

Tuesday, April 24, 2012

D. 4
RZN 12-4077 Halsell Road/Pratt
Place Inn Appeal
Page 1 of 32

Mr. Jesse Fulcher
Planning Division
City of Fayetteville, AR

Dear Mr. Fulcher,

We would like to appeal the decision of the Fayetteville Planning Commission at its April 23, 2012, meeting in regards to our rezoning request (RZN 12-4077). Kindly forward this request to the City Clerk and ask that this matter be put on the Fayetteville City Council agenda at the earliest possible date.

Sincerely,

Julian and Jane Archer, owners
2115 West Markham Road
Fayetteville, AR 72701
Tel. and fax 582-5443

CITY COUNCIL AGENDA MEMO

To: Mayor Jordan, City Council
Thru: Don Marr, Chief of Staff
Jeremy Pate, Development Services Director
From: Jesse Fulcher, Current Planner
Date: April 26, 2012
Subject: RZN 12-4077 (Halsell Road/Pratt Place Inn)

RECOMMENDATION

Planning staff recommends approval of an ordinance to rezone the subject property from C-PZD, Pratt Place Inn to RSF-4, Residential Single-family, 4 units per acre. A recommendation by the Planning Commission to forward the request to the City Council failed.

BACKGROUND

The property is zoned Commercial Planned Zoning District (CPZD) and contains approximately 2.37 acres. Staff is reviewing a property line adjustment that will create the lot configuration being rezoned. The site is undeveloped with access to Halsell Road and is within the Hillside/Hilltop Overlay District. The property is part of an approximately 72-acre property know as Pratt Place Inn located at the top of Markham Road.

The City Council rezoned the property to C-PZD in 2005 (Ord. No. 4786) to allow the property owners to operate an inn and restaurant, activities hall and parking lot for social events such as weddings and receptions. The CPZD approval also included a maximum of four residential dwelling units, three existing residences and one proposed innkeeper's residence. The Pratt Place Inn development is to the south of the property proposed for rezoning and well separated by a dense stand of mature trees. Access from this property to the Pratt Place Inn is not available.

DISCUSSION

On April 23, 2012 a recommendation by the Planning Commission to forward the rezoning request to the City Council failed by a vote of 2-6-0 (Commissioners Honchell and Noble voted yes). The applicant has appealed this decision to the City Council.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 12-4077, FOR APPROXIMATELY 2.37 ACRES, LOCATED ON HALSELL ROAD FROM C-PZD, COMMERCIAL PLANNED ZONING DISTRICT, TO RSF-4, RESIDENTIAL SINGLE-FAMILY, 4 UNITS PER ACRE, SUBJECT TO THE OFFERED BILL OF ASSURANCE.

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 following described property from C-PZD, Commercial Planned Zoning District to RSF-4, Residential Single-Family, 4 units per acre, as shown on Exhibits "A" and "B" attached hereto and made a part hereof.

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 change provided in Section 1.

Section 3: That the zoning change is subject to the Bill of Assurance offered by the applicant and hereby accepted by the City Council of the City of Fayetteville, as shown on Exhibit "C".

PASSED and **APPROVED** this day of , 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer

RZN12-4077

PRATT PLACE INN

Close Up View



SANG AVE

RSF-4

SUBJECT PROPERTY

HALSELL RD

CROSS AVE

CPZD

EVANGELINE LN

MARKHAM RD

SANG AVE

Legend

Fayetteville City Limits

Overview RZN12-4077

Footprints 2010

Hillside-Hilltop Overlay District

Design Overlay District

Design Overlay District

Planning Area



EXHIBIT "B"
RZN 12-4077

PROPERTY TO BE REZONED:

A PART OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 17, TOWNSHIP 16 NORTH, RANGE 30 WEST, WASHINGTON COUNTY ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TOWIT: BEGINNING AT A POINT WHICH IS N02°47'27"E 426.73' FROM AN EXISTING ALUMINUM MONUMENT MARKING THE SOUTHWEST CORNER OF SAID FORTY ACRE TRACT AND RUNNING THENCE N02°47'27"E 215.00' TO AN EXISTING REBAR, THENCE S87°21'57"E 481.92' TO AN EXISTING P/K NAIL, THENCE S03°47'10"W 215.00', THENCE N87°22'16"W 478.19' TO THE POINT OF BEGINNING, CONTAINING 2.37 ACRES MORE OR LESS.

EXHIBIT "C"

**BILL OF ASSURANCE
FOR THE CITY OF FAYETTEVILLE, ARKANSAS**

In order to attempt to obtain approval of a request for a zoning reclassification, the owner, developer, or buyer of this property, (hereinafter "Petitioner") Judith Houser, hereby voluntarily offers this Bill of Assurance and enters into this binding agreement and contract with the City of Fayetteville, Arkansas.

The Petitioner expressly grants to the City of Fayetteville the right to enforce any and all of the terms of this Bill of Assurance in the Circuit Court of Washington County and agrees that if Petitioner or Petitioner's heirs, assigns, or successors violate any term of this Bill of Assurance, **substantial irreparable damage justifying injunctive relief** has been done to the citizens and City of Fayetteville, Arkansas. The Petitioner acknowledges that the Fayetteville Planning Commission and the Fayetteville City Council will **reasonable rely** upon all of the terms and conditions within this Bill of Assurance in considering whether to approve Petitioner's rezoning request.

Petitioner hereby voluntarily offers assurances that Petitioner and Petitioner's property shall be restricted as follows IF Petitioner's rezoning is approved by the Fayetteville City Council.

1. The use of Petitioner's property shall be limited to Four (4)
residential lots.

2. Other restrictions including number and type of structures upon the property are limited to Four (4) single family houses. One (1) house per lot. No other structures other than accessory units (ex. garage, dog house, pool house, etc.) shall be allowed.

3. Specific activities will not be allowed upon petitioner's property include Any activity not allowed in RSE-4.

4. (Any other terms or conditions) Architectural control covenants (protective covenants) will be placed on this property prior to title transfer by the seller. These covenants are similar to the ones used in The Pointe Arc subdivision.

March 13, 2012

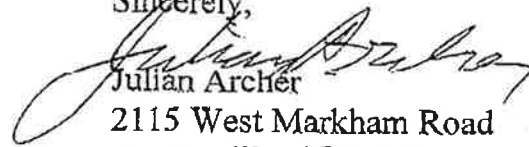
To the City of Fayetteville Development Services Department:

This note is in response to your request for a written explanation of my request for rezoning and a three lot split of a portion of Parcel # 765-14525-000. My wife, Jane, and I are the owners of this parcel which is held in the name of ArcherLLC. We have been owners since 1979 and prior to that it was owned by my mother. It was zoned R-1 until about 2006 when it was incorporated into the Pratt Place Inn PZD which includes about 70 acres. Under the existing zoning, nothing can be done with this property. Anyone familiar with Pratt Place Inn and Barn knows how much effort, time and treasure we have put into keeping Sassafras Hill (Markham Hill) looking natural. We are requesting a rezoning to R-4 of about one half of this parcel, or about 2.4 acres, so we can do a lot split of the portion of the parcel fronting on Halsell Road to the north. The split would be into three lots making each lot about .80 acres, far larger than the lots permitted under R-4 zoning.

If approved, this will create three residential lots which will carry the same protective covenants that were used in our nearby Bois d'Arc subdivision. While rezoning and the lot split will add three family homes to the neighborhood and the automobiles these three families will operate, its impact will be minimal considering the number of houses which could be built on this acreage. The house size requirements, building material choices, and setbacks will enhance the entire neighborhood in the same way that Bois d'Arc has done. And, obviously, the three houses will add to the tax revenue for the county.

As well as I can determine from city plats, there is water and sewer in Halsell Road. It seems there is an 8" sewer line and a 2" water line which becomes 8" at the point where Halsell turns north and becomes Sang. Furthermore, there are electric and phone lines along Halsell.

Sincerely,


Julian Archer
2115 West Markham Road
Fayetteville, AR 72701
Tel. and fax 479 582-5443

D. 4
RZN 12-4077 Halsell Road/Pratt
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Page 9 of 32

FILED FOR REC'D
'98 DEC 2 PM 10 05

WASHINGTON CO AR
K. HARRISS

**DECLARATION
OF
PROTECTIVE COVENANTS, CONDITIONS, AND RESTRICTIONS
BOIS D'ARC SUBDIVISION**

KNOW ALL MEN BY THESE PRESENTS;

These covenants of assurance are entered into by and between the parties hereto on this 25 day of NOVEMBER, 1998.

WITNESSETH;

WHEREAS, Julian P. W. Archer and Jane G. Archer are the owners of the following described real property situated in Washington County, Arkansas, to-wit:

Bois d'Arc subdivision which consists of:

Part of the SE1/4 of SW1/4 of Section 8, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, being more particularly described as follows:

Beginning at the SW corner of said section 8 thence S 86 48' 12"E 1424.99 feet to the POINT OF BEGINNING, thence N 02 50' 30" 203.12 feet, thence N87 03' 10" W 84.02 feet, thence N03 02' 03" 490.02 feet, thence S87 11' 52" E 967.48 feet, thence N 02 38' 31" E 589.53 feet, thence S 87 24' 08" E 322.57 feet, thence S 02 37' 45" W 1294.53 feet, thence S 86 42' 01" E 1210.46 to the Point of Beginning; containing 24.70 acres, more or less.

and,

WHEREAS, said owners desire to establish certain bills and restrictions and covenants of assurance to assure the orderly development of the above described real property and to further assure the protection of the investment made in such property by this owner and all others who shall purchase herein.

THEREFORE, the following bills and restrictions and covenants of assurance are deemed in full force and effect, the same to run with and apply to all of the above described real property from this date forward until the same shall terminate or be modified according to the provisions herein, to wit:

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1. All lots in said subdivision shall be known and described as residential lots and no structure shall be erected on any lot other than one family, detached dwellings not to exceed two stories in height with one, two or three car garage, except by special approval of the architecture review committee or the Bois d'Arc Property Owners Association as hereinafter provided. Accessory buildings such as detached garages, garden storage buildings or workshops for carrying on a hobby may be authorized by the architecture review committee or the Bois d'Arc Property Owners Association as hereinafter provided. The owner or owners of each platted lot in the Bois d'Arc subdivision will participate on an equal share basis per platted lot in the payment of any fees or assessments as determined under the provisions of the by-laws of the Bois d'Arc Property Owners Association and as such will be treated as equal members of the Bois d'Arc Property Owners Association as hereinafter provided.

For the purpose of these protective covenants, Julian P. W. Archer or his successors in title or his assigns, shall be the subdivider and developer.

2. Utility easements are reserved over the lots in those widths as shown on the recorded plat, and such easements are for utility use only, the ownership of the same remaining in the lot owner.

3. No noxious or offensive trade shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood, it being the express understanding that the subdivision is for residential purposes only. Any home-based business requires the prior approval of the Board of Directors

4. No building on lots 1-14 and on lot 19 shall be erected nearer than 70 feet to the street right-of-way line and on lots 15-18 no building shall be erected nearer than 40 feet to the street right-of way. For all lots in this subdivision no building shall be erected nearer than 40 feet to any side lot line, nor nearer than 40 feet to the rear lot line. However, any and all setback requirements may be reduced or otherwise modified, but not increased, if expressly permitted in writing by the architecture review committee. The reductions or modifications cannot, of course, fall below the setbacks required by the City of Fayetteville.

5. No residential lot shall be re-subdivided into smaller lots, but part of a lot may be sold in connection with and incorporated into an adjacent full lot unless such sale violates any applicable City of Fayetteville or Washington County ordinance.

6. No trailer, basement, tent, shack, garage, barn or other building shall be erected in the subdivision to be used as a

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temporary dwelling, nor shall any residence of any temporary character be permitted. Basements and garages may be built only as a part of a permanent residence. No prefabricated modular houses shall be built on any lot without the written approval of the architecture review committee. This shall not preclude or prevent the erection of temporary construction facilities on said lot by the subdivider, lot owners, or builders during construction phases.

7. No structure shall be moved onto any lot to be utilized as a residence. No building shall be erected or altered on any lot until the design, plans, materials, colors, elevations, and location thereof have been approved in writing by the architecture review committee. All residences and accessory buildings must have exterior walls and surfaces of natural materials such as stone, brick or stained wood to maintain the bucolic nature of Bois d'Arc. In the event the architecture review committee fails to approve or disapprove a proposed design within thirty (30) days after a request for such approval is received in writing (if sent through the mail, the request must be sent certified mail) by the chairperson of the architectural review committee, then such approval will not be required, providing the design, size, and location on the lot conforms to these regulations and is in harmony with the existing structures already in the subdivision. In any case, either with or without the approval of the architecture review committee, the heated floor area of any residence must meet the following minimum requirements, to-wit: A minimum square footage of 2,500 square feet. The foregoing minimum is exclusive of carports and storage spaces or garages, basements, attics, porches, patios and decks. Exceptions to the foregoing minimum square feet of living area may be specifically granted by the architectural review committee for specially designed residences, provided that the design and quality of the structure would be in harmony with the general character of other homes in the subdivision, or not be detrimental to the future development of said development. The architectural review committee shall, after approval of site preparation and construction plans and design, establish a maximum time between the first land clearing and completion of the dwelling.

8. If garages are attached garages, the entrances must be on the side or the rear of the house so that the garage bay does not open onto the street. Detached garages are permitted, but they must be situated so that the open garage bay is not easily visible from the street.

9. Mailboxes of a style and color designated by the architecture review committee will be installed at the lot owner's expense. They

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will consist of a cast metal post with coordinated mailbox attached and painted a uniform color determined by the architectural review committee. A house number of a style determined by the architecture review committee will be attached to this post as well.

10. No radio or television antennas of any kind and no large satellite dishes shall be erected, allowed to exist, or be maintained within the development.

11. No signs, with the exception of the subdivision identification signs, shall be displayed on any lot. However, one sign of not more than five square feet advertising a lot owner's property for sale or rent, or any signs used by the subdividers or builder to advertise the property during the construction and sales period, will be permitted. All signs shall comply with the Fayetteville Sign Ordinance, Chapter 174 of the Fayetteville Code of Ordinances or other applicable city, county, or state ordinance or regulation, or any amendment thereto.

12. No animals, livestock or poultry of any kind shall be raised, bred, or kept on any lot, except that dogs, cats, or other household pets not to exceed eight in number may be kept, provided that they are not kept, bred, or maintained for any commercial purpose.

13. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. Each lot must be maintained by its owner(s) and kept in a clean condition. Household composting of plant material is allowed as long as said composting does not create or constitute a public nuisance.

14. No fence of a solid nature, other than dense evergreen shrubs or trees and/or native stone, which would block the view from the street of any residence or have an unsightly appearance is to be erected in the subdivision, with the exception of temporary fences by the subdivider during the construction phase. No chain link or other metal fences (except ornamental or wrought iron) may be erected. A wooden lattice fence may be erected in the rear yard of a residence, but its style and placement must be presented to and approved by the architecture review committee prior to construction.

15. No permanent or seasonal parking of trailers, camping vehicles, mobile homes, or boats shall be allowed on the road right-of ways in the Bois d'Arc subdivision. If a trailer, camping vehicle, mobile home, or boat is parked on a seasonal or permanent basis on a

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lot or private road it must be screened by dense evergreen shrubs or trees that will grow to at least eight feet in height.

16. The owner or owners of each platted lot will participate on an equal share basis per platted lot in the cost of care and maintenance of the common areas, the streetlight fixtures, traffic separation islands, entranceways, the stone and wrought iron wall, as well as landscaping, water, and electricity for the above, and to carry out such projects for Bois d'Arc as the Board of Directors deems necessary. See Exhibit "A" for the agreement between the City of Fayetteville and the Bois d'Arc Property Owners Association concerning their respective responsibilities for streetlights.

17. Any desired clearing or cutting operation, other than removal of underbrush, dead trees, and live trees less than four (4) inches in diameter measured five (5) feet off the ground, will require advance written approval by the architecture review committee. If a tree is cut without approval, the property owner will be fined \$100 which will be paid to the treasurer of the Bois d'Arc Property Owners Association.

18. Each lot owner shall, throughout construction and thereafter, provide for adequate drainage of surface waters across his property. Under no circumstances may such surface waters be diverted in a manner as to cause the same to be directed across the lands of another either inside or outside the subdivision and thus constitute a nuisance. This provision does not apply to the natural streams which flow in or across the subdivision and which the developers have left open in as natural a condition as possible. These stream beds shall be maintained by the lot owner so as to allow the stream to follow its existing natural course. Furthermore, these stream beds shall be maintained in such a manner that they do not become clogged in heavy rains and overflow their banks and run onto adjacent lots.

19. Each property owner shall be further responsible for adjusting the drainage of surface waters across his lot in such a manner as to prevent such drainage from blocking or interfering with the road right-of-ways platted in the development.

20. Building restrictions shall be strictly regulated and deviations permitted for only the most compelling reasons. An architecture review committee shall be appointed by the subdivider or the subdivider shall act in the capacity of such a committee. This committee shall have the responsibility of reviewing all prospective construction, including the matters mentioned herein above, to assure conformity with the land and woodland concept as well as minimal interference with other lots in the addition. No particular

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construction shall be required by the committee. The architecture review committee shall also have the responsibility of monitoring the actual construction and site development to assure adherence to the approved plans. Later, the architecture review committee shall be appointed by the property owners association once that association is operative and when residences have been constructed on all the lots in this subdivision or when all lot owners in Bois d'Arc have constructed residences therein. This latter provision is to take into account the a situation where lot owners have purchased one or more adjacent lots with the intention of building on only one of them.

21. Nothing in these covenants shall be deemed to restrict the rights of the subdivider or the property owners association within said development to establish and enforce other rules, regulations, and covenants governing the operation, ownership, and maintenance of said development. In no event, however, shall said rules and regulations so promulgated have any force and effect if the same shall conflict with these covenants of assurance, and to the extent that such rules and regulations shall conflict with these covenants of assurance, said rules and regulations shall be null, void, and of no effect whatsoever. Invalidetion of any one of these covenants, conditions, or restrictions, or any part thereof, by order or judgment in any court shall in no way affect any of the other provisions which shall remain in full force and effect.

22. These covenants and restrictions are to run with the land, and shall be binding upon the subdivider and/or developer, his successors and assigns for a period of fifty (50) years from the date hereof. At any time within six (6) months from the expiration period, a 3/4 majority of the lot owners may express their intention in writing, drafted so as to be recorded with the registrar of deeds, that they no longer wish for said covenants of assurance to remain in full force and effect, and the same shall therefore be terminated as of the expiration date. In the event that no such action is taken, then these covenants shall continue for an additional period of five years, and may then be terminated in accordance with the terms set forth for the original termination. It is further provided that, should a two-thirds (2/3) majority of lot owners at any time wish to amend these covenants of assurance, either by adding to or taking from the present form, the same shall be incorporated into a written instrument capable of being recorded as above referred to and under the same terms and conditions thereof.

23. If any of the parties hereto, or their successors in title, or their heirs or assigns shall violate or attempt to violate any of

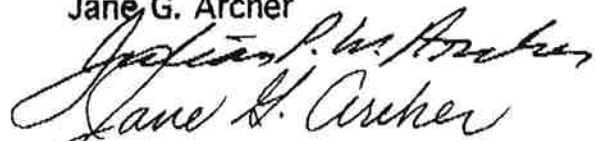
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these covenants or restrictions as herein above set forth, prior to the expiration or termination of these covenants of assurance, both in the original term and continuations thereof, then it shall be lawful and authorized for any person or persons, either as a class or singularly, who own any lot in this subdivision, or any portion thereof, to prosecute any proceedings at law or in equity against the person or persons so violating, or attempting to violate, any such covenant or restriction, and thereby either prevent said violation, or recover damages or other penalties for such violation including attorney's fees and court costs and, further, to utilize any and all other remedies at law which may now exist or which may hereafter apply.

24. All owners of property described herein above shall belong to the association known as the Bois d'Arc Property Owners Association, which association shall be duly created pursuant to the laws of the State of Arkansas. That association shall be governed by a Board of Directors consisting of persons owning property within the Bois d'Arc Subdivision and elected to office by the property owners herein and shall be managed according to the by-laws and the rules and regulations promulgated thereunder. The authority of the Board of Directors in the enforcement of these covenants of assurance and in the enforcement of the rules and regulations of said association shall be absolute, and all owners consent to said enforcement by their purchase of real property and dwellings hereunder. Among its other powers, said Board of Directors shall have the authority to make special and/or annual assessments against the real property and dwellings of the owners in order to obtain the means required to maintain the common areas and to carry out such projects for Bois d'Arc as the Board of Directors deems necessary. Such assessments will be made on a per platted lot basis with one share per lot. Said assessments when made shall constitute a valid lien on the real property benefited thereby to the extent of said assessment, and if not paid when due, the real property shall be subject to foreclosure.

WITNESS our hands and seals on this 25 day of NOVEMBER, 1998.

By: Julian P. W. Archer and
Jane G. Archer



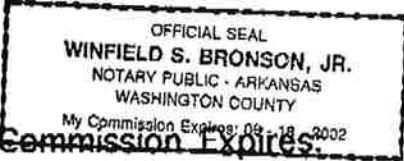
ACKNOWLEDGMENT

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STATE OF ARKANSAS
COUNTY OF WASHINGTON

Now on this 25 day of NOVEMBER, 1998, personally appeared before me, a Notary Public, within and for the State and County aforesaid, duly commissioned and acting, Julian P. W. Archer and Jane G. Archer stated that they had executed the above and foregoing instrument for the purposes therein contained

WITNESS my hand and official seal on the day first herein above written.



Winfield S. Bronson, Jr.
Notary Public

My ~~Commission Expires:~~

Filed for Record:

Recorded in:



Real Estate Contract (Lots and Acreage)

Page 9 of 11

Form Serial Number: 072245-000133-1152934

20. OTHER:**Buyer and Seller hereby agree to the following:**

1. Seller shall apply for (3) lots to be created on the property. Lot split to be approved on the property by Governing bodies. Buyer and seller to mutually agree on Covenants and deed.
2. Seller shall record protective covenants and restrictions on the property similar to those attached as "Bois D'Arc Subdivision". Buyer and Seller to mutually agree on covenants. The Sellers shall retain the POA architectural design committee rights to approve houses as per covenants.
3. The Buyer shall have the right to build homes with a 15 feet rear lot line set back. Seller agrees to such give Buyers this variance.
4. Seller agrees to give Buyers an additional 15 more feet of property as located on the South or rear side. This shall be included in final survey with acreage description and shall be deeded to Buyer at closing.
5. Buyer agrees to close on this property within 5 business days following full governmental approval of the lot split.
6. Buyer agrees to incur any costs required by governing bodies on lot split such as sidewalk.

21. LEAD-BASED PAINT RISK ASSESSMENT/INSPECTION:

- A. Buyer understands and agrees that, according to the best information available, improvements on this Property were not constructed prior to 1978 and should not contain lead-based paint hazards.
- B. Buyer has been informed that the Property, including without limitation garages, tool sheds, other outbuildings, fences, signs and mechanical equipment on the Property that were constructed prior to 1978, may contain lead-based paint. Seller will provide the Lead-Based Paint Disclosure (pre-1978 construction) within three (3) business days after acceptance of this Real Estate Contract. The obligation of Buyer under this Real Estate Contract is contingent upon Buyer's acceptance of the Lead-Based Paint Disclosure provided by Seller and an Inspection and/or Risk Assessment of the Property for the presence of lead-based paint and/or lead-based paint hazards obtained at Buyer's expense. If Buyer finds either the Lead-Based Paint Disclosure or the Inspection and/or Risk Assessment unsatisfactory, in the sole discretion of Buyer, within ten (10) calendar days after receipt by Buyer of the Lead-Based Paint Disclosure, Buyer shall have the absolute option to unilaterally terminate this Real Estate Contract with all Earnest Money (if any) returned to Buyer and, neither Buyer nor Seller having further obligation to the other thereafter. Buyer may remove this contingency and waive the unilateral termination right at any time without cause by written General Addendum signed by Buyer and delivered to Seller. If Buyer does not deliver to Seller or Listing Firm a Termination of Real Estate Contract Addendum terminating this Real Estate Contract within the ten (10) calendar days after receipt by Buyer of the Lead-Based Paint Disclosure, this contingency shall be deemed waived and Buyer's performance under this Real Estate Contract shall thereafter not be conditioned on Buyer's satisfaction with the Lead-Based Paint Inspection and/or Risk Assessment of the Property.

Buyer has been advised of Buyer's rights under this Paragraph 21.



PC Meeting of April 23, 2012

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Jesse Fulcher, Current Planner
THRU: Jeremy Pate, Development Services Director
DATE: ~~April 19, 2012~~ Updated April 26, 2012

RZN 12-4077: Rezone (HALSELL ROAD/PRATT PLACE INN, 481): Submitted by BATES AND ASSOCIATES for property located on HALSELL ROAD. The property is zoned C-PZD, COMMERCIAL PLANNED ZONING DISTRICT (PRATT PLACE INN) and contains approximately 2.37 acres. The request is to rezone a portion of the Pratt Place Inn property to RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE. Planner: Jesse Fulcher

BACKGROUND:

Property Description: The property is zoned Commercial Planned Zoning District (CPZD) and contains approximately 2.37 acres. Staff is reviewing a property line adjustment that will create the lot configuration being rezoned. The site is undeveloped with access to Halsell Road and is within the Hillside/Hilltop Overlay District. The property is part of an approximately 72-acre property know as Pratt Place Inn located at the top of Markham Road.

The City Council rezoned the property to C-PZD in 2005 (Ord. No. 4786) to allow the property owners to operate an inn and restaurant, activities hall and parking lot for social events such as weddings and receptions. The CPZD approval also included a maximum of four residential dwelling units, three existing residences and one proposed innkeeper's residence. Surrounding land use is listed in Table 1.

**Table 1
Surrounding Zoning and Land Use**

Direction from Site	Land Use	Zoning
North	Single family residential	RSF-4, Residential Single-Family
South	Undeveloped	C-PZD Pratt Place
East	Single family residential	RSF-4, Residential Single-Family
West	Undeveloped/Pratt Place parking	C-PZD Pratt Place

Proposal: The request is to rezone 2.37 acres of the property from C-PZD to RSF- 4, Residential Single Family Four Units per Acre. This will allow the applicant to split and develop single-family homes on the property, currently prohibited by the Planned Zoning District zoning.

Public Comment: Staff has received questions from a property owner in the area.

RECOMMENDATION:

Staff recommends forwarding RZN 12-4077 to the City Council with a recommendation for approval based on findings stated herein.

PLANNING COMMISSION ACTION:			
Date: <u>April 23, 2012</u>	<input type="checkbox"/> Tabled	<input type="checkbox"/> Forwarded	<input checked="" type="checkbox"/> Denied
Motion: Cabe			
Second: Noble			
Vote: 2-6-0 (Motion to forward failed)			
Note:			
CITY COUNCIL ACTION:			
	<input type="checkbox"/> Approved	<input type="checkbox"/> Denied	
Date: <u>May 15, 2012</u>			

INFRASTRUCTURE:

Streets: The site has access to Halsell Road. Halsell Road is an unimproved two lane residential city street. Street improvements will be evaluated at the time of development.

Water: Public water is available to the property. The 8” water main at the northwest corner switches to a 2” line along the north side of the property. Public water main improvements will need to be extended through the property to provide domestic and fire flow for any proposed development

Sewer: Sanitary sewer is available to the site. There is an 8” main at the northeast corner of the site. Public sewer main improvements may need to be extended through the property at the time of development.

Drainage: Standard improvements and requirements for drainage will be required for any development. This property is not affected by the 100-year floodplain and the

Streamside Protection Zones

Police: The Fayetteville Police Department has not expressed concerns with this request.

Fire: The Fayetteville Fire Department has not expressed concerns with this request.

CITY PLAN 2030 FUTURE LAND USE PLAN: *City Plan 2030 Future Land Use Plan designates a majority of this site as **Rural Residential Area**. These areas recognize existing low-density, large lot residential development, but are identified to encourage the conservation and preservation of woodlands, grasslands and agricultural lands that are sparsely settled.*

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: **Staff finds the proposal for low-density residential development to be consistent with the rural residential land use designation. Generally, this designation is limited to outlying properties that lack adequate street and water infrastructure or public services such as police and fire. However, there are a few properties closer to the center of the city where low density development is encouraged to preserve woodlands, grasslands or agricultural lands, despite having adequate public infrastructure to support higher density development. This piece of the “Markham Hill” property is heavily wooded and located in the Hillside/Hilltop Overlay District, restricting development potential. However, it is in a residential setting along Halsell Road that supports a standard subdivision development pattern.**

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

Finding: **The current zoning of the property, C-PZD, prohibits any future development on the approximately 72-acre property. The proposed rezoning will allow a 2.37 acre section along Halsell Road to be developed for single-family homes.**

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

Finding: **The property is currently undeveloped, so any new development will increase traffic on surrounding streets. However, the size of the site and density will limit the number of houses and corresponding traffic, such that there won't be an increase in traffic danger or congestion.**

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: As noted in Finding #3, the size of the property and density limits the development potential of the site, and in staff's opinion, future development will not undesirably increase the load on public services. Comments from the Engineering and Police Departments are included.

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

161.07 District RSF-4, Residential Single-Family – Four Units Per Acre

(A) *Purpose.* The RSF-4 Residential District is designed to permit and encourage the development of low density detached dwellings in suitable environments, as well as to protect existing development of these types.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 41	Accessory dwellings

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 9	Two-family dwellings
Unit 12	Limited business
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

	Single-family dwellings	Two-family dwellings
Units per acre	4 or less	7 or less

(D) *Bulk and area regulations.*

	Single-family dwellings	Two-family dwellings
Lot minimum width	70 ft.	80 ft.
Lot area minimum	8,000 sq. ft.	12,000 sq.-ft.
Land area per dwelling unit	8,000 sq. ft.	6,000 sq. ft.
Hillside Overlay District Lot minimum width	60 ft.	70 ft.
Hillside Overlay District Lot area minimum	8,000 sq. ft.	12,000 sq.-ft.
Land area per dwelling unit	8,000 sq. ft.	6,000 sq. ft.

(E) *Setback requirements.*

Front	Side	Rear
15 ft.	5 ft.	15 ft.

(F) *Building height regulations.*

Building Height Maximum	45 ft.
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Height regulations. Structures in this District are limited to a building height of 45 feet. Existing structures that exceed 45 feet in height shall be grandfathered in, and not considered nonconforming uses, (ord. # 4858).

(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot. (Code 1991, §160.031; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 4858, 4-18-06; Ord. 5028, 6-19-07; Ord. 5128, 4-15-08; Ord. 5224, 3-3-09; Ord. 5312, 4-20-10)

Date 4/3/12

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for comments on the proposed RZN 12-4077 (Halsell Road / Pratt Place Inn, 481) submitted by Bates and Associates for property located on Halsell Road.

It is the opinion of the Fayetteville Police Department that this RZN will not substantially alter the population density, and will not create an appreciable or undesirable increase in the load on police services. This RZN will create an increase in traffic danger and congestion on the narrow two lane residential streets in the area. There are no sidewalks on the north or south side of the roadway in the planned area. A sidewalk is needed for pedestrians due to the increased automobile traffic from this RZN.

Sincerely,

Captain William Brown
Fayetteville Police Department



Bates & Associates, Inc.

Civil Engineering & Surveying

91 W. Colt Square Dr./ Fayetteville, AR 72703
PH: 479-442-9350 * FAX: 479-521-9350
www.nwabatesinc.com

To Whom It May Concern:

Our client, Julian Archer is proposing a Property Line Adjustment within the City of Fayetteville. The subject properties are located on Halsell and Markham Roads and contain approximately 7.81 total acres. Our client would like to adjust the parcels in a way to create a 2.37 acre parcel along Halsell road for rezoning and future development. The current zoning for the property is CPZD. We have previously submitted a Rezoning application to Rezone the 2.37 acre parcel to RSF-4. If you have any questions please feel free to contact us.

Sincerely,

A handwritten signature in black ink, appearing to read 'Derrick Thomas PLS', written in a cursive style.

Derrick Thomas PLS



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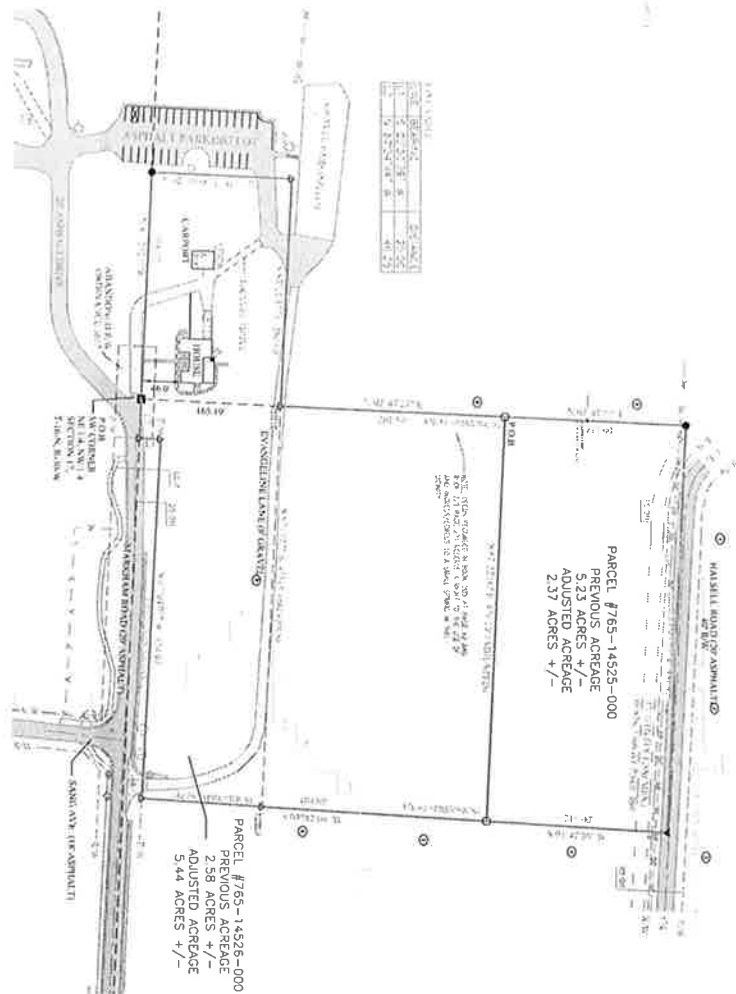
3/14/2012

RE: JULIAN ARCHER REZONE- PART OF PARCEL #765-14525-000

PROPERTY TO BE REZONED:

A PART OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 17, TOWNSHIP 16 NORTH, RANGE 30 WEST, WASHINGTON COUNTY ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT WHICH IS N02°47'27"E 426.73' FROM AN EXISTING ALUMINUM MONUMENT MARKING THE SOUTHWEST CORNER OF SAID FORTY ACRE TRACT AND RUNNING THENCE N02°47'27"E 215.00' TO AN EXISTING REBAR, THENCE S87°21'57"E 481.92' TO AN EXISTING P/K NAIL, THENCE S03°47'10"W 215.00', THENCE N87°22'16"W 478.19' TO THE POINT OF BEGINNING, CONTAINING 2.37 ACRES MORE OR LESS.

PROPERTY LINE ADJUSTMENT



THE PROPERTY LINE ADJUSTMENT IS BASED UPON THE RECORD SURVEY OF PARCEL #765-14525-000 AND PARCEL #765-14528-000, BOTH OF WHICH ARE PART OF THE TRACT DESCRIBED AS FOLLOWS: [Detailed description of the tract, including acreage and location details.]

THE PROPERTY LINE ADJUSTMENT IS BASED UPON THE RECORD SURVEY OF PARCEL #765-14525-000 AND PARCEL #765-14528-000, BOTH OF WHICH ARE PART OF THE TRACT DESCRIBED AS FOLLOWS: [Detailed description of the tract, including acreage and location details.]

THE PROPERTY LINE ADJUSTMENT IS BASED UPON THE RECORD SURVEY OF PARCEL #765-14525-000 AND PARCEL #765-14528-000, BOTH OF WHICH ARE PART OF THE TRACT DESCRIBED AS FOLLOWS: [Detailed description of the tract, including acreage and location details.]



LEGEND:

Symbol	Description
Circle with dot	Survey Station
Solid line	Property Line
Dashed line	Boundary Line
Line with cross-ticks	Utility Line
Line with dots	Other Utility Line



DATE	12/15/24
SCALE	1" = 100'
DRAWN BY	JULIAN ARCHER
CHECKED BY	JULIAN ARCHER
PROJECT NO.	2024-001

Bates & Associates, Inc.
 CAD/CADD & Land Surveying
 1000 N. Main Street, Suite 100, Fayetteville, Arkansas 72701
 Phone: (479) 326-1234
 Fax: (479) 326-5678
 Website: www.batesandassociates.com

FOR THE DESIGNER:
 JULIAN ARCHER
 PROFESSIONAL SURVEYOR
 LICENSE NO. 12345



Subject Property

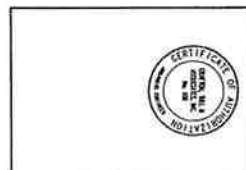


Drawn By T/F	Job Number 05194-01
Checked By L.VASO	Customer Project 1.VASO
Scale AUGUST 2005	Sheet Number 3

PRATT PLACE INN
MIXED USE DEVELOPMENT
FAYETTEVILLE, ARKANSAS

Crafton, Tull & Associates, Inc.
901 N. 47th Street, Suite 200, Rogers, AR 72716
479.638.4838 FAX: 479.631.6224 www.craftontull.com

Architects, Engineers & Surveyors



Planning Area 2 & 3

Permitted Use	Conditional Use	Type of Use
Unit 1		City-wide uses by right
	Unit 4	Cultural & Recreational facilities
Unit 6		Agriculture

(B) *Density/Intensity*

Planning Area	Density (dwelling units)	Intensity (square feet nonresidential)
1	<p>→ Maximum 4 dwelling units Oak Cabin (existing) 2248 W. Markham Tower House (existing) 109 N. Sang Innkeeper House (proposed) 2230 W. Markham Archer Log House (existing) 2115 W. Markham <i>Inn, maximum 4 new rental cabins do not count toward density, as these are not to be utilized as residences</i></p>	<p>Maximum 33,340 SF Inn: 18,900 SF (proposed) Barn: 6,300 SF (existing) Two-stall barn: 340 SF English Cottage (existing): 1,800 SF Max. 4 cabins: 6,000 SF (1500 SF each proposed, with removal of existing cabins)</p>
2	No dwelling units permitted	Any structure size permitted to be determined by Conditional Use Permit, if requested (Planning Commission)
3	No dwelling units permitted	Any structure size permitted to be determined by Conditional Use Permit, if requested (Planning Commission)

(C) *Bulk and area regulations.*

Planning Area	Lot width minimum	Lot area minimum	Land area per dwelling unit
1	200 feet (frontage onto a public street)	1 acres	1 acre
2	N/A	3.57 acres	No dwellings permitted
3	N/A	4.18 acres	No dwellings permitted

(D) *Setback requirements.*

Planning Area	Front	Side	Rear
1	50 feet	10 feet	20 feet
2	50 feet	10 feet	20 feet
3	50 feet	10 feet	20 feet

(E) *Height.* Maximum height for all structures.

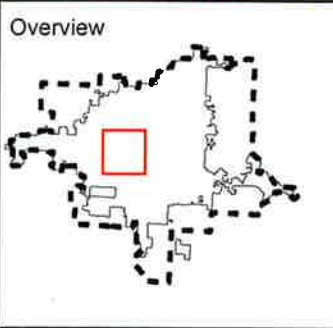
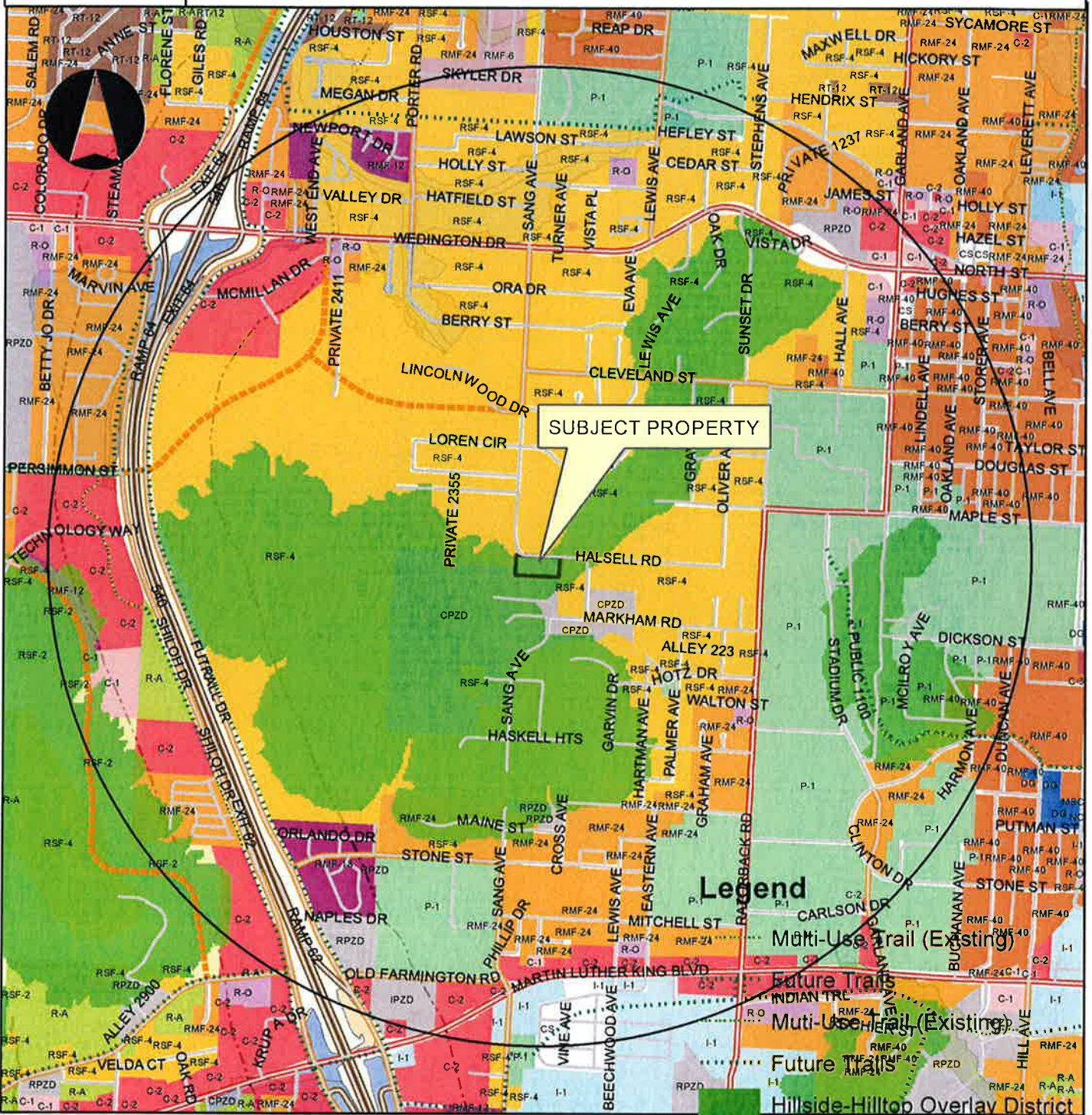
Planning Area	Height
1	60 feet
2	50 feet
3	50 feet

(F) *Building area.* In any Planning Area the area occupied by all buildings shall not exceed 25% of the total lot area.

RZN12-4077

HALSELL ROAD/PRAATT PLACE INN

One Mile View



<p>Legend</p> <p>Subject Property</p> <p>RZN12-4077</p>	<p>Boundary</p>	<p>RZN12-4077</p> <p>Design Overlay District</p> <p>Planning Area</p> <p>Fayetteville</p>
<p>0 0.25 0.5</p>		<p>1</p> <p>Miles</p>

RZN12-4077

PRATT PLACE INN

Close Up View



SANG AVE

RSF-4

SUBJECT PROPERTY

HALSELL RD

CROSS AVE

CPZD

EVANGELINE LN

MARKHAM RD

SANG AVE


Legend

 Fayetteville City Limits


 Overview RZN12-4077

 Footprints 2010

 Hillside-Hilltop Overlay District

 Design Overlay District

 Design Overlay District

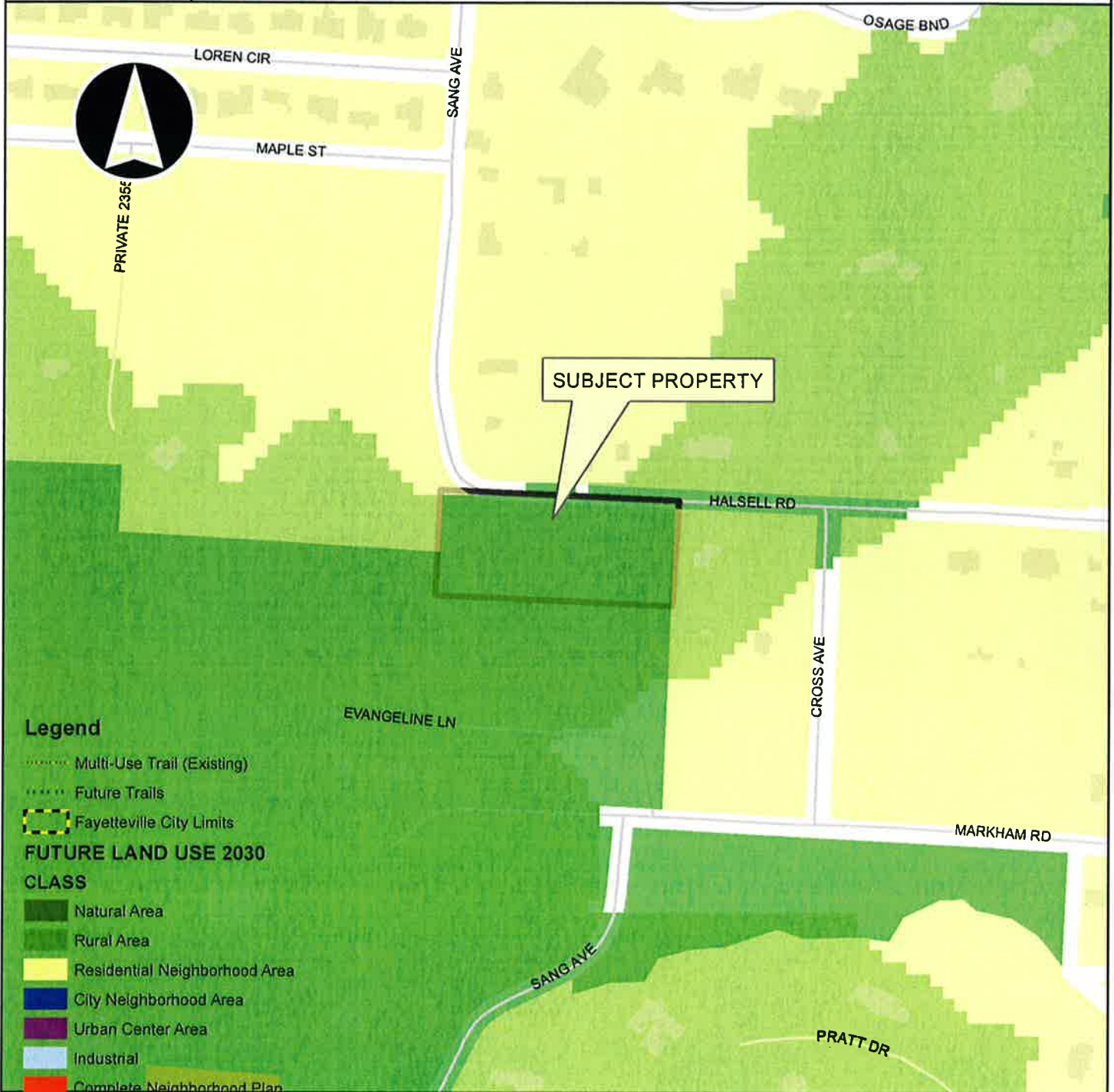
 Planning Area



RZN12-4077

HALSELL ROAD/PRATT PLACE INN

Future Land Use



Legend

- Multi-Use Trail (Existing)
- Future Trails

Fayetteville City Limits

FUTURE LAND USE 2030

CLASS

- Natural Area
- Rural Area
- Residential Neighborhood Area
- City Neighborhood Area
- Urban Center Area
- Industrial
- Complete Neighborhood Plan

Civic and Private Open Space/Parks

Civic Institutional

Non-Municipal Government

ROW

RZN12-4077

Design Overlay District

Design Overlay District

Planning Area



