

City of Fayetteville, Arkansas

113 West Mountain Street

Fayetteville, AR 72701

(479) 575-8267



Planning Commission Final Agenda

Monday, January 23, 2023

5:30 PM

City Hall Room 219

Planning Commission Members

Sarah Sparkman, Chair
Matthew Johnson, Vice Chair
Quintin Canada, Secretary
Andrew Brink
Jimm Garlock
Joseph Holcomb
Mary Madden
Mary McGetrick
Porter Winston

Assistant City Attorney Blake Pennington

Call to Order**Roll Call****Consent****1. Minutes**

Approval of the minutes from the January 9th, 2023 Planning Commission. -
Mirinda Hopkins, Development Coordinator

2. ADM-2022-0066

Administrative Item (SW OF W PERSIMMON AND N RUPPLE RD/COURTYARDS AT OWL CREEK, 477 & 478): Submitted by JORGENSEN AND ASSOCIATES for property located SW OF W PERSIMMON AND N RUPPLE RD. The property is zoned CS, COMMUNITY SERVICES, AND R-A, RESIDENTIAL-AGRICULTURAL and contains 35.20 acres. The request is to amend the preliminary plat of 54 residential lots. - Jessica Masters, Development Review Manager

3. ADM-2022-0069

Administrative Item (2231 W. MARKHAM RD/MARKHAM HILL HOSPITALITY DISTRICT, 481): Submitted by DCI for property located at 2231 W. MARKHAM RD. The property is zoned CPZD, COMMERCIAL PLANNED ZONING DISTRICT and contains approximately 4.22 acres. The request is for an extension to LSD 2020-000015. - Jessica Masters, Development Review Manager

4. VAR-2022-0063

Planning Commission Variance (1679 S. COOPERS COVE/BROCK, 607): Submitted by DOREEN AND VANCE BROCK for property located at 1679 S COOPERS COVE. The property is zoned RSF-4, RESIDENTIAL SINGLE FAMILY 4 UNITS PER ACRE and contains approximately 0.6 acres (2 parcels). The request is a variance from streamside protection requirements. - Alan Pugh, Staff Engineer

5. VAC-2022-0029

VAC-2022-0029: Vacation (1074 E. SAIN ST/THE TRAILS ON THE CREEK, 174): Submitted by BLEW AND ASSOCIATES for property located at 1074 E. SAIN ST. The property is zoned RPZD, RESIDENTIAL PLANNED ZONING DISTRICT and contains approximately 10.55 acres. The request is to vacate a 0.10-acre portion of right-of-way. - Jessica Masters, Development Review Manager

Unfinished Business**6. VAR-2022-0062**

Planning Commission Variance (354 S. HILL AVE/REINDL, 522): Submitted by REINDL MANAGEMENT LLC. for property located at 354 S. HILL AVE. The property is zoned RMF-40, RESIDENTIAL MULTI-FAMILY, 40 UNITS PER ACRE and contains approx. 0.44 acres. The request for a variance from the Master Street Plan section sidewalk width for tree grates.

THIS ITEM WAS TABLED AT THE JANUARY 9TH, 2023 PLANNING COMMISSION MEETING. - Jessica Masters, Development Review Manager

7. CUP-2022-0115

Conditional Use Permit (1341 W. HENDRIX ST/TILLMAN, 404): Submitted by JORGENSEN AND ASSOCIATES for property located at 1341 W. HENDRIX ST. The property is zoned RI-U, RESIDENTIAL INTERMEDIATE – URBAN, and contains approximately 0.27 acres. The request is to allow Use Unit 26, Multi-Family Dwellings in RI-U zoning.

APPLICANT HAS REQUESTED TO WITHDRAW THIS ITEM.

ITEM WAS TABLED AT THE DECEMBER 12TH, 2022 AND JANUARY 9TH, 2023 PLANNING COMMISSION MEETINGS. - Gretchen Harrison, Planner

8. CUP-2022-0122

Conditional Use Permit (521 N. SHADY AVE, UNIT 4/STRANGE,445): Submitted by STATLER STRANGE for property located at 521 N. SHADY AVE, UNIT 4. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approx. 0.24 acres. The request is to use the residence as a short-term rental.

THIS ITEM WAS TABLED AT THE JANUARY 9TH, 2023 PLANNING COMMISSION MEETING. - Jessica Masters, Development Review Manager

New Business**9. VAR-2022-0066**

Planning Commission Variance (2352 N. TOY DR/PORTMANN, 319): Submitted by BATES AND ASSOCIATES for property located 2352 N. TOY DR. The property is in the Fayetteville Planning Area and contains approx. 23.01 acres. The request is for a variance from minimum lot frontage requirements. - Gretchen Harrison, Planner

10. CUP-2022-0133

Conditional Use Permit (1299 W. VAN ASCHE DR/JJ'S SPORTS COMPLEX, 210): Submitted by JORGENSEN & ASSOCIATES for property located at 1299 W. VAN ASCHE DR. The property is zoned R-A, RESIDENTIAL AGRICULTURAL, and contains approximately 3.90 acres. The request is to use the property as a multi-sport training complex. - Jessica Masters, Development Review Manager

11. RZN-2022-0053

Rezoning (3017 W. OLD FARMINGTON RD/ARNOLD, 557): Submitted by JORGENSEN & ASSOCIATES for property located at 3017 W. OLD FARMINGTON RD. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.50 acres. The request is to rezone the property to RSF-18, RESIDENTIAL SINGLE-FAMILY, EIGHTEEN UNITS PER ACRE. - Ryan Umberger, Senior Planner

12. RZN-2022-0054

Rezoning (515 S. COLLEGE AVE/3V Q0ZB LLC, 523): Submitted by 3V DEVELOPMENT for property located at 515 S. COLLEGE AVE. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 0.30 acres. The request is to rezone the property to DG, DOWNTOWN GENERAL. - Gretchen Harrison, Planner

13. RZN-2022-0055

Rezoning (N. BOB YOUNKIN DR & W. BISHOP DR./MIDWEST TRUST COMPANY, 551): Submitted by LEGACY VENTURES NWA INC for property located at N. BOB YOUNKIN DR & W. BISHOP DR. The property is zoned R-O, RESIDENTIAL - OFFICE and contains approximately 7.76 acres. The request is to rezone the subject property to RMF-24, RESIDENTIAL MULTI-FAMILY, 24 UNITS PER ACRE, and CS, COMMUNITY SERVICES. - Gretchen Harrison, Planner

14. CUP-2022-0128

Conditional Use Permit (2789 W. AUBURN DR/JEFFUS, 519): Submitted by SABRA JEFFUS for property located at 2789 W. AUBURN DR. The property is zoned RPZD, RESIDENTIAL PLANNED ZONING DISTRICT and contains approx. 0.03 acres. The request is to use the residence as a short-term rental. - Gretchen Harrison, Planner

15. CUP-2022-0120

Conditional Use Permit (1488 W. MOUNT COMFORT RD/NEWMAN, 404): Submitted by WEEKENDER MANAGMENT, for property located at 1488 W. MOUNT COMFORT RD. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY – FOUR UNITS PER ACRE and contains approximately 0.22

acres. The request is to use the residence as a short-term rental. - Ryan Umberger, Senior Planner

16. CUP-2022-0121

Conditional Use Permit (3200 W. SHALE ST/FIELDS, 401): Submitted by WEEKENDER MANAGMENT for property located at 3200 W. SHALE ST. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY, TWENTY FOUR UNITS PER ACRE and contains approx. 0.17 acres. The request is to use the residence as a short-term rental. - Ryan Umberger, Senior Planner

17. CUP-2022-0129

Conditional Use Permit (215 W. LAFAYETTE ST/BAXTER, 484): Submitted by JAMES BAXTER for property located at 215 W. LAFAYETTE ST. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 0.09 acres. The request is to use the residence as a short-term rental. - Ryan Umberger, Senior Planner

18. CUP-2022-0130

Conditional Use Permit (531 N. WASHINGTON AVE/GINGER, 446): Submitted by NAN GINGER for property located at 531 N. WASHINGTON AVE. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY – FOUR UNITS PER ACRE and contains approximately 0.24 acres. The request is to use the residence as a short-term rental. - Ryan Umberger, Senior Planner

19. CUP-2022-0131

Conditional Use Permit (825 S. ONE MILE RD/YOUNG CAPITAL INVESTMENTS, 557): Submitted by YOUNG CAPITAL INVESTMENTS for property located at 825 S. ONE MILE RD. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approx. 0.1 acres. The request is to use the residence as a short-term rental. - Jessica Masters, Development Review Manager

20. CUP-2022-0132

Conditional Use Permit (827 S. ONE MILE RD/YOUNG CAPITAL INVESTMENTS, 557): Submitted by YOUNG CAPITAL INVESTMENTS for property located at 827 S. ONE MILE RD. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approx. 0.1 acres. The request is to use the residence as a short-term rental. - Jessica Masters, Development Review Manager

Items Administratively Approved by Staff

21. LSIP-2022-0002

Large Site Improvement Plan (2132 E. JOYCE BLVD/SPLASH CAR WASH, 176): Submitted by SCM ARCHITECTS for properties located at 2132 E. JOYCE BLVD. The property is zoned CS, COMMUNITY SERVICES and contains approx. 2.22 acres. The request is for an approx. 5,784 square foot car wash, 7,344 square foot detailing tunnel, and associated parking. - Gretchen Harrison, Planner

Agenda Session Items

Announcements

Adjournment

NOTICE TO MEMBERS OF THE AUDIENCE

All interested parties may appear and be heard at the public hearings. If you wish to address the Planning Commission on an agenda item, please queue behind the podium when the Chair asks for public comment. Once the Chair recognizes you, go to the podium and give your name and address. Address your comments to the Chair, who is the presiding officer. The Chair will direct your comments to the appropriate appointed official, staff, or others for response. Please keep your comments brief, to the point, and relevant to the agenda item being considered so that everyone has a chance to speak.

Interpreters of TDD, Telecommunications Device for the Deaf, are available for all public hearings, 72 hour notice is required. For further information or to request an interpreter, please call 575-8330.

As a courtesy please turn off all cell phones and pagers.

(pg. 1) Planning Commission			Monday, 1/9/2023			
Time:	5:30pm					
Staff :	☐ Melissa Evans ☐ Jessie Masters ☐ Gretchen Harrison ☐ Josh Boccaccio ☐ Melissa Boyd ☐ Ryan Umberger ☐ Britin Bostick ☐ Nathan Wood					
	Roll Call	(1) Minutes 12-12-2022	2) CUP-2022-0110 (BARNES)	3) CUP-2022-0115 (TILLMAN)	4) CUP-2022-0122 (STRANGE)	5) ADM-2022-0062 (WILLOW BEND CLUSTER)
Johnson	1	1		1	1	1
Garlock	1	1		1	1	1
Madden	1	1		1	1	1
Holcomb	1	1		1	1	1
Brink	1	1		1	1	1
McGetrick	1	1		1	1	1
Winston	1	1		1	1	1
Canada	1	1		1	1	1
Sparkman	1	1		1	1	1
Agenda		Consent	Old	Old	New	New
Motion By		Johnson	WITHDRAWN	Brink	Winston	Brink
Motion 2nd		Garlock	BY	Canada	Brink	Johnson
Vote		9-0-0	APPLICANT	9-0-0	9-0-0	9-0-0
Action		Approve		Table	Table	Approve
Time		5:33pm		5:36pm	5:37pm	5:43pm
Motion Detail				Table till January 23rd Planning Commission Meeting NO PUBLIC COMMENT	Table till January 23rd Planning Commission Meeting NO PUBLIC COMMENT	With Conditions as recommended by staff. NO PUBLIC COMMENT

(pg. 2) Planning Commission		Monday, 1/9/2023				
	6) ADM-2022-0065 (CRYSTAL SPRINGS SD COTTAGE DEVELOPMENT)	7) VAR-2022-0061 (CROSKREY)	8) VAR-2022-0062 (REINDL)	9) LSD-2022-0039 (E. HUNTSVILLE RD. MULTI- FAMILY WEST)	10) CUP-2022-0123 (TITAN LAWN & LANDSCAPE)	
Johnson	1	1	1	1	1	
Garlock	1	1	1	1	1	
Madden	1	1	1	1	1	
Holcomb	1	1	1	1	1	
Brink	1	1	Recuse	0	1	
McGetrick	1	1	1	1	1	
Winston	1	1	1	0	1	
Canada	1	1	1	1	1	
Sparkman	1	1	1	1	1	
Agenda	New	New	New	New	New	
Motion By	Winston	Johnson	Johnson	Garlock	Madden	
Motion 2nd	Brink	Garlock	Madden	McGetrick	Garlock	
Vote	9-0-0	9-0-0	8-0-1	7-2-0	9-0-0	
Action	Approve	Approve	Table	Deny	Approve	
Time	5:50pm	5:54pm	5:56pm	6:54pm	7:03pm	
Motion Detail	With Conditions as recommended by staff. NO PUBLIC COMMENT	With Conditions as recommended by staff. NO PUBLIC COMMENT	Table till January 23rd Planning Commission Meeting NO PUBLIC COMMENT	NO PUBLIC COMMENT	With all conditions as recommended by staff, with an added condition to extend hours of operation until 7 PM. NO PUBLIC COMMENT	

(pg. 3) Planning Committee		Monday, 1/9/2023					
	11) CUP-2022-0126 (MOREHART)	12) RZN-2022-0052 (READING)	13) CUP-2022-0116 (JOHNSON)	14) CUP-2022-0117 (PRATT)	15) CUP-2022-0118 (RAMPART ENTERPRISES)		
Johnson	1	1	1	1	1	1	1
Garlock	1	1	1	1	1	1	1
Madden	1	1	1	1	1	1	1
Holcomb	1	1	1	1	1	1	1
Brink	1	1	1	1	1	1	1
McGetrick	1	1	1	1	1	1	1
Winston	1	1	1	1	1	1	1
Canada	1	1	1	1	1	1	1
Sparkman	1	1	1	1	1	1	1
Agenda	New	New	New	New	New		
Motion By	Brink	Canada	Johnson	Brink	Brink	Winston	Brink
Motion 2nd	Winston	Garlock	Brink	Winston	Johnson	Garlock	Garlock
Vote	9-0-0	9-0-0	9-0-0	9-0-0	9-0-0	9-0-0	9-0-0
Action	Approve	Deny	Approve	Approve	Approve	Approve	Deny
Time	7:07pm	7:33pm	7:46pm	7:51pm			8:30pm
Motion Detail	With Conditions as recommended by staff. NO PUBLIC COMMENT	NO PUBLIC COMMENT	With Conditions as recommended by staff. NO PUBLIC COMMENT	With Conditions as recommended by staff. NO PUBLIC COMMENT	Motion to extend public comment time for an additional two minutes.	Motion to extend public comment time for an additional two minutes.	PUBLIC COMMENT: 10

(pg. 4) Planning Commission		Monday, 1/9/2023			
	16) CUP-2022-0119 (BUIE)	17) CUP-2022-0124(KENNEDY)	18) CUP-2022-0125 (BLUE VILOIN LLC)		
Johnson	1	1	1		
Garlock	1	1	1		
Madden	1	1	1		
Holcomb	1	1	1		
Brink	1	1	1		
McGetrick	1	1	1		
Winston	1	1	1		
Canada	1	1	1		
Sparkman	1	1	1		
Agenda	New	New	New	New	
Motion By	Brink	Johnson	Brink		
Motion 2nd	Johnson	Garlock	Madden		
Vote	9-0-0	9-0-0	9-0-0		
Action	Approve	Approve	Approve		
Time	8:39pm	8:43pm	8:47pm		
Motion Detail	With all conditions as recommended by staff, with an added condition to limit the number of guests to 8. NO PUBLIC COMMENT	With conditions as recommended by staff. NO PUBLIC COMMENT	With conditions as recommended by staff. NO PUBLIC COMMENT		



TO: Fayetteville Planning Commission

FROM: Jessie Masters, Development Review Manager

MEETING: January 23, 2023

SUBJECT: **ADM-2022-0066: Administrative Item (SW OF W PERSIMMON AND N RUPPLE RD/COURTYARDS AT OWL CREEK, 477 & 478):** Submitted by JORGENSEN AND ASSOCIATES for property located SW OF W PERSIMMON AND N RUPPLE RD. The property is zoned CS, COMMUNITY SERVICES, AND R-A, RESIDENTIAL-AGRICULTURAL and contains 35.20 acres. The request is to amend the preliminary plat of 54 residential lots.

RECOMMENDATION:

Staff recommends approving **ADM-2022-0066** with conditions as recommended by staff.

RECOMMENDED MOTION:

"I move to approve **ADM-2022-0066** with conditions as recommended by staff."

BACKGROUND:

The subject property is in west Fayetteville and immediately to the southwest of Owl Creek School along N. Ruppel Road. Containing 35.20 acres, the property is currently undeveloped. In 2015, the property was rezoned to CS, Community Services and R-A, Residential-Agricultural through a city-initiated rezoning effort in conjunction with the redevelopment of N. Ruppel Road (Ordinance 5775). An additional rezoning was brought forward to rezone 5.34 acres from R-A to CS, and 0.48 acres from CS to R-A, which was ultimately approved (Ordinance 6538). The property is within the floodplain, and contains a protected stream. The preliminary plat was approved July 25, 2022. Surrounding land uses and zoning is depicted in *Table 1*.

Table 1 - Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Senior Living Facility (Katherine's Place); Undeveloped; Commercial	P-1, Institutional; R-A, Residential-Agricultural; R-O, Residential-Office
South	Single-Family Residential	NC, Neighborhood Conservation
East	Owl Creek School	R-A, Residential Agricultural
West	Single-Family Residential; Undeveloped	NC, Neighborhood Conservation; R-A, Residential-Agricultural

Proposal: Under the allowances permitted in UDC section 166.01(D)(2), the developer is proposing to modify the conditions of approval of the approved preliminary plat, by relocating a required 12-foot multi-use trail, modifying the parkland dedication requirements, and reducing the number of proposed lots from 54 to 51.

DISCUSSION:

Staff recommends approval of this proposed modification. The changes are necessary to avoid conflict with found wetlands on the western portion of the site, which was an area that was originally identified as parkland dedication and was intended to be used to extend a 12-foot wide multi-use trail. Planning staff determined that the previously approved variances still met the relevant conditions of approval, and that the proposed lot configuration still met underlying zoning district requirements. Further, the applicant brought the proposal back to PRAB, and on January 4, 2023, that body recommended accepting a combination of land dedication and fees-in-lieu. The land that was previously identified for parkland dedication was reviewed in more detail and found to be undevelopable and not suitable. Further, extensive costs would need to occur in order to build a trail as originally required per the preliminary plat approval due to the presence of those wetlands. Engineering staff approved of the proposed changes, finding that lots 17, 23, and 32 are required to be platted with at least an acre of land, and that any disturbance to jurisdictional wetlands will require a United States Army Corps of Engineers permit. Urban Forestry did not have any comments on the request, finding that the applicant's updated plans made no significant changes to tree preservation or to the overall landscape plan.

Public Comment: No public comment has been received regarding this request.

RECOMMENDATION: Staff recommends approval of ADM-2022-0066, with the following condition.

1. Parkland Dedication in the amount of 0.39 acres for 17 single-family dwellings and fees-in-lieu in the amount of \$37,026 for 34 units shall be dedicated and paid at the time of Final Plat, prior to building permit issuance;
2. All conditions of approval of PPL-2022-0004 not affected by this modification's approval remain in effect, and are attached;
3. A 12-foot multi-use trail be constructed along the property's southwestern boundary, in a dedicated multi-use trail easement. Associated drainage infrastructure must also be constructed for the trail.
4. All conditions of approval from Engineering and Urban Forestry shall be addressed, and are attached; and
5. Granting of this proposed amendment does not grant approval for individual residential building permits.

PLANNING COMMISSION ACTION:				Required	<u>YES</u>
Date: <u>January 23, 2023</u>	☐ Tabled	☐ Approved	☐ Denied		
Motion:					
Second:					
Vote:					

BUDGET/STAFF IMPACT:

None

Attachments:

- Applicant Request Letter
- Modified Site Plan
- Approved Site Plan
- Engineering Memo
- Parks and Recreation Memo
- Urban Forestry Comments
- Conditions of Approval (PPL-2022-0004)
- One Mile Map
- Close-up Map
- Current Land Use Map



JORGENSEN
+ASSOCIATES
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December 13, 2022

City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

Attn: Development Services
Re: Preliminary Plat for The Courts at Owl Creek

This letter is in regards to proposed changes to PPL 2022-0004 that was previously approved at Planning Commission. Due to a recent study there is a small portion of the far west side of the site that has wetlands located on it. In order to stay out of the wetlands we moved the proposed lots and street all to the east which caused the site to shrink and therefore we are proposing a total of 51 lots now compared to a total of 54 lots on the previous PPL. This was also the area of a 12' trail that the developer was going to construct that has now been moved along the south edge of the property and connects to Ruppel Road. This change will be heard at the Parks meeting on January 4th for final approval.

We thank you for your consideration of this proposal and please call with any questions,

Thank you.

Sincerely;

Justin L. Jorgensen, PE



TO: Jessie Masters, Development Review Manager

FROM: Josh Boccaccio, Engineering Development Review Manager

DATE: January 6, 2023

SUBJECT: **Planning Commission Engineering Comments for
ADM-2022-0066**

Plan Comments:

1. Lots 17, 23, and 32 must be platted with at least 1 acre (43,560 square feet) of land. Currently they are shown to all have less than 1 acre of land.
2. Disturbance to jurisdictional wetlands will require a United States Army Corps of Engineers permit. As shown on the provided site plan, the detention pond outfall goes through a delineated wetland. There also may be a retaining wall along the property lines of grayed out lots 17, 18, 19, and 20. However a grading plan was not provided for this ADM review.

Standard Comments:

1. All designs are subject to the City's latest design criteria (water, sewer, streets and drainage). Review for plat approval is not approval of public improvements, and all proposed improvements are subject to further review at the time construction plans are submitted.
2. Any damage to the existing public street due to construction shall be repaired/replaced at the owner/developers expense
3. All public sidewalks, curb ramps, curb & gutter, and driveway aprons along this project frontage must meet ADA guidelines and be free of damage. Any existing infrastructure that does not conform to ADA guidelines or is otherwise damaged must be removed and replaced to correct the issue. Coordinate with the engineering department for inspection of existing facilities to determine compliance.
4. Water and sewer impact fees will apply for the additional impact to the system. The fees will be based on the proposed meter size and will be charged at the time of meter set.
5. Note, the following portions of all projects will typically not be reviewed by the Engineering Division until time of construction-level review (unless specifically requested at plat review):
 - o Storm Sewer pipe/inlet sizing, gutter spread, profiles, or utility conflicts
 - o Sanitary Sewer pipe sizing, profiles, or utility conflicts
 - o Waterline fittings, callouts, or utility conflicts
 - o Street profiles
 - o Fine grading/spot elevations



**CITY OF
FAYETTEVILLE
ARKANSAS**

TO: Planning Division

FROM: Zach Foster, Parks Planning

DATE: January 6, 2023

SUBJECT: Parks & Recreation Technical Plat Review Comments

PRAB Meeting Date: January 3, 2022, June 3, 2022, January 4, 2023

Project Title: The Courtyards at Owl Creek

Project Number: ADM-2022-0066

Project Location: SW of W Persimmon and N Ruppel Rd

Plat Page: 477, 478

Park Quadrant: SW

Billing Name & Address: Riverwood Homes LLC, 3420 N Plainview Ave, Fayetteville, AR 72703 and McBryde Family Limited Partnership, 5800 W Bannister Dr, Fayetteville, AR 72704

☒ **Land Dedication**

☐ **Fee-in-Lieu**

☐ **Combination**

LAND DEDICATION

Single Family: 17 units x 0.023 acres per unit = 0.39 acres

Multi Family: units x 0.020 acres per unit = 0.00 acres

**TOTAL
Acres**

0.39

FEE-IN-LIEU

Single Family: 34 units x \$1,089 per unit = \$37,026

Multi Family: units x \$952 per unit = \$ 0

**TOTAL
Fees**

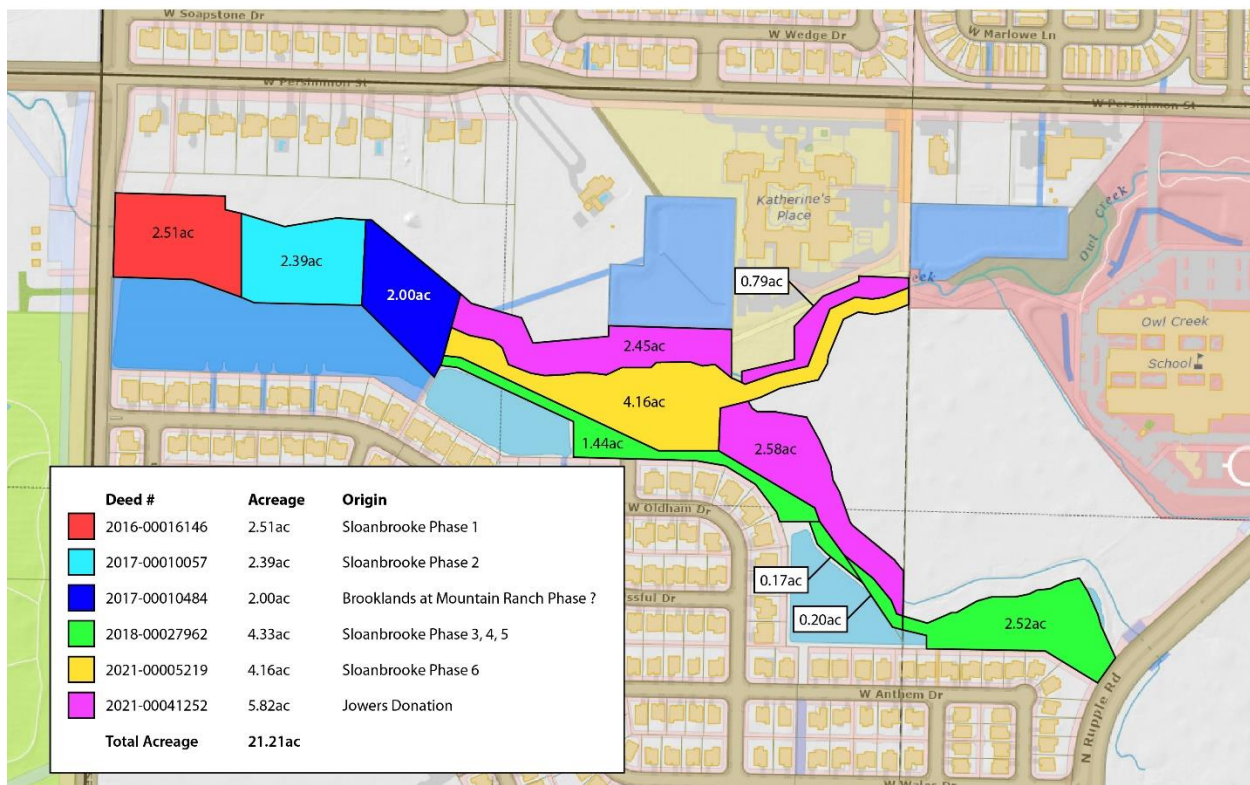
\$37,026

SUMMARY:

- Project proposes 51 SF units and 0 MF units.
- The January 3, 2022 PRAB meeting approved land dedication for this development
 - The original location of the land dedication has become encumbered by tree preservation and is no longer acceptable for PLD.
 - The June 3, 2022 PRAB approved accepting the northern trail corridor, currently listed as a "multi-use trail easement" as the PLD land.

- The January 4, 2023 PRAB approved accepting a combination of land dedication and fees-in-lieu. The land approved on June 3, 2022 was reviewed in more detail and found to be undevelopable and not suitable for park land. Extensive costs would need to occur in order to build a trail as shown at the June 2022 meeting.
- The adjacent subdivision, Sloanbrooke, dedicated a total of 13.39 acres of land along Owl Creek. This land will be utilized as a trail corridor and a neighborhood park. The Sloanbrooke subdivision has met all of their Parkland Dedication requirements and even dedicated land in addition to what was originally presented to PRAB in 2016. The land associated with this project was not previously advertised, expected, or intended to be an area for Sloanbrooke's Parkland Dedication requirements.
- The land dedicated in association with this project will be contiguous to the existing park land along Owl Creek. The developer will construct a trail along the dedicated land that will connect the Owl Creek Elementary School to the future Owl Creek Trail Corridor.
- The final amount of fee-in-lieu and/or land dedication needed to satisfy Parkland Dedication requirements will be determined after Planning Commission's approval of the Final Plat.
- Current fee-in-lieu and/or land dedication rates will be applied regardless of when project was approved by PRAB.
- Prior to final receipt by the city, all fees must be paid and any deeds for parkland dedication property must be:
 - Approved by the City's Land Agent in the Engineering Division.
 - Recorded at the Washington County Courthouse.
- Each additional housing unit that is constructed in Fayetteville places an increased demand on the Parks and Recreation system. The money collected as part of this project will be used to fund future park acquisitions and improvements for this park quadrant.

OWL CREEK
Land Acreage Summary



Updated 7/20/2022



Planning Commission Memo

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Melissa Evans, Urban Forester

MEETING DATE: January 22, 2023

SUBJECT: **ADM-2022-0066: Administrative Item (The Courts at Owl Creek, SW of W. Persimmon St. and N. Ruppel Rd.):** Submitted by JORGENSEN + ASSOCIATES for property located SW of W. Persimmon St. and N. Ruppel Rd. The property is zoned C-S, COMMUNITY SERVICES, and contains approximately 13 acres. The request is for an amendment to PPL-2022-0004 due to the proposed lots and street moving to the east out of the wetlands area causing the site to shrink and the number of lots to decrease from 54 to 51. The proposed 12' trail has been moved along the south edge of the property and connects to Ruppel Road.

RECOMMENDATION:

Urban Forestry Staff recommends the approval of ADM-2022-0066, which will allow the proposed site design changes to The Courts at Owl Creek plans.

BACKGROUND:

The proposed Tree Preservation areas do not appear to have been affected by the proposed changes and the landscape requirements remain the same and are able to be met with the revision.

Conditions of Approval:

1. **Planning Commission determination of right-of-way dedication.** *Staff recommends right-of-way dedication as follows:*

Portion of Street A from Ruppel Road Connection to Lot 39: *Staff recommends right-of-way dedication in the amount of 42 feet.*

Remainder of Street A: *Staff recommends full right-of-way be dedicated in the amount of 52-feet to align with typical Master Street Plan standards for Residential Link Streets.*

Subdivision Committee recommended in favor of right-of-way dedication.

2. **Planning Commission determination of street improvements.** *Staff recommends street improvements as follows:*

Portion of Street A from Ruppel Road Connection to Lot 39: *Alternative Residential Link Street to be constructed as follows: 6-foot sidewalk on the north side of the street, 6-foot greenspace, adequate space for a 7-foot parking lane, and two drive lanes. Street trees and streetlights will also be required in accordance with code. An added pedestrian crossing between Lots 6 and 39 is required.*

Remainder of Street A: *Typical Master Street Plan standards for Residential Link Streets with 6-foot sidewalk, 6-foot greenspace, 1.5-foot curbs and gutter, and a 7-foot parking lane on one side of the street, and two drive lanes. Street trees and streetlights will also be required in accordance with code.*

~~Proposed Trail Improvements: In addition to the street improvements listed above, staff is recommending a 12-foot multiuse trail boundary, in the proposed multi-use trail, must also be constructed for the trail.~~ **Modified per this request as listed above.**

3. **Planning Commission determination of requested variance to 166.08(E)(d), Block length/connectivity. Residential Link Streets are required to have intersections at a minimum of 660 feet.** *Staff recommends in favor, with the added condition that a paved pedestrian connection to the multi-use trail be added in between lots 17 and 18, and street narrowing be added at the proposed pedestrian crossings between lots 6 and 39, and the pedestrian crossing at lots 17 and 18. Street narrowing shall be at a dimension compliant with fire code.*

Subdivision Committee recommended in favor of this request.

4. ~~Parkland Dedication in the amount of 1.24 acres for 54 single-family dwellings shall be dedicated at the time of Final Plat, prior to~~ **Modified per this request as listed above.**

5. Streetlights shall be installed in accordance with code at all street intersections and spaced every 300 feet;

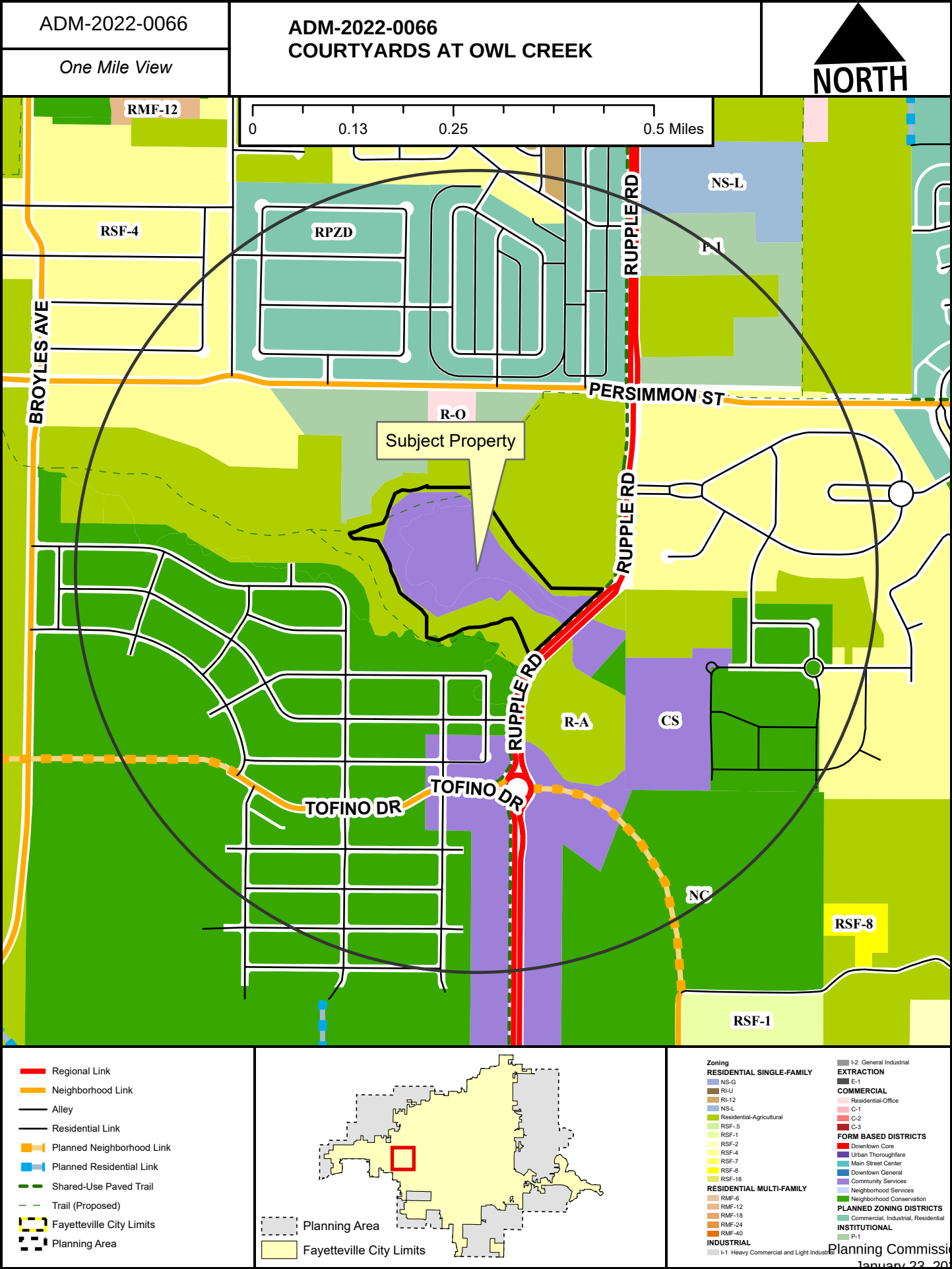
6. All remaining comments from the Planning Division shall be addressed prior to permitting, including:

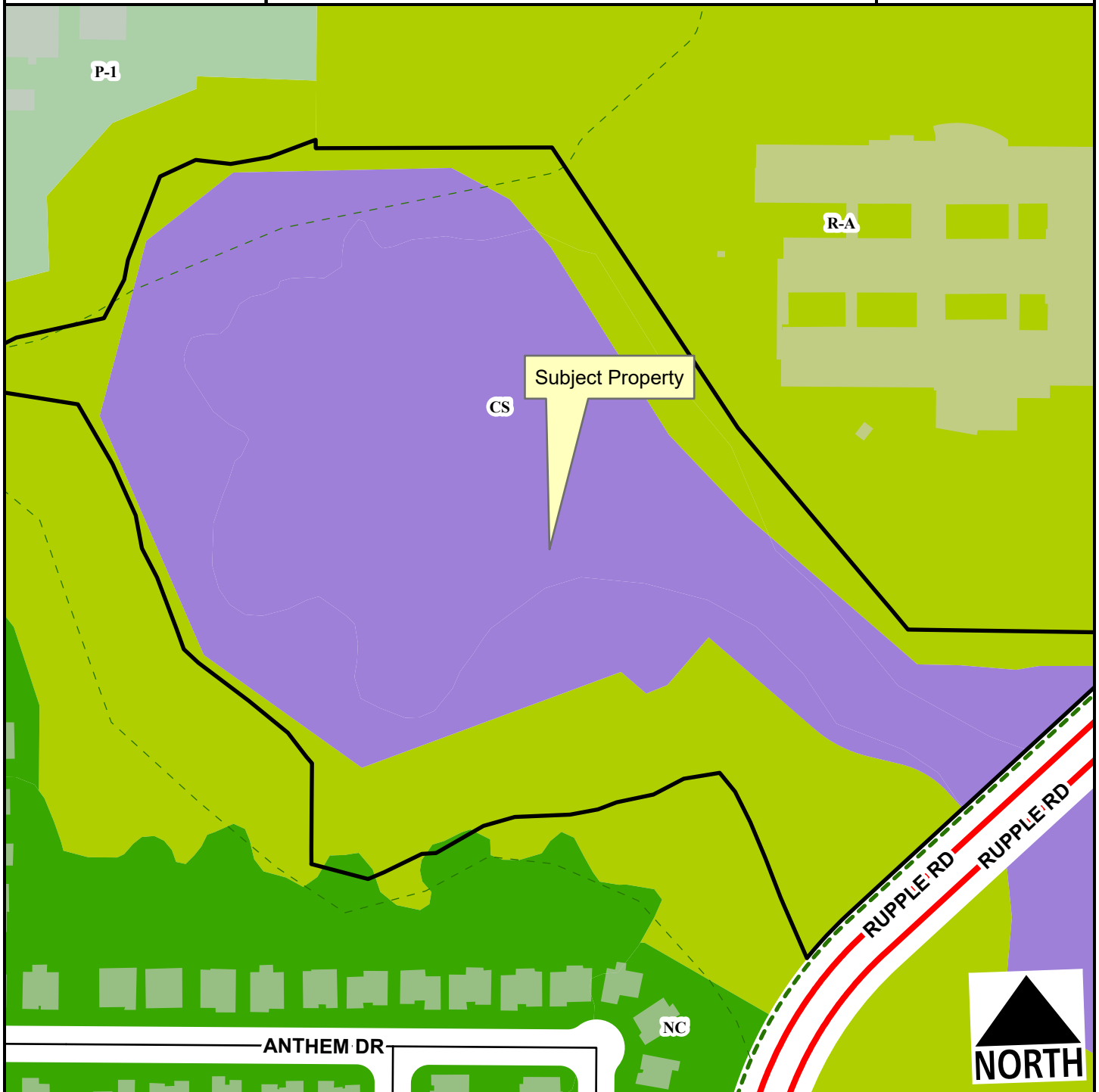
- a. Boundary survey shall be provided prior to grading permit approval;

7. Conditions of approval from Engineering, Urban Forestry, and Parks are included in the official conditions of approval;

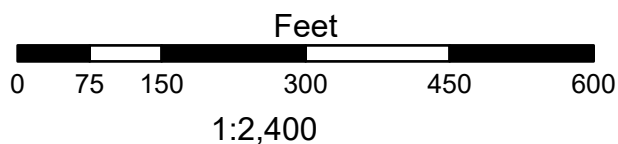
Standard conditions of approval:

8. All existing overhead utility lines 12kV and under shall be relocated underground. All proposed utilities shall be located underground;
9. Sidewalk along all commonly owned lots (detention ponds, etc.) shall be constructed prior to final plat. All other sidewalks shall be constructed or guaranteed prior to final plat;
10. All street names shall be approved by the 911 Coordinator and indicated on the final plat. All streets require naming for final addresses. Contact the addressing office at (479) 575-8380 for more details;
11. All lots shall be labeled with addresses as approved by the 911 Coordinator on the final plat;
12. A floodplain development permit is required prior to construction for any grading or structures in the flood zone;
13. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his/her representative, and all comments from utility representative: Black Hills Energy, AT&T, Ozarks, SWEPCO, Cox Communication);
14. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements; and
15. Preliminary Plat approval shall be valid for one calendar year.





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



- Residential-Agricultural
- Community Services
- Neighborhood Conservation
- P-1



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

**FEMA Flood Hazard Data**

- 100-Year Floodplain
- Floodway



TO: Fayetteville Planning Commission

FROM: Jessie Masters, Development Review Manager

MEETING DATE: January 23, 2023

SUBJECT: **ADM-2022-0069: Administrative Item (2231 W. MARKHAM RD/MARKHAM HILL HOSPITALITY DISTRICT, 481):** Submitted by DCI for property located at 2231 W. MARKHAM ROAD. The property is zoned CPZD, COMMERCIAL PLANNED ZONING DISTRICT and contains approximately 4.22 acres. The request is for an extension to LSD-2020-000015.

RECOMMENDATION:

Staff recommends approval of **ADM-2022-0069**, with conditions.

RECOMMENDED MOTION:

"I move to approve **ADM-2022-0069**, with conditions as recommended by staff."

BACKGROUND:

The subject property is located at the west end of Markham Road. This property and other parcels along the north and south side of Markham are within the Pratt Place Inn Commercial Planned Zoning District (C-PZD). Development on the site includes the historic Pratt home, several cottages, a barn used for events, and accessory structures. Excluding areas under development, the site is wholly within the Hillside-Hilltop Overlay District, with a mixture of areas under mature canopy and open pasture or greenspace. Despite the HHOD designation, the subject property itself is fairly level, indicating that application of the HHOD may be more related to soil, geology, and visibility rather than terrain. A large-scale development was approved for the property in early 2021. Surrounding land use and zoning is depicted in Table 1.

Table 1:
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Undeveloped	RI-U, Residential Intermediate-Urban
South	Undeveloped; Water Tower & Communications Facilities	RI-U, Residential Intermediate-Urban; RSF-4, Residential Single-family, 4 Units per Acre
West	Undeveloped	RI-U, Residential Intermediate-Urban
East	Single-family Residential (Existing & Under Construction)	Pratt Place C-PZD; RSF-4, Residential Single-family, 4 Units per Acre

Proposal: Under 166.20, the applicant requests an extension from the Planning Commission for LSD-2020-000015, a large-scale development that originally received approval on February 8, 2021. In The applicant submitted a letter to the Planning Division on December 27, 2022, prior to expiration of associated projects. The project received an administrative extension after the first year of approval which is set to expire on February 8, 2023.

DISCUSSION:

Staff recommends approval of the applicant's extension request. Unified Development Code section 166.20(B)(4) indicates that a final one-year extension can be granted by the Planning Commission if the plans are substantially the same as those originally approved. The applicant received approval for a major modification by the Planning Commission on June 27, 2022, and no additional modifications are being requested at this time. The burden is also upon the applicant to provide good cause why the tasks could not be reasonably completed. The applicant has provided evidence to support that they intend to receive approval on all necessary permits prior to the February 8, 2023 expiration, but are still pending approval on one grading permit and two additional building permits. The project has received permit approval on two other permits with the associated project. Staff finds that the applicant has demonstrated a good faith effort to complete the work in a timely fashion, and does not anticipate any further delays within the applicant's control.

Public Comment: Staff has received no public comment regarding this request.

RECOMMENDATION: Staff recommends approval of ADM-2022-0069, with the following conditions.

1. A one-year extension for LSD-2020-000015 will expire on February 8, 2024. No other extensions are permitted to be granted beyond that date, per code;
2. All conditions of approval of LSD-2020-000015 not affected by this extension shall remain in effect;
3. Approval of this extension does not constitute approval of associated permits or entitlements not fully reviewed at this time.

PLANNING COMMISSION ACTION:	Required	<u>YES</u>
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Date: <u>January 23, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
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Motion:

Second:

Vote:

BUDGET/STAFF IMPACT:

None

Attachments:

- 166.20 Expiration Of Approved Plans And Permits
 - LSD-2020-000015 Conditions of Approval
 - Applicant Request Letter
 - One Mile Map
 - Close-up Map
 - Current Land Use Map
-

166.20 Expiration Of Approved Plans And Permits

(A) *Applicability.* The provisions of this section apply to all of the following plans and permits:

- (1) Preliminary plats;
- (2) Planned zoning district developments;
- (3) Conditional uses;
- (4) Large-scale developments;
- (5) Lot splits;
- (6) Physical alteration of land (grading)/storm water, drainage, and erosion control (drainage) permit;
- (7) Tree preservation plans; and
- (8) Floodplain development permits.

(B) *Time Limit.*

- (1) **Tasks to Be Completed.** All of the above-enumerated plans and permits are conditioned upon the applicant accomplishing the following tasks within one (1) year from the date of approval:
 - (a) For any renovation or new construction, receive all building permits for the project; and/or,
 - (b) For a Planned Zoning District, comply with the approved phasing plan; and/or
 - (c) For a lot split, record a deed or survey at the Washington County Circuit Clerk's Office, stamped for recordation by the City Planning Division; and/or,
 - (d) Receive a business license; and/or,
 - (e) Receive all permits and approvals required by city, county, state, and federal regulations to complete construction of the development or project.
- (2) **Administrative Extension Within One (1) Year.** Prior to the expiration of the one (1) year time limit, an applicant may request the Zoning and Development Administrator to extend the period to accomplish the tasks by up to one (1) additional year. The applicant has the burden to show good cause why the tasks could not reasonably be completed within the normal one (1) year limit. Extensions that are not permitted administratively may be requested of the Planning Commission within ten (10) days of the final administrative decision.
- (3) **Planning Commission Extension Within Eighteen (18) Months.** Should an applicant miss the deadline to request an administrative extension, within eighteen (18) months of the date of approval the applicant may request the Planning Commission to extend the period up to one (1) additional year from the original date of approval, subject to the burden of showing good cause as described in this section.
- (4) **Planning Commission Extension.** Prior to the expiration of any allowed extension period (maximum of two (2) years from the date of original approval), an applicant may request the Planning Commission to extend the period to accomplish the tasks by up to one (1) additional year, if the plans and permits are substantially the same as those originally approved. The applicant has the burden to show good cause why the tasks could not reasonably be completed within the normal one (1) year limit and the

permitted extension period. Extensions beyond three (3) years from the original date of approval shall not be permitted.

- (5) Ordinance Amendments. To receive approval of an extension, the applicant shall comply with all applicable zoning and development requirements that have been adopted subsequent to the original project approval. Projects that must be substantially modified to meet new code requirements are subject to Ch. 166.05(F) Modifications.
- (6) Variances. Variances from applicable zoning and development requirements that have been adopted subsequent to the original project approval shall be reviewed by the Planning Commission prior to approval of the extension.
- (7) Expiration. If the required task(s) are not completed within one (1) year from the date of approval or during an allowed extension period, all of the above-enumerated plans and permits shall be rendered null and void.

(C) Three (3) Year Time Limit.

- (1) Tasks to Be Complete. All of the above-enumerated plans and permits are also conditioned upon the applicant completing the project and receiving final inspection approval and/or a final Certificate of Occupancy permit within three (3) years from the date of issuance of a building permit or receipt of all permits and approval required to complete construction of the project.
- (2) Extensions. Prior to the expiration of the three (3) year time limit, an applicant may request the Planning Commission to extend the three (3) year period to complete the project by up to two (2) additional years. The applicant has the burden to show good cause why the project could not reasonably be completed within the three (3) year time limit.
- (3) Expiration. If the applicant fails to meet the requirements of subsection (C)(1) within three (3) years from the date of issuance of a building permit/receipt of all permits and approval required or during an allowed extension period, all of the above-enumerated plans and permits shall be rendered null and void.

(Ord. No. 5155, 7-15-08); Ord. No. 5425, 8-2-11; Ord. No. 6446 , §8(Exh. C), 6-15-21)

December 27, 2022

RE: Planning Commission Approval LSD 2020-000015
Markham Hill Hospitality District

Dear Jessie:

Please accept this request for Planning Commission approval to extend the LSD 2020-000015 project one additional year. This project was approved by Planning Commission in February 2021 granted an administrative extension in February 2022.

As you may know, the construction industry has continued to see upheaval in material shortages, price escalations and, by extension, labor shortages, and significant schedule delays caused by the aftermath of the COVID-19 pandemic. Despite that, the Markham Hospitality project has received permit on the two existing structures: Pratt Place Inn (COMM-2022-000143) and the Event Barn (COMM-2022-000142), both of which are under construction. Two more structures, The Hotel (COMM-2022-000150) and the Hotel Pavilion (MISC-2022-000378) are submitted for permit and should achieve approval once the Grading Permit listed below is complete.

We have submitted for Grading Permit (GRD-2022-0079) and are currently awaiting comments/approval. Our intention is to be under construction as soon as possible and before the February 8th deadline expires. This request for an extension is to ensure that the approval does not expire in the event GRD-2022-0079 is not approved prior to the February 8th deadline.

If there are any questions or anything else is needed, please don't hesitate to contact me at 501.221.7880 or benk@dcius.pro.

Sincerely,
Development Consultants Incorporated



Ben Kuddes
Principal

Conditions of Approval:

1. Planning Commission determination of street improvements. *Staff recommends:*
 - a. *Markham Road: Construction of the proposed variant Alternative Residential Link street section through the site to the western property extents. This is to include sidewalk, streetlights, street trees where existing canopy is not present, and adequate width for 2-way traffic and emergency services; and*
 - b. *Sang Avenue: Extend Sang Avenue northward from its current intersection with Markham Road, in accordance with the Master Street Plan Alternative Residential Link street section with curb and gutter, and streetlights. In-lieu of sidewalk construction, staff recommends grading work be performed to accommodate construction of the 10-foot multi-use trail indicated in the Active Transportation Plan. Installation of street trees is deferred to developer or municipal construction of the multi-use trail to avoid their damage during trail installation. Alternatively, the applicant may petition the City Council to amend the conditions of Ordinance 6096 to remove the requirement for a street connection.*

Subdivision Committee recommended in favor of street improvements, with the exception of the trail grading proposed. This was not presented at Subdivision Committee.

2. Planning Commission determination of a variance of Fayetteville Unified Development Code §166.08(E), Street Design and Access Management Standards, Block Layout/Connectivity, to allow a block length in excess of the permitted 660 linear feet. *Staff recommends approval of the requested variance for the reasons outlined above;*

Subdivision Committee recommended in favor of the variance.

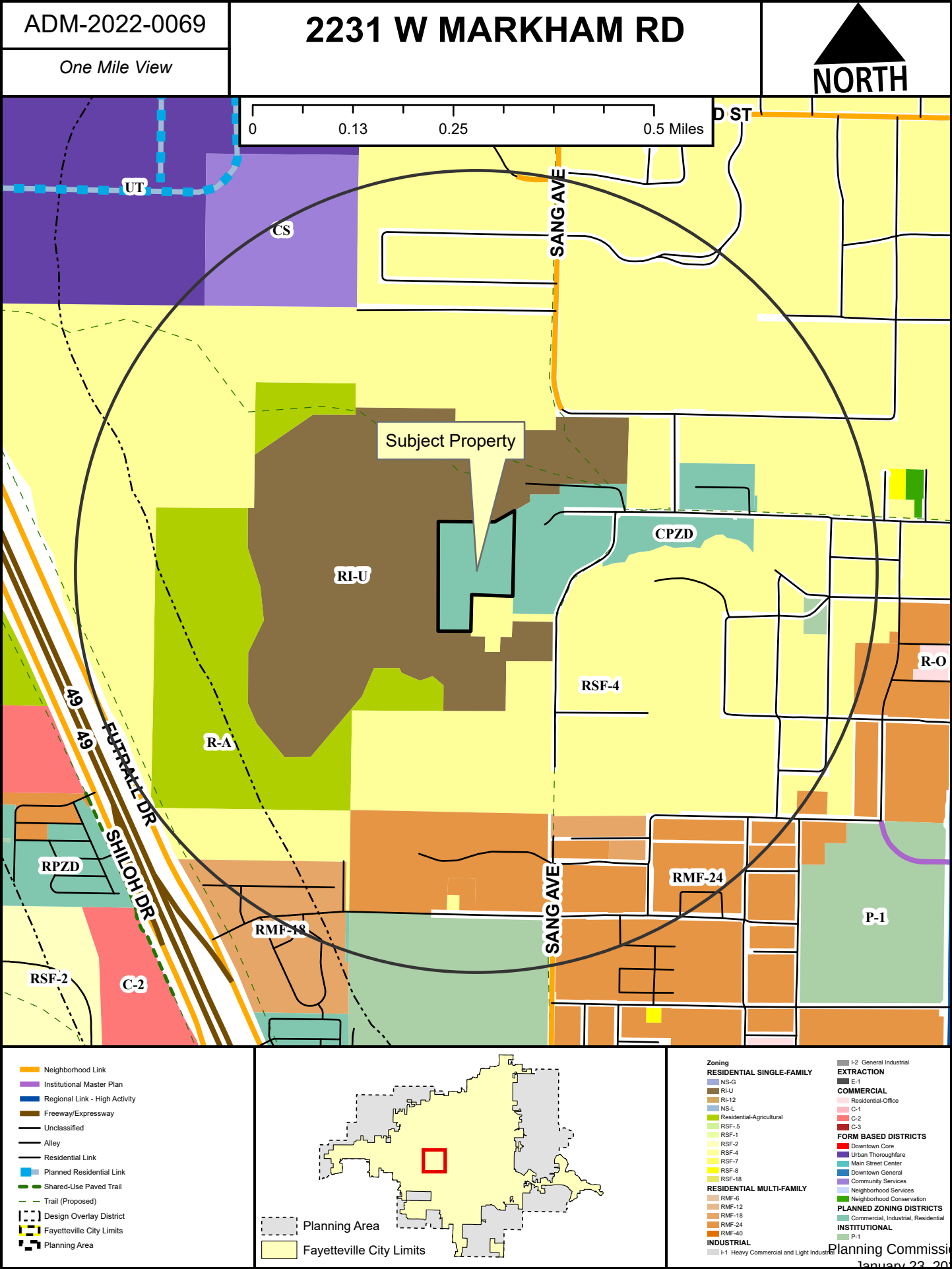
3. Subdivision Committee recommendation of a variance to the Master Street Plan Alternative Residential Link street section, to allow variable right-of-way and sidewalk at the back-of-curb. *Staff recommends approval of the requested variance for the reasons outlined above;*

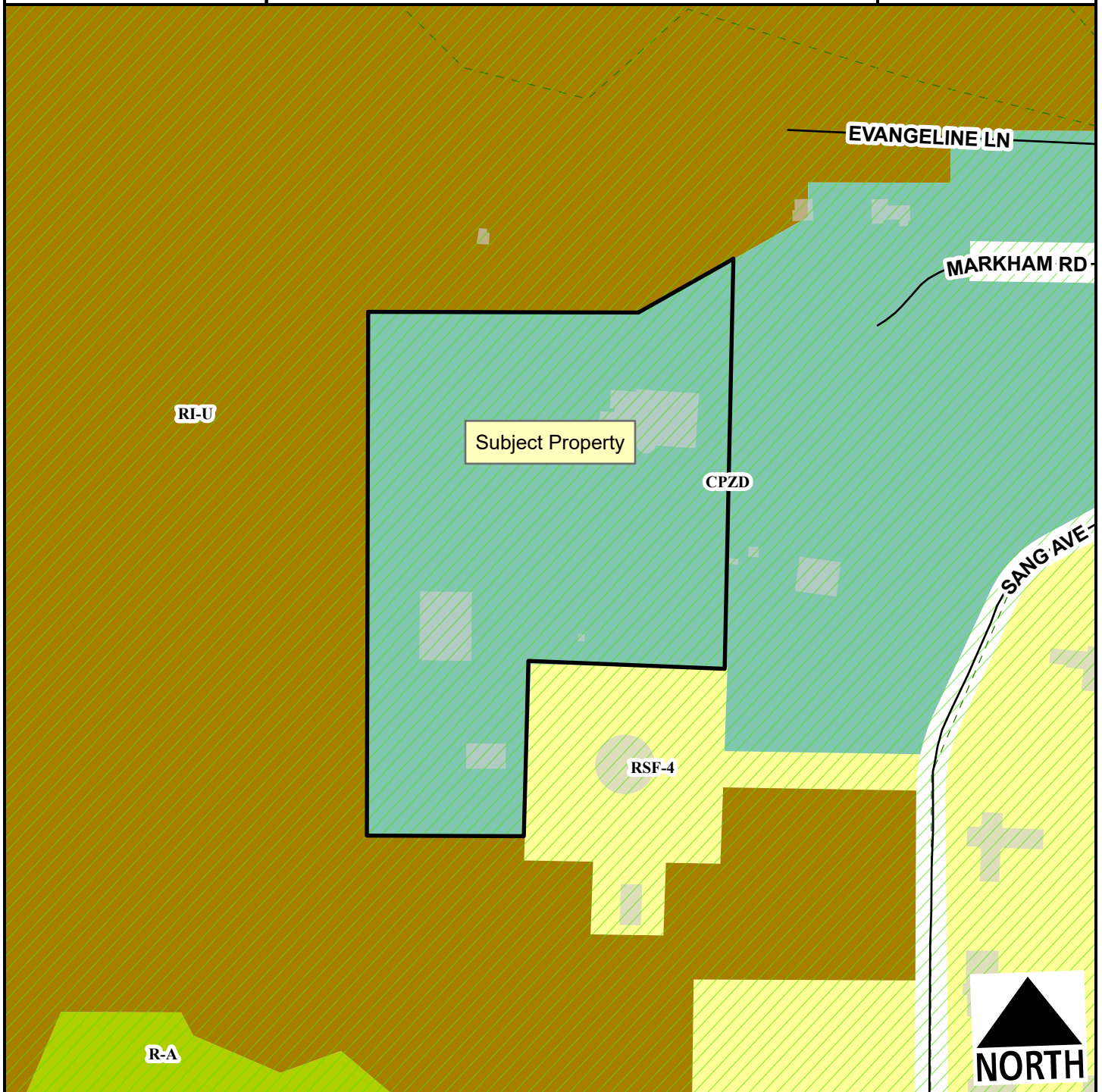
Subdivision Committee recommended in favor of the variance.

4. Phasing shall occur as indicated in the attached exhibit, with necessary utilities and access accommodated for each phase under construction review;
5. Prior to building permit issuance for buildings 2A and 2B, the easement upon which these structures encroach shall be vacated or the building footprints shall be moved;
6. Contact Drew Cook with the Recycling and Trash Division at acook@fayetteville-ar.gov regarding the proposed dumpster enclosures, their dimensions, and access;
7. Conditions of approval from Engineering, Urban Forestry, and other staff are included in the official conditions of approval, attached hereto. Additional redlines may be issued separately for detail;

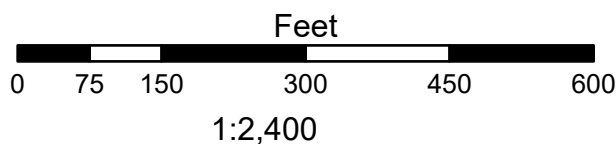
Standard conditions of approval:

8. Impact fees for fire, police, water, and sewer shall be paid in accordance with City ordinance;
9. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives: Black Hills, AT&T, Ozarks, SWEPCO, and Cox Communications);
10. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements;
11. All exterior lights shall comply with the City lighting ordinance. Manufacturer's cut-sheets are required for review and approval prior to issuance of a building permit;
12. All freestanding and wall signs shall comply with ordinance specifications for location, size, type, number, etc. Any proposed signs shall be permitted by a separate sign permit application prior to installation. Freestanding pole signs and electronic message boards (direct lighting) are prohibited in the I-540 Design Overlay District;
13. Large scale development shall be valid for one calendar year;
14. Contact the City's Emergency 911 Address Coordinator for addressing prior to building permit. The coordinator has noted that any and all new structures will require addressing action and that no existing addresses may be used;
15. Prior to building permit, a cost estimate for all required landscaping is to be submitted to the Landscape Administrator for review. Once approval is gained, a guarantee is to be issued (bond/letter of credit/cash) for 150% of the cost of the materials and installation of the plants. This guarantee will be held until the improvements are installed and inspected, at the time of Certificate of Occupancy; and
16. Prior to the issuance of a building permit the following is required:
 - a. Grading and drainage permits;
 - b. Separate easement plat for this project that shall include the tree preservation area and all utility and access easements;
 - c. Exterior lighting package must be provided to the Planning Division;
 - d. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance;
 - e. Project Disk with all final revisions; and
 - f. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.





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



- Residential-Agricultural
- RSF-4
- RI-U
- Commercial, Industrial, Residential

ADM-2022-0069

2231 W MARKHAM RD

Current Land Use



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



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

Planning Commission
January 23, 2023



TO: City of Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager
Chris Brown, Public Works Director

FROM: Alan Pugh, Staff Engineer

MEETING DATE: January 23, 2023

SUBJECT: **VAR-2022-0063: Variance (1679 S Coopers Cove/Brock Deck, 607):**
Submitted by Doreen and Vance Brock for property located at 1679 S Coopers Cove. The property is zoned RSF-4, RESIDENTIAL SINGLE FAMILY 4 UNITS PER ACRE and contains approximately 0.6 acres (2 parcels). The request is a variance from streamside protection requirements.

RECOMMENDATION:

Staff recommends approval of **VAR-2022-0063**, based on the findings contained in this report.

RECOMMENDED MOTION:

"I move to approve **VAR-2022-0063** with conditions, determining:

- Portions of the previously approved deck encroachment are proposed to be covered; and,
- The covered portions will project to the north side of the home rather than the rear of the home which would be closer to the stream; and,
- The encroachment with the covered portion of the deck will be in keeping with similar variance requests in the same subdivision.

BACKGROUND:

The subject property is located on the east side of S Coopers Cove within the Crescent Lake Subdivision. The parcels back up to E. Goff Farm Road and a tributary to the White River. The property totals approximately 0.6 acres and is currently developed with a single-family residence. The subject phase of Crescent Lake was platted in 2005 in advance of the streamside protection ordinance which was adopted in 2011. The tributary referenced is protected by the adopted ordinance. However, it should be noted that the tributary was modified prior to the adoption of the ordinance by placement of an in-stream dam. This has created a continuous pool of water behind the lot rather than a natural stream condition and has been incorporated as a feature of the Stonebridge Meadows Golf Course. Surrounding land uses and zoning is depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Residential	RSF-4 and R-A, see attached project maps
South	Residential	
East	Residential	
West	Residential	

Request: The applicant is requesting a variance to the Streamside Protection ordinance to cover a portion of a previously approved deck encroachment into the Streamside Zone with the addition of a deck on the property.

Public Comment: Staff has received no public comment concerning this request.

DISCUSSION:

This property has received a variance in the past for the construction of the original home and encroachment of up to 12 feet with a proposed deck. At the time of the deck variance, the applicant had planned to cover a small portion of the deck however, this was not clear on the plan or expressed to the commission. For that reason, a new variance for the covered portion is under consideration. The variances heard under VAR 17-5849 for the original construction and VAR-2022-0063 for the proposed deck were approved by the planning commission.

The proposed covered portion of the deck encroachment is located on the north side of the home rather than the east side which would place it closer to the stream. The proposed encroachment will also remain outside of the currently defined Zone A floodplain. For these reasons, staff would be in support of the variance request.

RECOMMENDATION: Staff recommends approval of **VAR-2022-0063** with the following conditions of approval:

Conditions of Approval:

1. *Covered portion of the deck will not extend beyond the rear line of the existing home and thus not project closer to the stream than the current home.*
2. *Applicant shall obtain all required permits to construct the deck including the covered portion.*
3. *The current owner shall disclose to any potential buyer of the lot/home affected that the lot/home is subject to the streamside ordinance and they will be responsible for compliance as the owner. This disclosure shall include a description of the purpose of any features constructed to comply with this variance request and the fact that the features must be maintained in order for the lot to remain in compliance.*
4. *The developer shall propose and use best management practices (BMPs) to limit sediment runoff during construction of the home. An erosion control plan shall be developed and submitted to staff for approval prior to construction.*

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>January 23, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

Section 156.03 Development Variances

Certain variances of the development regulations may be applied for as follows:

(C) Consideration by the Planning Commission

(9) Streamside Protection Zones

- (a) *Undue hardship.* If the provisions of the Streamside Protection Ordinance are shown by the owner or developer to cause undue hardship as strictly applied to the owner or developer's property because of its unique characteristics, the Planning Commission may grant a variance on a permanent or temporary basis from such provision so that substantial justice may be done and the public interest protected, provided that the variance will not have the effect of nullifying the intent and purpose of the Streamside Protection regulations.

The covered portion of the previously approved deck encroachment request will seemingly have a minimal impact on the overall health of the stream and is in keeping with similar variances granted within the subdivision. As stated in the original variance request, the lot would have otherwise been unbuildable without some relief from the streamside protection zones. Had the deck been included at that time, staff does not feel it would have changed the recommendation for approval based on the undue hardship of owning an unbuildable lot platted prior to the streamside protection ordinance being adopted.

- (b) *Consideration of alternative measures.* The applicant for the variance shall establish that a reasonable rezoning by the City Council or variance request from the Board of Adjustment will not sufficiently alleviate the claimed undue hardship caused by the Streamside Protection regulations.

Rezoning or rulings from the board of adjustments would not change the extent of the streamside protection zone and would not alleviate the need for a variance in this case.

- (c) *Conditions and safeguards.* In granting any variance, the Planning Commission may prescribe appropriate conditions and safeguards to substantially secure the objectives and purpose for the regulations so varied and to mitigate any detrimental effects the variance may cause. The Planning Commission should consider the Streamside Protection Best Management Practices Manual and any mitigation recommendations from the City Engineer.

See staff conditions listed above.

BUDGET/STAFF IMPACT:

None

Attachments:

- Applicant request letter
- Proposed variance request exhibit/materials
- One Mile Map
- Close Up Map
- Current Land Use Map

To Whom It May Concern,

We are looking to amend the deck variance VAR-2022-0025 to add a covered section on the side of the house. As per Alan's advice "Remove the covered portion from the deck and continue with the permit. You could also begin construction while you are requesting the variance for the covered portion. Provided it is approved by planning commission, you could submit a revision to your permit to cover that portion of the deck." We will hold off on the covered part and hope for approval.

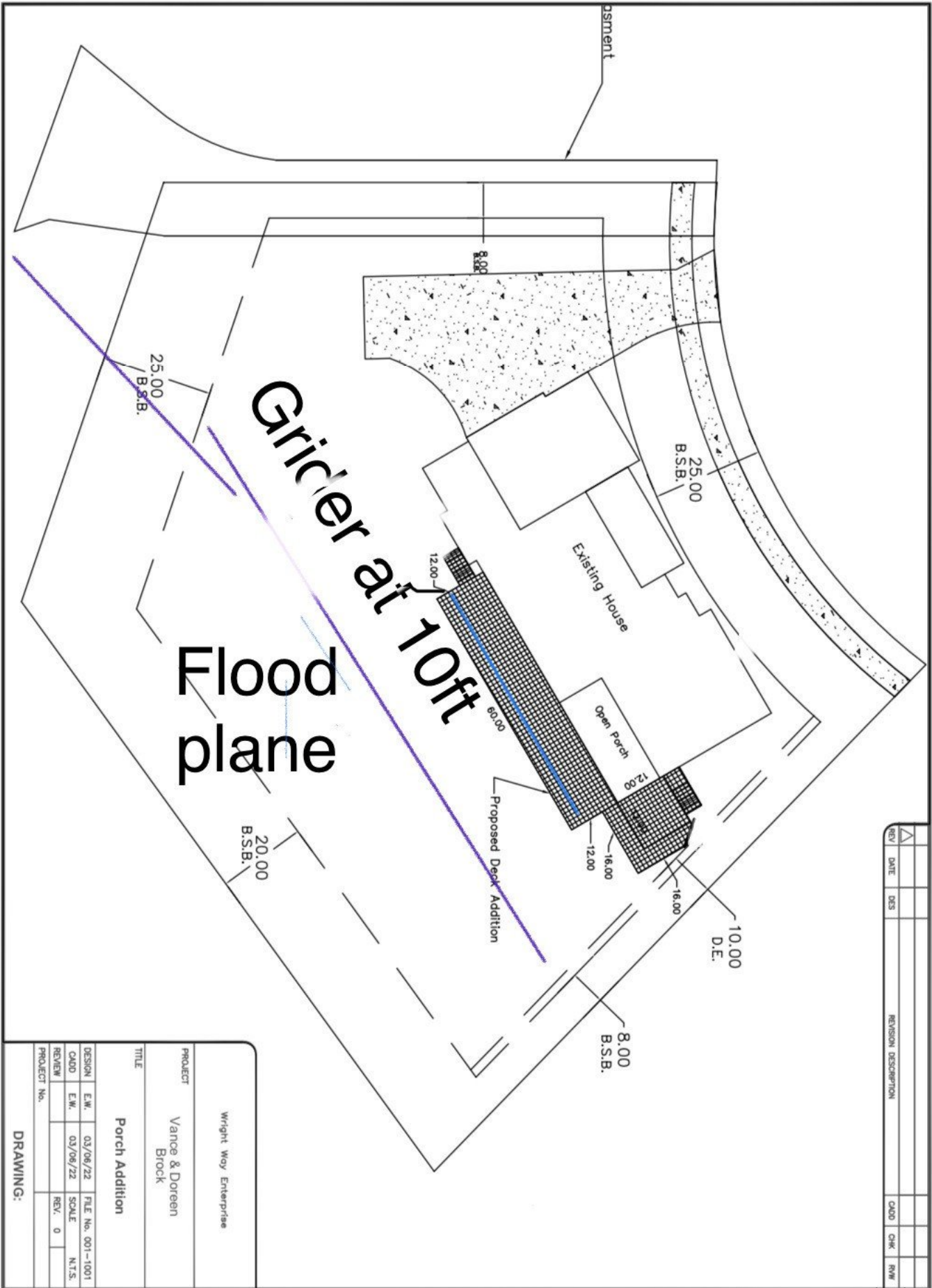
Thank you for your time.

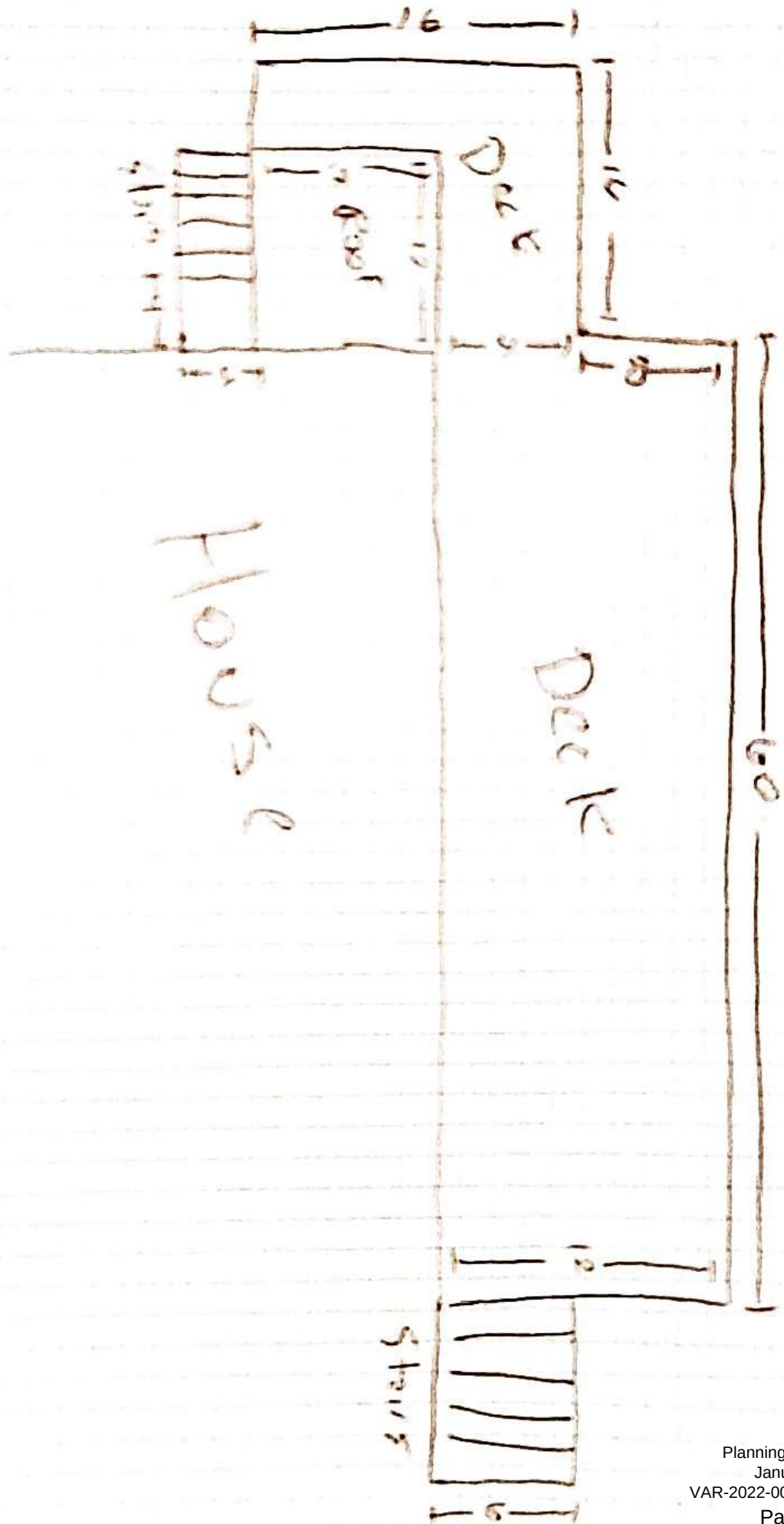
Regards,

Vance Brock

1679 S Coopers CV

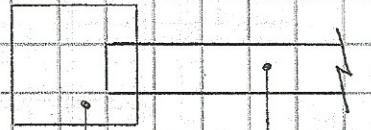
Fayetteville, AR 72701





* WATER

6x6 support post
suspended in Footing



Footing is 12" x 12" x 18" depth

Double Rim Joist 2x8

Double 2x12 Beam

6'9"

Deck Detail for
1679 S Coopers CV Fayetteville

← NOT COVERED →

- All Joist 16" O/C main Deck area they will cantilever over Double Beam by 2'
- Joist are all 2x8

BACK OF HOUSE



Double 2x12 Beam

7 Steps

COVERED

16'

- All Support post are 6x6 will be notched to hold Framing members and bolted with 1/2" bolts

- Spans between support post are 7'6" TO 8'

- Deck Max Height is 7'6" TO 11'

12 steps

VARIANCE EXHIBIT

ADJACENT LAND OWNERS:

- 1) WEISBACH, THOMAS A & SANDRA M
PARCEL #765-24800-000
ZONED: RSF-4
- 2) RIVERS, RENISHA C
3706 E SPYGLASS HILL DR
FAVETTVILLE, AR 7201
ZONED: RSF-4
- 3) MADISON ENTERPRISES INC
1660 S COOPER CV
FAVETTVILLE, AR 7201
ZONED: RSF-4
- 4) MODVANT CAPITAL LLC
PO BOX 8771
FAVETTVILLE, AR 7201
ZONED: RSF-4
- 5) PASCAL, JEREMY L & CRYSTAL F
1660 S COOPER CV
FAVETTVILLE, AR 7201
ZONED: RSF-4
- 6) BALDWIN CONSTRUCTION LLC
4114 WALNUT AVE
FAVETTVILLE, AR 7201
ZONED: RSF-4

CITY PLATPAGE:

PROPERTY OWNER:
THREE TEN LLC
PO BOX 425
E. AR 7202
DEED: 2006-5109

FIELD WORK:
FEBRUARY 13, 2017

BASIS OF MEASURE:
FINAL PLAT OF CRESCENT LAKE
SUBDIVISION FILED IN BOOK 23 AT PAGE 189

REFERENCE DOCUMENTS:
1) FINAL PLAT OF CRESCENT LAKE SUBDIVISION
2) WARRANTY DEED FILED IN BOOK 2006 AT PAGE 5109

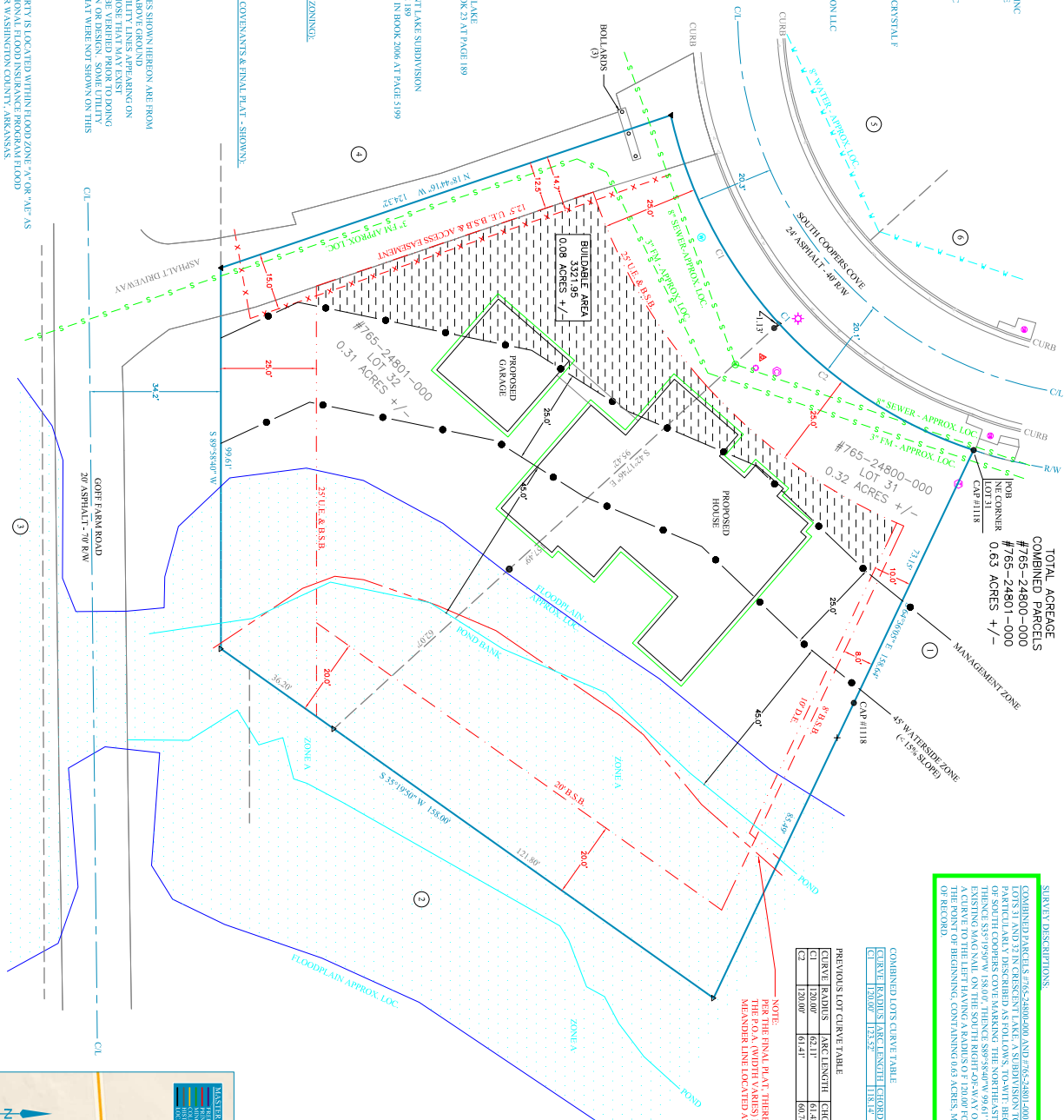
PROPERTY ZONED:
RSF-4

BUILDING SETBACKS (PER ZONING):
FRONT 151
SIDE 50
REAR 151

BUILDING SETBACKS (PER COVENANTS & FINAL PLAT - SHOWN):
FRONT 251
SIDE 81
REAR 201

NOTE:
THE LOCATION OF UTILITIES SHOWN HEREON ARE FROM
OBSERVED EVIDENCE OF ABOVE GROUND
UTILITIES. ALL UTILITIES SHOWN ARE BASED ON
THEIR OWNERS' RECORDS. THE LOCATION OF UTILITIES
UNDERGROUND NEED TO BE VERIFIED PRIOR TO DOING
ANY TYPE OF EXCAVATION OR DISBUR. SOME UTILITIES
MAY ALSO EXIST THAT WERE NOT SHOWN ON THIS
PLAT.

FLOOD CERTIFICATION:
A PORTION OF THIS PROPERTY IS LOCATED WITHIN FLOOD ZONE "A" OR "AE" AS
DETERMINED BY THE NATIONAL FLOOD INSURANCE PROGRAM FLOOD
INSURANCE RATE MAP (FIRM PANEL: 40543C0240F DATED 5/16/2009).



TOTAL ACRES
COMBINED PARCELS
#765-24800-000
#765-24801-000
0.63 ACRES +/-

SURVEY DESCRIPTION:
COMBINED PARCELS #765-24800-000 AND #765-24801-000.
LOTS 31 AND 32 IN CRESCENT LAKE, A SUBDIVISION TO THE CITY OF FAVETTVILLE, ARKANSAS, BEING MORE
OR LESS THE SOUTH COOPERS COVE, MARKING THE NORTH EAST CORNER OF LOT 31 AND RUNNING THENCE S64°16'05"E 158.64'
THENCE S19°19'50"W 138.07' THENCE S89°58'40"W 99.61' TO AN EXISTING MAG NAIL, THENCE S18°44'16"W 124.32' TO AN
EXISTING MAG NAIL, ON THE SOUTH RIGHT-OF-WAY OF SOUTH COOPERS, THENCE ALONG SAID RIGHT-OF-WAY ALONG
THE POINT OF BEGINNING, CONTAINING 0.63 ACRES, MORE OR LESS, SUBJECT TO ALL EASEMENTS AND RIGHT-OF-WAY
OF RECORD.

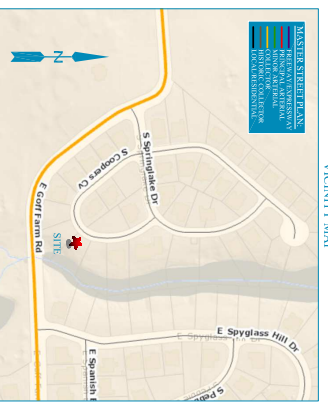
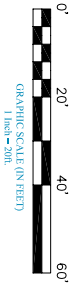
COMBINED LOTS CURVE TABLE

CHORD BEARING	CHORD LENGTH	CHORD BEARING	CHORD LENGTH	CHORD BEARING	CHORD LENGTH
N 47°51'17" E	157.854'	S 18°44'16" W	124.32'	S 19°19'50" W	138.07'
S 18°44'16" W	124.32'	S 89°58'40" W	99.61'	S 64°16'05" E	158.64'

PREVIOUS LOT CURVE TABLE

CHORD BEARING	CHORD LENGTH	CHORD BEARING	CHORD LENGTH	CHORD BEARING	CHORD LENGTH
N 47°51'17" E	157.854'	S 18°44'16" W	124.32'	S 19°19'50" W	138.07'
S 18°44'16" W	124.32'	S 89°58'40" W	99.61'	S 64°16'05" E	158.64'

NOTE:
PER THE FINAL PLAT, THERE IS A RECREATIONAL EASEMENT DEDICATED TO A
MEANDER LINE LOCATED AT ELEVATION 118.5.



FOR USE AND BENEFIT OF:
THREE TEN LLC

DATE: 6/30/17 SCALE: 1"=20'

LOCATION: 1679 & 1679 SOUTH COOPER COTE
FAVETTVILLE, ARKANSAS

DRAWING #17-046107C000

Bates & Associates, Inc.
Engineers • Surveyors • Landscape Architects

LEGEND:

THESE STANDARD SYMBOLS WILL BE FOUND IN THE DRAWING.

- BOUNDARY LINE (MEASURED)
- CENTERLINE OF ROAD
- RIGHT-OF-WAY
- FENCE
- WATER LINE
- SEWER LINE
- BUILDING SETBACK
- UTILITY EASEMENT
- RECREATIONAL EASEMENT
- ADJACENT PARCEL LINE
- FOUND CHISELED X ON ROCK
- FOUND 1/8" REBAR
- COMPLETED POINT
- CABLE PEDESTAL
- TELEPHONE PEDESTAL
- WATER METER
- STORM SEWER MH
- SANITARY SEWER MH
- GAS METER
- ELECTRIC PEDESTAL
- LIGHT

RECORDING NUMBER/DATE

Planning Commission
January 23, 2023
VAR-2022-0063 (BROCK)

Page 4 of 301

Crescent Lake POA

Date June 20, 2022

City of Fayetteville

RE: 1679 S Coopers Cv

To: Whom It May Concern,

Please accept this letter as verification that Crescent Lake POA has approved plans for 1679 S Coopers Cove, Fayetteville, AR. Plans include building a deck on the side and back of their house. It falls within our variance and covenants of the POA.

Sincerely,



Adnan Alrubaye

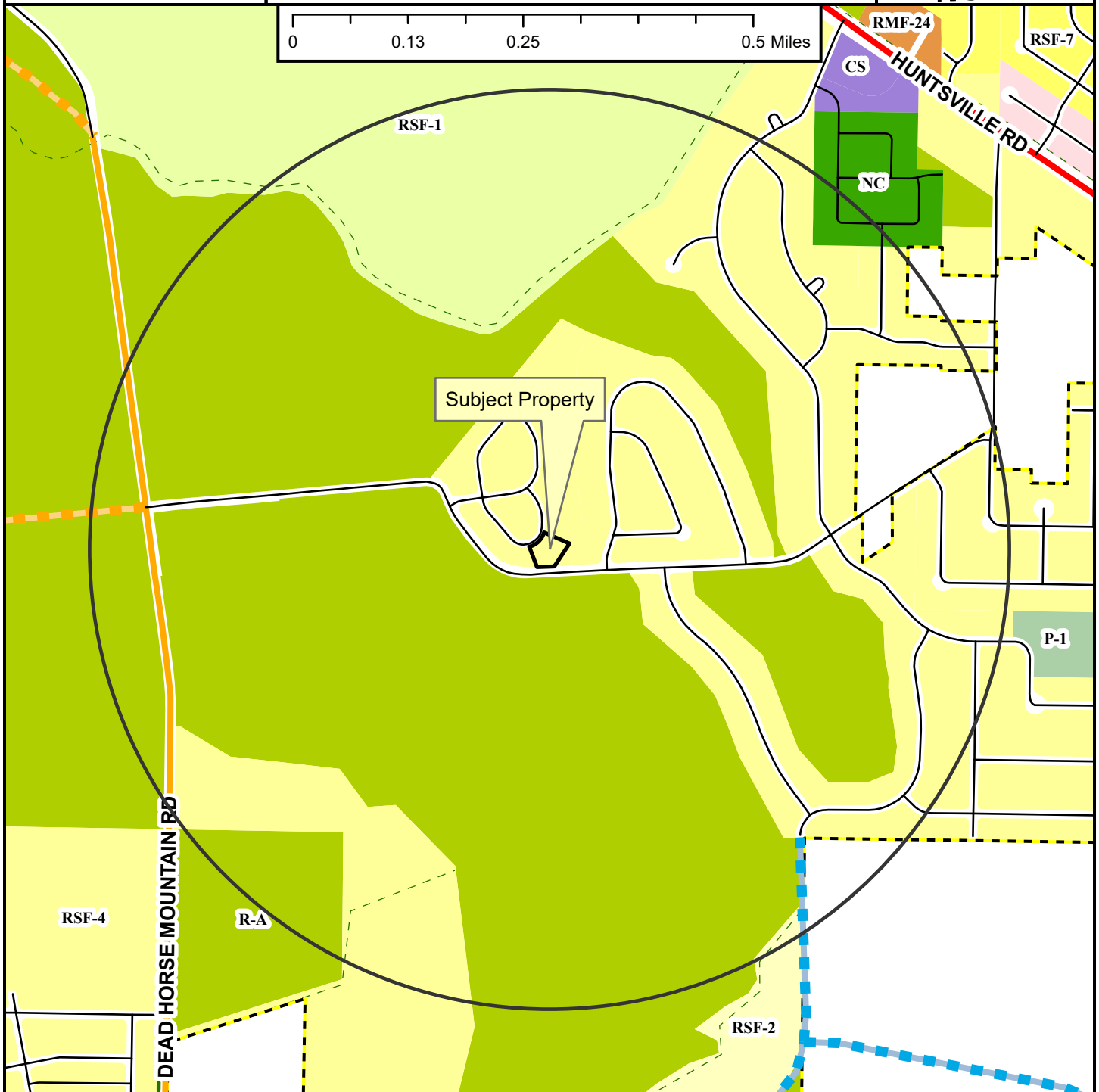
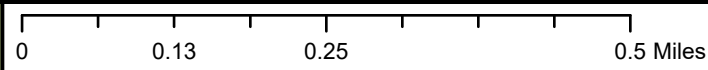
Vice-President, Crescent Lake POA

1690 S. Coopers Cove

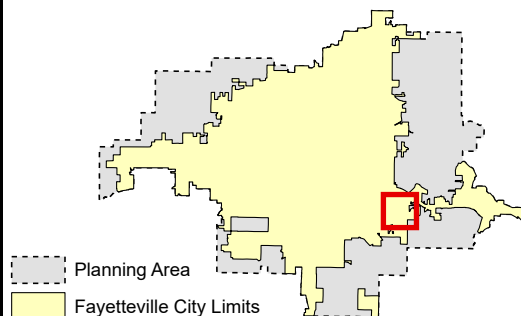
VAR-2022-0063

1679 S Coopers Cove

One Mile View



- Regional Link
- Neighborhood Link
- Unclassified
- Alley
- Residential Link
- Planned Neighborhood Link
- Planned Residential Link
- Shared-Use Paved Trail
- Trail (Proposed)
- 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-13
 - 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

January 23, 2023

VAR-2022-0063 (BROCK)

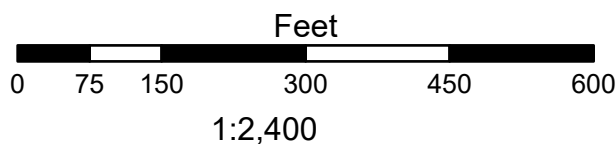
VAR-2022-0063

1679 S Coopers Cove

Close Up View



- Residential Link
- Planning Area
- Fayetteville City Limits

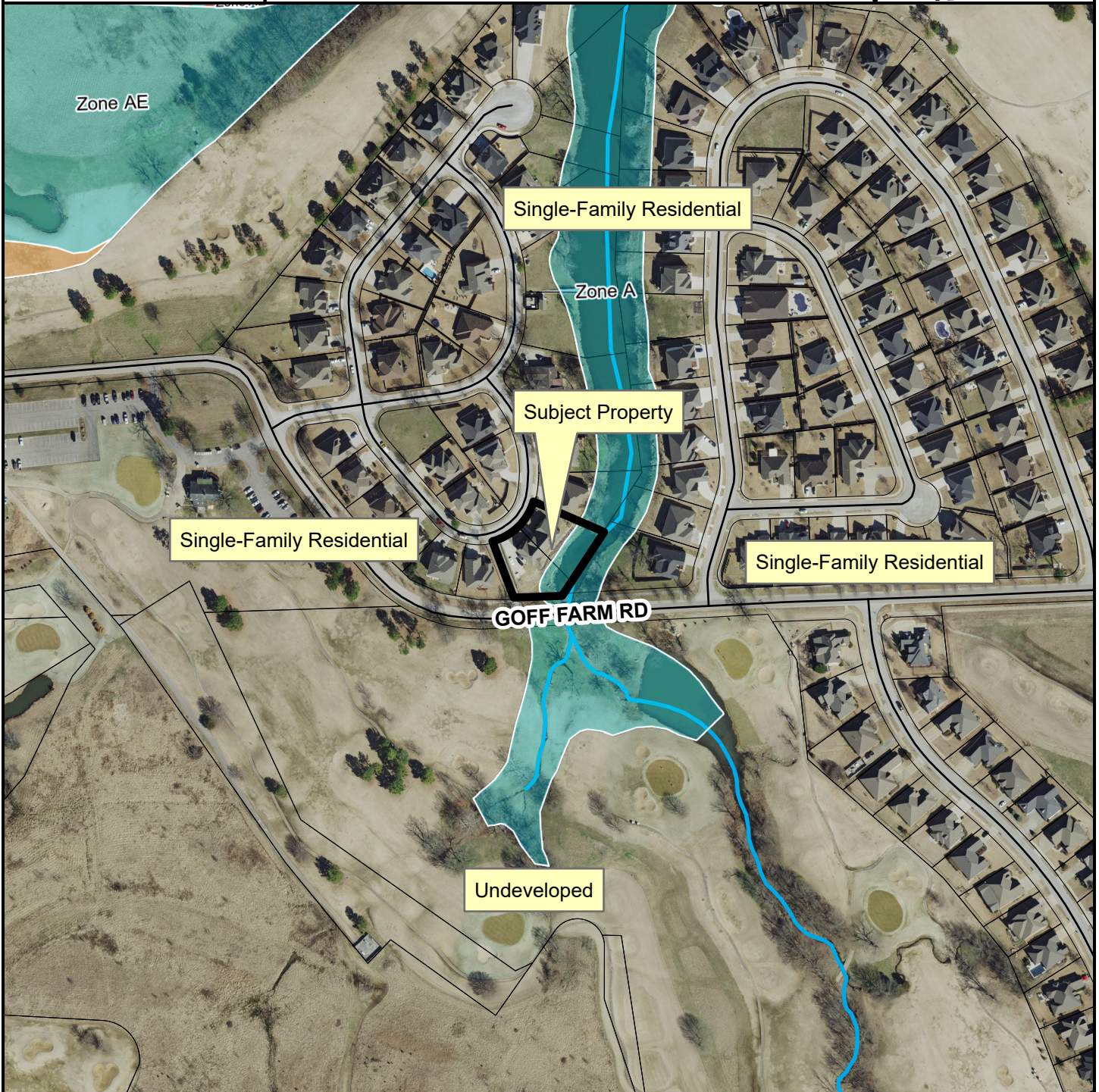


- Residential-Agricultural
- RSF-4

VAR-2022-0063

1679 S Coopers Cove

Current Land Use



- Residential Link
- Planning Area
- Fayetteville City Limits



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway



TO: Fayetteville Planning Commission

FROM: Jessie Masters, Development Review Manager

MEETING DATE: January 23, 2023

SUBJECT: **VAC-2022-0029: Vacation (1074 E. SAIN ST/THE TRAILS ON THE CREEK, 174):** Submitted by BLEW AND ASSOCIATES for property located at 1074 E. SAIN ST. The property is zoned RPZD, RESIDENTIAL PLANNED ZONING DISTRICT and contains approximately 10.55 acres. The request is to vacate a 0.10-acre portion of right-of-way.

RECOMMENDATION:

Staff recommends forwarding **VAC-2022-0029** to City Council with a recommendation of approval, with conditions.

RECOMMENDED MOTION:

"I move to forward **VAC-2022-0029** with a recommendation of approval, with conditions as recommended by staff."

BACKGROUND:

The subject property is in north Fayetteville, south of Mud Creek, and west of Butterfield Trail Village. The eastern and southern portions of the main site are characterized by steep slopes down to Mud Creek and its floodplain to the north, and up to Brookhaven Estates and Christian Life Cathedral to the south. A relatively level area is found between these two grades and across the remainder of the property. Despite the terrain, no portion of the property falls within the Hillside-Hilltop Overlay district. The property received its current zoning designation of RPZD on November 5, 2020 with the passage of Ordinance 6377 by City Council. An associated large-scale development of multi-family housing was approved by the Planning Commission on November 28, 2022. Surrounding land uses and zoning is depicted in *Table 1*.

Table 1:
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Undeveloped; Mud Creek Trail	C-2, Thoroughfare Commercial; P-1, Institutional
South	Church; Single-family Residential;	P-1, Institutional; RSF-4, Residential Single-family, 4 Units per Acre
East	Mud Creek Trail; Single-family Residential	P-1, Institutional; RSF-4, Residential Single-family, 4 Units per Acre
West	Varied Commercial; UA Uptown Campus	C-2, Thoroughfare Commercial I-1, Heavy Commercial and Light Industrial;

Proposal: The applicant proposes to vacate a 0.10-acre portion of street right-of-way following the construction of the recently completed E. Sain Street connection and associated bridge.

DISCUSSION:

The right-of-way vacation request is associated with an approved large-scale development for multi-family housing that was approved by Planning Commission on November 28, 2022. The vacation request comes on the heels of the completion of the Sain Street connection, and it has been determined that the right-of-way is no longer needed to serve that street.

Vacation Approval: The applicant has submitted the required vacation forms to the relevant City departments and franchise utility companies with the following responses. As the petitioner and sole landowner adjacent to the subject right-of-way, adjacent property owner consent is not an applicable standard.

<u>Utility</u>	<u>Response</u>
Cox Communications	No objections, provided any damage or relocation of existing Cox facilities will be at the expense of the applicant.
AEP/SWEPCO	No objections, provided new utility easements are coordinated to serve the project when the master street plan right-of-way is established.
Black Hills Energy AR	No objections and no comment.
AT&T	No objections and no comment.
Ozarks Electric	No objections and no comment.
<u>City of Fayetteville</u>	<u>Response</u>
Water/Sewer	No objections, provided 20-foot wide easement is retained for existing sanitary sewer.
Solid Waste & Recycling	No objections and no comment.
Transportation	No objections, provided all conditions of approval are met with associated large-scale development.

Public Comment: Staff has not received any public comment regarding the request.

RECOMMENDATION: Staff recommends forwarding **VAC-2022-0029** to City Council with a recommendation of approval, with the following conditions:

Conditions of Approval:

1. Any damage or relocation of existing facilities will be at the developer's expense;
2. Any new utility easements to serve the development must be coordinated when the Master Street Plan right-of-way is established;
3. A 20-foot wide easement must be retained for existing sanitary sewer;
4. Right-of-way vacation subject to approval and issuance of grading permit in association with LSD-2022-000006.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>January 23, 2023</u>	☐ Tabled	☐ Forwarded	☐ Denied
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:

None

Attachments:

- Applicant Request Letter
- Applicant Petition to Vacate
- Site Exhibit – ROW to be vacated
- One Mile Map
- Close-Up Map
- Current Land Use Map

BLEW & ASSOCIATES, PA
CIVIL ENGINEERS & LAND SURVEYORS

November 29, 2022

City of Fayetteville
Planning Commission and City Council
125 W. Mountain Street
Fayetteville, AR 72701

SUBJECT: Right of Way Vacation

Dear Board Members:

We are requesting vacating the Right of Way along Sain Street that is in excess of the Master Street Plan and in excess of what is required for the Sain Street Development per the attached exhibit.

Sincerely,

Jorge Du Quesne
Blew & Associates, PA

PETITION

PETITION TO VACATE A street right-of-way LOCATED IN part of Lot 11, Vantage Square, Unit II, CITY OF FAYETTEVILLE, ARKANSAS.

TO: The Fayetteville City Planning Commission and
The Fayetteville City Council

We, the undersigned, being all the owners of the real estate abutting the street right-of-way hereinafter sought to be abandoned and vacated, lying in part of Lot 11, Vantage Square, Unit II, City of Fayetteville, Arkansas, a municipal corporation, petition to vacate a street right-of-way which is described as follows:

RIGHT-OF-WAY VACATION

A PART OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 26, TOWNSHIP 17 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: COMMENCING AT THE SOUTHEAST CORNER OF SAID FORTY ACRE TRACT, AND RUNNING THENCE S87°23'08"E 140.00', THENCE N02°36'52"E 200.26', THENCE N41°10'35"W 428.12', THENCE S48°44'34"W 71.20', THENCE WITH A CURVE TO THE RIGHT, HAVING A RADIUS OF 1175.51', AND A CHORD BEARING AND DISTANCE OF S58°56'44"W 414.71', THENCE S81°45'20"W 21.69' TO THE POINT OF BEGINNING, THENCE S81°45'20"W 6.01', THENCE WITH A CURVE TO THE RIGHT, HAVING A RADIUS OF 13.00', AND A CHORD BEARING AND DISTANCE OF N69°16'30"W 2.31', THENCE WITH A REVERSE CURVE TO THE LEFT, HAVING A RADIUS OF 53.50', AND A CHORD BEARING AND DISTANCE OF S79°59'08"W 62.66', THENCE WITH A REVERSE CURVE TO THE RIGHT, HAVING A RADIUS OF 13.00', AND A CHORD BEARING AND DISTANCE OF S62°02'24"W 7.99', THENCE S79°56'16"W 35.55', THENCE WITH A CURVE TO THE RIGHT, HAVING A RADIUS OF 70.64', AND A CHORD BEARING AND DISTANCE OF S81°46'38"W 7.14', THENCE S84°40'30"W 31.64', THENCE WITH A CURVE TO THE RIGHT, HAVING A RADIUS OF 22.33', AND A CHORD BEARING AND DISTANCE OF S88°17'01"W 3.03', THENCE N87°49'10"W 29.99', THENCE N89°17'12"W 16.33', THENCE N87°50'27"W 72.08', THENCE N01°13'38"E 11.31', THENCE S88°30'57"E 67.90', THENCE N81°54'26"E 181.92', THENCE N88°36'00"E 35.05', THENCE WITH A CURVE TO THE RIGHT, HAVING A RADIUS OF 60.00', AND A CHORD BEARING AND DISTANCE OF S37°07'18"W 18.98' TO THE POINT OF BEGINNING. CONTAINING 0.10 ACRES MORE OR LESS.

That the abutting real estate affected by said abandonment of the alley are part of part of Lot 11, Vantage Square, Unit II, of each adjoining lot to the area requested to be vacated, City of Fayetteville used by the public for a period of many years, and that the public interest and welfare would not be adversely affected by the abandonment of the portion of the above-described street right-of-way.

The petitioners pray that the City of Fayetteville, Arkansas, abandon and vacate the above-described real estate, subject, however, to the existing utility easements and sewer easements as required, and that the above-described real estate be used for their respective benefit and purpose as now approved by law.

The petitioners further pray that the above-described real estate be vested in the abutting property owners as provided by law.

WHEREFORE, the undersigned petitioners respectfully pray that the governing body of the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject to said utility and sewer easements, and that title to said real estate sought to be abandoned be vested in the abutting property owners as provided by law, and as to that particular land the owners be free from the easements of the public for the use of said alley.

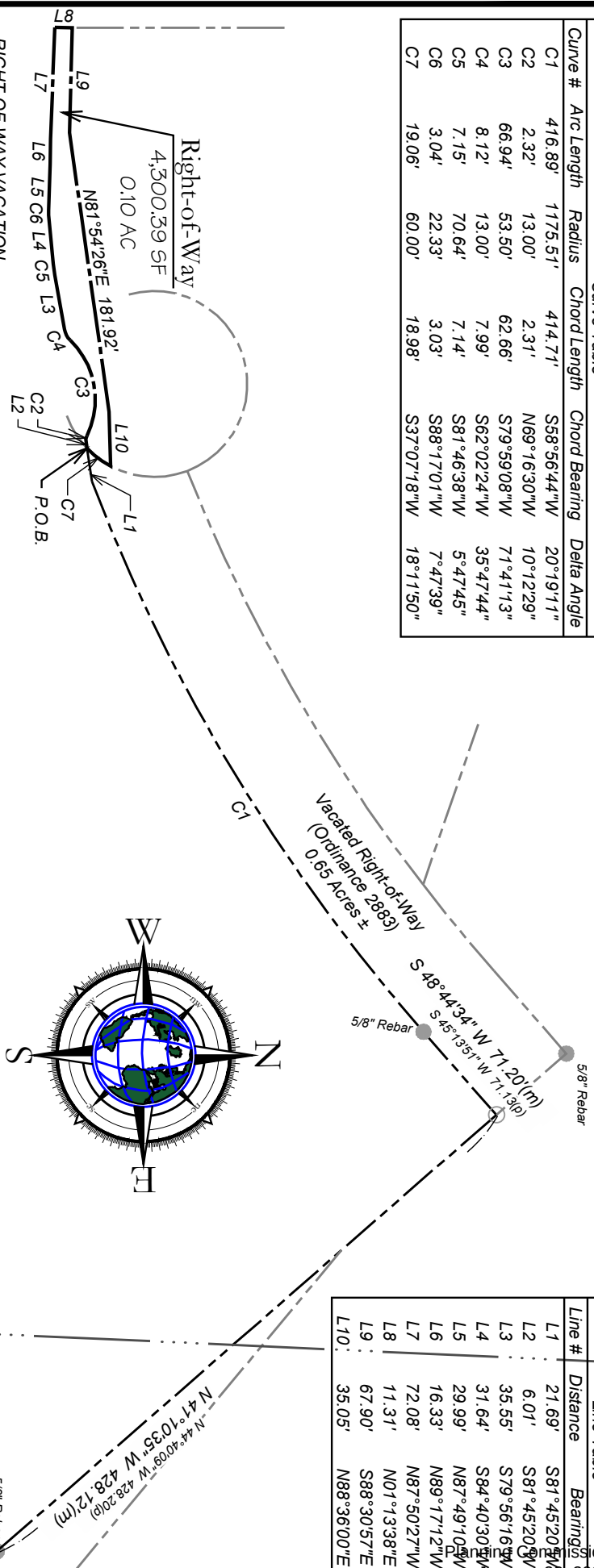
Dated this 18th day of JANUARY, 20 23.

THE TRAILS ON THE CREEK APARTMENTS A LIMITED PARTNERSHIP
ITS GENERAL PARTNER
THE TRAILS ON THE CREEK APARTMENTS MANAGEMENT COMPANY, INC.,

By: EMIL "LINDY" LINDSEY, PRESIDENT
Signature

Curve Table				
Curve #	Arc Length	Radius	Chord Bearing	Delta Angle
C1	416.89'	1175.51'	S58°56'44"W	20°19'11"
C2	2.32'	13.00'	N69°16'30"W	10°12'29"
C3	66.94'	53.50'	S79°59'08"W	71°41'13"
C4	8.12'	13.00'	S62°02'24"W	35°47'44"
C5	7.15'	70.64'	S81°46'38"W	5°47'45"
C6	3.04'	22.33'	S88°17'01"W	7°47'39"
C7	19.06'	60.00'	S37°07'18"W	18°11'50"

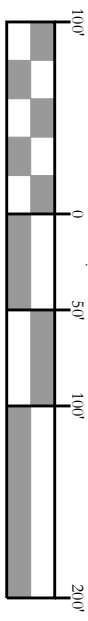
Line Table		
Line #	Distance	Bearing
L1	21.69'	S81°45'20"W
L2	6.01'	S81°45'20"W
L3	35.55'	S79°56'16"W
L4	31.64'	S84°40'30"W
L5	29.99'	N87°49'10"W
L6	16.33'	N89°17'12"W
L7	72.08'	N87°50'27"W
L8	11.31'	N01°13'38"E
L9	67.90'	S88°30'57"E
L10	35.05'	N88°36'00"E



RIGHT-OF-WAY VACATION

A PART OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 26, TOWNSHIP 17 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: COMMENCING AT THE SOUTHEAST CORNER OF SAID FORTY ACRE TRACT, AND RUNNING THENCE S87°23'08"E 140.00', THENCE N02°36'52"E 200.26', THENCE N41°10'35"W 428.12', THENCE S48°44'34"W 71.20', THENCE WITH A CURVE TO THE RIGHT, HAVING A RADIUS OF 1175.51', AND A CHORD BEARING AND DISTANCE OF S58°56'44"W 414.71', THENCE S81°45'20"W 21.69' TO THE POINT OF BEGINNING, THENCE S81°45'20"W 6.01', THENCE WITH A CURVE TO THE RIGHT, HAVING A RADIUS OF 13.00', AND A CHORD BEARING AND DISTANCE OF N69°16'30"W 2.31', THENCE WITH A REVERSE CURVE TO THE LEFT, HAVING A RADIUS OF 53.50', AND A CHORD BEARING AND DISTANCE OF S79°59'08"W 62.66', THENCE WITH A REVERSE CURVE TO THE RIGHT, HAVING A RADIUS OF 13.00', AND A CHORD BEARING AND DISTANCE OF S62°02'24"W 7.99', THENCE S79°56'16"W 35.55', THENCE WITH A CURVE TO THE RIGHT, HAVING A RADIUS OF 70.64', AND A CHORD BEARING AND DISTANCE OF S81°46'38"W 7.14', THENCE S84°40'30"W 31.64', THENCE WITH A CURVE TO THE RIGHT, HAVING A RADIUS OF 22.33', AND A CHORD BEARING AND DISTANCE OF S88°17'01"W 3.03', THENCE N87°49'10"W 29.99', THENCE N89°17'12"W 16.33', THENCE N87°50'27"W 72.08', THENCE N01°13'38"E 11.31', THENCE S88°30'57"E 67.90', THENCE N81°54'26"E 181.92', THENCE N88°36'00"E 35.05', THENCE WITH A CURVE TO THE RIGHT, HAVING A RADIUS OF 60.00', AND A CHORD BEARING AND DISTANCE OF S37°07'18"W 18.98' TO THE POINT OF BEGINNING, CONTAINING 0.10 ACRES MORE OR LESS.

Right-of-Way Vacation

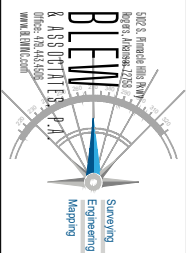


Project Number: 20-4434 Trails on the Creek

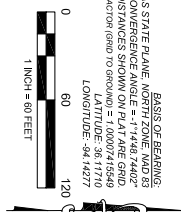
Certificate of Authorization No 1534

Date: 09/30/2022

3825 N. Shiloh Drive ♦ Fayetteville, Arkansas 72703 ♦ 479.443.4506 Office ♦ 479.582.1883 Fax



BASIS OF BEARING: ARKANSAS STATE PLANE, NORTH ZONE, NAD 83
 CONVERGENCE ANGLE = -1°14'48.74402"
 DISTANCES SHOWN ON PLAT ARE GRID
 DISTANCES (GRID TO GROUND) = 1.00007415549
 COMBINED SCALE FACTOR (GRID TO GROUND) = 1.00007415549
 LATITUDE: 36.44720



BOULDERING LINE	—
FOOTY LINE	—
CENTRALINE (OF ROAD) (CL)	—
RIGHT-OF-WAY (ROW)	—
FENCE	X — X
ACCESS EASEMENT (A/E)	—
BUILDING SET BACK (B.S.B.)	—
UTILITY EASEMENT (U/E)	—
WATER LINE	— V — V
SAINT/ANY SEWER LINE	— S — S
OVERHEAD POWER LINE	— OP — OP
GUY WIRE	— / —
STORM DRAIN LINE	—

CURRENT ZONING:
C-2, THOROUGHFARE COMMERCIAL

FRONT - 10'
FRONT WITH PARKING BETWEEN RIGHT-OF-WAY AND BUILDING - 25'
SIDE - NONE
SIDE WHEN CONTIGUOUS TO A RESIDENTIAL DISTRICT - 15'
REAR - 20'

FRONT - 10' TO 25' BUILDING ZONE
SIDE AND REAR - NONE
SIDE OR REAR, WHEN CONTIGUOUS TO A SINGLE-FAMILY RESIDENTIAL DISTRICT - 15'

123 W. MOONBAIN STREET
FAYETTEVILLE, AR 72701
PHONE: 479.575.8267
FAX: 479.575.8202

STATE RECORDING NUMBER
500-17N-30W-0-26-120-72-1532

REFERENCE DOCUMENTS:

1. WARRANTY DEED FILED IN DEED BOOK 2017 AT PAGE 19622.
2. SUBDIVISION PLAT FILED IN DEED BOOK 9 AT PAGE 13.
3. WARRANTY DEED FILED IN DEED BOOK 2014 AT PAGE 11689.

7. CITY OF FAIRVIEW ORDINANCE 2863 FILED IN DEED BOOK 1071 AT PAGE 300.
8. SUBDIVISION PLAT FILED IN PLAT BOOK 10 AT PAGE 79.

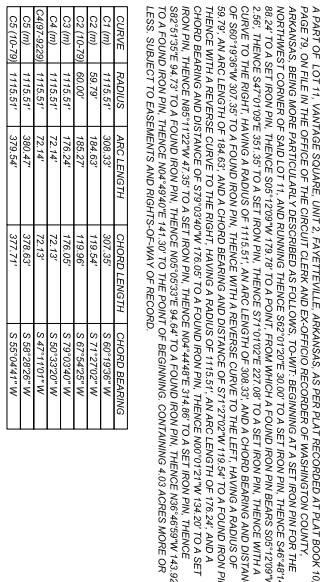
UNLESS OTHERWISE NOTED, MONUMENTS WERE FOUND AT POINTS WHERE INDICA-

FLOOD INSURANCE RATE MAP, COMMUNITY PANEL NO. 05143C0210E, WHICH BEARS AN

EXCEPT AS SPECIFICALLY STATED OR SHOWN ON THIS PLAN AT THIS SURVEY

SUBJECT PROPERTY; EASEMENTS, OTHER THAN POSSIBLE EASEMENTS WHICH WERE

SEARCH MAY DISCLOSE.



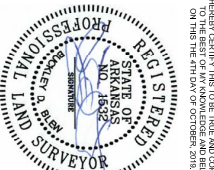
Planning Commission
January 23, 2023
IN CIVIL MATTERS
AILS ON THE CREEK



THE LOCATION OF UTILITIES SHOWN HEREIN ARE FROM OBSERVED EVIDENCE OF ABOVE GROUND APPURTENANCES ONLY. THE SUPERVISED WORK WAS NOT PROVIDED WITH UNDERGROUND PLANS OF SURFACE GROUND MARKINGS TO DETERMINE THE LOCATION OF ANY SUBTERRANEAN USES.

BEFORE DIGGING IN THIS AREA, CALL ONE CALL* 811 FOR FIELD LOCATION REQUEST FOR (GROUND MARKINGS) OF UNDERGROUND UTILITY LINES.

VAC



IF THE SIGNATURE ON THIS SEAL IS NOT AN ORIGINAL AND NOT BLUE IN COLOR THEN IT SHOULD BE ASSUMED THAT THIS PLAT MAY HAVE BEEN ALTERED. THE ABOVE CERTIFICATION SHALL NOT APPLY TO ANY COPY THAT DOES NOT BEAR AN ORIGINAL SEAL AND SIGNATURE.

BLEW & ASSOCIATES, P.A.
CIVIL ENGINEERS & LAND SURVEYORS

7623 N. 3TH ST. DRIVE
FAYETTEVILLE, ARKANSAS 72703
OFFICE: 479.443.4506
FAX: 479.582.1883
www.BLEWINC.com

Certificate of Authorization № 155

J.C. - 12/30/2019	W.L.	C.M.
-------------------	------	------

WASHINGTON COUNTY, ARKANSAS
19-3732

LOCATION: "CATHARTIC COLIC" (1954)

FOR THE USE AND BENEFIT OF

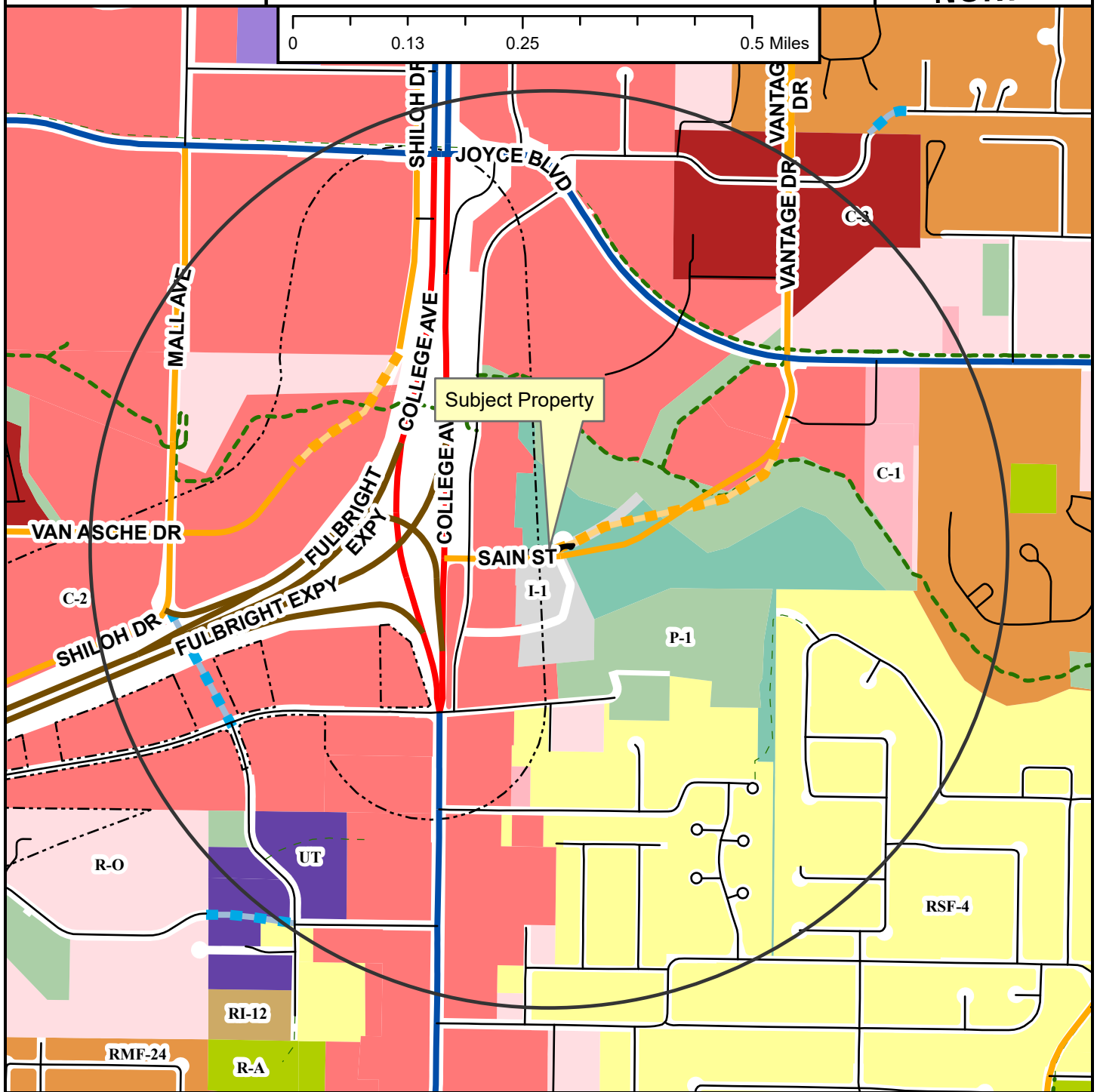
VAC-2022-0029

1074 E. Sain St

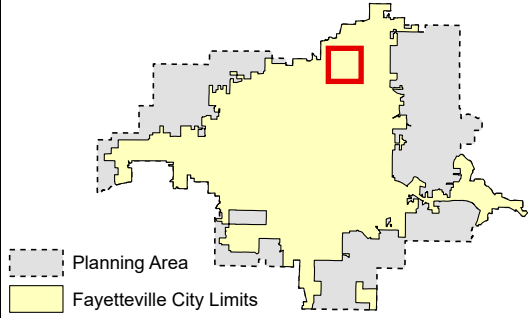
One Mile View



0 0.13 0.25 0.5 Miles

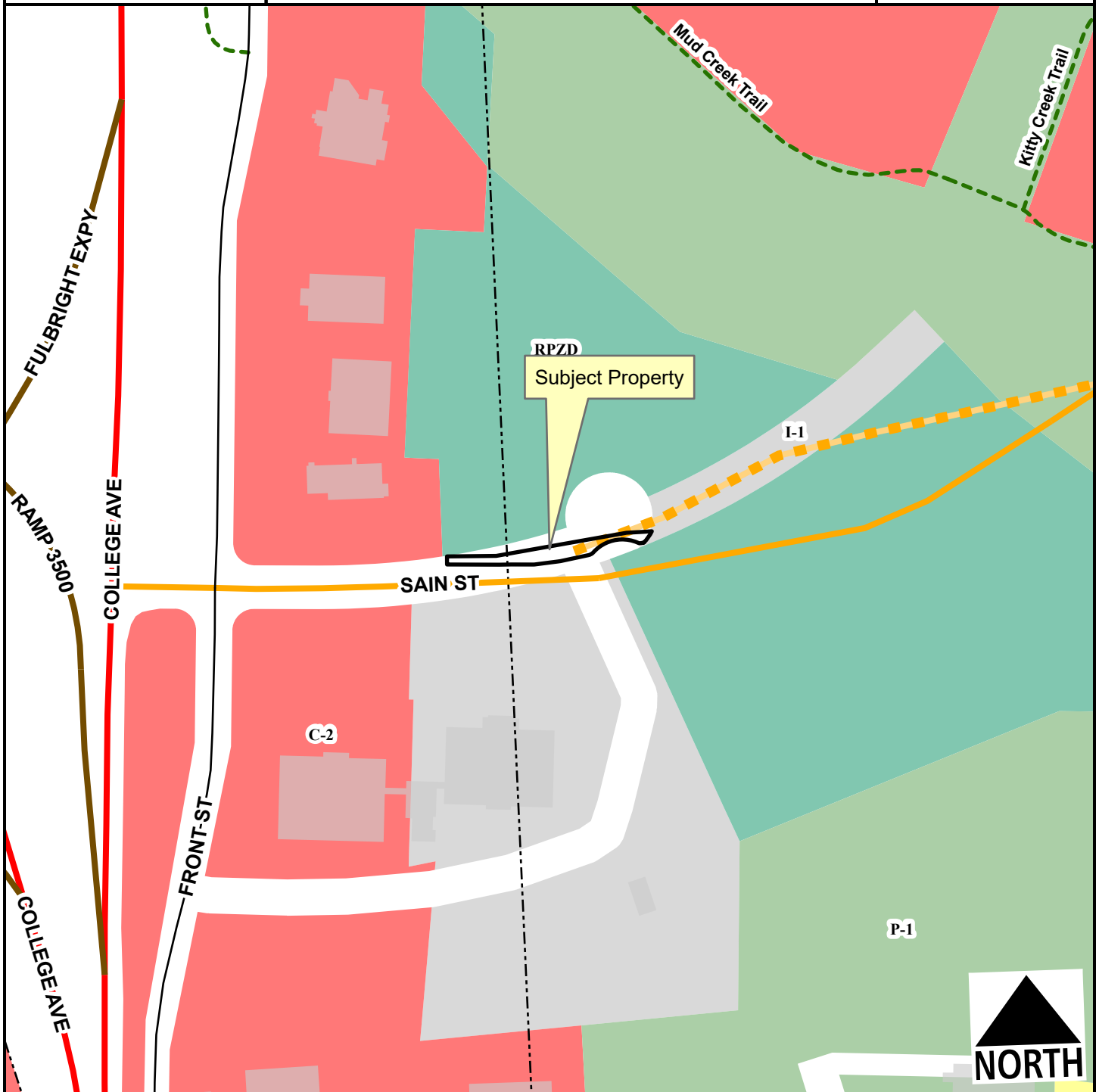


- Regional Link
- Neighborhood Link
- Regional Link - High Activity
- Freeway/Expressway
- Unclassified
- Residential Link
- Planned Neighborhood Link
- Planned Residential Link
- Shared-Use Paved Trail
- Trail (Proposed)
- Design Overlay District
- Fayetteville City Limits
- Planning Area

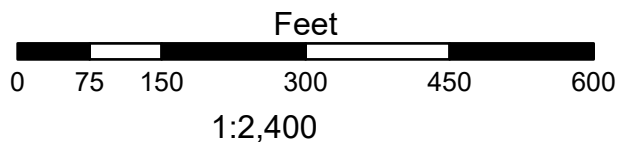


- Zoning**
- RESIDENTIAL SINGLE-FAMILY**
- NS-G
 - RI-U
 - RI-12
 - NS-L
 - Residential-Agricultural
 - RSF-5
 - RSF-2
 - RSF-4
 - RSF-7
 - RSF-8
 - RSF-18
- RESIDENTIAL MULTI-FAMILY**
- RMF-6
 - RMF-12
 - RMF-13
 - RMF-24
 - RMF-40
- INDUSTRIAL**
- I-1 Heavy Commercial and Light Industrial
 - I-2 General 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

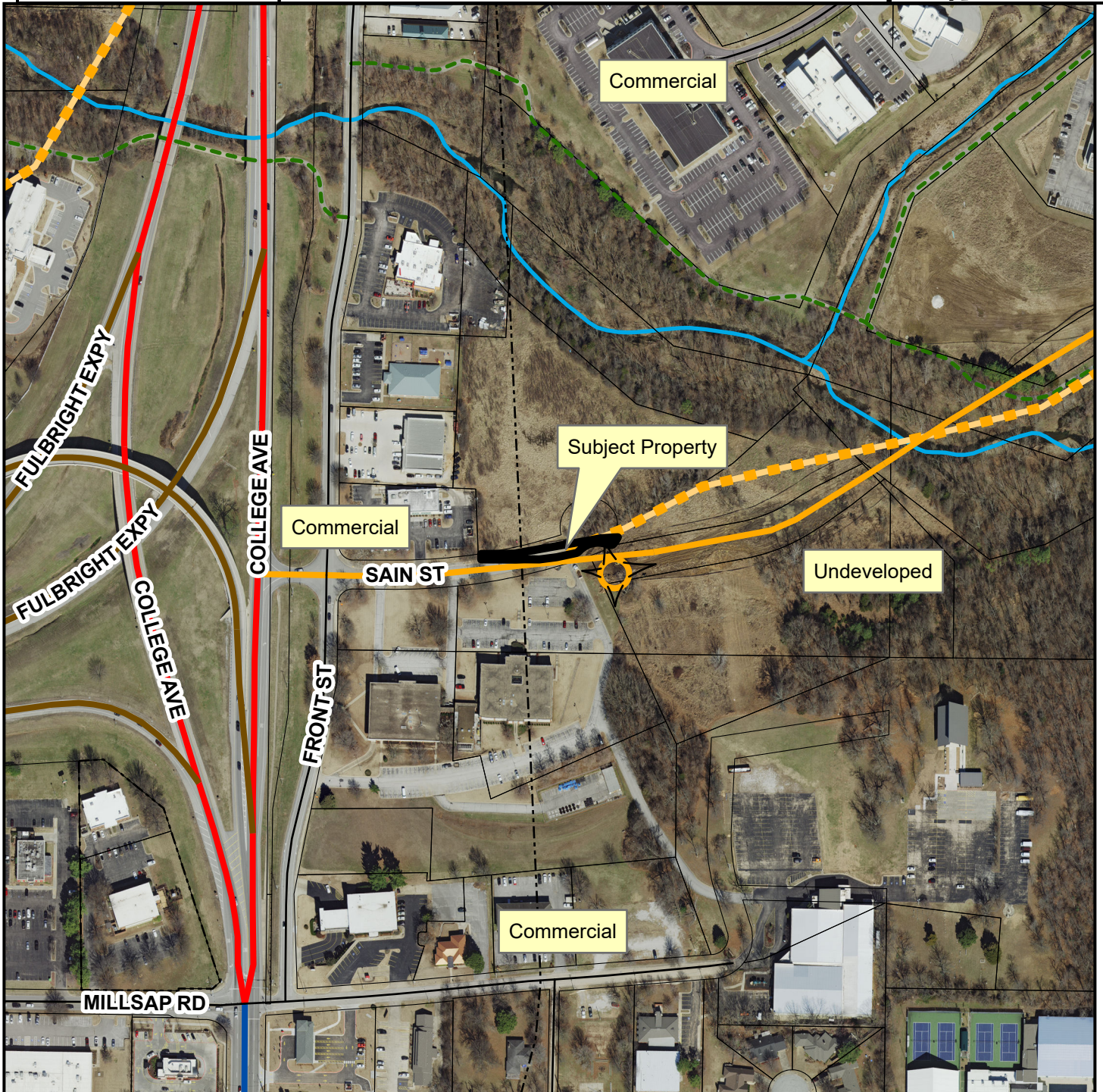
Planning Commission
January 23, 2023



- Regional Link
- Neighborhood Link
- Freeway/Expressway
- Residential Link
- Planned Neighborhood Link
- Planning Area
- Fayetteville City Limits
- - - Shared-Use Paved Trail
- Design Overlay District



- RSF-4
- RMF-24
- I-1 Heavy Commercial and Light Industrial
- C-2
- Commercial, Industrial, Residential
- P-1



- Regional Link
- Neighborhood Link
- Regional Link - High Activity
- Freeway/Expressway
- Unclassified
- Residential Link
- - - Planned Neighborhood Link
- Planning Area
- Fayetteville City Limits
- Design Overlay District



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway



TO: City of Fayetteville Planning Commission

FROM: Jessie Masters, Development Review Manager
Josh Boccaccio, Engineering Development Review Manager
Melissa Evans, Urban Forester

MEETING DATE: January 23, 2023

SUBJECT: **VAR-2022-0062: Variance (354 S. HILL AVE/HILL AVENUE TOWNHOMES, 522):** Submitted by REINDL MANAGEMENT, LLC for property located at 354 S. HILL AVENUE. The property is zoned RMF-40, RESIDENTIAL MULTI-FAMILY, 40 UNITS PER ACRE and contains approx. 0.71 acres. The request is for a variance to the master street plan section sidewalk width for tree grates.

RECOMMENDATION:
Staff recommends denial of **VAR-2022-0062**.

RECOMMENDED MOTION:
"I move to deny VAR-2022-0062."

JANUARY 9, 2023 PLANNING COMMISSION MEETING

The item was tabled at the January 9, 2023 Planning Commission meeting at the applicant's request, due to their inability for a representative to be in attendance. In the interim, the applicant has not submitted any additional materials for consideration, and staff's recommendation is the same.

BACKGROUND:

The subject property is in central Fayetteville, just north of the Walmart Neighborhood Market on S. Hill Avenue. The property is in the final stages of development for the Hill Avenue Townhomes, a small-scale multi-family residential project that received its original approval in 2020 (SIP 20-7084). The property in question contains approximately 0.71 acres. Surrounding land uses and zoning are depicted in *Table 1*.

Table 1 - Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Single-Family Residential	RMF-40, Residential Multi-Family, 40 Units per Acre
South	Single-Family Residential	RMF-40, Residential Multi-Family, 40 Units per Acre
East	Multi-Family Residential	RMF-40, Residential Multi-Family, 40 Units per Acre
West	Multi-Family Residential	RMF-40, Residential Multi-Family, 40 Units per Acre

Request: The applicant is requesting a variance to 166.04(B)(4)(f)(i), which states that sidewalks shall be installed along the property street frontage and along new interior streets according to the Master Street Plan. Even though S. Hill Avenue is classified as a Residential Link Street, the developer was given permission to develop this property's street frontage in alignment with the

Urban Center classification with its initial project approval. In the final stages of development, the applicant is now requesting a variance to the Urban Street section by installing a 5-foot furniture zone and a 3-foot sidewalk where typically a 3-foot furniture zone and a minimum 5-foot sidewalk are required.

DISCUSSION:

Staff recommends denial of the applicant's request. Under the allowable provisions in the master street plan, the developer was given the option to develop the street improvements in alignment with the Urban Center street classification standards, with the following dimensions: 11-foot drive aisles in both directions to accommodate a known transit route, an 8-foot parking lane, .5-foot curb, 3-foot furniture zone, and a 5-foot sidewalk (to offset the width of the additional foot required for the transit route; typically a sidewalk in this street section is to be a minimum of 6-feet). Upon a site inspection in October 2022, staff found that the applicant had installed 5-foot wide tree grates and poured a 3-foot sidewalk. The applicant was informed that this was not a change that was administratively approvable, and that a variance to the master street plan needed to be sought from the Planning Commission if it was not corrected in the field.

Upon further review of the variance request, staff finds that the applicant's request to vary from the master street plan neither meets the threshold of hardship, nor meets the spirit and intent of the ordinance. Based on findings from the Engineering Division, the minimum requirement of a 5-foot wide sidewalk provides enough space for two 95th percentile males to walk side-by-side; a 3-foot wide sidewalk, by comparison, and what the applicant is requesting, would negatively impact the pedestrian realm by requiring people to walk (or roll, in the case of a wheelchair or stroller) over the tree grate. The intent of the minimum width in ordinance is to prevent this condition. Findings from the Urban Forestry division also do not support the applicant's request. While the structural soil is adequate for the tree installation, and the size of the grate has little effect on the overall health of the street trees, the centering of the trees within the placement of 5-foot wells places the street trees approximately 1-foot closer to the façade of the existing buildings. The one-foot shift in placement will have effects on the trees in the long run, requiring additional pruning as they grow larger to maintain clearance from the buildings. Full findings from the Engineering Division and Urban Forestry division are attached to this report.

Public Comment: Staff has not received any public comment regarding this request.

RECOMMENDATION: Staff recommends denial of VAR-2022-0062. Should the Planning Commission choose to approve the applicant's request, staff recommends the following conditions of approval;

Conditions of Approval:

- 1. Planning Commission determination of a variance to §166.04(B)(4)(f)(i). Sidewalks shall be installed along the property street frontage and along new interior streets according to the Master Street Plan. Staff recommends denial of the request for the reasons stated above.**
2. Approval of this variance does not represent overall development entitlement approval for the project, nor grant approval for any associated grading or building permits, nor does it grant final approval of certificate of occupancy.

PLANNING COMMISSION ACTION: Required YES

Date: January 23, 2023

☐ Tabled

☐ Approved

☐ Denied

Motion:

Second:

Vote:

BUDGET/STAFF IMPACT:

None

Attachments:

- Unified Development Code:
 - §166.04 Required Infrastructure Improvements — Development In City Limits
 - Engineering Memo
 - Urban Forestry Memo
 - Urban Street Section
 - Applicant Request letter
 - Site Plan
 - One Mile Map
 - Close-up Map
 - Current Land Use Map
-

166.04 Required Infrastructure Improvements — Development In City Limits

...

- (B) *Minimum Improvements by Application Type.* The property owner/developer shall be responsible for constructing the following minimum improvements.

...

- (4) *Preliminary/Final/Concurrent Plat; Large Scale Development; Large or Small Site Improvement Plan.*

...

(f) Sidewalks.

- (i) *On-Site.* Sidewalks shall be installed along the property street frontage and along new interior streets according to existing city standards and the Master Street Plan as adopted by the City Council.
- (ii) *Off-Site.* Sidewalks may be required to be installed off-site based on the rough proportionality and rational nexus of the impacts of the development.

...

(Code 1965, App. C., Art. III, §A(2), (3); Ord. No. 1979, 2-5-74; Ord. No. 2353, 7-5-77; Ord. No. 2755, 9-1-81; Code 1991, §§159.31, 159.32; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4263, 8-1-00; Ord. No. 4660, 12-21-04; Ord. No. 5152, 7-15-08; Ord. No. 5271, 9-1-09; Ord. No. 5296, 12-15-09; Ord. No. 5374, 12-21-10; Ord. No. 5523, 9-4-12; Ord. No. 5570, 03-05-13; Ord. No. 6116, §1, 11-20-18; Ord. No. 6166, §§1, 2, 4-2-19; Ord. No. 6195, §1, 6-4-19; Ord. No. 6350, §3(Exh. B), 8-18-20; Ord. No. 6426, §1, 4-6-21; Ord. No. 6446, §8(Exh. C), 6-15-21)



TO: City of Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Josh Boccaccio, Engineering Development Review Manager

DATE: January 4, 2023

SUBJECT: Engineering Recommendation for VAR-2022-0062

RECOMMENDATION:

Engineering recommends denial of VAR-2022-0062.

BACKGROUND:

This project was submitted as a "Site Improvement Plan" in August 2019. The applicant at that time proposed on-street parking and 5' sidewalk directly adjacent to the curb. The proposal did not meet the Master Street Plan cross section and staff presented the applicant 2 options:

1. On-street parking with 6' greenspace and 5' sidewalk
2. On-street parking with an 8' urban sidewalk including 3' wide tree wells

The applicant proceeded through entitlement and construction review showing the 8' urban sidewalk and tree wells.

It's important to note that once plans have been approved through the construction review process and a grading permit is issued, modification or changes to the plans, outside of minor field adjustments, must be submitted for review prior to the changes being implemented. **The City of Fayetteville Public Works Inspectors are aware of the process Engineering has in place to ensure what was approved during review is what gets installed.** No revisions were submitted showing the 5'x5' tree wells with 3' sidewalk.

DISCUSSION:

Staff recommends denial of the requested variance finding no existing hardship to validate the request. In addition, the 5' tree wells encroach into the sidewalk leaving only 3' of concrete for pedestrians to walk on. The tree grates are ADA compliant and could serve as a walking surface, however, staff determined this did not meet the spirit and intent of the code or approved plans and based on experience we expect pedestrians to walk around the tree grates rather than over them.

In addition, staff visited several sites around downtown Fayetteville and observed different sidewalk sections with tree grates. Imposed on the images is 2-2' wide rectangles that depict

the shoulder widths of heavily clothed 95th percentile male pedestrians as given in the *Highway Capacity Manual: A Guide for Multimodal Mobility Analysis*.

The first site was the one where this variance is requested.

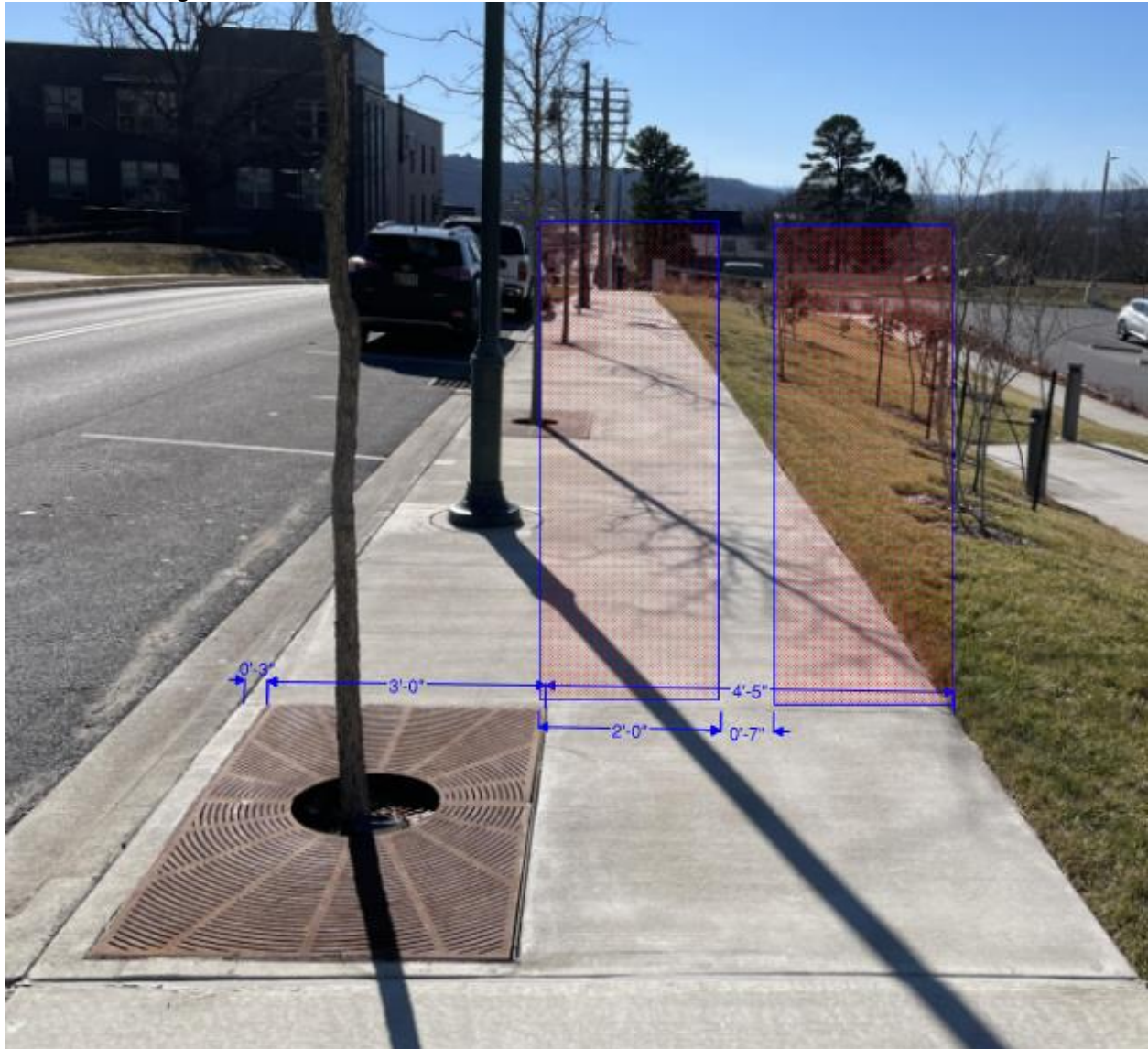
1. Hill Avenue Townhomes
5' tree grate, 3' sidewalk:



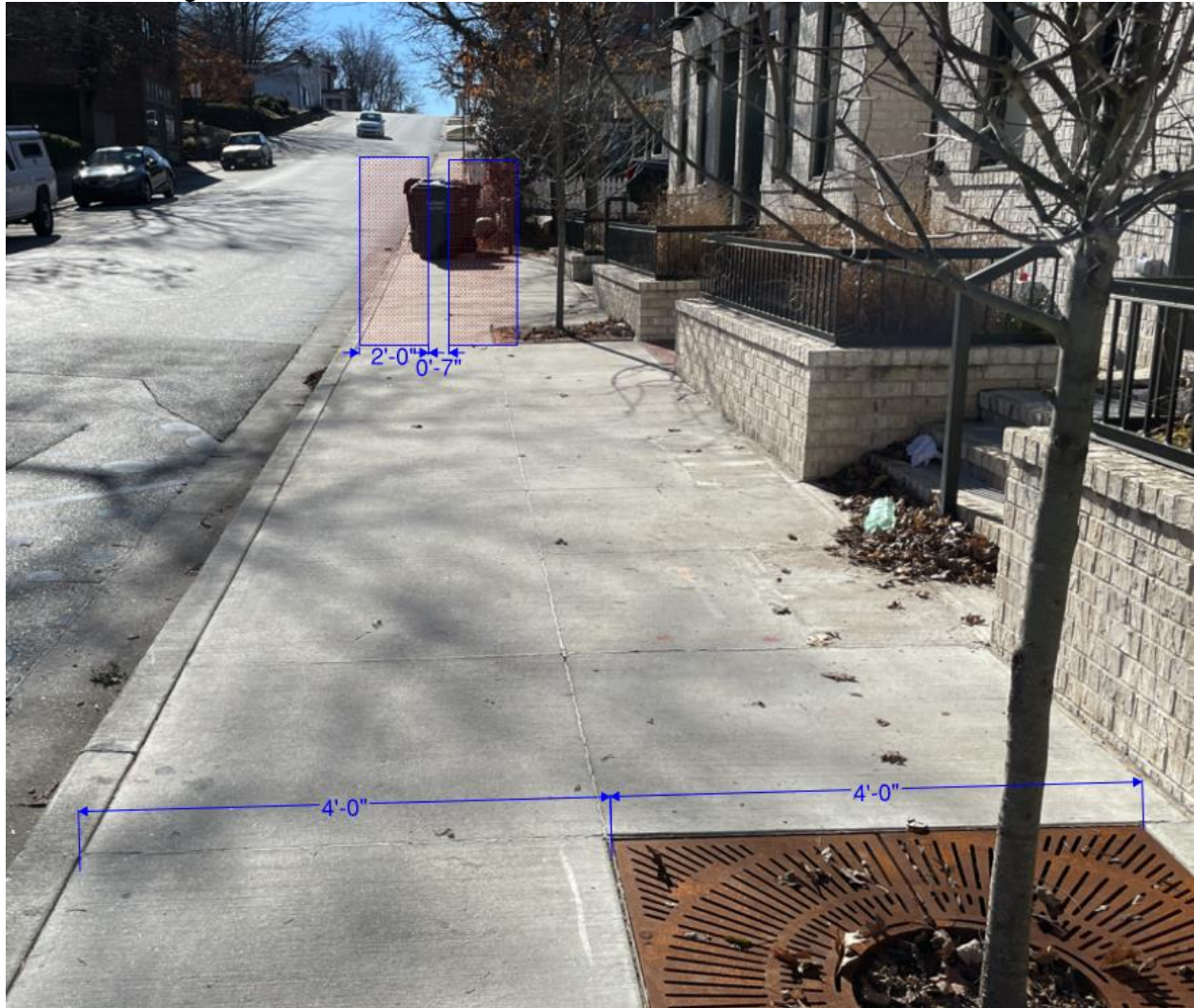
2. South of the intersection of Hill and Treadwell
5' tree grate, 5' sidewalk



3. South of the intersection of Rock and School
3' tree great, 4.3' sidewalk



4. North of the intersection of School and Spring
4' tree grate, 4' sidewalk



5. West of the intersection of Watson and Campbell
4' tree grate, 3' sidewalk



Pictures 1 and 5 show extreme encroachment of the second pedestrian onto the tree grates. Pictures 3 and 4 show minor encroachment of the second pedestrian onto the tree grates. Picture 2 does not show any encroachment of the second pedestrian on the tree grates. This was the only site with a 5' sidewalk.

Below is a picture of how two pedestrians would interact with this development if a 3' tree grate and 5' sidewalk as shown on the approved plan is installed:



The RMF-40 zoning that encompasses most of Hill Avenue and the future land use map of City Neighborhood indicate that this sidewalk will serve a number of pedestrians as Hill Avenue develops. As sidewalk is added to Hill Avenue, it also raises the scoring of lots along Hill that do not have sidewalk, or the sidewalk is inadequate. If the scoring is high enough the City may include the addition of sidewalk in a future work plan.



Planning Commission Memo

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Melissa Evans, Urban Forester

MEETING DATE: January 9, 2023

SUBJECT: **VAR-2022-0062: Variance (354 S. Hill Ave.):** Submitted by Hill Billies, LLC for property located at 354 S. Hill Ave. The property is zoned RMF-40, MULTI-FAMILY RESIDENTIAL, and contains approximately 0.40 acres. The request is for a variance to the Master Street Plan for the tree grate size.

RECOMMENDATION:

Urban Forestry Staff recommends denial of VAR-2022-0062 which would allow the property owner to have a different size tree grate in the sidewalk.

For Urban Forestry and tree purposes, the grate size configuration does not matter as much as the soil type and installation in the tree pit and under the sidewalk area. Urban Forestry was able to witness the installation of structural soil in those areas and it is adequate for the trees.

Another issue of concern for Urban Forestry is the number of trees planted in the sidewalk area. It will remain the same with the proposed change for tree grate size.

Urban Forestry recommends the trees be moved one foot over closer to the street, as shown on the approved plans with the original tree grate size (3' x 8'), to give the tree canopy more room to grow without growing into the buildings. The trees are located 1' closer to the buildings with the installed 5' x 5' tree grates. They are large shade canopy trees planted close to the buildings and will require pruning eventually. The tree canopies need all the room possible to limit pruning and the extra foot will help. Hence, Urban Forestry recommends denial of the variance request.

Downtown/Urban Street

Design Service Volume: Varies - Desired Operating Speed: 20-25 mph

The downtown (or urban) street section is intended to be used in Fayetteville's downtown core. Wide sidewalks, with separated furnishing/tree zones will be the standard. On-street parking is desirable and low-speed design should be encouraged to allow for maximum pedestrian comfort and utilization. Sight-lines at intersections should be protected from obstructions. Ideally, bicycles should be able to intermix with traffic safely and on-street protected bike facilities considered where traffic volumes or speeds exceed thresholds for all ages and abilities. Storm drainage infrastructure should have adequate depth or be offset to avoid conflicts with street tree plantings. Low-Impact Development (LID) features in green spaces are recommended best practices to incorporate alternative stormwater treatment techniques.

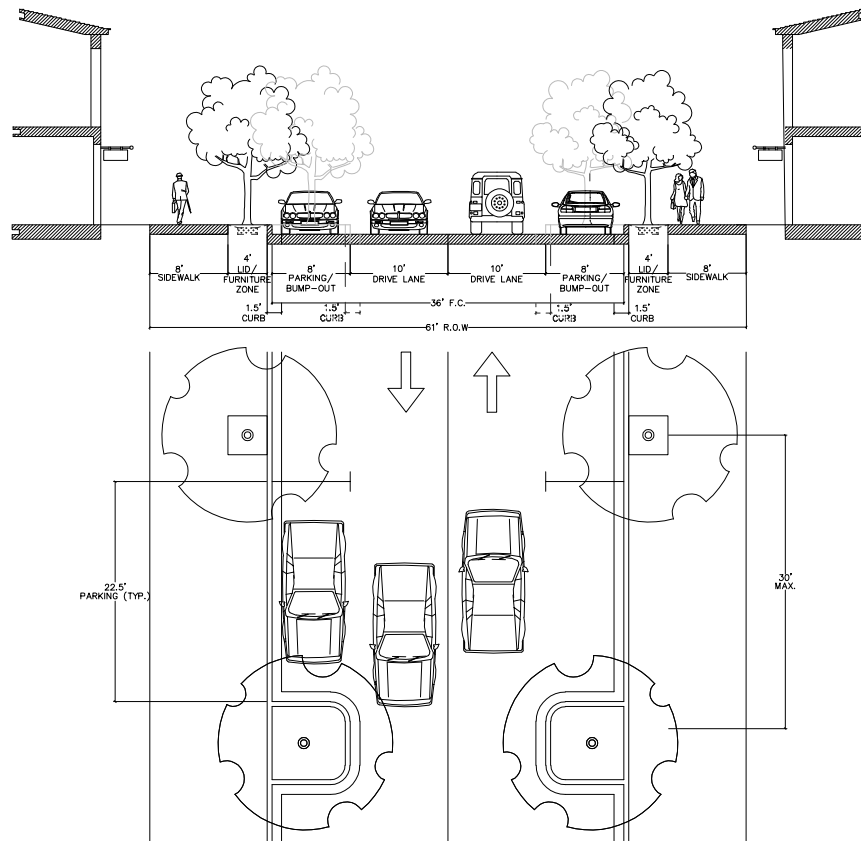


Figure 12.10 - Downtown/Urban Street

As determined by city staff, additional roadway elements may be required and include:

- An additional 2-ft frontage zone where buildings abut right-of-way. This may be accomplished with setbacks or additional right-of-way.
- If known or planned transit route, increase lane widths to 11-ft.

Alternative design elements may be approved administratively and include:

- Removal of the 8-ft parking lane or lanes to reduce the right-of-way by 16-ft will be considered when adequate parking is provided elsewhere.
- Sidewalk widths may be reduced to a minimum of 6-ft.
- Furniture zone may be reduced to 3-ft when determined appropriate by the Zoning and Development Administrator.
- Where bump-outs are used, the 4-ft furniture zone may be removed. Street trees may be planted behind sidewalk to meet requirements.
- Angled parking may be used with an additional amount of right-of-way as determined by the Zoning and Development Administrator. (79-ft Right-of-Way)

Example section (left) with parking on both sides.

Minimum Right-of-Way: 39-feet

Maximum Right-of-Way: 63-feet



8 December 2022

Chair of the Planning Commission,
City of Fayetteville
113 W Mountain Street
Fayetteville, Arkansas 72701

Re: Variance Request, Tree Grate Size
Hill Billies LLC, 354 through 396 S Hill Avenue

I am writing to request a variance to the Master Street Plan, specifically the size of the tree grates at 354 to 396 S. Hill Avenue. Drawings prepared by Bates and Associates show 3'x8' (24 sq ft of area) tree grates. Due to on-going supply chain issues created by the recent pandemic, our supplier was not able to provide the grates of that size and instead provided grates that were 5'x5' (25 sq ft of area). The 5' x5' tree grate allowed 3'-0" of clear concrete sidewalk, and the tree grate allows an additional 2'-0" of walking surface, for a total of 5'-0" of walking surface. The soil volume of the 5'x5' tree grate was a bit more than the specified grate (25 sq ft as opposed to 24 sq ft).

On 27 September, 2022, Jesse Scarborough (Bates Engineering,) Brian Reindl and Josh Williams, (Developer and General Contractor for the project) , and German Chavez (concrete subcontractor) were all present during the actual inspection when Brian Reindl asked Ryan Trenholm if the 5' x 5' grates were going to work and Ryan said, "You are good, pour it". Based upon that on-site meeting, the concrete was poured.

On October 26th, City of Fayetteville inspectors made the comment that the 5'x5' tree grates were not acceptable. We called our supplier and found that a 3'x8' grates are not available. 4'x8' grates would be available, but would take over 6 months to deliver.

This delay creates several significant hardships as follows:

1. Ongoing cost of a Temporary Certificate of Occupancy (TCO) expense

\$25/unit x 17 units = \$425/mo.

and doubles each month for possibly 7 months (6 months lead time on grates, 1 month to demo sidewalks and reinstall) as follows:

November-\$425

December-\$850

January-\$1,700

February-\$3,400

March-\$3,400

April-\$3,400

May-\$3,400

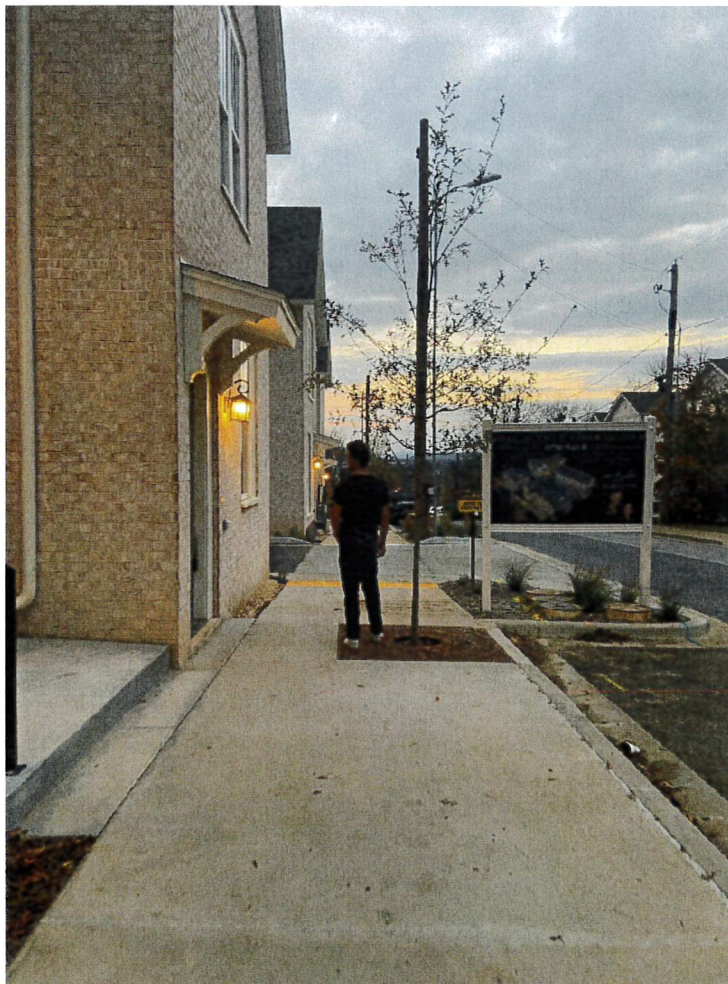
Total-\$16,575

2. Cost to buy new 4' x 8' grates = \$15,000

3. Cost to chip out and remove all concrete, tree grates, trees, and to install new tree grates, new trees and repour sidewalks = \$20,000. **Total Cost of Construction and Temporary Certificate of Occupancy would be \$51,575.**

4. Significant inconvenience to pedestrians and residents of 354-396 S Hill Avenue as the existing perfectly functional sidewalks are removed and repoured.

Here is what the new sidewalk looks like with the 5' x 5' tree grate:



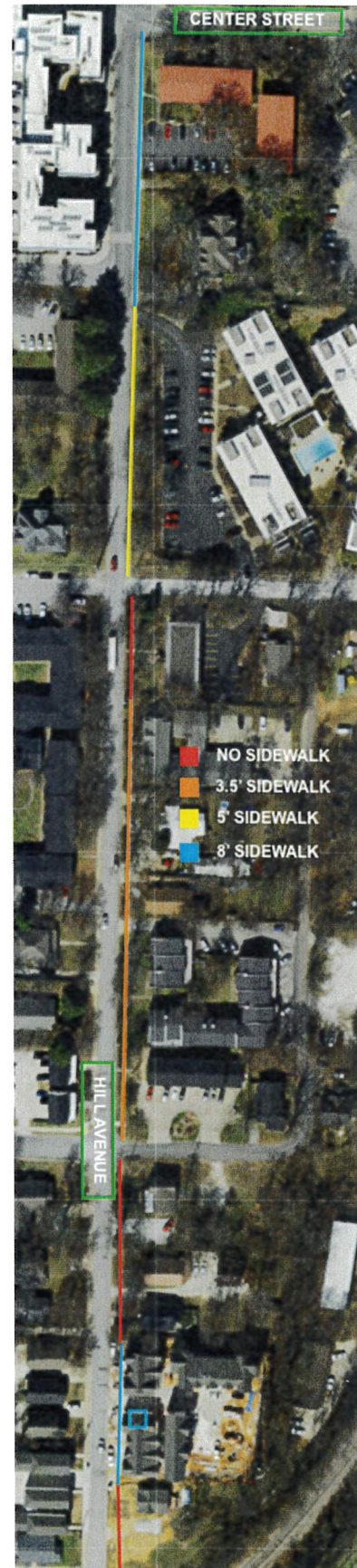
What will be gained if we are forced to replace the grates?

My client has installed a 8' sidewalk that meets all City of Fayetteville requirements. If we keep the current tree grates and put a tree in the middle, we would have 5 1/2 foot of clearing between the edge of the sidewalk and the trunk of the tree. If we change the grate to a 3' x 8' grate, and place the tree in the middle of the tree grate, we would have a 6 1/2 feet of area between the edge of the sidewalk and the trunk of the tree. We would potentially gain 12 inches of walking space width.

Currently there are 5'x5' tree grates throughout the downtown area.

This sidewalk is essentially a "sidewalk to nowhere". To the south there is a single family house that has just been remodeled so it's very unlikely that this piece will be developed anytime in the near future so there will be no sidewalk to the south. To the north, the largest sidewalk between this property and Center Street is either 3 feet or 5 feet wide.

Please refer to the graphic which shows the context for sidewalks on the east side of Hill Avenue.



How does this project impact the policy goals of the City of Fayetteville?

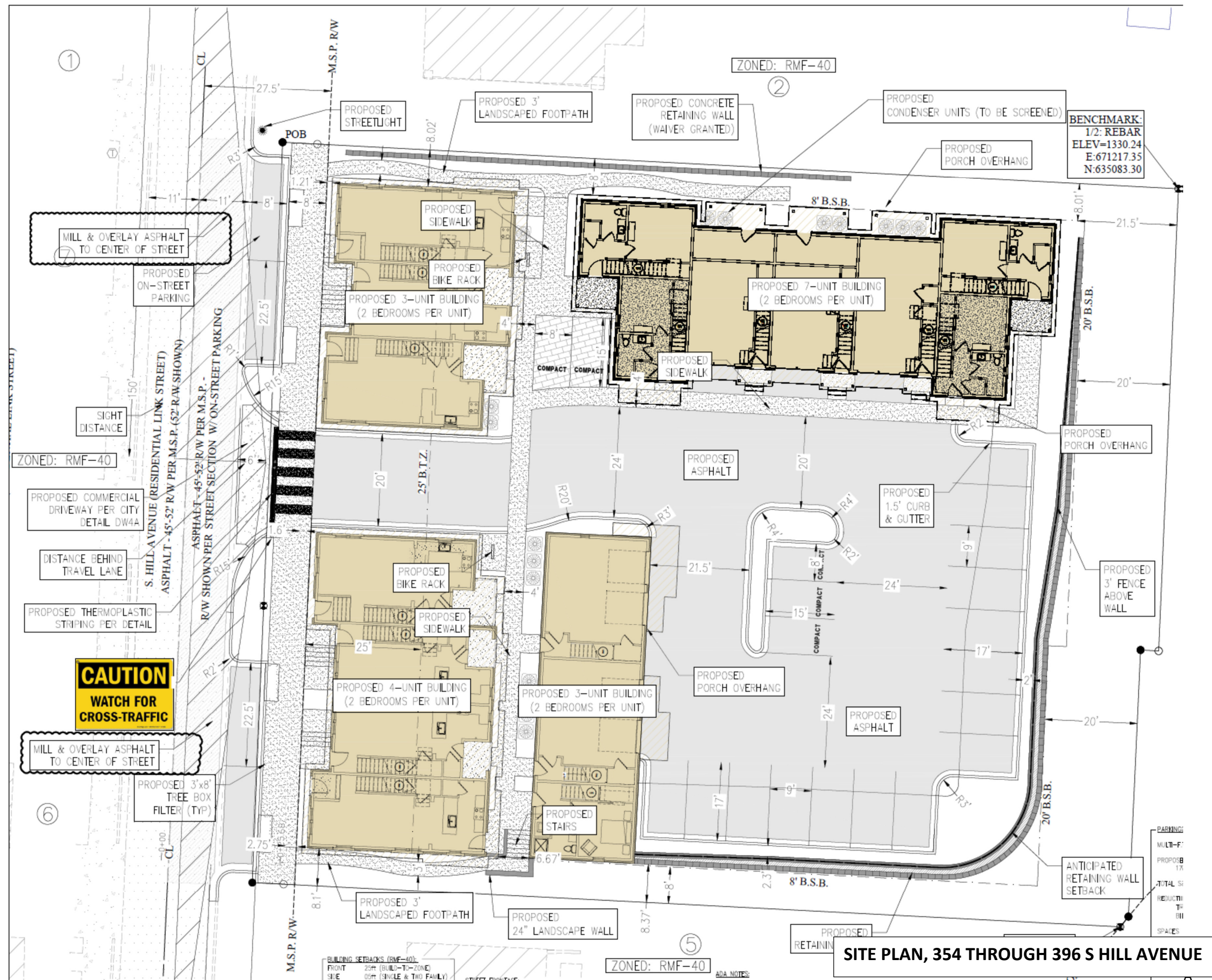
The policy goal of the City of Fayetteville 2040 Master Plan is "We will make appropriate infill and revitalization our highest priority." This project is a perfect example of high quality infill in an excellent walkable and bikeable location. What was once two dilapidated houses is now 17 high quality townhouses. Where there was once no sidewalk, there is now an 8' wide sidewalk with street trees and on-street parking.

In conclusion, we request that a variance be granted to allow the 5'x 5' tree grates to remain in place. Replacing the grates is a significant hardship, both financially and in terms of inconvenience to the residents of 354 to 396 S. Hill Avenue. I encourage you to visit the site and see how well the sidewalk works currently. Granting this variance is consistent with the policy goals of the City of Fayetteville.

Sincerely,

A handwritten signature in black ink, appearing to read 'Josh Williams', with a long, sweeping horizontal line extending to the right.

Josh Williams, Member
Hill Billies, LLC



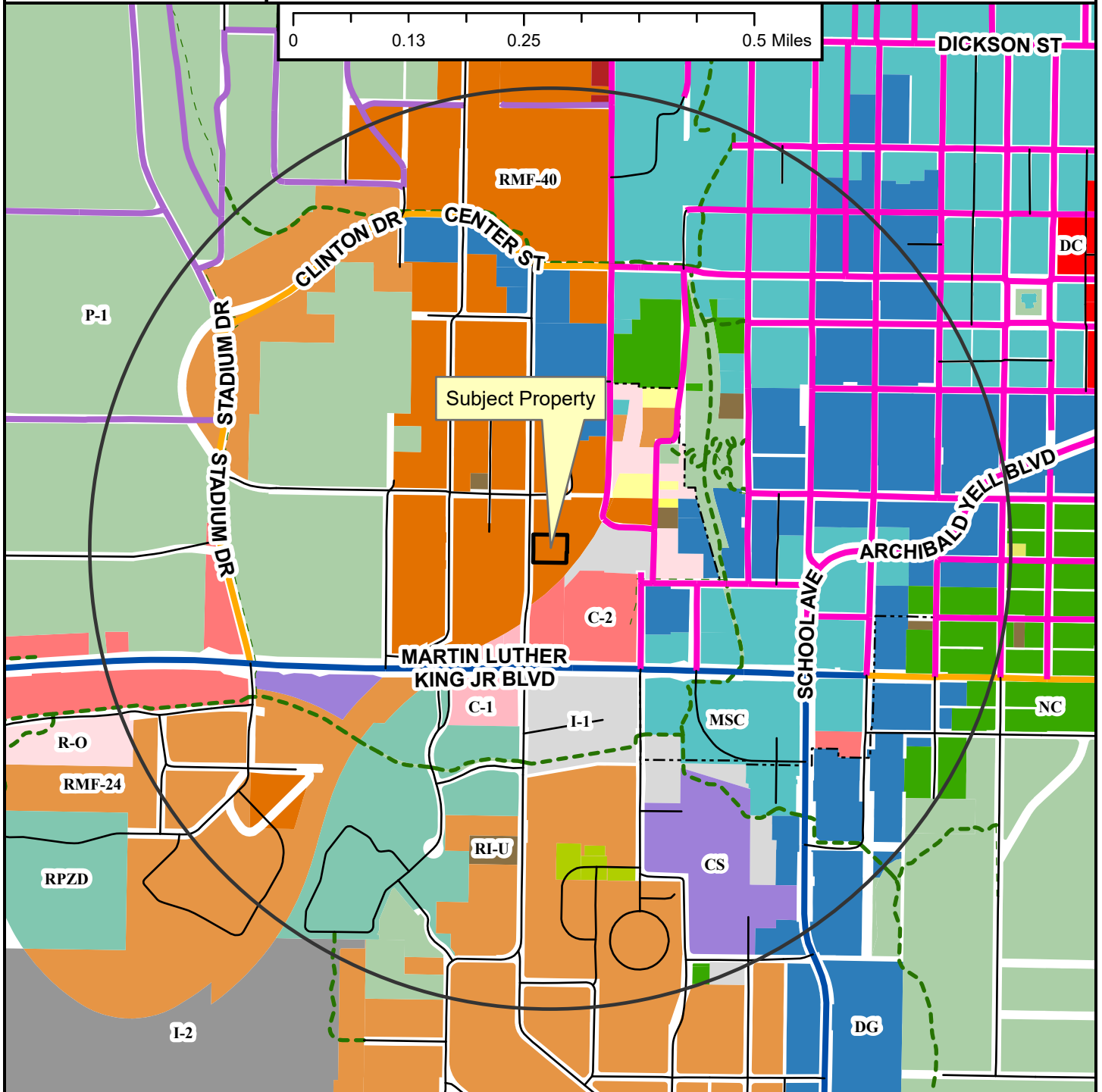
VAR-2022-0062

354 S. HILL AVE

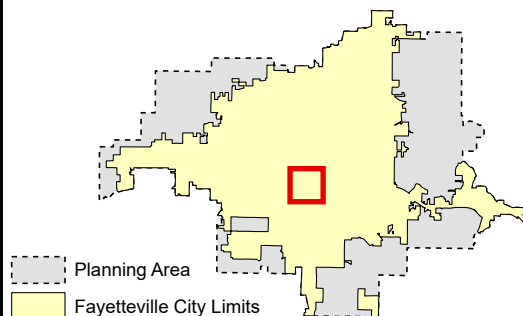
One Mile View



0 0.13 0.25 0.5 Miles



- Neighborhood Link
- Institutional Master Plan
- Regional Link - High Activity
- Urban Center
- Unclassified
- Alley
- Residential Link
- Shared-Use Paved Trail
- Trail (Proposed)
- Design Overlay District
- Fayetteville City Limits
- Planning Area



- Zoning**
- RESIDENTIAL SINGLE-FAMILY**
- NS-G
 - RI-U
 - RI-12
 - NS-L
 - Residential-Agricultural
 - RSF-5
 - RSF-2
 - RSF-4
 - RSF-7
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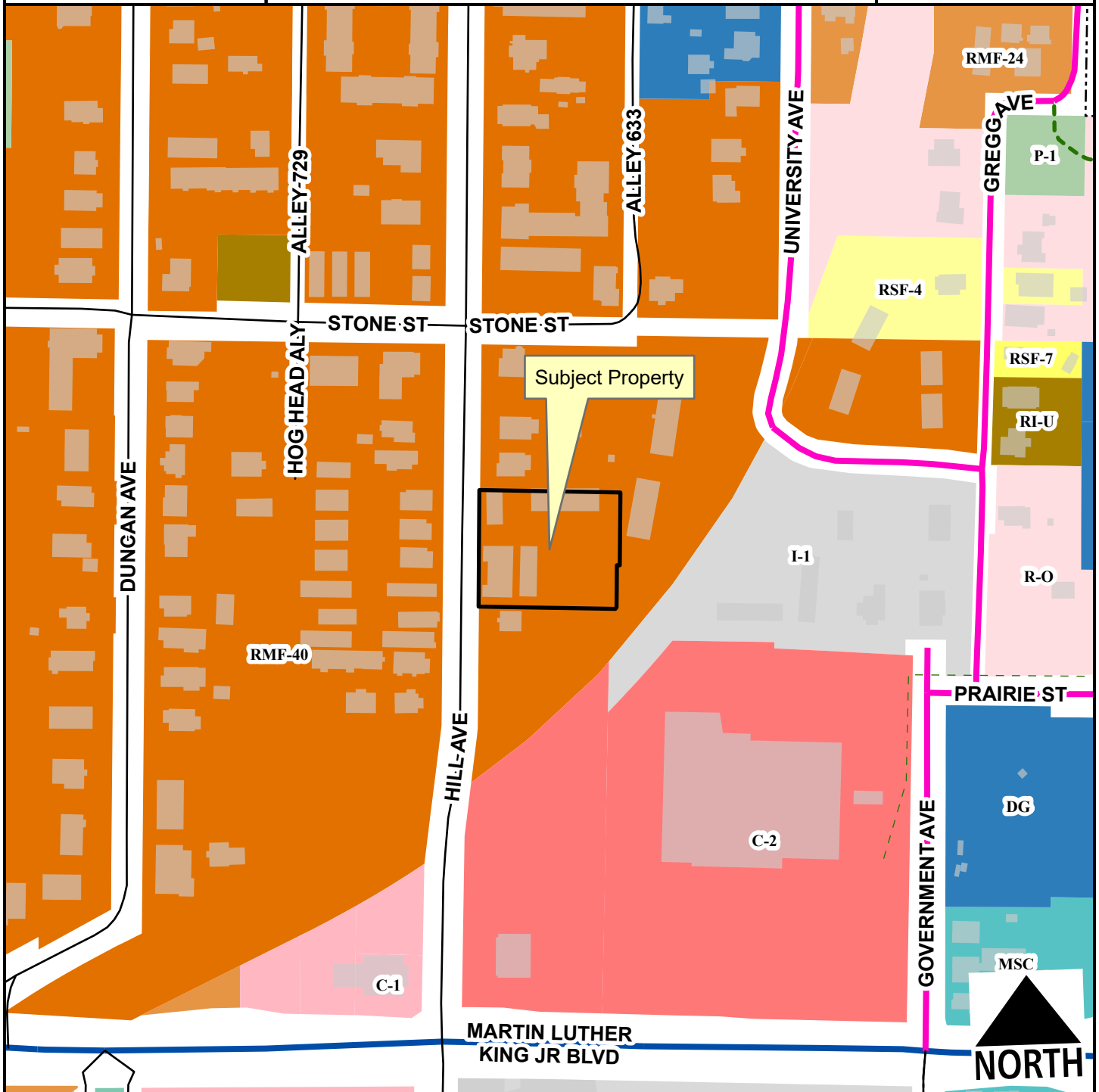
Planning Commission
January 23, 2023

VAR-2022-0062 (REINDL)

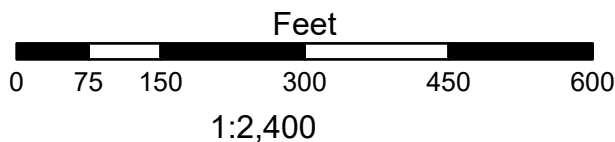
VAR-2022-0062

354 S. HILL AVE

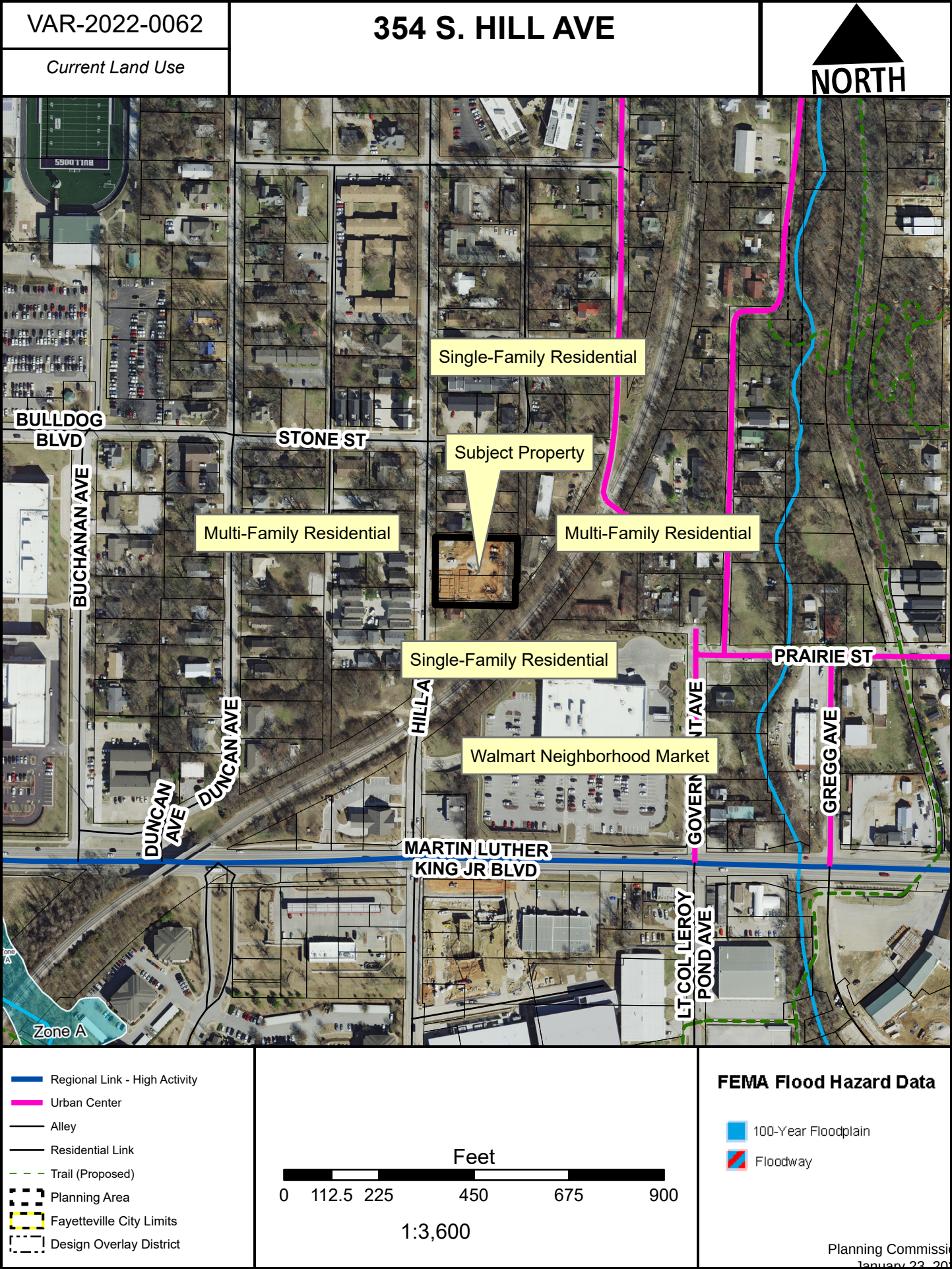
Close Up View



- Regional Link - High Activity
- Urban Center
- Alley
- Residential Link
- Planning Area
- Fayetteville City Limits
- Shared-Use Paved Trail
- Trail (Proposed)
- Design Overlay District



- RSF-4
- RSF-7
- RI-U
- RMF-24
- RMF-40
- I-1 Heavy Commercial and Light Industrial
- Residential-Office
- C-1
- C-2
- Main Street Center
- Downtown General
- Commercial, Industrial, Residential
- P-1





TO: Fayetteville Planning Commission

FROM: Jessie Masters, Development Review Manager

MEETING DATE: January 23, 2023

SUBJECT: **CUP-2022-0122: Conditional Use Permit (521 N. SHADY AVE, UNIT 4/STRANGE, 445):** Submitted by STATLER STRANGE for property located at 521 N. SHADY AVE, UNIT 4. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approx. 0.24 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:

Staff recommends tabling **CUP-2022-0122** indefinitely, due to lack of adequate application information.

JANUARY 9, 2023 PLANNING COMMISSION MEETING

At the January 9, 2023 Planning Commission meeting, the applicant requested to table themselves to provide additional time to accumulate required application materials. The applicant has failed to supply required documentation to City staff in the interim.

RECOMMENDED MOTION:

*"I move to table **CUP-2022-0122** indefinitely."*

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>January 23, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Planner

MEETING DATE: January 23, 2023

SUBJECT: **VAR-2022-0066: Variance (2352 N. TOY DR./PORTMANN, 319):**
Submitted by BATES AND ASSOCIATES for property located at 2352 N. TOY DR. The property is in the FAYETTEVILLE PLANNING AREA and contains approximately 23.01 acres. The request is for a variance from minimum lot width requirements.

RECOMMENDATION:

Staff recommends approval of **VAR-2022-0066** with conditions based on the findings contained in this report.

RECOMMENDED MOTION:

*"I move to approve **VAR-2022-0066**, determining:*

- In favor of a variance to UDC §166.05(A)(3), and*
- In favor of all other conditions as recommended by staff."*

BACKGROUND:

The subject property is in the Fayetteville Planning Area, northwest of city limits in unincorporated Washington County. The site is comprised of one parcel, 001-11410-000, which contains roughly 23.01 acres and is heavily wooded. The property is surrounded by rural and undeveloped land to the east and south, and large-lot residential neighborhoods to the north and west. In May of 2022, a request for a 19-lot residential subdivision on this property was denied by the Planning Commission (PPL-2022-0003). A property line adjustment was subsequently recorded in July of 2022 which transferred 10 acres of this property to the parcel to the south, thus reducing the overall size of this property. Surrounding land uses and zoning are depicted in *Table 1*.

Table 1:
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Single-Family Residential	Washington County Ag/SF 1 (Agricultural/Single-Family Residential, 1 Unit per Acre)
South	Rural Residential	Washington County Ag/SF 1 (Agricultural/Single-Family Residential, 1 Unit per Acre)
East	Rural Residential	Washington County Ag/SF 1 (Agricultural/Single-Family Residential, 1 Unit per Acre)
West	Rural Residential	Washington County Ag/SF 1 (Agricultural/Single-Family Residential, 1 Unit per Acre)

Request: The applicant proposes to split the subject property into three lots containing 7.59, 7.97, and 7.58 acres. The property currently has approximately 51 feet of frontage along Toy Drive, and the proposed lot split would result in one lot with 20 feet of frontage and two lots with 15.5 feet of frontage. Since all lots in the Fayetteville Planning Area are required to have at least 75

feet of direct frontage onto a public street, the proposed lot split necessitates a variance to UDC §166.05(A)(3).

Public Comment: Staff has received several inquiries about this request, though no clear support for or opposition to the request has been offered.

DISCUSSION:

Staff is supportive of the requested variance. The subject property is a large lot with limited street frontage that is surrounded by rural residential properties varying in both size and arrangement. Where the subject property contains roughly 23.01 acres, most surrounding properties contain between two and 20 acres, and several lots to the east do not have direct frontage on a public street. Staff finds that the proposed lot split would result in three lots that are comparable to neighboring properties and could encourage a low-density development pattern that is consistent with the surrounding area. The applicant has indicated that each lot would have enough frontage to access the six-inch water main running along Toy Drive, so that each lot could have an individual water meter without crossing property lines. Staff recommends that a 30-foot-wide access and utility easement be dedicated, as depicted in the applicant's attached exhibit, to ensure that each lot will have sufficient access to Toy Drive.

RECOMMENDATION: Staff recommends approval of VAR-2022-0066 subject to the following conditions:

Conditions of Approval:

1. **Planning Commission determination of a variance to UDC §166.05(A)(3) – All lots in the Fayetteville Planning Area shall have direct access to a public street pursuant to residential lot and block standards set by Washington County. Staff recommends in favor of the variance request for the reasons outlined above;**
2. Variance approval shall be subject to the dedication of one 30-foot-wide access easement, providing access and utility easement as depicted on the applicant's exhibit;
3. Approval of this item does not represent City lot split approval. Review and approval of the lot split shall be required in accordance with City code; and
4. The applicant shall receive approval from Washington County prior to recordation.

Planning Commission Action:	Required:	<u>YES</u>		
Meeting Date: <u>January 23, 2023</u>	☐ Approved	☐ Tabled	☐ Denied	
Motion:				
Second:				
Vote:				

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- UDC §166.05 - Required Infrastructure Improvements and Subdivision Regulations - Development In Planning Area
- Applicant Request Letter
- Applicant Exhibit
- One Mile Map
- Close-Up Map
- Current Land Use Map

166.05 - Required Infrastructure Improvements and Subdivision Regulations - Development In Planning Area

(A) *Required Infrastructure Improvements and Subdivision Regulations Outside the City.*

- (1) *Within 1 Mile of City Limits.* On and off-site improvements and subdivision regulations for development outside the city limits and within one mile of the city are the same as for those developments within the city limits, with the exception of park land dedication requirement which is not required.
- (2) *Beyond 1 Mile of City Limits.* On- and off-site improvements and subdivision regulations for development outside 1 mile of the city limits shall meet Washington County standards.
- (3) All lots in the planning area shall have direct frontage to a public street, with the minimum frontage required by Washington County pursuant to residential lot and block standards.

(B) *Developments Outside City Developed to All Inside the City Standards.* If the City Council grants access to the City's sewer system pursuant to §51.115. (C) and the owner/developer agrees to petition for annexation as soon as legally possible and develop the subdivision in accordance with all city development requirements including payment of all impact fees, the bulk and area requirements for this subdivision shall conform to those within the RSF-4 Zoning District or as otherwise designated by the City Council rather than those within the planning area.

(Code 1965, App. A., Art. 8(11), App. C., Art. IV; Ord. No. 1747, 6-29-70; 1750, 7-6-70; Ord. No. 1999, 5-7-74; Code 1991, §§159.54, 160.120; Ord. No. 3925, §6, 10-3-95; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4753, 9-6-05; Ord. No. 5215, 1-20-09; Ord. No. 5270, 9-1-09; Ord. No. 5296, 12-15-09; Ord. No. 5546, 12-04-12)



**Bates &
Associates, Inc.**

Civil Engineering & Surveying

7230 S. Pleasant Ridge Dr / Fayetteville, AR 72704
PH: 479-442-9350 / www.batesnwa.com

December 21, 2022

To the City of Fayetteville Planning Commission,

Our clients Josh and Haley Portmann would like to request a variance for a proposed tract split on their property located off North Troy Drive.

The subject property is in the City of Fayetteville's planning area. The parcel number for the subject property is #001-11410-000 and contains 23.14 acres. The subject property is an existing nonconforming lot due to the lack of road frontage along North Troy Drive. They would like to split the property into 3 tracts. Tract 1 to contain 7.59 acres, Tract 2 to contain 7.97 acres and Tract 3 to contain 7.58 acres. Since we are proposing to create two new lots with insufficient street frontage, we are required to receive a planning commission variance in order to get the lot split approved.

All 3 tracts will have access to North Toy Drive via a 30-foot access and utility easement. However, all 3 tracts will have road frontage along North Toy Drive so that each tract will have access to the existing 6" water line. The future water meters and service lines will be place on each individual tract and will not cross any property lines.

Typically, Washington County Planning Department is fine with splits that result in tracts not having the required road frontage if they have access to a public street via a 30-foot access and utility easement. Due to the size of the property and the existing lack of road frontage along Troy Drive we feel we that there is enough of a hardship to request a variance so that they property can be split.

If you have any questions, comments, or concerns please contact us.

Sincerely,

Andy Hooper
Bates & Associates
479-442-9350
andy@batesnwa.com

VAR-2022-0066

2352 N. TOY DR

One Mile View



0 0.13 0.25 0.5 Miles

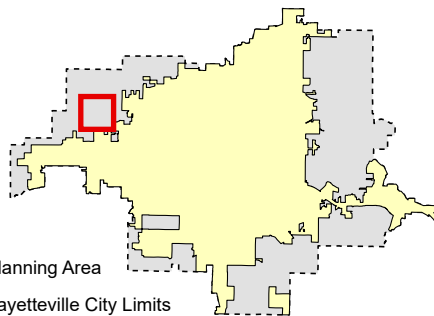
Subject Property

WHEELER RD

DOUBLE SPRINGS RD

- Unclassified
- Planned Residential Link
- Trail (Proposed)
- Planning Area

Planning Area
Fayetteville City Limits



- Zoning**
- RESIDENTIAL SINGLE-FAMILY**
 - NS-G
 - RH-U
 - RI-12
 - NS-L
 - Residential-Agricultural
 - RSF-5
 - RSF-1
 - RSF-2
 - RSF-4
 - RSF-7
 - RSF-8
 - RSF-18
 - RESIDENTIAL MULTI-FAMILY**
 - RMF-6
 - RMF-12
 - RMF-13
 - 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

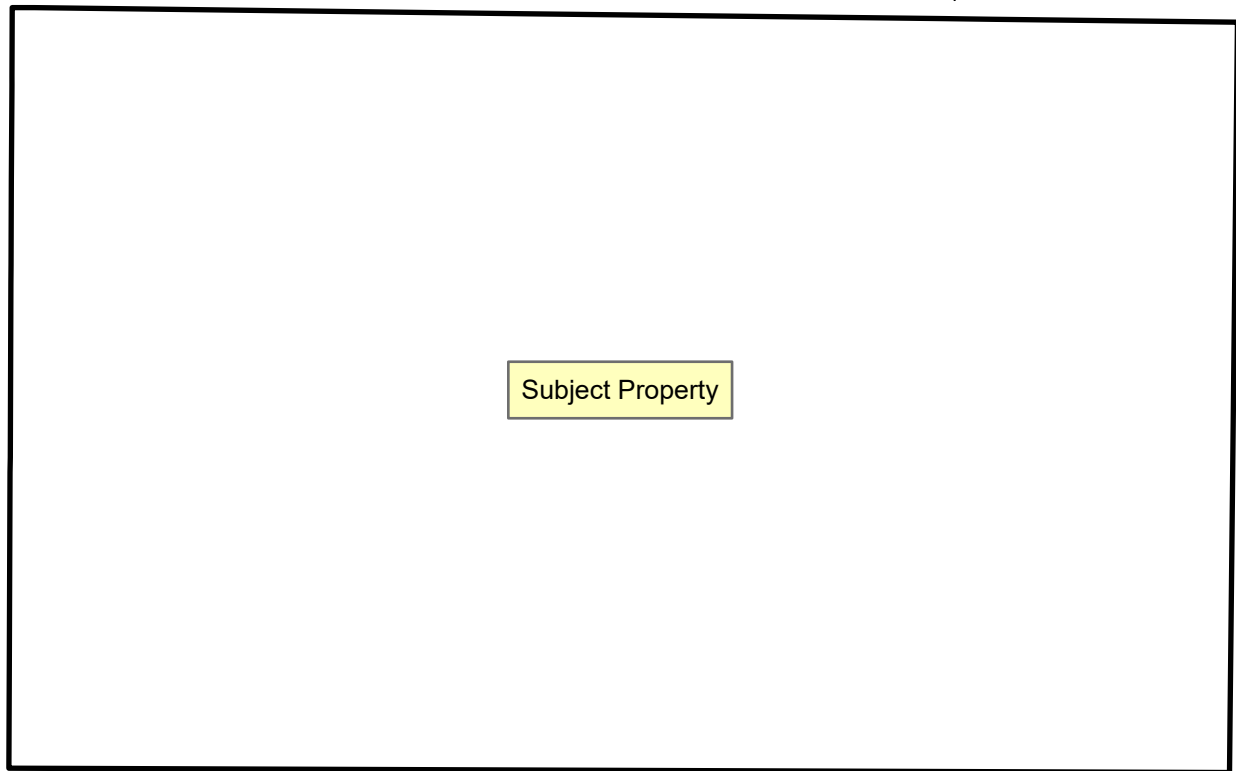
Planning Commission
January 23, 2023

VAR-2022-0066 (PORTMANN)

VAR-2022-0066

2352 N. TOY DR

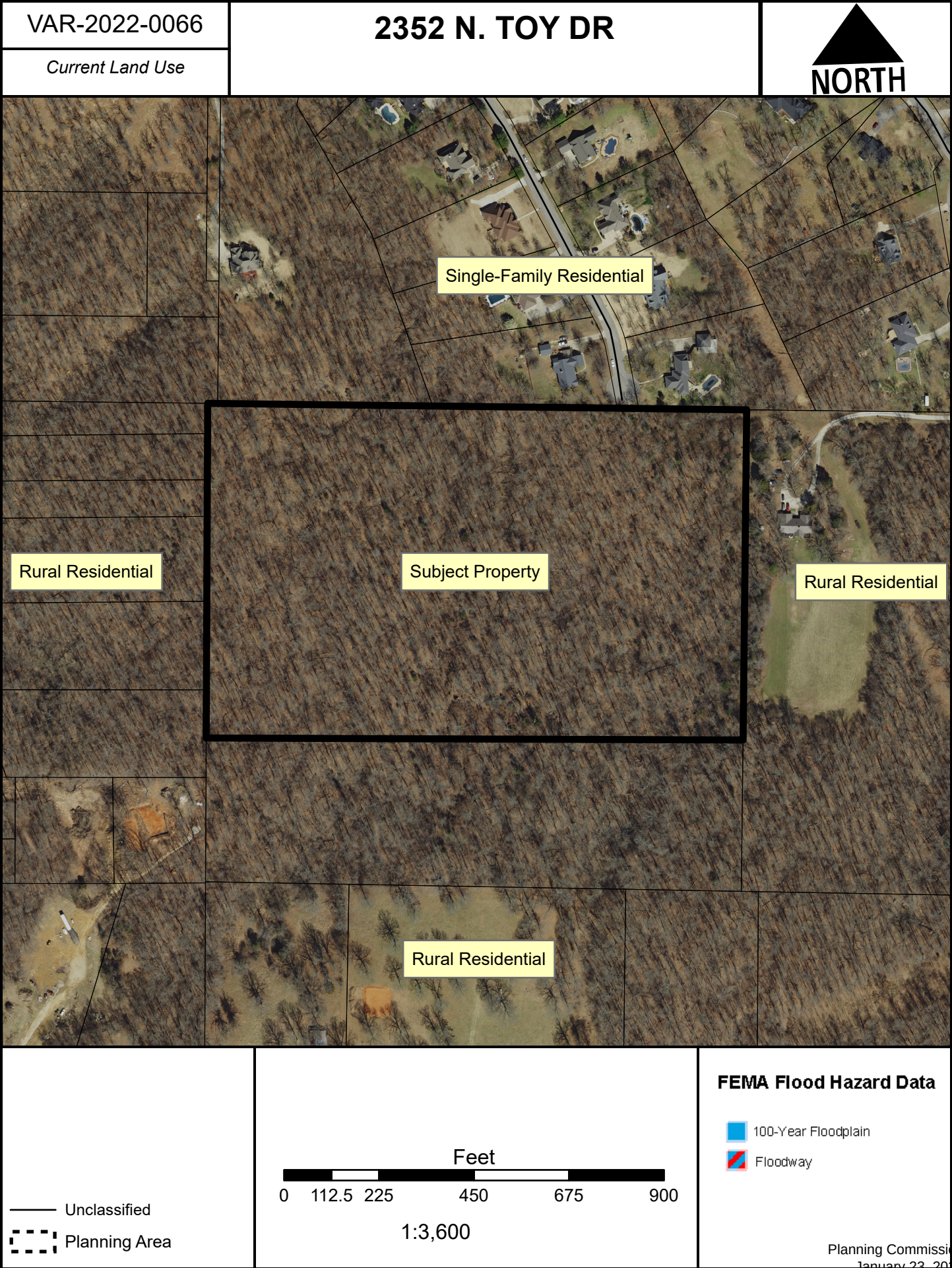
Close Up View



— Unclassified
--- Planning Area

Feet
0 75 150 300 450 600

1:2,400





TO: Fayetteville Planning Commission

FROM: Jessie Masters, Development Review Manager

MEETING DATE: January 23, 2023

SUBJECT: **CUP-2022-0133: Conditional Use Permit (1299 W. VAN ASCHE DR/JJ'S SPORTS COMPLEX, 210):** Submitted by JORGENSEN & ASSOCIATES for property located at 1299 W. VAN ASCHE DR. The property is zoned R-A, RESIDENTIAL AGRICULTURAL, and contains approximately 3.90 acres. The request is to use the property as a multi-sport training complex.

RECOMMENDATION:

Staff recommends approval of **CUP-2022-0133** with conditions, based on the findings contained in this report.

RECOMMENDED MOTION:

*"I move to approve **CUP-2022-0133**, determining:*

- *In favor of compatibility with adjacent properties; and*
- *In favor of all other conditions as recommended by staff."*

BACKGROUND:

The subject property, in north Fayetteville on W. Van Asche Drive, is southeast of the border with the City of Johnson and immediately east of the I-49 overpass. The property is developed with two single-family dwellings and associated outbuildings. Zoned R-A, Residential Agricultural, the property is also within the I-540 Overlay District. Surrounding land use and zoning are depicted in *Table 1*.

Table 1:
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Industrial/Charter School (under development)	City of Johnson/C-2, Thoroughfare Commercial
South	Undeveloped/I-49 Interstate	R-A, Residential Agricultural
East	Undeveloped	R-A, Residential Agricultural
West	I-49 Interstate	Interstate

City Plan 2040 Future Land Use Designation: **Urban Center**

Request: The applicant requests approval of a conditional use permit to operate a youth sports complex, which would be classified under Use Unit 4, Cultural and Recreational Facilities. The applicant has described the business as follows:

- *Five separate structures, including:*
 - *3 baseball training facilities (9,900 sq. ft., 9,900 sq. ft., and 4000 sq. ft.)*
 - *1 basketball training facility (15,400 sq. ft.)*

- 1 ninja park facility (9,900 sq. ft.)
- Number of employees: 20 employees
- Hours of operation: 11:00 AM to 9:00 PM; seven days per week
- Parking: Parking would be supplied as defined by Unified Development Code.
- Solid waste: Dumpster service

Public Comment: Staff has received no public comment on this item.

RECOMMENDATION: Staff recommends approval of **CUP-2022-0133**, subject to the following conditions:

Conditions of Approval:

1. **Planning Commission determination of compatibility.** *Staff recommends that the proposed use is compatible with surrounding properties for the reasons outlined in this report;*
2. This conditional use permit is limited to the use as described in the applicant's request letter. This conditional use permit is non-transferrable to a different business or property owner. The following specifications apply:
 - Size of the business:
 - 3 baseball training facilities (9,900 sq. ft., 9,900 sq. ft., and 4000 sq. ft.)
 - 1 basketball training facility (15,400 sq. ft.)
 - 1 ninja park facility (9,900 sq. ft.)
 - Number of employees: 20 full-time
 - Hours of operation: 11:00 AM – 9:00 PM; seven days per week
 - Parking: 1 per 4 occupants (Recreational Uses)
3. Approval of the conditional use permit does not grant development entitlement for site improvements. Improvements shall be considered for compliance with applicable zoning and development standards as required by the Unified Development Code;
4. Structures and overall development shall be subject to Commercial, Office, Mixed-Use Design and Development standards;
5. Access management standards shall be met per UDC 166.08; non-conforming access features shall be brought into compliance with ordinance with the development of new primary structures on the property;
6. Dumpsters shall be screened so that they are not visible from the public right-of-way; and
7. Any future expansion or change in the use shall require Planning Commission approval.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>January 23, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

Section 163.02. **AUTHORITY; CONDITIONS; PROCEDURES.**

B. Authority; Conditions. The Planning Commission shall:

1. Hear and decide only such special exemptions as it is specifically authorized to pass on by the terms of this chapter.
2. Decide such questions as are involved in determining whether a conditional use should be granted; and,
3. Grant a conditional use with such conditions and safeguards as are appropriate under this chapter; or
4. Deny a conditional use when not in harmony with the purpose and intent of this chapter.

C. Procedures. A conditional use shall not be granted by the Planning Commission unless and until:

1. A written application for a conditional use is submitted indicating the section of this chapter under which the conditional use is sought and stating the grounds on which it is requested.

Finding: **The applicant has submitted a written application requesting a conditional use permit for a recreational facility, classified as Use Unit 4. This use is permitted as a conditional use in the R-A, Residential Agricultural zoning district.**

2. The applicant shall pay a filing fee as required under Chapter 159 to cover the cost of expenses incurred in connection with processing such application.

Finding: **The applicant has paid the required filing fee.**

3. The Planning Commission shall make the following written findings before a conditional use shall be issued:
 - (a.) That it is empowered under the section of this chapter described in the application to grant the conditional use; and

Finding: The Planning Commission is empowered under Unified Development Code §161.03 to grant the requested conditional use permit.

(b.) That the granting of the conditional use will not adversely affect the public interest.

Finding: Staff finds that granting the requested conditional use permit will not adversely affect the public interest. The property is buffered to the west by the interstate and is primarily undeveloped to the east. Traffic impacts are likely to be minimal, and noise and light are likely to be contained. Further, under development across the street is the LISA Academy, a new charter school. The insertion of a school use across the street from a youth training facility indicates a certain level of compatibility.

(c.) The Planning Commission shall certify:

(1.) Compliance with the specific rules governing individual conditional uses; and

Finding: There are no specific rules governing the applicant's request.

(2.) That satisfactory provisions and arrangements have been made concerning the following, where applicable:

(a.) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe;

Finding: The applicant proposes two points of access to the property, one through an existing curb cut that currently provides access to an existing home, and a secondary point of access through a proposed shared drive to the east. The existing curb cut is non-conforming, in that it does not meet the required separation distance to another curb cut to the east that also serves the property. Staff finds that with the addition of primary dwellings on the property, the expectation is that non-conforming curb cuts must be brought into compliance with ordinance. Staff recommends that curb separation be brought into compliance with this development due to the additional traffic impacts to the site. The proposed shared drive would also be required to be placed in an access easement, and the adjacent property owner would ultimately need to provide consent for construction of the proposed shared driveway. A single documented accident was reported along the property's frontage from 2017 to 2021.

(b.) Off-street parking and loading areas where required, with particular attention to ingress and egress, economic, noise, glare, or odor effects of the special exception on adjoining properties and properties generally in the district;

Finding: **Parking is proposed to serve the development along the eastern side of the proposed structures. The applicant's conceptual site plan indicates 78 parking spaces, which would serve 312 occupants per the stated parking maximum through ordinance of 1 space per 4 occupants.**

(c.) Refuse and service areas, with particular reference to ingress and egress, and off-street parking and loading,

Finding: **The applicant has not supplied a proposed location, but staff anticipates that a use of this size and scale would require dumpster service to provide for solid waste services. Staff recommends a condition that the dumpster be screened in a way that is consistent with the requirements in chapter 166.25, Commercial, Office, Mixed-use Design and Development Standards.**

(d.) Utilities, with reference to locations, availability, and compatibility;

Finding: **The property has access to water but does not currently have access to sewer. An 8-inch water main is present along the property's frontage. A sewer extension is being proposed and coordinated with the construction of the LISA Academy to the north, but a significant sewer extension would be needed to support the applicant's proposed development, the cost of which would be borne by the developer.**

(e.) Screening and buffering with reference to type, dimensions, and character;

Finding: **Staff recommends screening in a way that is consistent with the requirements in 166.25, Commercial, Office, Mixed-use Design and Development Standards.**

(f.) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;

Finding: **Any proposed signage will be subject to the City's sign ordinance and all regulations therein. The property is located within the I-540 Overlay District, where it is unlawful to erect a pole sign. The unified development code would also require that all exterior lights be downcast and shielded to prevent light trespass onto adjacent or nearby properties.**

(g.) Required yards and other open space; and

Finding: **While the applicant's site plan does not indicate setbacks, it does appear that the proposed structure would meet the relevant setbacks as defined by the R-A zoning district.**

(h.) General compatibility with adjacent properties and other property in the district.

Finding: Staff finds the proposal to be compatible with adjacent properties. The facilities are intended to be located within structures, so there is little opportunity for noise to negatively affect surrounding property owners and residents. From a traffic perspective, staff finds that W. Van Asche Drive would absorb any added traffic impacts, but given the high classification of the street, staff does recommend a condition that access management standards be met with the development of new primary structures on the property. Staff finds that the use aligns with the future land use plan for an Urban Center.

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Unified Development Code
 - §161.03 District R-A, Residential-Agricultural
- Request Letter
- Site Plan
- Elevations
- One Mile Map
- Close-Up Map
- Current Land Use Map

161.03 District R-A, Residential-Agricultural

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

- (B) *Uses.*

(1) *Permitted Uses.*

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

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."

December 13, 2022

City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

Attn: Development Services
Re: CUP-JJ's Youth Sports Park

Please accept this request for a CUP for parcel 765-06293-000. The current zoning of the property is RA.

JJ's Sports Complex- Overview

JJ's Sports Complex is a brand new multi-sport training complex for athletes of all ages. The first of its kind in Northwest Arkansas, JJ's Sports Complex will host state of the art facilities for baseball and basketball. JJ's Sports Complex seeks to become Northwest Arkansas's hub for competitive sports training for athletes of all ages.

Project Details

- a. Building Size
 - i. 110' x 140' - 15,400 sq ft
 - ii. 100' x 99' - 9,900 sq ft
 - iii. 100 x 99' - 9,900 sq ft
 - iv. 80' x 50' - 4,000 sq ft
- b. Color Elevations
 - i. General Steel buildings
 - ii. Renderings forth coming
- c. Parking Spaces
 - i. Per city of Fayetteville Codes unless otherwise noted
- d. Business Operations
 - i. Hours of Operation: 11:00 a.m. - 9:00 p.m.; 7 days/ week
 - ii. Number of Employees: 20
 - iii. Estimated Number of Patrons per day: 75 average; peak- 40
- e. Outdoor Lighting
 - i. Lighting to meet City of Fayetteville codes
- f. Noise
 - i. Indoor facilities to limit noise
 - ii. No neighboring residents
- g. Screening/Buffering of Adjacent Properties
 - i. North- Van Asche
 - ii. South- Unoccupied wooded lot
 - iii. East- Unoccupied wooded lot
 - iv. West- I-49
 - v. The property is bordered by I-49 to the West and Van Asche Drive to the North. The East and South are unoccupied wooded lots. There are no concerns as to disturbing neighbors.
- h. Trash and Refuse Service

- i. Dumpster Location? (Needs 40' clear)
- i. Ingress and Egress
- i. Van Asche Dr.- 4 lane high capacity connector
- ii. Vehicles may come in and out from either direction (no median)
- iii. Anticipated dedicated left and right turn out lanes
- iv. Parking lot- paved

j. Compatibility of Use

i. Unit 4- Culture/ Recreational Facilities- The proposed use is a conditional use of the Residential Agricultural (RA) zoned property. The use may best be described as athletic facilities/training. The primary demographic will be children ages 9-14.

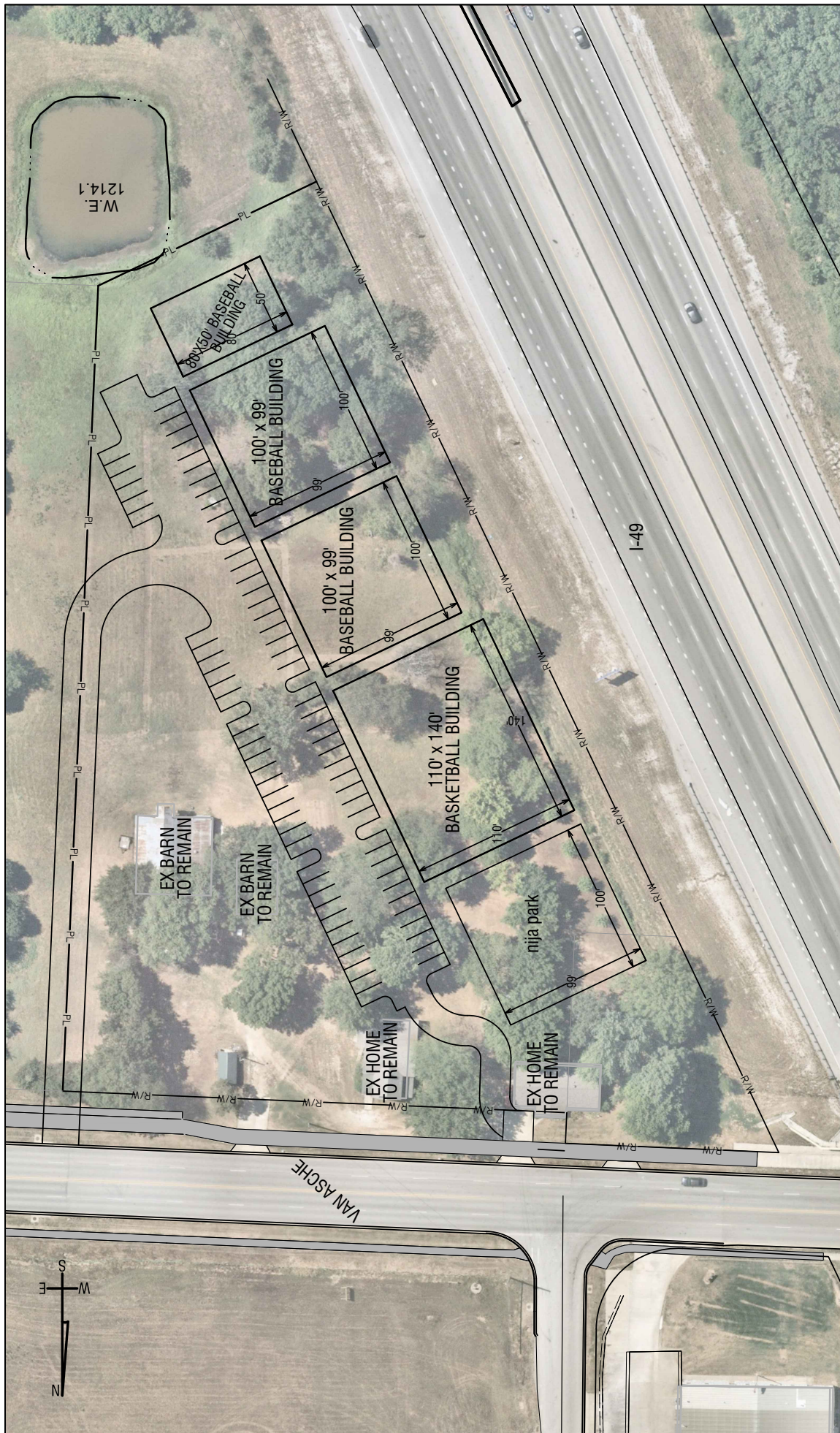
ii. Neighborhood- There are currently no immediate neighbors of the property. However, the LISA Academy is currently being constructed to the North of the property, just across Van Asche Dr. This project compliments the school as the purpose of the project is largely to serve school-aged children.

Please review this application and let us know if there are any questions that we may be able to answer.

Thanks.



 Blake Jorgensen, PE
 Jorgensen + Associates



PROJECT TITLE: JJ'S YOUTH SPORTS COMPLEX

LOCATION: 1299 W VAN ASCH

SHEET TITLE: CONCEPT PLAT

DRAWN BY: BEJ

SHEET SCALE: 1" = 60'

DATE: 12.13.22

PROJECT FILE: Z:\USD\2022\191 - JJ's Sports Park\dwg\Jis Sports Park.dwg

REGISTERED PROFESSIONAL ENGINEER
ARIZONA
No. 1343
PLATE # 105

CERTIFICATE OF AUTHORIZATION
JORGENSEN & ASSOCIATES
No. 722
ARIZONA

JORGENSEN + ASSOCIATES
Civil Engineering + Surveying
Established 1985

124 W Sunbridge Drive, Suite 5
Fayetteville, AR 72703
Office: 479.442.9127
www.jorgensenassoc.com

EXISTING WATER LINE
EX WL-8

PROPOSED 8" WATER LINE
PWL-8

UTILITY EASEMENT

EXISTING 8" SEWER LINE
EX SS-8

PROPOSED 8" SEWER LINE
PSS-8

BUILDING SETBACK

CENTERLINE STREET

CALCULATED POINT

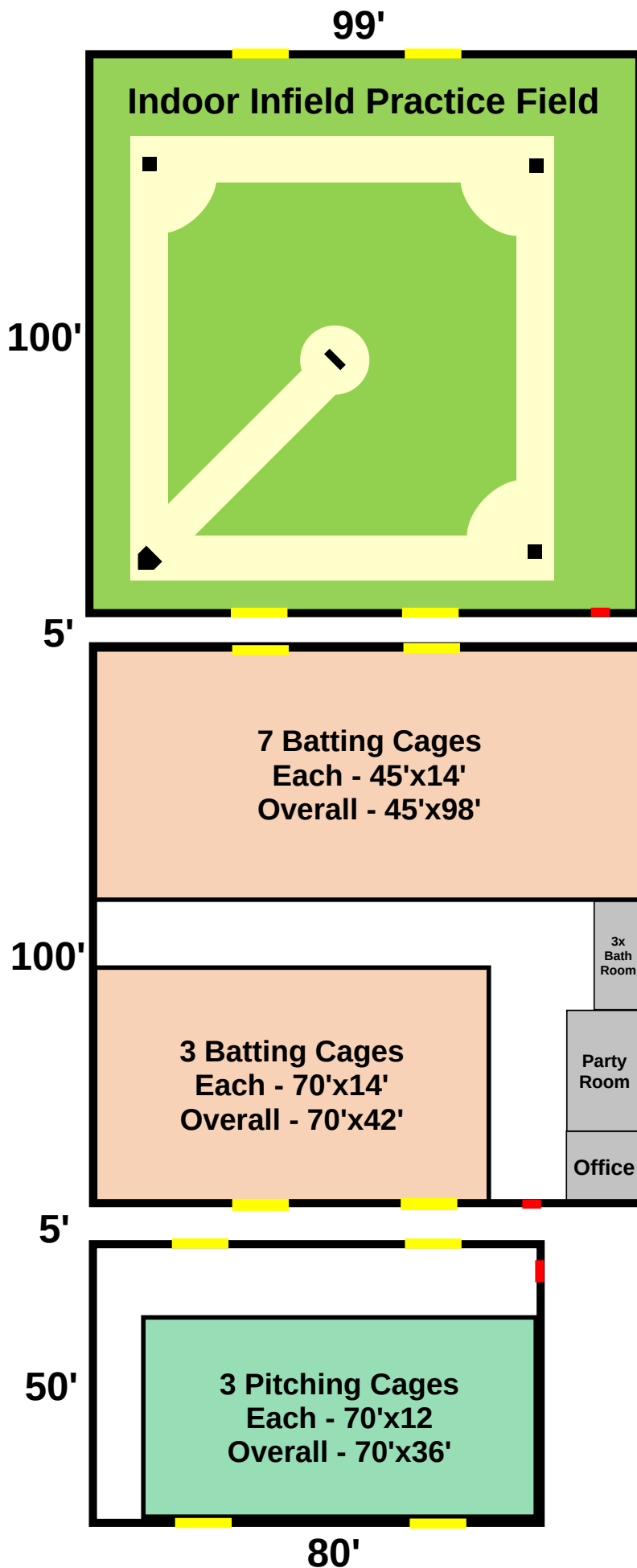
FOUND IRON PIN

SET IRON PIN & CAP

CENTERLINE MARKER

SEWER MANHOLE

POWER POLE

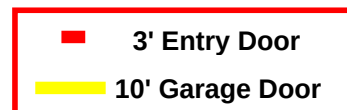


JJ's Baseball Academy

2 99'x100' Buildings
1 50'x80' Building

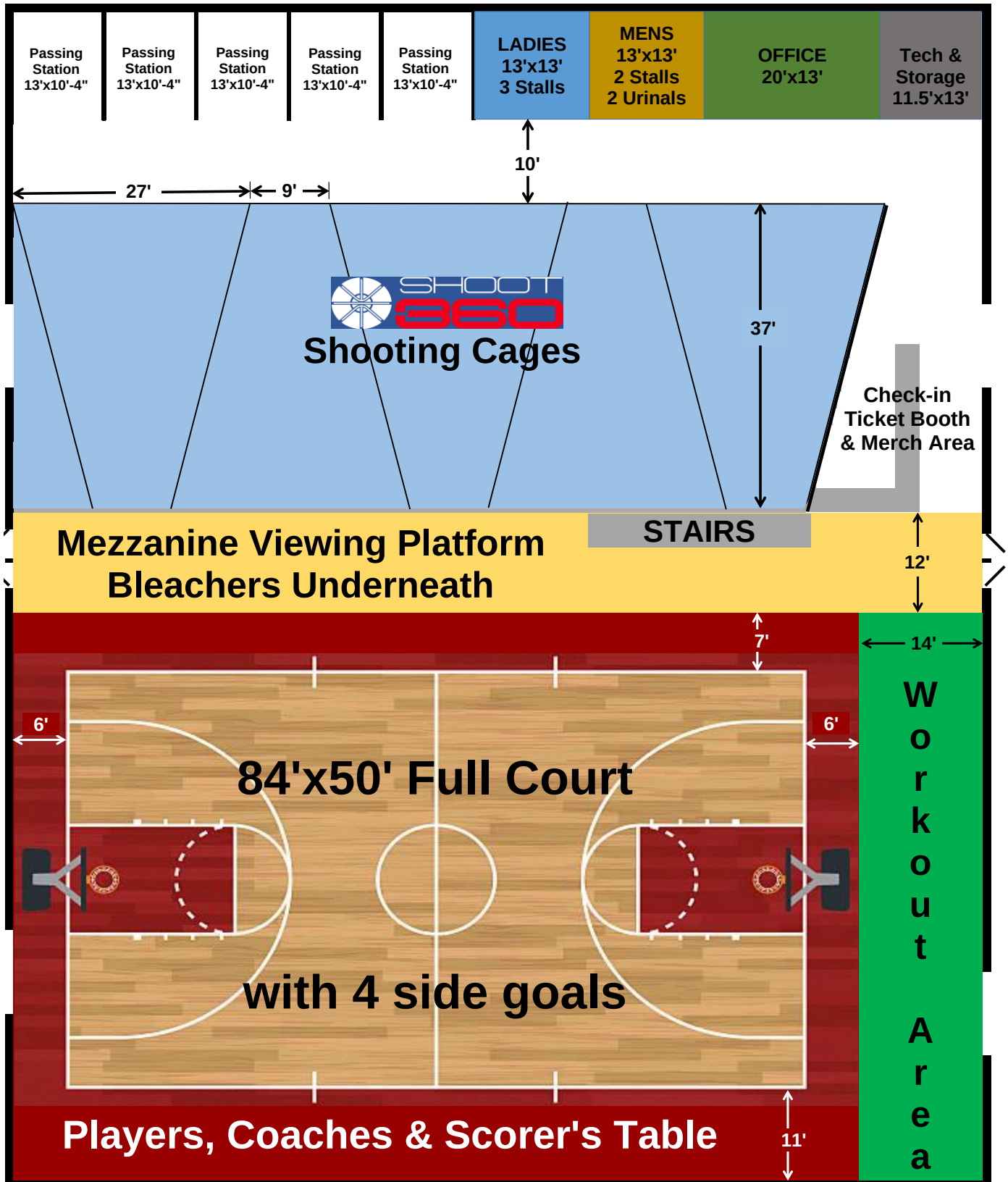


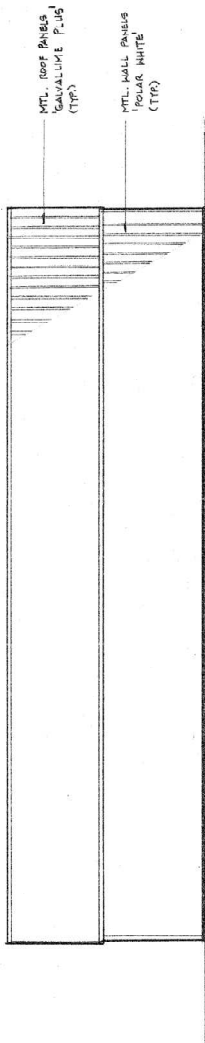
NORTH



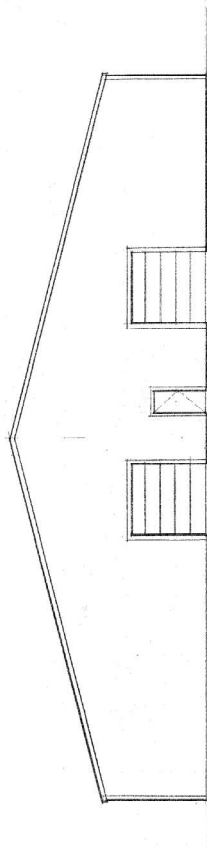
JJ's Basketball Academy

110' x 140' Basketball Building

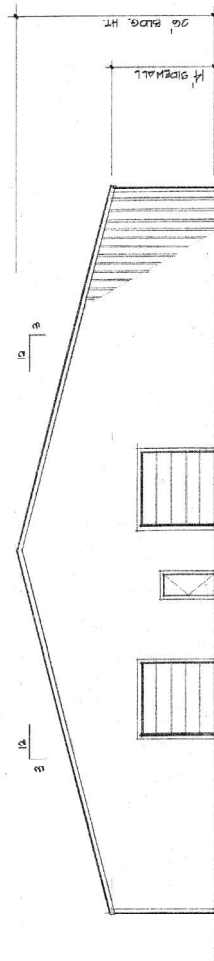




BUILDING 'A' (2) RIGHT ENDWALL ELEVATION SCALE: 1/8" = 1'-0"



BUILDING 'A' (2) LEFT ENDWALL ELEVATION SCALE: 1/8" = 1'-0"

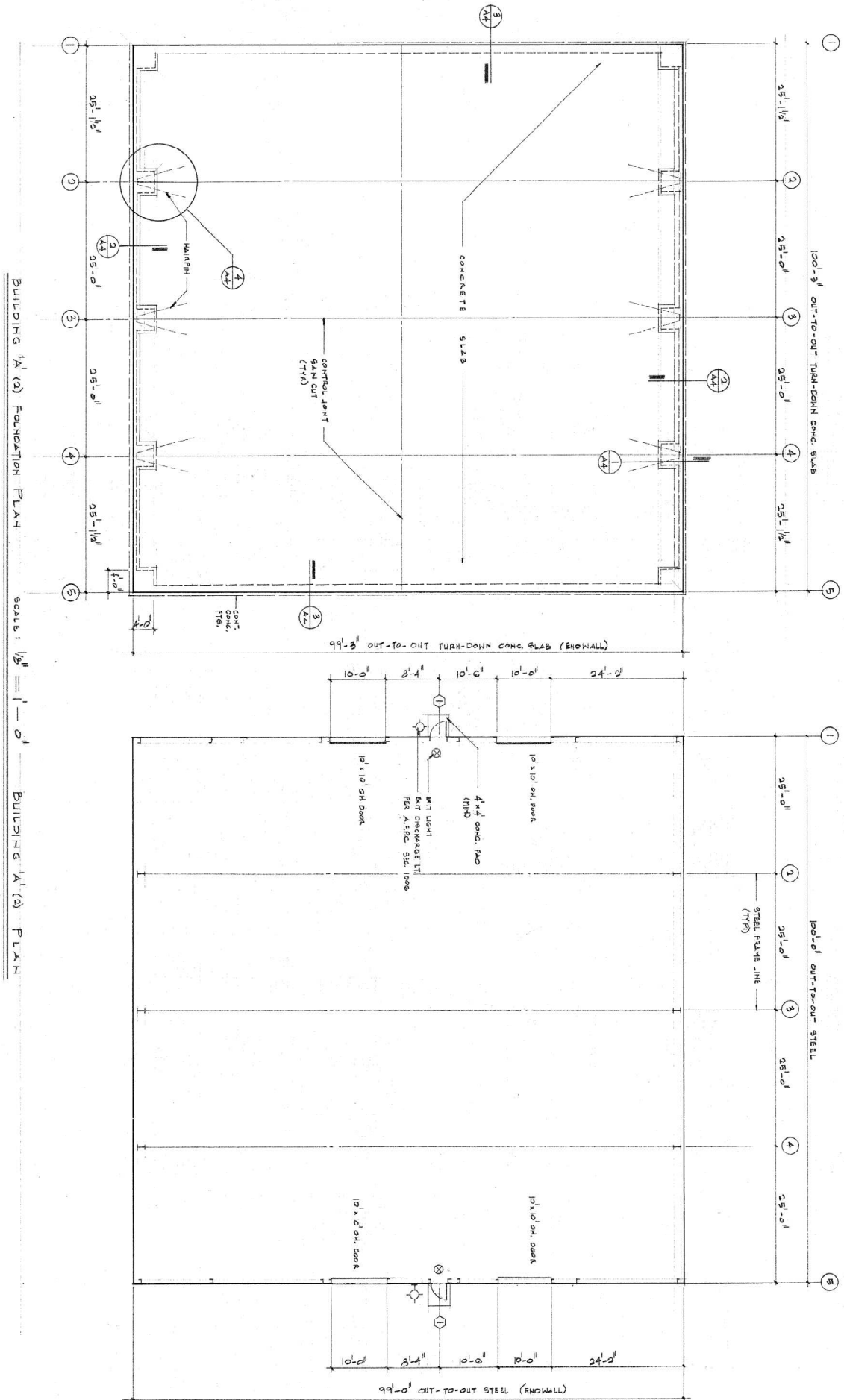


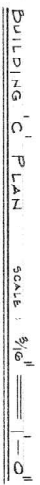
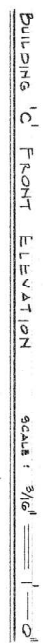
BUILDING 'A' (2) RIGHT ENDWALL ELEVATION SCALE: 1/8" = 1'-0"

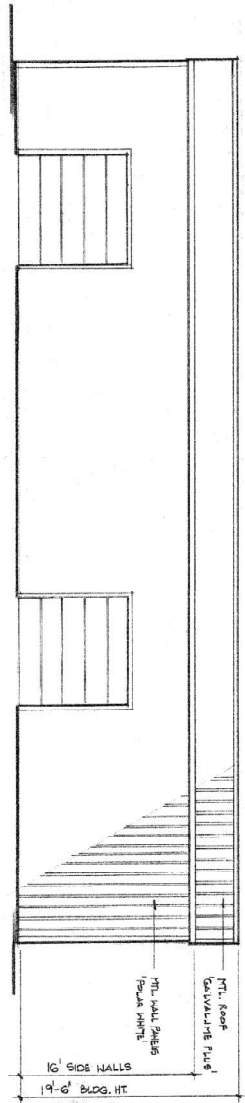
C O D E S	
2006	ARKANSAS STATE FUEL AND GAS CODE
2006	ARKANSAS STATE PLUMBING CODE
2017	NATIONAL ELECTRIC CODE
2009	ASHI A111.1 STATE MECHANICAL CODE
2010	ARKANSAS ENERGY CODE (2009 IBC)
2011	ARKANSAS FIRE PREVENTION CODE (AFPC)
2012	(2012 IBC & IAC WITH AMENDMENTS)

BUILDING DATA	
BUILDING 'A' (2)	
AREA 100' x 99'	9,900 SQ. FT.
CONSTRUCTION CLASS.	TYPE II B
OCCUPANCY CLASS	S-2 (ON-HIGH STORAGE)
OCCUPANT LOAD	25
EXIT TRAVEL DISTANCE	75' MAX
BUILDING 'C'	
AREA 80' x 50'	4,000 SQ. FT.
CONSTRUCTION CLASS	TYPE II B
OCCUPANCY CLASS	S-2 (ON-HIGH STORAGE)
OCCUPANT LOAD	25
EXIT TRAVEL DISTANCE	75' MAX

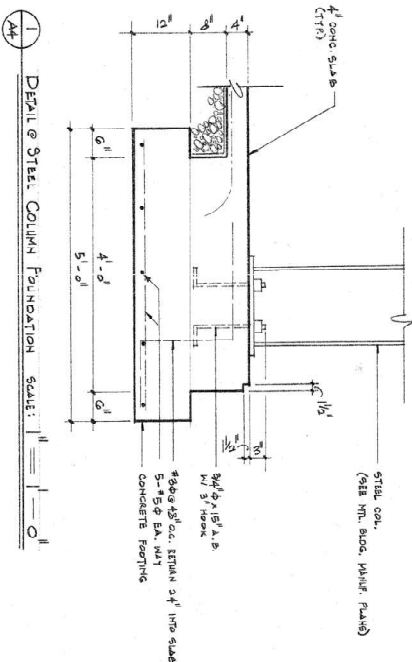
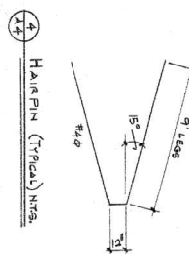
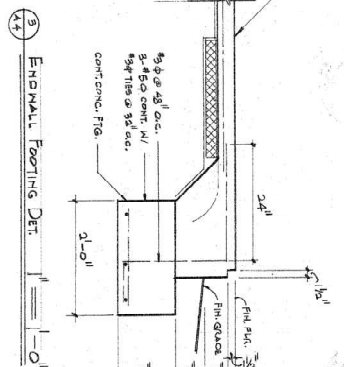
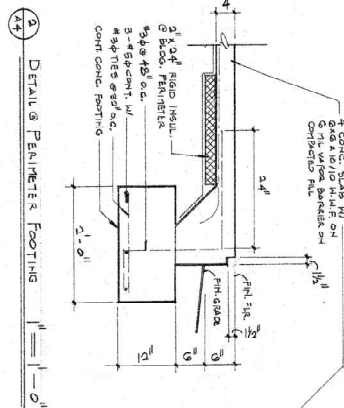
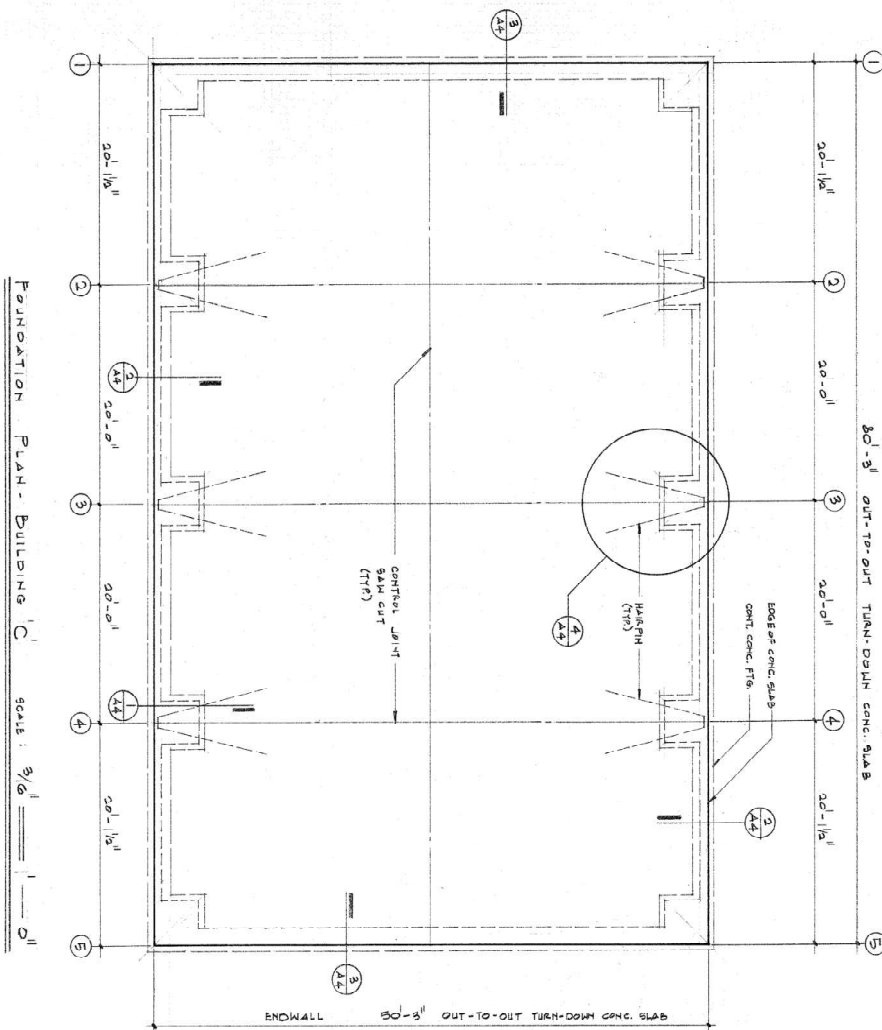
DRAWINGS	
SHEET	CONTENTS
A1	CODES, DATA, BLDG. 'A' ELEVATIONS
A2	BUILDING 'A' PLAN & FOUNDATION PLAN
A3	BUILDING 'C' PLAN & ELEVATIONS
A4	BUILDING 'C' ELEVATION, FOUNDATION PLAN & DETAILS







BUILDING 'C' REAR ELEVATION SCALE: 3/16" = 1'-0"



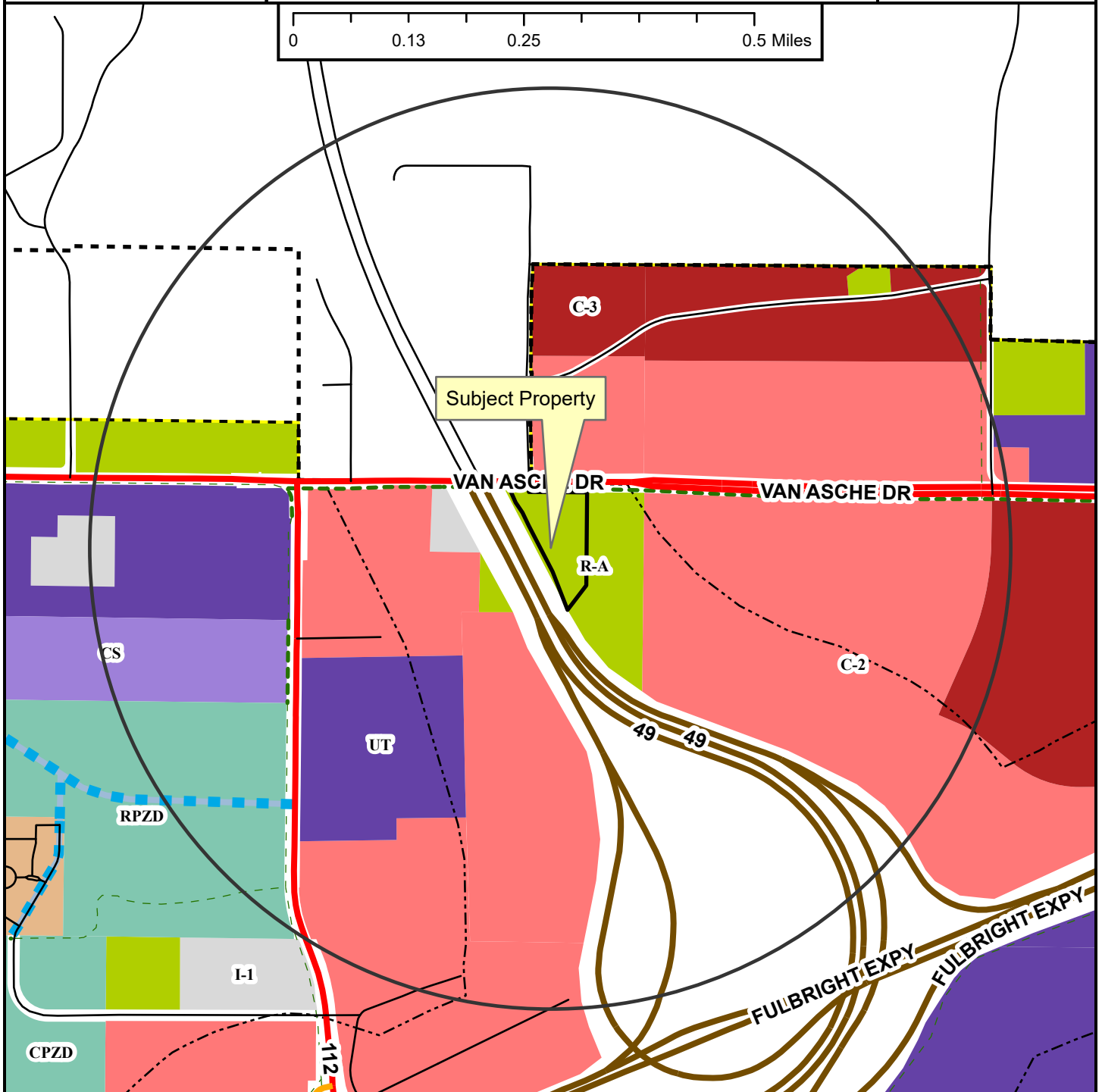
CUP-2022-0133

1299 W. VAN ASCHE DR

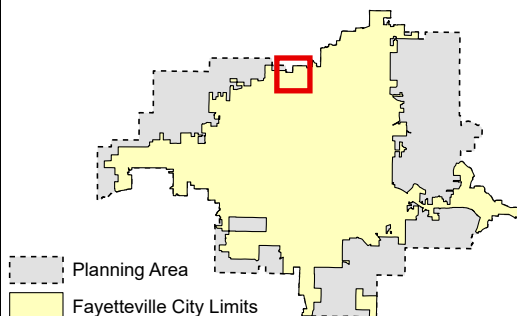
One Mile View



0 0.13 0.25 0.5 Miles



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



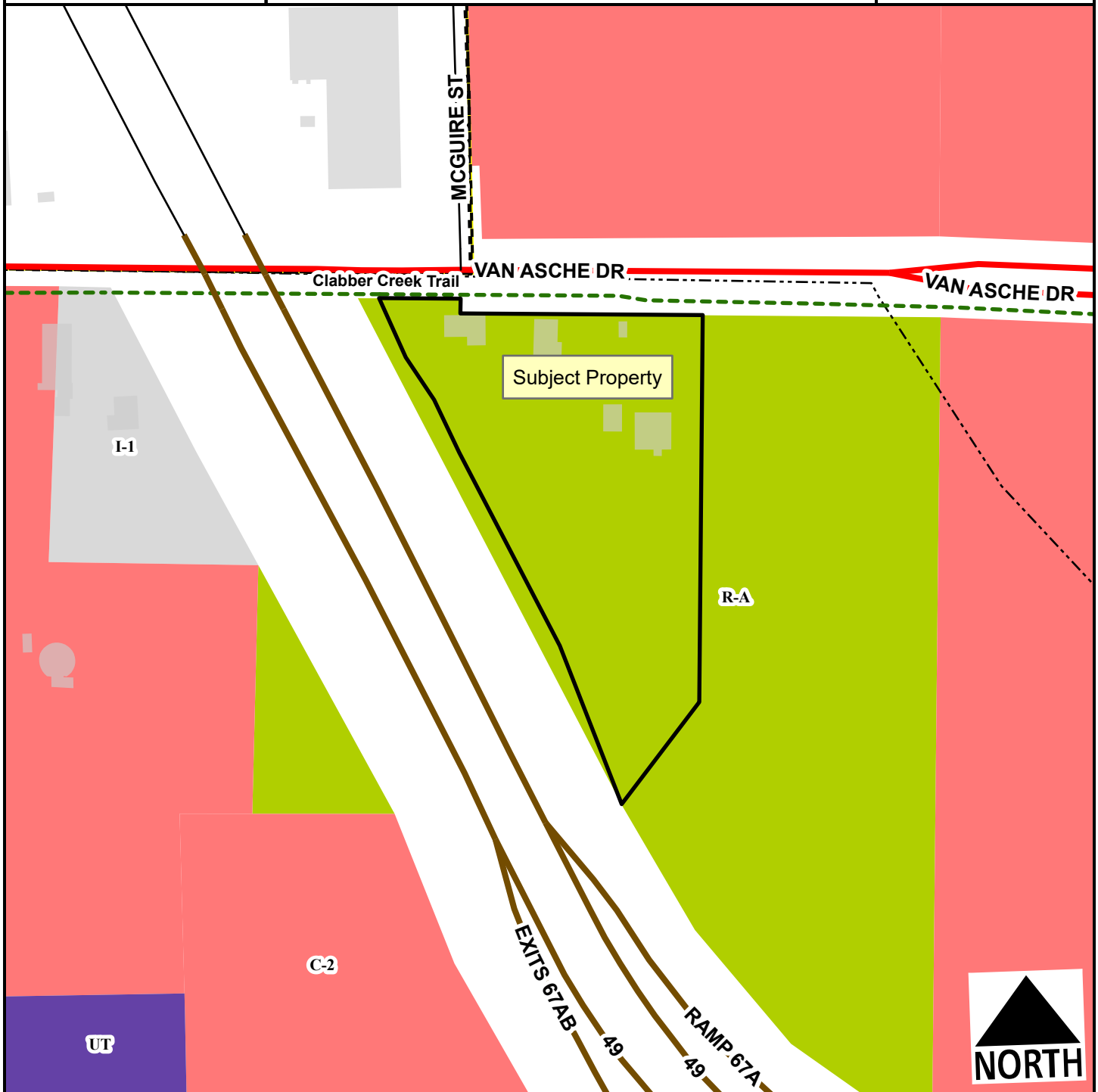
Planning Area
Fayetteville City Limits

- Zoning**
- RESIDENTIAL SINGLE-FAMILY**
 - NS-G
 - RH-U
 - RI-12
 - NS-L
 - Residential-Agricultural
 - RSF-5
 - RSF-1
 - RSF-2
 - RSF-4
 - RSF-7
 - RSF-8
 - RSF-18
 - RESIDENTIAL MULTI-FAMILY**
 - RMF-6
 - RMF-12
 - RMF-13
 - 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

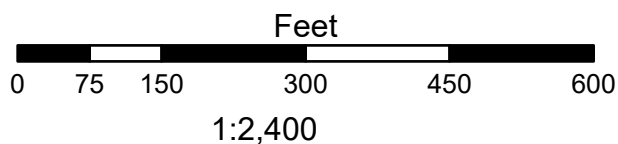
Planning Commission
January 23, 2023

CUP-2022-0133 (JJ'S SPORTS COMPLEX)

Close Up View



- Regional Link
- Freeway/Expressway
- Unclassified
- Residential Link
- Planning Area
- Fayetteville City Limits
- - - Shared-Use Paved Trail
- Design Overlay District

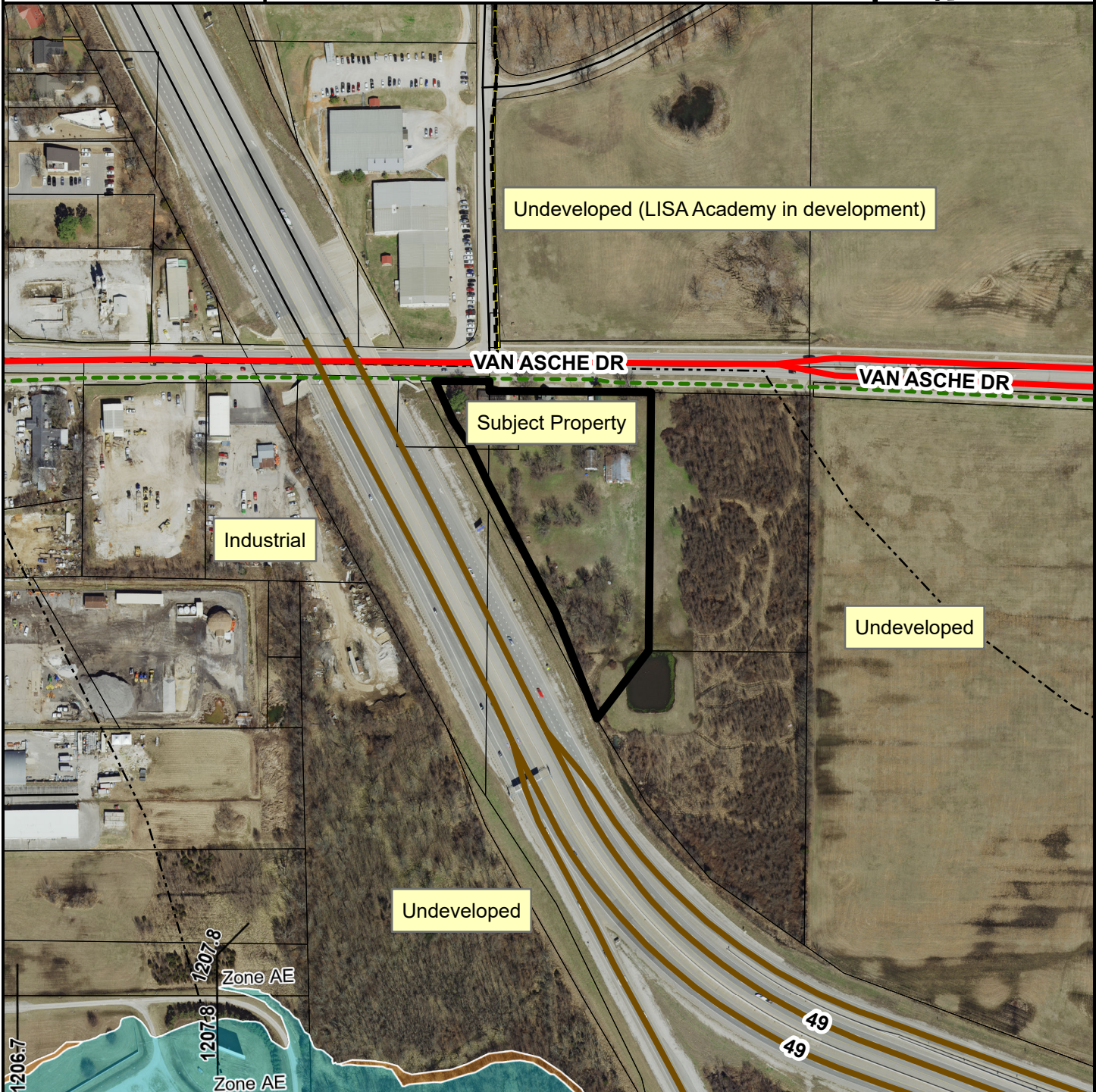


- Residential-Agricultural
- I-1 Heavy Commercial and Light Industrial
- C-2
- Urban Thoroughfare

CUP-2022-0133

1299 W. VAN ASCHE DR

Current Land Use



- Regional Link
- Freeway/Expressway
- Unclassified
- Residential Link
- Planning Area
- Fayetteville City Limits
- Design Overlay District



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Ryan Umberger, Senior Planner

MEETING DATE: January 23, 2023

SUBJECT: **RZN-2022-0053: Rezone (3017 W.OLD FARMINGTON RD./ARNOLD, 557):** Submitted by JORGENSEN & ASSOCIATES. for property located at 3017 W. OLD FARMINGTON RD. The property is zoned RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE and contains approximately 0.50 acres. The request is to rezone the properties to RSF-18, RESIDENTIAL SINGLE-FAMILY, 18 UNITS PER ACRE.

RECOMMENDATION:

Staff recommends forwarding **RZN-2022-0053** to the City Council with a recommendation of approval, based on the findings herein.

RECOMMENDED MOTION:

"I move to forward **RZN-2022-0053** to City Council with a recommendation for approval."

BACKGROUND:

The subject property is located at the southwest corner of the intersection of S. One Mile Road and W. Old Farmington Road. To the north is Millsap Mountain, the site of Centennial Park. The subject property is zoned RSF-4, Residential Single-Family, 4 Units per Acre and it is approximately ½ acre in area. There are no apparent sensitive ecological features on site and the property is fairly flat. A duplex, built in 1977, occupies the site. Surrounding land use and zoning is depicted in *Table 1*.

Table 1 - Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Single-family Residential	RSF-18, Residential Single-family, 18 Units per Acre; NC Neighborhood Conservation
South	Single-family Residential	RSF-4, Residential Single-family, 4 Units per Acre
West	Undeveloped	RSF-4, Residential Single-family, 4 Units per Acre
East	Single-family Residential	R-A, Residential-Agricultural; RSF-4, Residential Single-family, 4 Units per Acre

Request: The request is to rezone the property from RSF-4, Residential Single-family, Four Units per Acre to RSF-18, Residential Single-family, Eighteen Units per Acre. In their request letter the applicant suggests the request is compatible due to the variety of zoning classifications and densities in the area, existing infrastructure, and aligned with infill goals in City Plan 2040. They assert the rezoning will allow an underutilized lot to be more efficiently developed to its potential.

Public Comment: Staff has not received any public comment about the request.

INFRASTRUCTURE AND ENVIRONMENTAL REVIEW

Streets: The subject area has frontage along W. Old Farmington Road and S. One Mile Road. W. Old Farmington Road is a partially improved Residential Link Street with asphalt paving and open ditches. S. One Mile Road is a fully improved Residential Link Street with paved streets, curb and gutter, and sidewalks. Any street improvements required in these areas would be determined at the time of development proposal.

Water: Public water is available to the subject area. An existing 6-inch water main is present on the north side of W. Old Farmington Road and another 6-inch water main is present in the center of S. One Mile Road.

Sewer: Sanitary sewer is available to the subject area. An existing 8-inch sewer main is present on the north side of W. Old Farmington Road and another 6-inch sewer main is present in the center of S. One Mile Road.

Fire: Fire apparatus access and fire protection water supplies will be reviewed for compliance with the Arkansas Fire Prevention Code at the time of development. Station 6, located at 990 S. Hollywood Avenue, protects this site. The property is located approximately 1.1 miles from the fire station with an anticipated drive time of approximately four minutes using existing streets. The anticipated response time would be approximately 6.2 minutes. Fire Department response time is calculated based on the drive time plus 1 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 6 minutes for an engine and 8 minutes for a ladder truck.

Police: The Police Department expressed no concerns with this request.

Drainage: No portion of the subject property lies within the Hillside-Hilltop Overlay District or a streamside protection zone, and no FEMA-designated floodplains are present. Any additional improvements or requirements for drainage would be determined at the time of development.

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.

Tree Preservation:

The proposed zoning district of RSF-18, Residential Single-family, 18 Units per Acre requires **20% minimum canopy preservation**. The current zoning district, RSF-4, Residential Single-family, Four Units per Acre, requires **25% minimum canopy preservation**.

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

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

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

- Adequate Fire Response (Station #6, 990 S. Hollywood Avenue)
- Near Sewer Main (6-inch main north of W. Old Farmington Road, 6-inch main center of S. One Mile Road)
- Near Water Main (8-inch main north of W. Old Farmington Road, 6-inch main center of S. One Mile Road)
- Near Grocery Store (Walmart, ALDI, W. Martin Luther King Jr. Boulevard)
- Near City Park (Centennial Park)
- Near Paved Trail (Mount Millsap Lane Marked Shared Roadway, W. Old Farmington Road Side-Path Trail)
- Razorback Transit Stop (Route 44 Peak, W. Martin Luther King Jr. Boulevard)

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:*** The proposed zoning is compatible with the surrounding land use pattern of the area. Zoning regulations for the existing RSF-4 and proposed RSF-18 district are identical in terms of permitted uses and conditional uses. RSF-18, however, allows density up to eighteen units per acre, with lots that are 30 feet-wide and a minimum width of 1,250 square feet for townhomes. RSF-4, on the other hand, allows lots at a minimum width of 70 feet and 8,000 square feet in area at this location. Setbacks under RSF-18 are also less restrictive. RSF-18 prescribes a build-to zone between 0-25 feet from the front property line, allows zero lot-line development for townhomes, and has a five foot rear setback. RSF-4 setbacks are 15 feet in the front and rear and 5 feet along side property lines. In RSF-18 the area occupied by structures is limited to 60% of the lot area where in RSF-4

structures may only occupy 40%. The height of structures in both districts is limited to three stories. In the near vicinity, properties have a patchwork of zoning designations. The property is situated among moderate to high single-family zoning designations and also districts typically associated with rural or agricultural uses. It is just over 500 feet north of the W. Martin Luther King Jr. Boulevard corridor. In the vicinity are many grocery stores, retail goods and services, a Department of Motor Vehicles tag office, and a Tier 2 Center at the intersection of W. Martin Luther King Jr. Boulevard and I-49. Staff finds the request to rezone to RSF-18 is appropriate given the associated zoning requirements and surrounding context.

Land Use Plan Analysis: Staff finds that the request is generally consistent with adopted land use policies, the Future Land Use Map designation, and goals of City Plan 2040. The subject area is designated as a Residential Neighborhood Area, which calls for a mix of housing types in appropriate areas. While the single-use nature of the district may not be consistent with the aims of the future land use designation, the single-family zoning district will help to ensure that development of the site is of an appropriate scale and context with the adjoining properties. The infill score of the site is moderate but it is located between two Tier 2 Centers; approximately a half-mile to the east at I-49 and W. Martin Luther King Jr. Boulevard and approximately one mile to the west at S. Ruppel Road and W. Martin Luther King Jr. Boulevard. Lastly, staff finds the setbacks of the proposed RSF-18 zoning will create efficiencies in the development pattern of the site that will allow the property to be more appropriately utilized, given its location.

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

Finding: Staff finds a rezone from RSF-4 to RSF-18 is appropriate and justified for the property. Rezoning to RSF-18 allows an increase in residential density to an area that is currently experiencing both growth and development pressure and situated with convenient access to goods, services, and amenities. Rezoning contributes to Goals 1, 2, and 4 of City Plan 2040.

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

Finding: Rezoning the property to RSF-18 is likely to increase traffic at this location. Staff finds, though, that the increase would not be beyond what is appropriate. Vehicle traffic can access W. Martin Luther King Jr. Boulevard at its intersection with S. One Mile Road, which is a signalized intersection, or less than ½ mile to the west at its intersection with W. Old Farmington Road. Vehicle traffic can also be dispersed onto S. Shiloh Drive to the east. W. Martin Luther King Jr. Boulevard is a Regional High-Activity Link Street which has a designed service volume of 17,600 vehicles per day and sees roughly 44,000 vehicle trips near I-49. The property's location near retail services, recreational facilities, and a Razorback Transit stop offers future residents reasonable alternatives to automobile transportation.

4. A determination as to whether the proposed zoning would alter the population density and

thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: Rezoning the property to RSF-18 is likely to increase the population density at this location but is unlikely to increase the burden on public services. The property currently has direct access to city water, sanitary sewer, and an improved street network. Fayetteville Public Schools did not comment on the request.

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

Finding: N/A

RECOMMENDATION: Planning staff recommends forwarding RZN-2022-0053 to the City Council with a recommendation of approval.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>January 23, 2023</u>	☐ Tabled	☐ Forwarded	☐ Denied
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:

None

Attachments:

- Unified Development Code:
 - §161.07 RSF-4, Residential Single-family, Four Units per Acre
 - §161.10 RSF-18, Residential Single-family, Eighteen Units per Acre
- Applicant Request Letter
- One Mile Map
- Close-up Map
- Current Land Use Map
- Future Land Use Map

161.07 District RSF-4, Residential Single-Family - Four (4) 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
Unit 46	Short-term rentals

(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 12a	Limited business
Unit 24	Home occupations
Unit 36	Wireless communications facilities
Unit 44	Cluster Housing Development

(C) *Density.*

	Single-family dwellings	Two (2) family dwellings
Units per acre	4 or less	7 or less

(D) *Bulk and Area Regulations.*

	Single-family dwellings	Two (2) family dwellings
Lot minimum width	70 feet	80 feet
Lot area minimum	8,000 square feet	12,000 square feet
Land area per dwelling unit	8,000 square feet	6,000 square feet
Hillside Overlay District Lot minimum width	60 feet	70 feet
Hillside Overlay District Lot area minimum	8,000 square feet	12,000 square feet
Land area per dwelling unit	8,000 square feet	6,000 square feet

(E) *Setback Requirements.*

Front	Side	Rear
15 feet	5 feet	15 feet

(F) *Building Height Regulations.*

Building Height Maximum	3 stories
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(G) *Building Area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot. Accessory ground mounted solar energy systems shall not be considered buildings.

(Code 1991, §160.031; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 4858, 4-18-06; Ord. No. 5028, 6-19-07; Ord. No. 5128, 4-15-08; Ord. No. 5224, 3-3-09; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; Ord. No. 5921, §1, 11-1-16; Ord. No. 5945, §8, 1-17-17; Ord. No. 6015, §1(Exh. A), 11-21-17; Ord. No. 6245, §2, 10-15-19; Ord. No. 6427, §§1(Exh. C), 2, 4-20-21)

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."

161.10 District RSF-18, Residential Single-Family - Eighteen (18) Units Per Acre

(A) *Purpose.* The RSF-18 Single-family Residential District is designed to promote and encourage the efficient development of single-family detached residences in a variety of densities.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 41	Accessory dwellings
Unit 46	Short-term rentals

(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 12a	Limited business
Unit 24	Home occupations
Unit 36	Wireless communications facilities
Unit 44	Cluster Housing Development

(C) *Density.*

Units per acre	Eighteen (18) or less
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(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

Single-family	30 feet
Two (2) family	30 feet

(2) *Lot Area Minimum.*

Townhouses: individual lot	1,250 square feet
Single-family	2,500 square feet
Two-family	2,000 square feet

(E) *Setback Requirements.*

Front	Side	Side-Zero Lot Line*	Rear
A build-to zone that is located between the front property line and a line 25 ft. from the front property line.	5 feet on both sides	A setback of less than five feet (zero lot line) is permitted on one interior side, provided a maintenance agreement is filed**. The remaining side setback(s) shall be 10 feet.	5 feet

* A zero lot line is an alternative to the 5 foot building setback. Applicants should consult the International Building Code when locating a structure in close proximity to property lines and/or adjacent structures.

** At least 5 feet of maintenance area shall be provided along a structure that is within 5 feet of a property line. This may be provided through a perpetual maintenance easement on the adjacent property, or through a combination of a maintenance easement and private property. Walls, fences and customary yard accessories are permitted in the maintenance area.

(F) *Building Height Regulations.*

Building Height Maximum	3 stories
-------------------------	-----------

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

(H) *Minimum Buildable Street Frontage.* 50% of the lot width for two-family dwellings.

(Ord. No. 5800 , §2(Exh. B), 10-6-15; Ord. No. 5824 , §2, 11-17-15; Ord. No. 5921 , §1, 11-1-16; Ord. No. 5945 , §8, 1-17-17; Ord. No. 6015 , §1(Exh. A), 11-21-17; Ord. No. 6245 , §2, 10-15-19; Ord. No. 6427 , §§1(Exh. C), 2, 4-20-21)

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."

December 15, 2022

City of Fayetteville
Development Services
113 West Mountain Street
Fayetteville, AR 72701

Re: Rezoning at 3017 W Old Farmington

Dear City Staff;

- A. The current owner of this site is as follows: Jane & Vance Arnold Holding Company
- B. Currently this property is zoned RSF-4. We are kindly seeking a rezone to: RSF-18.
- C. This property is surrounded by R-A, RSF-8, RPZD, RSF-18, and NC Zoning
- D. Existing adequate water and sewer are already at this site along both streets.
- E. We feel the requested rezoning is in line with the goals of the City Plan 2040 for rezoning and development and that this type of in-fill is desired.
- F. This rezoning is needed at this time to allow this underutilized lot to be developed.
- G. This development will not adversely affect the existing or proposed streets in the area, especially considering the small size of the parent tract.
- H. The potential to increase the population density in this area as a result of this rezoning would aid in supplying a demand to existing commercial uses in the area and the proximity to the existing transit further support this rezoning request.
- I. The current zoning does not allow this lot to be fully developed in a manner which would maximize its development potential.

Thank you and if you need any additional information, please don't hesitate to contact us.

Sincerely,



Blake Jorgensen, PE

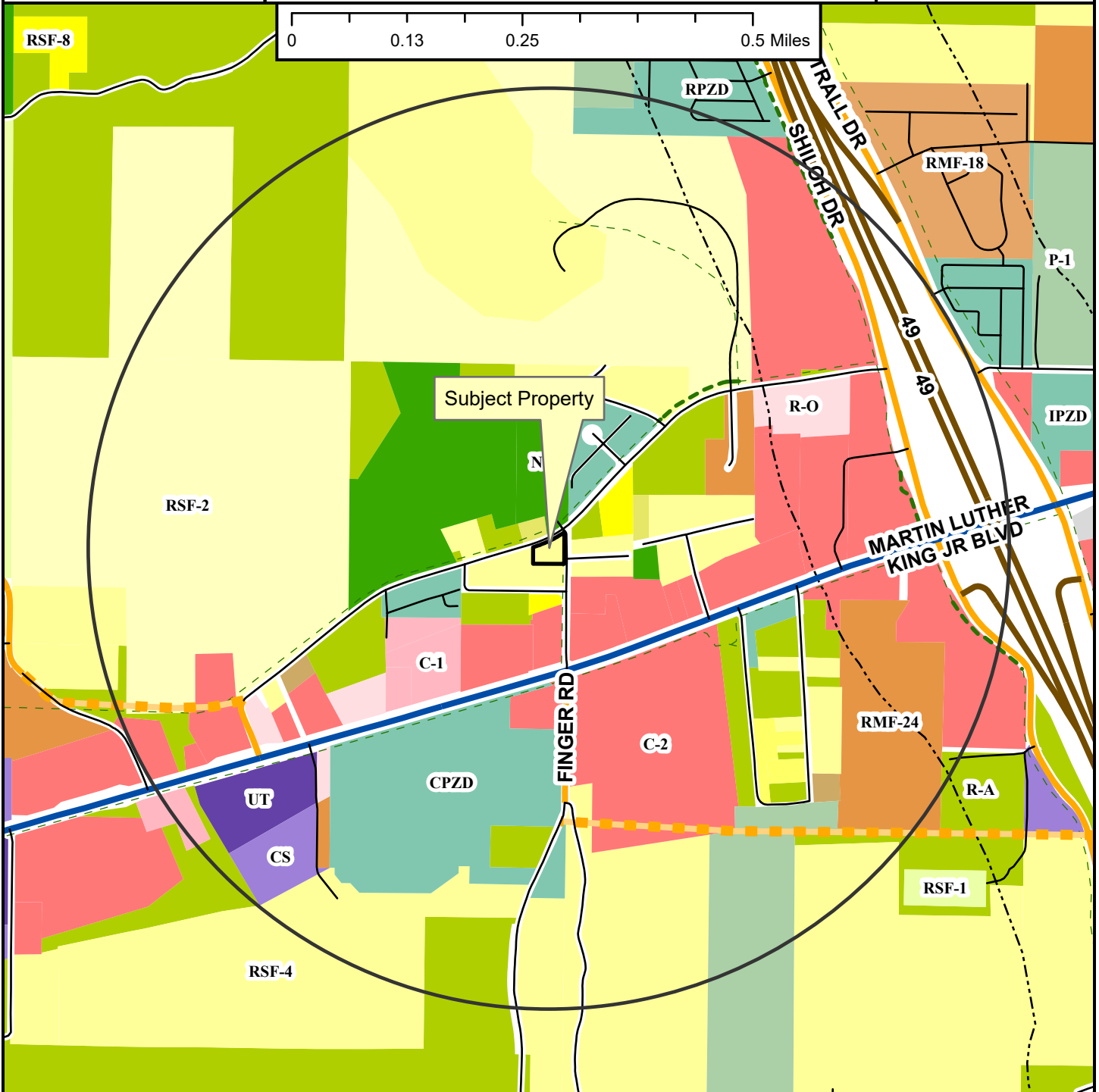
RZN-2022-0053

One Mile View

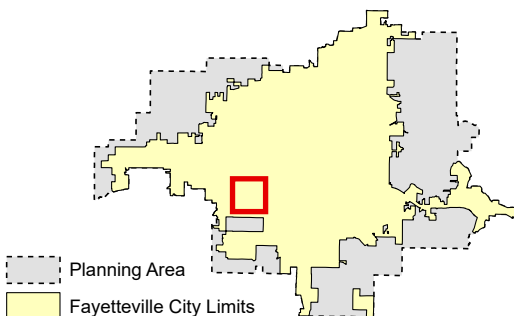
3017 W. OLD FARMINGTON RD



0 0.13 0.25 0.5 Miles



- Neighborhood Link
- Regional Link - High Activity
- Freeway/Expressway
- Unclassified
- Alley
- 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
 - RI-U
 - RI-12
 - NS-L
 - Residential-Agricultural
 - RSF-5
 - RSF-1
 - RSF-2
 - RSF-4
 - RSF-7
 - RSF-8
 - RSF-18
 - RESIDENTIAL MULTI-FAMILY**
 - RMF-6
 - RMF-12
 - RMF-13
 - 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
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 - Neighborhood Services
 - Neighborhood Conservation
 - PLANNED ZONING DISTRICTS**
 - Commercial, Industrial, Residential
 - INSTITUTIONAL**
 - P-1

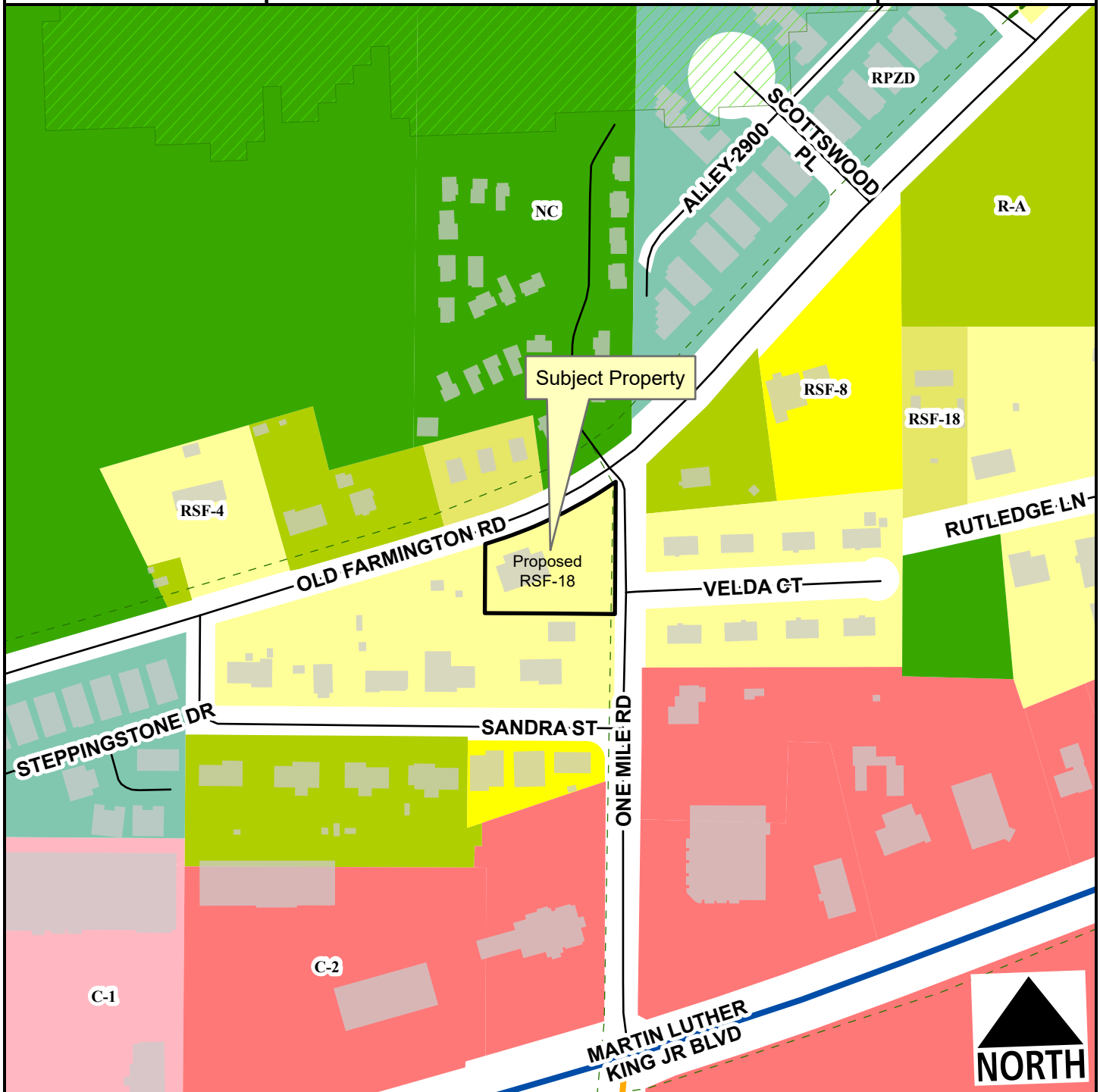
Planning Commission
January 23, 2023

RZN-2022-0053 (ARNOLD)

RZN-2022-0053

3017 W. OLD FARMINGTON RD

Close Up View



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



Zone	Current	Proposed
RSF-18	0.0	0.5
RSF-4	0.5	0.0

Total 0.5 ac
Planning Commission
January 23, 2023

RZN-2022-0053 (ARNOLD)

RZN-2022-0053

3017 W. OLD FARMINGTON RD

Current Land Use



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



FEMA Flood Hazard Data

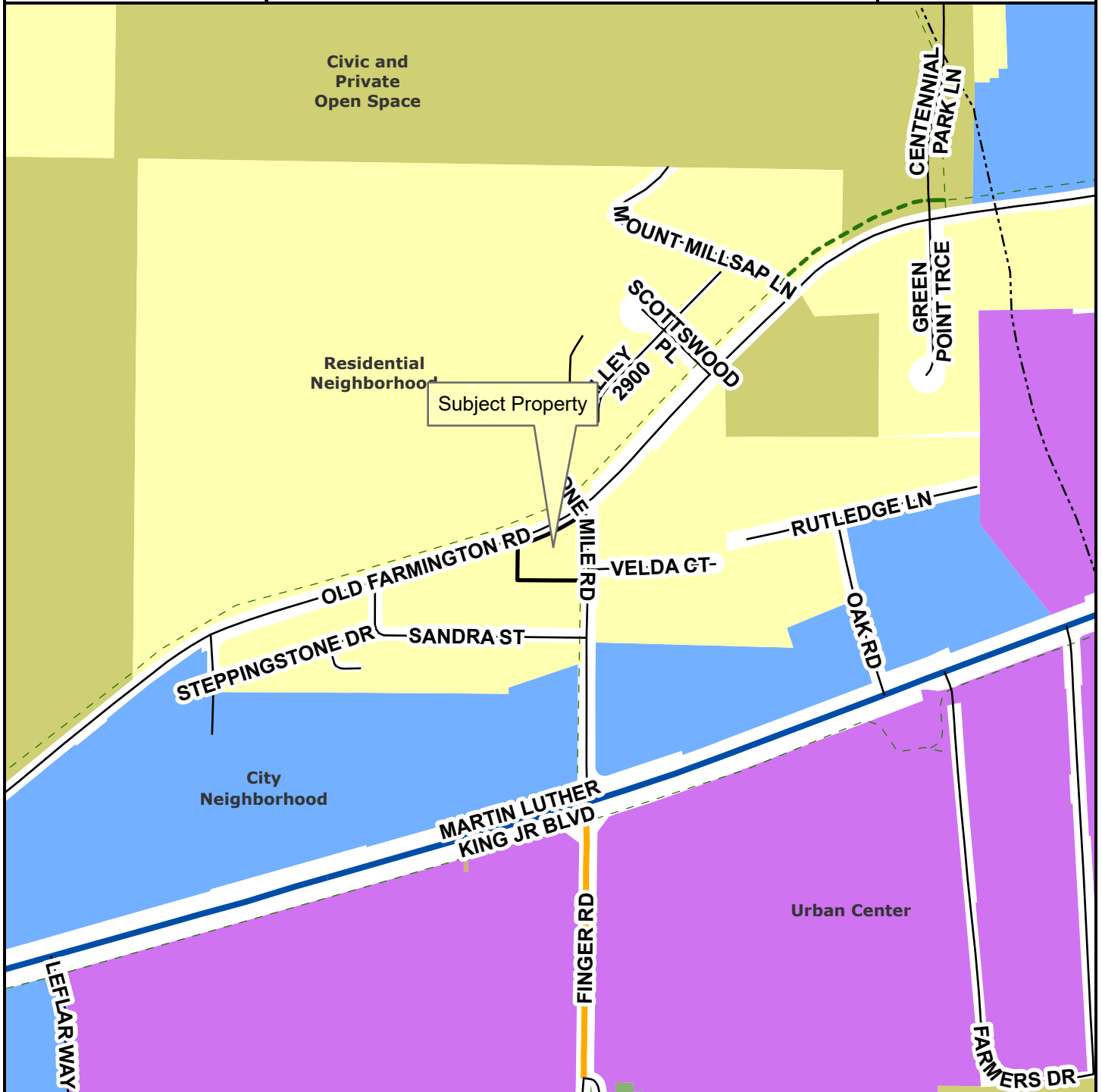
- 100-Year Floodplain
- Floodway

RZN-2022-0053

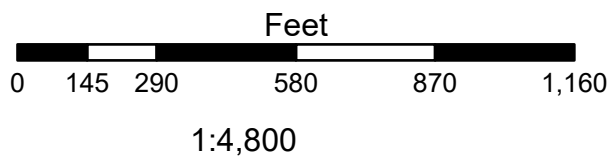
3017 W. OLD FARMINGTON RD



Future Land Use



- Neighborhood Link
- Regional Link - High Activity
- Unclassified
- Alley
- Residential Link
- Planned Neighborhood 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



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Planner

MEETING DATE: January 23, 2023

SUBJECT: **RZN-2022-0054: Rezone (515 S. COLLEGE AVE./NIEDERMAN, 523):**
Submitted by 3V DEVELOPMENT LLC for property located at 515 S. COLLEGE AVE. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 0.31 acres. The request is to rezone the property to DG, DOWNTOWN GENERAL.

RECOMMENDATION:

Staff recommends forwarding **RZN-2022-0054** to City Council with a recommendation of approval based on the findings herein.

RECOMMENDED MOTION:

*"I move to forward **RZN-2022-0054** to City Council with a recommendation for approval."*

BACKGROUND:

The subject property is in south Fayetteville on the west side of College Avenue roughly 100 feet north of the street's intersection with Martin Luther King Jr. Boulevard. The property contains one parcel totaling 0.31 acres and is currently developed with one single-family dwelling which Washington County records indicate was built in 1885. The property lies within the Walker Park Neighborhood Master Plan area, and received its current zoning designation of NC, Neighborhood Conservation as a result of that plan in 2008. Surrounding land uses and zoning are listed in *Table 1*.

Table 1:
Surrounding Land Uses and Zoning

Direction	Land Use	Zoning
North	Single-Family Residential	NC, Neighborhood Conservation
South	Undeveloped	DG, Downtown General
East	Single-Family Residential	NC, Neighborhood Conservation; RI-U, Residential Intermediate-Urban
West	Single-Family Residential	NC, Neighborhood Conservation

Request: The request is to rezone the subject property from NC, Neighborhood Conservation, to DG, Downtown General.

Public Comment: Staff has not received any public comment regarding this request.

INFRASTRUCTURE:

Streets: The subject property has frontage along South College Avenue. College Avenue is a fully-improved Urban Center street with asphalt paving, curb, gutter, and sidewalk. 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. An existing six-inch water main is present along the west side of College Avenue.

Sewer: Sanitary sewer is not available to the subject property.

Drainage: No portion of the subject property lies within the Hillside-Hilltop Overlay District or a FEMA-designated floodplain. Additionally, no protected streams or hydric soils are present. Any improvements or requirements for drainage would be determined at time of development.

Fire: Station 1, located at 303 W. Center Street, protects this site. The property is located approximately 0.8 miles from the fire station with an anticipated drive time of approximately three minutes using existing streets. The anticipated response time would be approximately 5.2 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. Fire apparatus access and fire protection water supplies will be reviewed for compliance with the Arkansas Fire Prevention Code at the time of development.

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

Tree Preservation:

The proposed zoning district of DG, Downtown General, requires **10% minimum canopy preservation**. The current zoning district of NC, Neighborhood Conservation, requires **20% minimum canopy preservation**.

CITY PLAN 2040 FUTURE LAND USE PLAN: City Plan 2040 Future Land Use Plan designates the property within the proposed rezone as **Residential Neighborhood** area. The property is also located within the **Walker Park Neighborhood Master Plan** area.

Residential Neighborhood areas are primarily residential in nature and support a wide variety of housing types of appropriate scale and context. Residential Neighborhood encourages highly connected, compact blocks with gridded street patterns and reduced building setbacks. It also encourages traditional neighborhood development that incorporates low-intensity non-residential uses intended to serve the surrounding neighborhoods. This designation recognizes the existing conventional subdivision developments that may have large blocks with conventional setbacks and development patterns that respond to features of the natural environment.

The **Walker Park Neighborhood Master Plan** was the city's first neighborhood plan which was completed in 2008 after City Plan 2025 was adopted. Four guiding principles were identified in the plan which include maintaining a balance of uses and housing, emphasizing connectivity and walkability, creating a core of the neighborhood at Jefferson Square, and preserving accessible greenspace throughout the neighborhood.

CITY PLAN 2040 INFILL MATRIX: City Plan 2040's Infill Matrix indicates a score of 9 for this site with a weighted score of 12.5. The following elements of the matrix contribute to the score:

- 4 Minute Fire Response (Station #1, 303 W. Center St.)
- Near Sewer Main (eight-inch main, E. MLK Jr. Blvd.)
- Near Water Main (six-inch main, S. College Ave.)
- Near City Park (Walker Park, Jefferson Park)
- Near Paved Trail (E. 7th St., S. Willow Ave.)
- Near ORT Bus Stop (Route 10, Route 20)
- Near Razorback Bus Stop (Route 13)
- Within Walker Park Master Plan Area
- Sufficient Intersection Density

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 of DG, Downtown General to be compatible with the surrounding area. Land uses in the immediate vicinity are primarily residential in nature, though there are some non-residential uses present around Jefferson Park to the south. When compared to the property's current zoning designation of NC, Neighborhood Conservation, DG would allow for a greater variety of land uses and housing densities. While the only land use permitted by right in NC is single-family dwellings, DG would permit residential uses ranging from single- to multi-family dwellings, and commercial uses ranging from restaurants and offices to small-scale production. The setback regulations are similar in NC and DG zoning. Both districts require a build-to zone between the front property line and a line 25 feet from the front property line, and a five-foot rear setback. A rezoning to DG would reduce the side setback requirement from five feet to zero feet. When considering the density and height requirement of each zoning district, staff finds that a rezoning to DG has the potential to allow for development that is out of character with the surrounding neighborhood. Where NC permits a maximum residential density of 10 units per acre and a maximum building height of three stories, DG has no density limitation and permits a maximum building height of five stories.

Land Use Plan Analysis: Staff finds that the proposed zoning is largely consistent with the property's Future Land Use Map designation as a Residential Neighborhood area. The DG zoning district would allow for a mixture of residential densities that are urban in form. It would also allow for a limited number of commercial uses near Jefferson Square, which was identified as a neighborhood core in the Walker Park Neighborhood Plan. A rezoning to DG could support the guiding principal in that plan by balancing land uses and housing. Per the plan, ensuring a balance of uses and housing contributes to the overall sustainability of the community by reducing the number of vehicle trips needed, and smaller lot sizes exemplify a more sustainable pattern of development than conventional subdivisions. Also,

the variety of housing types and commercial uses permitted in DG could enable residents to remain in the Walker Park neighborhood as their housing needs change. Further, the City Plan 2040 Infill Matrix indicates a score of nine for this site, and no environmentally sensitive areas are present, suggesting that this property is an appropriate location for infill.

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 rezoning from NC to DG may not be justified at this time. The property is currently developed with a single-family dwelling and is located along a portion of South College Avenue that is largely developed with single-family residences. The current development pattern in the area may suggest that NC is the most appropriate zoning designation at this time. Rezoning the property to DG would allow for a greater variety of uses at a much larger scale, which may be out of character with the existing development pattern in this area.

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

Finding: Rezoning the property to DG has the potential to increase traffic along South College Avenue when considering that the district allows large multi-family and commercial developments by right. However, the size of the property will naturally limit the scale of any future development, and thus reduce any possible impacts on 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: Rezoning the property from NC to DG has the potential to increase population density, though it is not likely to undesirably increase the load on public services. The property is near existing water and sanitary sewer infrastructure and is close to other public services. Fayetteville Public Schools did not comment on this request.

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

Finding: N/A

RECOMMENDATION: Planning staff recommends forwarding RZN-2022-0054 to the City Council with a recommendation of approval.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>January 23, 2023</u>	☐ Tabled	☐ Forwarded	☐ Denied
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Unified Development Code:
 - §161.28 – Downtown General
 - §161.29 – Neighborhood Conservation
- Request Letter
- Walker Park Neighborhood Illustrative Plan
- One Mile Map
- Close-Up Map
- Current Land Use Map
- Future Land Use Map

161.28 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 (3) and four (4) 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
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 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

(C) *Density.* None.

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

Dwelling (all unit types)	18 feet
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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 feet from the front property line.
Side	None
Rear	5 feet
Rear, from center line of an alley	12 feet

(F) *Minimum Buildable Street Frontage.* 50% of lot width.

(G) *Building Height Regulations.*

Building Height Maximum	5 stories
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(Ord. No. 5028, 6-19-07; Ord. No. 5029, 6-19-07; Ord. No. 5312, 4-20-10; 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—9, 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)

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."

161.29 Neighborhood Conservation

(A) *Purpose.* The Neighborhood Conservation zone has the least activity and a lower density than the other zones. Although Neighborhood Conservation is the most purely residential zone, it can have some mix of uses, such as civic buildings. Neighborhood Conservation serves to promote and protect neighborhood character. For the purposes of Chapter 96: Noise Control, the Neighborhood Conservation district is a residential zone.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 41	Accessory dwellings
Unit 46	Short-term rentals

(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 9	Two (2) family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 12a	Limited business*
Unit 24	Home occupations
Unit 25	Offices, studios, and related services
Unit 28	Center for collecting recyclable materials
Unit 36	Wireless communication facilities
Unit 44	Cluster Housing Development

(C) *Density.* Ten (10) Units Per Acre.

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

All dwelling types	40 feet
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(2) *Lot Area Minimum.* 4,000 square feet

(E) *Setback Regulations.*

Front	A build-to zone that is located between the front property line and a line 25 feet from the front property line.
Side	5 feet
Rear	5 feet
Rear, from center line of an alley	12 feet

(F) *Building Height Regulations.*

Building Height Maximum	3 stories
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(Ord. No. 5128, 4-15-08; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; Ord. No. 5592, 6-18-13; Ord. No. 5664, 2-18-14; Ord. No. 5800 , §1(Exh. A), 10-6-15>; Ord. No. 5921 , §1, 11-1-16; Ord. No. 5945 , §§5, 7—9, 1-17-17; Ord. No. 6015 , §1(Exh. A), 11-21-17; Ord. No. 6211 , §1, 8-6-19; Ord. No. 6427 , §§1(Exh. C), 2, 4-20-21)

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."

December 12, 2022

Zara Niederman
3V Development, LLC
632 Bella Vista Rd
Bentonville, AR 72712

Jessie Masters
Planning Director
City of Fayetteville

Dear Ms. Masters,

I am writing to request a rezoning of 515 S College from Neighborhood Conservation (NC) to Downtown General (DG). This property is in the Walker Park Neighborhood Master Plan (Master Plan) and This property is directly next to the corner of MLK and S College, and nearly diagonal from the Jefferson Center (former Jefferson School). The Master Plan designated Jefferson Square as Neighborhood Core, which is a key area for small commercial and mixed use development.

Converting the property from NC to DG would allow for a wider range of uses, both residential and commercial. It would also allow for more smaller units for rather than fewer larger units. This has long been important, but even more so now as population has grown, costs have risen, and household size has decreased over the past decade. We have looked at other zoning options such as Residential Intermediate Urban (RIU) and Neighborhood Services (NS), however, RIU would limit the unit size to 4 units, and no commercial would be allowed by right. NS allows businesses, but has a maximum of 4 residential units, by right, as well as by lot area minimums. Downtown General allows the potential flexibility of small commercial spaces mixed with small residential units.

Currently there are small commercial buildings along this stretch of S College in Walker Park Neighborhood, with Crisis Brewery and Flyer Real Estate to the North, Jefferson School to the South, Walker Park Senior Center and the old Church at 1030 S college. In addition, the white cinderblock building at 710 S College was recently rezoned to DG, although it does not yet appear to have become active. This location is across the street from an ORT bus stop, one lot off the highly trafficked MLK Blvd, and approximately 0.5 mile walk to Downtown Square, Walmart Neighborhood Market, and the Mill District, Walker Park, and the Razorback Greenway.

Thank you for your consideration

Zara Niederman

Zara Niederman
3V Development, LLC

Subject Property

**WALKER PARK NEIGHBORHOOD
ILLUSTRATIVE MASTER PLAN
FAYETTEVILLE, ARKANSAS
SEPTEMBER 2007**

-  Existing Building
-  Proposed Building
-  Existing Civic Building
-  Study Area Boundary

0 100 200 300 400
FEET



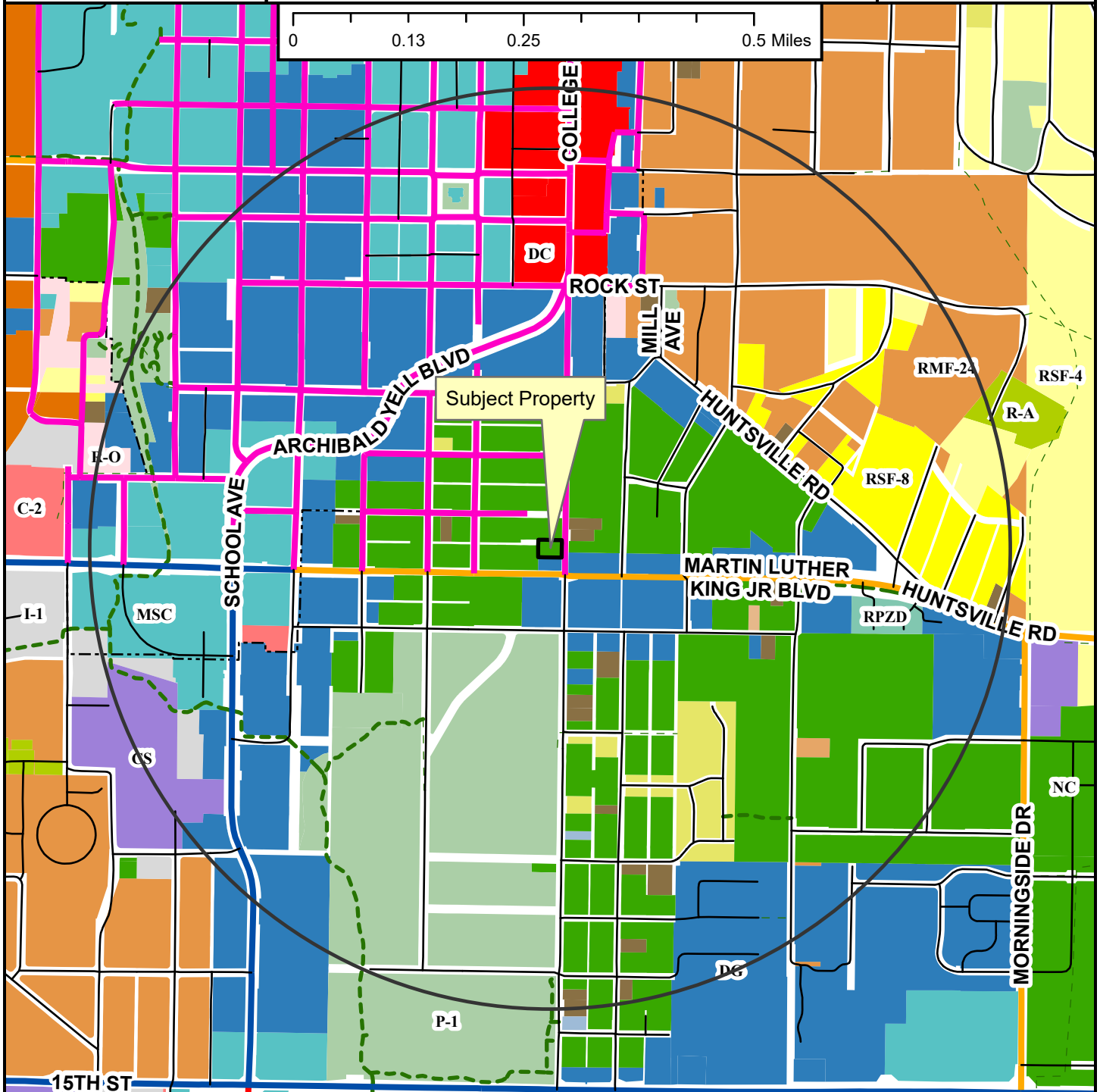
RZN-2022-0054

515 S. COLLEGE AVE

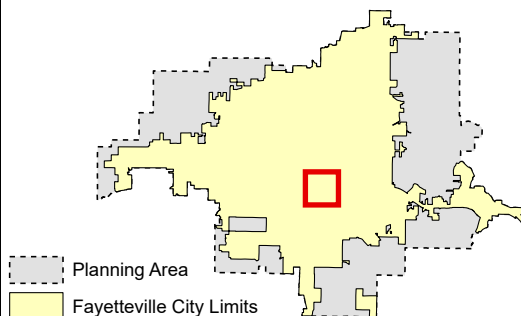
One Mile View



0 0.13 0.25 0.5 Miles



- Regional Link
- Neighborhood Link
- Institutional Master Plan
- Regional Link - High Activity
- Urban Center
- Unclassified
- Alley
- Residential 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-2
 - RSF-4
 - RSF-7
 - RSF-8
 - RSF-18
 - RESIDENTIAL MULTI-FAMILY**
 - RMF-6
 - RMF-12
 - RMF-13
 - 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

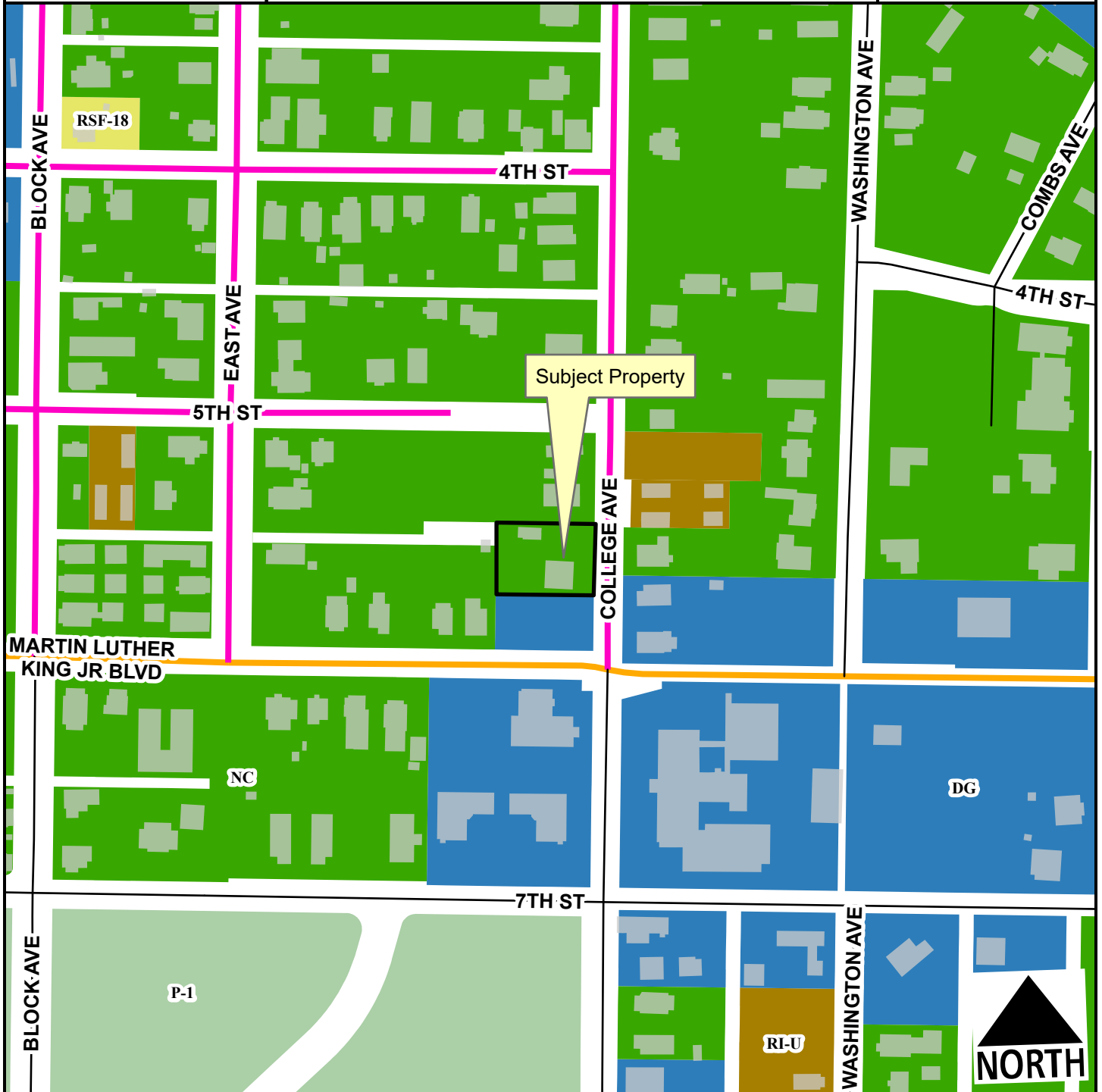
Planning Commission
January 23, 2023

RZN-2022-0054 (3V Q0ZB LLC)

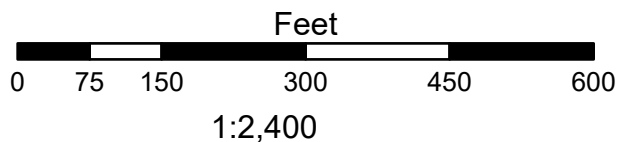
RZN-2022-0054

515 S. COLLEGE AVE

Close Up View



- Neighborhood Link
- Urban Center
- Unclassified
- Residential Link
- Design Overlay District
- Planning Area
- Fayetteville City Limits



Zone	Current	Proposed
NC	0.3 ac	0.0 ac
DG	0.0 ac	0.3 ac

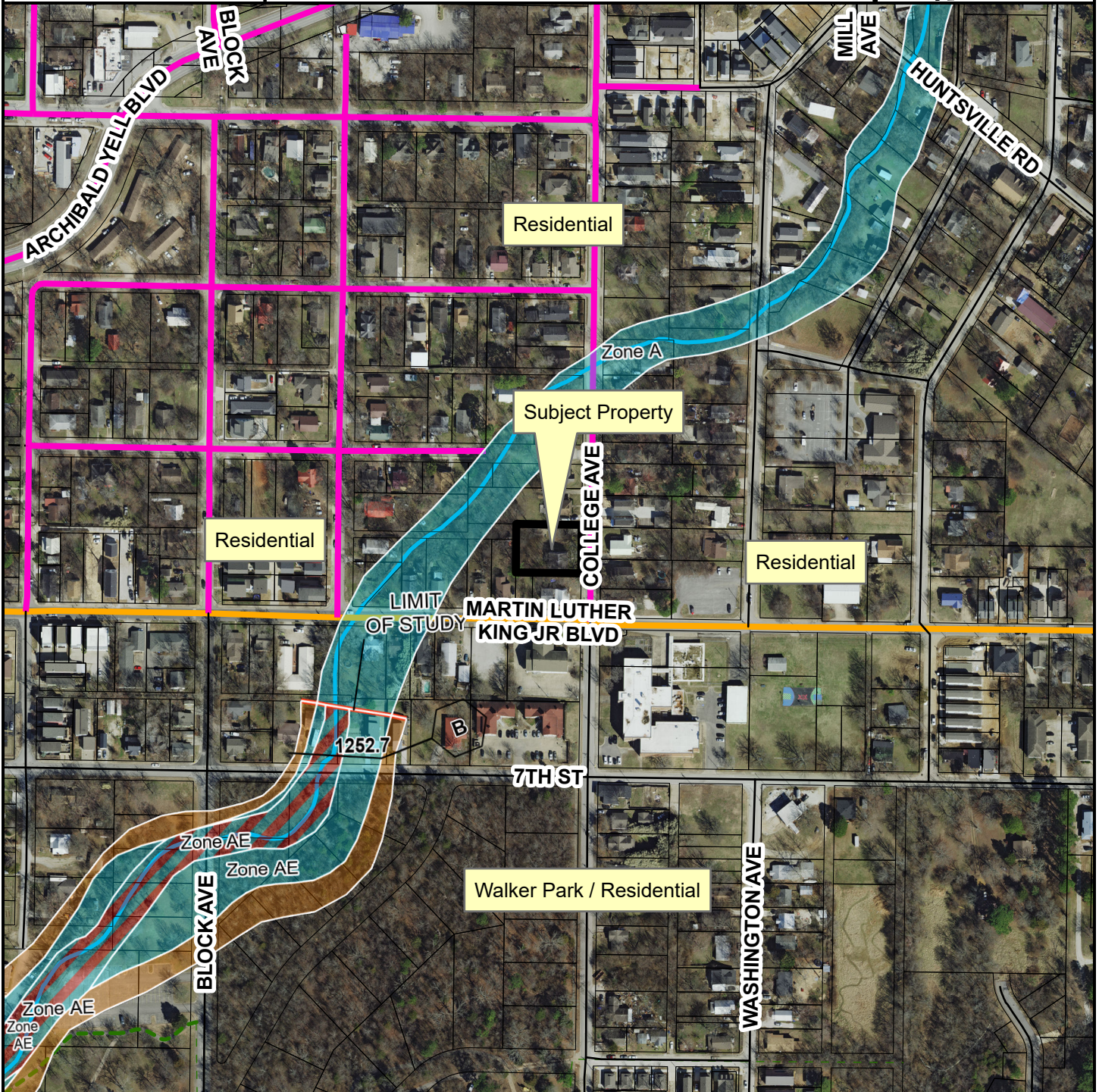
Total 0.3 ac
Planning Commission
January 23, 2023

RZN-2022-0054 (3V Q0ZB LLC)

RZN-2022-0054

515 S. COLLEGE AVE

Current Land Use



- Neighborhood Link
- Urban Center
- Unclassified
- Alley
- Residential Link
- Trail (Proposed)
- Planning Area
- Fayetteville City Limits
- Design Overlay District



FEMA Flood Hazard Data

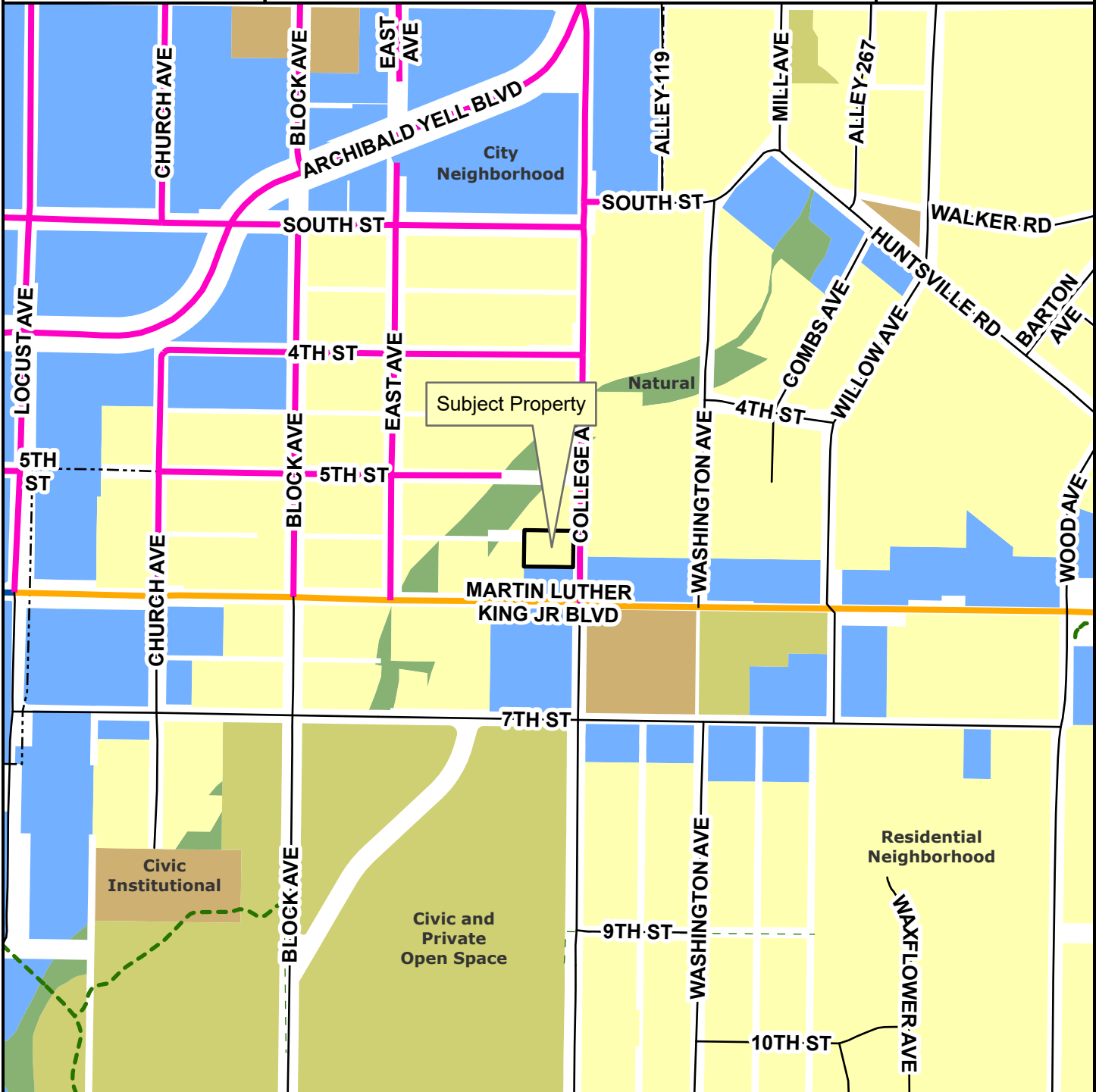
- 100-Year Floodplain
- Floodway

Planning Commission
January 23, 2023

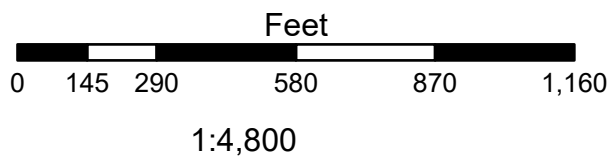
RZN-2022-0054 (3V Q0ZB LLC)



Future Land Use



- Neighborhood Link
- Regional Link - High Activity
- Urban Center
- Unclassified
- Alley
- 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



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Planner

MEETING DATE: January 23, 2023

SUBJECT: **RZN-2022-0055: Rezone (N. BOB YOUNKIN DR. & W. BISHOP DR./LEGACY VENTURES NWA, 251):** Submitted by LEGACY VENTURES NWA INC. for property located at N. BOB YOUNKIN DR. & W. BISHOP DR. The property is zoned R-O, RESIDENTIAL OFFICE and contains approximately 7.76 acres. The request is to rezone the property to CS, COMMUNITY SERVICES and RMF-24, RESIDENTIAL MULTI-FAMILY, 24 UNITS PER ACRE.

RECOMMENDATION:

Staff recommends forwarding **RZN-2022-0055** to City Council with a recommendation of approval, based on the findings herein.

RECOMMENDED MOTION:

*"I move to forward **RZN-2022-0055** to City Council with a recommendation of approval."*

BACKGROUND:

The subject property contains approximately 7.76 acres in the Appleby Landing Subdivision located on either side of the south end of Bob Younklin Drive. The property is currently undeveloped, though it is surrounded by established single- and two-family neighborhoods to the east and west, a multi-family development to the south, and medical offices to the north. No environmentally sensitive areas are present on site and the property is not located within any zoning overlays. Surrounding land use and zoning are shown in *Table 1*.

Table 1:
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Medical Offices	R-O, Residential-Office
South	Multi-Family Residential	RMF-24, Residential Multi-Family, 24 Units per Acre
East	Single- and Multi-Family Residential	RMF-24, Residential Multi-Family, 24 Units per Acre
West	Single-Family Residential	RI-12, Residential Intermediate, 12 Units per Acre

Request: The request is to rezone the property from R-O, Residential Office (7.76 acres) to CS, Community Services (4.36) and RMF-24, Residential Multi-Family, 24 Units per Acre (3.40). The applicant has not shared any specific development plans, though they have stated that the rezoning would allow for a mix of residential and commercial uses to cater to senior living.

Public Comment: Staff received no public comment on this item, though we did receive one phone call from a neighbor who inquired about the applicant's request.

INFRASTRUCTURE:

Streets: The subject property has frontage along Bob Younkin Drive, Bishop Drive, and Drake Street. Bob Younkin Drive and Bishop Drive are partially-improved Residential Link streets with asphalt paving and curb and gutter. Drake Street is a fully-improved Neighborhood Link street with asphalt paving, curb and gutter, and sidewalk. Any street improvements required in these areas would be determined at the time of development proposal.

Water: Public water is available to the subject property. Eight-inch water mains are present along the west side of Bob Younkin Drive and the north side of Bishop Drive and Drake Street.

Sewer: Sanitary sewer is available to the subject property. Eight-inch sewer mains are present on the west side of Bob Younkin Drive and the south side of Bishop Drive.

Drainage: No portion of the subject property lies within a streamside protection zone or the Hillside/Hilltop Overlay District, and no FEMA-designated floodplains or hydric soils are present. Any improvements or requirements for drainage will be determined at time of development.

Fire: Station 4, located at 3385 N. Plainview Ave., protects this site. The property is located approximately 1.3 miles from the fire station with an anticipated drive time of approximately four minutes using existing streets. The anticipated response time would be approximately 6.2 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. Fire apparatus access and fire protection water supplies will be reviewed for compliance with the Arkansas Fire Prevention Code at the time of development.

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

Tree Preservation:

Existing Zoning:

- R-O, Residential-Office requires **20% minimum canopy preservation.**

Proposed Zoning:

- CS, Community Services requires **20% minimum canopy preservation.**
- RMF-24, Residential Multi-Family, 24 Units per Acre requires **20% 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 **Residential Neighborhood** area.

Residential Neighborhood areas are primarily residential in nature and support a wide variety of housing types of appropriate scale and context: single-family, duplexes, rowhouses, multi-family, and accessory dwelling units. Residential Neighborhood encourages highly connected, compact blocks with gridded street patterns and reduced building setbacks. It also encourages traditional neighborhood development that incorporates low-intensity nonresidential uses intended to serve the surrounding neighborhoods, such as retail and offices, on corners and along connecting corridors. This designation recognizes existing conventional subdivision

developments which may have large blocks with conventional setbacks and development patterns that respond to features of the natural environment. Building setbacks may vary depending on the context of the existing neighborhood.

CITY PLAN 2040 INFILL MATRIX: City Plan 2040's Infill Matrix indicates a score range of 6-7 for this site with a weighted score of 7.5 at the highest level. The following elements of the matrix contribute to the score:

- 4 Minute Fire Response (Station #4, 3385 N. Plainview Ave.)
- Near Sewer Main (8" mains, Bob Younkin Drive and Bishop Drive)
- Near Water Main (8" mains, Bob Younkin Drive, Bishop Drive, and Drake Street)
- Near City Park (Gordon Long Park)
- Near Paved Trail (Appleby Road, Razorback Greenway)
- Near ORT Bus Stop (Route 10)
- Near Razorback Bus Stop (Route 26)

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 requested rezoning to be generally compatible with surrounding land uses. As proposed, three lots on the east side of Bob Younkin Drive would be rezoned to RMF-24, Residential Multi-Family, 24 Units per Acre, and four lots on the west side of the street would be rezoned to CS, Community Services. The property is currently surrounded by single- and two-family residential neighborhoods and a multi-family residential complex. Since RMF-24 would allow for a variety of residential uses from single- to multi-family dwellings and most properties to the south and east are currently zoned RMF-24, staff finds that rezoning a portion of the property to RMF-24 would be directly compatible with adjacent properties.

The intent of the existing zoning district, R-O, Residential-Office, is to provide area for offices without limitation to the nature or size of the office, together with community facilities, restaurants, and compatible residential uses. Staff finds that rezoning the remainder of the property to CS would be aligned with property's current zoning designation and adjacent commercial and residential uses. The Community Services zoning district is primarily designed to provide goods and services for persons living in surrounding residential areas and is intended to provide for adaptable mixed use centers along commercial corridors. Multi-family dwellings, restaurants, retail, and cultural and recreational facilities are all conditional uses in the existing R-O zoning district which would be allowed by right in CS zoning. The R-O zoning district allows for conventional and urban form setbacks while both RMF-24 and CS require urban form setbacks. RMF-24 requires a build-to zone between 0 and 25 feet from the line property line, and CS requires a build-to zone between 10 and 25 feet from the front property line. The applicant indicated in their request letter that they are pursuing RMF-24 for a portion of this property so that they can place buildings closer to the street.

Land Use Plan Analysis: Staff finds the proposed rezoning to be generally consistent with the City's future land use plan. The City Plan 2040 Future Land Use Map designates the subject property as Residential Neighborhood area, and staff finds that a rezoning to RMF-24 and CS could support that designation by allowing for a greater variety of land uses, housing types, and densities near a nonresidential center. Staff also finds that rezoning to RMF-24 and CS may be consistent with Goals 4 and 6 of City Plan 2040 by encouraging mixed-use development near the Razorback Greenway and public transit stops, and since it could provide more opportunities for housing beyond what would be permitted in the existing R-O zoning district.

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 rezoning is justified at this time. The request is generally aligned with several goals of City Plan 2040 and consistent with the development and zoning pattern in the surrounding area.

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

Finding: Rezoning the property from R-O to RMF-24 and CS has the potential to create or appreciably increase traffic danger and congestion. However, the subject property has access to public trails and transit stops, and frontage along three public streets, which suggests that an increased number of vehicle trips could be accommodated without adversely impacting traffic in the neighborhood. Further, the applicant has indicated that they would like to construct a senior living center with limited commercial uses, which could reduce the number of new vehicle trips. Any significant traffic impacts would be fully evaluated and mitigated at the time of development review.

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: Rezoning the property from R-O to RMF-24 and CS has the potential to alter the population density and increase the load on public services, though not to an undesirable degree. The size of the property and the City's parking, tree preservation, and stormwater ordinances, will limit the scale of any future development to reduce impacts on natural resources and public services. Fayetteville Public Schools did not comment on this request.

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

Finding: N/A

RECOMMENDATION: Planning staff recommends forwarding RZN-2022-0055 to City Council with a recommendation of approval.

PLANNING COMMISSION ACTION:	Required	<u>YES</u>	
Date: <u>January 23, 2023</u>	☐ Tabled	☐ Forwarded	☐ Denied
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Unified Development Code:
 - §161.16 – District RMF-24, Residential Multi-Family – Twenty-Four (24) Units Per Acre
 - §161.20 – District R-O, Residential Office
 - §161.22 – Community Services
- Request Letter
- Staff Exhibit
- One Mile Map
- Close-Up Map
- Current Land Use Map
- Future Land Use Map

161.16 District RMF-24, Residential Multi-Family - Twenty-Four (24) Units Per Acre

(A) *Purpose.* The RMF-24 Multi-family Residential District is designed to permit and encourage the developing of a variety of dwelling types in suitable environments in a variety of densities.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 26	Multi-family dwellings
Unit 41	Accessory dwellings
Unit 44	Cluster Housing Development
Unit 46	Short-term rentals

(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 11	Manufactured home park
Unit 12a	Limited business
Unit 24	Home occupations
Unit 25	Professional offices
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	24 or less
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(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

Manufactured home park	100 feet
Lot within a Manufactured home park	50 feet
Single-family	35 feet
Two-family	35 feet
Three or more	70 feet
Professional offices	100 feet

(2) *Lot Area Minimum.*

Manufactured home park	3 acres
Lot within a mobile home park	4,200 square feet
Townhouses: Individual lot	2,000 square feet
Single-family	3,000 square feet
Two (2) family	4,000 square feet
Three (3) or more	7,000 square feet
Fraternity or Sorority	2 acres
Professional offices	1 acres

(3) *Land Area Per Dwelling Unit.*

Manufactured Home	3,000 square feet
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(E) *Setback Requirements.*

Front	Side Other Uses	Side Single & Two (2) Family	Rear Other Uses	Rear Single Family
A build-to zone that is located between the front property line and a line 25 feet from the front property line.	8 feet	5 feet	20 feet	5 feet

(F) *Building Height Regulations.*

Building Height Maximum	2 stories/3 stories/5 stories*
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* A building or a portion of a building that is located between 0 and 10 feet from the front property line or any master street plan right-of-way line shall have a maximum height of two (2) stories, between 10—20 feet from the master street plan right-of-way a maximum height of three (3) stories and buildings or portions of the building set back greater than 20 feet from the master street plan right-of-way shall have a maximum height of 5 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 side 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) *Building Area.* The area occupied by all buildings shall not exceed 50% of the total lot area. Accessory ground mounted solar energy systems shall not be considered buildings.

(H) *Minimum Buildable Street Frontage.* 50% of the lot width.

(Code 1965, App. A., Art. 5(III); Ord. No. 2320, 4-6-77; Ord. No. 2700, 2-2-81; Code 1991, §160.033; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 5028, 6-19-07; Ord. No. 5079, 11-20-07; Ord. No. 5224, 3-3-09; Ord. No. 5262, 8-4-09; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; Ord. No. 5495, 4-17-12; Ord. No. 5592, 6-18-13; Ord. No. 5664, 2-18-14; Ord. No. 5800, §1(Exh. A), 10-6-15; Ord. No. 5921, §1, 11-1-16; Ord. No. 5945, §§5, 8, 9, 1-17-17; Ord. No. 6015, §1(Exh. A), 11-21-17; Ord. No. 6245, §2, 10-15-19; Ord. No. 6427, §§1(Exh. C), 2, 4-20-21)

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."

161.20 District R-O, Residential Office

(A) *Purpose.* The Residential-Office District is designed primarily to provide area for offices without limitation to the nature or size of the office, together with community facilities, restaurants and compatible residential uses. The intent of this district is to allow administrative approval if the developer decides to use urban form, in compliance with the build-to zone and minimum buildable street frontage as specified herein.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 12a	Limited business
Unit 25	Offices, studios, and related services
Unit 41	Accessory dwellings
Unit 44	Cluster Housing Development
Unit 46	Short-term rentals

(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 11	Manufactured home park*
Unit 13	Eating places
Unit 15	Neighborhood shopping goods
Unit 24	Home occupations
Unit 26	Multi-family dwellings
Unit 36	Wireless communications facilities*
Unit 42	Clean technologies
Unit 45	Small scale production

(C) *Density.*

Units per acre	24 or less
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(D) *Bulk and Area Regulations.* (Per dwelling unit for residential structures)

(1) *Lot Width Minimum.*

Manufactured home park	100 feet
Lot within a manufactured home park	50 feet
Single-family	60 feet
Two (2) family	60 feet
Three (3) or more	90 feet

(2) *Lot Area Minimum.*

Manufactured home park	3 acres
Lot within a manufactured home park	4,200 square feet
Townhouses:	
Development	10,000 square feet
Individual lot	2,500 square feet
Single-family	6,000 square feet
Two (2) family	6,500 square feet
Three (3) or more	8,000 square feet
Fraternity or Sorority	1 acre

(3) *Land Area Per Dwelling Unit.*

Manufactured home	3,000 square feet
Townhouses & apartments:	
No bedroom	1,000 square feet
One bedroom	1,000 square feet
Two (2) or more bedrooms	1,200 square feet
Fraternity or Sorority	500 square feet per resident

(E) *Setback Regulations.*

Front	15 feet
Front, if parking is allowed between the right-of-way and the building	50 feet
Front, in the Hillside Overlay District	15 feet
Side	10 feet
Side, when contiguous to a residential district	15 feet
Side, in the Hillside Overlay District	8 feet
Rear, without easement or alley	25 feet
Rear, from center line of public alley	10 feet
Rear, in the Hillside Overlay District	15 feet

Urban Form Setback Regulations:

Front	A build-to zone that is located between the front property line and a line 25 feet from the front property line
Side	5 feet
Side-zero lot line*	A setback of less than 5 feet (zero lot line) is permitted on one (1) interior side, provided a maintenance agreement is filed.** The remaining side setback(s) shall be 10 feet
Rear	None
Rear when contiguous to a single family residential district	15 feet

(F) *Building Height Regulations.*

Building Height Maximum	5 stories
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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 side 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) *Building Area.* On any lot, the area occupied by all buildings shall not exceed 60% of the total area of such lot. Accessory ground mounted solar energy systems shall not be considered buildings.

- (H) Urban form minimum buildable street frontage: 50% of the lot width.

(Code No. 1965, App. A., Art. 5(x); Ord. No. 2414, 2-7-78; Ord. No. 2603, 2-19-80; Ord. No. 2621, 4-1-80; Ord. No. 1747, 6-29-70; Code 1991, §160.041; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 4726, 7-19-05; Ord. No. 4943, 11-07-06; Ord. No. 5079, 11-20-07; Ord. No. 5195, 11-6-08; Ord. No. 5224, 3-3-09; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; 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—9, 1-17-17; Ord. No. 6015 , §1(Exh. A), 11-21-17; Ord. No. 6164 , §§1, 2, 3, 4-2-19; Ord. No. 6245 , §2, 10-15-19; Ord. No. 6427 , §§1(Exh. C), 2, 4-20-21)

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."

161.22 Community Services

(A) *Purpose.* The Community Services District is designed primarily to provide convenience goods and personal services for persons living in the surrounding residential areas and is intended to provide for adaptable mixed use centers located along commercial corridors that connect denser development nodes. There is a mixture of residential and commercial uses in a traditional urban form with buildings addressing the street. For the purposes of Chapter 96: Noise Control, the Community Services 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-family dwellings
Unit 10	Three (3) and four (4) 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
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 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 28	Center for collecting recyclable materials
Unit 34	Liquor stores
Unit 35	Outdoor music establishments
Unit 36	Wireless communication facilities*
Unit 42	Clean technologies

(C) *Density.* None.

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

Dwelling	18 feet
All others	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
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(G) *Minimum Buildable Street Frontage.* 50% of the lot width.

(Ord. No. 5312, 4-20-10; Ord. No. 5339, 8-3-10; 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—9, 1-17-17; Ord. No. 6015 , §1(Exh. A), 11-21-17; Ord. No. 6223 , §1, 9-3-19; Ord. No. 6409 §1, 2-2-21; Ord. No. 6427 , §§1(Exh. C), 2, 4-20-21; Ord. No. 6497 , §1, 10-19-21)

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."

December 29, 2022

City of Fayetteville Planning Division
125 West Mountain Street
Fayetteville, AR 72701

RE: Appleby Landing

Dear Planning Division,

Please accept this written request to rezone lots three (3), four (4), five (5), six (6), seven (7), eight (8) and nine (9) of Appleby Landing a subdivision to the City of Fayetteville, Arkansas as shown on plat or record in plat book 23A at page 195.

The subject property is currently zoned Residential Office (RO), and our desire is to rezone lots three (3), four (4), five (5), and six (6) to Community Services (CS). Additionally, we would like to rezone lots seven (7), eight (8) and nine (9) to RMF-24. Both zoning designations seem to align more closely with the long-term planning objectives of the City of Fayetteville as well as our development plans for the property. The reason we are revising the request previously submitted and pursuing the RMF-24 designation is to allow for placement of our townhome buildings closer to the street on those three lots.

Our plan is to build a diverse, slightly dense mix of high quality multifamily residential units while not ruling out the possibility of light commercial use where it makes sense. The master planned community will cater to the over 55 demographic with units ranging in both size and bedroom count as well as one and two story units.

This mid-town location with proximity to the medical core and main transportation corridors make it an excellent location for this type of underserved multifamily product.

This rezoning request is in line with the City of Fayetteville long term plans as well as compatible with adjoining property/zoning districts. Please see the following for a list of adjoining zoning districts and current use.

North	Medical Facilities with current zoning designation of Residential Office (RO)
South	Apartments with current zoning designation of Residential Multifamily (24) Units Per Acre (RMF-24)
East	Residential with current zoning designation of Residential Multifamily (24) Units Per Acre (RMF-24)
West	Residential with current zoning designation of Residential Intermediate (12) Units Per Acre (RI-12)

Our rezoning request to Community Services, as well as, planned development is compatible with all adjoining properties.

We are looking forward to developing a community that delivers high quality housing catering to our aging population. And in doing so create a community that exemplifies urban planning and together leaving our **Legacy** one **Venture** at a time.

Sincerely,



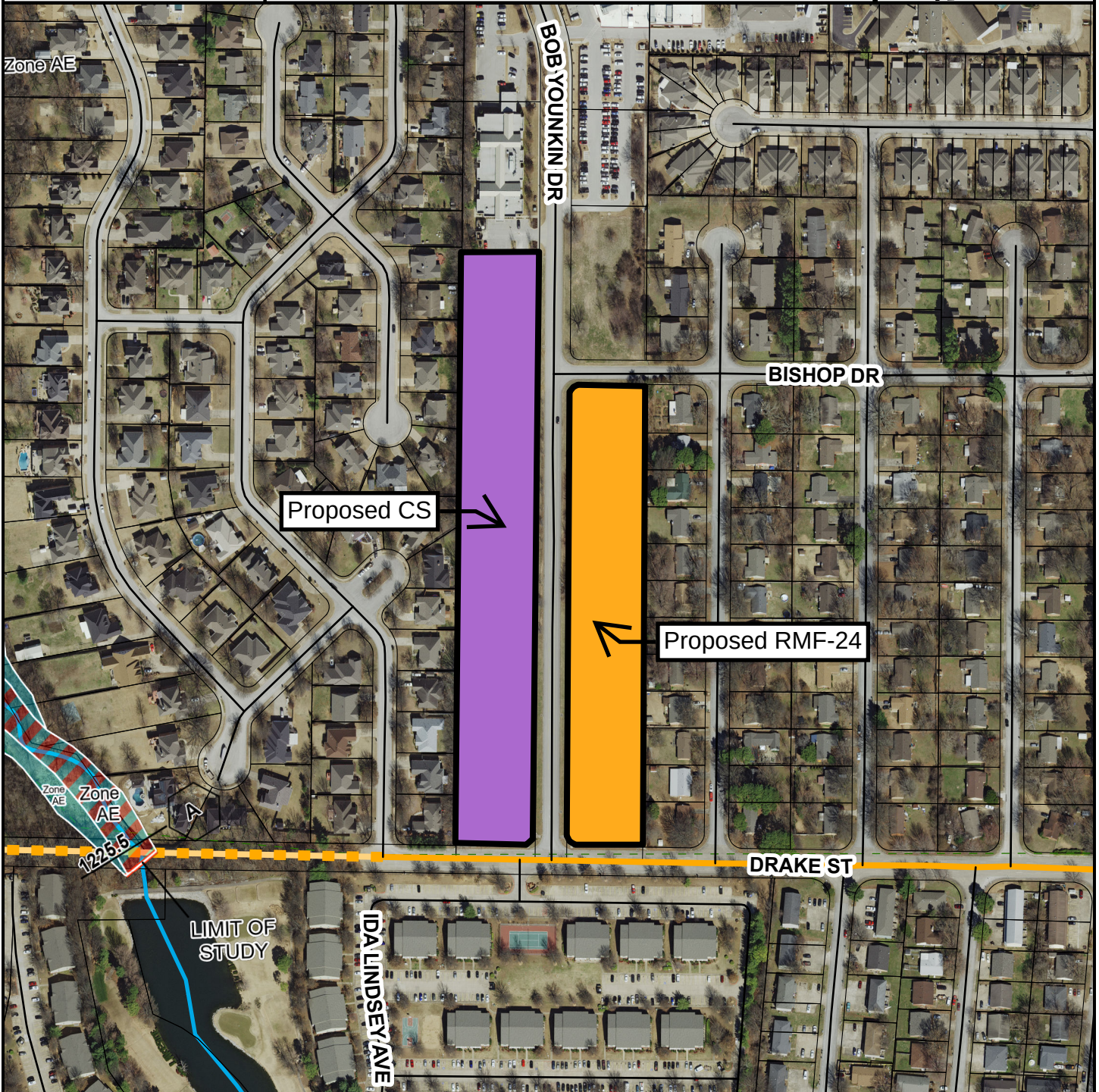
Tim Brisiel



RZN-2022-0055

Staff Exhibit

N. BOB YOUNKIN DR & W. BISHOP DR

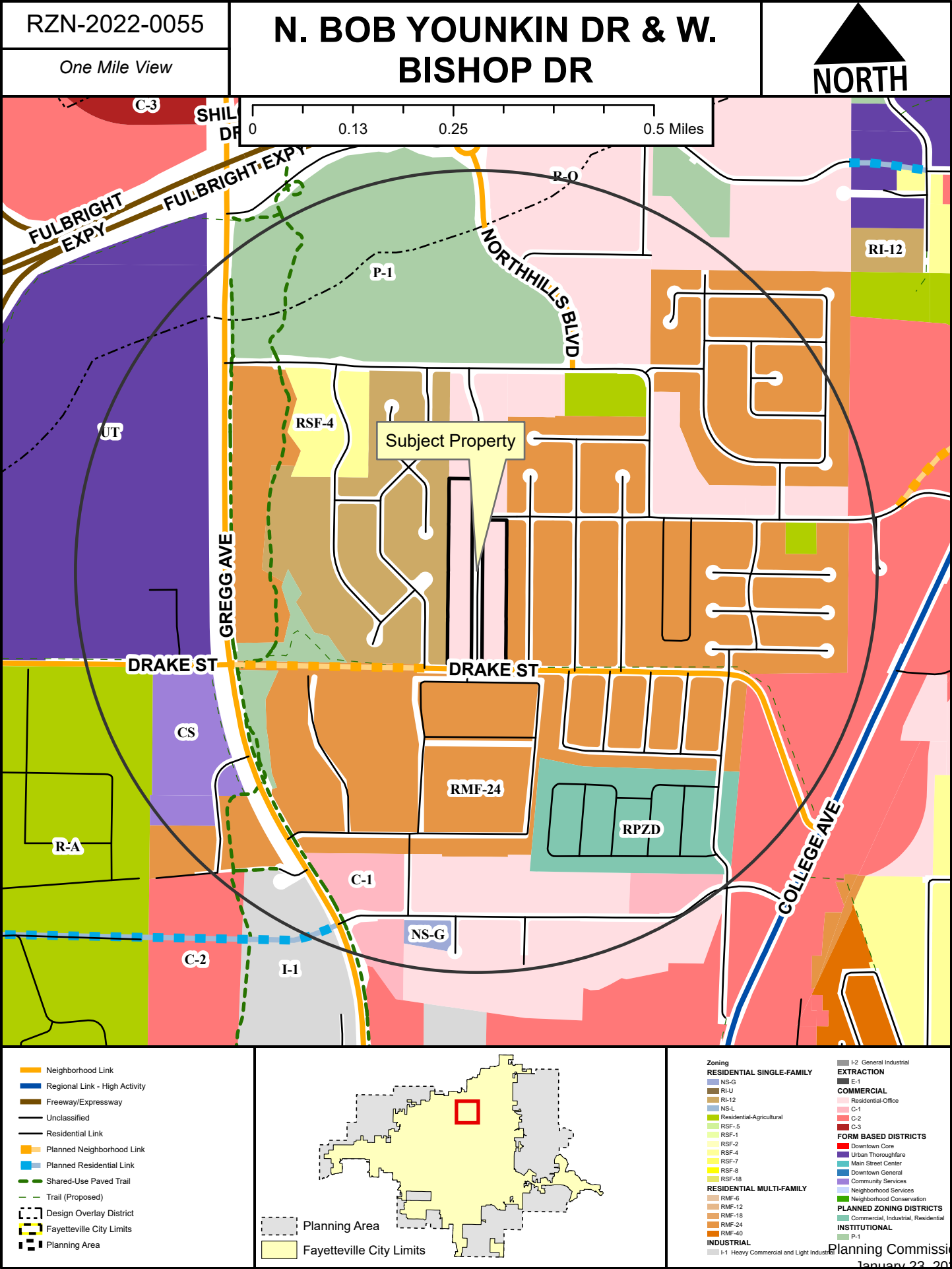


- Neighborhood Link
- Unclassified
- Residential Link
- Planned Neighborhood Link
- Trail (Proposed)
- Planning Area
- Fayetteville City Limits



FEMA Flood Hazard Data

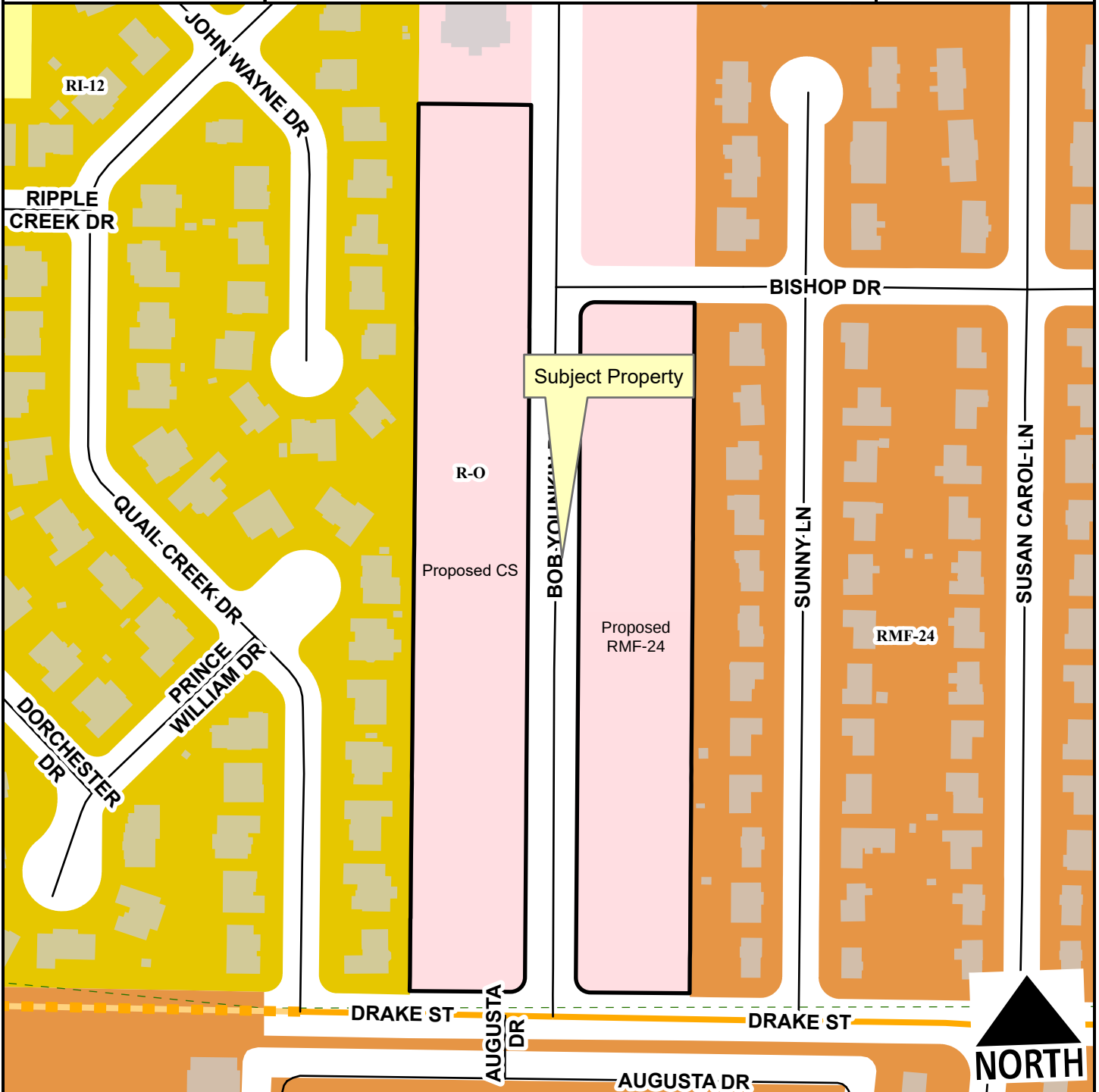
- 100-Year Floodplain
- Floodway



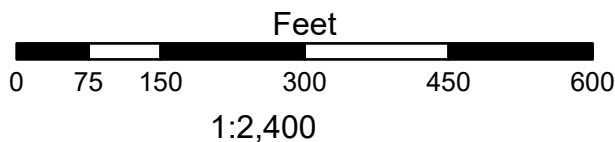
RZN-2022-0055

Close Up View

N. BOB YOUNKIN DR & W. BISHOP DR



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



Zone	Current	Proposed
CS	0.0	4.4
RMF-24	0.0	3.4
R-O	7.8	0.0

Total 7.8 ac
Planning Commission
January 23, 2023

RZN-2022-0055

Current Land Use

N. BOB YOUNKIN DR & W. BISHOP DR



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



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

Planning Commission
January 23, 2023

RZN-2022-0055 (MIDWEST TRUST COMPANY)





TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Planner

MEETING DATE: January 23, 2023

SUBJECT: **CUP-2022-0128: Conditional Use Permit (2789 W. AUBURN DR./JEFFUS, 519):** Submitted by SABRA JEFFUS for property located at 2789 W. AUBURN DR. The property is zoned RPZD, RESIDENTIAL PLANNED ZONING DISTRICT and contain approximately 0.03 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:

Staff recommends approval of **CUP-2022-0128** with conditions as outlined by staff.

RECOMMENDED MOTION:

*"I move to approve **CUP-2022-0128**, determining:*

- In favor of compatibility with adjacent properties, and*
- In favor of all other conditions as recommended by staff."*

BACKGROUND:

The subject property is located in the Hawkins House at Shiloh Subdivision, just northeast of Centennial Park on the west side of I-49. The property lies within the Hawkins House Planned Zoning District (RPZD) and totals approximately 0.03 acres. The property contains a 1,250-square-foot, two-bedroom townhome. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals. This report reflects those new changes for consideration. Surrounding land use and zoning are depicted in *Table 1*.

Table 1:
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Four-Family Residential	RPZD, Residential Planned Zoning District
South	Multi-Family Residential	RPZD, Residential Planned Zoning District
East	Four-Family Residential	RPZD, Residential Planned Zoning District
West	Four-Family Residential	RPZD, Residential Planned Zoning District

City Plan 2040 Future Land Use Designation: City Neighborhood

Proposal: The applicant requests conditional use permit approval to use the property as a Type 2 short-term rental, which are those not occupied by a permanent resident. Type 2 short-term rentals are subject to density limitations, including a 2% citywide cap, and restrictions on the number of units that may be used as a short-term rental in multi-family dwelling complexes.

Public Comment: Staff has not received any public comment regarding this request.

RECOMMENDATION: Staff recommends approval of **CUP-2022-0128** with the following conditions:

Conditions of Approval:

1. **Planning Commission determination of compatibility.** *Staff finds the proposed short-term rental to be compatible with the neighborhood based on the findings in this report.*
2. Approval of the conditional use permit does not ensure approval of a business license application. The applicant must still be able to comply with all other applicable requirements in the development code.
3. Per UDC §166.20, Expiration of Approved Plans and Permits, a business license must be obtained within 1 year of conditional use permit approval.
4. Per ordinance, the number of occupants is limited to a maximum of two people per bedroom, plus two, for the entire unit when the property is operated as a short-term rental.
5. Special events including, but not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars are prohibited from occurring in the short-term rental.
6. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.
7. All trash receptacles shall be screened from view of the right-of-way.
8. All outdoor lighting shall meet requirements as outlined in UDC Chapter 176, Outdoor Lighting.
9. Any signage shall meet the requirements as outlined in UDC Chapter 174, Signage.

PLANNING COMMISSION ACTION:			
Required	<u>YES</u>		
Date: <u>January 23, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

- B. Authority; Conditions.** The Planning Commission shall:
1. Hear and decide only such special exemptions as it is specifically authorized to pass on by the terms of this chapter.
 2. Decide such questions as are involved in determining whether a conditional use should be granted; and,
 3. Grant a conditional use with such conditions and safeguards as are appropriate under this chapter; or
 4. Deny a conditional use when not in harmony with the purpose and intent of this chapter.
- C. Procedures.** A conditional use shall not be granted by the Planning Commission unless and until:
1. A written application for a conditional use is submitted indicating the section of this chapter under which the conditional use is sought and stating the grounds on which it is requested.

Finding: The applicant has submitted a written application requesting a conditional use permit for a Type 2 short-term rental in an RPZD.

2. The applicant shall pay a filing fee as required under Chapter 159 to cover the cost of expenses incurred in connection with processing such application.

Finding: The applicant has paid the required filing fee.

3. The Planning Commission shall make the following written findings before a conditional use shall be issued:
 - (a.) That it is empowered under the section of this chapter described in the application to grant the conditional use; and

Finding: The Planning Commission is empowered under Unified Development Code §118.01(E)(2) to grant the requested conditional use permit.

- (b.) That the granting of the conditional use will not adversely affect the public interest.

Finding: Staff finds that granting the requested conditional use is unlikely to negatively affect the public interest, given the applicable business license requirements including a required building safety inspection, and applicable density caps on Type 2 short-term rentals.

- (c.) The Planning Commission shall certify:
 - (1.) Compliance with the specific rules governing individual conditional uses; and

Finding: There are specific rules governing Short-Term Rentals, as follows:

§163.18. SHORT-TERM RENTALS.

- A. Residential Zoning Districts.** Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts: R-A, RSF-1, RSF-2, RSF-4, RSF-7, RSF-8, RSF-18, RI-12, RI-U, RMF-6, RMF-12, RMF-18, RMF-24, RMF-40, and NC. Short term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district. Short-term rentals in non-residential zoning districts, mixed use zoning districts, or other zoning districts not listed above are not required to apply for a conditional use permit.

Finding: The request is to operate a Type 2 short-term rental in an RPZD. The Hawkins House at Shiloh Subdivision is a residential-only planned zoning district, so a conditional use permit is required.

- B. Occupancy.** Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.

Finding: Occupancy is limited as described in UDC §163.18(A)(3). Occupancy limitations are confirmed by the applicant during licensing. Since this townhome contains two bedrooms, occupancy will likely be limited to a maximum of six guests.

- C. Parking.** Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.

Finding: Staff recommends parking is limited as described in UDC §163.18(A)(4). Parking for townhomes is required to be provided at a rate of one vehicle space per bedroom. According to the applicant, the structure has two bedrooms and four parking spaces; two spaces in an attached garage and two spaces in a driveway.

- D.** Special events are not permitted in a short-term rental. Example of special events include, but are not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars.

Finding: The application letter suggests the property will comply with the City's regulations for a short-term rental. As a condition of approval, staff recommends a prohibition on special events.

- E.** Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

Finding: The application is for use of the property at 2789 W. Auburn Dr. Staff recommends a condition confirming that no recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

- F. Exceptions. Exceptions to the short-term rental standards, except proposals that would exceed the city-wide density maximum, may be granted by the Planning Commission as a conditional use permit.

Finding: Type 2 short-term rentals are subject to a city-wide density cap at 2% of total dwelling units, as determined by United States Census Bureau data. Recently released five-year American Community Survey data from 2021 lists total housing units in Fayetteville at 44,706, which puts the cap at 894 total Type 2 short-term rentals. To date, the City has issued 301 Type 2 short-term rental licenses that are subject to this cap. Hotel/motel uses are not permitted by right in the underlying RPZD, so this short-term rental would contribute to the city-wide density cap. While this short-term rental is in a multi-family structure, it is not subject to a building density cap since all units are on individual lots of record. No exceptions to the short-term rental standards are being requested with this conditional use permit.

- G. Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.

Finding: This short-term rental would be subject to all regulations in City Code §118.01 that apply to Type 2 short-term rentals in residential zoning districts. Applicable business licensing requirements will be reviewed by staff and confirmed by the applicant at the time of licensing.

- H. Short-term rentals in residential zoning districts may be subject to denial or additional conditions based upon the Planning Commission's findings on the following factors:

1. Adequate parking infrastructure;
2. Adequate adjoining or nearby streets for on-street parking;
3. Frequency or concentration of nearby licensed Type 2 short-term rentals; and
4. Prior zoning or code violations.

Finding: There appears to be adequate parking available to support the use of the property as a short-term rental based on the applicant's submittal. A total of four spaces are available in an attached garage and driveway, and the property abuts a private street that is wide enough to accommodate on-street parking. City business license records indicate that six units in the 184-unit residential complex have active Type 2 short-term rental business licenses. In 2020, one code case violation was opened for overflowing trash in the front yard, though that violation has been resolved and the ownership of the property has changed since then.

§163.02. AUTHORITY; CONDITIONS; PROCEDURES. (continued)

- (2.) That satisfactory provisions and arrangements have been made concerning the following, where applicable:

- (a.) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe;

Finding: The subject property has access to Shiloh Drive through a network of private streets. While the property is near the Shiloh Trail, there are no existing sidewalks in the subdivision. Staff finds that the proposal will not adversely affect traffic flows considering the use of the property would be limited to a maximum of six guests, which would not be out of character with use of the property for residential purposes.

- (b.) Off-street parking and loading areas where required, with particular attention to ingress and egress, economic, noise, glare, or odor effects of the special exception on adjoining properties and properties generally in the district;

Finding: The applicant has indicated that there are four guests vehicle parking spaces available, with two spaces in an attached garage and two spaces in an adjacent driveway. The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district.

- (c.) Refuse and service areas, with particular reference to ingress and egress, and off-street parking and loading,

Finding: The applicant proposes to utilize existing residential trash cart service. Staff recommends that the containers should be screened from public view when not at the curb for residential pick-up.

- (d.) Utilities, with reference to locations, availability, and compatibility;

Finding: Utilities are currently available to the site and the use as a short-term rental is not anticipated to impact the provision of utilities.

- (e.) Screening and buffering with reference to type, dimensions, and character;

Finding: Staff recommends that residential carts be screened so that they are not visible from the public right-of-way.

- (f.) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;

Finding: Any proposed signage will be subject to Unified Development Code chapter 174, Signs, and all regulations therein.

(g.) Required yards and other open space; and

Finding: Based on the applicant's submittal, the structure is meeting relevant setbacks.

(h.) General compatibility with adjacent properties and other property in the district.

Finding: Staff finds the proposed use to be compatible with surrounding properties. The property is surrounded by residential uses, and short-term rentals are permitted by right in RPZDs. There appears to be adequate parking to accommodate the number of permitted guests, and staff does not anticipate any adverse traffic impacts with this request. The Hawkins House RPZD does not allow hotel/motel uses by right, so this short-term rental would contribute to the city-wide density cap.

BUDGET/STAFF IMPACT:

None

Attachments:

- Business Regulations
 - §118.01 Applicability
- Unified Development Code
 - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
 - Ordinance 5738, Hawkins House RPZD Land Use Regulations
- Applicant Request Letter
- Building Floor Plan
- Building Elevation
- Site Plan
- One Mile Map
- Close-Up Map
- Current Land Use Map

118.01 Applicability

- (E) *Short-Term Rentals.* A residential dwelling unit, portion of a dwelling unit, or bedroom within a residential dwelling unit, leased and/or rented to a guest(s), for a period of less than thirty consecutive (30) days.
- (1) *Short-Term Rental, Type 1.* A short-term rental where the principal use of the property remains as a full-time residence. The occupants or owner rent their primary residence as a short-term rental. A copy of the Homestead Tax Credit or long-term lease agreement for the subject property is required to be classified as a Type 1 rental. The occupant or owner must occupy the residence for nine (9) months of the year. Accessory dwelling units (ADUs) as defined in Unified Development Code Chapter 151 shall be considered a Type 1 short-term rental.
 - (2) *Short-Term Rental, Type 2.* A short-term rental that is not occupied by a permanent resident. The owner lists this property full-time as a short-term rental and has no intention of having permanent residents living in the property. A conditional use permit is required for a Type 2 short-term rental in a residential zoning district prior to the city issuing a business license.
 - (3) *License Required.* No dwelling unit in the city shall be used as a short-term rental unless:
 - (a) The owner of the dwelling unit or operator of the short-term rental possess a valid and current business license for the dwelling unit, and fully complies with all legal requirements and duties imposed herein with respect to each and every short-term rental; and
 - (b) The owner has designated an agent, where said agent fully complies with all legal requirements and duties imposed herein with respect to every short-term rental. The owner may serve as their own agent.
 - (c) The owner of the dwelling unit or operator of the short-term rental provides proof of a valid and current homeowners insurance rider policy which fully covers each unit when operated as short-term rental unit.
 - (4) A separate business license shall be required for each dwelling unit used as a short-term rental.
 - (5) Any change in ownership requires a new or amended business license.
 - (6) If any required contact information changes for the associated business license, the person to whom the license was issued shall immediately notify the Development Services Department in writing.
 - (7) *License Application.* The application for a business license shall include at minimum, the following information from applicants:
 - (a) The property owner's information including legal name, mailing address, immediate contact phone number, and immediate contact E-mail address.
 - (b) Information for the dwelling unit subject to the application, inclusive of the physical street address assigned by the city.
 - (c) The type and total number of dwelling units located on the lot of record containing the dwelling unit subject to the application.
 - (d) If the owner is not their own agent, the owner designated agent's information including legal name, mailing address, immediate contact phone number and immediate contact E-mail address.
 - (e) Documentation of approval of a life safety and egress inspection by the City Building Safety Division for the dwelling unit subject to the application.
 - (f) Proof of application for remittance of hotel, motel and restaurant tax to the City of Fayetteville, and verification that all sales, use, and hotel, motel and restaurant taxes are current.
 - (g) Any additional data as deemed necessary or desirable for permit approval by the Development Services Director.
 - (8) *License Renewals.* Business licenses for short-term rentals shall be renewed in accordance with Chapter 118 of the Business Regulations (Business Registry and Licenses).
 - (11) *Legal Duties of License Holders.* An owner possessing a short-term rental license shall comply at all times with the following requirements:
 - (a) *Occupancy.* Short-term rentals shall be subject to, and may not exceed, the occupancy limits approved with the business license.
 - (b) *Advertisements.* A short-term rental shall not be advertised if it violates occupancy, density, safety, and any of the other provisions of the Fayetteville Code. No short-term rental unit shall be advertised prior to having obtained a business license and the business license number shall be included in the advertisement listing.
 - (c) *Information and Posting.* Business licensees shall provide to guests and post conspicuously in the common area of the short-term rental unit the city phone number to report a safety complaint.
 - (10) *Owner or Agent Accessibility.* The property owner shall ensure that they or a designated agent are available at all times during guest occupancy, including nights and weekends, in order to facilitate compliance with

this section. For the purposes of these regulations, 'availability' means that the owner or agent is accessible by telephone, and, able to be physically present at the short-term rental within three (3) hours of being contacted.

- (11) *Guest Records.* The owner shall maintain summary guest registration records, which shall contain the actual dates of occupancy, total number of guests per party per stay, and the rate(s) charged, but shall not contain any personally identifiable information about guests. Such records shall be maintained for three (3) years and shall be provided to the City upon request.
 - (12) *Health and Safety.* The owner shall ensure that each dwelling unit governed by this section complies with the applicable provisions of the Unified Development Code Chapter 173, Building Regulations.
 - (13) *Criminal Activity.* The owner shall timely report any known or reasonably suspected criminal activity by a guest to the Fayetteville Police Department within twelve (12) hours maximum.
 - (14) *Taxes and Fees.* Except for those instances in which a hosting platform bears the responsibility for collecting and remitting taxes and fees applicable to short-term rentals, the property owner shall timely remit in full Fayetteville Hotel, Motel and Restaurant tax and other applicable local, state, and federal taxes and city fees owed in connection with any short-term rental. The failure of a hosting platform to collect and remit taxes and fees shall not relieve an owner of the obligation to pay taxes and fees owed pursuant to this section.
 - (15) *Authorization to Occupy, Use, and Operate.* Authorization to operate a short-term rental may be granted by the Development Services Director through the issuance of a City of Fayetteville Business Registry and License (Business License).
 - (16) *Density For Type 2 Short-Term Rentals.* A city-wide density cap of 2% of all dwelling units in the Fayetteville city limits may be utilized as Type 2 rentals. Total dwelling units are determined from current United States Census Bureau and/or American Community Survey numbers, whichever number is higher. A conditional use permit may not permit:
 - (a) More Type 2 short-term rentals than what is allowed by the city-wide density cap. Type 2 short-term rentals in commercial and mixed-use zoning districts where hotel/motels are permitted by right shall not contribute to the city-wide density cap.
 - (b) More than 10% or a single unit whichever is greater; of total dwelling units as Type 2 rentals within a multi-family dwelling complex.
 - (c) Individual 2-, 3- and 4-family buildings that are owned by the same person or entity and are not a part of a multi-family complex shall have no more than one (1) Type 2 short-term rental unit per building complex.
 - (d) Where attached residential units are held separately through condominium association, horizontal property regime, fee simple, or similar ownership structure, no cap shall be applied to buildings with attached residential dwellings. Structures of attached residential dwellings where applicants seek more than 10% of total units for licensing as Type 2 rentals shall be evaluated by the Building Safety Director and/or Fire Marshal for adequate fire protection as defined by the adopted Arkansas Fire Prevention Code. Where inadequate fire protection is identified, improvements may be required prior to issuance of a business license.
 - (17) *Suspension and Revocation.* If the Development Services Director has reason to believe that any of the grounds specified in §118.03(A) of the Fayetteville Code exist, or that any rental unit was rented for less than one (1) full night, or to more than one (1) part of guests for the same period of time, or otherwise failed to comply with all terms and conditions of this section, the Development Services Director may suspend or revoke the short-term rental's business license pursuant to the procedures detailed in §118.03 and in §118.04 of the Fayetteville Code.
 - (20) Short-term rentals must comply with all applicable codes under Unified Development Code §163.18 and § 164.26 successfully obtain a business license prior to operation.
- (Ord. No. 6427 , §§1(Exh. A), 2, 4-20-21; Ord. No. 6505 , §1(Exh. A), 11-16-21; Ord. No. 6521 , §§1, 2, 1-18-22; Ord. No. 6537 , §1(Exh. A), 2-15-22)

163.18 Type 2 Short-Term Rentals in Residential Zoning Districts

- (A) *Residential Zoning Districts.* Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts:

- 1) R-A
- 2) RSF-.5
- 3) RSF-1
- 4) RSF-2
- 5) RSF-4
- 6) RSF-7
- 7) RSF-8
- 8) RSF-18
- 9) RI-12
- 10) RI-U
- 11) RMF-6
- 12) RMF-12
- 13) RMF-18
- 14) RMF-24
- 15) RMF-40
- 16) NC

Short term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district.

Short-term rentals in non-residential zoning districts, mixed use zoning districts, or other zoning districts not listed above are not required to apply for a conditional use permit.

- (B) *Occupancy.* Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.
- (C) *Parking.* Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.
- (D) Special events are not permitted in a short-term rental. Example of special events include, but are not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars.
- (E) Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.
- (F) *Exceptions.* Exceptions to the short-term rental standards, except proposals that would exceed the city-wide density maximum, may be granted by the Planning Commission as a conditional use permit.
- (G) Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.
- (H) Short-term rentals in residential zoning districts may be subject to denial or additional conditions based upon the Planning Commission's findings on the following factors:
- 1) Adequate parking infrastructure;
 - 2) Adequate adjoining or nearby streets for on-street parking;
 - 3) Frequency or concentration of nearby licensed Type 2 short-term rentals; and
 - 4) Prior zoning or code violations

(Ord. No. 6427 , §§1(Exh. E), 2, 4-20-21; Ord. No. 6505 , §2(Exh. B), 11-16-21; Ord. No. 6537 , §2(Exh. B), 2-15-22)

Hawkins House RPZD Land Use Regulations

Planning Area #1: Multi-family Residential - Townhomes

Purpose: The purpose of this Planning Area is to permit and encourage the development of for sale townhome style single family dwellings. This is for lots 1 through 88 (88 units on 5.91 acres), which will have a density of 14.89 units/acre.

Land Use Designation:

1. Permitted Uses

Unit 1	City-wide uses by right
Unit 26	Multi-family Dwellings

2. Conditional Uses

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 24	Home occupations
Unit 25	Professional offices

3. Density

Acreage	5.91 acres
Number of Dwelling Units	88 Units
Density	14.89 units/acre

4. Bulk and Area Regulations

	Multi-family Dwellings
Lot width minimum	20 feet (on access easements)
Lot area minimum	1,400 square feet
Land are per dwelling unit	1,400 square feet

5. Setback Requirements

Front	Side	Rear
0'	0'	0'

Height Restrictions: Structures in this planning area are limited to a building height of 60 feet.

*All lots with a 0 ft side setback. Buildings are subject to minimum building separation, fire wall ratings, etc. in accordance with building code. All dwellings shall front onto the adjacent public access easement.

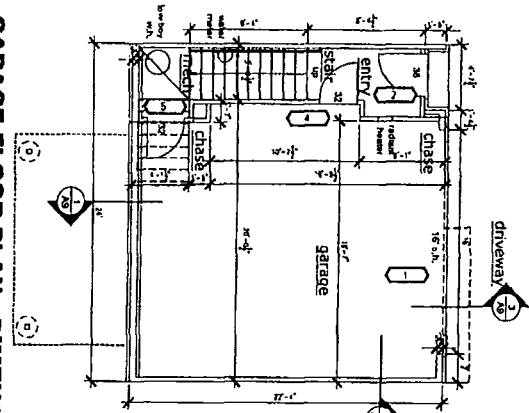
6. Building Area

Area occupied by all buildings shall not exceed 50% of the total lot area. This is enforced on a lot-by-lot basis, not for the entire planning area, and does not include driveways or paving.

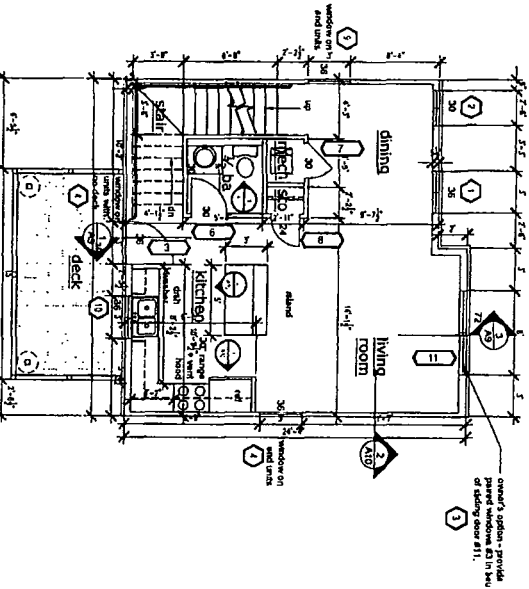
Conditional Use Permit

CUP Checklist:

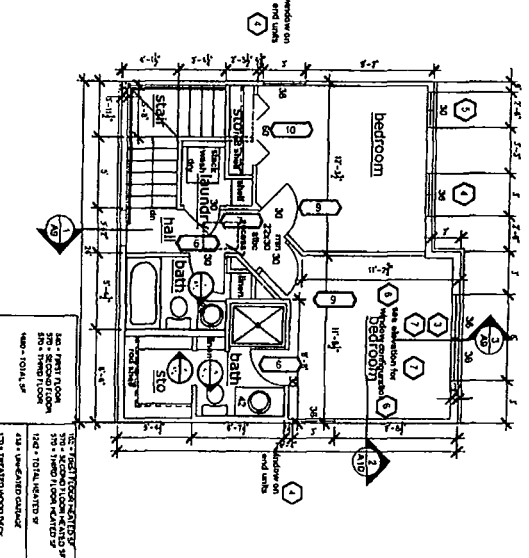
1. Paid Online
2. Adjusted Lot 46, Replat of Lots 45-48 and 53-56 of Hawkins House At Shiloh, to the City of Fayetteville, Washington County, Arkansas, as shown on Plat Record 24A at Page 185.
3. We are applying for a conditional use permit from the City of Fayetteville for a property that we purchased in order to obtain a short-term rental Type 2 permit. We will not be residing in the residence. The property will be used for a nightly rental.
 - a. The unit is 1,250 SF
 - b. The unit is 3 floors. On the bottom floor is a 2-car garage and entryway with stairs. The second floor consists of a kitchen, half bath, living room and dining room. The third floor consists of two bedrooms, two bathrooms and one laundry room.
 - c. For the unit there are 4 parking spots, two in the garage and 2 driveway parking spots. Picture provided
 - d. The unit will not have operating hours or employees. It will be used whenever it is being rented.
 - E. Outdoor lighting – there are exterior lights on either side of the garage door
 - F. The property will be used for short stays of 1-4 people so the noise level should be minimal. There will be three televisions in the unit and that will be the extent of the noise.
 - g. There is an attached unit to our left, 2799 W Auburn. The property to our right is approximately 30 feet away with grass and a tree between.
 - h. Trash is included in the HOA fees and there is a designated concrete pad next to our driveway for the trash can on trash day, which is Tuesday. Otherwise, the trash can will be kept inside the garage
 - i. The unit does not add additional traffic on the road because this area is already used for short-term rentals and residential properties. Pictures are attached.
 - j. The use of the property as a nightly rental is very common in this location. Many neighboring units are also used as short-term rentals. The unit attached to ours, 2799 W Auburn, is also a STR.
4. Site Plan attached
5. The floor plan drawn to scale and showing walls, doors, windows and identification of activity areas will be attached at the end of this document.
6. a copy of the county parcel map from the Washington County Assessor's office website will be attached at the end of this document. The pictures show the subject property and all parcels within 200 feet.
7. The consent of ownership form signed by both property owners is attached as a separate document.



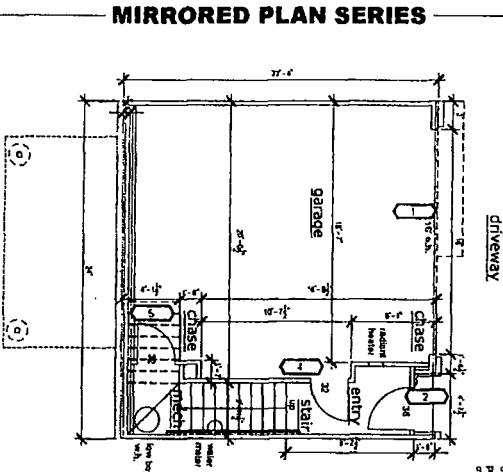
1 GARAGE FLOOR PLAN - DIMENSION
SCALE: 1/8" = 1'-0"



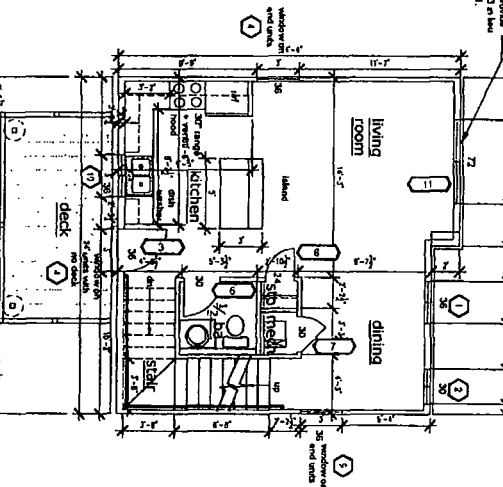
2 MAIN FLOOR PLAN - DIMENSION
SCALE: 1/8" = 1'-0"



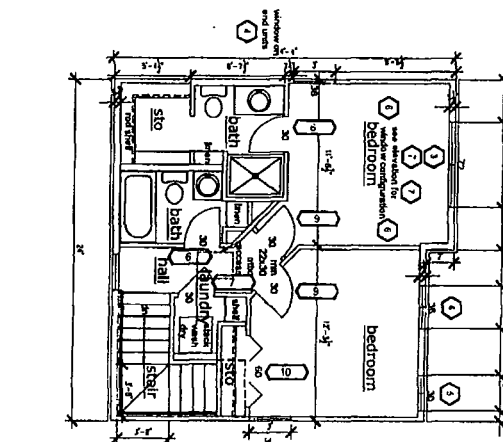
3 UPPER FLOOR PLAN - DIMENSION
SCALE: 1/8" = 1'-0"



4 GARAGE FLOOR PLAN - DIMENSION
SCALE: 1/8" = 1'-0"



5 MAIN FLOOR PLAN - DIMENSION
SCALE: 1/8" = 1'-0"



6 UPPER FLOOR PLAN - DIMENSION
SCALE: 1/8" = 1'-0"

MIRRORED PLAN SERIES

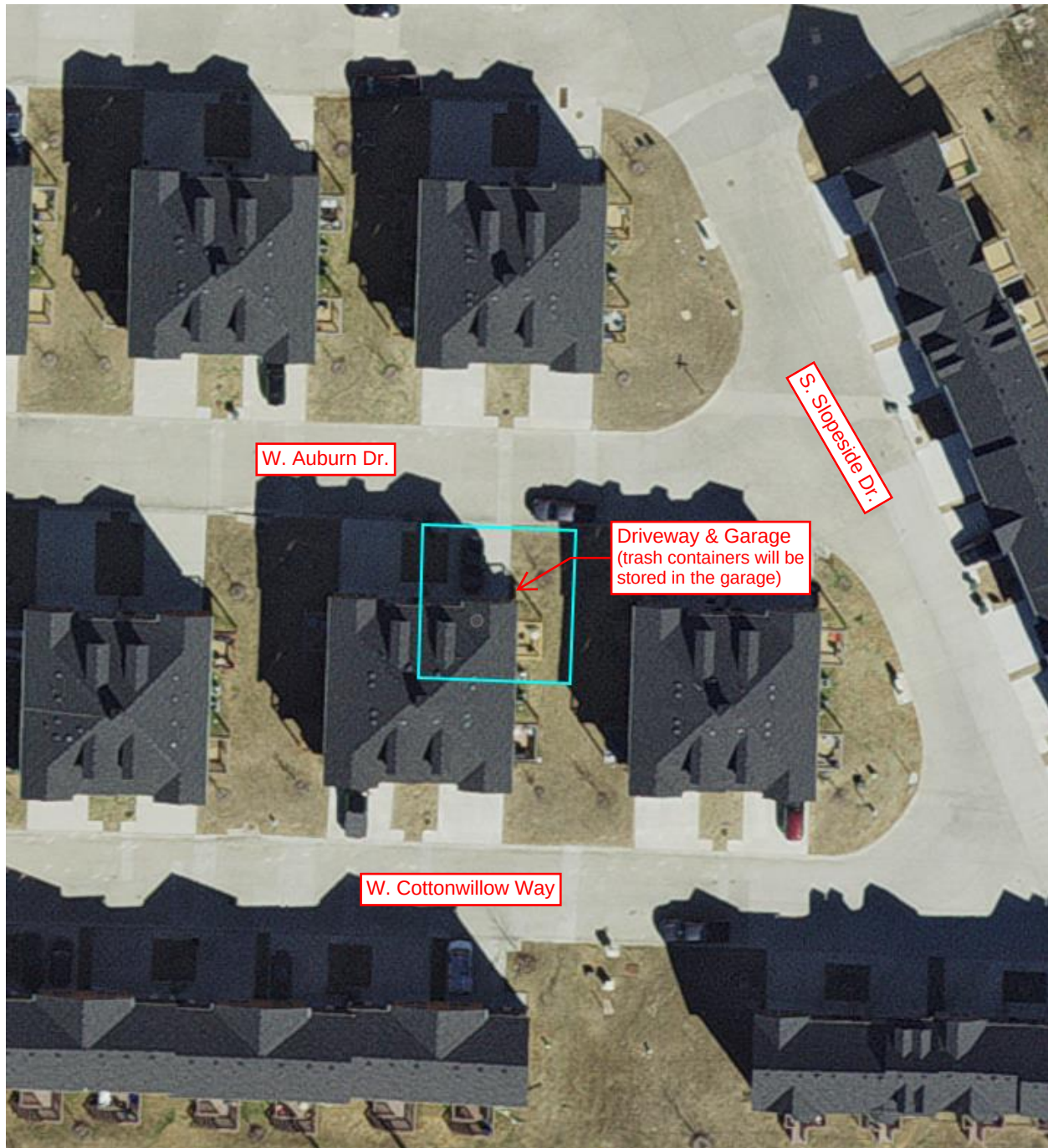
A-1
DATE: 11/09/14
SEPTEMBER 12 2014



HAWKINS HOUSE AT SHILOH
FOR D&B OF NORTHWEST ARKANSAS, LLC
FAYETTEVILLE, AR 72704

HDMS, INC.
ARCHITECTURE + INTERIOR DESIGN
MICKS, DOWDY, MCCAULEY, & SCHELL, INC.
4609 MAIN STREET
NORTH LITTLE ROCK, AR 72114
PH: 501-374-5500 FX: 501-374-5501
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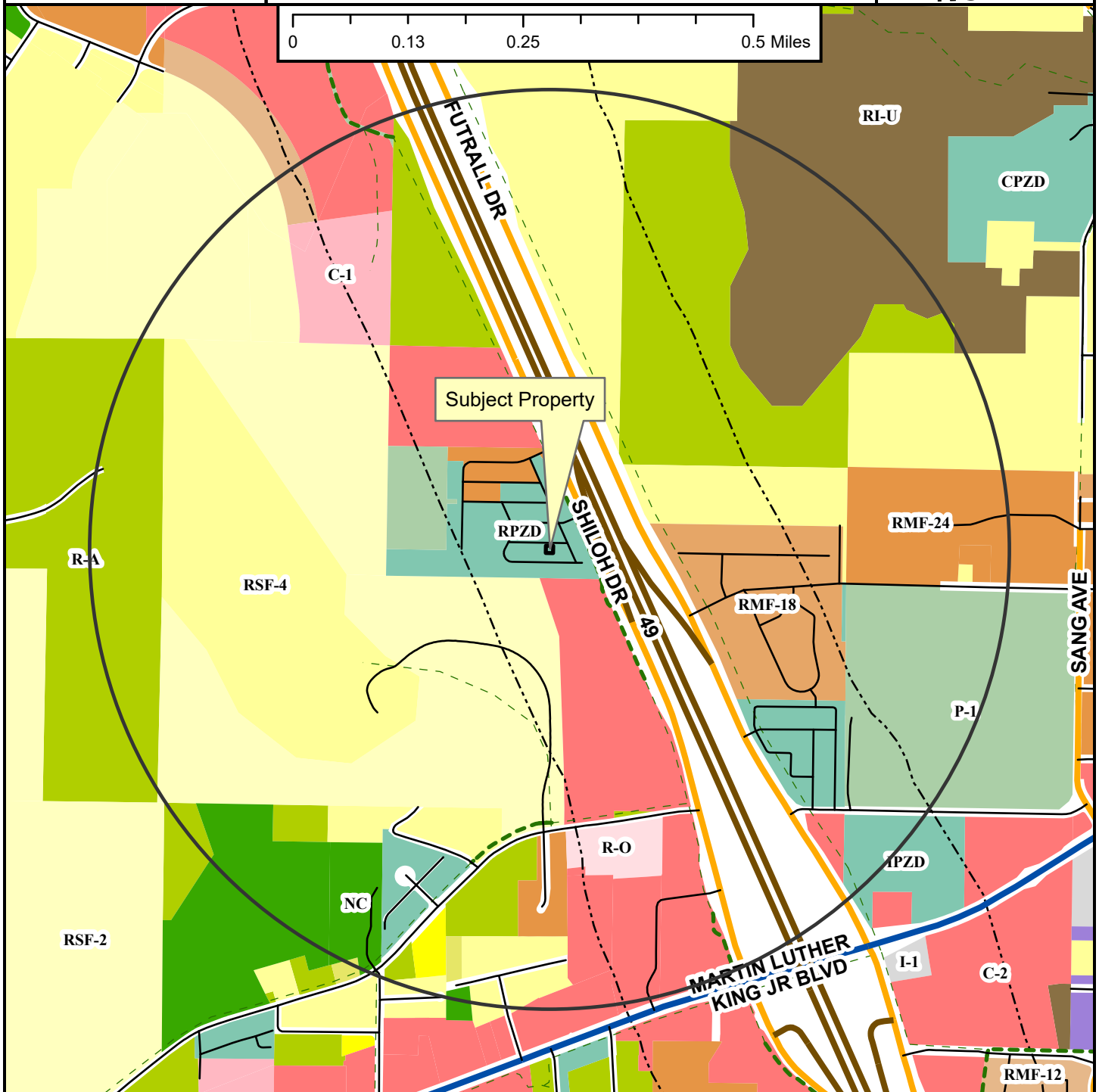
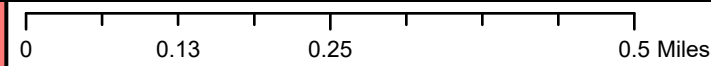




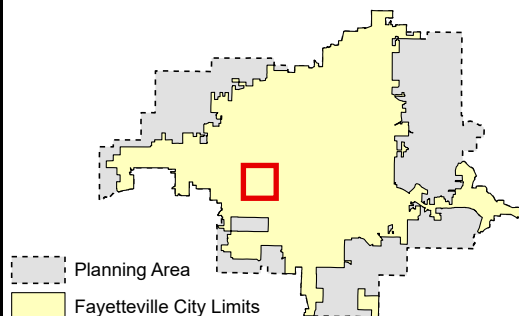
CUP-2022-0128

2789 W. AUBURN DR

One Mile View



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

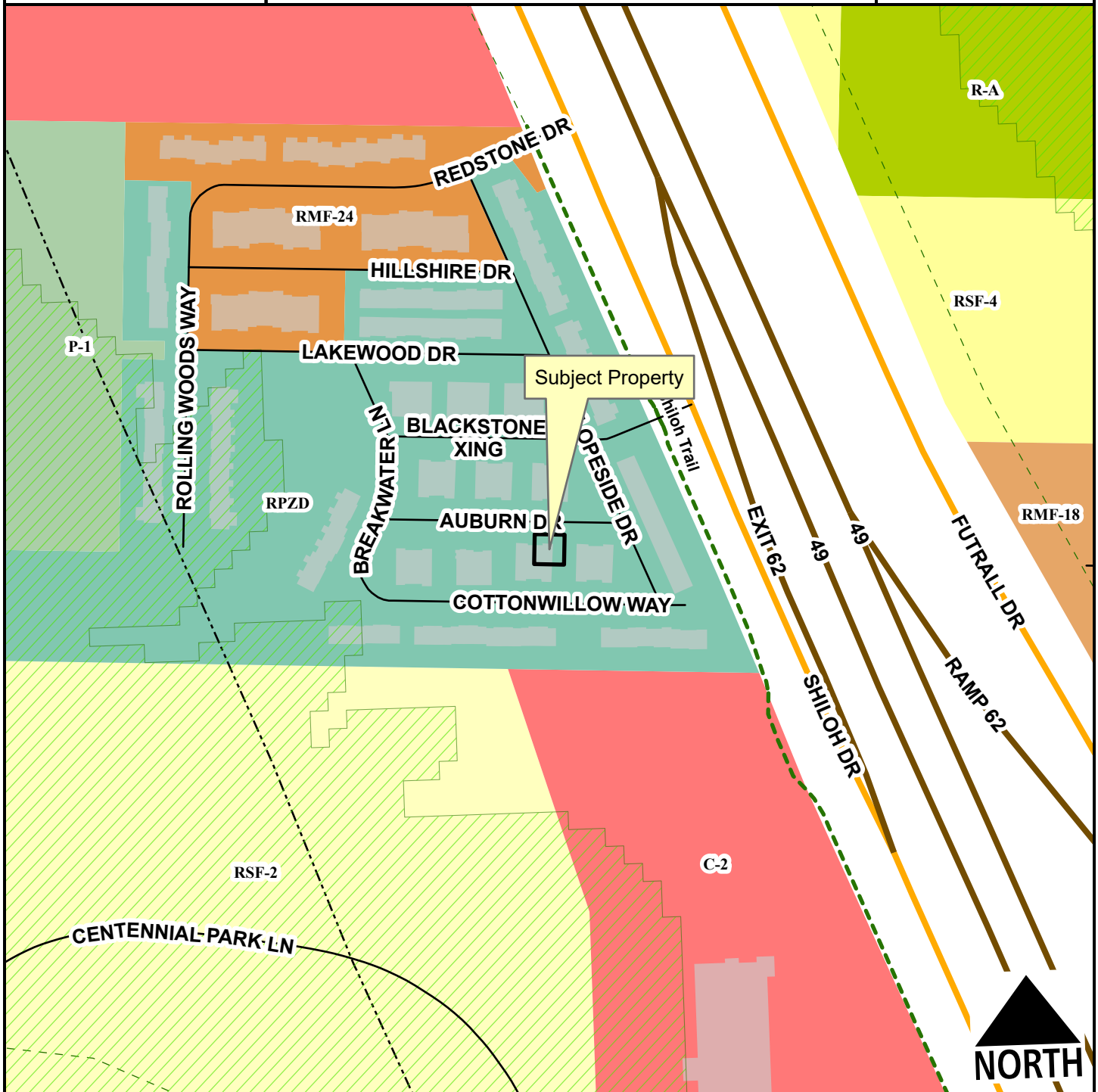


- Zoning**
- RESIDENTIAL SINGLE-FAMILY**
- NS-G
 - RI-U
 - RI-12
 - NS-L
 - Residential-Agricultural
 - RSF-5
 - RSF-2
 - RSF-4
 - RSF-7
 - RSF-8
 - RSF-18
- RESIDENTIAL MULTI-FAMILY**
- RMF-6
 - RMF-12
 - RMF-13
 - RMF-24
 - RMF-40
- INDUSTRIAL**
- I-1 Heavy Commercial and Light Industrial
 - I-2 General 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
January 23, 2023

CUP-2022-0128 (JEFFUS)

Close Up View



- Neighborhood Link
- Freeway/Expressway
- Unclassified
- Residential Link
- Hillside-Hilltop Overlay District
- Planning Area
- Fayetteville City Limits
- Shared-Use Paved Trail
- Trail (Proposed)
- Design Overlay District

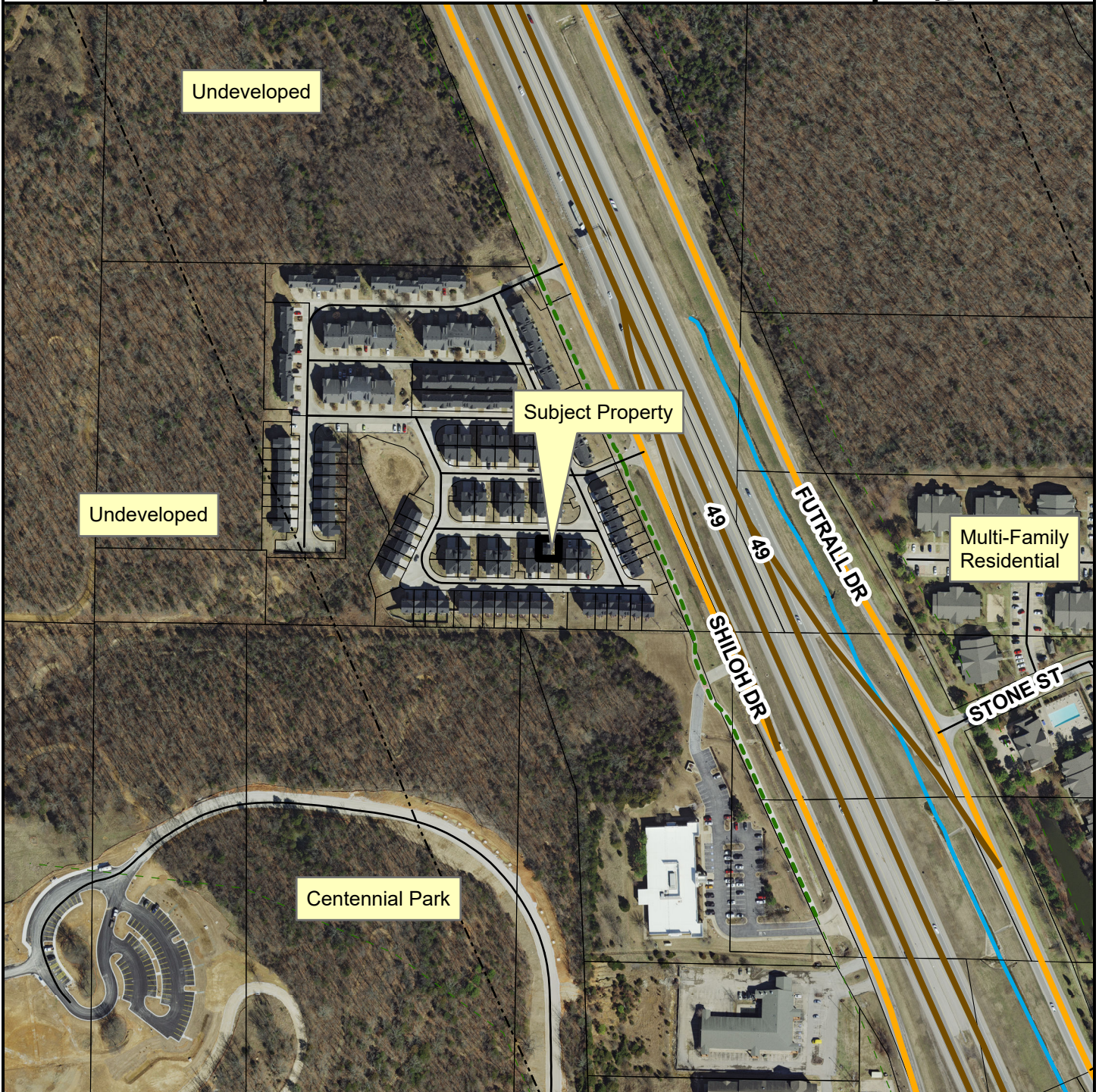


- Residential-Agricultural
- RSF-2
- RSF-4
- RMF-18
- RMF-24
- C-2
- Commercial, Industrial, Residential
- P-1

CUP-2022-0128

2789 W. AUBURN DR

Current Land Use



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



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Ryan Umberger, Senior Planner

MEETING DATE: January 23, 2023

SUBJECT: **CUP-2022-0120: Conditional Use Permit (1488 W. MOUNT COMFORT RD/NEWMAN, 404):** Submitted by WEEKENDER MANAGEMENT, for property located at 1488 W. MOUNT COMFORT RD. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY – FOUR UNITS PER ACRE and contains approximately 0.22 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:

Staff recommends approval of **CUP-2022-0120** with conditions as outlined by staff.

RECOMMENDED MOTION:

*"I move to approve **CUP-2022-0120**, determining:*

- In favor of compatibility with adjacent properties, and*
- In favor of all other conditions as recommended by staff."*

BACKGROUND:

The subject property is located in north Fayetteville, on the north side of W. Mount Comfort Road near the southeast corner of the Lewis Soccer Complex. The property is zoned RSF-4, Residential Single-family, 4 Units per Acre and totals approximately 0.22 acres. An approximately 872 square foot, two-bedroom, single-family residence built in 1949 currently occupies the property. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals. This report reflects those new changes for consideration. Surrounding land use and zoning are depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Single-family Residential	RSF-4, Residential Single-family, 4 Units per Acre
South	Single-family Residential	RSF-4, Residential Single-family, 4 Units per Acre
East	Single-family Residential	RSF-4, Residential Single-family, 4 Units per Acre
West	Parkland	P-1, Institutional

City Plan 2040 Future Land Use Designation: **Residential Neighborhood Area.**

Proposal: The applicant requests conditional use permit approval to use the property as a Type 2 short-term rental, which are those not occupied by a permanent resident. Type 2 short-term

rentals are subject to density limitations, including a 2% citywide cap, and restrictions on the number of units that may be used as a short-term rental in multi-family dwelling complexes.

Public Comment: Staff has not received any public comment regarding this request.

RECOMMENDATION: Staff recommends approval of **CUP-2022-0120**, with the following conditions;

Conditions of Approval:

1. **Planning Commission determination of compatibility.** *Staff finds the proposed short-term rental to be compatible with the neighborhood based on the findings in this report;*
2. Approval of the conditional use permit does not ensure approval of a business license application. The applicant must still be able to comply with all other applicable requirements in the development code.
3. Per §166.20, Expiration of Approved Plans and Permits, a business license must be obtained within 1 year of conditional use permit approval.
4. Per ordinance, the number of occupants is limited to a maximum of two people per bedroom, plus two, for the entire unit when the property is operated as a short-term rental.
5. Special events including, but not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars are prohibited from occurring in the short-term rental.
6. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.
7. All trash receptacles shall be screened from view of the right-of-way.
8. All outdoor lighting shall meet requirements as outlined in §176, Outdoor Lighting.
9. Any signage shall meet the requirements as outlined in §174, Signage.

PLANNING COMMISSION ACTION:				Required	<u>YES</u>
Date: <u>January 23, 2023</u>		☐ Tabled	☐ Approved	☐ Denied	
Motion:					
Second:					
Vote:					

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

1. Hear and decide only such special exemptions as it is specifically authorized to pass on by the terms of this chapter.
2. Decide such questions as are involved in determining whether a conditional use should be granted; and,
3. Grant a conditional use with such conditions and safeguards as are appropriate under this chapter; or
4. Deny a conditional use when not in harmony with the purpose and intent of this chapter.

C. A conditional use shall not be granted by the Planning Commission unless and until:

1. A written application for a conditional use is submitted indicating the section of this chapter under which the conditional use is sought and stating the grounds on which it is requested.

Finding: The applicant has submitted a written application requesting a conditional use permit for a Type 2 short-term rental in the RSF-4 zoning district.

2. The applicant shall pay a filing fee as required under Chapter 159 to cover the cost of expenses incurred in connection with processing such application.

Finding: The applicant has paid the required filing fee.

3. The Planning Commission shall make the following written findings before a conditional use shall be issued:

(a.) That it is empowered under the section of this chapter described in the application to grant the conditional use; and

Finding: The Planning Commission is empowered under Unified Development Code §118.01(E)(2) to grant the requested conditional use permit.

(b.) That the granting of the conditional use will not adversely affect the public interest.

Finding: Staff finds that granting the requested conditional use is unlikely to negatively affect the public interest, given the applicable business license requirements including a required building safety inspection, and applicable density caps on Type 2 short-term rentals.

(c.) The Planning Commission shall certify:

(1.) Compliance with the specific rules governing individual conditional uses; and

Finding: There are specific rules governing Short-Term Rentals, as follows:

§163.18 - SHORT-TERM RENTALS

A. General Standards.

(1) *Residential Zoning Districts.* Residential Zoning Districts. Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts: R-A, RSF-.5, RSF-1, RSF-2, RSF-4, RSF-7, RSF-8, RSF-18, RI-12, RI-U, RMF-6, RMF-12, RMF-18, RMF-24, RMF-40, NC. Short term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district. Short-term rentals in non-residential zoning districts, mixed use zoning districts, or other zoning districts not listed above are not required to apply for a conditional use permit.

Finding: The request is to operate a Short-Term Rental, Use Unit 46, in RSF-4 zoning. Use Unit 46 is a permitted use by-right in the RSF-4 zoning district, but Type 2 short-term rentals require a conditional use permit.

(2) *Occupancy.* Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.

Finding: Occupancy is limited as described in UDC §163.18(A)(3). Occupancy limitations are confirmed by the applicant during licensing. Since the dwelling has two bedrooms, the short-term rental would be limited to six guests.

(3) *Parking.* Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.

Finding: Staff recommends parking is limited as described in UDC §163.18(A)(4). Single-family homes are required to provide parking at a rate of two per dwelling. According to the applicant four vehicles can be accommodated in the existing driveway.

(4) Special events are not permitted in a short-term rental. Example of special events include, but are not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars.

Finding: The application letter suggests the property will comply with the City's regulations for a short-term rental. As a condition of approval, staff recommends a prohibition on special events.

(5) Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer,

other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

Finding: **The application is for use of the property at 1488 W. Mount Comfort Road. Staff recommends a condition confirming that no recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.**

(6) Exceptions. Exceptions to the short-term rental standards, except proposals that would exceed the city-wide density maximum, may be granted by the Planning Commission as a conditional use permit.

Finding: **Type 2 short-term rentals are subject to a citywide density cap at 2% of total dwelling units, as determined by United States Census Bureau data. Recently released 5-year American Community Survey data from 2021 lists total housing units in Fayetteville at 44,706, which puts the cap at 894 total Type 2 short-term rentals. To date, the City has issued 301 Type 2 short-term rental licenses that are subject to this cap. Hotel and motel uses are not permitted by right in RSF-4 zoning, so this short-term rental would contribute to the city-wide density cap.**

(7) Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.

Finding: **This short-term rental would be subject to all regulations in City Code §118.01 that apply to Type 2 short-term rentals in residential zoning districts. Applicable business licensing requirements will be reviewed by staff and confirmed by the applicant at the time of licensing.**

(8) Short-term rentals in residential zoning districts may be subject to denial or additional conditions based upon the Planning Commission's findings on the following factors:

- 1) Adequate parking infrastructure;
- 2) Adequate adjoining or nearby streets for on-street parking;
- 3) Frequency or concentration of nearby licensed Type 2 short-term rentals; and
- 4} Prior zoning or code violations.

Finding: **There appears to be adequate parking available to support the use of the property as a short-term rental based on the applicant's submittal. A total of four spaces are available in the existing driveway. On-street parking is not available. Within ¼ mile of the property City business license records indicate there is a single Type 1 and two Type 2 rental business licenses. There are no active or prior zoning code violations at the subject address.**

§163.02, AUTHORITY; CONDITIONS; PROCEDURES. (continued)

(2.) That satisfactory provisions and arrangements have been made concerning the following, where applicable:

(a.) Ingress and egress to property and proposed structures thereon with particular reference to

automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe;

Finding: The subject property has access to W. Mount Comfort Drive, a Residential Link Street at this location. Staff finds that the proposal will not adversely affect traffic flows considering the use of the property would be limited to a maximum of six guests, which would not be out of character with use of the property for residential purposes. Sidewalk is not present along the property's frontage but is available across the street, on the south side of W. Mount Comfort Road.

(b.) Off-street parking and loading areas where required, with particular attention to ingress and egress, economic, noise, glare, or odor effects of the special exception on adjoining properties and properties generally in the district;

Finding: The applicant has indicated that there are four guest vehicle parking spaces available in the driveway. The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district.

(c.) Refuse and service areas, with particular reference to ingress and egress, and off-street parking and loading,

Finding: The applicant proposes to utilize existing residential trash cart service. Staff recommends that the containers should be screened from public view when not at the curb for residential pick-up.

(d.) Utilities, with reference to locations, availability, and compatibility;

Finding: Utilities are currently available to the site and the use as a short-term rental is not anticipated to impact the provision of utilities.

(e.) Screening and buffering with reference to type, dimensions, and character;

Finding: Staff recommends that residential carts be screened so that they are not visible from the public right-of-way.

(f.) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;

Finding: Any proposed signage will be subject to Unified Development Code section 174 – Signs, and all the regulations therein.

(g.) Required yards and other open space; and

Finding: Based on the applicant's submittal, the structure appears to be meeting relevant setbacks.

(h.) General compatibility with adjacent properties and other property in the district.

Finding: Staff finds the use to be compatible with surrounding properties. The property appears to have adequate parking to accommodate overnight guests, trash containers are screened, and minimal disruptions are expected for neighbors.

BUDGET/STAFF IMPACT:

None

Attachments:

- Business Regulations
 - §118.01 Applicability
- Unified Development Code
 - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
 - §161.09 District RSF-4, Residential Single-Family – Four (4) Units Per Acre
- Applicant Request Letter
- Building Floor Plan
- One Mile Map
- Close-Up Map
- Current Land Use Map

118.01 Applicability

- (E) *Short-Term Rentals.* A residential dwelling unit, portion of a dwelling unit, or bedroom within a residential dwelling unit, leased and/or rented to a guest(s), for a period of less than thirty consecutive (30) days.
- (1) *Short-Term Rental, Type 1.* A short-term rental where the principal use of the property remains as a full-time residence. The occupants or owner rent their primary residence as a short-term rental. A copy of the Homestead Tax Credit or long-term lease agreement for the subject property is required to be classified as a Type 1 rental. The occupant or owner must occupy the residence for nine (9) months of the year. Accessory dwelling units (ADUs) as defined in Unified Development Code Chapter 151 shall be considered a Type 1 short-term rental.
 - (2) *Short-Term Rental, Type 2.* A short-term rental that is not occupied by a permanent resident. The owner lists this property full-time as a short-term rental and has no intention of having permanent residents living in the property. A conditional use permit is required for a Type 2 short-term rental in a residential zoning district prior to the city issuing a business license.
 - (3) *License Required.* No dwelling unit in the city shall be used as a short-term rental unless:
 - (a) The owner of the dwelling unit or operator of the short-term rental possess a valid and current business license for the dwelling unit, and fully complies with all legal requirements and duties imposed herein with respect to each and every short-term rental; and
 - (b) The owner has designated an agent, where said agent fully complies with all legal requirements and duties imposed herein with respect to every short-term rental. The owner may serve as their own agent.
 - (c) The owner of the dwelling unit or operator of the short-term rental provides proof of a valid and current homeowners insurance rider policy which fully covers each unit when operated as short-term rental unit.
 - (4) A separate business license shall be required for each dwelling unit used as a short-term rental.
 - (5) Any change in ownership requires a new or amended business license.
 - (6) If any required contact information changes for the associated business license, the person to whom the license was issued shall immediately notify the Development Services Department in writing.
 - (7) *License Application.* The application for a business license shall include at minimum, the following information from applicants:
 - (a) The property owner's information including legal name, mailing address, immediate contact phone number, and immediate contact E-mail address.
 - (b) Information for the dwelling unit subject to the application, inclusive of the physical street address assigned by the city.
 - (c) The type and total number of dwelling units located on the lot of record containing the dwelling unit subject to the application.
 - (d) If the owner is not their own agent, the owner designated agent's information including legal name, mailing address, immediate contact phone number and immediate contact E-mail address.
 - (e) Documentation of approval of a life safety and egress inspection by the City Building Safety Division for the dwelling unit subject to the application.
 - (f) Proof of application for remittance of hotel, motel and restaurant tax to the City of Fayetteville, and verification that all sales, use, and hotel, motel and restaurant taxes are current.
 - (g) Any additional data as deemed necessary or desirable for permit approval by the Development Services Director.
 - (8) *License Renewals.* Business licenses for short-term rentals shall be renewed in accordance with Chapter 118 of the Business Regulations (Business Registry and Licenses).
 - (11) *Legal Duties of License Holders.* An owner possessing a short-term rental license shall comply at all times with the following requirements:
 - (a) *Occupancy.* Short-term rentals shall be subject to, and may not exceed, the occupancy limits approved with the business license.
 - (b) *Advertisements.* A short-term rental shall not be advertised if it violates occupancy, density, safety, and any of the other provisions of the Fayetteville Code. No short-term rental unit shall be advertised prior to having obtained a business license and the business license number shall be included in the advertisement listing.
 - (c) *Information and Posting.* Business licensees shall provide to guests and post conspicuously in the common area of the short-term rental unit the city phone number to report a safety complaint.
 - (10) *Owner or Agent Accessibility.* The property owner shall ensure that they or a designated agent are available at all times during guest occupancy, including nights and weekends, in order to facilitate

compliance with this section. For the purposes of these regulations, 'availability' means that the owner or agent is accessible by telephone, and, able to be physically present at the short-term rental within three (3) hours of being contacted.

- (11) *Guest Records.* The owner shall maintain summary guest registration records, which shall contain the actual dates of occupancy, total number of guests per party per stay, and the rate(s) charged, but shall not contain any personally identifiable information about guests. Such records shall be maintained for three (3) years and shall be provided to the City upon request.
 - (12) *Health and Safety.* The owner shall ensure that each dwelling unit governed by this section complies with the applicable provisions of the Unified Development Code Chapter 173, Building Regulations.
 - (13) *Criminal Activity.* The owner shall timely report any known or reasonably suspected criminal activity by a guest to the Fayetteville Police Department within twelve (12) hours maximum.
 - (14) *Taxes and Fees.* Except for those instances in which a hosting platform bears the responsibility for collecting and remitting taxes and fees applicable to short-term rentals, the property owner shall timely remit in full Fayetteville Hotel, Motel and Restaurant tax and other applicable local, state, and federal taxes and city fees owed in connection with any short-term rental. The failure of a hosting platform to collect and remit taxes and fees shall not relieve an owner of the obligation to pay taxes and fees owed pursuant to this section.
 - (15) *Authorization to Occupy, Use, and Operate.* Authorization to operate a short-term rental may be granted by the Development Services Director through the issuance of a City of Fayetteville Business Registry and License (Business License).
 - (16) *Density For Type 2 Short-Term Rentals.* A city-wide density cap of 2% of all dwelling units in the Fayetteville city limits may be utilized as Type 2 rentals. Total dwelling units are determined from current United States Census Bureau and/or American Community Survey numbers, whichever number is higher. A conditional use permit may not permit:
 - (a) More Type 2 short-term rentals than what is allowed by the city-wide density cap. Type 2 short-term rentals in commercial and mixed-use zoning districts where hotel/motels are permitted by right shall not contribute to the city-wide density cap.
 - (b) More than 10% or a single unit whichever is greater; of total dwelling units as Type 2 rentals within a multi-family dwelling complex.
 - (c) Individual 2-, 3- and 4-family buildings that are owned by the same person or entity and are not a part of a multi-family complex shall have no more than one (1) Type 2 short-term rental unit per building complex.
 - (d) Where attached residential units are held separately through condominium association, horizontal property regime, fee simple, or similar ownership structure, no cap shall be applied to buildings with attached residential dwellings. Structures of attached residential dwellings where applicants seek more than 10% of total units for licensing as Type 2 rentals shall be evaluated by the Building Safety Director and/or Fire Marshal for adequate fire protection as defined by the adopted Arkansas Fire Prevention Code. Where inadequate fire protection is identified, improvements may be required prior to issuance of a business license.
 - (17) *Suspension and Revocation.* If the Development Services Director has reason to believe that any of the grounds specified in §118.03(A) of the Fayetteville Code exist, or that any rental unit was rented for less than one (1) full night, or to more than one (1) part of guests for the same period of time, or otherwise failed to comply with all terms and conditions of this section, the Development Services Director may suspend or revoke the short-term rental's business license pursuant to the procedures detailed in §118.03 and in §118.04 of the Fayetteville Code.
 - (20) Short-term rentals must comply with all applicable codes under Unified Development Code §163.18 and § 164.26 successfully obtain a business license prior to operation.
- (Ord. No. 6427 , §§1(Exh. A), 2, 4-20-21; Ord. No. 6505 , §1(Exh. A), 11-16-21; Ord. No. 6521 , §§1, 2, 1-18-22; Ord. No. 6537 , §1(Exh. A), 2-15-22)

163.18 Type 2 Short-Term Rentals in Residential Zoning Districts

- (A) *Residential Zoning Districts.* Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts:

- 1) R-A
- 2) RSF-.5
- 3) RSF-1
- 4) RSF-2
- 5) RSF-4
- 6) RSF-7
- 7) RSF-8
- 8) RSF-18
- 9) RI-12
- 10) RI-U
- 11) RMF-6
- 12) RMF-12
- 13) RMF-18
- 14) RMF-24
- 15) RMF-40
- 16) NC

Short term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district.

Short-term rentals in non-residential zoning districts, mixed use zoning districts, or other zoning districts not listed above are not required to apply for a conditional use permit.

- (B) *Occupancy.* Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.
- (C) *Parking.* Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.
- (D) Special events are not permitted in a short-term rental. Example of special events include, but are not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars.
- (E) Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.
- (F) *Exceptions.* Exceptions to the short-term rental standards, except proposals that would exceed the city-wide density maximum, may be granted by the Planning Commission as a conditional use permit.
- (G) Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.
- (H) Short-term rentals in residential zoning districts may be subject to denial or additional conditions based upon the Planning Commission's findings on the following factors:
- 1) Adequate parking infrastructure;
 - 2) Adequate adjoining or nearby streets for on-street parking;
 - 3) Frequency or concentration of nearby licensed Type 2 short-term rentals; and
 - 4) Prior zoning or code violations

(Ord. No. 6427 , §§1(Exh. E), 2, 4-20-21; Ord. No. 6505 , §2(Exh. B), 11-16-21; Ord. No. 6537 , §2(Exh. B), 2-15-22)

161.07 District RSF-4, Residential Single-Family - Four (4) 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
Unit 46	Short-term rentals

(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 12a	Limited business
Unit 24	Home occupations
Unit 36	Wireless communications facilities
Unit 44	Cluster Housing Development

(C) *Density.*

	Single-family dwellings	Two (2) family dwellings
Units per acre	4 or less	7 or less

(D) *Bulk and Area Regulations.*

	Single-family dwellings	Two (2) family dwellings
Lot minimum width	70 feet	80 feet
Lot area minimum	8,000 square feet	12,000 square feet
Land area per dwelling unit	8,000 square feet	6,000 square feet
Hillside Overlay District Lot minimum width	60 feet	70 feet
Hillside Overlay District Lot area minimum	8,000 square feet	12,000 square feet
Land area per dwelling unit	8,000 square feet	6,000 square feet

(E) *Setback Requirements.*

Front	Side	Rear
15 feet	5 feet	15 feet

(F) *Building Height Regulations.*

Building Height Maximum	3 stories
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(G) *Building Area*. On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot. Accessory ground mounted solar energy systems shall not be considered buildings.

(Code 1991, §160.031; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 4858, 4-18-06; Ord. No. 5028, 6-19-07; Ord. No. 5128, 4-15-08; Ord. No. 5224, 3-3-09; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; Ord. No. 5921, §1, 11-1-16; Ord. No. 5945, §8, 1-17-17; Ord. No. 6015, §1(Exh. A), 11-21-17; Ord. No. 6245, §2, 10-15-19; Ord. No. 6427, §§1(Exh. C), 2, 4-20-21)

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."



Weekender Management, Inc.
1202 NE McClain Rd, Bldg 7
Bentonville, AR 72712
www.weekendermanagement.com
(479) 364-6756
garrett@weekendermanagement.com

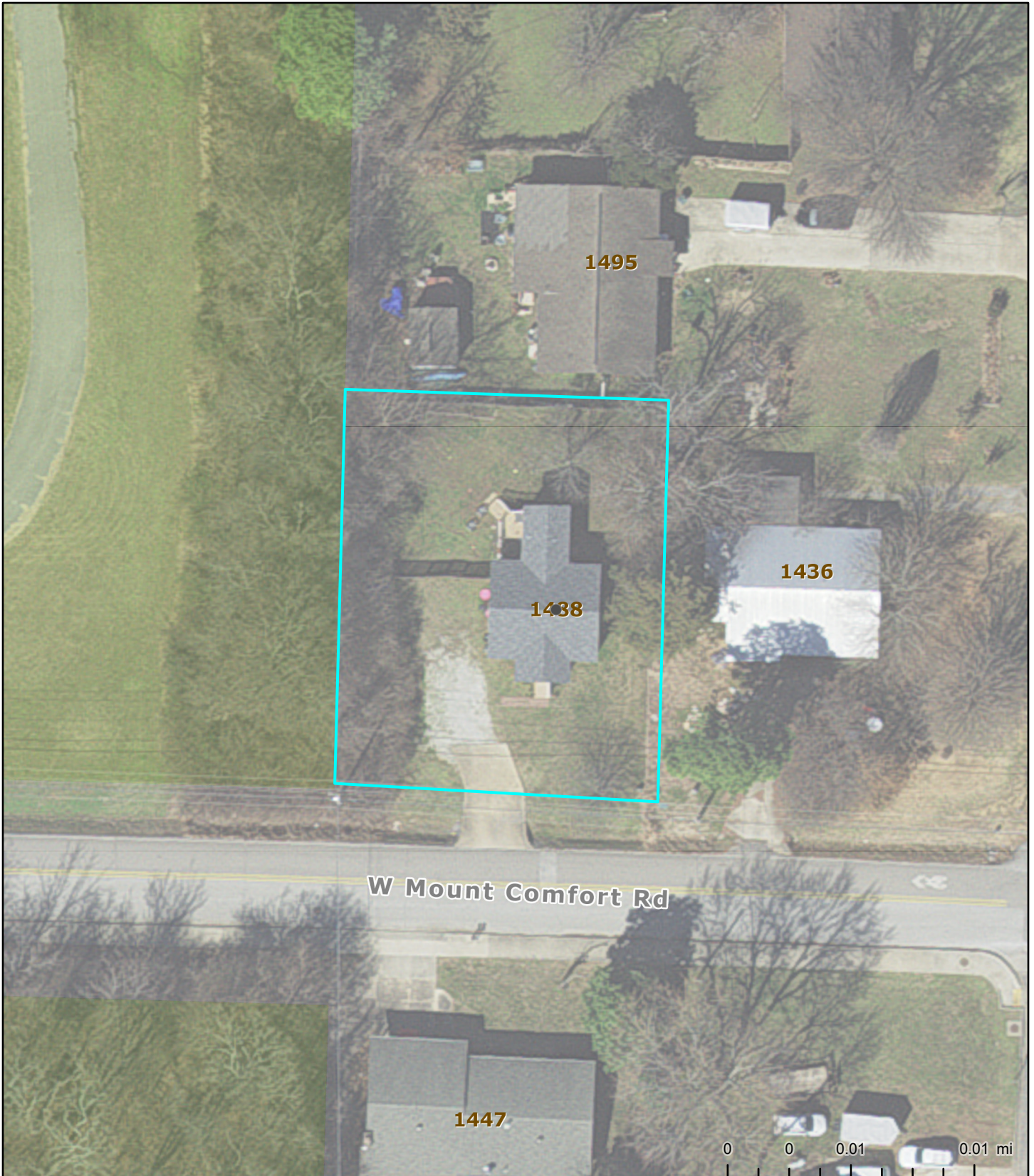
To the Fayetteville Planning Commission:

1. Payment made in full
2. Residential Single-Family – Four Units per Acre, 1488 West Mount Comfort Road.
3. On behalf of the property owner, we are applying for a conditional use permit from the city of Fayetteville for a property that once served as the owner's primary residence. We are seeking to obtain a short-term rental Type 2 permit. Neither we nor the owner will be residing in the residence. The property will be used for a nightly rental.
 - a. The home is 900 square feet.
 - b. The home is one floor. It contains a kitchen, a living space, and two bedrooms.
 - c. The home has a driveway to its side that has sufficient room to park at least four cars. This is where we anticipate guests parking. We do not plan to allow our guests to park on the street.
 - d. This home will not have operating hours or employees. It will be in use whenever it is being rented. In accordance with the property's size and Fayetteville city ordinances, we will limit the number of guests that can stay on the property to five.
 - e. Outdoor lighting: There is an exterior light at the front door, as well as exterior lighting in the rear of the home.
 - f. The property will be used for short stays of 1–5 people, so the noise level should be minimal. We also intend to install noise monitors on the property, so that we can immediately respond should any guest become too noisy.
 - g. Significant distance separates this home from the nearest home, greatly diminishing the possibility of disturbance to neighbors.
 - h. The city currently services the solid waste needs of the property. We plan to continue this service and do not anticipate this property needing any services beyond what is typical for other single-family homes in the area.
 - i. West Mount Comfort Road provides ingress and egress to the property. The property does not add additional traffic on the road because guests will be limited to five at a maximum and the road is already relatively busy.
4. The site plan is attached as a separate document.
5. The floor plan is attached as a separate document.
6. A copy of the county parcel map from the Washington County Assessor's office website is attached as a separate document.
7. The signed document authorizing us to act on behalf of the owner is attached as a separate document.

Very Respectfully,

Richard Garrett Ham

Richard "Garrett" Ham, Jr.
Principal Broker and CEO



CUP-2022-0120 Exhibit
Fayetteville, AR

The data contained herein was compiled from various sources for the sole use and benefit of the City of Fayetteville Geographic Information System and the public agencies it serves. Any use of the data by anyone other than the City of Fayetteville is at the sole risk of the user; and by acceptance of this data, the user does hereby agree to indemnify the City of Fayetteville and hold the City of Fayetteville harmless from and without liability for any claims, actions, cost for damages of any nature, including the city's cost of defense, asserted by user or by another arising from the use of this data. The City of Fayetteville makes no express or implied warranties with reference to the data. No word, phrase, or clause found herein shall be construed to waive that tort immunity set forth under Arkansas law.

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Map Author:

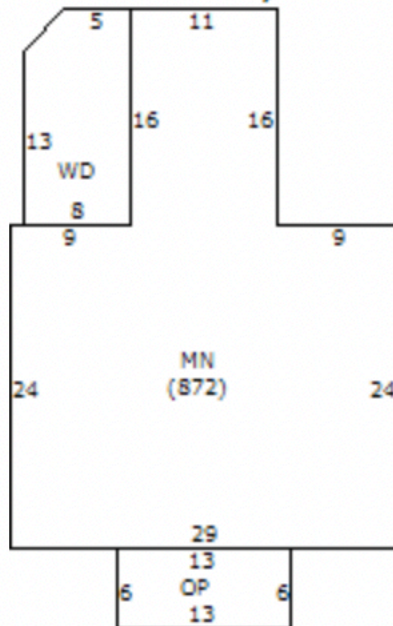
Planning Commission

January 23, 2023

CUP-2022-0120 (NEWMANN)

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DataScout, LLC









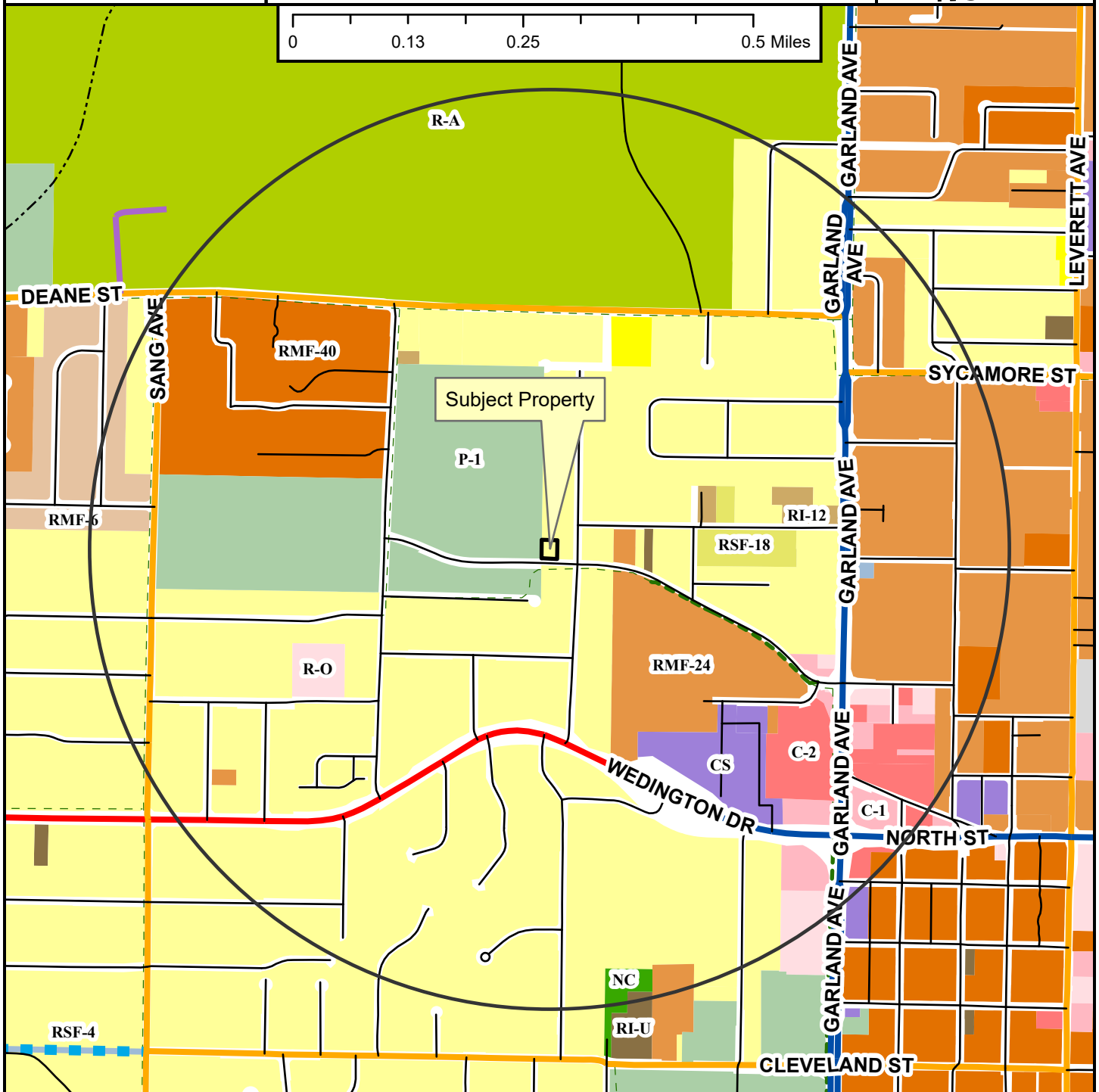
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One Mile View

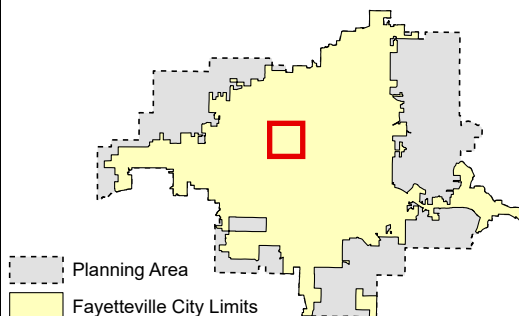
1488 W. MOUNT COMFORT RD



0 0.13 0.25 0.5 Miles



- Regional Link
- Neighborhood Link
- Institutional Master Plan
- Regional Link - High Activity
- Unclassified
- Alley
- Residential Link
- Planned Residential Link
- Shared-Use Paved Trail
- Trail (Proposed)
- Design Overlay District
- Fayetteville City Limits
- Planning Area



Planning Area
Fayetteville City Limits

- Zoning**
- RESIDENTIAL SINGLE-FAMILY**
 - NS-G
 - RI-U
 - RI-12
 - NS-L
 - Residential-Agricultural
 - RSF-5
 - RSF-1
 - RSF-2
 - RSF-4
 - RSF-7
 - RSF-8
 - RSF-18
 - RESIDENTIAL MULTI-FAMILY**
 - RMF-6
 - RMF-12
 - RMF-13
 - 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

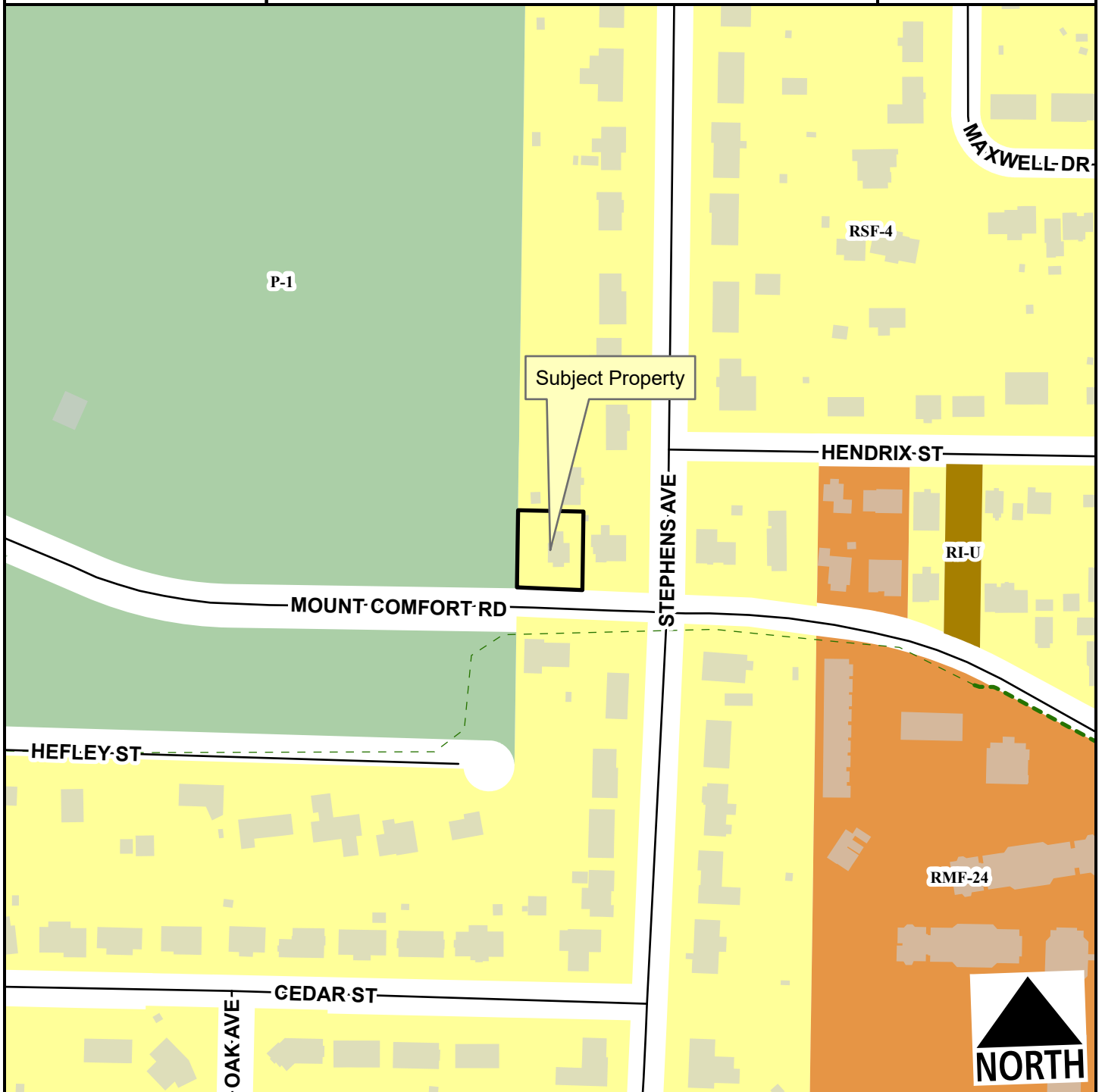
Planning Commission
January 23, 2023

CUP-2022-0120 (NEWMANN)

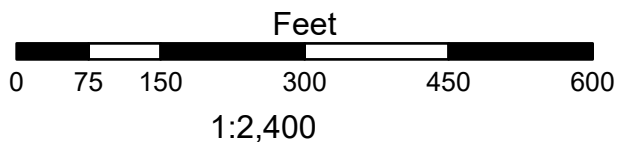
CUP-2022-0120

1488 W. MOUNT COMFORT RD

Close Up View



- Residential Link
- Planning Area
- Fayetteville City Limits
- Shared-Use Paved Trail
- Trail (Proposed)



- RSF-4
- RI-U
- RMF-24
- P-1

CUP-2022-0120

1488 W. MOUNT COMFORT RD

Current Land Use



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



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Ryan Umberger, Senior Planner

MEETING DATE: January 23, 2023

SUBJECT: **CUP-2022-0121: Conditional Use Permit (3200 W. SHALE ST/FIELDS, 401):** Submitted by WEEKENDER MANAGEMENT, for property located at 3200 W. SHALE ST. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY – TWENTY-FOUR UNITS PER ACRE and contains approximately 0.17 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:

Staff recommends approval of **CUP-2022-0121** with conditions as outlined by staff.

RECOMMENDED MOTION:

*"I move to approve **CUP-2022-0121**, determining:*

- In favor of compatibility with adjacent properties, and*
- In favor of all other conditions as recommended by staff."*

BACKGROUND:

The subject property is in west Fayetteville approximately ¼ of a mile northwest of the intersection of Wedington Drive and Salem Road in the Walnut Heights Subdivision. The property contains one parcel totaling 0.17 acres and is currently developed with a three-bedroom, single-family dwelling which was built in 1992. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals. This report reflects those new changes for consideration. Surrounding land use and zoning are depicted in *Table 1*.

Table 1:
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Single-Family Residential	RMF-24, Residential Multi-Family, 24 Units per Acre
South	Single-Family Residential	RMF-24, Residential Multi-Family, 24 Units per Acre
East	Single-Family Residential	RMF-24, Residential Multi-Family, 24 Units per Acre
West	Single-Family Residential	RMF-24, Residential Multi-Family, 24 Units per Acre

City Plan 2040 Future Land Use Designation: **Residential Neighborhood Area.**

Proposal: The applicant requests conditional use permit approval to use the property as a Type 2 short-term rental, which are those not occupied by a permanent resident. Type 2 short-term

rentals are subject to density limitations, including a 2% citywide cap, and restrictions on the number of units that may be used as a short-term rental in multi-family dwelling complexes.

Public Comment: Staff has not received any public comment regarding this request.

RECOMMENDATION: Staff recommends approval of **CUP-2022-0121**, with the following conditions;

Conditions of Approval:

1. **Planning Commission determination of compatibility.** *Staff finds the proposed short-term rental to be compatible with the neighborhood based on the findings in this report;*
2. Approval of the conditional use permit does not ensure approval of a business license application. The applicant must still be able to comply with all other applicable requirements in the development code.
3. Per §166.20, Expiration of Approved Plans and Permits, a business license must be obtained within 1 year of conditional use permit approval.
4. Per ordinance, the number of occupants is limited to a maximum of two people per bedroom, plus two, for the entire unit when the property is operated as a short-term rental.
5. Special events including, but not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars are prohibited from occurring in the short-term rental.
6. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.
7. All trash receptacles shall be screened from view of the right-of-way.
8. All outdoor lighting shall meet requirements as outlined in §176, Outdoor Lighting.
9. Any signage shall meet the requirements as outlined in §174, Signage.

PLANNING COMMISSION ACTION:				Required	<u>YES</u>
Date: <u>January 23, 2023</u>		☐ Tabled	☐ Approved	☐ Denied	
Motion:					
Second:					
Vote:					

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

1. Hear and decide only such special exemptions as it is specifically authorized to pass on by the terms of this chapter.
2. Decide such questions as are involved in determining whether a conditional use should be granted; and,
3. Grant a conditional use with such conditions and safeguards as are appropriate under this chapter; or
4. Deny a conditional use when not in harmony with the purpose and intent of this chapter.

C. A conditional use shall not be granted by the Planning Commission unless and until:

1. A written application for a conditional use is submitted indicating the section of this chapter under which the conditional use is sought and stating the grounds on which it is requested.

Finding: The applicant has submitted a written application requesting a conditional use permit for a Type 2 short-term rental in the RMF-24 zoning district.

2. The applicant shall pay a filing fee as required under Chapter 159 to cover the cost of expenses incurred in connection with processing such application.

Finding: The applicant has paid the required filing fee.

3. The Planning Commission shall make the following written findings before a conditional use shall be issued:

(a.) That it is empowered under the section of this chapter described in the application to grant the conditional use; and

Finding: The Planning Commission is empowered under Unified Development Code §118.01(E)(2) to grant the requested conditional use permit.

(b.) That the granting of the conditional use will not adversely affect the public interest.

Finding: Staff finds that granting the requested conditional use is unlikely to negatively affect the public interest, given the applicable business license requirements including a required building safety inspection, and applicable density caps on Type 2 short-term rentals.

(c.) The Planning Commission shall certify:

(1.) Compliance with the specific rules governing individual conditional uses; and

Finding: There are specific rules governing Short-Term Rentals, as follows:

§163.18 - SHORT-TERM RENTALS

A. General Standards.

(1) *Residential Zoning Districts.* Residential Zoning Districts. Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts: R-A, RSF-.5, RSF-1, RSF-2, RSF-4, RSF-7, RSF-8, RSF-18, RI-12, RI-U, RMF-6, RMF-12, RMF-18, RMF-24, RMF-40, NC. Short term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district. Short-term rentals in non-residential zoning districts, mixed use zoning districts, or other zoning districts not listed above are not required to apply for a conditional use permit.

Finding: The request is to operate a Short-Term Rental, Use Unit 46, in zoning. The request is to operate a Type 2 short-term rental in the RMF-24 zoning district, which requires a conditional use permit.

(2) *Occupancy.* Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.

Finding: Occupancy is limited as described in UDC §163.18(A)(3). Occupancy limitations are confirmed by the applicant during licensing. Since the dwelling has three bedrooms, the short-term rental would be limited to eight guests.

(3) *Parking.* Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.

Finding: Staff recommends parking is limited as described in UDC §163.18(A)(4). Single-family homes are required to provide parking at a rate of two per dwelling. According to the applicant four vehicles can be accommodated in the existing driveway and attached two-stall garage.

(4) Special events are not permitted in a short-term rental. Example of special events include, but are not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars.

Finding: The application letter suggests the property will comply with the City's regulations for a short-term rental. As a condition of approval, staff recommends a prohibition on special events.

(5) Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer,

other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

Finding: **The application is for use of the property at 3200 W. Shale St. Staff recommends a condition confirming that no recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.**

(6) Exceptions. Exceptions to the short-term rental standards, except proposals that would exceed the city-wide density maximum, may be granted by the Planning Commission as a conditional use permit.

Finding: **Type 2 short-term rentals are subject to a citywide density cap at 2% of total dwelling units, as determined by United States Census Bureau data. Recently released 5-year American Community Survey data from 2021 lists total housing units in Fayetteville at 44,706, which puts the cap at 894 total Type 2 short-term rentals. To date, the City has issued 301 Type 2 short-term rental licenses that are subject to this cap. Hotel and motel uses are not permitted by right in RMF-24 zoning, so this short-term rental would contribute to the city-wide density cap.**

(7) Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.

Finding: **This short-term rental would be subject to all regulations in City Code §118.01 that apply to Type 2 short-term rentals in residential zoning districts. Applicable business licensing requirements will be reviewed by staff and confirmed by the applicant at the time of licensing.**

(8) Short-term rentals in residential zoning districts may be subject to denial or additional conditions based upon the Planning Commission's findings on the following factors:

- 1) Adequate parking infrastructure;
- 2) Adequate adjoining or nearby streets for on-street parking;
- 3) Frequency or concentration of nearby licensed Type 2 short-term rentals; and
- 4} Prior zoning or code violations.

Finding: **There appears to be adequate parking available to support the use of the property as a short-term rental based on the applicant's submittal. A total of four spaces are available in the existing driveway and attached garage. On-street parking is available along W. Shale Street. Within ¼ mile of the property city business license records indicate there is a single Type 1 and one Type 2 rental business license. There are no active or prior zoning code violations at the subject address.**

§163.02, AUTHORITY; CONDITIONS; PROCEDURES. (continued)

- (2.) That satisfactory provisions and arrangements have been made concerning the following, where applicable:

- (a.) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe;

Finding: The subject property has access to W. Shale Street, a Residential Link Street at this location. Staff finds that the proposal will not adversely affect traffic flows considering the use of the property would be limited to a maximum of eight guests, which would not be out of character with use of the property for residential purposes. Sidewalk is present at the back of curb along the property's street frontage.

- (b.) Off-street parking and loading areas where required, with particular attention to ingress and egress, economic, noise, glare, or odor effects of the special exception on adjoining properties and properties generally in the district;

Finding: The applicant has indicated that there are four guest vehicle parking spaces available in the driveway. The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district.

- (c.) Refuse and service areas, with particular reference to ingress and egress, and off-street parking and loading,

Finding: The applicant proposes to utilize existing residential trash cart service. Staff recommends that the containers should be screened from public view when not at the curb for residential pick-up.

- (d.) Utilities, with reference to locations, availability, and compatibility;

Finding: Utilities are currently available to the site and the use as a short-term rental is not anticipated to impact the provision of utilities.

- (e.) Screening and buffering with reference to type, dimensions, and character;

Finding: Staff recommends that residential carts be screened so that they are not visible from the public right-of-way.

- (f.) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;

Finding: Any proposed signage will be subject to Unified Development Code section 174 – Signs, and all the regulations therein.

(g.) Required yards and other open space; and

Finding: Based on the applicant's submittal, the structure appears to be meeting relevant setbacks.

(h.) General compatibility with adjacent properties and other property in the district.

Finding: Staff finds the use to be compatible with surrounding properties. The property appears to have adequate parking to accommodate overnight guests, trash containers are screened, and minimal disruptions are expected for neighbors.

BUDGET/STAFF IMPACT:

None

Attachments:

- Business Regulations
 - §118.01 Applicability
- Unified Development Code
 - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
 - §161.16 District RMF-24, Residential Multi-Family – Twenty Four (24) Units Per Acre
- Applicant Request Letter
- Building Floor Plan
- Building Elevations
- One Mile Map
- Close-Up Map
- Current Land Use Map

118.01 Applicability

- (E) *Short-Term Rentals.* A residential dwelling unit, portion of a dwelling unit, or bedroom within a residential dwelling unit, leased and/or rented to a guest(s), for a period of less than thirty consecutive (30) days.
- (1) *Short-Term Rental, Type 1.* A short-term rental where the principal use of the property remains as a full-time residence. The occupants or owner rent their primary residence as a short-term rental. A copy of the Homestead Tax Credit or long-term lease agreement for the subject property is required to be classified as a Type 1 rental. The occupant or owner must occupy the residence for nine (9) months of the year. Accessory dwelling units (ADUs) as defined in Unified Development Code Chapter 151 shall be considered a Type 1 short-term rental.
 - (2) *Short-Term Rental, Type 2.* A short-term rental that is not occupied by a permanent resident. The owner lists this property full-time as a short-term rental and has no intention of having permanent residents living in the property. A conditional use permit is required for a Type 2 short-term rental in a residential zoning district prior to the city issuing a business license.
 - (3) *License Required.* No dwelling unit in the city shall be used as a short-term rental unless:
 - (a) The owner of the dwelling unit or operator of the short-term rental possess a valid and current business license for the dwelling unit, and fully complies with all legal requirements and duties imposed herein with respect to each and every short-term rental; and
 - (b) The owner has designated an agent, where said agent fully complies with all legal requirements and duties imposed herein with respect to every short-term rental. The owner may serve as their own agent.
 - (c) The owner of the dwelling unit or operator of the short-term rental provides proof of a valid and current homeowners insurance rider policy which fully covers each unit when operated as short-term rental unit.
 - (4) A separate business license shall be required for each dwelling unit used as a short-term rental.
 - (5) Any change in ownership requires a new or amended business license.
 - (6) If any required contact information changes for the associated business license, the person to whom the license was issued shall immediately notify the Development Services Department in writing.
 - (7) *License Application.* The application for a business license shall include at minimum, the following information from applicants:
 - (a) The property owner's information including legal name, mailing address, immediate contact phone number, and immediate contact E-mail address.
 - (b) Information for the dwelling unit subject to the application, inclusive of the physical street address assigned by the city.
 - (c) The type and total number of dwelling units located on the lot of record containing the dwelling unit subject to the application.
 - (d) If the owner is not their own agent, the owner designated agent's information including legal name, mailing address, immediate contact phone number and immediate contact E-mail address.
 - (e) Documentation of approval of a life safety and egress inspection by the City Building Safety Division for the dwelling unit subject to the application.
 - (f) Proof of application for remittance of hotel, motel and restaurant tax to the City of Fayetteville, and verification that all sales, use, and hotel, motel and restaurant taxes are current.
 - (g) Any additional data as deemed necessary or desirable for permit approval by the Development Services Director.
 - (8) *License Renewals.* Business licenses for short-term rentals shall be renewed in accordance with Chapter 118 of the Business Regulations (Business Registry and Licenses).
 - (11) *Legal Duties of License Holders.* An owner possessing a short-term rental license shall comply at all times with the following requirements:
 - (a) *Occupancy.* Short-term rentals shall be subject to, and may not exceed, the occupancy limits approved with the business license.
 - (b) *Advertisements.* A short-term rental shall not be advertised if it violates occupancy, density, safety, and any of the other provisions of the Fayetteville Code. No short-term rental unit shall be advertised prior to having obtained a business license and the business license number shall be included in the advertisement listing.
 - (c) *Information and Posting.* Business licensees shall provide to guests and post conspicuously in the common area of the short-term rental unit the city phone number to report a safety complaint.
 - (10) *Owner or Agent Accessibility.* The property owner shall ensure that they or a designated agent are available at all times during guest occupancy, including nights and weekends, in order to facilitate

compliance with this section. For the purposes of these regulations, 'availability' means that the owner or agent is accessible by telephone, and, able to be physically present at the short-term rental within three (3) hours of being contacted.

- (11) *Guest Records.* The owner shall maintain summary guest registration records, which shall contain the actual dates of occupancy, total number of guests per party per stay, and the rate(s) charged, but shall not contain any personally identifiable information about guests. Such records shall be maintained for three (3) years and shall be provided to the City upon request.
 - (12) *Health and Safety.* The owner shall ensure that each dwelling unit governed by this section complies with the applicable provisions of the Unified Development Code Chapter 173, Building Regulations.
 - (13) *Criminal Activity.* The owner shall timely report any known or reasonably suspected criminal activity by a guest to the Fayetteville Police Department within twelve (12) hours maximum.
 - (14) *Taxes and Fees.* Except for those instances in which a hosting platform bears the responsibility for collecting and remitting taxes and fees applicable to short-term rentals, the property owner shall timely remit in full Fayetteville Hotel, Motel and Restaurant tax and other applicable local, state, and federal taxes and city fees owed in connection with any short-term rental. The failure of a hosting platform to collect and remit taxes and fees shall not relieve an owner of the obligation to pay taxes and fees owed pursuant to this section.
 - (15) *Authorization to Occupy, Use, and Operate.* Authorization to operate a short-term rental may be granted by the Development Services Director through the issuance of a City of Fayetteville Business Registry and License (Business License).
 - (16) *Density For Type 2 Short-Term Rentals.* A city-wide density cap of 2% of all dwelling units in the Fayetteville city limits may be utilized as Type 2 rentals. Total dwelling units are determined from current United States Census Bureau and/or American Community Survey numbers, whichever number is higher. A conditional use permit may not permit:
 - (a) More Type 2 short-term rentals than what is allowed by the city-wide density cap. Type 2 short-term rentals in commercial and mixed-use zoning districts where hotel/motels are permitted by right shall not contribute to the city-wide density cap.
 - (b) More than 10% or a single unit whichever is greater; of total dwelling units as Type 2 rentals within a multi-family dwelling complex.
 - (c) Individual 2-, 3- and 4-family buildings that are owned by the same person or entity and are not a part of a multi-family complex shall have no more than one (1) Type 2 short-term rental unit per building complex.
 - (d) Where attached residential units are held separately through condominium association, horizontal property regime, fee simple, or similar ownership structure, no cap shall be applied to buildings with attached residential dwellings. Structures of attached residential dwellings where applicants seek more than 10% of total units for licensing as Type 2 rentals shall be evaluated by the Building Safety Director and/or Fire Marshal for adequate fire protection as defined by the adopted Arkansas Fire Prevention Code. Where inadequate fire protection is identified, improvements may be required prior to issuance of a business license.
 - (17) *Suspension and Revocation.* If the Development Services Director has reason to believe that any of the grounds specified in §118.03(A) of the Fayetteville Code exist, or that any rental unit was rented for less than one (1) full night, or to more than one (1) part of guests for the same period of time, or otherwise failed to comply with all terms and conditions of this section, the Development Services Director may suspend or revoke the short-term rental's business license pursuant to the procedures detailed in §118.03 and in §118.04 of the Fayetteville Code.
 - (20) Short-term rentals must comply with all applicable codes under Unified Development Code §163.18 and § 164.26 successfully obtain a business license prior to operation.
- (Ord. No. 6427 , §§1(Exh. A), 2, 4-20-21; Ord. No. 6505 , §1(Exh. A), 11-16-21; Ord. No. 6521 , §§1, 2, 1-18-22; Ord. No. 6537 , §1(Exh. A), 2-15-22)

163.18 Type 2 Short-Term Rentals in Residential Zoning Districts

- (A) *Residential Zoning Districts.* Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts:

- 1) R-A
- 2) RSF-.5
- 3) RSF-1
- 4) RSF-2
- 5) RSF-4
- 6) RSF-7
- 7) RSF-8
- 8) RSF-18
- 9) RI-12
- 10) RI-U
- 11) RMF-6
- 12) RMF-12
- 13) RMF-18
- 14) RMF-24
- 15) RMF-40
- 16) NC

Short term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district.

Short-term rentals in non-residential zoning districts, mixed use zoning districts, or other zoning districts not listed above are not required to apply for a conditional use permit.

- (B) *Occupancy.* Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.
- (C) *Parking.* Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.
- (D) Special events are not permitted in a short-term rental. Example of special events include, but are not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars.
- (E) Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.
- (F) *Exceptions.* Exceptions to the short-term rental standards, except proposals that would exceed the city-wide density maximum, may be granted by the Planning Commission as a conditional use permit.
- (G) Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.
- (H) Short-term rentals in residential zoning districts may be subject to denial or additional conditions based upon the Planning Commission's findings on the following factors:
- 1) Adequate parking infrastructure;
 - 2) Adequate adjoining or nearby streets for on-street parking;
 - 3) Frequency or concentration of nearby licensed Type 2 short-term rentals; and
 - 4) Prior zoning or code violations

(Ord. No. 6427 , §§1(Exh. E), 2, 4-20-21; Ord. No. 6505 , §2(Exh. B), 11-16-21; Ord. No. 6537 , §2(Exh. B), 2-15-22)

161.16 District RMF-24, Residential Multi-Family - Twenty-Four (24) Units Per Acre

(A) *Purpose.* The RMF-24 Multi-family Residential District is designed to permit and encourage the developing of a variety of dwelling types in suitable environments in a variety of densities.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 26	Multi-family dwellings
Unit 41	Accessory dwellings
Unit 44	Cluster Housing Development
Unit 46	Short-term rentals

(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 11	Manufactured home park
Unit 12a	Limited business
Unit 24	Home occupations
Unit 25	Professional offices
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	24 or less
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(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

Manufactured home park	100 feet
Lot within a Manufactured home park	50 feet
Single-family	35 feet
Two-family	35 feet
Three or more	70 feet
Professional offices	100 feet

(2) *Lot Area Minimum.*

Manufactured home park	3 acres
Lot within a mobile home park	4,200 square feet
Townhouses: Individual lot	2,000 square feet
Single-family	3,000 square feet
Two (2) family	4,000 square feet
Three (3) or more	7,000 square feet
Fraternity or Sorority	2 acres
Professional offices	1 acres

(3) *Land Area Per Dwelling Unit.*

Manufactured Home	3,000 square feet
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(E) *Setback Requirements.*

Front	Side Other Uses	Side Single & Two (2) Family	Rear Other Uses	Rear Single Family
A build-to zone that is located between the front property line and a line 25 feet from the front property line.	8 feet	5 feet	20 feet	5 feet

(F) *Building Height Regulations.*

Building Height Maximum	2 stories/3 stories/5 stories*
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* A building or a portion of a building that is located between 0 and 10 feet from the front property line or any master street plan right-of-way line shall have a maximum height of two (2) stories, between 10—20 feet from the master street plan right-of-way a maximum height of three (3) stories and buildings or portions of the building set back greater than 20 feet from the master street plan right-of-way shall have a maximum height of 5 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 side 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) *Building Area.* The area occupied by all buildings shall not exceed 50% of the total lot area. Accessory ground mounted solar energy systems shall not be considered buildings.

(H) *Minimum Buildable Street Frontage.* 50% of the lot width.

(Code 1965, App. A., Art. 5(III); Ord. No. 2320, 4-6-77; Ord. No. 2700, 2-2-81; Code 1991, §160.033; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 5028, 6-19-07; Ord. No. 5079, 11-20-07; Ord. No. 5224, 3-3-09; Ord. No. 5262, 8-4-09; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; Ord. No. 5495, 4-17-12; Ord. No. 5592, 6-18-13; Ord. No. 5664, 2-18-14; Ord. No. 5800, §1(Exh. A), 10-6-15; Ord. No. 5921, §1, 11-1-16; Ord. No. 5945, §§5, 8, 9, 1-17-17; Ord. No. 6015, §1(Exh. A), 11-21-17; Ord. No. 6245, §2, 10-15-19; Ord. No. 6427, §§1(Exh. C), 2, 4-20-21)

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."



Weekender Management, Inc.
1202 NE McClain Rd, Bldg 7
Bentonville, AR 72712
www.weekendermanagement.com
(479) 364-6756
garrett@weekendermanagement.com

To the Fayetteville Planning Commission:

1. Payment made in full
2. Residential Multi-Family – Twenty-Four Units per Acre, 3200 West Shale Street of Fayetteville for a property that once served as the owner's primary residence. We are seeking to obtain a short-term rental Type 2 permit. Neither we nor the owners will be residing in the residence. The property will be used for a nightly rental.
 - a. The home is 1,296 square feet.
 - b. The home is one floor. It contains a kitchen, a living space, and three bedrooms.
 - c. The home has a driveway and two car garage, providing sufficient room to park at least four cars. This is where we anticipate guests parking. We do not plan to allow our guests to park on the street.
 - d. This home will not have operating hours or employees. It will be in use whenever it is being rented. In accordance with the property's size and Fayetteville city ordinances, we will limit the number of guests that can stay on the property to no more than eight, though we currently plan to limit occupancy to six.
 - e. Outdoor lighting: There is an exterior light at both the front and back doors.
 - f. The property will be used for short stays of 1–6 people, so the noise level should be minimal. We also intend to install noise monitors on the property, so that we can immediately respond should any guest become too noisy.
 - g. This is a single-family home separated from neighboring homes by a privacy fence, greatly diminishing the possibility of disturbance to neighbors.
 - h. The city currently services the solid waste needs of the property. We plan to continue this service and do not anticipate this property needing any services beyond what is typical for other single-family homes in the area.
 - i. West Shale Street provides ingress and egress to the property. As occupancy of the home will be limited and traffic will be limited to those staying on the property, the property does not add meaningful additional traffic.
3. The site plan is attached as a separate document.
4. The floor plan is attached as a separate document.
5. A copy of the county parcel map from the Washington County Assessor's office website is attached as a separate document.
6. The signed document authorizing us to act on behalf of the owner is attached as a separate document.

Very Respectfully,

Richard Garrett Ham

Richard "Garrett" Ham, Jr.
Principal Broker and CEO

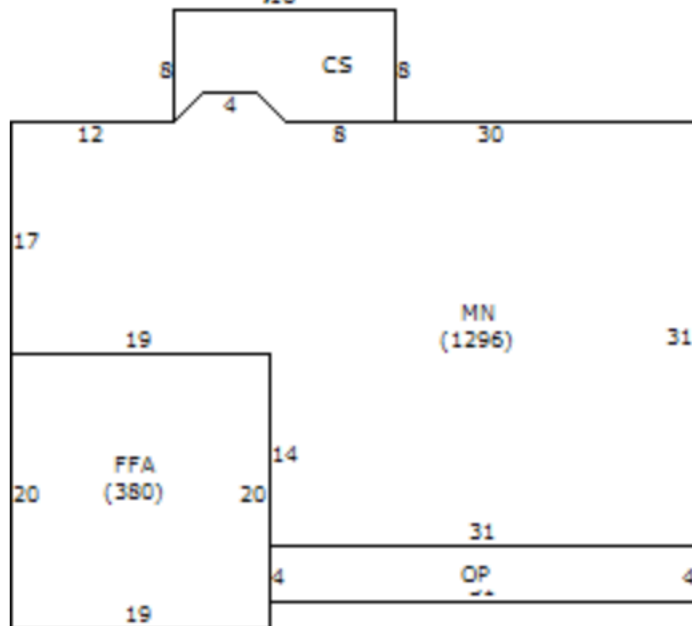


CUP-2022-0121 Exhibit
Fayetteville, AR

The data contained herein was compiled from various sources for the sole use and benefit of the City of Fayetteville Geographic Information System and the public agencies it serves. Any use of the data by anyone other than the City of Fayetteville is at the sole risk of the user; and by acceptance of this data, the user does hereby agree to indemnify the City of Fayetteville and hold the City of Fayetteville harmless from and without liability for any claims, actions, cost for damages of any nature, including the city's cost of defense, asserted by user or by another arising from the use of this data. The City of Fayetteville makes no express or implied warranties with reference to the data. No word, phrase, or clause found herein shall be construed to waive that tort immunity set forth under Arkansas law.

Created: 1/18/2023
Credits: City of Fayetteville, AR, 2022 Imagery | EagleView Technologies |
Surdex Corporation
Map Author:

DataScout_{LLC}







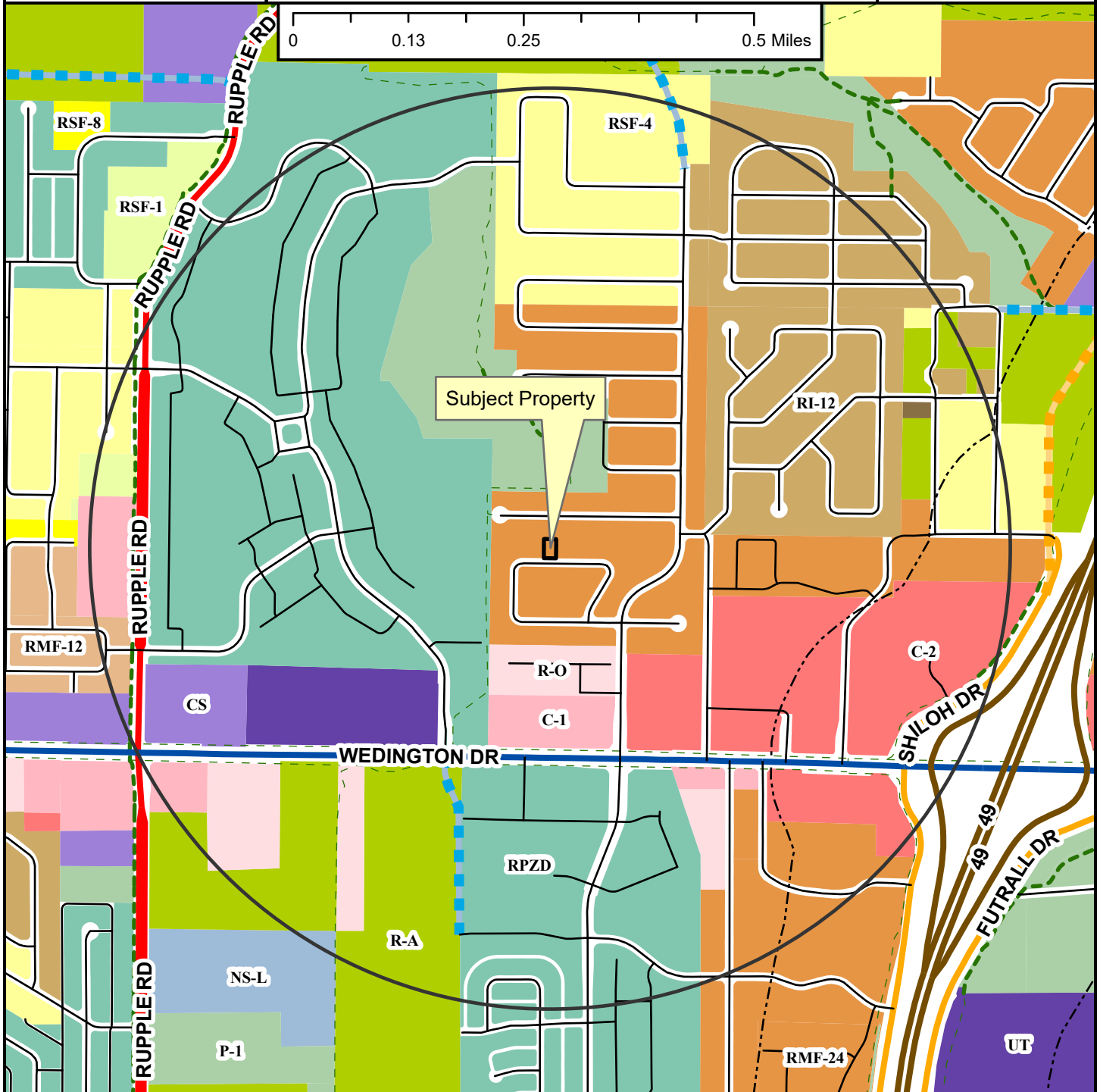
CUP-2022-0121

3200 W. SHALE ST

One Mile View

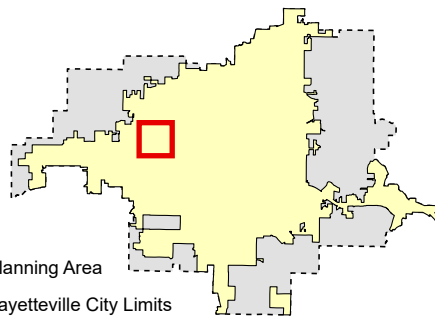


0 0.13 0.25 0.5 Miles



- Regional Link
- Neighborhood Link
- Regional Link - High Activity
- Freeway/Expressway
- Unclassified
- Alley
- Residential Link

Planning Area
Fayetteville City Limits



- Zoning**
- RESIDENTIAL SINGLE-FAMILY**
 - NS-G
 - RI-U
 - RI-12
 - NS-L
 - Residential-Agricultural
 - RSF-5
 - RSF-2
 - RSF-4
 - RSF-7
 - RSF-8
 - RSF-18
 - RESIDENTIAL MULTI-FAMILY**
 - RMF-6
 - RMF-12
 - RMF-13
 - 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

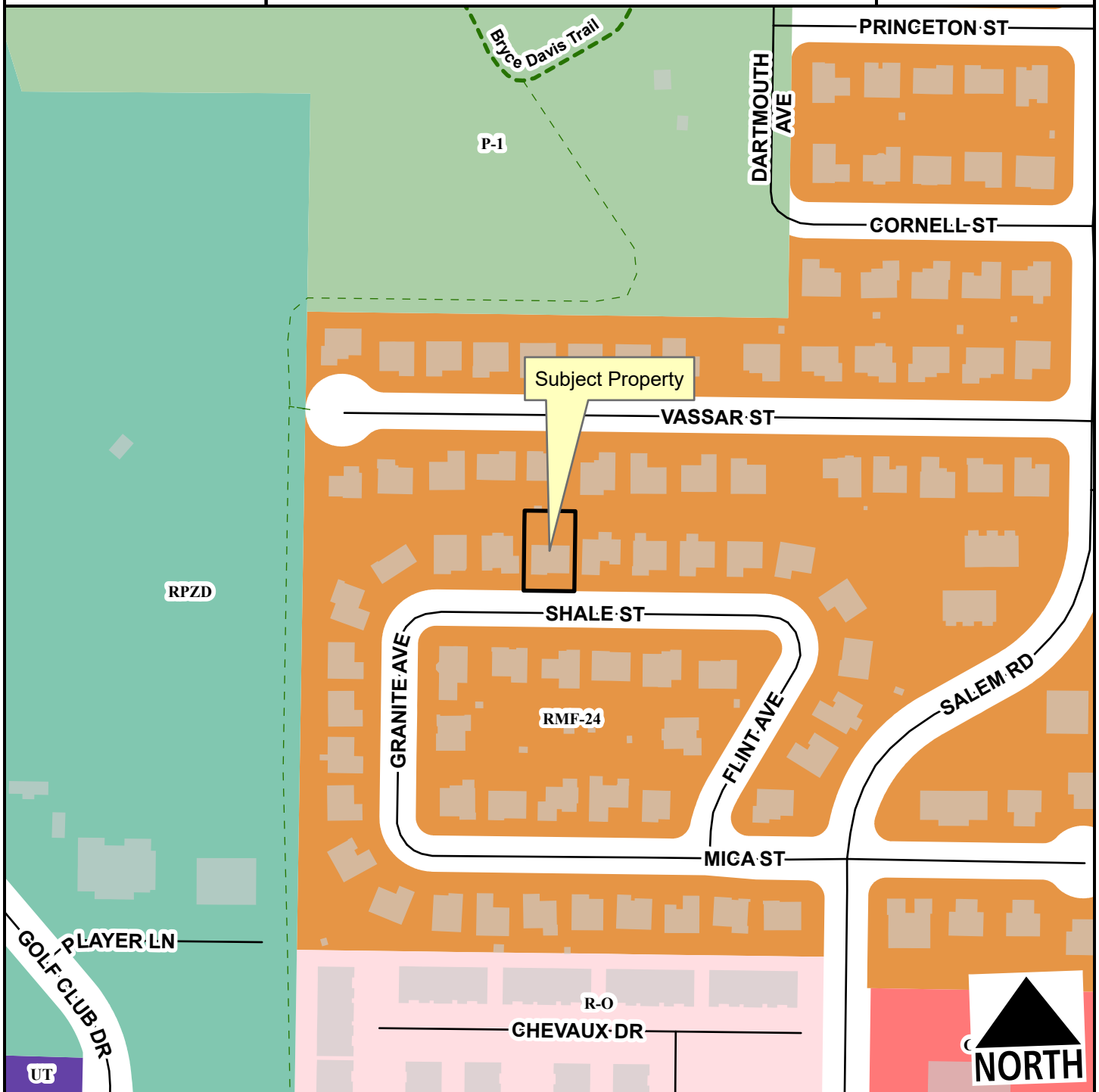
Planning Commission
January 23, 2023

CUP-2022-0121 (FIELDS)

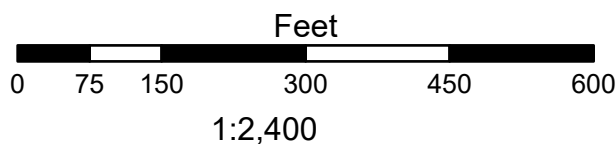
CUP-2022-0121

3200 W. SHALE ST

Close Up View



- Unclassified
- Residential Link
- Planning Area
- Fayetteville City Limits
- Shared-Use Paved Trail
- Trail (Proposed)



- RMF-24
- Residential-Office
- C-2
- Urban Thoroughfare
- Commercial, Industrial, Residential
- P-1

CUP-2022-0121

3200 W. SHALE ST

Current Land Use



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



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Ryan Umberger, Senior Planner

MEETING DATE: January 23, 2023

SUBJECT: **CUP-2022-0129: Conditional Use Permit (215 W. LAFAYETTE ST/BAXTER, 484):** Submitted by JAMES BAXTER, for property located at 215 W. LAFAYETTE ST. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 0.09 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:

Staff recommends approval of **CUP-2022-0129** with conditions as outlined by staff.

RECOMMENDED MOTION:

*"I move to approve **CUP-2022-0129**, determining:*

- In favor of compatibility with adjacent properties, and*
- In favor of all other conditions as recommended by staff."*

BACKGROUND:

The subject property is on the south side of W. Lafayette Street, at the southeast corner of its intersection with N. Rollston Avenue. The property contains one parcel totaling 0.09 acres and is currently developed with a two-bedroom, single-family dwelling which was built in 1941. The property is in the Downtown Design Overlay district and the Downtown Master Plan area. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals. This report reflects those new changes for consideration. Surrounding land use and zoning are depicted in *Table 1*.

Table 1:
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Single-Family Residential	NC, Neighborhood Conservation
South	Single-Family Residential	NC, Neighborhood Conservation
East	Single-Family Residential	NC, Neighborhood Conservation
West	Single-Family Residential	NC, Neighborhood Conservation

City Plan 2040 Future Land Use Designation: **Residential Neighborhood Area.**

Proposal: The applicant requests conditional use permit approval to use the property as a Type 2 short-term rental, which are those not occupied by a permanent resident. Type 2 short-term

rentals are subject to density limitations, including a 2% citywide cap, and restrictions on the number of units that may be used as a short-term rental in multi-family dwelling complexes.

Public Comment: Staff has not received any public comment regarding this request.

RECOMMENDATION: Staff recommends approval of **CUP-2022-0129**, with the following conditions;

Conditions of Approval:

1. **Planning Commission determination of compatibility.** *Staff finds the proposed short-term rental to be compatible with the neighborhood based on the findings in this report;*
2. Approval of the conditional use permit does not ensure approval of a business license application. The applicant must still be able to comply with all other applicable requirements in the development code.
3. Per §166.20, Expiration of Approved Plans and Permits, a business license must be obtained within 1 year of conditional use permit approval.
4. Per ordinance, the number of occupants is limited to a maximum of two people per bedroom, plus two, for the entire unit when the property is operated as a short-term rental.
5. Special events including, but not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars are prohibited from occurring in the short-term rental.
6. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.
7. All trash receptacles shall be screened from view of the right-of-way.
8. All outdoor lighting shall meet requirements as outlined in §176, Outdoor Lighting.
9. Any signage shall meet the requirements as outlined in §174, Signage.

PLANNING COMMISSION ACTION:				Required	<u>YES</u>
Date: <u>January 23, 2023</u>		☐ Tabled	☐ Approved	☐ Denied	
Motion:					
Second:					
Vote:					

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

1. Hear and decide only such special exemptions as it is specifically authorized to pass on by the terms of this chapter.
2. Decide such questions as are involved in determining whether a conditional use should be granted; and,
3. Grant a conditional use with such conditions and safeguards as are appropriate under this chapter; or
4. Deny a conditional use when not in harmony with the purpose and intent of this chapter.

C. A conditional use shall not be granted by the Planning Commission unless and until:

1. A written application for a conditional use is submitted indicating the section of this chapter under which the conditional use is sought and stating the grounds on which it is requested.

Finding: The applicant has submitted a written application requesting a conditional use permit for a Type 2 short-term rental in the NC zoning district.

2. The applicant shall pay a filing fee as required under Chapter 159 to cover the cost of expenses incurred in connection with processing such application.

Finding: The applicant has paid the required filing fee.

3. The Planning Commission shall make the following written findings before a conditional use shall be issued:

(a.) That it is empowered under the section of this chapter described in the application to grant the conditional use; and

Finding: The Planning Commission is empowered under Unified Development Code §118.01(E)(2) to grant the requested conditional use permit.

(b.) That the granting of the conditional use will not adversely affect the public interest.

Finding: Staff finds that granting the requested conditional use is unlikely to negatively affect the public interest, given the applicable business license requirements including a required building safety inspection, and applicable density caps on Type 2 short-term rentals.

(c.) The Planning Commission shall certify:

(1.) Compliance with the specific rules governing individual conditional uses; and

Finding: There are specific rules governing Short-Term Rentals, as follows:

§163.18 - SHORT-TERM RENTALS

A. General Standards.

(1) *Residential Zoning Districts.* Residential Zoning Districts. Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts: R-A, RSF-.5, RSF-1, RSF-2, RSF-4, RSF-7, RSF-8, RSF-18, RI-12, RI-U, RMF-6, RMF-12, RMF-18, RMF-24, RMF-40, NC. Short term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district. Short-term rentals in non-residential zoning districts, mixed use zoning districts, or other zoning districts not listed above are not required to apply for a conditional use permit.

Finding: The request is to operate a Type 2 short-term rental in NC zoning, which requires a conditional use permit.

(2) *Occupancy.* Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.

Finding: Occupancy is limited as described in UDC §163.18(A)(3). Occupancy limitations are confirmed by the applicant during licensing. Since the dwelling has two bedrooms, the short-term rental would be limited to six guests.

(3) *Parking.* Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.

Finding: Staff recommends parking is limited as described in UDC §163.18(A)(4). Single-family homes are required to provide parking at a rate of two per dwelling. According to the applicant the property has access to two off-street parking spots in addition to on-street parking available along W. Lafayette Street and N. Rollston Avenue.

(4) Special events are not permitted in a short-term rental. Example of special events include, but are not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars.

Finding: The application letter suggests the property will comply with the City's regulations for a short-term rental. As a condition of approval, staff recommends a prohibition on special events.

(5) Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer,

other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

Finding: **The application is for use of the property at 215 W. Lafayette Street. Staff recommends a condition confirming that no recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.**

(6) Exceptions. Exceptions to the short-term rental standards, except proposals that would exceed the city-wide density maximum, may be granted by the Planning Commission as a conditional use permit.

Finding: **Type 2 short-term rentals are subject to a citywide density cap at 2% of total dwelling units, as determined by United States Census Bureau data. Recently released 5-year American Community Survey data from 2021 lists total housing units in Fayetteville at 44,706, which puts the cap at 894 total Type 2 short-term rentals. To date, the City has issued 301 Type 2 short-term rental licenses that are subject to this cap. Hotel and motel uses are not permitted by right in NC zoning, so this short-term rental would contribute to the city-wide density cap.**

(7) Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.

Finding: **This short-term rental would be subject to all regulations in City Code §118.01 that apply to Type 2 short-term rentals in residential zoning districts. Applicable business licensing requirements will be reviewed by staff and confirmed by the applicant at the time of licensing.**

(8) Short-term rentals in residential zoning districts may be subject to denial or additional conditions based upon the Planning Commission's findings on the following factors:

- 1) Adequate parking infrastructure;
- 2) Adequate adjoining or nearby streets for on-street parking;
- 3) Frequency or concentration of nearby licensed Type 2 short-term rentals; and
- 4} Prior zoning or code violations.

Finding: **There appears to be adequate parking available to support the use of the property as a short-term rental based on the applicant's submittal. A total of two off-street spaces are available in the existing driveway. The property is located in downtown Fayetteville where on-street parking is a typical, urban condition with many residential and commercial properties in the vicinity lacking driveways or parking lots. Within ¼ mile of the property city business license records indicate there are 22 Type 2 rental business licenses. Given the relatively dense development pattern staff finds that the abundance of Type 2 short-term rentals in the area can largely be attributed to the property's proximity to downtown and does not constitute a risk towards disrupting the character of the neighborhood. There are no active or prior zoning code violations at the subject address.**

§163.02, AUTHORITY; CONDITIONS; PROCEDURES. (continued)

(2.) That satisfactory provisions and arrangements have been made concerning the following, where applicable:

(a.) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe;

Finding: The subject property has frontage along W. Lafayette Street and N. Rollston Avenue; both of which are classified as Urban Center streets. Staff finds that the proposal will not adversely affect traffic flows considering the use of the property would be limited to a maximum of six guests, which would not be out of character with use of the property for residential purposes. Sidewalk is present at the back of curb along both street frontages.

(b.) Off-street parking and loading areas where required, with particular attention to ingress and egress, economic, noise, glare, or odor effects of the special exception on adjoining properties and properties generally in the district;

Finding: The applicant has indicated that there are two guest vehicle parking spaces available in the driveway. The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district.

(c.) Refuse and service areas, with particular reference to ingress and egress, and off-street parking and loading,

Finding: The applicant proposes to utilize existing residential trash cart service. Staff recommends that the containers should be screened from public view when not at the curb for residential pick-up.

(d.) Utilities, with reference to locations, availability, and compatibility;

Finding: Utilities are currently available to the site and the use as a short-term rental is not anticipated to impact the provision of utilities.

(e.) Screening and buffering with reference to type, dimensions, and character;

Finding: Staff recommends that residential carts be screened so that they are not visible from the public right-of-way.

(f.) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;

Finding: Any proposed signage will be subject to Unified Development Code section 174 – Signs, and all the regulations therein.

(g.) Required yards and other open space; and

Finding: Based on the applicant's submittal, the structure appears to be meeting relevant setbacks.

(h.) General compatibility with adjacent properties and other property in the district.

Finding: Staff finds the use to be compatible with surrounding properties. The property appears to have adequate parking to accommodate overnight guests, trash containers are screened, and minimal disruptions are expected for neighbors.

BUDGET/STAFF IMPACT:

None

Attachments:

- Business Regulations
 - §118.01 Applicability
- Unified Development Code
 - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
 - §161.29 District NC, Neighborhood Conservation
- Applicant Request Letter
- Building Floor Plan
- Elevations
- One Mile Map
- Close-Up Map
- Current Land Use Map

118.01 Applicability

- (E) *Short-Term Rentals.* A residential dwelling unit, portion of a dwelling unit, or bedroom within a residential dwelling unit, leased and/or rented to a guest(s), for a period of less than thirty consecutive (30) days.
- (1) *Short-Term Rental, Type 1.* A short-term rental where the principal use of the property remains as a full-time residence. The occupants or owner rent their primary residence as a short-term rental. A copy of the Homestead Tax Credit or long-term lease agreement for the subject property is required to be classified as a Type 1 rental. The occupant or owner must occupy the residence for nine (9) months of the year. Accessory dwelling units (ADUs) as defined in Unified Development Code Chapter 151 shall be considered a Type 1 short-term rental.
 - (2) *Short-Term Rental, Type 2.* A short-term rental that is not occupied by a permanent resident. The owner lists this property full-time as a short-term rental and has no intention of having permanent residents living in the property. A conditional use permit is required for a Type 2 short-term rental in a residential zoning district prior to the city issuing a business license.
 - (3) *License Required.* No dwelling unit in the city shall be used as a short-term rental unless:
 - (a) The owner of the dwelling unit or operator of the short-term rental possess a valid and current business license for the dwelling unit, and fully complies with all legal requirements and duties imposed herein with respect to each and every short-term rental; and
 - (b) The owner has designated an agent, where said agent fully complies with all legal requirements and duties imposed herein with respect to every short-term rental. The owner may serve as their own agent.
 - (c) The owner of the dwelling unit or operator of the short-term rental provides proof of a valid and current homeowners insurance rider policy which fully covers each unit when operated as short-term rental unit.
 - (4) A separate business license shall be required for each dwelling unit used as a short-term rental.
 - (5) Any change in ownership requires a new or amended business license.
 - (6) If any required contact information changes for the associated business license, the person to whom the license was issued shall immediately notify the Development Services Department in writing.
 - (7) *License Application.* The application for a business license shall include at minimum, the following information from applicants:
 - (a) The property owner's information including legal name, mailing address, immediate contact phone number, and immediate contact E-mail address.
 - (b) Information for the dwelling unit subject to the application, inclusive of the physical street address assigned by the city.
 - (c) The type and total number of dwelling units located on the lot of record containing the dwelling unit subject to the application.
 - (d) If the owner is not their own agent, the owner designated agent's information including legal name, mailing address, immediate contact phone number and immediate contact E-mail address.
 - (e) Documentation of approval of a life safety and egress inspection by the City Building Safety Division for the dwelling unit subject to the application.
 - (f) Proof of application for remittance of hotel, motel and restaurant tax to the City of Fayetteville, and verification that all sales, use, and hotel, motel and restaurant taxes are current.
 - (g) Any additional data as deemed necessary or desirable for permit approval by the Development Services Director.
 - (8) *License Renewals.* Business licenses for short-term rentals shall be renewed in accordance with Chapter 118 of the Business Regulations (Business Registry and Licenses).
 - (11) *Legal Duties of License Holders.* An owner possessing a short-term rental license shall comply at all times with the following requirements:
 - (a) *Occupancy.* Short-term rentals shall be subject to, and may not exceed, the occupancy limits approved with the business license.
 - (b) *Advertisements.* A short-term rental shall not be advertised if it violates occupancy, density, safety, and any of the other provisions of the Fayetteville Code. No short-term rental unit shall be advertised prior to having obtained a business license and the business license number shall be included in the advertisement listing.
 - (c) *Information and Posting.* Business licensees shall provide to guests and post conspicuously in the common area of the short-term rental unit the city phone number to report a safety complaint.
 - (10) *Owner or Agent Accessibility.* The property owner shall ensure that they or a designated agent are available at all times during guest occupancy, including nights and weekends, in order to facilitate

compliance with this section. For the purposes of these regulations, 'availability' means that the owner or agent is accessible by telephone, and, able to be physically present at the short-term rental within three (3) hours of being contacted.

- (11) *Guest Records.* The owner shall maintain summary guest registration records, which shall contain the actual dates of occupancy, total number of guests per party per stay, and the rate(s) charged, but shall not contain any personally identifiable information about guests. Such records shall be maintained for three (3) years and shall be provided to the City upon request.
 - (12) *Health and Safety.* The owner shall ensure that each dwelling unit governed by this section complies with the applicable provisions of the Unified Development Code Chapter 173, Building Regulations.
 - (13) *Criminal Activity.* The owner shall timely report any known or reasonably suspected criminal activity by a guest to the Fayetteville Police Department within twelve (12) hours maximum.
 - (14) *Taxes and Fees.* Except for those instances in which a hosting platform bears the responsibility for collecting and remitting taxes and fees applicable to short-term rentals, the property owner shall timely remit in full Fayetteville Hotel, Motel and Restaurant tax and other applicable local, state, and federal taxes and city fees owed in connection with any short-term rental. The failure of a hosting platform to collect and remit taxes and fees shall not relieve an owner of the obligation to pay taxes and fees owed pursuant to this section.
 - (15) *Authorization to Occupy, Use, and Operate.* Authorization to operate a short-term rental may be granted by the Development Services Director through the issuance of a City of Fayetteville Business Registry and License (Business License).
 - (16) *Density For Type 2 Short-Term Rentals.* A city-wide density cap of 2% of all dwelling units in the Fayetteville city limits may be utilized as Type 2 rentals. Total dwelling units are determined from current United States Census Bureau and/or American Community Survey numbers, whichever number is higher. A conditional use permit may not permit:
 - (a) More Type 2 short-term rentals than what is allowed by the city-wide density cap. Type 2 short-term rentals in commercial and mixed-use zoning districts where hotel/motels are permitted by right shall not contribute to the city-wide density cap.
 - (b) More than 10% or a single unit whichever is greater; of total dwelling units as Type 2 rentals within a multi-family dwelling complex.
 - (c) Individual 2-, 3- and 4-family buildings that are owned by the same person or entity and are not a part of a multi-family complex shall have no more than one (1) Type 2 short-term rental unit per building complex.
 - (d) Where attached residential units are held separately through condominium association, horizontal property regime, fee simple, or similar ownership structure, no cap shall be applied to buildings with attached residential dwellings. Structures of attached residential dwellings where applicants seek more than 10% of total units for licensing as Type 2 rentals shall be evaluated by the Building Safety Director and/or Fire Marshal for adequate fire protection as defined by the adopted Arkansas Fire Prevention Code. Where inadequate fire protection is identified, improvements may be required prior to issuance of a business license.
 - (17) *Suspension and Revocation.* If the Development Services Director has reason to believe that any of the grounds specified in §118.03(A) of the Fayetteville Code exist, or that any rental unit was rented for less than one (1) full night, or to more than one (1) part of guests for the same period of time, or otherwise failed to comply with all terms and conditions of this section, the Development Services Director may suspend or revoke the short-term rental's business license pursuant to the procedures detailed in §118.03 and in §118.04 of the Fayetteville Code.
 - (20) Short-term rentals must comply with all applicable codes under Unified Development Code §163.18 and § 164.26 successfully obtain a business license prior to operation.
- (Ord. No. 6427 , §§1(Exh. A), 2, 4-20-21; Ord. No. 6505 , §1(Exh. A), 11-16-21; Ord. No. 6521 , §§1, 2, 1-18-22; Ord. No. 6537 , §1(Exh. A), 2-15-22)

163.18 Type 2 Short-Term Rentals in Residential Zoning Districts

- (A) *Residential Zoning Districts.* Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts:

- 1) R-A
- 2) RSF-.5
- 3) RSF-1
- 4) RSF-2
- 5) RSF-4
- 6) RSF-7
- 7) RSF-8
- 8) RSF-18
- 9) RI-12
- 10) RI-U
- 11) RMF-6
- 12) RMF-12
- 13) RMF-18
- 14) RMF-24
- 15) RMF-40
- 16) NC

Short term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district.

Short-term rentals in non-residential zoning districts, mixed use zoning districts, or other zoning districts not listed above are not required to apply for a conditional use permit.

- (B) *Occupancy.* Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.
- (C) *Parking.* Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.
- (D) Special events are not permitted in a short-term rental. Example of special events include, but are not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars.
- (E) Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.
- (F) *Exceptions.* Exceptions to the short-term rental standards, except proposals that would exceed the city-wide density maximum, may be granted by the Planning Commission as a conditional use permit.
- (G) Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.
- (H) Short-term rentals in residential zoning districts may be subject to denial or additional conditions based upon the Planning Commission's findings on the following factors:
- 1) Adequate parking infrastructure;
 - 2) Adequate adjoining or nearby streets for on-street parking;
 - 3) Frequency or concentration of nearby licensed Type 2 short-term rentals; and
 - 4) Prior zoning or code violations

(Ord. No. 6427 , §§1(Exh. E), 2, 4-20-21; Ord. No. 6505 , §2(Exh. B), 11-16-21; Ord. No. 6537 , §2(Exh. B), 2-15-22)

161.29 Neighborhood Conservation

(A) *Purpose.* The Neighborhood Conservation zone has the least activity and a lower density than the other zones. Although Neighborhood Conservation is the most purely residential zone, it can have some mix of uses, such as civic buildings. Neighborhood Conservation serves to promote and protect neighborhood character. For the purposes of Chapter 96: Noise Control, the Neighborhood Conservation district is a residential zone.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 41	Accessory dwellings
Unit 46	Short-term rentals

(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 9	Two (2) family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 12a	Limited business*
Unit 24	Home occupations
Unit 25	Offices, studios, and related services
Unit 28	Center for collecting recyclable materials
Unit 36	Wireless communication facilities
Unit 44	Cluster Housing Development

(C) *Density.* Ten (10) Units Per Acre.

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

All dwelling types	40 feet
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(2) *Lot Area Minimum.* 4,000 square feet

(E) *Setback Regulations.*

Front	A build-to zone that is located between the front property line and a line 25 feet from the front property line.
Side	5 feet
Rear	5 feet
Rear, from center line of an alley	12 feet

(F) *Building Height Regulations.*

Building Height Maximum	3 stories
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(Ord. No. 5128, 4-15-08; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; Ord. No. 5592, 6-18-13; Ord. No. 5664, 2-18-14; Ord. No. 5800, §1(Exh. A), 10-6-15>; Ord. No. 5921, §1, 11-1-16; Ord. No. 5945, §§5, 7—9, 1-17-17; Ord. No. 6015, §1(Exh. A), 11-21-17; Ord. No. 6211, §1, 8-6-19; Ord. No. 6427, §§1(Exh. C), 2, 4-20-21)

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."

December 28, 2022

Fayetteville Planning Commission
Via Online Upload

RE: Request letter for Conditional Use Permit Application for 215 W. Lafayette St.

To Whom It May Concern,

On behalf of myself and my wife, Jordan Honey, please accept this as our request letter for a conditional use permit for 215 W. Lafayette St. to enable us to continue to use the home for a short-term rental.

Our home is 1004 square feet. There is a driveway which offers two off-street parking spots in addition to the on-street parking offered on Lafayette in the front and Rollston Avenue to the side.

The color elevation of the building is red cedar on all four sides of the property. I'm including photographs below.

Again, we are requesting a conditional use permit to enable us to apply for a short-term rental license. The house is only two bedrooms and sleeps a maximum of five. Thus, while the anticipated number of guests will vary, it would be a maximum of five people for overnight guests.

As far as outdoor lighting, we have solar lights in the front, back, and side yards. There are also front and back yard porch lights from the home.

For noise purposes, provided we are approved, our short-term rental rules would prohibit excessive noise and obey all noise ordinances of the City of Fayetteville. Thus, excessive noise is not expected and only the noise from ordinary residential use would be expected. This property was used as a short-term rental for several years without issue by the previous owners.

As to buffering from adjacent properties, there is currently a semi-private fence in the backyard. I.e. a four foot fence. We are currently having a full privacy fence (six foot) installed with a completion date expected by mid-January.

Trash refuse is handled by the City of Fayetteville. The trash bin is currently located in the back of the driveway. However, once the full privacy fence is installed, we will move same to the back yard, right behind the driveway.

Traffic should not be impacted as short-term rentals should be in harmony with regular residential use.

Short term use is very compatible with the use of the adjacent properties and other properties in the neighborhood as several nearby properties are currently used for a short-term rental. And importantly, this home was used as a short-term rental for numerous years without issue until we recently purchased the same on December 2, 2022. And we believe we are making the property even more conducive for short term rental use with the installation of the full privacy fence in the back yard.

Below are pictures of the home. For a video of the interior of the home, please follow this link:

https://share.icloud.com/photos/0b57w_LPJ4ckDI4sOJejOLMmA¹

Sincerely,
James R. Baxter

¹ The interior was recently painted. Hence, in the video, there are some things off of the walls, etc. They have already been replaced. The video is simply being provided to help provide an idea of the floor plan of the home.



CUP-2022-0129 Exhibit
Fayetteville, AR

The data contained herein was compiled from various sources for the sole use and benefit of the City of Fayetteville Geographic Information System and the public agencies it serves. Any use of the data by anyone other than the City of Fayetteville is at the sole risk of the user; and by acceptance of this data, the user does hereby agree to indemnify the City of Fayetteville and hold the City of Fayetteville harmless from and without liability for any claims, actions, cost for damages of any nature, including the city's cost of defense, asserted by user or by another arising from the use of this data. The City of Fayetteville makes no express or implied warranties with reference to the data. No word, phrase, or clause found herein shall be construed to waive that tort immunity set forth under Arkansas law.

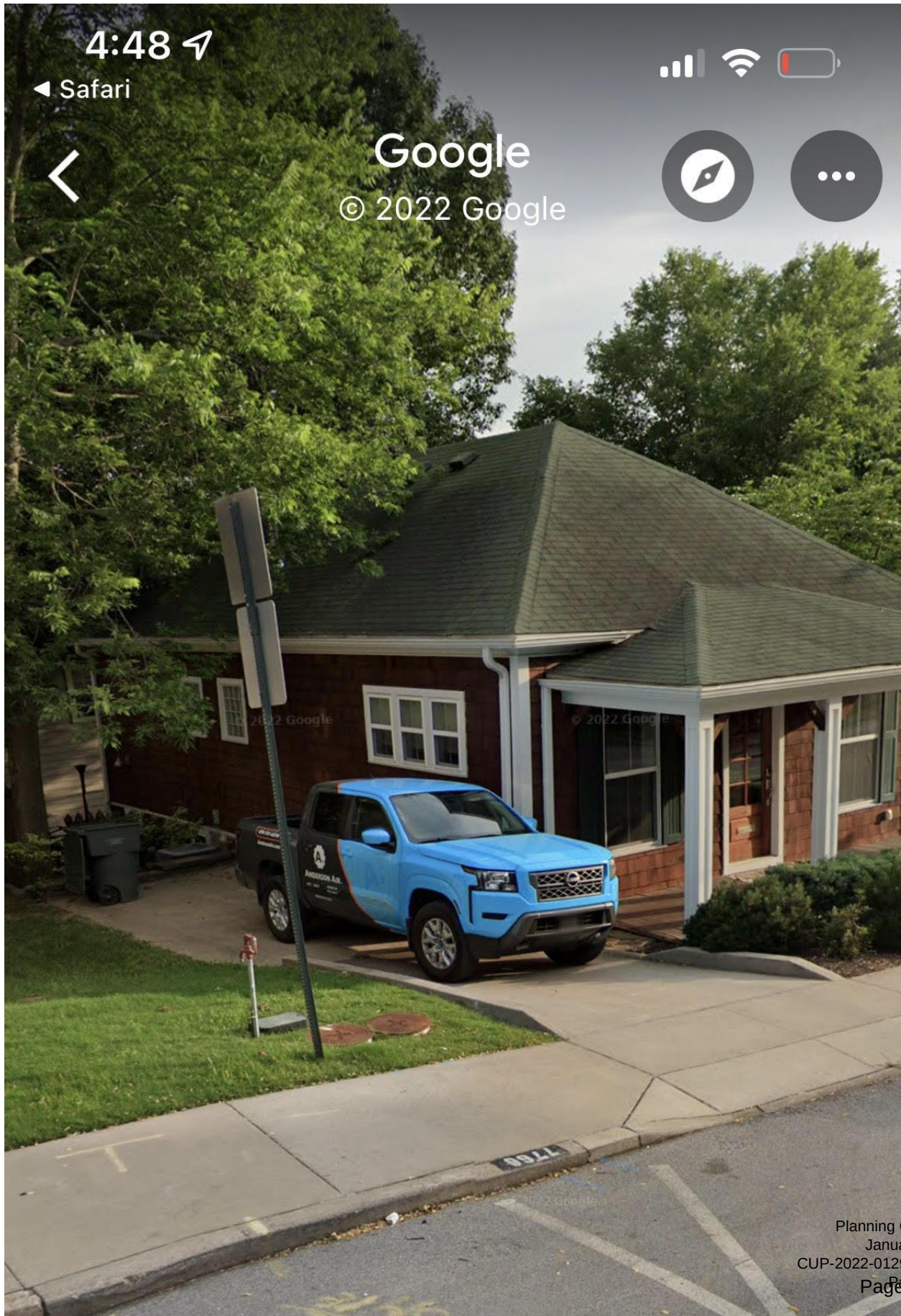
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Credits: City of Fayetteville, AR, 2022 Imagery | EagleView Technologies |
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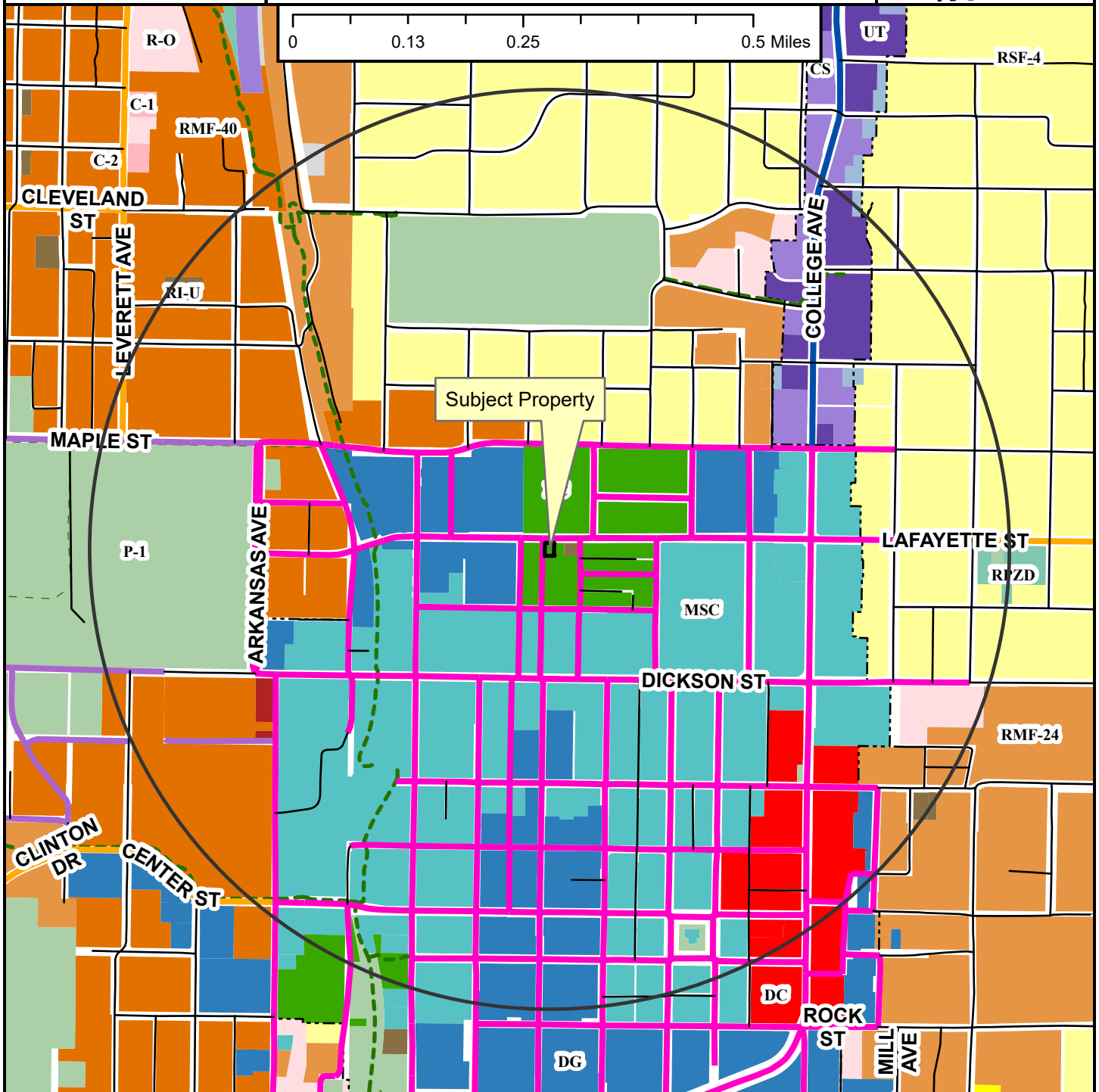
CUP-2022-0129

215 W. LAFAYETTE ST

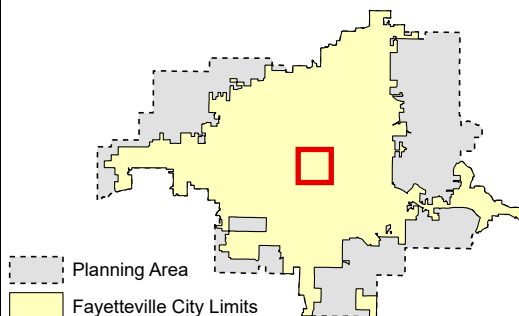
One Mile View



0 0.13 0.25 0.5 Miles



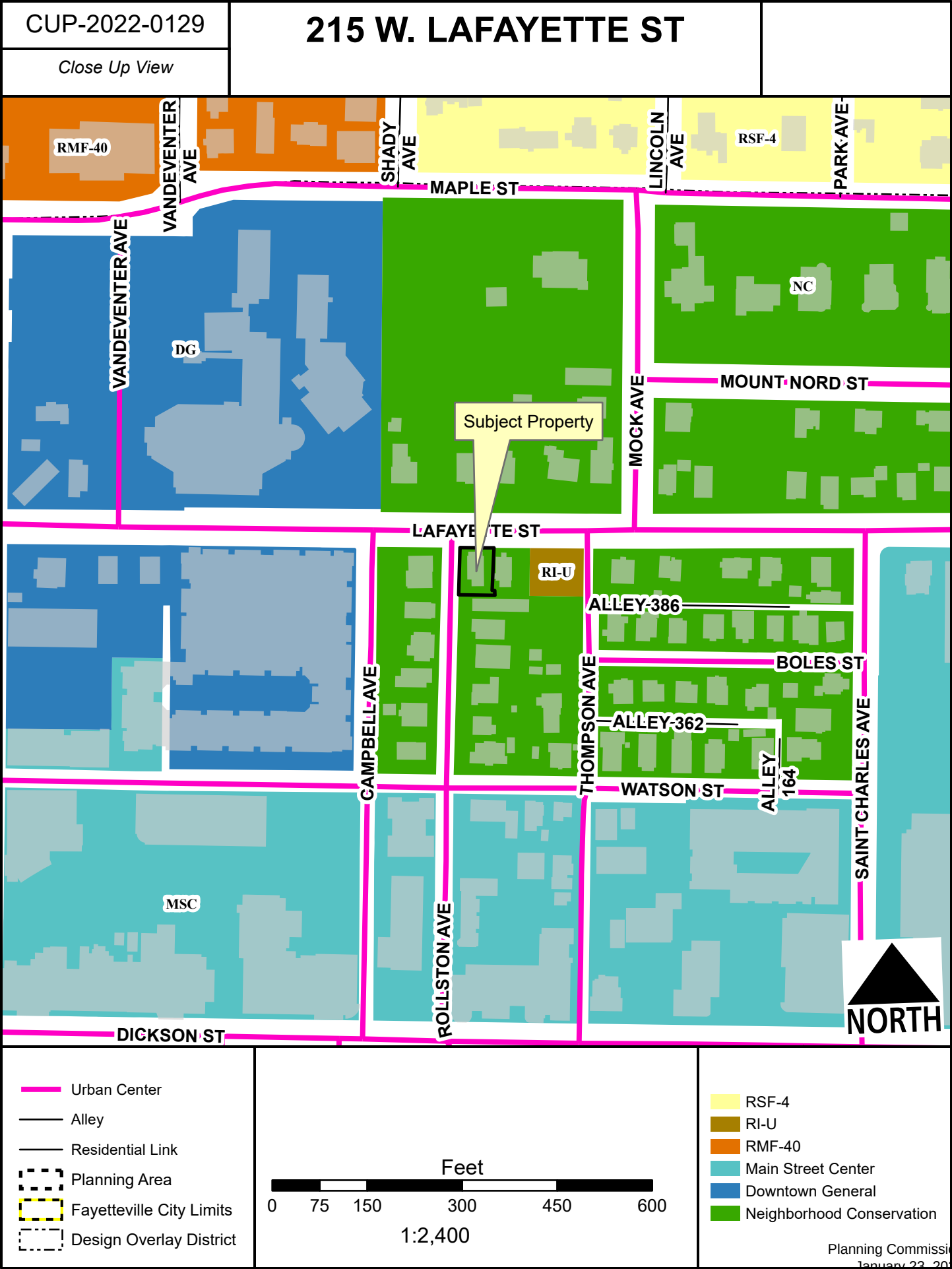
- Neighborhood Link
- Institutional Master Plan
- Regional Link - High Activity
- Urban Center
- Unclassified
- Alley
- Residential Link
- Shared-Use Paved Trail
- Trail (Proposed)
- Design Overlay District
- Fayetteville City Limits
- Planning Area



- Zoning**
- RESIDENTIAL SINGLE-FAMILY**
- NS-G
 - RI-U
 - RI-12
 - NS-L
 - Residential-Agricultural
 - RSF-5
 - RSF-1
 - RSF-2
 - RSF-4
 - RSF-7
 - RSF-8
 - RSF-18
- RESIDENTIAL MULTI-FAMILY**
- RMF-6
 - RMF-12
 - RMF-13
 - 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
January 23, 2023

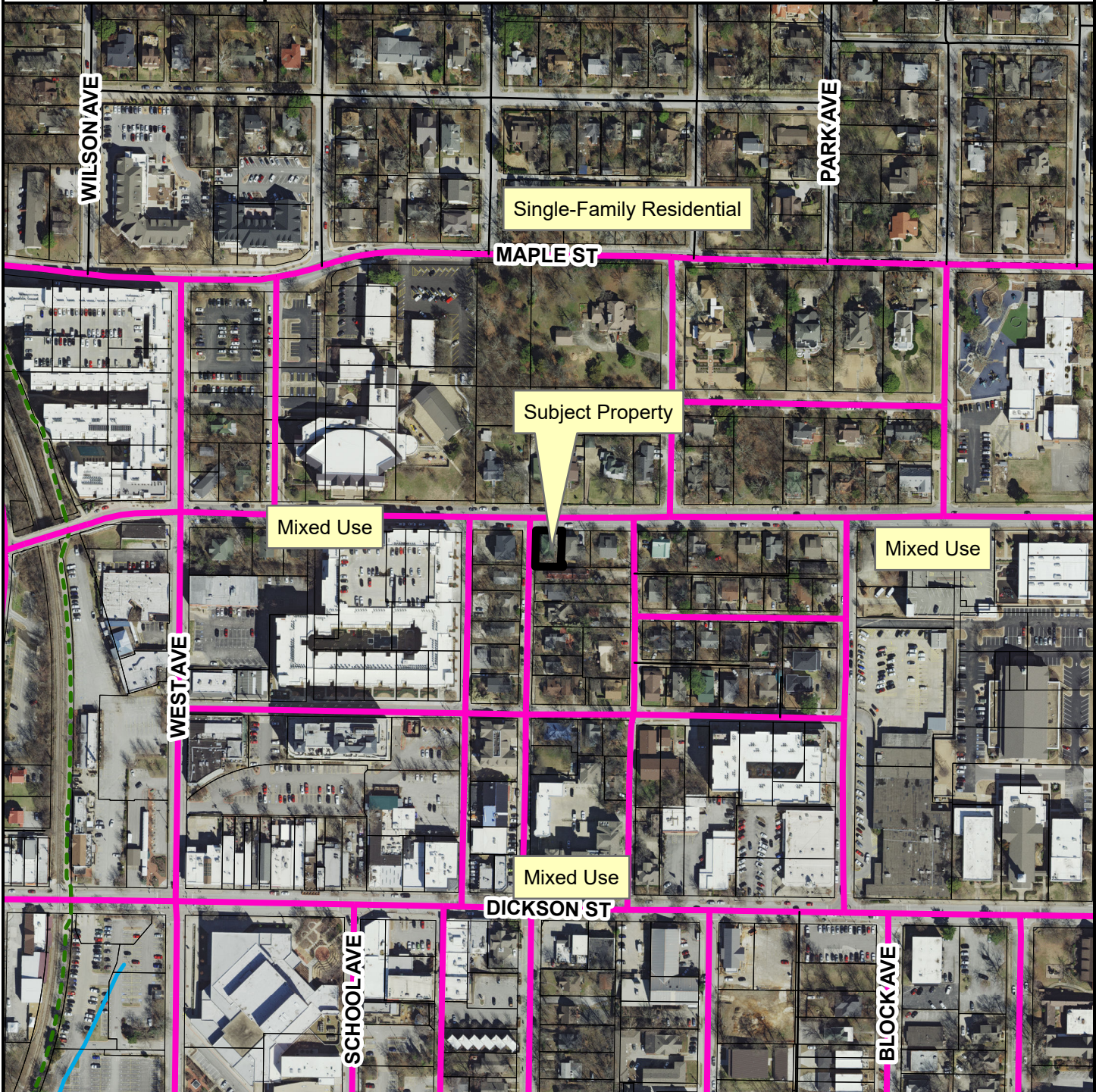
CUP-2022-0129 (BAXTER)



CUP-2022-0129

215 W. LAFAYETTE ST

Current Land Use



- Urban Center
- Unclassified
- Alley
- Residential Link
- Planning Area
- Fayetteville City Limits
- Design Overlay District



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Ryan Umberger, Senior Planner

MEETING DATE: January 23, 2023

SUBJECT: **CUP-2022-0130: Conditional Use Permit (531 N. WASHINGTON AVE/GINGER, 446):** Submitted by NAN GINGER, for property located at 531 N. WASHINGTON AVE. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY – FOUR UNITS PER ACRE and contains approximately 0.24 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:

Staff recommends approval of **CUP-2022-0130** with conditions as outlined by staff.

RECOMMENDED MOTION:

*"I move to approve **CUP-2022-0130**, determining:*

- In favor of compatibility with adjacent properties, and*
- In favor of all other conditions as recommended by staff."*

BACKGROUND:

The subject property is on the south side of E. Davidson Street, at the southwest corner of its intersection with N. Washington Avenue. The property contains one parcel totaling 0.24 acres and is currently developed with a three-bedroom, single-family dwelling which was built in 1876, according to Washington County records. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals. This report reflects those new changes for consideration. Surrounding land use and zoning are depicted in *Table 1*.

Table 1:
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Single-Family Residential	RSF-4, Residential Single-Family, 4 Units per Acre
South	Single-Family Residential	RSF-4, Residential Single-Family, 4 Units per Acre
East	Single-Family Residential	RSF-4, Residential Single-Family, 4 Units per Acre
West	Single-Family Residential	RSF-4, Residential Single-Family, 4 Units per Acre

City Plan 2040 Future Land Use Designation: **Residential Neighborhood Area.**

Proposal: The applicant requests conditional use permit approval to use the property as a Type 2 short-term rental, which are those not occupied by a permanent resident. Type 2 short-term rentals are subject to density limitations, including a 2% citywide cap, and restrictions on the number of units that may be used as a short-term rental in multi-family dwelling complexes.

Public Comment: Staff has not received any public comment regarding this request.

RECOMMENDATION: Staff recommends approval of **CUP-2022-0130**, with the following conditions;

Conditions of Approval:

1. **Planning Commission determination of compatibility.** *Staff finds the proposed short-term rental to be compatible with the neighborhood based on the findings in this report;*
2. Approval of the conditional use permit does not ensure approval of a business license application. The applicant must still be able to comply with all other applicable requirements in the development code.
3. Per §166.20, Expiration of Approved Plans and Permits, a business license must be obtained within 1 year of conditional use permit approval.
4. Per ordinance, the number of occupants is limited to a maximum of two people per bedroom, plus two, for the entire unit when the property is operated as a short-term rental.
5. Special events including, but not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars are prohibited from occurring in the short-term rental.
6. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.
7. All trash receptacles shall be screened from view of the right-of-way.
8. All outdoor lighting shall meet requirements as outlined in §176, Outdoor Lighting.
9. Any signage shall meet the requirements as outlined in §174, Signage.

PLANNING COMMISSION ACTION:				Required	<u>YES</u>
Date: <u>January 23, 2023</u>		☐ Tabled	☐ Approved	☐ Denied	
Motion:					
Second:					
Vote:					

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

1. Hear and decide only such special exemptions as it is specifically authorized to pass on by the terms of this chapter.
2. Decide such questions as are involved in determining whether a conditional use should be granted; and,
3. Grant a conditional use with such conditions and safeguards as are appropriate under this chapter; or
4. Deny a conditional use when not in harmony with the purpose and intent of this chapter.

C. A conditional use shall not be granted by the Planning Commission unless and until:

1. A written application for a conditional use is submitted indicating the section of this chapter under which the conditional use is sought and stating the grounds on which it is requested.

Finding: The applicant has submitted a written application requesting a conditional use permit for a Type 2 short-term rental in the RSF-4 zoning district.

2. The applicant shall pay a filing fee as required under Chapter 159 to cover the cost of expenses incurred in connection with processing such application.

Finding: The applicant has paid the required filing fee.

3. The Planning Commission shall make the following written findings before a conditional use shall be issued:

(a.) That it is empowered under the section of this chapter described in the application to grant the conditional use; and

Finding: The Planning Commission is empowered under Unified Development Code §118.01(E)(2) to grant the requested conditional use permit.

(b.) That the granting of the conditional use will not adversely affect the public interest.

Finding: Staff finds that granting the requested conditional use is unlikely to negatively affect the public interest, given the applicable business license requirements including a required building safety inspection, and applicable density caps on Type 2 short-term rentals.

(c.) The Planning Commission shall certify:

- (1.) Compliance with the specific rules governing individual conditional uses; and

Finding: There are specific rules governing Short-Term Rentals, as follows:

§163.18 - SHORT-TERM RENTALS

A. General Standards.

(1) *Residential Zoning Districts.* Residential Zoning Districts. Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts: R-A, RSF-.5, RSF-1, RSF-2, RSF-4, RSF-7, RSF-8, RSF-18, RI-12, RI-U, RMF-6, RMF-12, RMF-18, RMF-24, RMF-40, NC. Short term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district. Short-term rentals in non-residential zoning districts, mixed use zoning districts, or other zoning districts not listed above are not required to apply for a conditional use permit.

Finding: The request is to operate a Type 2 short-term rental in RSF-4 zoning, which requires a conditional use permit.

(2) *Occupancy.* Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.

Finding: Occupancy is limited as described in UDC §163.18(A)(3). Occupancy limitations are confirmed by the applicant during licensing. Since the dwelling has three bedrooms, the short-term rental would be limited to eight guests.

(3) *Parking.* Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.

Finding: Staff recommends parking is limited as described in UDC §163.18(A)(4). Single-family homes are required to provide parking at a rate of two per dwelling. According to the applicant the property has access to four off-street parking spots in the existing driveway and garage in addition to on-street parking available along N. Washington Avenue.

(4) Special events are not permitted in a short-term rental. Example of special events include, but are not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars.

Finding: The application letter suggests the property will comply with the City's regulations for a short-term rental. As a condition of approval, staff recommends a prohibition on special events.

(5) Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

Finding: The application is for use of the property at 531 N. Washington Avenue. Staff recommends a condition confirming that no recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

(6) Exceptions. Exceptions to the short-term rental standards, except proposals that would exceed the city-wide density maximum, may be granted by the Planning Commission as a conditional use permit.

Finding: Type 2 short-term rentals are subject to a citywide density cap at 2% of total dwelling units, as determined by United States Census Bureau data. Recently released 5-year American Community Survey data from 2021 lists total housing units in Fayetteville at 44,706, which puts the cap at 894 total Type 2 short-term rentals. To date, the City has issued 301 Type 2 short-term rental licenses that are subject to this cap. Hotel and motel uses are not permitted by right in RSF-4 zoning, so this short-term rental would contribute to the city-wide density cap.

(7) Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.

Finding: This short-term rental would be subject to all regulations in City Code §118.01 that apply to Type 2 short-term rentals in residential zoning districts. Applicable business licensing requirements will be reviewed by staff and confirmed by the applicant at the time of licensing.

(8) Short-term rentals in residential zoning districts may be subject to denial or additional conditions based upon the Planning Commission's findings on the following factors:

- 1) Adequate parking infrastructure;
- 2) Adequate adjoining or nearby streets for on-street parking;
- 3) Frequency or concentration of nearby licensed Type 2 short-term rentals; and
- 4} Prior zoning or code violations.

Finding: There appears to be adequate parking available to support the use of the property as a short-term rental based on the applicant's submittal. A total of four off-street spaces are available in the existing driveway and garage. On street parking is also available along N. Washington Avenue. Within ¼ mile of the property city business license records indicate there are 17 Type 2 rental business licenses. Given that nearly all Type 2 short-term rentals in the area are separated N. College Avenue, a Regional Link High-Activity Street, or located by two city blocks staff finds the prevalence of rentals does not constitute a risk towards disrupting the character of the neighborhood. A complaint about an inoperable vehicle was reported at the site in November of 2022. The case was resolved with a status of "Unfounded" after a site visit determined the property was not in violation.

§163.02, AUTHORITY; CONDITIONS; PROCEDURES. (continued)

- (2.) That satisfactory provisions and arrangements have been made concerning the following, where applicable:

- (a.) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe;

Finding: The subject property has frontage along E. Davidson Street and N. Washington Avenue; both of which are classified as Residential Link streets. Staff finds that the proposal will not adversely affect traffic flows considering the use of the property would be limited to a maximum of eight guests, which would not be out of character with use of the property for residential purposes. Sidewalk is present along the property's N. Washington Avenue frontage and across the street, to the north, along E. Davidson Street.

- (b.) Off-street parking and loading areas where required, with particular attention to ingress and egress, economic, noise, glare, or odor effects of the special exception on adjoining properties and properties generally in the district;

Finding: The applicant has indicated that there are four off-street guest vehicle parking spaces available in the driveway and garage. The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district.

- (c.) Refuse and service areas, with particular reference to ingress and egress, and off-street parking and loading,

Finding: The applicant proposes to utilize existing residential trash cart service. Staff recommends that the containers should be screened from public view when not at the curb for residential pick-up.

- (d.) Utilities, with reference to locations, availability, and compatibility;

Finding: Utilities are currently available to the site and the use as a short-term rental is not anticipated to impact the provision of utilities.

- (e.) Screening and buffering with reference to type, dimensions, and character;

Finding: Staff recommends that residential carts be screened so that they are not visible from the public right-of-way.

- (f.) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;

Finding: Any proposed signage will be subject to Unified Development Code section 174 – Signs, and all the regulations therein.

(g.) Required yards and other open space; and

Finding: Based on the applicant's submittal, the structure appears to be meeting relevant setbacks.

(h.) General compatibility with adjacent properties and other property in the district.

Finding: Staff finds the use to be compatible with surrounding properties. The property appears to have adequate parking to accommodate overnight guests, trash containers are screened, and minimal disruptions are expected for neighbors.

BUDGET/STAFF IMPACT:

None

Attachments:

- Business Regulations
 - §118.01 Applicability
- Unified Development Code
 - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
 - §161.07 District RSF-4, Residential Single-Family, 4 Units per Acre
- Applicant Request Letter
- Site Plan
- Building Floor Plan
- Elevations
- One Mile Map
- Close-Up Map
- Current Land Use Map

118.01 Applicability

- (E) *Short-Term Rentals.* A residential dwelling unit, portion of a dwelling unit, or bedroom within a residential dwelling unit, leased and/or rented to a guest(s), for a period of less than thirty consecutive (30) days.
- (1) *Short-Term Rental, Type 1.* A short-term rental where the principal use of the property remains as a full-time residence. The occupants or owner rent their primary residence as a short-term rental. A copy of the Homestead Tax Credit or long-term lease agreement for the subject property is required to be classified as a Type 1 rental. The occupant or owner must occupy the residence for nine (9) months of the year. Accessory dwelling units (ADUs) as defined in Unified Development Code Chapter 151 shall be considered a Type 1 short-term rental.
 - (2) *Short-Term Rental, Type 2.* A short-term rental that is not occupied by a permanent resident. The owner lists this property full-time as a short-term rental and has no intention of having permanent residents living in the property. A conditional use permit is required for a Type 2 short-term rental in a residential zoning district prior to the city issuing a business license.
 - (3) *License Required.* No dwelling unit in the city shall be used as a short-term rental unless:
 - (a) The owner of the dwelling unit or operator of the short-term rental possess a valid and current business license for the dwelling unit, and fully complies with all legal requirements and duties imposed herein with respect to each and every short-term rental; and
 - (b) The owner has designated an agent, where said agent fully complies with all legal requirements and duties imposed herein with respect to every short-term rental. The owner may serve as their own agent.
 - (c) The owner of the dwelling unit or operator of the short-term rental provides proof of a valid and current homeowners insurance rider policy which fully covers each unit when operated as short-term rental unit.
 - (4) A separate business license shall be required for each dwelling unit used as a short-term rental.
 - (5) Any change in ownership requires a new or amended business license.
 - (6) If any required contact information changes for the associated business license, the person to whom the license was issued shall immediately notify the Development Services Department in writing.
 - (7) *License Application.* The application for a business license shall include at minimum, the following information from applicants:
 - (a) The property owner's information including legal name, mailing address, immediate contact phone number, and immediate contact E-mail address.
 - (b) Information for the dwelling unit subject to the application, inclusive of the physical street address assigned by the city.
 - (c) The type and total number of dwelling units located on the lot of record containing the dwelling unit subject to the application.
 - (d) If the owner is not their own agent, the owner designated agent's information including legal name, mailing address, immediate contact phone number and immediate contact E-mail address.
 - (e) Documentation of approval of a life safety and egress inspection by the City Building Safety Division for the dwelling unit subject to the application.
 - (f) Proof of application for remittance of hotel, motel and restaurant tax to the City of Fayetteville, and verification that all sales, use, and hotel, motel and restaurant taxes are current.
 - (g) Any additional data as deemed necessary or desirable for permit approval by the Development Services Director.
 - (8) *License Renewals.* Business licenses for short-term rentals shall be renewed in accordance with Chapter 118 of the Business Regulations (Business Registry and Licenses).
 - (11) *Legal Duties of License Holders.* An owner possessing a short-term rental license shall comply at all times with the following requirements:
 - (a) *Occupancy.* Short-term rentals shall be subject to, and may not exceed, the occupancy limits approved with the business license.
 - (b) *Advertisements.* A short-term rental shall not be advertised if it violates occupancy, density, safety, and any of the other provisions of the Fayetteville Code. No short-term rental unit shall be advertised prior to having obtained a business license and the business license number shall be included in the advertisement listing.
 - (c) *Information and Posting.* Business licensees shall provide to guests and post conspicuously in the common area of the short-term rental unit the city phone number to report a safety complaint.
 - (10) *Owner or Agent Accessibility.* The property owner shall ensure that they or a designated agent are available at all times during guest occupancy, including nights and weekends, in order to facilitate

compliance with this section. For the purposes of these regulations, 'availability' means that the owner or agent is accessible by telephone, and, able to be physically present at the short-term rental within three (3) hours of being contacted.

- (11) *Guest Records.* The owner shall maintain summary guest registration records, which shall contain the actual dates of occupancy, total number of guests per party per stay, and the rate(s) charged, but shall not contain any personally identifiable information about guests. Such records shall be maintained for three (3) years and shall be provided to the City upon request.
 - (12) *Health and Safety.* The owner shall ensure that each dwelling unit governed by this section complies with the applicable provisions of the Unified Development Code Chapter 173, Building Regulations.
 - (13) *Criminal Activity.* The owner shall timely report any known or reasonably suspected criminal activity by a guest to the Fayetteville Police Department within twelve (12) hours maximum.
 - (14) *Taxes and Fees.* Except for those instances in which a hosting platform bears the responsibility for collecting and remitting taxes and fees applicable to short-term rentals, the property owner shall timely remit in full Fayetteville Hotel, Motel and Restaurant tax and other applicable local, state, and federal taxes and city fees owed in connection with any short-term rental. The failure of a hosting platform to collect and remit taxes and fees shall not relieve an owner of the obligation to pay taxes and fees owed pursuant to this section.
 - (15) *Authorization to Occupy, Use, and Operate.* Authorization to operate a short-term rental may be granted by the Development Services Director through the issuance of a City of Fayetteville Business Registry and License (Business License).
 - (16) *Density For Type 2 Short-Term Rentals.* A city-wide density cap of 2% of all dwelling units in the Fayetteville city limits may be utilized as Type 2 rentals. Total dwelling units are determined from current United States Census Bureau and/or American Community Survey numbers, whichever number is higher. A conditional use permit may not permit:
 - (a) More Type 2 short-term rentals than what is allowed by the city-wide density cap. Type 2 short-term rentals in commercial and mixed-use zoning districts where hotel/motels are permitted by right shall not contribute to the city-wide density cap.
 - (b) More than 10% or a single unit whichever is greater; of total dwelling units as Type 2 rentals within a multi-family dwelling complex.
 - (c) Individual 2-, 3- and 4-family buildings that are owned by the same person or entity and are not a part of a multi-family complex shall have no more than one (1) Type 2 short-term rental unit per building complex.
 - (d) Where attached residential units are held separately through condominium association, horizontal property regime, fee simple, or similar ownership structure, no cap shall be applied to buildings with attached residential dwellings. Structures of attached residential dwellings where applicants seek more than 10% of total units for licensing as Type 2 rentals shall be evaluated by the Building Safety Director and/or Fire Marshal for adequate fire protection as defined by the adopted Arkansas Fire Prevention Code. Where inadequate fire protection is identified, improvements may be required prior to issuance of a business license.
 - (17) *Suspension and Revocation.* If the Development Services Director has reason to believe that any of the grounds specified in §118.03(A) of the Fayetteville Code exist, or that any rental unit was rented for less than one (1) full night, or to more than one (1) part of guests for the same period of time, or otherwise failed to comply with all terms and conditions of this section, the Development Services Director may suspend or revoke the short-term rental's business license pursuant to the procedures detailed in §118.03 and in §118.04 of the Fayetteville Code.
 - (20) Short-term rentals must comply with all applicable codes under Unified Development Code §163.18 and § 164.26 successfully obtain a business license prior to operation.
- (Ord. No. 6427 , §§1(Exh. A), 2, 4-20-21; Ord. No. 6505 , §1(Exh. A), 11-16-21; Ord. No. 6521 , §§1, 2, 1-18-22; Ord. No. 6537 , §1(Exh. A), 2-15-22)

163.18 Type 2 Short-Term Rentals in Residential Zoning Districts

- (A) *Residential Zoning Districts.* Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts:

- 1) R-A
- 2) RSF-.5
- 3) RSF-1
- 4) RSF-2
- 5) RSF-4
- 6) RSF-7
- 7) RSF-8
- 8) RSF-18
- 9) RI-12
- 10) RI-U
- 11) RMF-6
- 12) RMF-12
- 13) RMF-18
- 14) RMF-24
- 15) RMF-40
- 16) NC

Short term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district.

Short-term rentals in non-residential zoning districts, mixed use zoning districts, or other zoning districts not listed above are not required to apply for a conditional use permit.

- (B) *Occupancy.* Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.
- (C) *Parking.* Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.
- (D) Special events are not permitted in a short-term rental. Example of special events include, but are not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars.
- (E) Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.
- (F) *Exceptions.* Exceptions to the short-term rental standards, except proposals that would exceed the city-wide density maximum, may be granted by the Planning Commission as a conditional use permit.
- (G) Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.
- (H) Short-term rentals in residential zoning districts may be subject to denial or additional conditions based upon the Planning Commission's findings on the following factors:
- 1) Adequate parking infrastructure;
 - 2) Adequate adjoining or nearby streets for on-street parking;
 - 3) Frequency or concentration of nearby licensed Type 2 short-term rentals; and
 - 4) Prior zoning or code violations

(Ord. No. 6427 , §§1(Exh. E), 2, 4-20-21; Ord. No. 6505 , §2(Exh. B), 11-16-21; Ord. No. 6537 , §2(Exh. B), 2-15-22)

161.07 District RSF-4, Residential Single-Family - Four (4) 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
Unit 46	Short-term rentals

(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 12a	Limited business
Unit 24	Home occupations
Unit 36	Wireless communications facilities
Unit 44	Cluster Housing Development

(C) *Density.*

	Single-family dwellings	Two (2) family dwellings
Units per acre	4 or less	7 or less

(D) *Bulk and Area Regulations.*

	Single-family dwellings	Two (2) family dwellings
Lot minimum width	70 feet	80 feet
Lot area minimum	8,000 square feet	12,000 square feet
Land area per dwelling unit	8,000 square feet	6,000 square feet
Hillside Overlay District Lot minimum width	60 feet	70 feet
Hillside Overlay District Lot area minimum	8,000 square feet	12,000 square feet
Land area per dwelling unit	8,000 square feet	6,000 square feet

(E) *Setback Requirements.*

Front	Side	Rear
15 feet	5 feet	15 feet

(F) *Building Height Regulations.*

Building Height Maximum	3 stories
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(G) *Building Area*. On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot. Accessory ground mounted solar energy systems shall not be considered buildings.

(Code 1991, §160.031; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 4858, 4-18-06; Ord. No. 5028, 6-19-07; Ord. No. 5128, 4-15-08; Ord. No. 5224, 3-3-09; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; Ord. No. 5921, §1, 11-1-16; Ord. No. 5945, §8, 1-17-17; Ord. No. 6015, §1(Exh. A), 11-21-17; Ord. No. 6245, §2, 10-15-19; Ord. No. 6427, §§1(Exh. C), 2, 4-20-21)

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."

REQUEST LETTER RE:

531 North Washington, Conditional Use Type 2 Rental

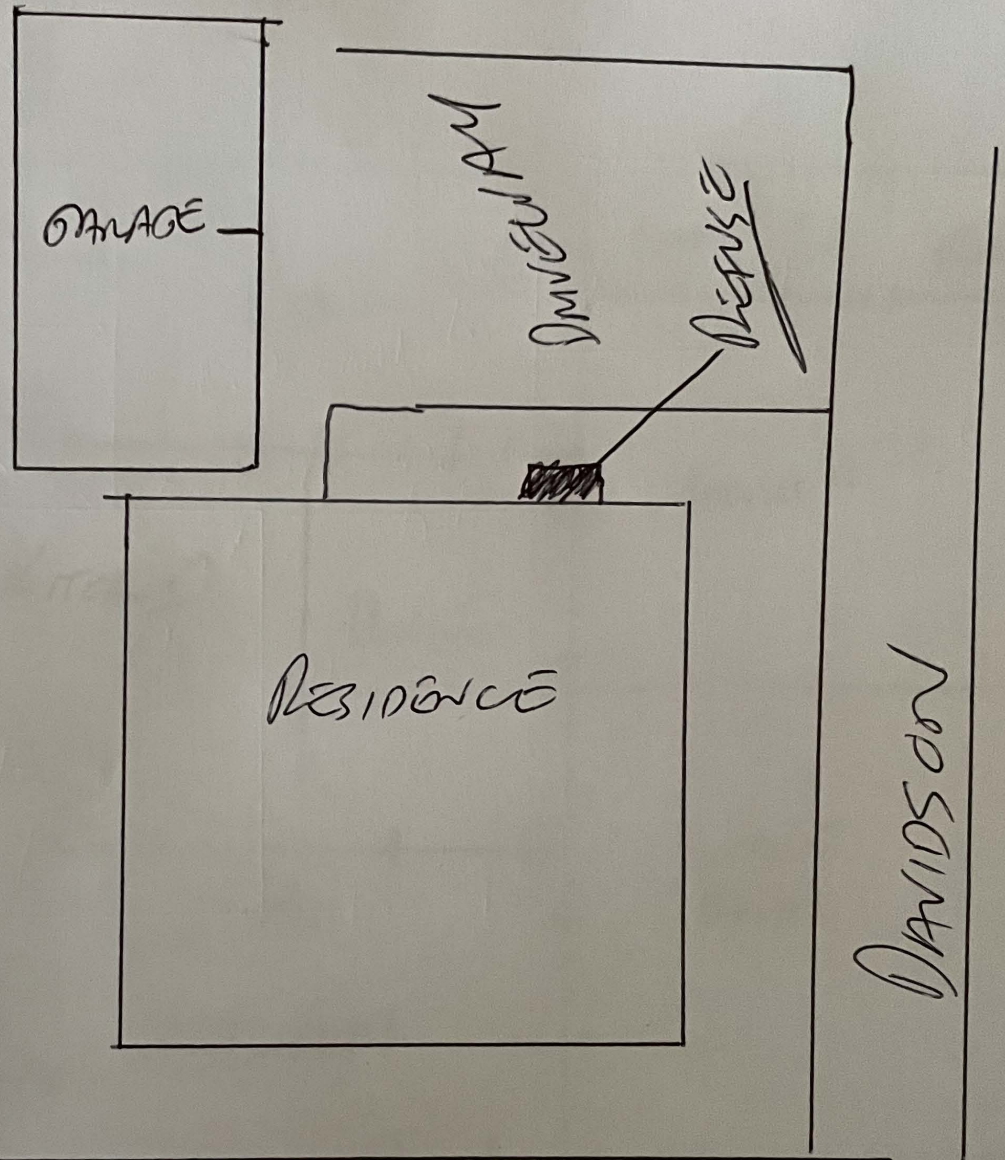
- 1a) 1,631 Sq Ft. No expansion of existing structure.
- 1b) Pictures in PDF Attached.
- 1c) 4 off-street Parking Spaces
- 1d) N/A
- 1e) Front and rear porches, city street lighting
- 1f) Residential Neighborhood, no noise mitigation expected.
- 1g) See attached pictures: Fence, landscaping consistent with residential and neighborhood use.
- 1h) See attached site plan, LOCATED IN DRIVEWAY: city of Fayetteville residential refuse collection
- 1i) Residential Street and up to 4 car parking in garage or driveway.
- 1j) Residential Use Only, per Short Term Rental Guidelines of the City of Fayetteville.

2) LEGAL DESCRIPTION

The North 1/2 of Lot 9 of Davidson's First Addition to the City of Fayetteville, Arkansas, as per plat of said Addition on file in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas.

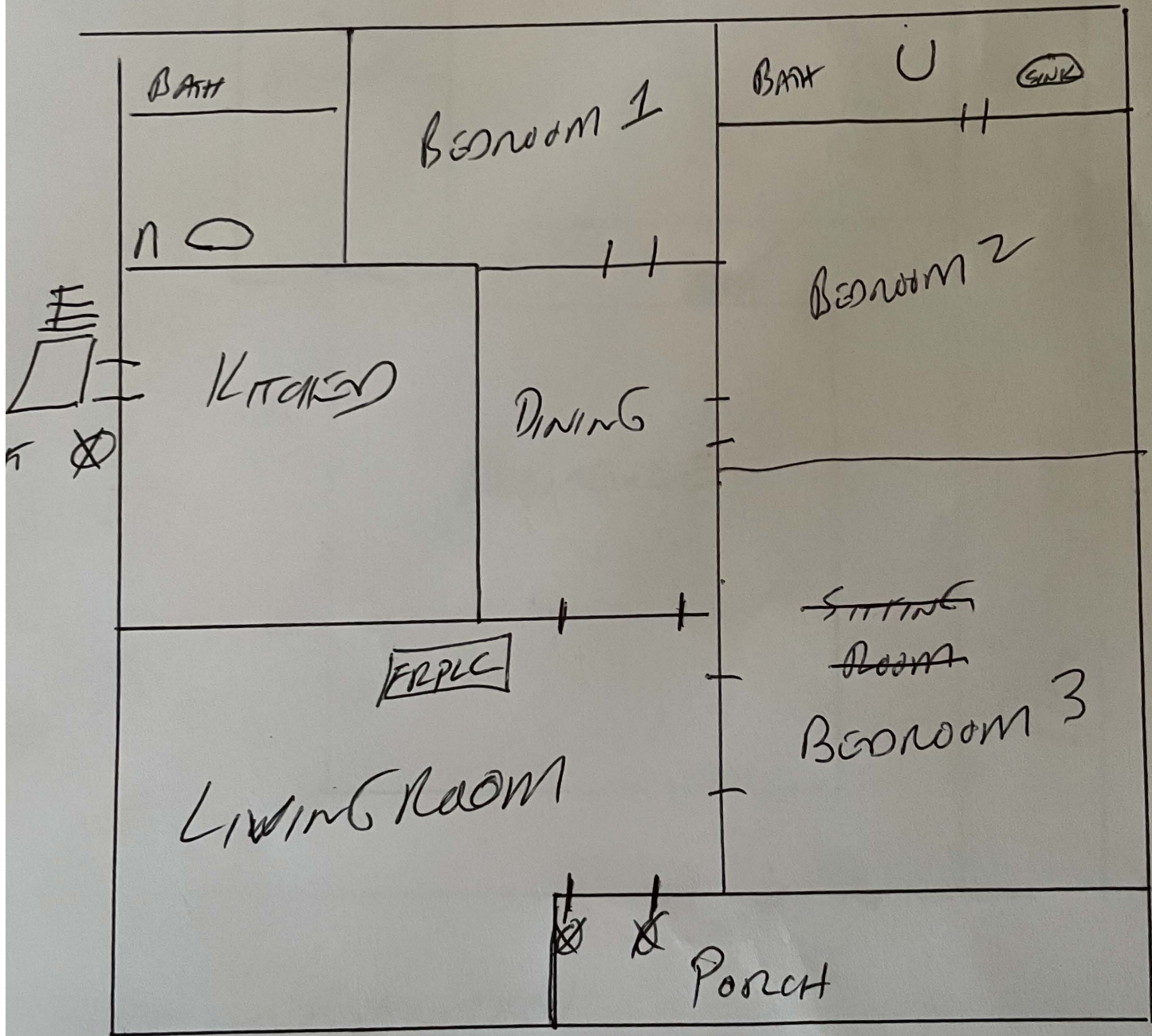
3) 4) 5) 6) SEE ATTACHEMENTS

EXISTING RESIDENCE - EXTERIOR
531 NORTH WASHINGTON 72701



NORTH WASHINGTON

EXISTING RESIDENCE - INTERIOR
531 NORTH WASHINGTON #2701



— WASHINGTON —

— DAVIDSON —













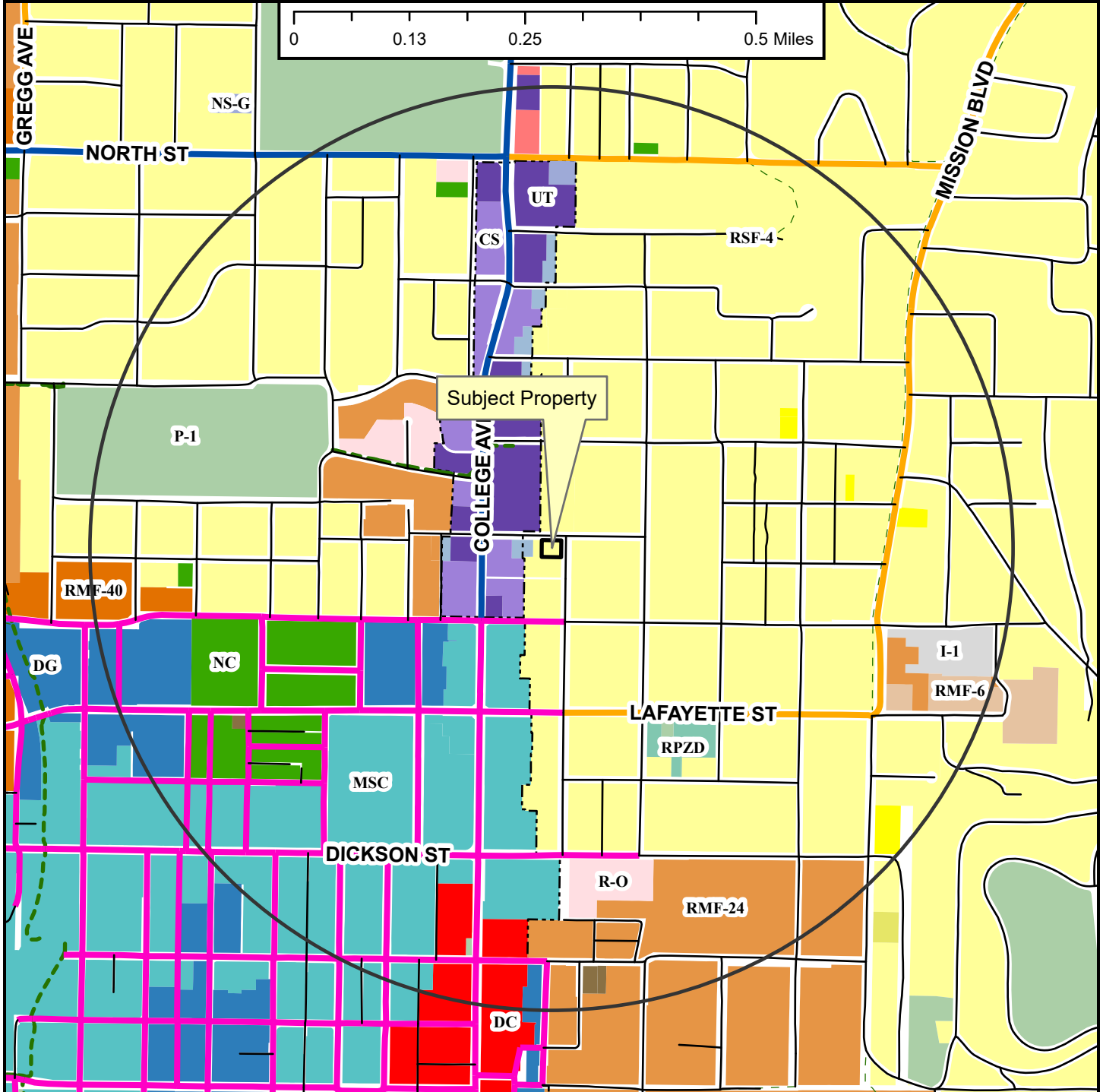
CUP-2022-0130

531 N. WASHINGTON AVE

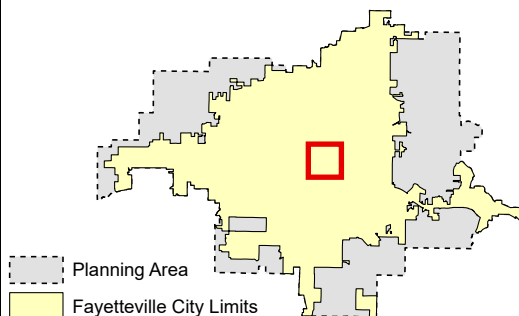
One Mile View



0 0.13 0.25 0.5 Miles



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

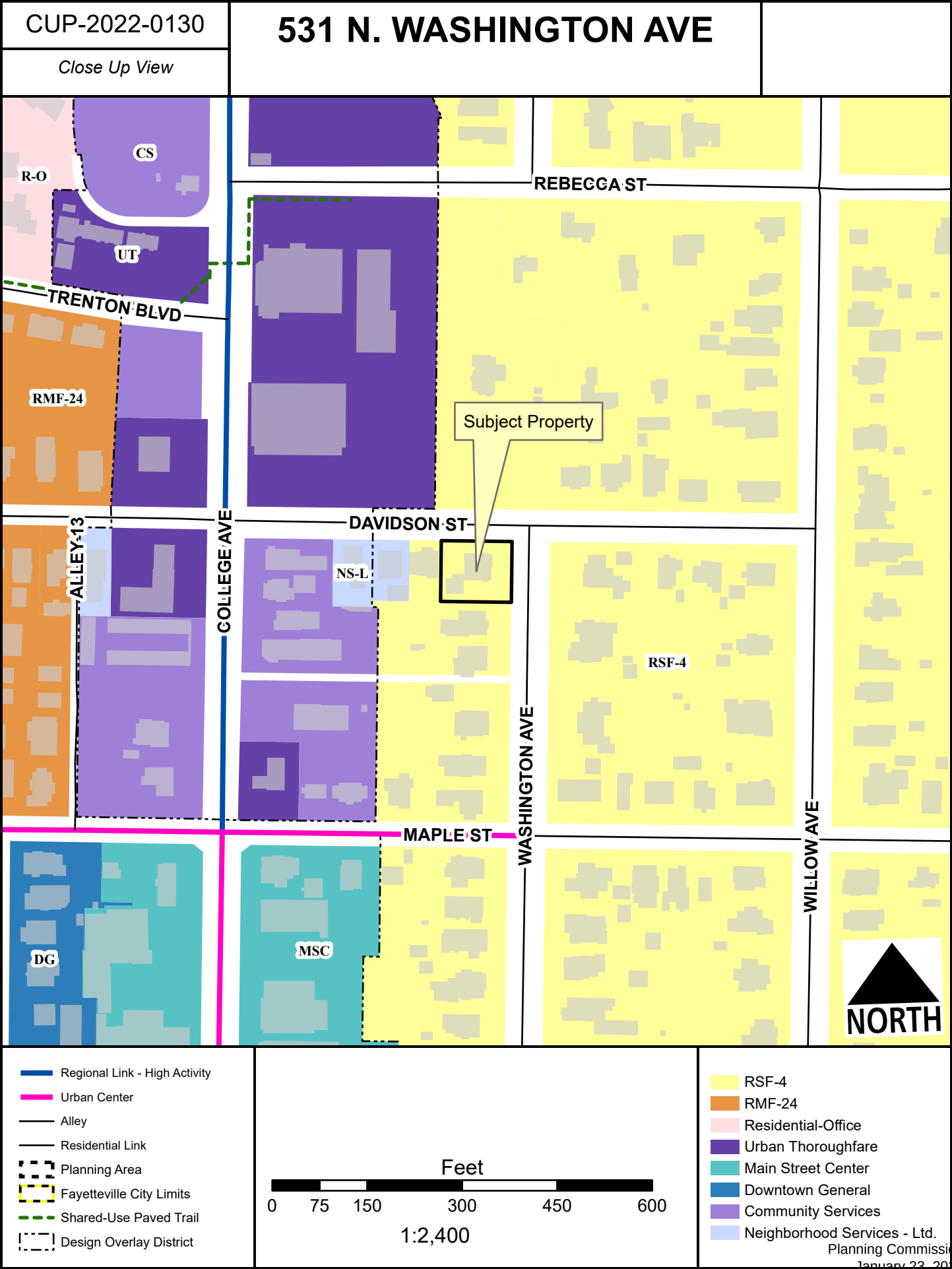


- Zoning**
- RESIDENTIAL SINGLE-FAMILY**
- NS-G
 - RH-U
 - RH-12
 - NS-L
 - Residential-Agricultural
 - RSF-5
 - RSF-1
 - RSF-2
 - RSF-4
 - RSF-7
 - RSF-8
 - RSF-18
- RESIDENTIAL MULTI-FAMILY**
- RMF-6
 - RMF-12
 - RMF-13
 - RMF-24
 - RMF-40
- INDUSTRIAL**
- I-1 Heavy Commercial and Light Industrial
 - 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
January 23, 2023

CUP-2022-0130 (GINGER)

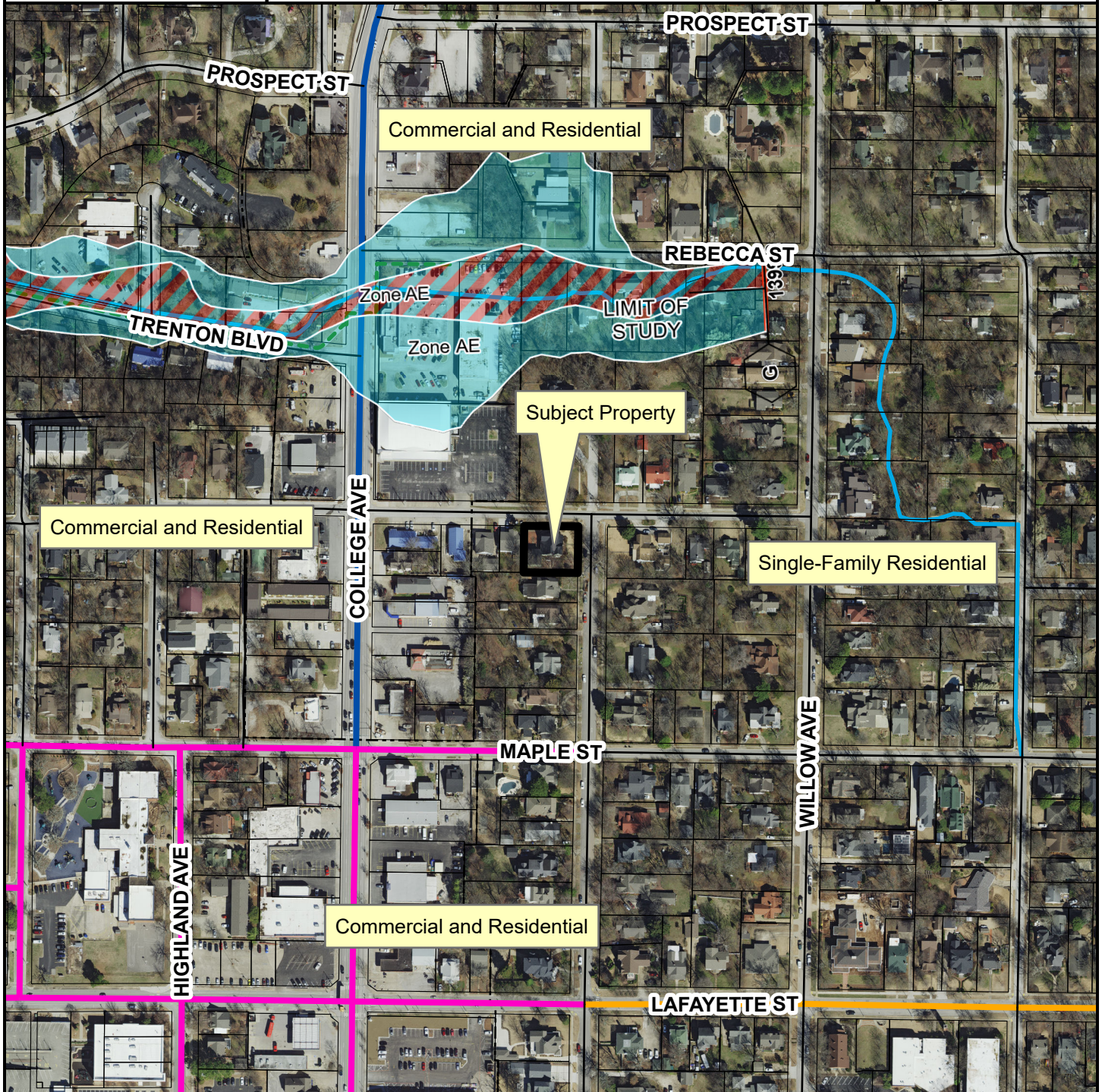
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CUP-2022-0130

531 N. WASHINGTON AVE

Current Land Use



- Neighborhood Link
- Regional Link - High Activity
- Urban Center
- Alley
- Residential Link
- Planning Area
- Fayetteville City Limits
- Design Overlay District



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: January 23, 2023

SUBJECT: **CUP-2022-0131: Conditional Use Permit (825 S. ONE MILE RD/YOUNG CAPITAL INVESTMENTS, 557):** Submitted by YOUNG CAPITAL INVESTMENTS for property located at 825 S. ONE MILE RD. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 0.07 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:

Staff recommends denial of **CUP-2022-0131** based on the findings in this report.

RECOMMENDED MOTION:

"I move to deny CUP-2022-0131."

BACKGROUND:

The subject property is located west of Hwy 49 south of Centennial Park. The property is zoned NC, Neighborhood Conservation, and falls within the Enduing Green Network, totaling approximately 0.07 acres. A certificate of occupancy for the 1,120 square foot single-family structure was released on 12/02/2022. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals. This report reflects those new changes for consideration. Surrounding land use and zoning are depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Undeveloped (Extensive Canopy)	NC, Neighborhood Conservation
South	Single-family Residential	NC, Neighborhood Conservation
East	Single-family Residential	NC, Neighborhood Conservation
West	Single-family Residential	NC, Neighborhood Conservation

City Plan 2040 Future Land Use Designation: **Residential Neighborhood**

Proposal: The applicant requests conditional use permit approval to use the property as a Type 2 short-term rental, which are those not occupied by a permanent resident. Type 2 short-term rentals are subject to density limitations, including a 2% citywide cap, and restrictions on the number of units that may be used as a short-term rental in multi-family dwelling complexes.

Public Comment: Staff has not received any public comment regarding this request.

RECOMMENDATION: Staff recommends denial of **CUP-2022-0131**. Should Planning Commission choose to approve, staff recommends the following conditions:

Conditions of Approval:

1. **Planning Commission determination of compatibility.** Staff finds the proposed short-term rental to be **incompatible** with the neighborhood based on the findings in this report;
2. Approval of the conditional use permit does not ensure approval of a business license application. The applicant must still be able to comply with all other applicable requirements in the development code.
3. Per §166.20, Expiration of Approved Plans and Permits, a business license must be obtained within 1 year of conditional use permit approval.
4. Per applicant statement, limit tenant occupancy to four (4) total when the property is operated as a short-term rental.
5. Special events including, but not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars are prohibited from occurring in the short-term rental.
6. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.
7. All trash receptacles shall be screened from view of the right-of-way.
8. All outdoor lighting shall meet requirements as outlined in §176, Outdoor Lighting.
9. Any signage shall meet the requirements as outlined in §174, Signage.
10. Parking shall be limited to one space on the northern side of the unit. All other vehicles shall park within the interior shared parking areas.

PLANNING COMMISSION ACTION:				Required	<u>YES</u>
Date: <u>January 23, 2023</u>		☐ Tabled	☐ Approved	☐ Denied	
Motion:					
Second:					
Vote:					

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

1. Hear and decide only such special exemptions as it is specifically authorized to pass on by the terms of this chapter.
2. Decide such questions as are involved in determining whether a conditional use should be granted; and,
3. Grant a conditional use with such conditions and safeguards as are appropriate under this chapter; or
4. Deny a conditional use when not in harmony with the purpose and intent of this chapter.

C. A conditional use shall not be granted by the Planning Commission unless and until:

1. A written application for a conditional use is submitted indicating the section of this chapter under which the conditional use is sought and stating the grounds on which it is requested.

Finding: The applicant has submitted a written application requesting a conditional use permit for a Type 2 short-term rental in the NC zoning district.

2. The applicant shall pay a filing fee as required under Chapter 159 to cover the cost of expenses incurred in connection with processing such application.

Finding: The applicant has paid the required filing fee.

3. The Planning Commission shall make the following written findings before a conditional use shall be issued:

(a.) That it is empowered under the section of this chapter described in the application to grant the conditional use; and

Finding: The Planning Commission is empowered under Unified Development Code §118.01(E)(2) to grant the requested conditional use permit.

(b.) That the granting of the conditional use will not adversely affect the public interest.

Finding: Staff finds that granting the requested conditional use is unlikely to negatively affect the public interest, given the applicable business license requirements including a required building safety inspection, and applicable density caps on Type 2 short-term rentals.

(c.) The Planning Commission shall certify:

(1.) Compliance with the specific rules governing individual conditional uses; and

Finding: There are specific rules governing Short-Term Rentals, as follows:

§163.18 - SHORT-TERM RENTALS

A. General Standards.

(1) *Residential Zoning Districts.* Residential Zoning Districts. Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts: R-A, RSF-.5, RSF-1, RSF-2, RSF-4, RSF-7, RSF-8, RSF-18, RI-12, RI-U, RMF-6, RMF-12, RMF-18, RMF-24, RMF-40, NC. Short term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district. Short-term rentals in non-residential zoning districts, mixed use zoning districts, or other zoning districts not listed above are not required to apply for a conditional use permit.

Finding: The request is to operate a Type 2 Short-Term Rental, Use Unit 46, in zoning. Use Unit 46 (Type 2) is a conditional use in the NC zoning district.

(2) *Occupancy.* Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.

Finding: Occupancy is limited as described in UDC §163.18(A)(3). Applicant letter states that maximum tenant limit shall be four (4), which is below occupancy limit required by ordinance. Staff is in favor of this reduced maximum if approved due to limitations of cluster housing development style. Occupancy limitations are confirmed by the applicant during licensing.

(3) *Parking.* Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.

Finding: Staff recommends parking is limited as described in UDC §163.18(A)(4). For single-family structures parking is required to be provided at a rate of two vehicle spaces per dwelling unit, as modified by the Cluster Housing Development code. According to the applicant, two spaces are provided in the general parking area. Staff recommends only one tenant parking space be allowed north of the unit in order to limit impact to adjacent non-STR properties if approved (see Finding 8 for additional staff discussion on parking).

(4) *Special events* are not permitted in a short-term rental. Example of special events include, but are not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars.

Finding: The application letter suggests the property will comply with the City's regulations for a short-term rental. As a condition of approval, staff recommends a prohibition on special events.

(5) Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

Finding: **The application is for use of the property at 825 S. One Mile Rd. Staff recommends a condition confirming that no recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.**

(6) Exceptions. Exceptions to the short-term rental standards, except proposals that would exceed the city-wide density maximum, may be granted by the Planning Commission as a conditional use permit.

Finding: **Type 2 short-term rentals are subject to a citywide density cap at 2% of total dwelling units, as determined by United States Census Bureau data. Recently released 5-year data from the 2021 list total housing units in Fayetteville at 44,706, which puts the cap at 894 total Type 2 short-term rentals. To date, there are 301 Type 2 short-term rental licenses that are subject to this cap. Hotel and motel uses are not permitted by right in the Neighborhood Conservation zoning district (NC), so this short-term rental will contribute to the city-wide density cap. Since it is a cluster housing development which separate ownership for each unit, no cap applies for the development overall.**

(7) Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.

Finding:

(8) Short-term rentals in residential zoning districts may be subject to denial or additional conditions based upon the Planning Commission's findings on the following factors:

- 1) Adequate parking infrastructure;
- 2) Adequate adjoining or nearby streets for on-street parking;
- 3) Frequency or concentration of nearby licensed Type 2 short-term rentals; and
- 4} Prior zoning or code violations.

Finding: **The proposed short-term rental is within an existing cluster housing development that already hosts one (1) type 1 short term rental unit and four (4) other type 2 short term rental facilities in direct proximity to the shared parking. Further, an additional type 2 unit I being requested directly to the east at 827 S One Mile Rd, which would bring the total number of short term rental facilities within the cluster housing development to out of 7 out 27 available units (or 25.9% of the dwelling units) if both additional units are approved (See attached parking exhibit)**

The cluster housing development is accessible only via S One Mile Rd off of W Old Farmington Rd, which does not have the capacity for on-street parking. In addition, LSD20-7116 received a variance for alternative

residential link street section of less than the 33-ft permitted by the Master Street Plan as well as a variance for Street Design Principles for a dead-end street.

No known zoning or code violations were found for the requested property.

§163.02, AUTHORITY; CONDITIONS; PROCEDURES. (continued)

(2.) That satisfactory provisions and arrangements have been made concerning the following, where applicable:

(a.) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe;

Finding: Staff finds the proposal has the potential to adversely affect traffic flows. Because the proposed short-term rentals are located on a dead-end street with five short-term rentals already approved, the approval on addition STRs has the potential to severely impact traffic flow to both the proposed STR and adjacent properties within the cluster housing development.

(b.) Off-street parking and loading areas where required, with particular attention to ingress and egress, economic, noise, glare, or odor effects of the special exception on adjoining properties and properties generally in the district;

Finding: Parking is located off-street within a central parking court or on-street on S One Mile Rd. The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district which is typically two per single family dwelling unit. However, due to the cluster housing development, 6 of 7 short-term rental units only accounted for one (1) parking space in the LSD development plans.

(c.) Refuse and service areas, with particular reference to ingress and egress, and off-street parking and loading,

Finding: The applicant proposes typical residential trash cart service rather than dumpster service. Staff recommends storage of the containers should be screened from public view when not at the curb for residential pick-up.

(d.) Utilities, with reference to locations, availability, and compatibility;

Finding: Utilities are currently available to the site, and the use as a short-term rental is not anticipated to impact the provision of utilities.

- (e.) Screening and buffering with reference to type, dimensions, and character;

Finding: Staff recommends that residential carts be screened so that they are not visible from the public right-of-way.

- (f.) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;

Finding: Any proposed signage will be subject to Unified Development Code section 174 – Signs, and all the regulations therein.

- (g.) Required yards and other open space; and

Finding: Based on the applicant's submittal, the structure is meeting relevant setbacks.

- (h.) General compatibility with adjacent properties and other property in the district.

Finding: Staff finds the use to be incompatible with the surrounding properties. Due to the tight nature of the cluster housing development and the variance allowing a dead-end street, the addition of a sixth/seventh short term rental facility in the development is likely to contribute to substantial inconvenience for adjacent long-term property owners.

BUDGET/STAFF IMPACT:

None

Attachments:

- Business Regulations–
 - §118.01 Applicability
- Unified Development Code
 - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
 - §161.29 District NC, Neighborhood Conservation
- Applicant Request Letter
- Overall Site Map
- Building Floor Plan
- STR Adjacency Map
- Parking Exhibit
- One Mile Map
- Close-Up Map
- Current Land Use Map

118.01 Applicability

- (E) *Short-Term Rentals.* A residential dwelling unit, portion of a dwelling unit, or bedroom within a residential dwelling unit, leased and/or rented to a guest(s), for a period of less than thirty consecutive (30) days.
- (1) *Short-Term Rental, Type 1.* A short-term rental where the principal use of the property remains as a full-time residence. The occupants or owner rent their primary residence as a short-term rental. A copy of the Homestead Tax Credit or long-term lease agreement for the subject property is required to be classified as a Type 1 rental. The occupant or owner must occupy the residence for nine (9) months of the year. Accessory dwelling units (ADUs) as defined in Unified Development Code Chapter 151 shall be considered a Type 1 short-term rental.
 - (2) *Short-Term Rental, Type 2.* A short-term rental that is not occupied by a permanent resident. The owner lists this property full-time as a short-term rental and has no intention of having permanent residents living in the property. A conditional use permit is required for a Type 2 short-term rental in a residential zoning district prior to the city issuing a business license.
 - (3) *License Required.* No dwelling unit in the city shall be used as a short-term rental unless:
 - (a) The owner of the dwelling unit or operator of the short-term rental possess a valid and current business license for the dwelling unit, and fully complies with all legal requirements and duties imposed herein with respect to each and every short-term rental; and
 - (b) The owner has designated an agent, where said agent fully complies with all legal requirements and duties imposed herein with respect to every short-term rental. The owner may serve as their own agent.
 - (c) The owner of the dwelling unit or operator of the short-term rental provides proof of a valid and current homeowners insurance rider policy which fully covers each unit when operated as short-term rental unit.
 - (4) A separate business license shall be required for each dwelling unit used as a short-term rental.
 - (5) Any change in ownership requires a new or amended business license.
 - (6) If any required contact information changes for the associated business license, the person to whom the license was issued shall immediately notify the Development Services Department in writing.
 - (7) *License Application.* The application for a business license shall include at minimum, the following information from applicants:
 - (a) The property owner's information including legal name, mailing address, immediate contact phone number, and immediate contact E-mail address.
 - (b) Information for the dwelling unit subject to the application, inclusive of the physical street address assigned by the city.
 - (c) The type and total number of dwelling units located on the lot of record containing the dwelling unit subject to the application.
 - (d) If the owner is not their own agent, the owner designated agent's information including legal name, mailing address, immediate contact phone number and immediate contact E-mail address.
 - (e) Documentation of approval of a life safety and egress inspection by the City Building Safety Division for the dwelling unit subject to the application.
 - (f) Proof of application for remittance of hotel, motel and restaurant tax to the City of Fayetteville, and verification that all sales, use, and hotel, motel and restaurant taxes are current.
 - (g) Any additional data as deemed necessary or desirable for permit approval by the Development Services Director.
 - (8) *License Renewals.* Business licenses for short-term rentals shall be renewed in accordance with Chapter 118 of the Business Regulations (Business Registry and Licenses).
 - (11) *Legal Duties of License Holders.* An owner possessing a short-term rental license shall comply at all times with the following requirements:
 - (a) *Occupancy.* Short-term rentals shall be subject to, and may not exceed, the occupancy limits approved with the business license.
 - (b) *Advertisements.* A short-term rental shall not be advertised if it violates occupancy, density, safety, and any of the other provisions of the Fayetteville Code. No short-term rental unit shall be advertised prior to having obtained a business license and the business license number shall be included in the advertisement listing.
 - (c) *Information and Posting.* Business licensees shall provide to guests and post conspicuously in the common area of the short-term rental unit the city phone number to report a safety complaint.
 - (10) *Owner or Agent Accessibility.* The property owner shall ensure that they or a designated agent are available at all times during guest occupancy, including nights and weekends, in order to facilitate

compliance with this section. For the purposes of these regulations, 'availability' means that the owner or agent is accessible by telephone, and, able to be physically present at the short-term rental within three (3) hours of being contacted.

- (11) *Guest Records.* The owner shall maintain summary guest registration records, which shall contain the actual dates of occupancy, total number of guests per party per stay, and the rate(s) charged, but shall not contain any personally identifiable information about guests. Such records shall be maintained for three (3) years and shall be provided to the City upon request.
 - (12) *Health and Safety.* The owner shall ensure that each dwelling unit governed by this section complies with the applicable provisions of the Unified Development Code Chapter 173, Building Regulations.
 - (13) *Criminal Activity.* The owner shall timely report any known or reasonably suspected criminal activity by a guest to the Fayetteville Police Department within twelve (12) hours maximum.
 - (14) *Taxes and Fees.* Except for those instances in which a hosting platform bears the responsibility for collecting and remitting taxes and fees applicable to short-term rentals, the property owner shall timely remit in full Fayetteville Hotel, Motel and Restaurant tax and other applicable local, state, and federal taxes and city fees owed in connection with any short-term rental. The failure of a hosting platform to collect and remit taxes and fees shall not relieve an owner of the obligation to pay taxes and fees owed pursuant to this section.
 - (15) *Authorization to Occupy, Use, and Operate.* Authorization to operate a short-term rental may be granted by the Development Services Director through the issuance of a City of Fayetteville Business Registry and License (Business License).
 - (16) *Density For Type 2 Short-Term Rentals.* A city-wide density cap of 2% of all dwelling units in the Fayetteville city limits may be utilized as Type 2 rentals. Total dwelling units are determined from current United States Census Bureau and/or American Community Survey numbers, whichever number is higher. A conditional use permit may not permit:
 - (a) More Type 2 short-term rentals than what is allowed by the city-wide density cap. Type 2 short-term rentals in commercial and mixed-use zoning districts where hotel/motels are permitted by right shall not contribute to the city-wide density cap.
 - (b) More than 10% or a single unit whichever is greater; of total dwelling units as Type 2 rentals within a multi-family dwelling complex.
 - (c) Individual 2-, 3- and 4-family buildings that are owned by the same person or entity and are not a part of a multi-family complex shall have no more than one (1) Type 2 short-term rental unit per building complex.
 - (d) Where attached residential units are held separately through condominium association, horizontal property regime, fee simple, or similar ownership structure, no cap shall be applied to buildings with attached residential dwellings. Structures of attached residential dwellings where applicants seek more than 10% of total units for licensing as Type 2 rentals shall be evaluated by the Building Safety Director and/or Fire Marshal for adequate fire protection as defined by the adopted Arkansas Fire Prevention Code. Where inadequate fire protection is identified, improvements may be required prior to issuance of a business license.
 - (17) *Suspension and Revocation.* If the Development Services Director has reason to believe that any of the grounds specified in §118.03(A) of the Fayetteville Code exist, or that any rental unit was rented for less than one (1) full night, or to more than one (1) part of guests for the same period of time, or otherwise failed to comply with all terms and conditions of this section, the Development Services Director may suspend or revoke the short-term rental's business license pursuant to the procedures detailed in §118.03 and in §118.04 of the Fayetteville Code.
 - (20) Short-term rentals must comply with all applicable codes under Unified Development Code §163.18 and § 164.26 successfully obtain a business license prior to operation.
- (Ord. No. 6427 , §§1(Exh. A), 2, 4-20-21; Ord. No. 6505 , §1(Exh. A), 11-16-21; Ord. No. 6521 , §§1, 2, 1-18-22; Ord. No. 6537 , §1(Exh. A), 2-15-22)

163.18 Type 2 Short-Term Rentals in Residential Zoning Districts

- (A) *Residential Zoning Districts.* Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts:
 - 1) R-A
 - 2) RSF-.5

- 3) RSF-1
- 4) RSF-2
- 5) RSF-4
- 6) RSF-7
- 7) RSF-8
- 8) RSF-18
- 9) RI-12
- 10) RI-U
- 11) RMF-6
- 12) RMF-12
- 13) RMF-18
- 14) RMF-24
- 15) RMF-40
- 16) NC

Short term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district.

Short-term rentals in non-residential zoning districts, mixed use zoning districts, or other zoning districts not listed above are not required to apply for a conditional use permit.

- (B) *Occupancy.* Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.
- (C) *Parking.* Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.
- (D) Special events are not permitted in a short-term rental. Example of special events include, but are not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars.
- (E) Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.
- (F) *Exceptions.* Exceptions to the short-term rental standards, except proposals that would exceed the city-wide density maximum, may be granted by the Planning Commission as a conditional use permit.
- (G) Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.
- (H) Short-term rentals in residential zoning districts may be subject to denial or additional conditions based upon the Planning Commission's findings on the following factors:
 - 1) Adequate parking infrastructure;
 - 2) Adequate adjoining or nearby streets for on-street parking;
 - 3) Frequency or concentration of nearby licensed Type 2 short-term rentals; and
 - 4) Prior zoning or code violations

(Ord. No. 6427 , §§1(Exh. E), 2, 4-20-21; Ord. No. 6505 , §2(Exh. B), 11-16-21; Ord. No. 6537 , §2(Exh. B), 2-15-22)

161.29 Neighborhood Conservation

(A) *Purpose.* The Neighborhood Conservation zone has the least activity and a lower density than the other zones. Although Neighborhood Conservation is the most purely residential zone, it can have some mix of uses, such as civic buildings. Neighborhood Conservation serves to promote and protect neighborhood character. For the purposes of Chapter 96: Noise Control, the Neighborhood Conservation district is a residential zone.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 41	Accessory dwellings
Unit 46	Short-term rentals

(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 9	Two (2) family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 12a	Limited business*
Unit 24	Home occupations
Unit 25	Offices, studios, and related services
Unit 28	Center for collecting recyclable materials
Unit 36	Wireless communication facilities
Unit 44	Cluster Housing Development

(C) *Density.* Ten (10) Units Per Acre.

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

All dwelling types	40 feet
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(2) *Lot Area Minimum.* 4,000 square feet

(E) *Setback Regulations.*

Front	A build-to zone that is located between the front property line and a line 25 feet from the front property line.
Side	5 feet
Rear	5 feet
Rear, from center line of an alley	12 feet

(F) *Building Height Regulations.*

Building Height Maximum	3 stories
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(Ord. No. 5128, 4-15-08; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; Ord. No. 5592, 6-18-13; Ord. No. 5664, 2-18-14; Ord. No. 5800 , §1(Exh. A), 10-6-15>; Ord. No. 5921 , §1, 11-1-16; Ord. No. 5945 , §§5, 7—9, 1-17-17; Ord. No. 6015 , §1(Exh. A), 11-21-17; Ord. No. 6211 , §1, 8-6-19; Ord. No. 6427 , §§1(Exh. C), 2, 4-20-21)

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."

December 12, 2022

Planning Commission
City of Fayetteville Planning Division
125 West Mountain Street
Fayetteville, AR 72701

RE: Short Term Rental Permit

To Whom It May Concern:

Young Capital Investments, LLC (the Phillip Young family) is seeking a short-term rental permit for two houses located at the following addresses: 825 & 827 S One Mile Road, Southern Woods Subdivision, Fayetteville, Arkansas. This subdivision is currently being developed. There are approximately 18 to 20 plus houses already built. Beautiful cottage style homes that are just a couple of miles from U of A campus and at the foot of Centennial Park. These homes are currently serving permanent residence as well as short term rental investments for the bike & sports enthusiast.

Enclosed please find the following information as required by your application regarding this short-term rental permit request:

*Map of city showing location of houses, *Southern Woods subdivision layout (photo), *house floor plans (small scale picture) both are the same floor plans, photo included, *Consent of Owner Form, *Authorization letter for Philp M. Young, *Legal description.

Will provide additional information upon your request.

We appreciate your consideration.

Sincerely,

Phillip H. Young



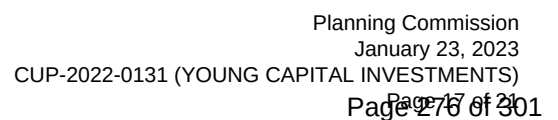


GROUND FLOOR PLAN



SECOND FLOOR PLAN







SUBJECT: CUP-2022-0131: Conditional Use Permit (825 S. ONE MILE RD/YOUNG CAPITAL INVESTMENTS, 557):

PARKING EXHIBIT

Based on the existing short-term rentals, the following parking requirements are necessary per UDC §163.18(A)(4):

Address	STR Type	Approved (Y / N)	Parking Spaces Required (Typical DU)	Parking Provided (See Housing Cluster CUP)	Maximum Number of Tenants
865 S One Mile Rd	Type 1	Yes	2	1	6
881 S One Mile Rd	Type 2	Yes	2	1	6
891 S One Mile Rd	Type 2	Yes	2	1	6
840 S One Mile Rd	Type 2	Yes	2	2	6
830 S One Mile Rd	Type 2	Pending	2	1	6
825 S One Mile Rd	Type 2	Pending	2	1	4 (Per Applicant)
827 S One Mile Rd	Type 2	Pending	2	1	4 (Per Applicant)
			14 (26%)	8 (15%)	38
Total Parking Spaces Provided)			53 (100%)		

PARKING SUMMARY

	Number of Dwelling Units	Number of Bedrooms	Parking Requirement	Parking Required
LOTS 1A-1L	12	14	1 per bedroom	14
LOT 2	1	1	2 per unit	2
LOTS 3A-3M	12	14	1 per bedroom	14
LOT 4	0	0	0	0
LOT 5	1	1	2 per unit	2
LOT 6	1	1	2 per unit	2
LOT 7	1	1	2 per unit	2
Total Parking Required				36
Off-street parking provided				37
On-street parking provided				16
Total Parking Provided				53
Bike Racks Required				24
Bike Racks Provided				24

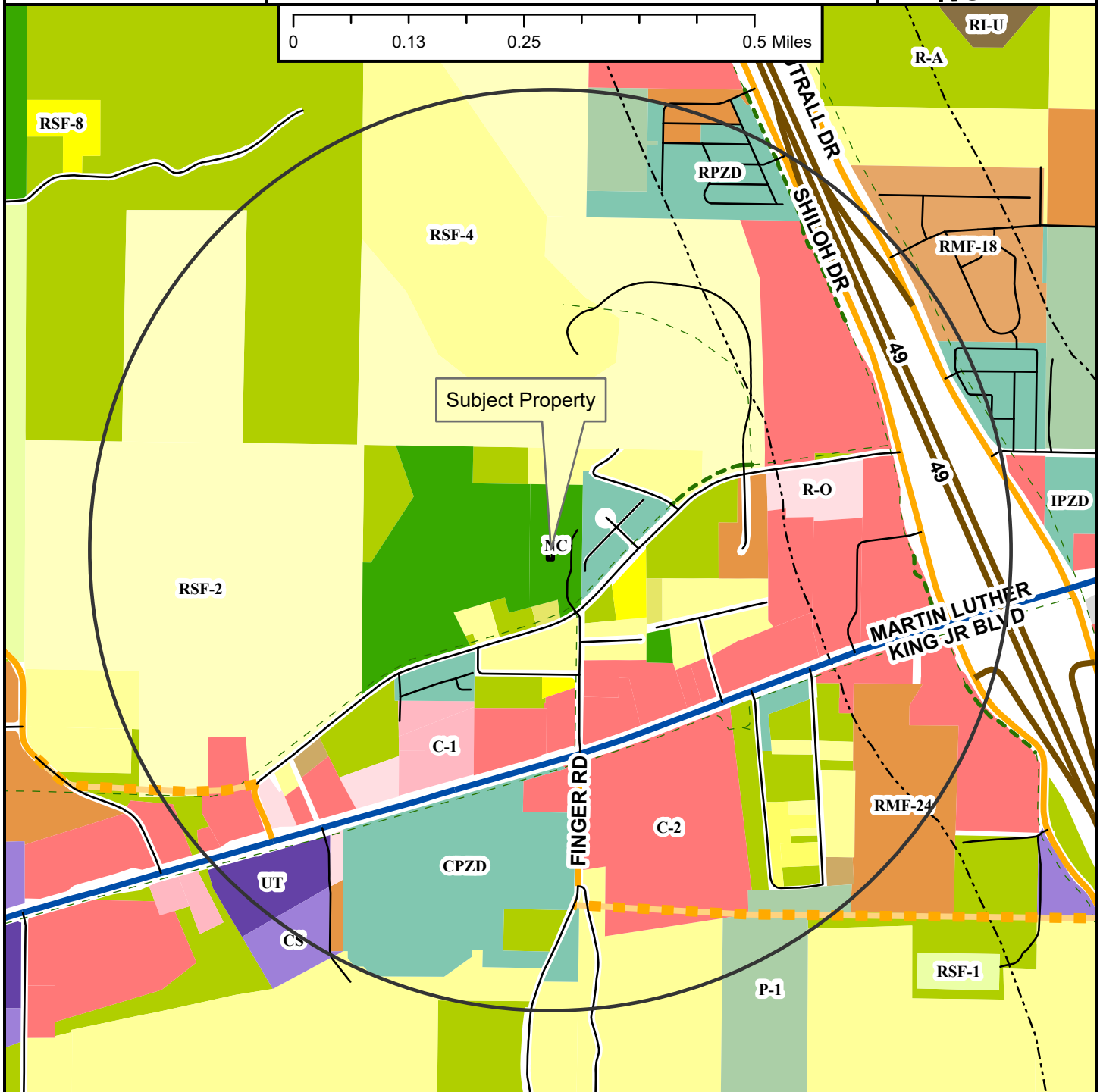
CUP-2022-0131

825 S. ONE MILE RD

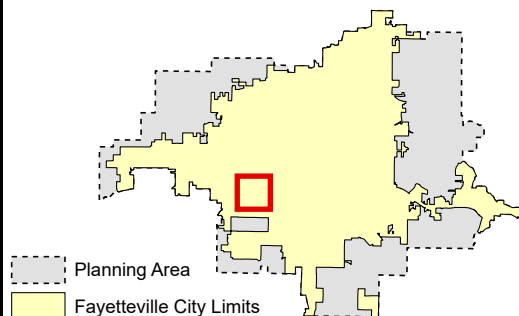
One Mile View



0 0.13 0.25 0.5 Miles



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

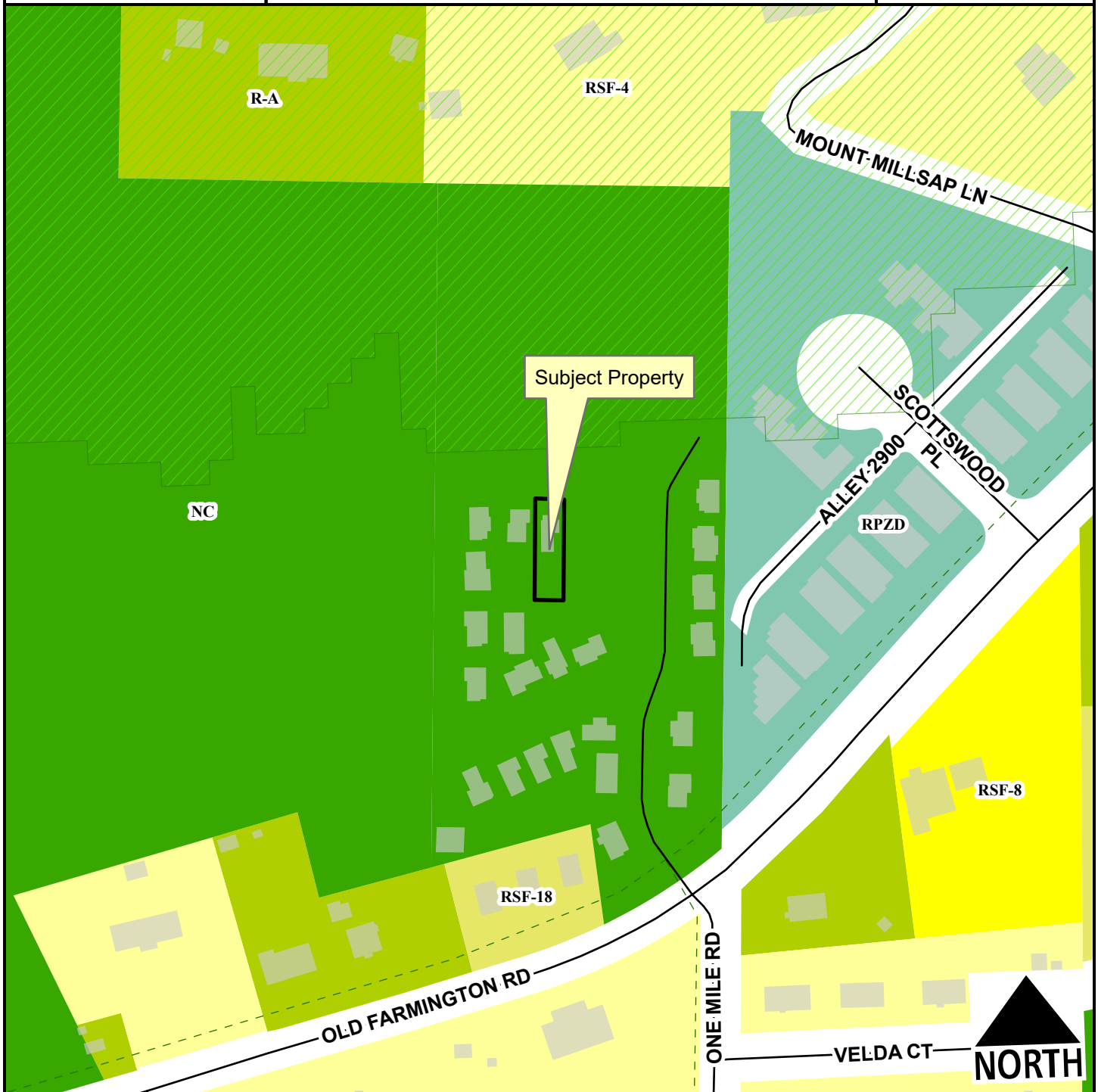


- Zoning**
- RESIDENTIAL SINGLE-FAMILY**
- NS-G
 - RI-U
 - RI-12
 - NS-L
 - Residential-Agricultural
 - RSF-5
 - RSF-1
 - RSF-2
 - RSF-4
 - RSF-7
 - RSF-8
 - RSF-18
- RESIDENTIAL MULTI-FAMILY**
- RMF-6
 - RMF-12
 - RMF-13
 - RMF-24
 - RMF-40
- INDUSTRIAL**
- I-1 Heavy Commercial and Light Industrial
- 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

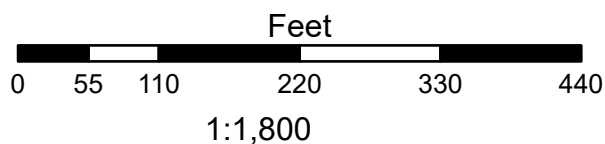
Planning Commission
January 23, 2023

CUP-2022-0131 (YOUNG CAPITAL INVESTMENTS)

Page 19 of 301



- Alley
- Residential Link
- Hillside-Hilltop Overlay District
- Planning Area
- Fayetteville City Limits
- Trail (Proposed)



- Residential-Agricultural
- RSF-4
- RSF-8
- RSF-18
- Neighborhood Conservation
- Commercial, Industrial, Residential



CUP-2022-0131

825 S. ONE MILE RD

Current Land Use



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



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

Planning Commission
January 23, 2023

CUP-2022-0131 (YOUNG CAPITAL INVESTMENTS)



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: January 23, 2023

SUBJECT: **CUP-2022-0132: Conditional Use Permit (827 S. ONE MILE RD/YOUNG CAPITAL INVESTMENTS, 557):** Submitted by YOUNG CAPITAL INVESTMENTS for property located at 827 S. ONE MILE RD. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 0.07 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:

Staff recommends denial of **CUP-2022-0132** based on the findings in this report.

RECOMMENDED MOTION:

"I move to deny CUP-2022-0132."

BACKGROUND:

The subject property is located west of Hwy 49 south of Centennial Park. The property is zoned NC, Neighborhood Conservation, and falls within the Enduing Green Network, totaling approximately 0.07 acres. A certificate of occupancy for the 1,496 square foot single-family structure was released on 12/02/2022. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals. This report reflects those new changes for consideration. Surrounding land use and zoning are depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Undeveloped (Extensive Canopy)	NC, Neighborhood Conservation
South	Single-family Residential	NC, Neighborhood Conservation
East	Single-family Residential	NC, Neighborhood Conservation
West	Single-family Residential	NC, Neighborhood Conservation

City Plan 2040 Future Land Use Designation: **Residential Neighborhood**

Proposal: The applicant requests conditional use permit approval to use the property as a Type 2 short-term rental, which are those not occupied by a permanent resident. Type 2 short-term rentals are subject to density limitations, including a 2% citywide cap, and restrictions on the number of units that may be used as a short-term rental in multi-family dwelling complexes.

Public Comment: Staff has not received any public comment regarding this request.

RECOMMENDATION: Staff recommends denial of **CUP-2022-0131**. Should Planning Commission choose to approve, staff recommends the following conditions:

Conditions of Approval:

1. **Planning Commission determination of compatibility.** Staff finds the proposed short-term rental to be **incompatible** with the neighborhood based on the findings in this report;
2. Approval of the conditional use permit does not ensure approval of a business license application. The applicant must still be able to comply with all other applicable requirements in the development code.
3. Per §166.20, Expiration of Approved Plans and Permits, a business license must be obtained within 1 year of conditional use permit approval.
4. Per applicant statement, limit tenant occupancy to four (4) total when the property is operated as a short-term rental.
5. Special events including, but not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars are prohibited from occurring in the short-term rental.
6. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.
7. All trash receptacles shall be screened from view of the right-of-way.
8. All outdoor lighting shall meet requirements as outlined in §176, Outdoor Lighting.
9. Any signage shall meet the requirements as outlined in §174, Signage.
10. Parking shall be limited to one space on the northern side of the unit. All other vehicles shall park within the interior shared parking areas.

PLANNING COMMISSION ACTION:			
Required	<u>YES</u>		
Date: <u>January 23, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

1. Hear and decide only such special exemptions as it is specifically authorized to pass on by the terms of this chapter.
2. Decide such questions as are involved in determining whether a conditional use should be granted; and,
3. Grant a conditional use with such conditions and safeguards as are appropriate under this chapter; or
4. Deny a conditional use when not in harmony with the purpose and intent of this chapter.

C. A conditional use shall not be granted by the Planning Commission unless and until:

1. A written application for a conditional use is submitted indicating the section of this chapter under which the conditional use is sought and stating the grounds on which it is requested.

Finding: The applicant has submitted a written application requesting a conditional use permit for a Type 2 short-term rental in the NC zoning district.

2. The applicant shall pay a filing fee as required under Chapter 159 to cover the cost of expenses incurred in connection with processing such application.

Finding: The applicant has paid the required filing fee.

3. The Planning Commission shall make the following written findings before a conditional use shall be issued:

(a.) That it is empowered under the section of this chapter described in the application to grant the conditional use; and

Finding: The Planning Commission is empowered under Unified Development Code §118.01(E)(2) to grant the requested conditional use permit.

(b.) That the granting of the conditional use will not adversely affect the public interest.

Finding: Staff finds that granting the requested conditional use is unlikely to negatively affect the public interest, given the applicable business license requirements including a required building safety inspection, and applicable density caps on Type 2 short-term rentals.

(c.) The Planning Commission shall certify:

(1.) Compliance with the specific rules governing individual conditional uses; and

Finding: There are specific rules governing Short-Term Rentals, as follows:

§163.18 - SHORT-TERM RENTALS

A. General Standards.

(1) *Residential Zoning Districts.* Residential Zoning Districts. Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts: R-A, RSF-.5, RSF-1, RSF-2, RSF-4, RSF-7, RSF-8, RSF-18, RI-12, RI-U, RMF-6, RMF-12, RMF-18, RMF-24, RMF-40, NC. Short term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district. Short-term rentals in non-residential zoning districts, mixed use zoning districts, or other zoning districts not listed above are not required to apply for a conditional use permit.

Finding: The request is to operate a Type 2 Short-Term Rental, Use Unit 46, in zoning. Use Unit 46 (Type 2) is a conditional use in the NC zoning district.

(2) *Occupancy.* Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.

Finding: Occupancy is limited as described in UDC §163.18(A)(3). Applicant letter states that maximum tenant limit shall be four (4), which is below occupancy limit required by ordinance. Staff is in favor of this reduced maximum if approved due to limitations of cluster housing development style. Occupancy limitations are confirmed by the applicant during licensing.

(3) *Parking.* Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.

Finding: Staff recommends parking is limited as described in UDC §163.18(A)(4). For single-family structures parking is required to be provided at a rate of two vehicle spaces per dwelling unit, as modified by the Cluster Housing Development code. According to the applicant, two spaces are provided in the general parking area. Staff recommends only one tenant parking space be allowed north of the unit in order to limit impact to adjacent non-STR properties if approved (see Finding 8 for additional staff discussion on parking).

(4) *Special events* are not permitted in a short-term rental. Example of special events include, but are not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars.

Finding: The application letter suggests the property will comply with the City's regulations for a short-term rental. As a condition of approval, staff recommends a prohibition on special events.

(5) Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

Finding: **The application is for use of the property at 827 S. One Mile Rd. Staff recommends a condition confirming that no recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.**

(6) Exceptions. Exceptions to the short-term rental standards, except proposals that would exceed the city-wide density maximum, may be granted by the Planning Commission as a conditional use permit.

Finding: **Type 2 short-term rentals are subject to a citywide density cap at 2% of total dwelling units, as determined by United States Census Bureau data. Recently released 5-year data from the 2021 list total housing units in Fayetteville at 44,706, which puts the cap at 894 total Type 2 short-term rentals. To date, there are 301 Type 2 short-term rental licenses that are subject to this cap. Hotel and motel uses are not permitted by right in the Neighborhood Conservation zoning district (NC), so this short-term rental will contribute to the city-wide density cap. Since it is a cluster housing development which separate ownership for each unit, no cap applies for the development overall.**

(7) Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.

Finding:

(8) Short-term rentals in residential zoning districts may be subject to denial or additional conditions based upon the Planning Commission's findings on the following factors:

- 1) Adequate parking infrastructure;
- 2) Adequate adjoining or nearby streets for on-street parking;
- 3) Frequency or concentration of nearby licensed Type 2 short-term rentals; and
- 4} Prior zoning or code violations.

Finding: **The proposed short-term rental is within an existing cluster housing development that already hosts one (1) type 1 short term rental unit and four (4) other type 2 short term rental facilities in direct proximity to the shared parking. Further, an additional type 2 unit I being requested directly to the east at 827 S One Mile Rd, which would bring the total number of short term rental facilities within the cluster housing development to out of 7 out 27 available units (or 25.9% of the dwelling units) if both additional units are approved (See attached parking exhibit)**

The cluster housing development is accessible only via S One Mile Rd off of W Old Farmington Rd, which does not have the capacity for on-street parking. In addition, LSD20-7116 received a variance for alternative

residential link street section of less than the 33-ft permitted by the Master Street Plan as well as a variance for Street Design Principles for a dead-end street.

No known zoning or code violations were found for the requested property.

§163.02, AUTHORITY; CONDITIONS; PROCEDURES. (continued)

(2.) That satisfactory provisions and arrangements have been made concerning the following, where applicable:

(a.) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe;

Finding: Staff finds the proposal has the potential to adversely affect traffic flows. Because the proposed short-term rentals are located on a dead-end street with five short-term rentals already approved, the approval on addition STRs has the potential to severely impact traffic flow to both the proposed STR and adjacent properties within the cluster housing development.

(b.) Off-street parking and loading areas where required, with particular attention to ingress and egress, economic, noise, glare, or odor effects of the special exception on adjoining properties and properties generally in the district;

Finding: Parking is located off-street within a central parking court or on-street on S One Mile Rd. The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district which is typically two per single family dwelling unit. However, due to the cluster housing development, 6 of 7 short-term rental units only accounted for one (1) parking space in the LSD development plans.

(c.) Refuse and service areas, with particular reference to ingress and egress, and off-street parking and loading,

Finding: The applicant proposes typical residential trash cart service rather than dumpster service. Staff recommends storage of the containers should be screened from public view when not at the curb for residential pick-up.

(d.) Utilities, with reference to locations, availability, and compatibility;

Finding: Utilities are currently available to the site, and the use as a short-term rental is not anticipated to impact the provision of utilities.

- (e.) Screening and buffering with reference to type, dimensions, and character;

Finding: Staff recommends that residential carts be screened so that they are not visible from the public right-of-way.

- (f.) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;

Finding: Any proposed signage will be subject to Unified Development Code section 174 – Signs, and all the regulations therein.

- (g.) Required yards and other open space; and

Finding: Based on the applicant's submittal, the structure is meeting relevant setbacks.

- (h.) General compatibility with adjacent properties and other property in the district.

Finding: Staff finds the use to be incompatible with the surrounding properties. Due to the tight nature of the cluster housing development and the variance allowing a dead-end street, the addition of a sixth/seventh short term rental facility in the development is likely to contribute to substantial inconvenience for adjacent long-term property owners.

BUDGET/STAFF IMPACT:

None

Attachments:

- Business Regulations
 - §118.01 Applicability
- Unified Development Code
 - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
 - §161.29 District NC, Neighborhood Conservation
- Applicant Request Letter
- Overall Site Map
- Building Floor Plan
- STR Adjacency Map
- Parking Exhibit
- One Mile Map
- Close-Up Map
- Current Land Use Map

118.01 Applicability

- (E) *Short-Term Rentals.* A residential dwelling unit, portion of a dwelling unit, or bedroom within a residential dwelling unit, leased and/or rented to a guest(s), for a period of less than thirty consecutive (30) days.
- (1) *Short-Term Rental, Type 1.* A short-term rental where the principal use of the property remains as a full-time residence. The occupants or owner rent their primary residence as a short-term rental. A copy of the Homestead Tax Credit or long-term lease agreement for the subject property is required to be classified as a Type 1 rental. The occupant or owner must occupy the residence for nine (9) months of the year. Accessory dwelling units (ADUs) as defined in Unified Development Code Chapter 151 shall be considered a Type 1 short-term rental.
 - (2) *Short-Term Rental, Type 2.* A short-term rental that is not occupied by a permanent resident. The owner lists this property full-time as a short-term rental and has no intention of having permanent residents living in the property. A conditional use permit is required for a Type 2 short-term rental in a residential zoning district prior to the city issuing a business license.
 - (3) *License Required.* No dwelling unit in the city shall be used as a short-term rental unless:
 - (a) The owner of the dwelling unit or operator of the short-term rental possess a valid and current business license for the dwelling unit, and fully complies with all legal requirements and duties imposed herein with respect to each and every short-term rental; and
 - (b) The owner has designated an agent, where said agent fully complies with all legal requirements and duties imposed herein with respect to every short-term rental. The owner may serve as their own agent.
 - (c) The owner of the dwelling unit or operator of the short-term rental provides proof of a valid and current homeowners insurance rider policy which fully covers each unit when operated as short-term rental unit.
 - (4) A separate business license shall be required for each dwelling unit used as a short-term rental.
 - (5) Any change in ownership requires a new or amended business license.
 - (6) If any required contact information changes for the associated business license, the person to whom the license was issued shall immediately notify the Development Services Department in writing.
 - (7) *License Application.* The application for a business license shall include at minimum, the following information from applicants:
 - (a) The property owner's information including legal name, mailing address, immediate contact phone number, and immediate contact E-mail address.
 - (b) Information for the dwelling unit subject to the application, inclusive of the physical street address assigned by the city.
 - (c) The type and total number of dwelling units located on the lot of record containing the dwelling unit subject to the application.
 - (d) If the owner is not their own agent, the owner designated agent's information including legal name, mailing address, immediate contact phone number and immediate contact E-mail address.
 - (e) Documentation of approval of a life safety and egress inspection by the City Building Safety Division for the dwelling unit subject to the application.
 - (f) Proof of application for remittance of hotel, motel and restaurant tax to the City of Fayetteville, and verification that all sales, use, and hotel, motel and restaurant taxes are current.
 - (g) Any additional data as deemed necessary or desirable for permit approval by the Development Services Director.
 - (8) *License Renewals.* Business licenses for short-term rentals shall be renewed in accordance with Chapter 118 of the Business Regulations (Business Registry and Licenses).
 - (11) *Legal Duties of License Holders.* An owner possessing a short-term rental license shall comply at all times with the following requirements:
 - (a) *Occupancy.* Short-term rentals shall be subject to, and may not exceed, the occupancy limits approved with the business license.
 - (b) *Advertisements.* A short-term rental shall not be advertised if it violates occupancy, density, safety, and any of the other provisions of the Fayetteville Code. No short-term rental unit shall be advertised prior to having obtained a business license and the business license number shall be included in the advertisement listing.
 - (c) *Information and Posting.* Business licensees shall provide to guests and post conspicuously in the common area of the short-term rental unit the city phone number to report a safety complaint.
 - (10) *Owner or Agent Accessibility.* The property owner shall ensure that they or a designated agent are available at all times during guest occupancy, including nights and weekends, in order to facilitate compliance with this section. For the purposes of these regulations, 'availability' means that the owner or

agent is accessible by telephone, and, able to be physically present at the short-term rental within three (3) hours of being contacted.

- (11) *Guest Records.* The owner shall maintain summary guest registration records, which shall contain the actual dates of occupancy, total number of guests per party per stay, and the rate(s) charged, but shall not contain any personally identifiable information about guests. Such records shall be maintained for three (3) years and shall be provided to the City upon request.
 - (12) *Health and Safety.* The owner shall ensure that each dwelling unit governed by this section complies with the applicable provisions of the Unified Development Code Chapter 173, Building Regulations.
 - (13) *Criminal Activity.* The owner shall timely report any known or reasonably suspected criminal activity by a guest to the Fayetteville Police Department within twelve (12) hours maximum.
 - (14) *Taxes and Fees.* Except for those instances in which a hosting platform bears the responsibility for collecting and remitting taxes and fees applicable to short-term rentals, the property owner shall timely remit in full Fayetteville Hotel, Motel and Restaurant tax and other applicable local, state, and federal taxes and city fees owed in connection with any short-term rental. The failure of a hosting platform to collect and remit taxes and fees shall not relieve an owner of the obligation to pay taxes and fees owed pursuant to this section.
 - (15) *Authorization to Occupy, Use, and Operate.* Authorization to operate a short-term rental may be granted by the Development Services Director through the issuance of a City of Fayetteville Business Registry and License (Business License).
 - (16) *Density For Type 2 Short-Term Rentals.* A city-wide density cap of 2% of all dwelling units in the Fayetteville city limits may be utilized as Type 2 rentals. Total dwelling units are determined from current United States Census Bureau and/or American Community Survey numbers, whichever number is higher. A conditional use permit may not permit:
 - (a) More Type 2 short-term rentals than what is allowed by the city-wide density cap. Type 2 short-term rentals in commercial and mixed-use zoning districts where hotel/motels are permitted by right shall not contribute to the city-wide density cap.
 - (b) More than 10% or a single unit whichever is greater; of total dwelling units as Type 2 rentals within a multi-family dwelling complex.
 - (c) Individual 2-, 3- and 4-family buildings that are owned by the same person or entity and are not a part of a multi-family complex shall have no more than one (1) Type 2 short-term rental unit per building complex.
 - (d) Where attached residential units are held separately through condominium association, horizontal property regime, fee simple, or similar ownership structure, no cap shall be applied to buildings with attached residential dwellings. Structures of attached residential dwellings where applicants seek more than 10% of total units for licensing as Type 2 rentals shall be evaluated by the Building Safety Director and/or Fire Marshal for adequate fire protection as defined by the adopted Arkansas Fire Prevention Code. Where inadequate fire protection is identified, improvements may be required prior to issuance of a business license.
 - (17) *Suspension and Revocation.* If the Development Services Director has reason to believe that any of the grounds specified in §118.03(A) of the Fayetteville Code exist, or that any rental unit was rented for less than one (1) full night, or to more than one (1) part of guests for the same period of time, or otherwise failed to comply with all terms and conditions of this section, the Development Services Director may suspend or revoke the short-term rental's business license pursuant to the procedures detailed in §118.03 and in §118.04 of the Fayetteville Code.
 - (20) Short-term rentals must comply with all applicable codes under Unified Development Code §163.18 and § 164.26 successfully obtain a business license prior to operation.
- (Ord. No. 6427 , §§1(Exh. A), 2, 4-20-21; Ord. No. 6505 , §1(Exh. A), 11-16-21; Ord. No. 6521 , §§1, 2, 1-18-22; Ord. No. 6537 , §1(Exh. A), 2-15-22)

163.18 Type 2 Short-Term Rentals in Residential Zoning Districts

- (A) *Residential Zoning Districts.* Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts:
 - 1) R-A
 - 2) RSF-.5
 - 3) RSF-1

- 4) RSF-2
- 5) RSF-4
- 6) RSF-7
- 7) RSF-8
- 8) RSF-18
- 9) RI-12
- 10) RI-U
- 11) RMF-6
- 12) RMF-12
- 13) RMF-18
- 14) RMF-24
- 15) RMF-40
- 16) NC

Short term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district.

Short-term rentals in non-residential zoning districts, mixed use zoning districts, or other zoning districts not listed above are not required to apply for a conditional use permit.

- (B) *Occupancy.* Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.
- (C) *Parking.* Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.
- (D) Special events are not permitted in a short-term rental. Example of special events include, but are not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars.
- (E) Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.
- (F) *Exceptions.* Exceptions to the short-term rental standards, except proposals that would exceed the city-wide density maximum, may be granted by the Planning Commission as a conditional use permit.
- (G) Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.
- (H) Short-term rentals in residential zoning districts may be subject to denial or additional conditions based upon the Planning Commission's findings on the following factors:
 - 1) Adequate parking infrastructure;
 - 2) Adequate adjoining or nearby streets for on-street parking;
 - 3) Frequency or concentration of nearby licensed Type 2 short-term rentals; and
 - 4) Prior zoning or code violations

(Ord. No. 6427 , §§1(Exh. E), 2, 4-20-21; Ord. No. 6505 , §2(Exh. B), 11-16-21; Ord. No. 6537 , §2(Exh. B), 2-15-22)

161.29 Neighborhood Conservation

(A) *Purpose.* The Neighborhood Conservation zone has the least activity and a lower density than the other zones. Although Neighborhood Conservation is the most purely residential zone, it can have some mix of uses, such as civic buildings. Neighborhood Conservation serves to promote and protect neighborhood character. For the purposes of Chapter 96: Noise Control, the Neighborhood Conservation district is a residential zone.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 41	Accessory dwellings
Unit 46	Short-term rentals

(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 9	Two (2) family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 12a	Limited business*
Unit 24	Home occupations
Unit 25	Offices, studios, and related services
Unit 28	Center for collecting recyclable materials
Unit 36	Wireless communication facilities
Unit 44	Cluster Housing Development

(C) *Density.* Ten (10) Units Per Acre.

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

All dwelling types	40 feet
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(2) *Lot Area Minimum.* 4,000 square feet

(E) *Setback Regulations.*

Front	A build-to zone that is located between the front property line and a line 25 feet from the front property line.
Side	5 feet
Rear	5 feet
Rear, from center line of an alley	12 feet

(F) *Building Height Regulations.*

Building Height Maximum	3 stories
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(Ord. No. 5128, 4-15-08; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; Ord. No. 5592, 6-18-13; Ord. No. 5664, 2-18-14; Ord. No. 5800 , §1(Exh. A), 10-6-15>; Ord. No. 5921 , §1, 11-1-16; Ord. No. 5945 , §§5, 7—9, 1-17-17; Ord. No. 6015 , §1(Exh. A), 11-21-17; Ord. No. 6211 , §1, 8-6-19; Ord. No. 6427 , §§1(Exh. C), 2, 4-20-21)

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."

December 12, 2022

Planning Commission
City of Fayetteville Planning Division
125 West Mountain Street
Fayetteville, AR 72701

RE: Short Term Rental Permit

To Whom It May Concern:

Young Capital Investments, LLC (the Phillip Young family) is seeking a short-term rental permit for two houses located at the following addresses: 825 & 827 S One Mile Road, Southern Woods Subdivision, Fayetteville, Arkansas. This subdivision is currently being developed. There are approximately 18 to 20 plus houses already built. Beautiful cottage style homes that are just a couple of miles from U of A campus and at the foot of Centennial Park. These homes are currently serving permanent residence as well as short term rental investments for the bike & sports enthusiast.

Enclosed please find the following information as required by your application regarding this short-term rental permit request:

*Map of city showing location of houses, *Southern Woods subdivision layout (photo), *house floor plans (small scale picture) both are the same floor plans, photo included, *Consent of Owner Form, *Authorization letter for Philp M. Young, *Legal description.

Will provide additional information upon your request.

We appreciate your consideration.

Sincerely,

Phillip H. Young





GROUND FLOOR PLAN



SECOND FLOOR PLAN





SUBJECT: CUP-2022-0131: Conditional Use Permit (825 S. ONE MILE RD/YOUNG CAPITAL INVESTMENTS, 557):

PARKING EXHIBIT

Based on the existing short-term rentals, the following parking requirements are necessary per UDC §163.18(A)(4):

Address	STR Type	Approved (Y / N)	Parking Spaces Required (Typical DU)	Parking Provided (See Housing Cluster CUP)	Maximum Number of Tenants
865 S One Mile Rd	Type 1	Yes	2	1	6
881 S One Mile Rd	Type 2	Yes	2	1	6
891 S One Mile Rd	Type 2	Yes	2	1	6
840 S One Mile Rd	Type 2	Yes	2	2	6
830 S One Mile Rd	Type 2	Pending	2	1	6
825 S One Mile Rd	Type 2	Pending	2	1	4 (Per Applicant)
827 S One Mile Rd	Type 2	Pending	2	1	4 (Per Applicant)
			14 (26%)	8 (15%)	38
Total Parking Spaces Provided)			53 (100%)		

PARKING SUMMARY

	Number of Dwelling Units	Number of Bedrooms	Parking Requirement	Parking Required
LOTS 1A-1L	12	14	1 per bedroom	14
LOT 2	1	1	2 per unit	2
LOTS 3A-3M	12	14	1 per bedroom	14
LOT 4	0	0	0	0
LOT 5	1	1	2 per unit	2
LOT 6	1	1	2 per unit	2
LOT 7	1	1	2 per unit	2
Total Parking Required				36
Off-street parking provided				37
On-street parking provided				16
Total Parking Provided				53
Bike Racks Required				24
Bike Racks Provided				24

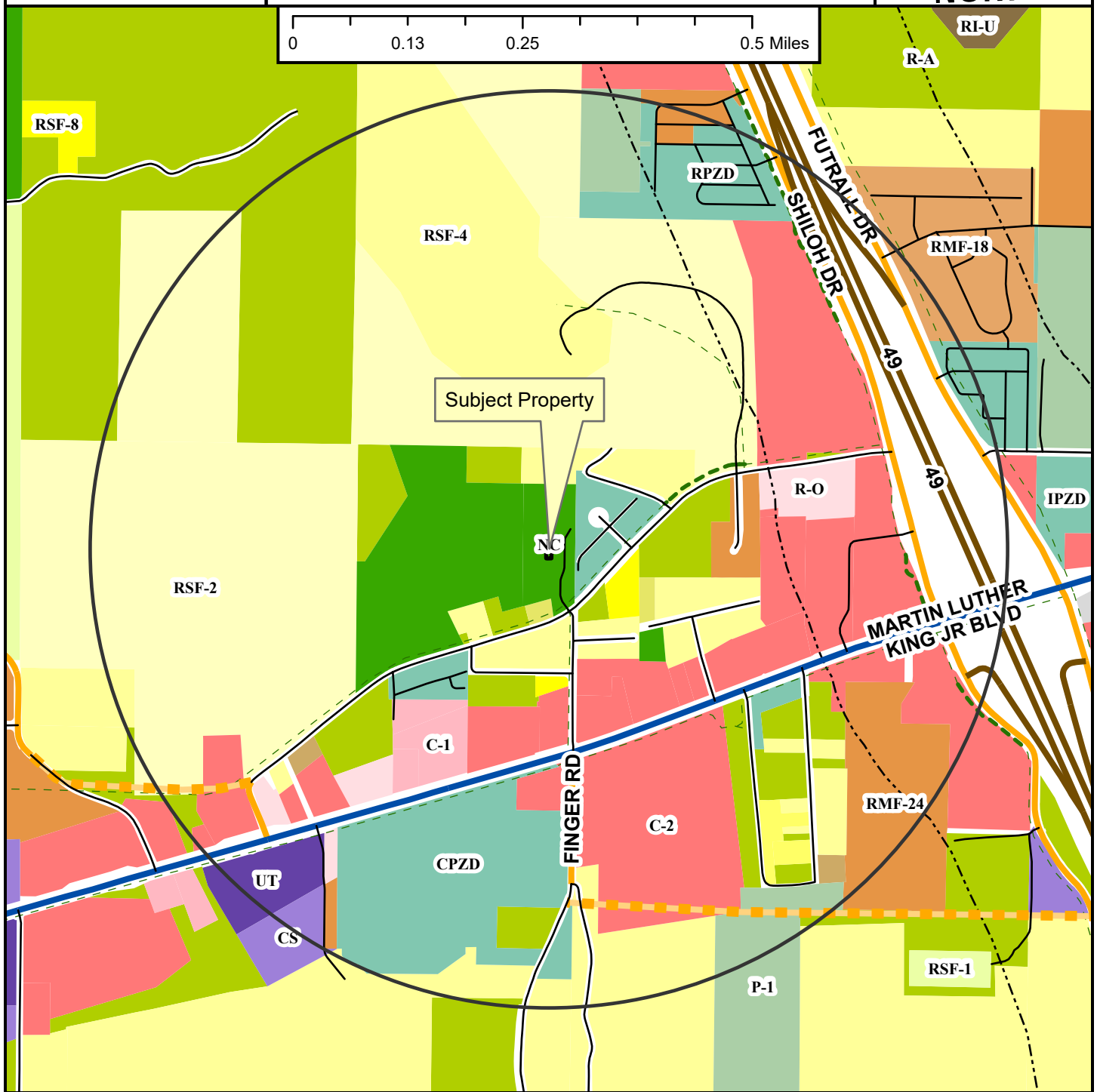
CUP-2022-0132

827 S. ONE MILE RD

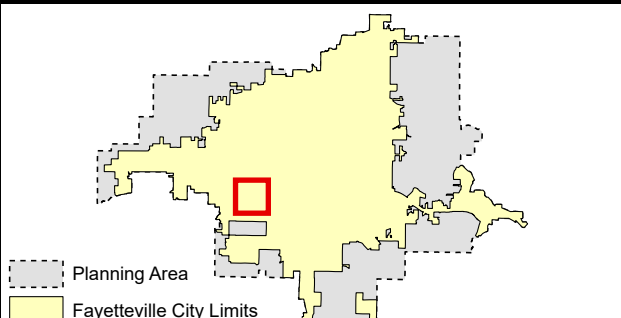
One Mile View



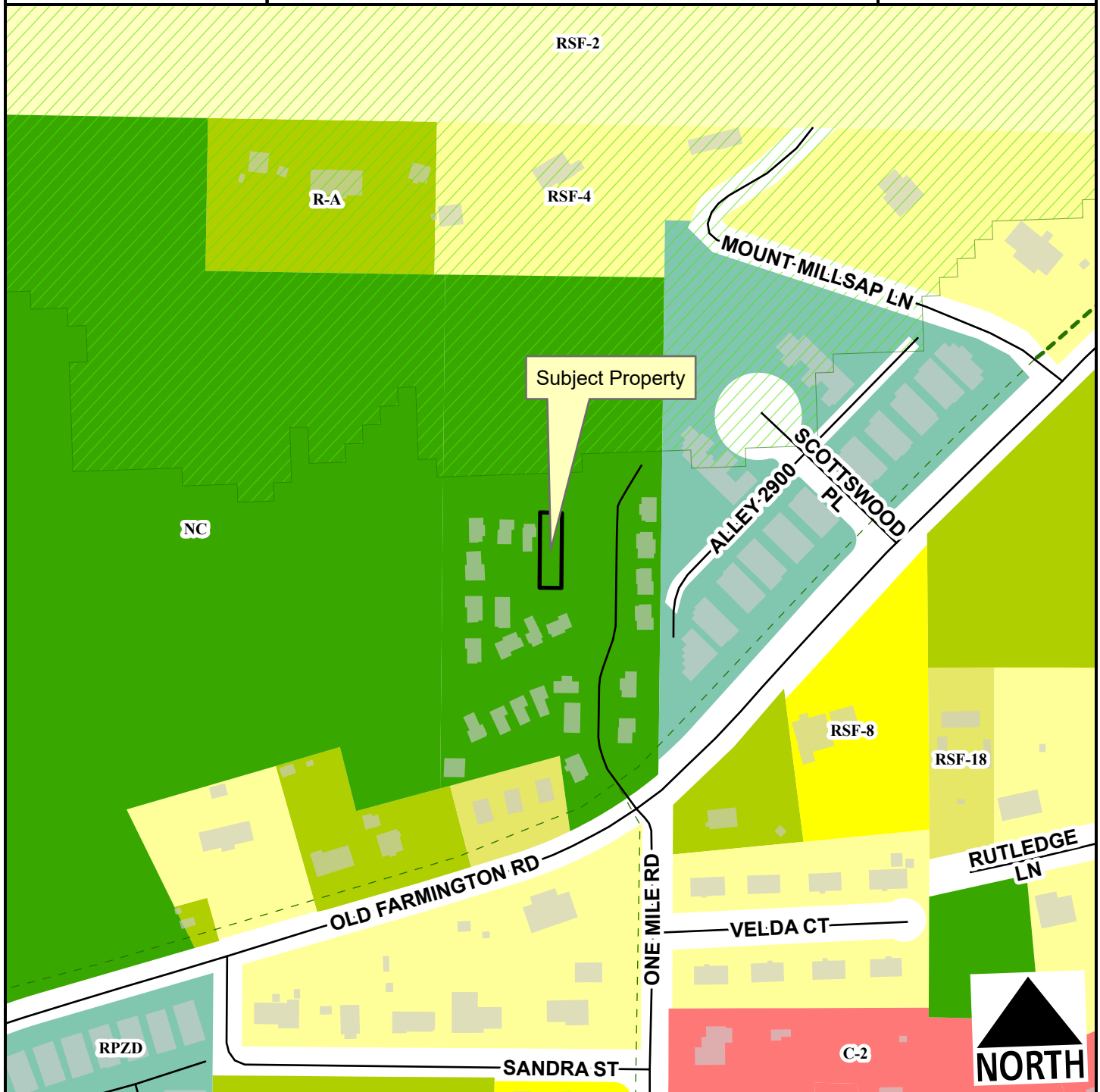
0 0.13 0.25 0.5 Miles



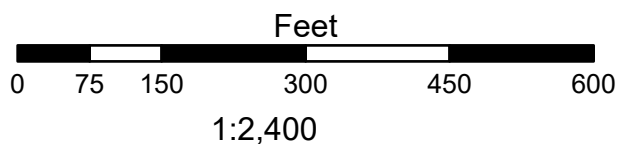
- Neighborhood Link
- Regional Link - High Activity
- Freeway/Expressway
- Unclassified
- Alley
- Residential Link
- Planned Neighborhood Link
- Shared-Use Paved Trail
- Trail (Proposed)
- Design Overlay District
- Fayetteville City Limits
- Planning Area



- | | |
|---|-------------------------------------|
| Zoning | EXTRACTION |
| RESIDENTIAL SINGLE-FAMILY | E-1 |
| NS-G | COMMERCIAL |
| RI-U | Residential-Office |
| RI-12 | C-1 |
| NS-L | C-2 |
| Residential-Agricultural | C-3 |
| RSF-5 | FORM BASED DISTRICTS |
| RSF-1 | Downtown Core |
| RSF-2 | Urban Thoroughfare |
| RSF-4 | Main Street Center |
| RSF-7 | Downtown General |
| RSF-8 | Community Services |
| RSF-18 | Neighborhood Services |
| RESIDENTIAL MULTI-FAMILY | Neighborhood Conservation |
| RMF-6 | PLANNED ZONING DISTRICTS |
| RMF-12 | Commercial, Industrial, Residential |
| RMF-13 | INSTITUTIONAL |
| RMF-24 | P-1 |
| RMF-40 | |
| INDUSTRIAL | |
| I-1 Heavy Commercial and Light Industrial | |
| I-2 General Industrial | |



- Unclassified
- Alley
- Residential Link
- Hillside-Hilltop Overlay District
- Planning Area
- Fayetteville City Limits
- Shared-Use Paved Trail
- Trail (Proposed)



- Residential-Agricultural
- RSF-2
- RSF-4
- RSF-8
- RSF-18
- C-2
- Neighborhood Conservation
- Commercial, Industrial, Residential

CUP-2022-0132

827 S. ONE MILE RD

Current Land Use



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



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

Planning Commission
January 23, 2023

CUP-2022-0132 (YOUNG CAPITAL INVESTMENTS)