use Map
- Future Land Use Map

161.03 District R-A, Residential-Agricultural

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

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

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

(C) *Density.*

Units per acre	One-half (½)
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(D) *Bulk and Area Regulations.*

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

(E) *Setback Requirements.*

Front	Side	Rear
35 feet	20 feet	35 feet

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

for the portion of the building over one (1) story shall be equal to the difference between the total height of that portion of the building and one (1) story.

(G) *Building area.* None.

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

161.32 District P-1, Institutional

(A) *Purpose.* The Institutional District is designed to protect and facilitate use of property owned by larger public institutions and church related organizations.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 26	Multi-family dwellings
Unit 36	Wireless communications facilities
Unit 42	Clean technologies

(C) *Density.* None.

(D) *Bulk and Area Regulations.* None.

(E) *Setback Regulations.*

Front	30 feet
Front, if parking is allowed between the right-of-way and the building	50 feet
Side	20 feet
Side, when contiguous to a residential district	25 feet
Rear	25 feet
Rear, from center line of public alley	10 feet

(F) *Height Regulations.* There shall be no maximum height limits in P-1 Districts, provided, however, if a building exceeds the height of two (2) stories, the portion of the building that exceeds two (2) stories shall have an additional setback from any boundary line of an adjacent residential district. The amount of additional setback for the portion of the building over two (2) stories shall be equal to the difference between the total height of that portion of the building, and two (2) stories.

(G) *Building Area.* On any lot the area occupied by all buildings shall not exceed 60% of the total area of such lot. Accessory ground mounted solar energy systems shall not be considered buildings.

(Code 1965, App. A., Art. 5(XI); Ord. No. 2603, 2-19-80; Ord. No. 2621, 4-1-80; Ord. No. 1747, 6-29-70; Code 1991, §160.042; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 5073, 11-06-07; Ord. No. 5195, 11-6-08; Ord. No. 5312, 4-20-10; Ord. No. 5800, §1(Exh. A), 10-6-15; Ord. No. 5945, §§5, 7, 1-17-17; Ord. No. 6015, §1(Exh. A), 11-21-17; Ord. No. 6245, §2, 10-15-19)



THE
MAZZANTI FIRM PLLC
◆ ATTORNEY AT LAW ◆

1590 East Joyce Boulevard, # 8932 | Fayetteville, AR | 72703
Telephone 479.966.4949 | Fax 1.888.511.4202

Partner
Allen Mazzanti

Of Counsel
Katy M. Sager

April 14, 2021

City of Fayetteville

RE: Re-Zoning of 2828 N. Crossover Rd.

Dear City of Fayetteville,

Please accept this letter as my formal request to have the above captioned parcel included on the agenda for the next planning meeting. This purpose of this re-zoning request is to have the above captioned parcel re-zoned from its current classification of Residential-Agricultural to a more appropriate zoning of P1 Institutional. The continued use of the property will be for private school purposes which is consistent with the properties longstanding use since construction.

The property was constructed in 1996 and has been continuously used as a commercial daycare and church facility since that time, both uses would fall into the P1 – Institutional zoning definition. Based on the extensive time period that the property's use has been continuously utilized without unreasonably or adversely affecting surrounding property owners the likelihood of such adverse effect based on the rezoning of this property to conform to its longstanding use is extremely minimal, if one exists at all. Furthermore, the property is located immediately south of the Williams Dance & Gymnastics Center which has used its property for strictly commercial purposes for an extensive period of time without adversely impacting surrounding properties.

Thus this request is for the property to be re-zoned to properly reflect the property usage which would likely be more suited for a P1 - Institutional zoning categorization and applicant request the property be rezoned to P1 – Institutional.

We look forward to working with you on this matter.

Sincerely,

Allen Mazzanti

Dennis Nelms & Fran Free
2870 North Crossover Road
Fayetteville, AR 72703
(479)313-5045

City of Fayetteville Planning Commission
c/o Mr. Ryan Umberger
113 West Mountain
Fayetteville, AR 72701

Re: Rezoning of 2828 North Crossover Road, Fayetteville, Arkansas (RZN-2021-000043)

August 19th, 2021

To the City of Fayetteville Planning Commission:

We own and live on the property at 2870 North Crossover Road in Fayetteville, which is adjacent and to the north of the property subject to a request for rezoning located at 2828 North Crossover Road. We received the Notice of the Planned Rezoning and Right to Comment. We have concerns for compatibility and safety in the area.

The owners of record of the property are Natallen Holdings, LLC, and David N. Mazzanti. After purchasing the property in late May of 2021, the new owners have cleared trees and brush to the east of the existing structure, opening the previously unexposed area. It appears that the facility will be used as school, which is evidenced by multiple children playing to the east of the property in the newly cleared area throughout the summer. Additionally, it has been a regular occurrence for loud music to be played in this area.

Our concerns are threefold:

- 1) To the south and east of the property are residential neighborhoods, with our property lying north of the cleared area. The first issue is that loud music would disrupt the harmony of the adjacent neighboring properties. The prior use of this property was a church facility, and its harmony with the adjacent neighborhoods was congruent. We ask that some reasonable restriction be placed upon the new owner with respect to playing loud music on the property. We request that the Planning Commission take into consideration whether loud music would be a harmonious use adjacent to these residential properties;
- 2) We have various safety concerns regarding children playing in the area. On the east end of the subject property and throughout the midsection of our property, lies a creek formerly known as Flynn Creek. We are reminded of the unfortunate incident that occurred near Vandergriff Elementary in 2017 when a child wandered from unfenced school grounds during school hours onto an adjacent neighbor's property and drowned by falling into their pool. Our concern is that one of the children may wander into the creek area or into an adjacent residential neighborhood

and be injured while someone is not home. We request that the Planning Commission consider whether the new owner should have to fence off the play area to protect not only the safety of the children from falling in the creek, but also by possible continued trespass onto adjacent residential properties by these children; *and*

- 3) Once the area was cleared, we lost significant privacy, affecting aesthetics, harmony, and security of our property. We feel that an 8-foot privacy fence between our properties would not only significantly ease our concerns for the safety of their children by decreasing the ability to trespass, but would also visually block potentially attractive items on our property (i.e., trampoline, chickens, jungle climber, our children's toys, etc.), thereby decreasing the temptation for children to trespass.

I thank you in advance for your kind cooperation and consideration of this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Dennis Nelms".

Dennis Nelms, Neighbor

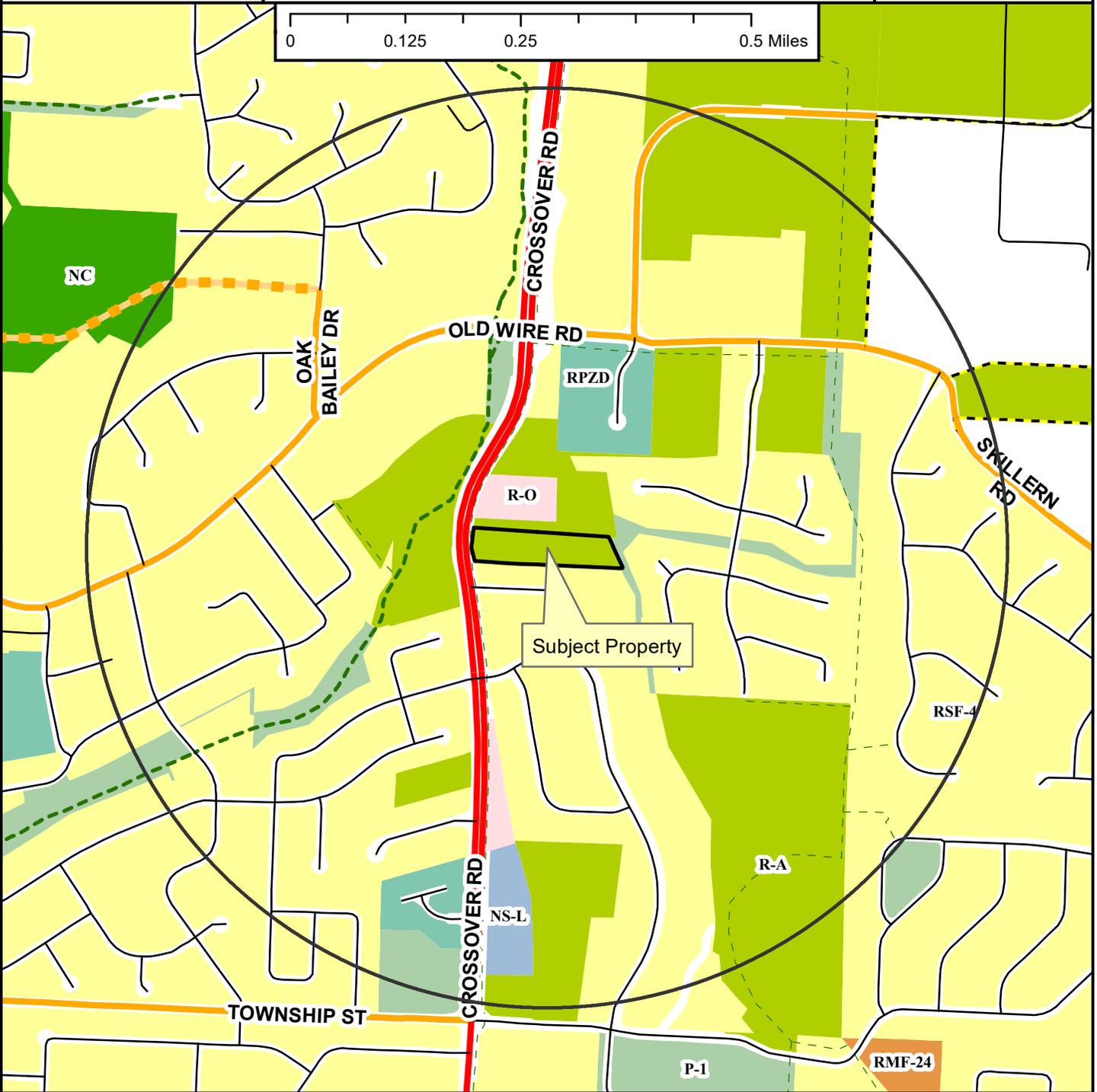
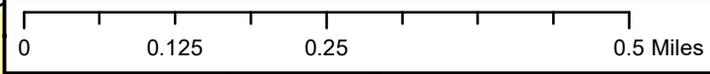
A handwritten signature in blue ink, appearing to read "Fran Free".

Fran Free, Neighbor

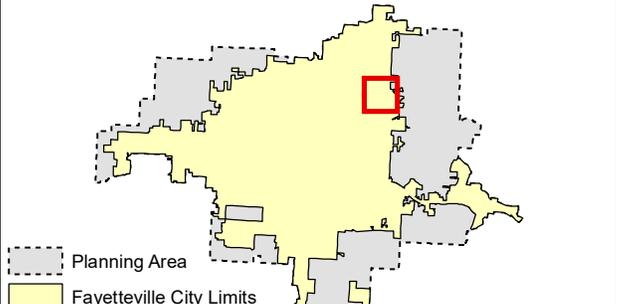
RZN-2021-000043

Grace Church

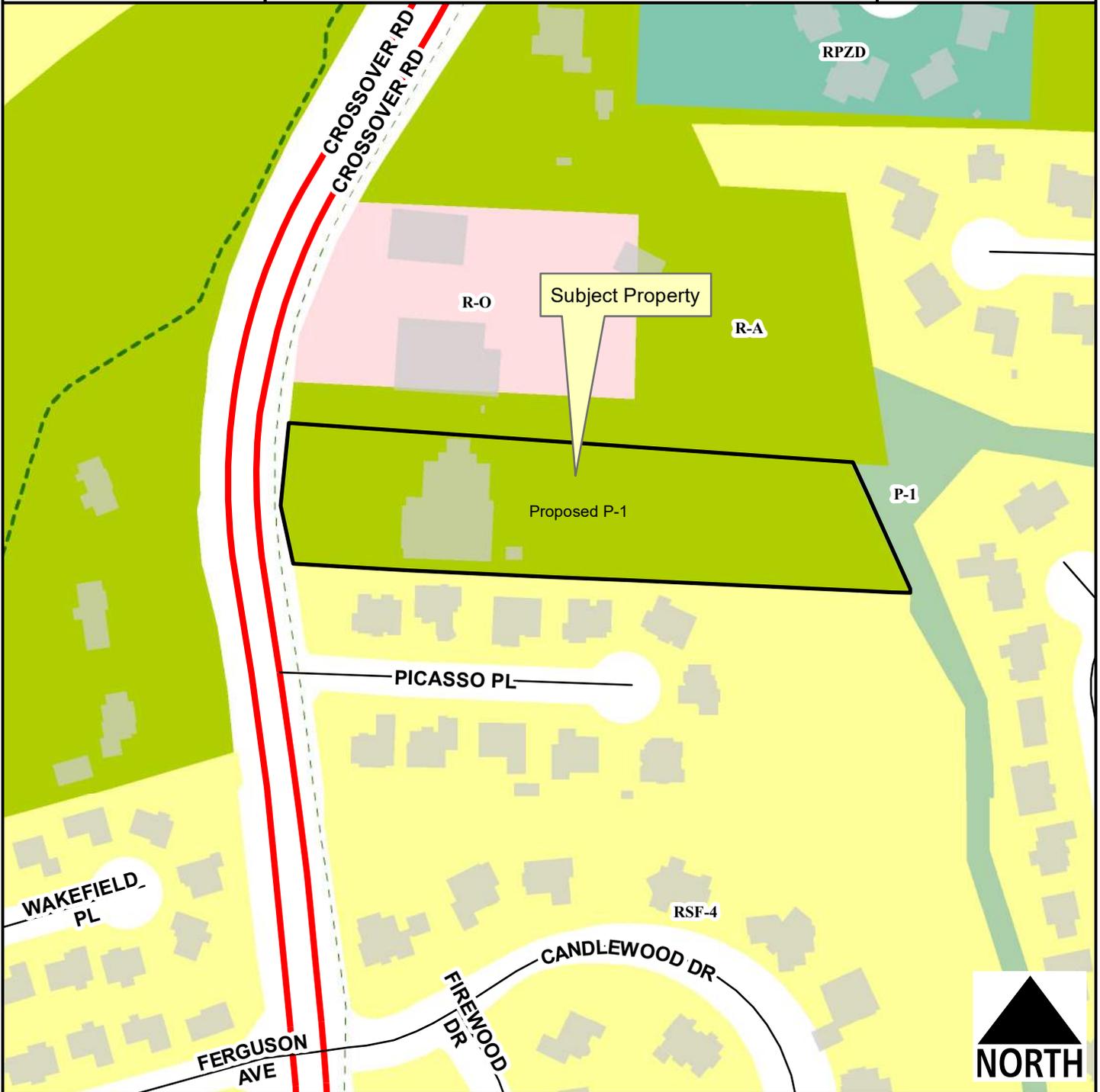
One Mile View



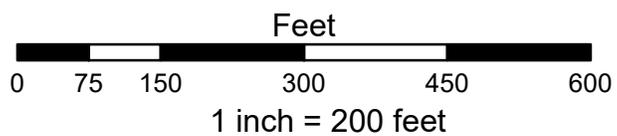
- Regional Link
- Neighborhood Link
- Planned Neighborhood Link
- Shared-Use Paved Trail
- Trail (Proposed)
- Fayetteville City Limits
- Planning Area



- 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**
 - C-1 Residential-Office
 - 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



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



Zoning	Acres
P-1	3.5
Total	3.5

RZN-2021-000043

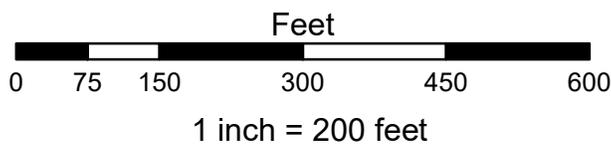
Grace Church



Current Land Use



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



FEMA Flood Hazard Data

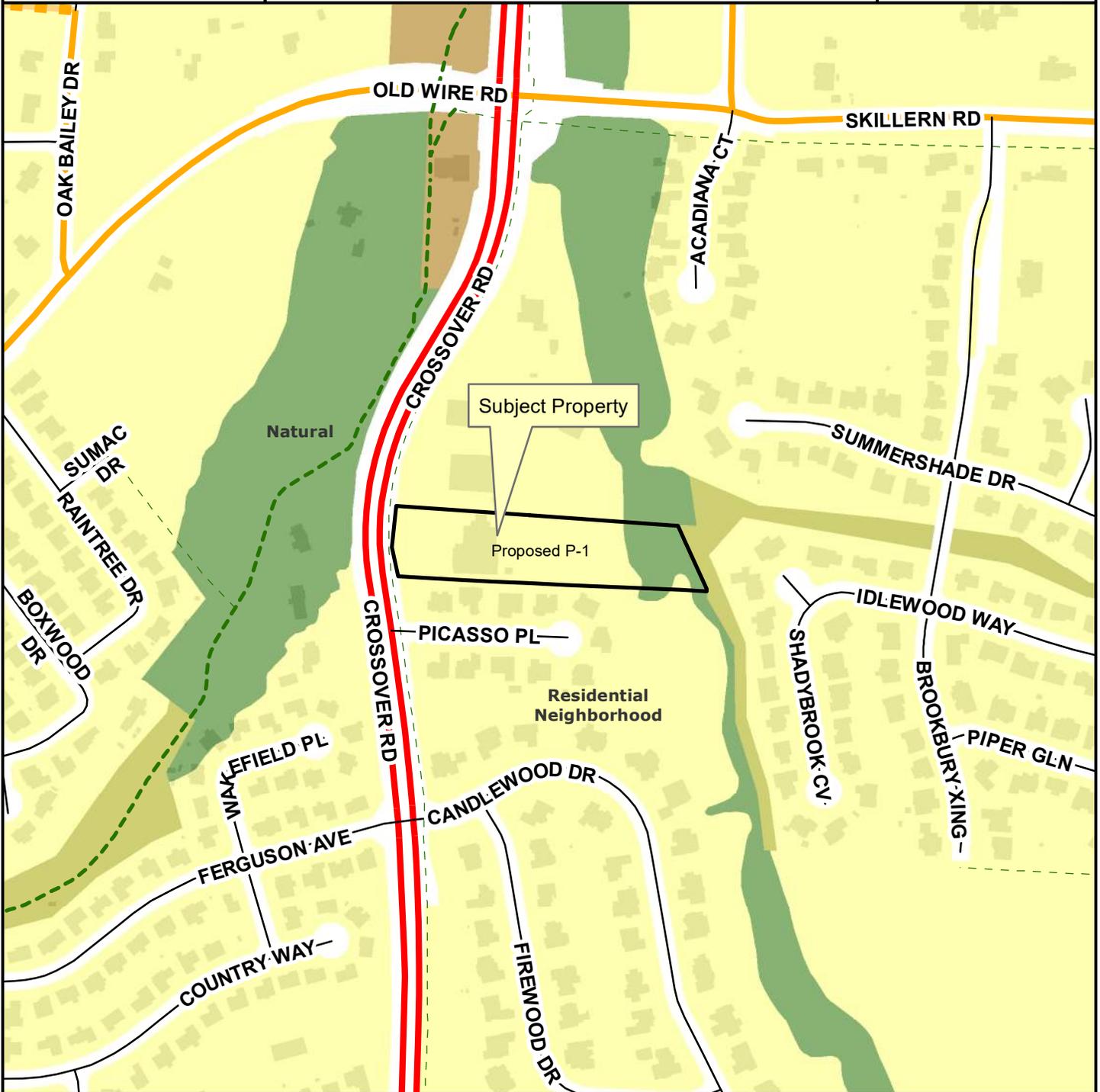
-  100-Year Floodplain
-  Floodway

RZN-2021-000043

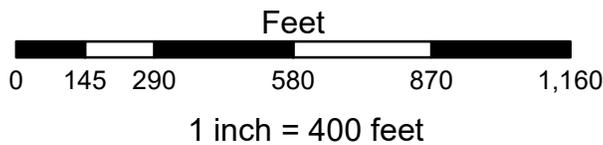
Grace Church



Future Land Use



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



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

Planning Commission
August 23, 2021