

City of Fayetteville Staff Review Form

2022-0877

Legistar File ID

10/4/2022

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

Jonathan Curth

9/16/2022

DEVELOPMENT REVIEW (630)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

RZN-2022-0043: Rezoning (560 W. VAN ASCHE DR./TUNE & TUNE, 172): Submitted by HALL ESTILL LAW FIRM for property located at 560 W. VAN ASCHE DR in WARD 2. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approx. 13.56 acres. The request is to rezone the property to I-2, GENERAL INDUSTRIAL.

Budget Impact:

| | |
|---|--|
| Account Number | Fund |
| Project Number | Project Title |
| Budgeted Item? <u> No </u> | Current Budget \$ - |
| | Funds Obligated \$ - |
| | Current Balance \$ - |
| Does item have a cost? <u> No </u> | Item Cost \$ - |
| Budget Adjustment Attached? <u> No </u> | Budget Adjustment \$ - |
| | Remaining Budget \$ - |

V20210527

Purchase Order Number: _____

Previous Ordinance or Resolution # _____

Change Order Number: _____

Approval Date: _____

Original Contract Number: _____

Comments:



MEETING OF OCTOBER 4, 2022

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 16, 2022

SUBJECT: **RZN-2022-0043: Rezoning (560 W. VAN ASCHE DR./TUNE & TUNE, 172):**
Submitted by HALL ESTILL LAW FIRM for property located at 560 W. VAN ASCHE DR in WARD 2. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approx. 13.56 acres. The request is to rezone the property to I-2, GENERAL INDUSTRIAL.

RECOMMENDATION:

City Planning staff recommends denial of the request to rezone the subject property as described and shown in the attached Exhibits 'A' and 'B'. Planning Commission recommends approval of rezoning the property to UT, Urban Thoroughfare.

BACKGROUND:

The subject property is located at the northwest corner of N. Gregg Avenue and W. Van Asche Drive. The subject area is composed of two parcels totaling 13.56 acres and zoned R-A, Residential-Agricultural. Tune Concrete Company has operated on the property dating back to 1996. Until October 31, 2021, Marck Industries, a center for collecting recyclables, operated in the building at 500 W. Van Asche, which is part of the subject area (BL 5649). Total Recycling Paper & Plastic currently has a business license under review at the location (BLC-000419-2022). In 2010 the subject property was among a 99-acre territory along W. Van Asche Drive that was simultaneously de-annexed from the City of Johnson into the City of Fayetteville. The property is relatively flat with sparse vegetation which mostly follows the property's boundary. An unnamed tributary of the Illinois River is present on-site. Industrial structures and impervious paving associated with the existing businesses covers nearly all of the lot's area.

Request: The request is to rezone the property from R-A, Residential Agricultural to I-2, General Industrial.

Public Comment: Staff has received no public comment on the request.

Land Use Compatibility: Staff finds the proposed zoning to be mostly compatible with surrounding land uses. Nearby properties are mostly large and undeveloped. Arkhola Sand & Gravel Company neighbors the subject property to the northwest, railroad right-of-way borders the property

immediately to the east, and single-family residences are present to the southeast. The subject property received its R-A zoning designation by default when it was annexed into Fayetteville city limits in 2010. R-A zoning allows for manufactured homes, single- and two-family dwellings. It also allows for commercial uses typically associated with agriculture. Despite its current entitlements, Tune Concrete Company has occupied the site for over 25 years, predating its annexation. A concrete manufacturing facility is typically categorized as Use Unit 23 – Heavy Industrial which is not allowed by-right or by conditional use in its current district. The proposed zoning district would bring the existing business into compliance with its governing zoning regulations. Heavy Industrial is permitted by-right in I-2 zoning as are other activities that can be perceived as a nuisance to residential and business uses. Gas stations, large recreation sites (amusement park, go-cart track, drag strip, golf course, etc.), warehousing, manufacturing, centers for collecting recyclable materials, and clean technologies are also allowed by-right under the proposed zoning. I-2 has no bulk and area requirements for lot sizes and setbacks vary based on the zoning classification of adjoining properties. Under the proposed district, front setbacks are 50 feet, side and rear setbacks are 25 feet. There is no height limitation for structures in I-2 zoning, though if a building exceeds two stories those portions of the structure must have an additional setback equal to the difference between its height and two stories.

Perhaps the most significant incongruity with I-2 zoning is the presence of natural features on the property. Hydric soils are present throughout the site and a protected stream bisects the western portion of the site before generally following the north property line between Tune Concrete and Arkhola Sand and Gravel and eventually flowing into Mud Creek. The stream appears to emanate from a stormwater outlet on the property to the west, at the northeast corner of N. Roosevelt Avenue and W. Van Asche Drive. Staff is generally not favorable to industrial zoning near sensitive areas which may be a concern in this case. On the balance of considerations, staff finds industrial uses at the periphery of the city and adjacent to a railroad are likely to be among the most suitable. Staff finds the property's surrounding context, location, and the existing 12-year non-conforming use suggest the rezoning is mostly compatible.

In terms of Planning Commission's recommendation to rezone the property to UT, Urban Thoroughfare, staff finds the proposal is also compatible with the surrounding mix of uses. UT zoning allows many of the same uses either by-right or by conditional use permit. Activities associated with farming, manufacturing, heavy industrial, facilities emitting odors/handling explosives, and auto salvage are the only uses which cannot be utilized in UT that are available either by-right or by conditional use in I-2. UT also allows for residential uses and a wider array of commercial uses including restaurants, hotels, retail shopping, and nightclubs, among others.

Land Use Plan Analysis: Staff finds the proposed zoning to be inconsistent with the City's future land use plans and policies. The Future Land Use Map in City Plan 2040 designates the property within the proposed rezone as a City Neighborhood Area. City Neighborhood areas support the widest spectrum of uses with commercial uses being encouraged at intersections. Conversely, the rezoning does not contribute towards a creating a traditional, gridded neighborhood with a mix of uses. Only commercial and non-residential uses are allowed on I-2 properties. A moderate infill score suggests the property's current R-A zoning may no longer appropriately serve the city but it is questionable whether allowing very intense industrial uses to continue into perpetuity fits

the long-term vision for this corridor. Rezoning to I-2 also does not align with any goals in City Plan 2040.

Staff finds that Planning Commission's recommendation to rezone to UT, Urban Thoroughfare will substantially align with the future land use plans for the area. The potential to mix residential and commercial uses, urban form requirements, and heightened design standards all contribute towards a development pattern in accord with the City Neighborhood Future Land Use Map designation that is not provided currently in R-A zoning or in the proposed I-2 zoning district. Lastly, rezoning to UT would contribute to City Plan 2040 Goals #3 – Compact and Complete Development and 4 – Grow a Livable Transportation Network.

CITY PLAN 2040 INFILL MATRIX: City Plan 2040's Infill Matrix indicates 4-6 attributes for this site that may contribute to appropriate infill. The following elements of the matrix contribute to the score:

- Near Sewer Main (Mains present in the N. Gregg Avenue, W. Van Asche Drive, and N. Roosevelt Avenue rights-of-way)
- Near Water Main (30" main, N. Gregg Avenue)
- Near City Park (Scull Creek Trail Corridor, Mud Creek Trail Corridor)
- Near Paved Trail (Clabber Creek Trail, Razorback Greenway)
- Near Razorback Bus Stop (Route 26 Peak)
- Appropriate Future Land Use (City Neighborhood Area)

DISCUSSION:

At the September 12, 2022, Planning Commission meeting, a vote of 7-0-0 forwarded the request to City Council recommending approval of rezoning the property to UT, Urban Thoroughfare. Commissioner Johnson made the motion and Commissioner Brink seconded. Commissioner Winston cautioned about driving away businesses that only industrial districts can accommodate, particularly along railroads. Commissioner McGetrick agreed and asked about alternative zoning designations that might be options. Commissioner Sparkman said the existing use seemed appropriate but spoke of concerns about the appropriateness of I-2 zoning on the subject property long-term. Commissioner Johnson noted that a handful of uses in I-2 were not allowed by-right or by conditional use in UT zoning but felt the district was better suited to ensure that any redevelopment of the subject property in the future would fit with the anticipated uses on surrounding properties. The applicant, Robert Rhoads, was asked if they were agreeable to forwarding the item recommending approval of UT and they affirmed. No members of the public spoke during the September 12th Planning Commission meeting.

BUDGET/STAFF IMPACT:
N/A

Attachments:

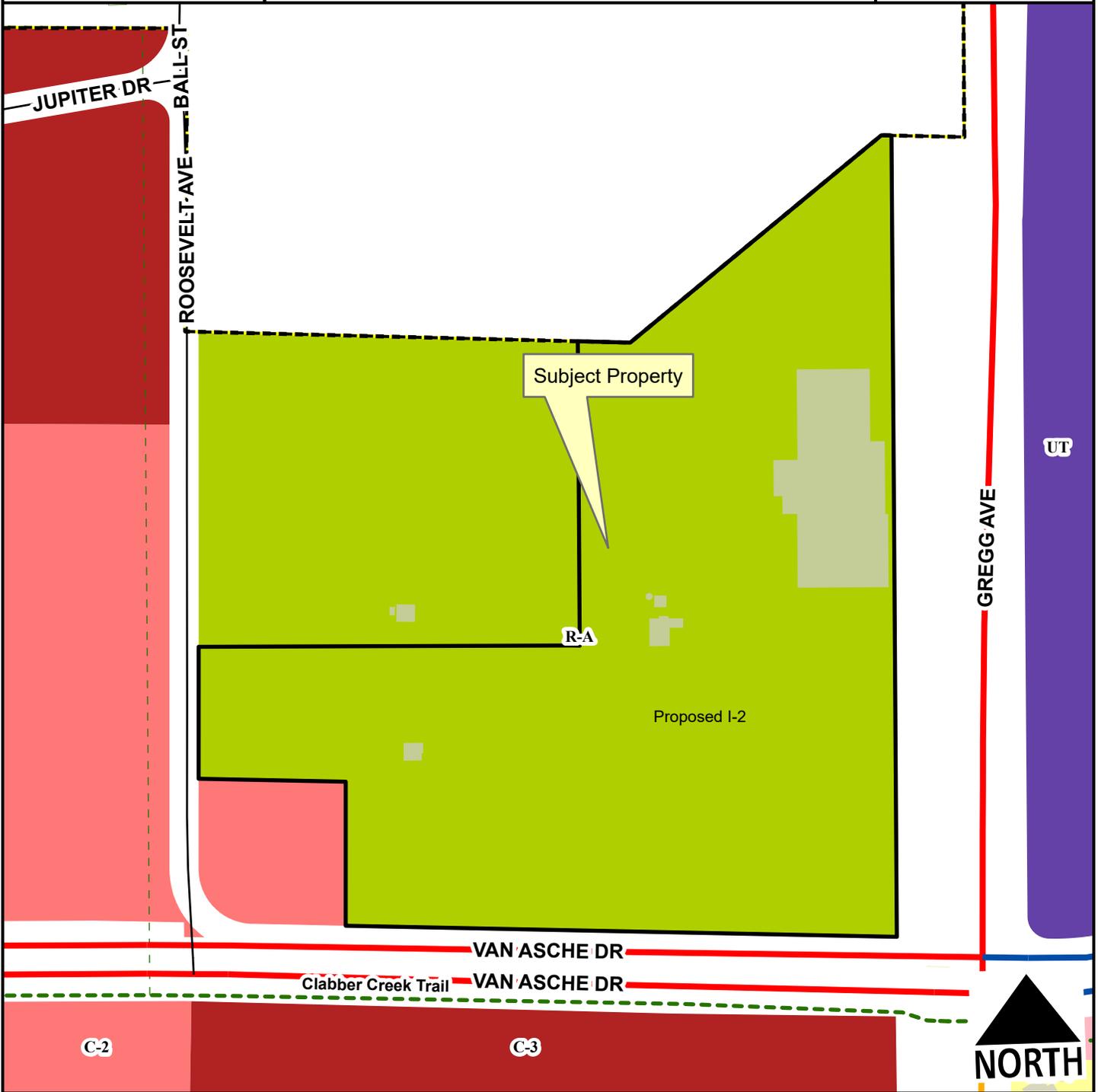
- Exhibit A
- Exhibit B
- Exhibit C
- Planning Commission Staff Report

RZN-2022-0043

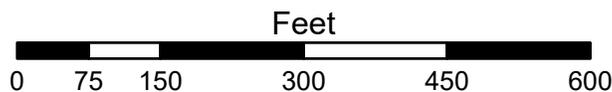
560 W. VAN ASCHE DR

EXHIBIT 'A'
RZN-2022-0043

Close Up View



- Regional Link
- Neighborhood Link
- Regional Link - High Activity
- Unclassified
- Residential Link
- Hillside-Hilltop Overlay District
- Trail (Proposed)
- Planning Area
- Fayetteville City Limits



1:2,400

| Zoning | Acres |
|--------|-------|
|--------|-------|

| | |
|-----|------|
| I-2 | 13.0 |
|-----|------|

| | |
|--------------|-------------|
| Total | 13.0 |
|--------------|-------------|

EXHIBIT 'B'
RZN-2022-0043

A part of the Southwest Quarter (SW1/4) of the Northeast Quarter (NE1/4) of Section 27, Township 17 North, Range 30 West, Washington County, Arkansas, described as follows: Beginning at the SW corner of said 40 acre tract, and running thence North 12.62 chains; thence East 9.25 chains; thence N 50° E, 6.80 chains to a railroad; thence S 01° E, 16.85 chains to the forty line; thence West 14.92 chains to the beginning point, containing 19.84 acres, more or less.

LESS AND EXCEPT:

A part of the Southwest Quarter (SW1/4) of the Northeast Quarter (NE1/4) of Section 27, Township 17 North, Range 30 West, Washington County, Arkansas, described as follows: Beginning at a nail and bottle cap set on the West line of the NE1/4 of Section 27 which bears N 01°01'54" W, 408.46 feet from the SW corner of the NE1/4 of Section 27; thence N 01°01'54" W, and along said West line of the NE1/4, a distance of 422.96 feet to a nail and bottle cap set (which bears S 00°01'54" E, 1,803.81 feet from a State Monument [No. CR1-272] at the NW corner of the NE1/4 of Section 27); thence N 89°52'07" E, and passing at 25.94 feet, an iron pin set on the right-of-way of Lime Kiln Road, a total distance of 540.94 feet to an iron pin set; thence S 00°44'51" E, a distance of 423.00 feet to an iron pin set; thence S 89°52'07" W, and passing at 515.00 feet, an iron pin set on the right-of-way of Lime Kiln Road, a total distance of 546.23 feet to the point of beginning, containing 5.28 acres, of which 0.28 acres lies within the right-of-way of Lime Kiln Road as described in the County Court Order as recorded in County Court Book "H", at Page 887.

ALSO LESS AND EXCEPT:

A part of the Southwest Quarter (SW1/4) of the Northeast Quarter (NE1/4) of Section 27, Township 17 North, Range 30 West, Washington County, Arkansas, described as follows: Beginning at a point which is 10.20 feet North and 13.40 feet East of the SW corner of said 40 acre tract, and running North along the East line of the County Road right-of-way 208.71 feet; thence East 208.71 feet; thence South 208.71 feet to the North line of the County Road right-of-way; thence West along the North line of the County Road 208.71 feet to the place of beginning, containing 1.0 acre, more or less.

DT
mkt

2000079482

EXHIBIT 'C'
RZN-2022-0043

161.24 - Urban Thoroughfare

(A) *Purpose.* The Urban Thoroughfare District is designed to provide goods and services for persons living in the surrounding communities. This district encourages a concentration of commercial and mixed use development that enhances function and appearance along major thoroughfares. Automobile-oriented development is prevalent within this district and a wide range of commercial uses is permitted. For the purposes of Chapter 96: Noise Control, the Urban Thoroughfare district is a commercial zone. The intent of this zoning district is to provide standards that enable development to be approved administratively.

(B) *Uses.*

(1) *Permitted Uses.*

| | |
|---------|--|
| Unit 1 | City-wide uses by right |
| Unit 4 | Cultural and recreational facilities |
| Unit 5 | Government facilities |
| Unit 8 | Single-family dwellings |
| Unit 9 | Two (2) family dwellings |
| Unit 10 | Three (3) and four (4) family dwellings |
| Unit 13 | Eating places |
| Unit 14 | Hotel, motel and amusement services |
| Unit 16 | Shopping goods |
| Unit 17 | Transportation trades and services |
| Unit 18 | Gasoline service stations and drive-in/drive-through restaurants |
| Unit 19 | Commercial recreation, small sites |
| Unit 24 | Home occupations |
| Unit 25 | Offices, studios, and related services |

| | |
|---------|-----------------------------|
| Unit 26 | Multi-family dwellings |
| Unit 34 | Liquor store |
| Unit 40 | Sidewalk cafes |
| Unit 41 | Accessory Dwellings |
| Unit 44 | Cluster Housing Development |
| Unit 45 | Small scale production |
| Unit 46 | Short-term rentals |

Note: Any combination of above uses is permitted upon any lot within this zone. Conditional uses shall need approval when combined with pre-approved uses.

(2) *Conditional Uses.*

| | |
|---------|--|
| Unit 2 | City-wide uses by conditional use permit |
| Unit 3 | Public protection and utility facilities |
| Unit 20 | Commercial recreation, large sites |
| Unit 21 | Warehousing and wholesale |
| Unit 28 | Center for collecting recyclable materials |
| Unit 29 | Dance halls |
| Unit 33 | Adult live entertainment club or bar |
| Unit 35 | Outdoor music establishments |
| Unit 36 | Wireless communication facilities |
| Unit 38 | Mini-storage units |

| | |
|---------|------------------------------|
| Unit 42 | Clean technologies |
| Unit 43 | Animal boarding and training |

(C) *Density.* None

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

| | |
|------------------------|---------|
| Single-family dwelling | 18 feet |
| All other dwellings | None |
| Non-residential | None |

(2) *Lot area minimum.* None

(E) *Setback regulations.*

| | |
|--|--|
| Front: | A build-to zone that is located between 10 feet and a line 25 feet from the front property line. |
| Side and rear: | None |
| Side or rear, when contiguous to a single-family residential district: | 15 feet |

(F) *Building Height Regulations.*

| | |
|-------------------------|----------------------|
| Building Height Maximum | 5 stories/7 stories* |
|-------------------------|----------------------|

* A building or a portion of a building that is located between 10 and 15 feet from the front property line or any master street plan right-of-way line shall have a maximum height of five (5) stories. A building or portion of a building that is located greater than 15 feet from the master street plan right-of-way shall have a maximum height of seven (7) stories.

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 single family 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) *Minimum buildable street frontage.* 50% of the lot width.

(Ord. No. 5312, 4-20-10; Ord. No. 5339, 8-3-10; Ord. No. 5353, 9-7-10; Ord. No. 5462, 12-6-11; Ord. No. 5592, 6-18-13; Ord. No. 5664, 2-18-14; Ord. No. 5735, 1-20-15; Ord. No. [5800](#), §1(Exh. A), 10-6-15; Ord. No. [5921](#), §1, 11-1-

16; Ord. No. [5945](#), §§5, 7, 8, 1-17-17; Ord. No. [6015](#), §1(Exh. A), 11-21-17; Ord. No. [6223](#), §1, 9-3-19; [Ord. No. 6427](#), §§1(Exh. C), 2, 4-20-21)

Editor's note— [Ord. No. 6427](#), § 2, adopted April 20, 2021, "determines that this ordinance and all amendments to Code sections ordained or enacted by this ordinance shall automatically sunset, be repealed, terminated, and become void twenty (20) months after the passage and approval of this ordinance, unless prior to that date, the City Council amends this ordinance to repeal this sunset, repeal and termination section."



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Ryan Umberger, Senior Planner

MEETING DATE: September 12, 2022 *(Updated with Planning Commission Results)*

SUBJECT: **RZN-2022-0043: Rezoning (560 W. VAN ASCHE DR./TUNE & TUNE, 172):** Submitted by HALL ESTILL LAW FIRM for property located at 560 W. VAN ASCHE DR. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approx. 13.56 acres. The request is to rezone the property to I-2, GENERAL INDUSTRIAL.

RECOMMENDATION:
Staff recommends denial of **RZN-2022-0043**.

RECOMMENDED MOTION:
"I move to deny RZN-2022-0043."

BACKGROUND:
The subject property is located at the northwest corner of N. Gregg Avenue and W. Van Asche Drive. The subject area is composed of two parcels totaling 13.56 acres and zoned R-A, Residential-Agricultural. Tune Concrete Company has operated on the property dating back to 1996. Until October 31, 2021, Marck Industries, a center for collecting recyclables, operated in the building at 500 W. Van Asche, which is part of the subject area (BL 5649). Total Recycling Paper & Plastic currently has a business license under review at the location (BLC-000419-2022). In 2010 the subject property was among a 99-acre territory along W. Van Asche Drive that was simultaneously de-annexed from the City of Johnson into the City of Fayetteville. The property is relatively flat with sparse vegetation which mostly follows the property's boundary. An unnamed tributary of the Illinois River is present on-site. Industrial structures and impervious paving associated with the existing businesses covers nearly all of the lot's area. Surrounding land uses and zoning are depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

| Direction | Land Use | Zoning |
|-----------|---------------------------------------|---|
| North | Undeveloped | A, Agricultural, City of Johnson |
| South | Undeveloped | C-2, Thoroughfare Commercial; C-3, Central Commercial |
| East | Railroad right-of-way; Undeveloped | UT, Urban Thoroughfare |
| West | Arkholo Sand & Gravel Co./Undeveloped | C-2, Thoroughfare Commercial; C-3, Central Commercial |

Request: The request is to rezone the property from R-A, Residential Agricultural to I-2, General Industrial.

Public Comment: Staff has received no public comment on the request.

INFRASTRUCTURE:

Streets: The subject property has frontage along W. Van Asche Drive and N. Roosevelt Avenue. W. Van Asche Drive is a fully improved Regional Link Street with asphalt paving, curb and gutter, and sidewalks. N. Roosevelt Avenue is a partially improved Residential Link Street with asphalt paving and open ditches. Any street improvements required in this area would be determined at the time of development proposal.

Water: Public water is available to the subject property. Existing 6-inch, 8-inch, and 12-inch water mains are present in the N. Gregg Avenue, W. Van Asche Drive, and N. Roosevelt rights-of-way, respectively.

Sewer: Sanitary sewer is available to the subject property. An existing 30-inch main is present along the east side of N. Gregg Avenue.

Fire: Station 4, located at 3385 N. Plainview Avenue protects this site. The property is located approximately 1.8 miles from the fire station with an anticipated drive time of approximately five minutes using existing streets. The anticipated response time would be approximately 7.2 minutes. Fire Department response time is calculated based on the drive time plus one minute for dispatch and 1.2 minutes for turn-out time. Within the city limits, the Fayetteville Fire Department has a response time goal of six minutes for an engine and eight minutes for a ladder truck.

Police: The Police Department did not comment on this request.

Drainage: No portion of the subject property lies within the Hillside-Hilltop Overlay District or a FEMA-designated floodplain.

Hydric soils are 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 west side of the subject property. Any additional improvements or requirements for drainage will be determined at time of development.

Tree Preservation:

The requested zoning district, I-2, General Industrial requires **15% minimum canopy preservation**. The current zoning district, R-A, Residential-Agricultural, requires **25% minimum canopy preservation**.

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

City Neighborhood Areas are more densely developed than residential neighborhood areas and provide a varying mix of nonresidential and residential uses. This designation supports the widest spectrum of uses and encourages density in all housing types, from single-family to multi-family. Non-residential and commercial uses are primarily located at street intersections and along major corridors. Ideally, commercial uses would have a residential component and vary in size, variety and intensity. The street network should have a high number of intersections creating a system of small blocks with a high level of connectivity between neighborhoods. Building setbacks and landscaping are urban in form with street trees typically being located within the sidewalk zone.

CITY PLAN 2040 INFILL MATRIX: City Plan 2040's Infill Matrix indicates a score of **4-7** for this site with a weighted score of **8**. The following elements of the matrix contribute to the score:

- 4 Minute Fire Response (Station #4, 3385 N. Plainview Avenue)
- Near Sewer Main (Mains present in the N. Gregg Avenue, W. Van Asche Drive, and N. Roosevelt Avenue rights-of-way)
- Near Water Main (30" main, N. Gregg Avenue)
- Near City Park (Scull Creek Trail Corridor, Mud Creek Trail Corridor)
- Near Paved Trail (Clabber Creek Trail, Razorback Greenway)
- Near Razorback Bust Stop (Route 26 Peak)
- Appropriate Future Land Use (City Neighborhood Area)

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 the proposed zoning to be mostly compatible with surrounding land uses. Nearby properties are mostly large and undeveloped. Arkhola Sand & Gravel Company neighbors the subject property to the northwest, railroad right-of-way borders the property immediately to the east, and single-family residences are present to the southeast. The subject property received its R-A zoning designation by default when it was annexed into Fayetteville city limits in 2010. R-A zoning allows for manufactured homes, single- and two-family dwellings. It also allows for commercial uses typically associated with agriculture. Despite its

current entitlements, Tune Concrete Company has occupied the site for over 25 years, predating its annexation. A concrete manufacturing facility is typically categorized as Use Unit 23 – Heavy Industrial which is not allowed by-right or by conditional use in its current district. The proposed zoning district would bring the existing business into compliance with its governing zoning regulations. Heavy Industrial is permitted by-right in I-2 zoning as are other activities that can be perceived as a nuisance to residential and business uses. Gas stations, large recreation sites (amusement park, go-cart track, drag strip, golf course, etc.), warehousing, manufacturing, centers for collecting recyclable materials, and clean technologies are also allowed by-right under the proposed zoning. I-2 has no bulk and area requirements for lot sizes and setbacks vary based on the zoning classification of adjoining properties. Under the proposed district, front setbacks are 50 feet, side and rear setbacks are 25 feet. There is no height limitation for structures in I-2 zoning, though if a building exceeds two stories those portions of the structure must have an additional setback equal to the difference between its height and two stories.

Perhaps the most significant incongruency with I-2 zoning is the presence of natural features on the property. Hydric soils are present throughout the site and a protected stream bisects the western portion of the site before generally following the north property line between Tune Concrete and Arkhola Sand and Gravel and eventually flowing into Mud Creek. The stream appears to emanate from a stormwater outlet on the property to the west, at the northeast corner of N. Roosevelt Avenue and W. Van Asche Drive. Staff is generally not favorable to industrial zoning near sensitive areas which may be a concern in this case. On the balance of considerations, staff finds industrial uses at the periphery of the city and adjacent to a railroad are likely to be among the most suitable. Staff finds the property's surrounding context, location, and the existing 12-year non-conforming use suggest the rezoning is mostly compatible.

Land Use Plan Analysis: Staff finds the proposed zoning to be inconsistent with the City's future land use plans and policies. The Future Land Use Map in City Plan 2040 designates the property within the proposed rezone as a City Neighborhood Area. City Neighborhood areas support the widest spectrum of uses with commercial uses being encouraged at intersections. Conversely, the rezoning does not contribute towards a creating a traditional, gridded neighborhood with a mix of uses. Only commercial and non-residential uses are allowed on I-2 properties. A moderate to high infill score suggests the property's current R-A zoning may no longer appropriately serve the city but it is questionable whether allowing very intense industrial uses to continue into perpetuity fits the long-term vision for this corridor. Rezoning to I-2 also does not align with any goals in City Plan 2040.

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

Finding: Staff finds that the proposed zoning is not justified or needed to accommodate development of the property in accordance with goals

outlined in the city's comprehensive plan. Rezoning an isolated property to I-2 establishes entitlements for an indefinite amount of time which may lead to compatibility issues if the area redevelops in accordance with the Future Land Use Plan.

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

Finding: Staff finds rezoning to I-2 is not likely to result in increased traffic danger or congestion that is not supportable by the current street network. The property is currently utilized in an industrial fashion and has access onto W. Van Asche Drive, a Regional Link Street, and N. Roosevelt Lane, a Residential Link Street. A 2021 Average Annual Daily Traffic count estimates 9,300 vehicle trips per day along W. Van Asche Drive, a street with a designed service volume of 17,600 trips per day. The intersection of N. Gregg Avenue and W. Van Asche Drive is a hot spot for vehicle collisions but only two accidents were reported along the subject property's street frontage and access drives. The Clabber Creek off-street trail is present along the south side of W. Van Asche Drive and a planned trail connection runs alongside N. Roosevelt Avenue.

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 proposed zoning would not increase population density or impacts to public services beyond what exists today. The property is within the Fire Department's response time goal and has ready access to sanitary sewer and water.

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 denial of RZN-2022-0043.

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 |
| Unit 46 | Short-term rentals |

(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) |
|----------------|--------------|

(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; [Ord. No. 6427](#), §§1(Exh. C), 2, 4-20-21)

Editor's note— [Ord. No. 6427](#), § 2, adopted April 20, 2021, "determines that this ordinance and all amendments to Code sections ordained or enacted by this ordinance shall automatically sunset, be repealed, terminated, and become void twenty (20) months after the passage and approval of this ordinance, unless prior to that date, the City Council amends this ordinance to repeal this sunset, repeal and termination section."

161.31 - District I-2, General Industrial

(A) *Purpose.* The General Industrial District is designed to provide areas for manufacturing and industrial activities which may give rise to substantial environment nuisances, which are objectionable to residential and business use.

(B) *Uses.*

(1) *Permitted Uses.*

| | |
|---------|--|
| Unit 1 | City-wide uses by right |
| Unit 3 | Public protection and utility facilities |
| Unit 5 | Government Facilities |
| Unit 6 | Agriculture |
| Unit 7 | Animal husbandry |
| Unit 13 | Eating places |
| Unit 16 | Shopping goods |
| Unit 18 | Gasoline service stations and drive-in/drive-through restaurants |
| Unit 20 | Commercial recreation, large sites |
| Unit 21 | Warehousing and wholesale |
| Unit 22 | Manufacturing |
| Unit 23 | Heavy industrial |
| Unit 25 | Offices, studios, and related services |
| Unit 28 | Center for collecting recyclable materials |
| Unit 42 | Clean technologies |
| Unit 43 | Animal boarding and training |
| Unit 46 | Short-term rentals |

(2) *Conditional Uses.*

| | |
|---------|---|
| Unit 2 | City-wide uses by conditional use permit |
| Unit 31 | Facilities emitting odors and facilities handling explosives. |
| Unit 36 | Wireless communications facilities |
| Unit 38 | Mini-storage Units |
| Unit 39 | Auto salvage and junk yards |

(C) *Density.* None.

(D) *Bulk and area regulations.* None.

(E) *Setback Regulations.*

| | |
|---|----------|
| Front, when adjoining A or R districts | 100 feet |
| Front, when adjoining C, I or P districts | 50 feet |
| Side, when adjoining A or R districts | 50 feet |
| Side, when adjoining C, I or P districts | 25 feet |
| Rear | 25 feet |

(F) *Height Regulations.* There shall be no maximum height limits in I-2 Districts, provided, however, that 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.* None.

(Code 1965, App. A., Art. 5(IX); Ord. No. 2351, 6-21-77; Ord. No. 2516, 4-3-79; Ord. No. 1747, 6-29-70; Code 1991, §160.040; Ord. No. 3971, §2, 5-21-96; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 4992, 3-06-07; Ord. No. 5028, 6-19-07; Ord. No. 5195, 11-6-08; Ord. No. 5312, 4-20-10; Ord. No. 5339, 8-3-10; Ord. No. 5353, 9-7-10; Ord. No. [5800](#), §1(Exh. A), 10-6-15; Ord. No. [5945](#), §§5, 7, 1-17-17; Ord. No. [5982](#), §1, 6-20-17; Ord. No. [6015](#), §1(Exh. A), 11-21-17; [Ord. No. 6521](#), §7, 1-18-22)

August 3, 2022

VIA PORTAL DELIVERY

City of Fayetteville Planning Commission and Planning Department
125 West Mountain Street
Fayetteville, Arkansas 72701

Re: Rezoning of Parcel No. 765-15773-300 & 765-15773-100;
500 N. Gregg Street
From RA to General Industrial (I-2)

Dear To Whom It May Concern:

This letter is in regard to rezoning parcels 765-15773-300 & 765-15773-100 from its current designation of RA to General Industrial (I-2). The I-2 District is designed to provide areas for manufacturing and industrial activities which may give rise to substantial environment nuisances, which are objectionable to residential and business use. This zoning allows recycling by right.

Further, I-2 is compatible as this property as well as the neighboring property, which is owned by a separate entity, are currently grandfathered in for industrial functions. General Industrial would fit into the future land use as the adjacent properties are slated to be urban center. Lastly, this rezoning will not unreasonably affect in any adverse way the surrounding land uses.

Sincerely yours,

Hall, Estill, Hardwick, Gable, Golden &
Nelson, P.C.

/s/ Robert K. Rhoads

Robert K. Rhoads

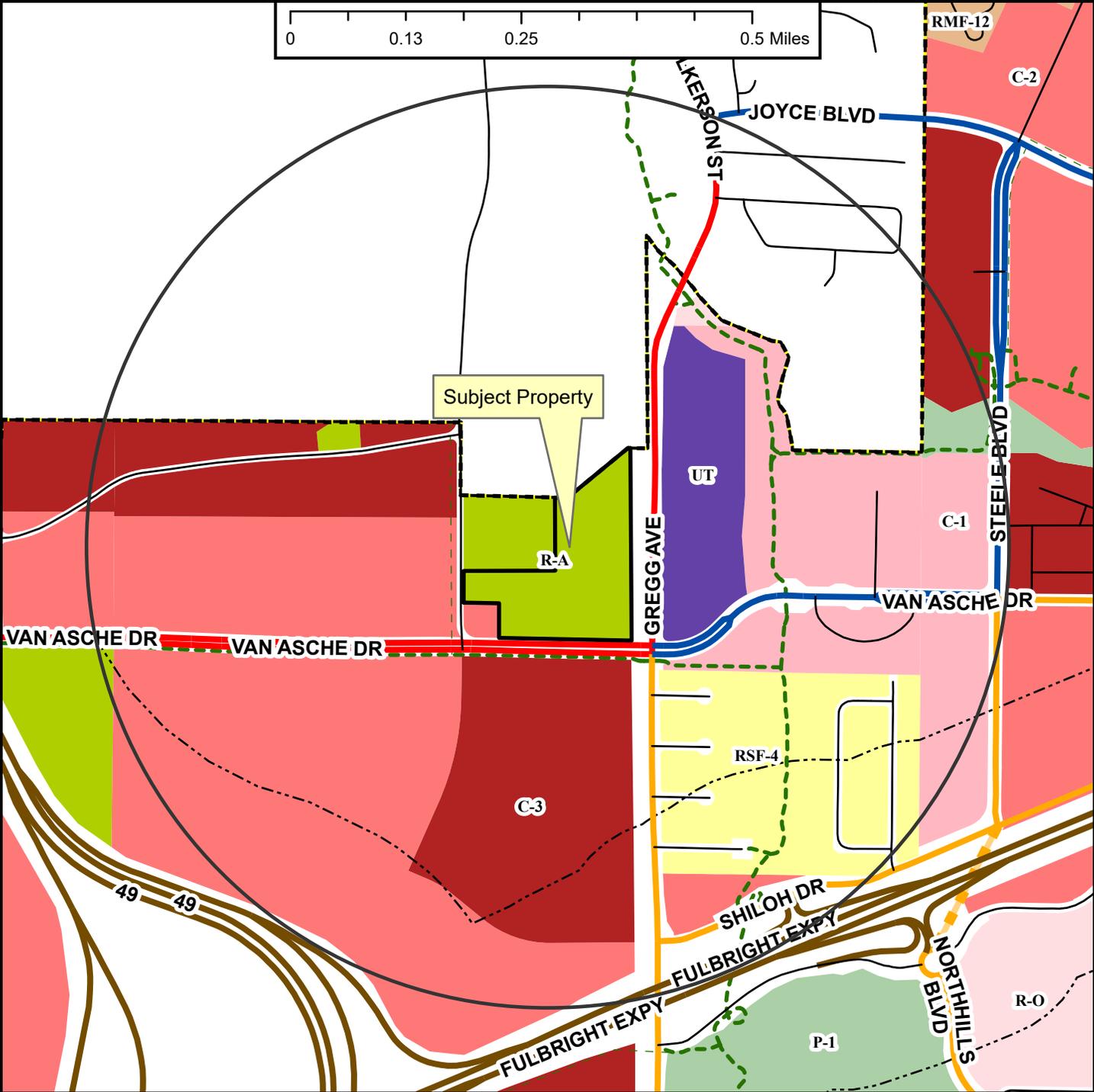
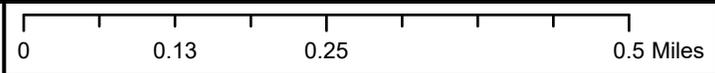
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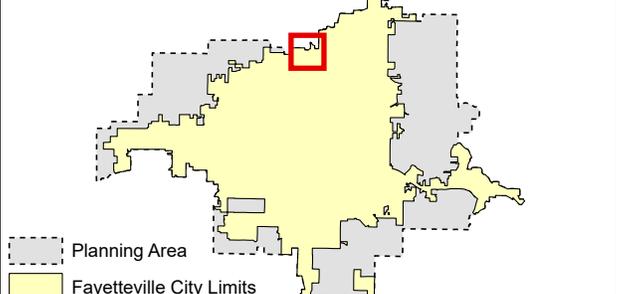
RZN-2022-0043

560 W. VAN ASCHE DR

One Mile View



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



- | | |
|--|---|
| Zoning RESIDENTIAL SINGLE-FAMILY NS-G RH-U RH-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 |
|--|---|

Planning Commission

September 12, 2022

Agenda Item 17

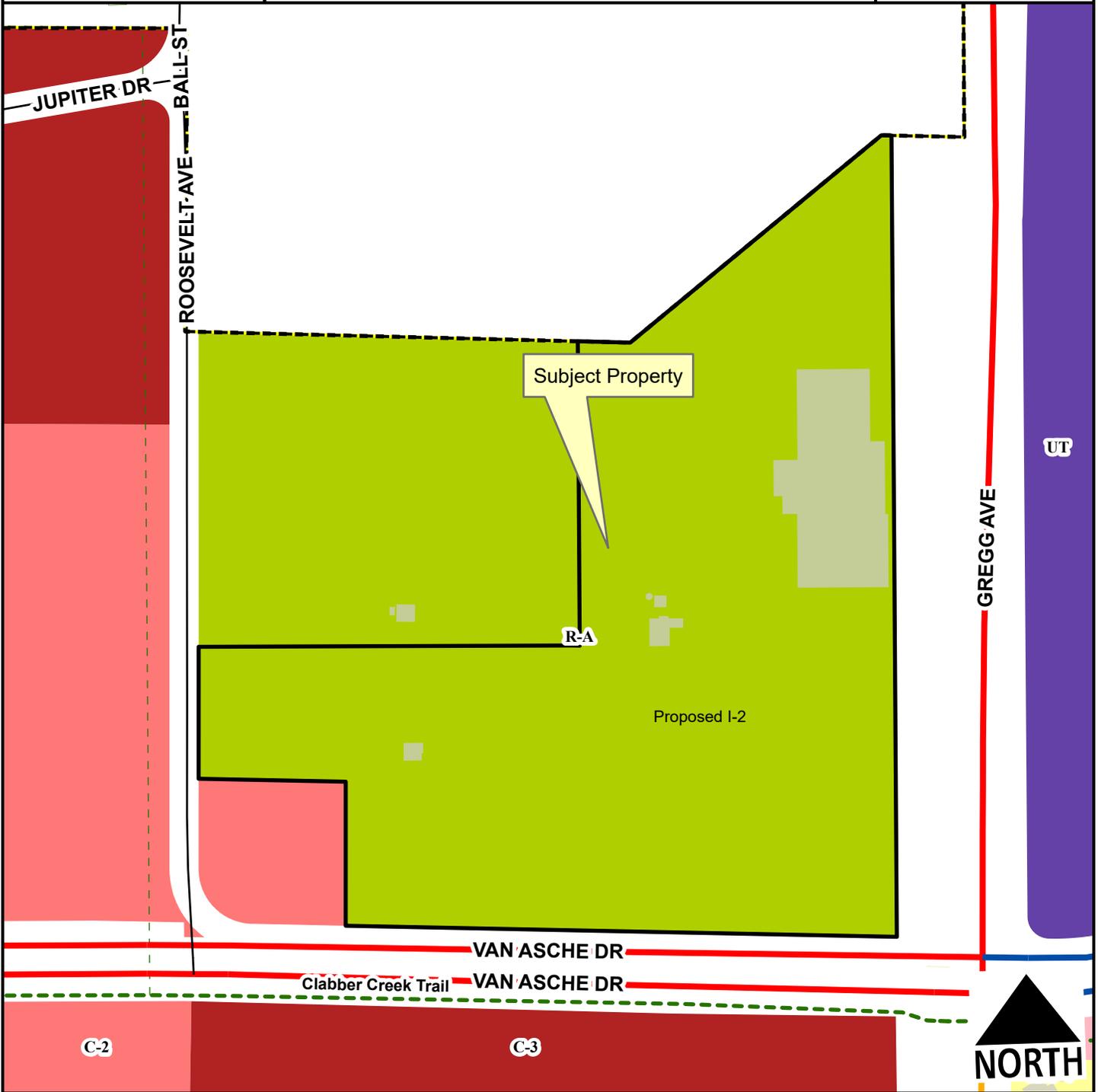
RZN-2022-0043 (TUNE & TUNE)

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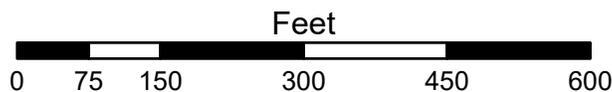
RZN-2022-0043

560 W. VAN ASCHE DR

Close Up View



- Regional Link
- Neighborhood Link
- Regional Link - High Activity
- Unclassified
- Residential Link
- Hillside-Hilltop Overlay District
- - - Trail (Proposed)
- Planning Area
- Fayetteville City Limits



1:2,400

| Zoning | Acres |
|--------|-------|
| I-2 | 13.0 |

Total 13.0

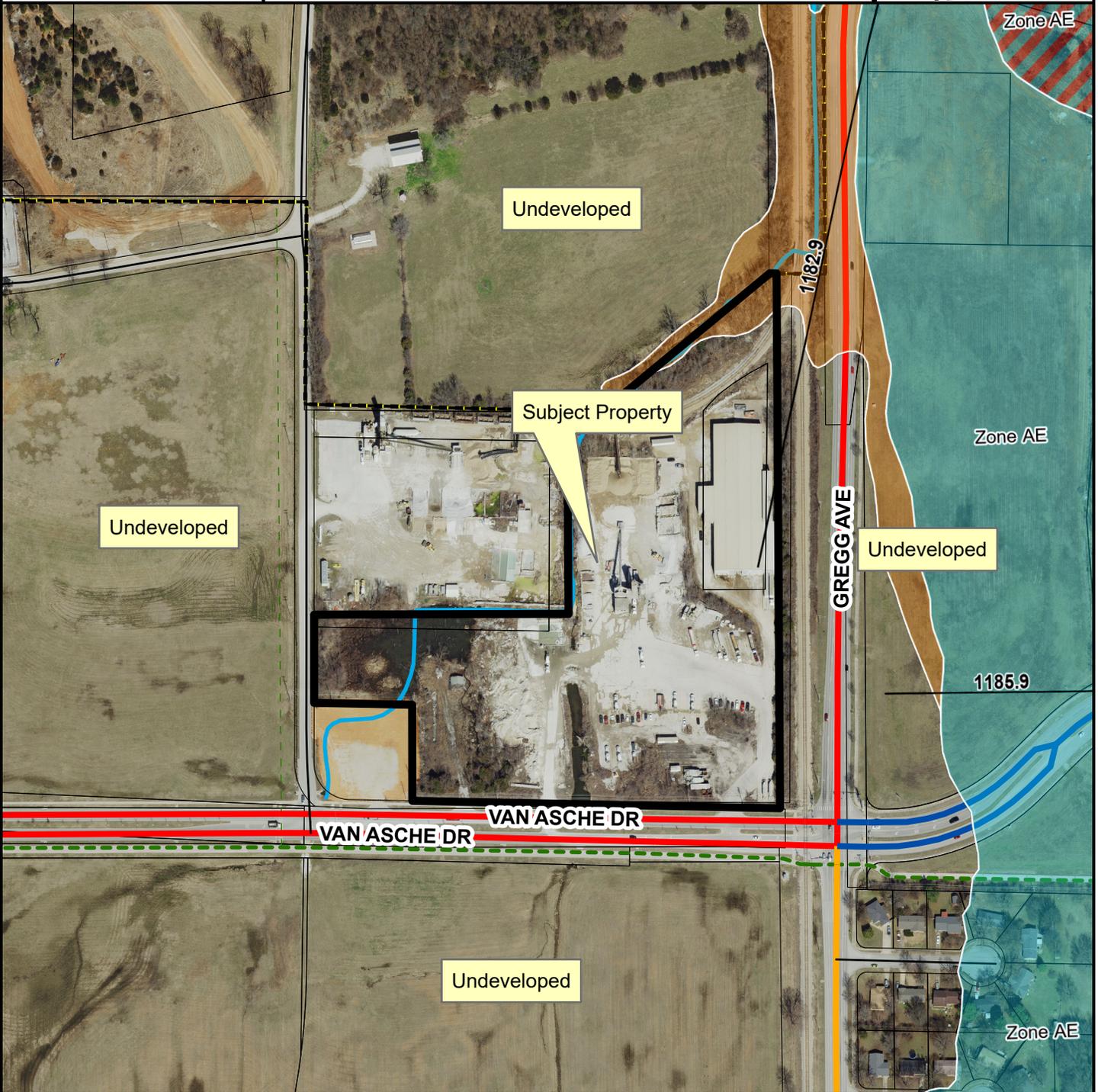
Planning Commission
September 12, 2022

RZN-2022-0043

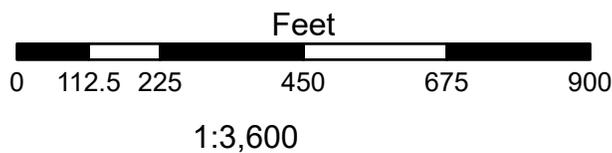
560 W. VAN ASCHE DR



Current Land Use



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



FEMA Flood Hazard Data

- 100-Year Floodplain
- ▨ Floodway

RZN-2022-0043

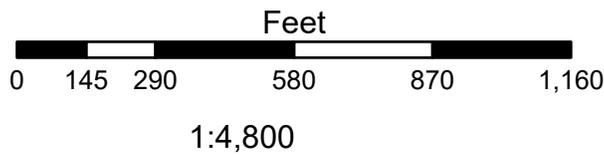
560 W. VAN ASCHE DR



Future Land Use



- Regional Link
- Neighborhood Link
- Regional Link - High Activity
- Unclassified
- Residential Link
- Planning Area
- Fayetteville City Limits
- - - Trail (Proposed)
- Design Overlay District



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