

**City Council Agenda Items
and
Contracts, Leases or Agreements**

9/17/2013

City Council Meeting Date
Agenda Items Only

Quin Thompson
Submitted By

Planning
Division

Development Services
Department

Action Required:

RZN 13-4461: Rezone (123 E. CLEBURN ST./STOVER, 446): Submitted by ELIZABETH STOVER for property located at 123 E. CLEBURN STREET. The property is zoned C-2, THOROUGHFARE COMMERCIAL, and contains approximately 0.20 acres. The request is rezone the property to DG, DOWNTOWN GENERAL.

Cost of this request	\$ -	Category / Project Budget	Program Category / Project Name
Account Number	\$ -	Funds Used to Date	Program / Project Category Name
Project Number	\$ -	Remaining Balance	Fund Name

Budgeted Item

Budget Adjustment Attached

[Signature]
Department Director 08-29-2013
Date

Previous Ordinance or Resolution # _____

[Signature]
City Attorney 8-29-13
Date

Original Contract Date: _____

Original Contract Number: _____

Paul A. Becher
Finance and Internal Services Director 8-29-2013
Date

Received in City Clerk's Office

[Signature]

[Signature]
Chief of Staff 8-30-13
Date


Received in Mayor's Office

[Signature]

[Signature]
Mayor 8/30/13
Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor Jordan, City Council
Thru: Don Marr, Chief of Staff
Jeremy Pate, Development Services Director 
From: Quin Thompson, Current Planner
Date: August 28, 2013
Subject: RZN 13-4461: Rezone (123 E CLEBURN / STOVER)

RECOMMENDATION: Staff and the Planning Commission recommend approval of an ordinance to rezone the subject property, consisting of a single parcel containing approximately 0.20 acres and located at 123 E Cleburn Street.

BACKGROUND: The subject property is located east of North College Avenue at 123 E Cleburn Street. The property contains one single-family residence constructed circa 1915. The single-family use of the property pre-dates the current C-2 zoning by some 50 years approximately. Single-family residential use is not allowed within the C-2 zoning district, therefore the existing use of the property does not conform with the current zoning.

The applicant has requested that the property be rezoned from C-2, Thoroughfare Commercial to DG, Downtown General. DG zoning would bring the residence into compliance and provide more development options for this property than the current C-2 zoning, while providing transition between existing commercial and residential uses.

CITY PLAN 2030 FUTURE LAND USE MAP: *City Plan 2030 Future Land Use Plan designates this site as Residential Neighborhood Area, which is almost exclusively residential in nature, but incorporates low-intensity non-residential uses primarily at corner location and along connecting corridors.*

COMPATIBILITY: Staff feels that the requested zoning is appropriate for this property in that it would eliminate an existing non-conforming use, and would encourage appropriate transition from existing commercial uses on College Avenue to the surrounding single-family neighborhood, should the property ever be redeveloped in the future. The DG zone limits commercial activities currently allowed under the C-2 zoning. Staff feels that the size of this lot will serve to limit the scale of any future residential development on the property.

DISCUSSION: This item was heard at the Planning Commission meeting of August 26, 2013. There was no public comment. Staff recommended in favor of the proposed zoning. The Planning Commission voted 7-0-0 to support the rezoning request.

BUDGET IMPACT: None.

ORDINANCE NO.

AN ORDINANCE REZONING THE PROPERTY DESCRIBED
IN REZONING PETITION RZN 13-4461, FOR
APPROXIMATELY 0.20 ACRES, LOCATED AT 123 E
CLEBURN STREET FROM C-2, THOROUGHFARE
COMMERCIAL, TO DG, DOWNTOWN GENERAL.

**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 properties from C-2, Thoroughfare Commercial to DG, Downtown General 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 changes provided in Section 1.

PASSED and APPROVED this day of , 2013.

APPROVED:

ATTEST:

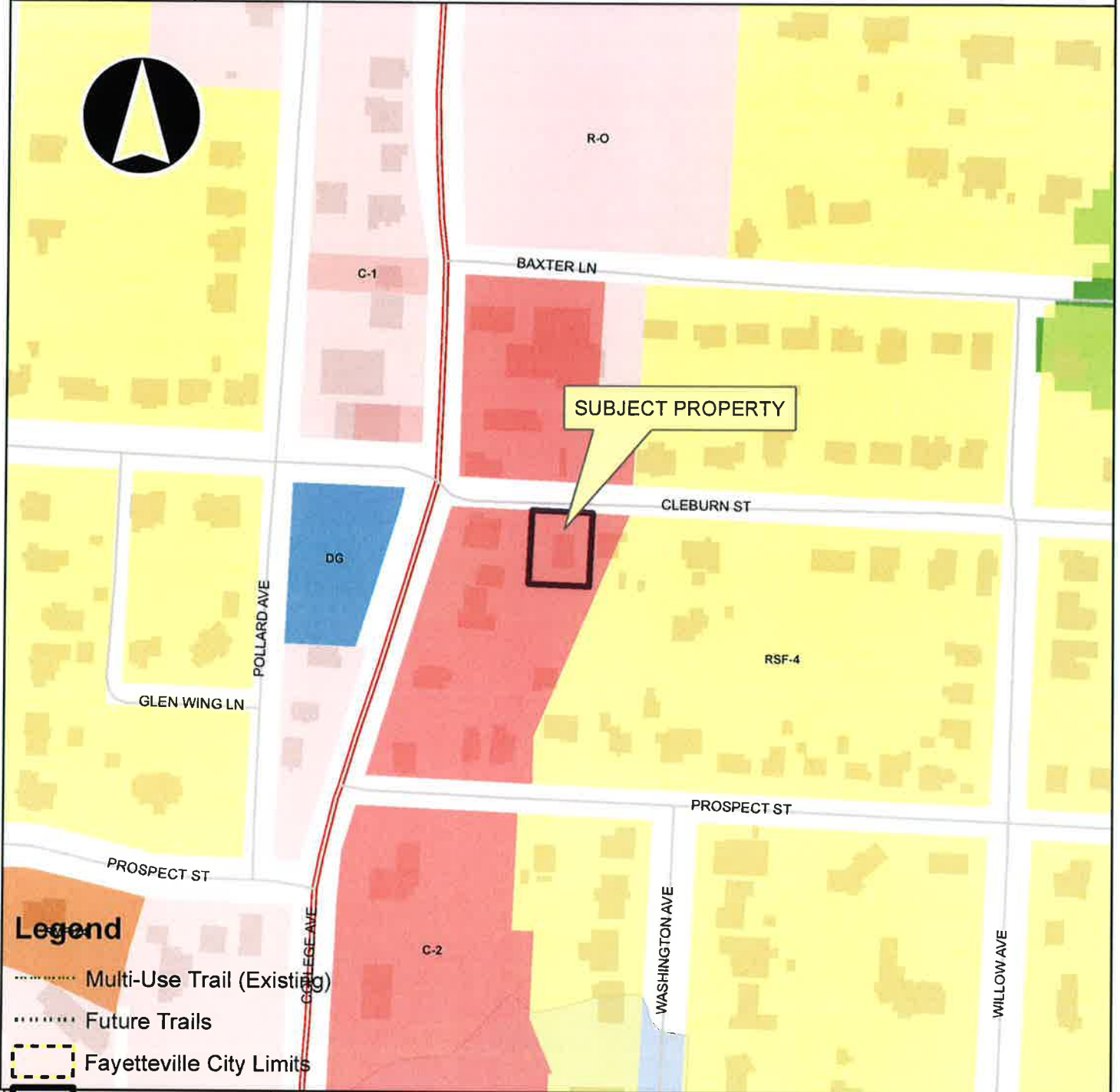
By: _____
LIONELD JORDAN, Mayor

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

RZN13-4461

EXHIBIT "A"

Close Up View



Legend

- Multi-Use Trail (Existing)
- Future Trails
- Fayetteville City Limits

Overview

- RZN13-4461
- Footprints 2010
- Hillside-Hilltop Overlay District
- Design Overlay District
- Design Overlay District
- Planning Area

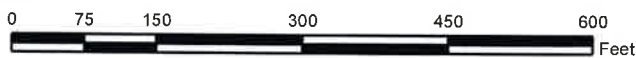


EXHIBIT "B"
RZN 13-4461

Part of the Northwest Quarter of the Southwest Quarter of Section Ten (10) in Township Sixteen (16) North of Range Thirty (30) West, described as follows: Beginning at a point which is four hundred sixty nine (469) feet North and Two hundred sixty seven (267) feet East of the Southwest corner of said forty acre tract, and running, thence North one hundred (100) feet to an iron pin; thence East eighty one (81) feet to an iron pin, thence South one hundred (100) feet to an iron pin; thence West eighty one (81) feet to a point of beginning, being a part of Block Numbered Eight (8) in the County Court Plat of said forty acre tract (sometimes called Davidson's Second Addition)



PC Meeting of August 26, 2013

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Quin Thompson, Current Planner
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate, Development Services Director
DATE: ~~August 20, 2013~~ UPDATED August 28, 2013

RZN 13-4461: Rezone (123 E. CLEBURN ST./STOVER, 446): Submitted by ELIZABETH STOVER for property located at 123 E. CLEBURN STREET. The property is zoned C-2, THOROUGHFARE COMMERCIAL, and contains approximately 0.20 acres. The request is rezone the property to DG, DOWNTOWN GENERAL.

Planner: Quin Thompson

BACKGROUND:

The subject property is located at 123 E. Cleburn Street and contains an existing single family residence on approximately 0.20 acres. The home was constructed in 1915. Surrounding land uses are shown in Table 1.

Table 1: Surrounding Land Use and Zoning

Direction from Site	Land Use	Zoning
North	Single family/ Commercial	C-2, Thoroughfare Commercial
South	Single family/ Commercial	C-2, Thoroughfare Commercial
East	Single-family residential	RSF-4, Residential Single Family Four Units Per Acre
West	Commercial	C-2, Thoroughfare Commercial

Proposal: The applicant has submitted an application to rezone the property from C-2, Thoroughfare Commercial to DG, Downtown General. The applicant has indicated that there is no intention to change the current use of the property at this time, but the DG zoning would bring the residence into compliance and provide more options for this property than the current C-2 zoning.

Public Comment: Staff has not received public comment.

PLANNING COMMISSION ACTION: Required YES

Date: August 26, 2013 Tabled Forwarded Denied

Motion: CHESSER Second: HOSKINS Vote: 7-0-0

CITY COUNCIL ACTION: Required YES
 Approved Denied

Date:

RECOMMENDATION:

Staff recommends **approval** of **RZN 13-4461** based on findings stated herein.

INFRASTRUCTURE:

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

Water: Public water is available to the property. There is an 8” water main along
Cleburn Street on the north side of this property.

Sewer: Sanitary sewer is available to the site. There is a 6” sewer main on the south side
of this property. The capacity of the existing main will need to be evaluated at
the time of development of this property.

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

Police: The Fayetteville Police Department has not objected to this request.

Fire: This development will be protected by Fire Station 1 located at 303 W. Center.
It is 3 miles from the station with an anticipated response time of 4 minutes to this
location. The Fayetteville Fire Department does not feel this development will
affect our calls for service or our response times.

CITY PLAN 2030 FUTURE LAND USE PLAN: *City Plan 2030 Future Land Use Plan designates this site as **Residential Neighborhood Area**, which is almost exclusively residential in nature, but incorporates low-intensity non-residential uses primarily at corner location and along connecting corridors.*

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: The proposed rezoning is consistent with current land use planning objectives and policies. The property is designated Residential Neighborhood Area on the Future Land Use Plan and is currently zoned C-2, Thoroughfare Commercial. C-2 is the zone allowing the most intense commercial use available under the Unified Development Code. The proposed zoning designation is compatible with the Future Land Use plan; the DG zone can be a transitional zone that allows for lower intensity commercial activity, and also allows the current use, single-family residential, by right.

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

Finding: The property is currently zoned C-2, which is inconsistent with the current single-family residential use. The proposed zoning will eliminate an existing non-conforming land-use condition and is consistent with the City Plan 2030 Future Land Use Map. There is adequate justification to rezone this property to DG at this time.

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

Finding: Rezoning the property from C-2 to DG will not increase traffic danger or congestion. In fact, the re-zone would reduce future potential for traffic by limiting the intensity of potential commercial activity should the property be redeveloped.

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 substantially alter the population density in the area. The property currently contains one single-family residence. Under the proposed zoning the property could be further subdivided into 2 lots, resulting in a slight increase in density, allowing up to 2 three-family residences if the lot were to be split, but this still would not appreciably alter population density of the area. Increased load on public services were taken into consideration and recommendations from Engineering, Fire, and Police Departments are included

in this report. Staff does not anticipate any adverse impacts to provision of public services that would result from this rezoning.

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;

Finding: It is practical to use the land for the permitted uses under the existing zoning, however, in staff's opinion this could have an adverse impact on surrounding single-family homes.

- 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

161.20 District C-2, Thoroughfare Commercial

(A) *Purpose.* The Thoroughfare Commercial District is designed especially to encourage the functional grouping of these commercial enterprises catering primarily to highway travelers.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government Facilities
Unit 13	Eating places
Unit 14	Hotel, motel, and amusement facilities
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 20	Commercial recreation, large sites
Unit 25	Offices, studios, and related services
Unit 33	Adult live entertainment club or bar
Unit 34	Liquor store

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 21	Warehousing and wholesale
Unit 28	Center for collecting recyclable materials
Unit 29	Dance Halls
Unit 32	Sexually oriented business
Unit 35	Outdoor music establishments
Unit 36	Wireless communications facilities
Unit 38	Mini-storage units
Unit 40	Sidewalk Cafes
Unit 42	Clean technologies
Unit 43	Animal boarding and training

(C) *Density.* None.

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

(E) *Setback regulations.*

Front	15 ft.
Front, if parking is allowed between the right-of-way and the building	50 ft.
Side	None
Side, when contiguous to a residential district	15 ft.
Rear	20 ft.

(F) *Building height regulations.*

Building Height Maximum	75 ft.*
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*Any building which exceeds the height of 20 feet shall be set back from a boundary line of any residential district a distance of one foot for each foot of height in excess of 20 feet.

(G) *Building area.* On any lot, the area occupied by all buildings shall not exceed 60% of the total area of such lot.

(Code 1965, App. A., Art. 5(VI); Ord. No. 1833, 11-1-71; Ord. No. 2351, 6-2-77; Ord. No. 2603, 2-19-80; Ord. No. 1747, 6-29-70; Code 1991, §160.036; Ord. No. 4034, §3, 4, 4-15-97; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 4727, 7-19-05; Ord. 4992, 3-06-07; Ord. 5028, 6-19-07; Ord. 5195, 11-6-08; Ord. 5312, 4-20-10; Ord. 5339, 8-3-10; 5353, 9-7-10; Ord. 5462, 12-6-11; Ord. 5592, 06-18-13)

161.25 Downtown General

(A) *Purpose.* *Downtown General* is a flexible zone, and it is not limited to the concentrated mix of uses found in the *Downtown Core* or *Main Street / Center*. *Downtown General* includes properties in the neighborhood that are not categorized as identifiable centers, yet are more intense in use than *Neighborhood Conservation*. There is a mixture of single-family homes, rowhouses, apartments, and live/work units. Activities include a flexible and dynamic range of uses, from public open spaces to less intense residential development and businesses. For the purposes of Chapter 96: Noise Control, the *Downtown General* district is a residential zone.

(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-family dwellings
Unit 10	Three-family dwellings
Unit 13	Eating places
Unit 15	Neighborhood shopping goods
Unit 24	Home occupations
Unit 25	Offices, studios, and related services
Unit 26	Multi-family dwellings

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 14	Hotel, motel and amusement services
Unit 16	Shopping goods
Unit 17	Transportation trades and services
Unit 19	Commercial recreation, small sites
Unit 28	Center for collecting recyclable materials
Unit 36	Wireless communication facilities
Unit 40	Sidewalk Cafes

(C) *Density. None*

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Dwelling (all unit types)	18 ft.
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(2) *Lot area minimum. None.*

(E) *Setback regulations.*

Front	A build-to zone that is located between the front property line and a line 25 ft. from the front property line.
Side	None
Rear	5 ft.
Rear, from center line of an alley	12 ft.

(F) *Minimum buildable street frontage. 50% of lot width.*

(G) *Building height regulations.*

Building Height Maximum	56 ft.
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(Ord. 5028, 6-19-07; Ord. 5029, 6-19-07; Ord. 5312, 4-20-10; Ord. 5462, 12-6-11; Ord. 5592, 06-18-13)

The residence for which rezoning is being requested (123 E. Cleburn St, Fayetteville 72701-Parcel #765-04698-000) is owned by Elizabeth Stover, residing at this single family residence. There are no proposed or pending property sales.

The zoning request is being made because the residence is currently in a C-2 zone, but is located on a residential street. All buildings on E. Cleburn are residences, including the one for which rezoning is requested.

A Downtown General designation would be more appropriate for this parcel, since it is a mixed use designation and since all other buildings on E. Cleburn are residences. Land use, traffic, appearance, and signage will be similar to that of surrounding properties. No change to the residence is proposed.

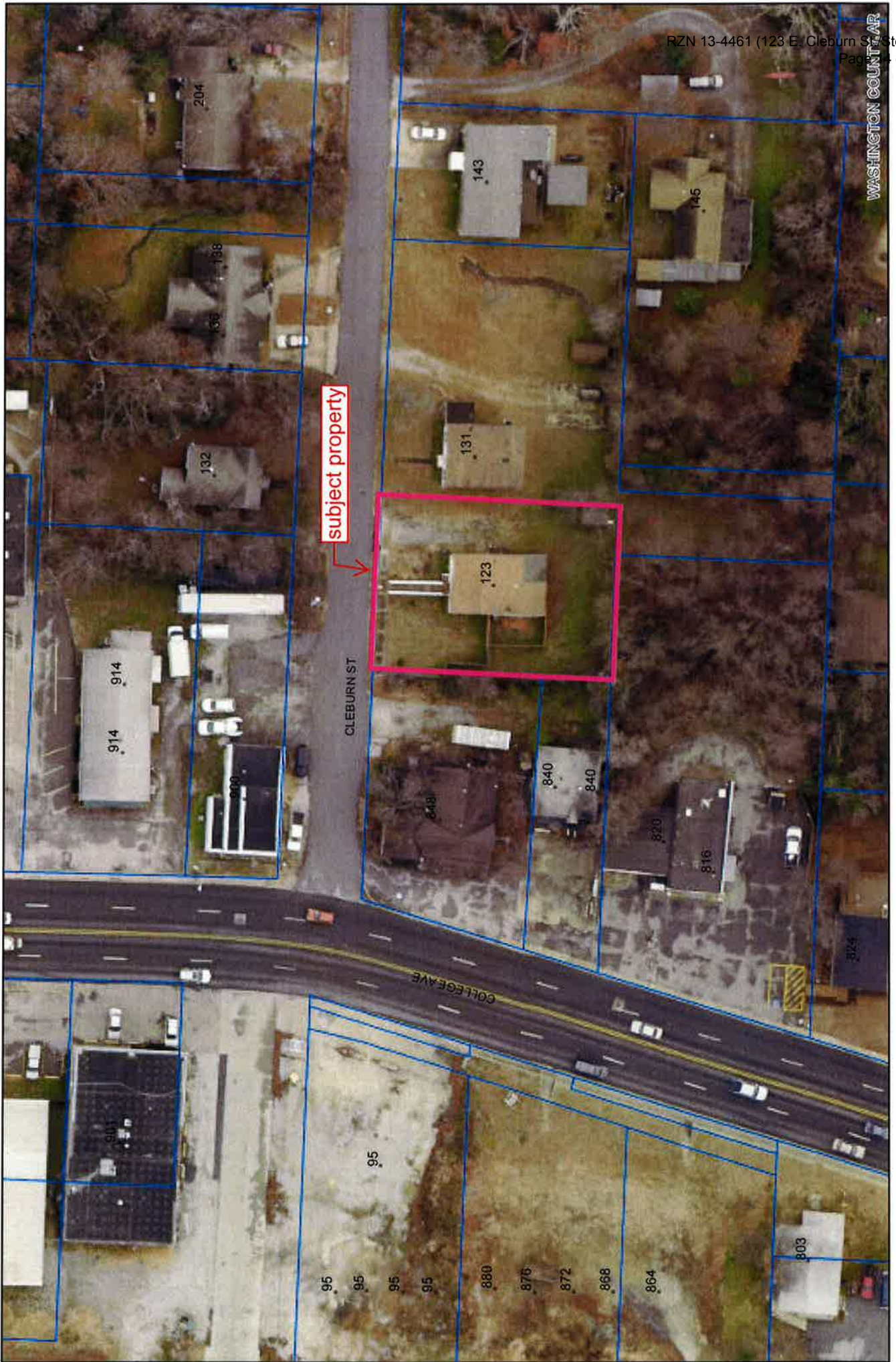
The parcel has city water and sewer services.

The proposed zoning is consistent with land use and zoning plans of the surrounding parcels since there is a mix of commercial and residential zoning nearby. Downtown General is suitable, since it accommodates both residential and business use.

DG zoning is justified since this is a flexible zone and in keeping with both the businesses to the west of this parcel and the residences to the east.

There will be no increase in traffic danger and congestion since this is a downzoning request and no changes are proposed for the current residential use of the property. For the same reason, there will be no increase in the load to public services or population density.

The current C-2 zone does not allow construction of residences. A flexible zoning designation, like Downtown General, that allows residential use, is compatible with the character of the neighborhood, which includes many single family homes, in addition to small businesses.



subject property

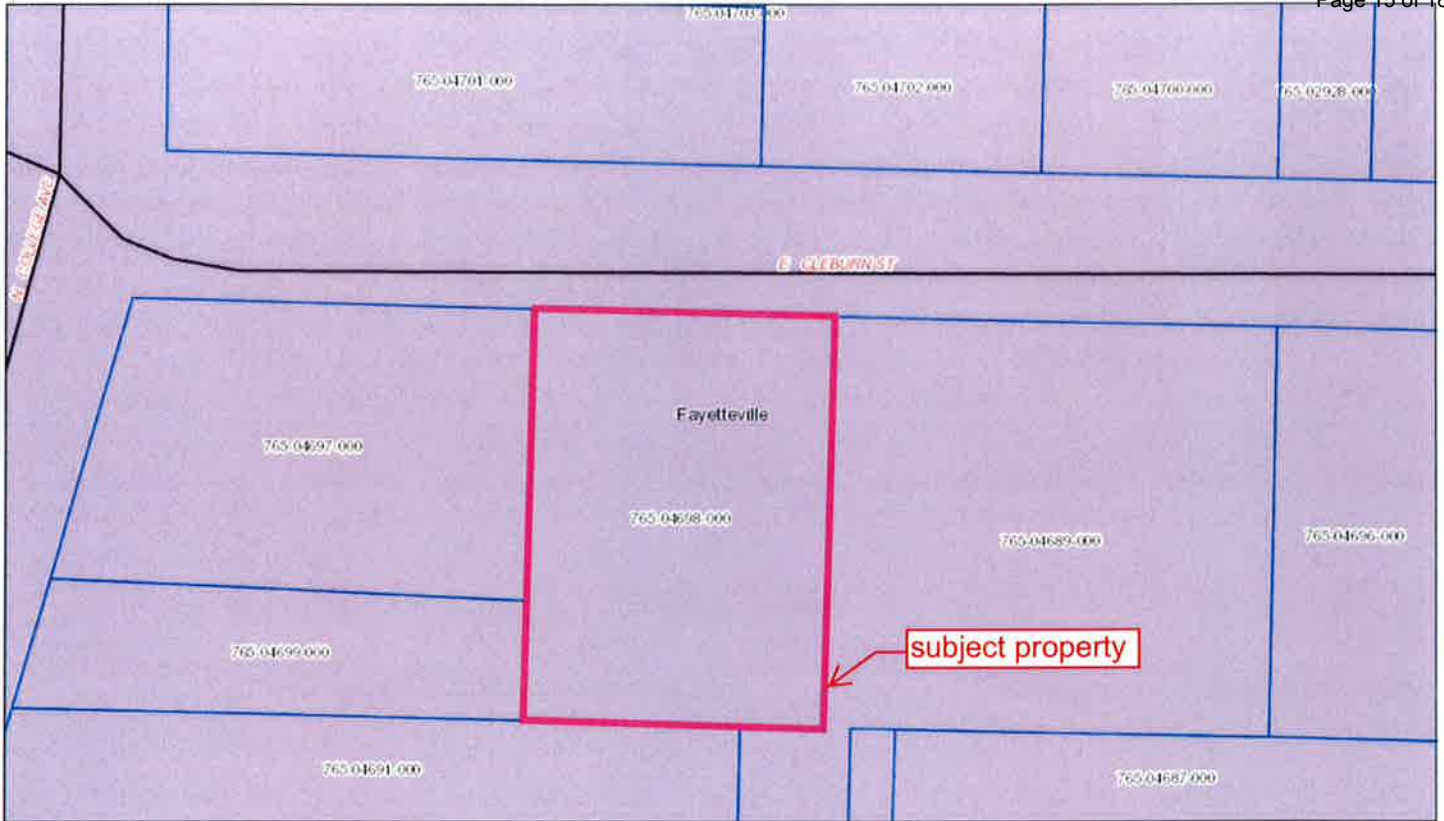
CLEBURN ST

COLLEGE AVE

WASHINGTON COUNTY, AR

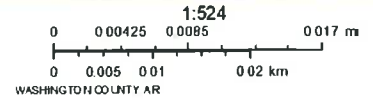


1 inch = 60 feet



July 1, 2013

- Parcel Attributes
- County Parcel Boundaries
- County Parcel Labels
- <all other values>
- State Highway
- Local Paved
- Local Gravel
- Interstate





Zoning Review

To: Quin Thompson
From: Battalion Chief H. Hunt
Date: August 21, 2013
Re: RZN 13-4461 (123 E. Cleburn)

This development will be protected by Fire Station 1 located at 303 W. Center. It is 3 miles from the station with an anticipated response time of 4 minutes to this location.

The Fayetteville Fire Department does not feel this development will affect our calls for service or our response times.

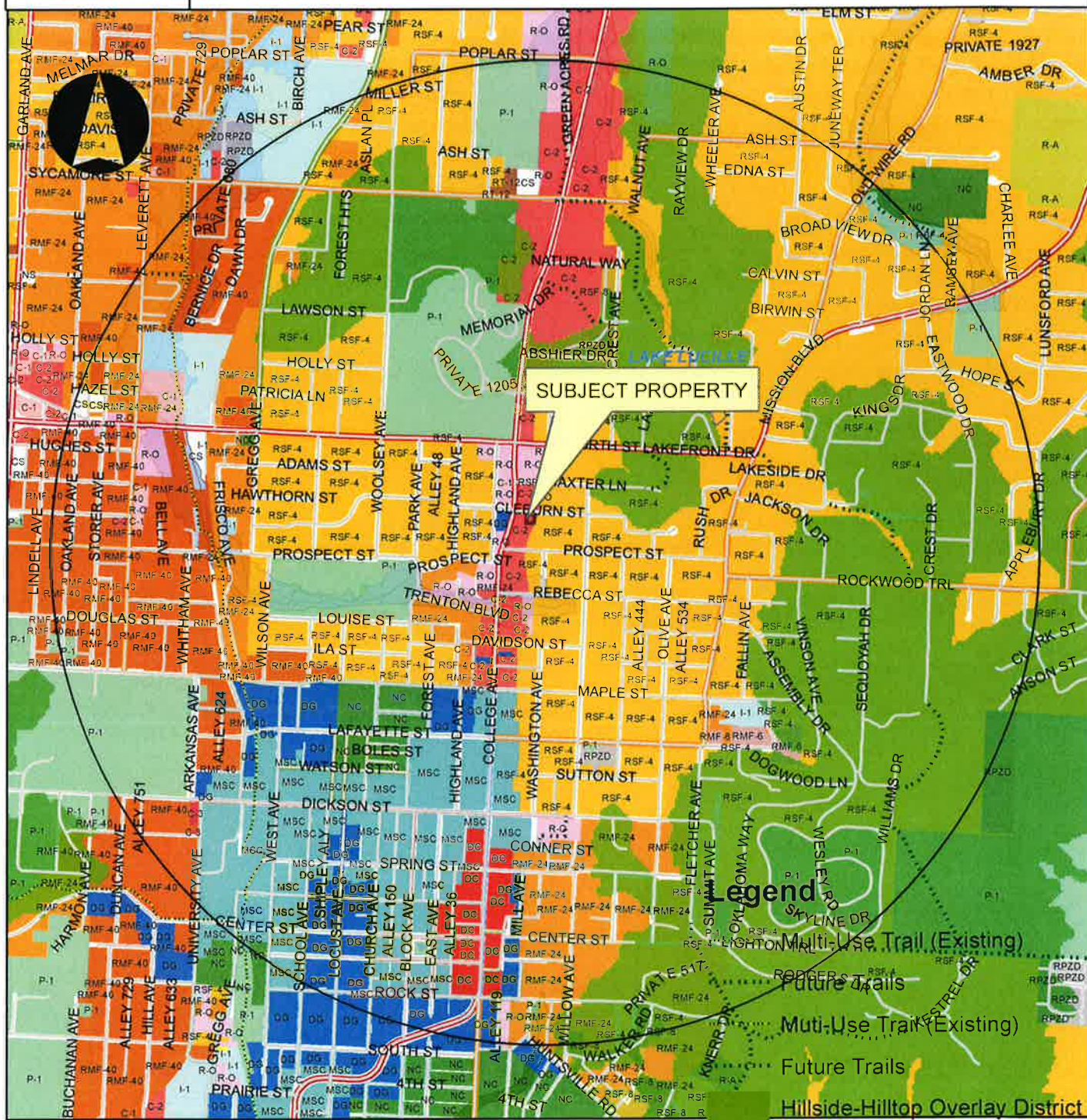
If you have any questions please feel free to contact me.

Battalion Chief H. Hunt
Fire Marshal
479-718-7639

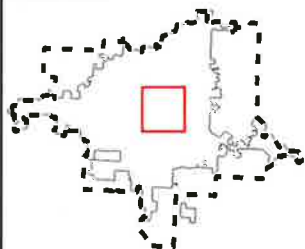
RZN13-4461

STOVER

One Mile View



Overview



Legend

Subject Property

RZN13-4461

Boundary

RZN13-4461

Design Overlay District

Planning Area

Fayetteville

0 0.25 0.5

1

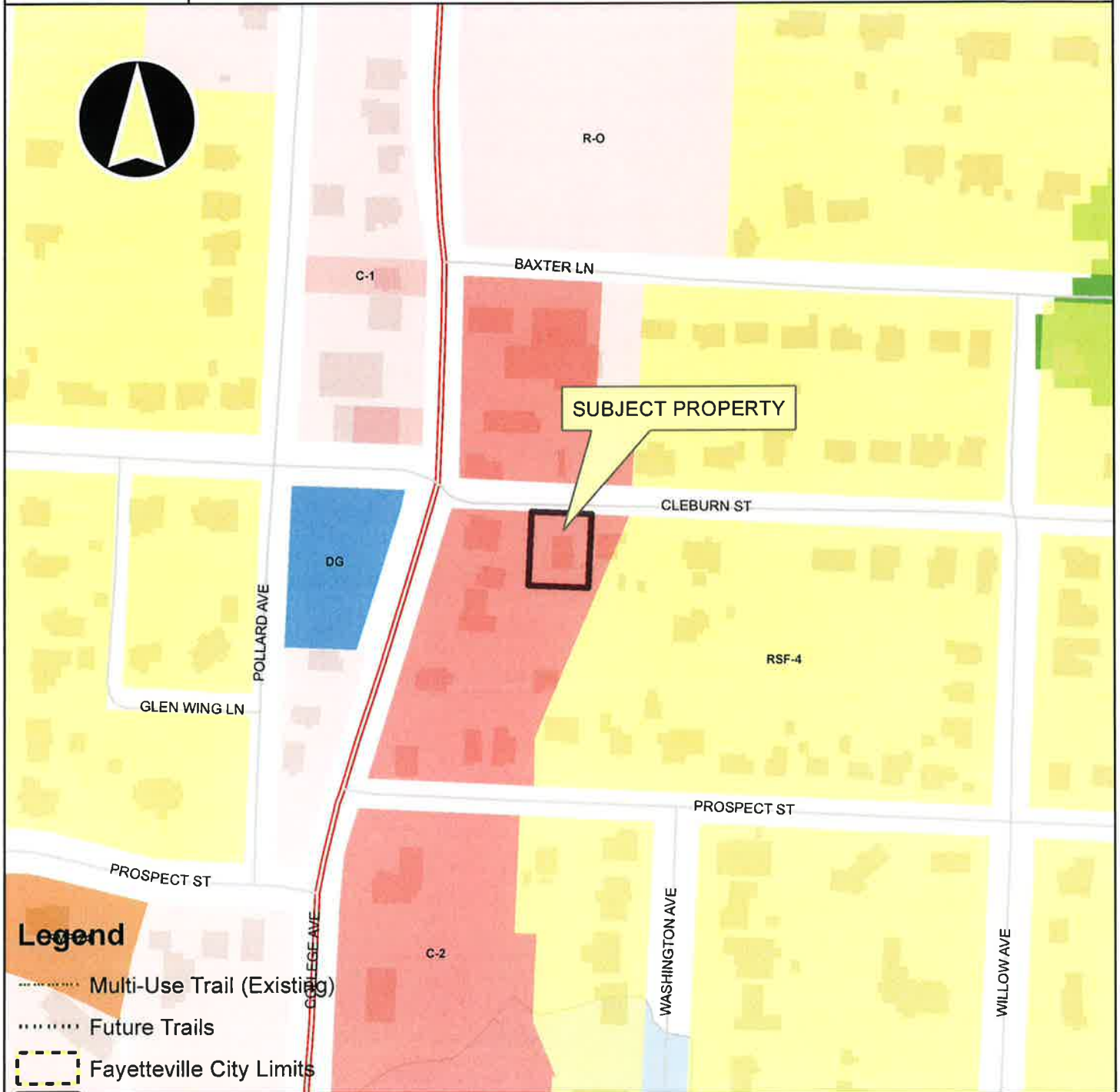
Miles



RZN13-4461

STOVER

Close Up View



Legend

- Multi-Use Trail (Existing)
- Future Trails
- Fayetteville City Limits

Overview RZN13-4461

- Footprints 2010
- Hillside-Hilltop Overlay District
- Design Overlay District
- Design Overlay District
- Planning Area

